



GENERAL TERMS AND CONDITIONS

BACKGROUND

This document should be read in conjunction with Schedule 1 - Service Terms and Schedule 2 - Service Schedule. In the event of a conflict between documents, the following order will prevail: Schedule 2 – Service Schedule, General Terms & Conditions, Schedule 1 – Service Terms

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

"Client" means organisation whose name and address is specified in Service Schedule and includes its successors and permitted assigns.

Client's Equipment: any equipment, systems, cabling or facilities provided by the Client and used directly or indirectly in the supply of the Services.

Customer: is a Customer of the Client and end user of the Services provided herein

Deliverables: all Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

In-put Material: all Documents, information and materials provided by the Client relating to the Services, including computer programs, data, reports and specifications.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Pre-existing Materials: all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of this agreement, including computer programs, data, reports and specifications.

Services: the services to be provided by the Supplier under this agreement and the Service Schedule together with any other services which the Supplier provides or agrees to provide to the Client.

"Supplier" means the Supplier whose name and address is specified in the Service Schedule and includes its successors and assigns.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Client.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Clauses, Schedules and paragraph headings shall not affect the interpretation of this agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns.

1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.10 A reference to **writing** or **written** includes fax and e-mail.

1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.12 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

1.13 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. SUPPLIER'S OBLIGATIONS

2.1 The Supplier shall use reasonable endeavours to manage and provide the Services, to the Client, in accordance with this Agreement in all material respects.



- 2.2 The Supplier shall use reasonable endeavours to meet any performance dates specified herein but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement.

3. CLIENT'S OBLIGATIONS

3.1 The Client shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as reasonably required by the Supplier;
- (c) provide, in a timely manner, such In-put Material and other information as the Supplier may reasonably require, and ensure that it is accurate in all material respects;
- (d) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, the use of In-put Material and the use of the Client's Equipment in relation to the Supplier's Equipment, in all cases before the date on which the Services are to start;
- (e) adhere to the provisions and the principles outlined in the Anti-Money Laundering Regulations 2007 (as amended from time to time) or shall, where necessary, be registered for anti-money laundering purposes. In particular the client shall use its best endeavours to carry out KYC checks on each proposed Customer and make its best endeavours to ensure that only those persons in respect of whom such checks are completed satisfactorily are designated as being able to receive the Services as set out in this Agreement. In particular, the Supplier will require the Client, wherever possible and as far as it is reasonably practicable, to satisfy itself of the identity of each Customer and ensure all relevant records are securely retained for a minimum of 7 years and that the Client shall make such information available to the Supplier and/or any regulatory body upon request from time to time.
- (f) To use the Supplier as its exclusive provider of the Services for the duration of the Term.

- 3.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.

- 3.3 The Client shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy

resources elsewhere) that arise directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this agreement, subject to the Supplier confirming such costs, charges and losses to the Client in writing.

- 3.4 The Client shall not, without the prior written consent of the Supplier, at any time from the date of this agreement to the expiry of 6 months after the completion of the last date of supply of the Services, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.

- 3.5 Any consent given by the Supplier in accordance with clause 3.4 shall be subject to the Client paying to the Supplier a sum equivalent to 20% of the then current annual remuneration of the Supplier's employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by the Client to that employee, consultant or subcontractor.

4. CHANGE CONTROL

- 4.1 If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Client of:

- (a) the likely time required to implement the change;
- (b) any necessary variations to the Supplier's charges arising from the change;
- (c) the likely effect of the change on the Project Plan; and
- (d) any other impact of the change on this agreement.

- 4.2 If the Client wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services, the relevant Project Plan and any other relevant terms of this agreement to take account of the change and this agreement has been varied in accordance with clause 14.

- 4.3 Notwithstanding clause 4.2, the Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. The Supplier may, from time to time and subject to Client's prior written consent, which shall not be unreasonably withheld or delayed change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Client at least three months' notice of any change.

- 4.4 The Supplier may charge for the time it spends assessing a request for change from the Client on a time and materials basis in accordance with clause 5.



5. CHARGES AND PAYMENT

- 5.1 The Client shall pay the amount specified in the Service Schedule for each Transaction processed by the Supplier (subject to condition 5.2)
- 5.2 On the first (1st) of April each Year of this Agreement, such Transaction Fees and other charges may be increased by the higher of 2% or the up-to-date percentage increase in the Retail Prices Index.
- 5.3 The Transaction Fee has been calculated on the Client anticipated volume of Transactions specified in the Service Schedule and all third party costs applicable, in each Year of this Agreement and having regard to Mastercard and Visa Interchange fees. Where the volume of Transactions in any Year of this Agreement changes or where Mastercard/Visa or other third party fees increase, the Supplier reserves the right to apply an associated increase in charge equivalent to the appropriate charging level for the actual volume of Transactions achieved or interchange or third party fees applicable, such charges to be applied retrospectively in the relevant Year of the Agreement where appropriate.
- 5.4 The Supplier will invoice the Client Monthly in arrears in respect of the Transaction Fees and other charges for the previous Month. Each such invoice shall show the number of Transactions processed by the Supplier during such Month and the Transaction Fees due to the Supplier together with such other charges (if any) payable under this Agreement.
- 5.5 Invoices shall be raised electronically and emailed to the Client for the period leading up to and including the final day of each Month. Should such date not be a Working Day, such invoice shall be raised on the next Working Day.
- (a) Payment is due to the Supplier by variable Direct Debit, payable (following receipt by the Client of each invoice) on or about the fourteenth (14th) of each month by the Client and payment shall be made without deduction, set-off or counterclaim.
- (b) If for any reason the Client becomes indebted to the Supplier as a result of unpaid invoices, Charge Back Rights, or unpaid Direct Debits, and is unable to immediately repay that indebtedness, the Client authorises the Supplier to deduct an amount corresponding to such indebtedness from the Client's Principal Funds or from any payment due from the Supplier to the Client; or
- (c) The Supplier may charge the Client interest (both before and after any judgment) on the amount unpaid at the rate per annum specified in the Service Schedule from time to time (or such greater rate as shall from time to time be prescribed by statute) from the due date until payment in full is made.
- 5.6 Interest accruing on monies held within the Trust Account(s) shall be payable to the Supplier.

5.7 Where any cheque tendered for payment by a Customer is returned unpaid, the Supplier shall be entitled to charge the Client the amount specified in the Service Schedule to cover banking and administration fees together with any other charges which are levied on the Supplier by its bank.

5.8 In addition to the Transaction fees, the Service Schedule will set out costs applicable in respect of the cost of dispatch of the initial batch of CPCs, Card Carriers, wallets and associated stationery, new and replacement cards, monthly maintenance fees, the cost of returning undeliverable CPCs, Card Carriers and wallets and any other such services agreed between the parties from time to time.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 As between the Client and the Supplier, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by the Supplier. Subject to clause 6.2, the Supplier licenses all such rights to the Client free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Client to make reasonable use of the Deliverables and the Services. If this agreement is terminated, this licence will automatically terminate.

6.2 The Client acknowledges that, where the Supplier does not own any of the Pre-existing Materials, the Client's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Client.

7. CONFIDENTIALITY AND THE SUPPLIER'S PROPERTY

7.1 The Client undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Client by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Client may obtain, except as permitted by clause 7.2.

7.2 The Client may disclose the Supplier's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 7; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.



7.3 The Client shall not use the Supplier's confidential information for any purpose other than to perform its obligations under this agreement.

7.4 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Client (including Pre-existing Materials and the Supplier's Equipment) shall, at all times, be and remain the exclusive property of the Supplier, but shall be held by the Client in safe custody at its own risk and maintained and kept in good condition by the Client until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

8. LIMITATION OF LIABILITY

8.1 Nothing in this agreement limits or excludes the Supplier's liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

8.2 Subject to clause 8.1, the Supplier shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill;
- (f) loss of use or corruption of software, data or information;
- (g) any indirect or consequential loss.

8.3 Subject to clause 8.1 and clause 8.2, the Supplier's total liability to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall not exceed the amount of Fees paid by the Client to the Supplier in the 12 months prior to the cause of action arising.

8.4 Save as expressly set out in this Agreement, the Supplier gives no warranties, guarantees or undertakings concerning its performance of the Services or any additional services and the Client hereby expressly agrees and acknowledges that the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

9. DATA PROTECTION AND OTHER LEGISLATION

9.1 In performing their respective obligations under this Agreement each of the Supplier and the Client shall comply with the provisions of the Data Protection Act 1998 and all other applicable data protection legislation and regulations including any applicable Visa and Mastercard scheme rules and each shall indemnify the other in respect of all claims, losses, damages, liabilities, fines, penalties, costs and expenses arising from any breach by it of its obligations under this Condition 10.1. Each party warrants shall make best efforts to that it has obtained all necessary licences for the purposes of the Data Protection Act 1998 to enable it to perform its obligations under this Agreement.

9.2 Neither party shall unlawfully discriminate on grounds of any protected characteristic as defined in the Equality Act 2010 or any comparable statutory provision relating to discrimination in employment or service provision. Both Parties shall comply with all relevant codes of practice issued by the Commission for Equality and Human rights and so far as practicable operate an equal opportunities policy which complies with the practical guidance and recommendations contained in the said codes of practice.

9.3 Both parties shall adopt safe methods of work and comply with all other requirements of the Health and Safety at Work Act 1974 in order to protect the health and safety of its personnel and to the extent applicable the personnel of the Client and all other persons.

9.4 The Parties shall:

- (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) comply with the other party's Ethics, Anti-bribery and Anti-corruption Policies as provided by the each party by the other from time to time;
- (d) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause (b), and will enforce them where appropriate;
- (e) ensure that all persons associated with the each party or other persons who are performing services in connection with this agreement comply with this clause 10.3; and

9.5 Breach of clause 9.4 shall be deemed a material breach.



10. TERMINATION & SUSPENSION

10.1 The notice period for this Agreement is as stipulated in the Service Schedule and applies to the whole agreement or any part of it or Service stipulated in the Service Schedule.

10.2 If the Client terminates this Contract by serving a shorter notice period than set out in the Service Schedule, then the Client agrees to pay to the Company a sum equal to the charges that would have been reasonably expected to be due to the Company if the correct notice period had been duly served.

10.3 Without affecting any other right or remedy available to it, either party may suspend or terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 60 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 60 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or [(being a Supplier or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply;
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a Supplier) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a Supplier) [other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator

is given or if an administrator is appointed, over the other party (being a Supplier);

- (h) the holder of a qualifying floating charge over the assets of that other party (being a Supplier) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (k) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (l) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.3(d) to clause 10.3(k) (inclusive);
- (m) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

10.4 For the purposes of clause 10.3(b), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

- (a) a substantial portion of this agreement; or
- (b) any of the obligations set out in clauses 7, 9 and 10.

over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

11. CONSEQUENCES OF TERMINATION

11.1 On termination or expiry of this agreement:

- (a) the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (b) the Client shall, within a reasonable time, return all of the Supplier's Equipment, Pre-existing Materials and Deliverables. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping;
- (c) the following clauses shall continue in force: clause 6 (Intellectual property rights), clause 7



(Confidentiality and the Supplier's property), clause 8 (Limitation of liability), clause 22 (Notices), clause 24 (Dispute resolution), clause 25 (Governing law and jurisdiction), and the Services set out in Schedule 1 - Service Terms for as long as payments by the Customer continue to be made, in which case the Client shall continue to pay the Supplier its reasonable charges.

- 11.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

12. FORCE MAJEURE

- 12.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; and
- (g) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
- (h) interruption or failure of utility service.

- 12.2 Provided it has complied with clause 12.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

- 12.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

- 12.4 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 5 days

from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

- 12.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 6 weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving 12 weeks' written notice to the Affected Party.

- 12.6 If the Force Majeure Event prevails for a continuous period of more than 6 months, either party may terminate this agreement by giving 7 days' written notice to all the other party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this agreement occurring prior to such termination.

13. VARIATION

Subject to clause 4, no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15. RIGHTS AND REMEDIES

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

16. SEVERANCE

- 16.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

- 16.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good



faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

17. ENTIRE AGREEMENT

- 17.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.
- 17.3 Nothing in this clause shall limit or exclude any liability for fraud.

18. CONFLICT

In the event of a conflict between the General Terms & Conditions, Schedule 1 – Service Terms, Schedule 2 – Service Schedule, the following order will prevail: Schedule 2 – Service Schedule, General Terms & Conditions, Schedule 1 – Service Terms

19. ASSIGNMENT AND OTHER DEALINGS

- 19.1 This agreement is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 19.2 The Supplier may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this agreement, provided that the Supplier gives prior written notice to the Client.

20. NO PARTNERSHIP OR AGENCY

- 20.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 20.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

21. THIRD PARTY RIGHTS

No one other than a party to this agreement shall have any right to enforce any of its terms.

22. NOTICES

- 22.1 Any notice or other communication given to a party under or in connection with this contract shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a Supplier) or its principal place of business (in any other case); or
 - (b) sent by fax to its main fax number.
- 22.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
 - (c) if sent by fax, at 9.00 am on the next Business Day after transmission.
- 22.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

23. COUNTERPARTS

- 23.1 This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 23.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by (a) fax or (b) e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 23.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

24. MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

- 24.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:
- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full



particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Manager of the Supplier and Manager of Client shall attempt in good faith to resolve the Dispute;

- (b) if the Manager of Supplier and Manager of Client are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Director of Supplier and Director of Supplier who shall attempt in good faith to resolve it; and
- (c) if the Director of Supplier and Director of Client are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 28 days after the date of the ADR notice.

- 24.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute.

- 24.3 If the Dispute is not resolved within 42 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 42 days, or the mediation terminates before the expiration of the said period of 42 days, the Dispute shall be finally resolved by the courts of England and Wales OR arbitration proceedings.

25. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

26. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).



SCHEDULE 1 - SERVICE TERMS

PART 1

BACKGROUND

This document should be read in conjunction with General Terms & Conditions and Schedule 2 - Service Schedule. In the event of a conflict between documents, the following order will prevail: Schedule 2 – Service Schedule, General Terms & Conditions, Schedule 1 – Service Terms

1. INTERPRETATION

In these Conditions:

"Account Bank(s)" means any UK clearing bank or other UK financial institution regulated by the Financial Services Authority (FSA), with whom a Trust Account is opened.

"Agreement" means the terms and conditions herein and the provisions contained within Schedule 2 - Service Schedule attached hereto.

"allpay Set" means allpay Limited stationary set, consisting of any combination of a CPC, Card Carrier and wallet.

"Allpay Distributed Software" is the Supplier's software platform which includes <http://www.allpayments.net> and <https://webconnect.allpay.net> as well as platforms and connections to the Network Providers and Branded Gateway.

"AML" and **"Anti-Money Laundering"** means practices and procedures pursuant to the AML Regulations

"AML Regulations" means the Money Laundering Regulations 2007, the FSA Money Laundering Sourcebook, the Proceeds of Crime Act 2002 and all other relevant UK and EU legislation in force pertaining to Anti-Money Laundering.

"APT" means Automated Payment Terminal(s) or such other equipment with comparable technical capability as the Network Provider(s) may choose to install in Payment Points.

"ATM" means Automated Teller Machine(s) or such other equipment with comparable technical capability as Account Banks may choose to install in locations of their choice.

"BACS" means the Bankers Automated Clearing System.

"BACS Cycle" means the BACS defined period of three Working Days, (Day 1 'Instruction' (which for the purposes of clarification means the day the Client makes a payment), Day 2 'Processing', Day 3 'Credit').

"Bar Code" means the widely adopted symbology used to encode data in machine-readable format.

"Bar Code Reader" means a Data Capture Facility (DCF) capable of reading and capturing Bar Coded data.

"Branded Gateway" the Supplier's branded payment gateway, which can be tailored to the Client's brand.

"CPC" means a customer payment card made of plastic, on which is printed or embossed the primary account number, (the PAN) and other identifying information, the PAN (and other identifying information) being encoded magnetically on to a magnetic strip on the reverse of the card, or electronically to an embedded 'chip', (integrated circuit), on the front of the card, or both.

"Call Centre" means the Supplier's dedicated in-house service facility.

"Card Carrier" means the paper letter to which the CPC is attached.

"Cardholder Not Present" (CNP) means a payment made without the holder of the Credit Card or Debit Card being present.

"Card Issuer" means the UK clearing bank(s) or other UK financial institution(s) regulated by the FSA, which operates a Card Scheme.

"Card Scheme(s)" means the Card Scheme(s) specified in Schedule 2 - Service Schedule or as may otherwise be notified in Writing by the Supplier to the Client from time to time.

"Card Scheme Rules" means, in relation to a Card Scheme, the rules and operating regulations as defined by the Card Issuer.

"Charge Back Rights" means a Transaction returned unpaid to the authorising bank by the Card or Cheque Issuer.

"Client" means the organisation whose name and address is specified in Schedule 2 - Service Schedule and includes its successors and permitted assigns.

"Conditions" means the standard terms and conditions set out in this document and (unless the context otherwise requires) includes any Special Conditions specified in Schedule 2 - Service Schedule.

Customer: is a Customer of the Client and end user of the Services provided herein

"Credit Card and or Debit Card" means a credit card and or debit card issued by a Card Issuer to a Customer.

"Data" means, in relation to a Transaction, the date, the unique transaction ID, full location details and amount of the relevant Payment and the Client account to which such Payment relates.

"Default" means any breach by either party of its obligations under this Agreement or any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

"FSA" means the Financial Services Authority or any successor thereof.

"Internet Payment" means the Supplier websites at <http://www.allpay.net>, <http://www.allpayments.net> and <https://webconnect.allpay.net> and or such other websites as the Supplier may notify to the Client from time to time.

"KYC" means "know your Customer" investigations as required by the AML Regulations.



"**MTV**" means the Maximum Transaction Value specified in Schedule 2 - Service Schedule.

"**Month**", "**Months**" and "**Monthly**" mean calendar month.

"**Nominated Account**" means the account of the Client or such other account as the Client may nominate by notice in Writing to the Supplier from time to time.

"**Payment**" means an amount of money tendered by a Client to the Client, in cash, or by cheque, or by Credit or Debit Card, or by Direct Debit or any other legal means of disbursement, notified by the Supplier to the Client from time to time, and in the currency of the Territory.

"**Payment Point**" means any location in which an APT, kiosk or other payment facility is installed and operated for or on behalf of a Network Provider including, where applicable, a branch of the Client's office.

"**Principal Funds**" means the Payments received from the Customers into the Trust Account(s), excluding any interest accruing on the Trust Account(s).

"**Services**" means the Supplier is in business as a consolidator providing bill payment collection services from the Network Providers detailed in Schedule 2 - Service Schedule, via a variety of methods as set out in Schedule 2 - Service Schedule. All monies collected are consolidated and held in trust on behalf of its Clients before onward transmission to Clients in addition to processing and transmitting all associated data. The Supplier at all times acts on behalf its Clients in accordance with the following terms and conditions.

"**Service Schedule**" means the Service Schedule supplied by the Supplier to the Client and signed by both parties.

"**Software**" means the Supplier's Software programmes necessary for the proper operation of this Agreement as specified in Schedule 2 - Service Schedule or as may subsequently be provided by the Supplier to the Client.

"**Special Conditions**" means the Special Conditions specified in Schedule 2 - Service Schedule.

"**Supplier**" means the Supplier whose name and address is specified in Schedule 2 - Service Schedule and includes its successors and assigns.

"**Term**" means the period (and date commencing) specified in Schedule 2 - Service Schedule, and shall continue thereafter subject to either party terminating this Agreement by serving twelve (12) Months' notice (or such other period as specified as a Special Condition in Schedule 2 - Service Schedule) in Writing on the other, subject to early termination in accordance with any Condition of this Agreement.

"**Transaction**" means the tendering of a Payment by a Customer.

"**Trust Account(s)**" means the Trust Account(s) from time to time operated by the Account Bank(s) in the name of the Supplier for receipt of Payments and retention of Principal Funds.

"**Virtual Account**" means the dedicated area within the Trust Account created to identify and control the movement of the Client's Principal Funds

"**Working Day**" means Monday to Friday with the exclusion of English and Scottish public and bank holidays.

"**Writing**" includes facsimile transmission and electronic mail.

"**Year of this Agreement**" means, in relation to each Service, the twelve (12) Month period commencing on the **Start Date** specified in S Schedule 2 - Service Schedule and each subsequent twelve (12) Month period.

The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Information Sharing

The Client shall provide the Supplier with the an estimate in writing of the number of Customers which it anticipates will be making Payments under such Service together with such other information as the Supplier may reasonably require to enable it to prepare and issue CPCs and to perform its obligations under this Agreement.

3. Remittance of Monies Paid and Data

3.1 The Supplier will arrange for Data or reporting, received through Data Capture Facilities, to be available for transmission, transmitted on the Working Day following the Customer completing the transaction.

3.2 Payments received by the Supplier direct shall be credited to the Client's account(s) within the Trust Account(s), by the Supplier, within the BACS Cycle;

3.3 A payment instruction for the value of Transactions paid per day, shall be made by the Supplier by way of direct bank transfer to the Nominated Account in accordance with the time frame stipulated in Schedule 2 - Service Schedule following receipt thereof (subsequent to the completed BACS Cycle) in cleared funds by the Supplier into the Trust Account(s).

3.4 All interest accruing in the Trust Account shall belong to the Supplier.

4. CUSTOMER PAYMENT CARDS

4.1 The purpose of CPCs is to provide each Customer with a unique reference number so that all Payments made by such Customer are correctly identified to the appropriate account within the Supplier's database.

4.2 Upon receipt of the information referred to in Clause 2 above, the Supplier shall prepare a CPC and Card Carrier for each Customer so notified. All subsequent CPCs requested either for new Customers or by way of replacement of CPCs already issued will be dispatched to the Client or the relevant Customer (as the Client may specify in Writing), by close of business on the next Working Day following receipt of such request.



- 4.3 If the Client wishes to use a CPC, Card Carrier, wallet or any other item which has been supplied by a third party, the Supplier reserves the right by notice in Writing to reject any such CPC, Card Carrier, wallet or other item which does not meet the following required specifications

CPCs: ISO7810, (thickness, corner radius, warpage and size).

ISO7811, (positioning of magnetic stripe and internal encoding and embossing guidelines).

Carriers: ISO9002 manufacturing standard - A4 100gsm (+/- 10%).

Wallets: outer plastic thickness of 350 microns and clear inner pocket plastic thickness of 150 microns.

- 4.4 Unless previously approved in Writing by the Supplier, the use of each CPC is strictly limited to the purpose expressly intended by this Agreement.

- 4.5 With effect from the Commencement Date, until the termination of this Agreement, the Client shall allow the Supplier to use the name and logo of the Client in the Supplier's, and where appropriate, the relevant Network Provider's promotional and marketing materials relating to the provision of the Services. The Client agrees that it will be guided by the Supplier as to the use of logos of the Network Providers on the CPCs and, if appropriate, the logos will be displayed with equal prominence if requested to do so by the Supplier.

5. SECURITY OF CASH

- 5.1 The Supplier shall maintain one or more Trust Accounts with the Account Bank(s), for the purpose of receiving Payments on behalf of, and for transmitting funds pursuant to Condition 3, to the Client.

- 5.2 A dedicated Virtual Account will be created within the Trust Account for the purpose of identifying the Client monies to be held by the Supplier from time to time.

- 5.3 The first such Virtual Account within the Trust Account(s) will be provided free of charge and any additional Virtual Account(s) requested by the Client will attract a Monthly maintenance fee as set out in Schedule 2 - Service Schedule. The Supplier hereby agrees and declares that the Principal Funds held in the Trust Account(s) in the name of the Client shall not at any time form part of the assets of the Supplier, cannot be offset against any indebtedness of the Supplier (save for indebtedness accruing from the Client) and the Supplier hereby declares that it will hold such Principal Funds on trust for the Client.

- 5.4 The Supplier will issue confirmation in Writing to the Client of each Virtual Account pursuant to Condition 0. Such confirmation will provide to the Client (inter alia):

5.4.1 the Client's individual account reference(s).

- 5.4.2 any other required details enabling the Client to identify the Principal Funds to which it is entitled.

- 5.5 The Supplier may from time to time open further Trust Account(s) in substitution for, or in addition to, the existing Trust Account(s) provided that on each occasion it shall comply with this agreement.

6. STATIONERY AND ART WORK

- 6.1 The Supplier will co-ordinate and assist the Client with the preparation and design of all stationery and CPCs but the cost of the printing and any associated art work must be agreed in Writing by and paid for by the Client. Such cost will be notified to the Client in Writing prior to production, and will be subject to alteration should the Client's requirements alter. The Client will be responsible for proofing the accuracy and content of the stationery and the artwork.

- 6.2 CPCs, Card Carriers, wallets and associated stationery will be held by the Supplier but will remain the property of the Client provided that such items held by the Supplier from time to time shall be at their risk and the Supplier shall label such items in order to identify them as the property of the Client.

- 6.3 The Supplier shall, on request, advise the Client of the number of CPCs, Card Carriers, wallets and associated stationery in storage

7. CARD SCHEMES

The Supplier may only accept the types of card issued under the Card Schemes: UK Maestro (incorporating Switch and Solo), MasterCard, VISA Credit, VISA Debit (incorporating Electron and Delta) or as particularised in Schedule 2 - Service Schedule. Each of the Supplier and the Client shall comply with the Card Scheme Rules.

8. CHARGE BACK RIGHTS

- 8.1 Card Issuers can refuse to settle any card Transaction, whether authorised or not, undertaken, or purported to be undertaken (CNP) by a Customer, or to require repayment of sums already paid to the Supplier in respect of such a card Transaction. For the avoidance of doubt, the rules, regulations and guidelines are published by the Account Bank(s) and Card Issuer(s) and regulated by the FSA in conjunction with government legislation.

- 8.2 If a Card Issuer exercises such Charge Back Right, the Supplier will immediately be entitled to recover from the Client the amount paid by the Supplier to the Client in respect of the relevant Transaction. In addition, upon prior notification from the Supplier, the Supplier may recover from the Client any other costs and expenses the Supplier may incur as a result of, or in connection with, such Charge Back. These costs will be included in the invoice for the relevant period. If the Client fails to make any payment under this Condition 0 on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to exercise its rights under Clauses 5 and 10 of our general terms



8.3 The Client shall endeavour to keep Charge Backs to an acceptable level and shall make best endeavours to reduce Charge Backs when notified to do so by the Supplier from time to time. Failure to reduce charge backs to an acceptable level may result in part or all of the Services being suspended or withdrawn.

9. PAYMENT CARD INDUSTRY SECURITY STANDARD

9.1 The following provisions, within Clause 9, shall only apply to those organisations involved directly or indirectly in the transmission of personal financial data associated with debit and credit card transactions with the Supplier.

9.2 The provisions set forth in this section apply to a Client that either itself, or through a processor or other agent, stores, processes, handles or transmits cardholder data in any manner. For purposes of this section, the term "cardholder data" refers to the numbers assigned by the card issuer that identifies the cardholder's account or other cardholder personal information.

9.3 The Client shall at all times comply with the Payment Card Industry Data Security Standard ("PCI DSS") requirements for cardholder data, as they may be amended from time to time (collectively, the "PCI DSS Requirements"). Copies of current PCI DSS Requirements documentation are available on the Payment Card Industry Security Standards Council (PCI SSC) website at www.pcissc.com.

9.4 The Client will provide to the Supplier from time to time evidence to support that it complies with PCI DSS requirements.

9.5 The Client acknowledges and agrees that cardholder data may only be used for assisting in completing a card transaction, for fraud control services, for loyalty programs, or as required by applicable law.

9.6 In the event of a breach or intrusion of or otherwise unauthorised access to cardholder data stored at or for the Client, the Client shall immediately notify the Supplier, in the manner required in the PCI DSS Requirements, and provide the acquiring financial institution and their respective designees access to the Client's facilities and all pertinent records to conduct a review of the Client's compliance with the PCI DSS Requirements. The Client shall fully cooperate with any reviews of their facilities and records provided for in this paragraph.

9.7 The Client shall maintain appropriate business continuity procedures and systems to ensure security of cardholder data in the event of a disruption, disaster or failure of the Supplier's or the Client's primary data systems.

9.8 The Client and its successors and assignees shall comply with the PCI DSS Requirements after termination of this Agreement.

10 ALLPAY HOSTED SOFTWARE

10.1 The Supplier shall give access to, (and where appropriate, supply and install), and as mutually agreed, provide training in, the use of the Software as specified in Schedule 2 - Service Schedule.

10.2 The Supplier hereby grants to the Client a non-exclusive, non-transferable licence to use the Software for the purposes of this Agreement for the Term. The Client shall not permit any third party to have possession of, access to, copy or use the Software, nor use the Software on behalf of or for the benefit of any third party (in any way whatsoever) without the Supplier's prior consent in Writing.

10.3 For the avoidance of doubt, access rights to the Software are the domain of the Supplier. It is a pre-requisite of the Client's access to the Software that no other person may share the Client's user name and password other than the Client's employees who need to do so for the purposes of their employment. The Client is responsible for all use of information accessed through the Software by the Client or anyone else using the Client's name and password, whether or not with the Client's permission, and or preventing unauthorised use of the Client's user name and password. If the Client believes that there has been any breach of security such as the disclosure, theft or unauthorised use of its user name and password, or of any payment or other information, the Client must notify the Supplier immediately in Writing. Access to the Software and the Client's user name and password may be terminated or suspended by the Supplier in its absolute discretion at any time after the Supplier has become entitled under this Agreement to terminate or suspend the Service(s).

10.4 The Client shall be responsible for maintaining up to date version of the internet browser to assure full functionality of the Software

10.5 Except as otherwise agreed under the Client's provision of services to the Client Partners, the Client is not permitted to and hereby undertakes not to:

10.5.1 copy the Software.

10.5.2 transfer, distribute, rent, loan, lease, sub-licence or otherwise deal in the Software

10.5.3 alter, adapt, merge, modify or translate the whole or any part of the Software in any way whatsoever for any purpose, including, without limitation, for error correction.

10.5.4 permit the whole or any part of the Software to be combined with or become incorporated in any other programs.

10.5.5 engineer, disassemble or decompile the Software.

10.5.6 remove, change or obscure any product identification or notices of proprietary rights and restrictions on or in the Software.

10.6 The Software and the copyrights and other intellectual property rights of whatever nature in the Software are and shall remain the property of the Supplier.

10.7 The Client undertakes that it will not interfere or attempt to interfere with the proper working of the Software.



11. ALLPAY DISTRIBUTED SOFTWARE

- 11.1 The Software is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Software is licensed, not sold.
- 11.2 The Software is licensed as follows:
- 11.2.1 The Supplier grants the Client the right to install and use copies of the Software on the Client's computer running a validly licensed copy of the operating system for which the Software was designed.
- 11.2.2 The Client may make copies of the Software as may be necessary for backup and archival purposes.
- 11.3 The Software's rights and limitations are as follows:
- 11.3.1 The Client may not remove or alter any copyright notices on any and all copies of the Software.
- 11.3.2 The Client may not distribute registered copies of the Software to third parties.
- 11.3.3 The Client may not reverse engineer, decompile or disassemble the Software, except and only to the extent that such activity is expressly permitted by applicable law and notwithstanding this limitation.
- 11.3.4 The Client may not create derivative works based upon the Software.
- 11.3.5 The Client may not rent, lease or lend the Software.
- 11.3.6 The Supplier may provide the Client with support services related to the Software ('Support Services'). Any supplemental software code provided to the Client as part of the Support Services shall be considered part of the Software and subject to the terms and conditions set out below.
- 11.4 The Client must comply with all applicable laws regarding use of the Software.
- 11.5 Without prejudice to any other rights, the Supplier may terminate use of the Software if the Client fails to comply with these Terms and Conditions. In the event that the Agreement is terminated for whatever reason, the Client must destroy all copies of the Software in the Client's possession.
- 11.6 All title, including but not limited to copyrights, in and to the Supplier Software and any copies thereof are owned by the Supplier or its suppliers. All title and intellectual property rights in and to the content which may be accessed through use of the Supplier Software is the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. These Terms and Conditions grant you no rights to use such content. All rights not expressly granted are reserved by the Supplier.

11.7 Without prejudice to Condition 10.4.1 and 10.4.2 herein the following provisions apply to Conditions 8 of the General Terms and Conditions above. The Supplier expressly disclaims any warranty for the Software. The Software is provided 'As Is' without any express or implied warranty of any kind, including but not limited to any warranties of merchantability, non-infringement, or fitness of a particular purpose. The Supplier does not warrant or assume responsibility for the accuracy or completeness of any information, text, graphics, links or other items contained within the Software. The Supplier makes no warranties respecting any harm that may be caused by the transmission of a computer virus, worm, time bomb, logic bomb, or other such computer program. The Supplier further expressly disclaims any warranty or representation to Authorised Users or to any third party.

11.8 In no event shall the Supplier be liable for any damages (including, without limitation, lost profits, business interruption, or lost information) rising out of 'Authorised Users' use of or inability to use the Software, even if the Supplier has been advised of the possibility of such damages. In no event will the Supplier be liable for loss of data or for indirect, special, incidental, consequential (including lost profit), or other damages based in Agreement, tort or otherwise. The Supplier shall have no liability with respect to the content of the Software or any part thereof, including but not limited to errors or omissions contained therein, libel, infringements of rights of publicity, privacy, trademark rights, business interruption, personal injury, loss of privacy, moral rights or the disclosure of confidential information, subject to Condition 12 of the this Schedule.

12. ALLPAY DISTRIBUTED SOFTWARE LIMITED WARRANTY

12.1 The Supplier warrants for a period of ninety (90) days from date of delivery of the Distributed Software to the Client (the Licensee) that:

12.1.1 the media on which the Software is furnished to be free of defects and workmanship under normal usage and service and,

12.1.2 will conform in all material respect to the printed specifications for the Software.

12.2 This limited warranty covers only the Licensee of the Software. The Client's sole remedy for any failure of the Software is limited to the repair or replacement of the Software at the Supplier's discretion. The Supplier's liability is limited to the amount paid for the Software. The Supplier shall not be liable for indirect, special, consequential or liquidated damages or penalties, including claims for lost revenues, profits or business opportunities, even if The Supplier had or should have had any knowledge, actual or constructive, of the possibility of such damages.

12.3 The Supplier does not warrant that the Software is error free or that Client will be able to use the Software without problems or interruptions. The Supplier does not warrant that the Software and any equipment on which the Software is used will be free from vulnerability to attack on the network, including viruses and other techniques for attacking networks.



13 SUPPORT

- 13.1 For the duration of the license of the Software under Condition 10.2 the Supplier shall provide technical support for the Software between the hours of 8:30 am and 5:30pm on Working Days and the Supplier shall use its reasonable endeavours to respond as soon as practicable after receipt of a request. The technical support shall comprise telephone help desk support and, if a problem cannot be resolved by telephone support, by a site visit at the Client's cost, where necessary.
- 13.2 Technical support shall not include the diagnosis and rectification of any fault resulting from:
- 13.2.1 the improper use, operation or neglect of the Software or the equipment on which it operates
 - 13.2.2 the unauthorised modification of the Software or its merger (in whole or in part) with any other software
 - 13.2.3 use of the Software on equipment other than that approved by the Supplier
 - 13.2.4 the failure by the Client to implement recommendations in respect of, or solutions to, faults previously advised by the Supplier
 - 13.2.5 any repair, adjustment, alteration or modification of the Software by any person other than the Supplier without Supplier's prior consent in Writing.
 - 13.2.6 use of the Software on unsupported or obsolete internet browsers
 - 13.2.7 the use of the software for a purpose for which it was not designed

The Supplier shall, upon request by the Client, provide technical support notwithstanding that the fault results from circumstances described in Conditions 10.4.2 and 10.4.5. The Supplier shall, in such circumstances, be entitled to levy reasonable additional charges (at its then current rates), provided they are notified and agreed in advance of being incurred. Such additional charges shall be levied by the Supplier Monthly in arrears and shall be payable by the Client (together with value added tax thereon) within fourteen (14) days of receipt thereof. Without prejudice to the foregoing, the Supplier shall be entitled to levy reasonable additional charges (as aforesaid) if technical support is provided in circumstances where any reasonably skilled and competent data processing operator would have judged the Client's request to be unnecessary.



SCHEDULE 1 - SERVICE TERMS

PART 2

FOR THE PROVISION OF DIRECT DEBIT SERVICES ONLY

BACKGROUND

- A. This document should be read in conjunction with the Schedule 2 - Service Schedule and the General Terms and Conditions. In the event of a conflict between documents, the following order will prevail: Schedule 2 – Service Schedule, General Terms and Conditions, Schedule 1 – Service Terms
- B. In addition to, and without prejudice to the terms and conditions of this entire agreement, the following terms apply to the provision of Direct Debit Services only.
- C. The Supplier will act as the Service User for the collection of Direct Debit payments in respect of payments due to the Client and the Client will act as an agent of the Supplier for the purpose of fulfilling its responsibilities to the Payer under the Direct Debit Service User scheme.

1. INTERPRETATION OF CONDITIONS IN PART 2

In these Conditions:

"ADDACS" means the Automated Direct Debit Amendment and Cancellation Service.

"APACS" means the Association for Payment Clearing Services.

"Advance Notice" means the notice period of (normally) ten (10) Working Days plus postal time, two (2) Working Days, given to the Payer in respect of any Direct Debit Instruction (DDI), whether new or by way of an amendment, specifying their rights and safeguards.

"Agreement" means all of the Terms and Conditions set out herein and any supporting documents.

"AUDDIS" means the Automated Direct Debit Instruction Service

"Confirmation Letter" means the initial Advance Notice letter sent to the Payer, confirming the DDI details and which includes the Direct Debit Guarantee.

"CHAPS" means the Clearing House Automated Payment System.

"DD" means a Direct Debit.

"DDI" means the Direct Debit Instruction.

"Direct Debit Guarantee" means the guarantee offered by Paying Banks to Payers in respect of the Direct Debit scheme specifying their rights and safeguards.

"Indemnity Claim" means a repayment claim made by the Paying Bank in respect of a disputed Direct Debit.

"Lodgement" means the process of the Paying Bank accepting the DDI, and "Lodge(d)" shall be construed accordingly.

"Paperless DD" means a DD instruction taken by the Service User or its agent, from a Payer, in person or over the telephone.

"Payer" means the bank or building society Customer making payments by Direct Debit.

"Paying Bank" means the bank or building society at which the Payer's account is held and which will be debited by the Direct Debit in favour of the Originator.

"Scripting Prompts" means the questions asked of a Customer to obtain (and communicate), relevant information (in accordance with BACS legislation), to facilitate a Paperless DDI.

"Service User" means a Supplier that has been admitted to the Direct Debit scheme, is registered at APACS and is authorised to collect payments by means of Direct Debits.

"SUN" means Service User Number which is included in all DD communication formats.

"Transaction Fee" means the charge levied by the Supplier in the normal course of its business, for collecting DD payments on behalf of the Client.

"Unpaid Direct Debit" means a failed Direct Debit that is returned uncollected from the Paying Bank.

2. INITIAL ISSUE (PAPERLESS AND MANDATED DDIs)

- 2.1. The Client may accept a Payer's account details either over the telephone or in person, in strict accordance with Scripting Prompts, to allow completion of a Paperless DDI, (a Paperless DD).
- 2.2. The Supplier may provide paper Direct Debit Instructions to the Client, when requested, to allow a Payer to complete a written DDI
- 2.3. All DDI details shall be communicated to the Supplier, using the Software, within forty-eight (48) hours of receipt thereof by the Client, in order that the Supplier can issue Confirmation Letters to the Payer on the following Working Day.
- 2.4. All Paper DDIs must be returned to the Supplier, (as the Service User), for safekeeping. Upon request, the original Paper DDI must be provided by the Supplier to the Paying Bank, within five (5) Working Days.
- 2.5. The Client should retain a copy of all Paper DDIs returned to the Supplier.
- 2.6. On receipt of a DDI from the Client, the Supplier will process the details overnight and Lodge the DDI with the Paying Bank via AUDDIS.
- 2.7. The Supplier will issue Confirmation Letters for all new DDIs.
- 2.8. The Supplier will issue Advance Notice letters for all DDI amendments.
- 2.9. The Supplier will use the Software to notify the Client, of DDIs rejected by BACS, (using the error codes shown in the user guide, issued by the Supplier to the Client).



2.10. The Supplier will use the Software to advise the Client of all DDI cancellations notified to it via ADDACS.

2.11. Confirmation Letters and Advance Notice letters which have been posted in good faith by the Supplier, but returned to the Supplier as undeliverable (for whatever reason), will be re-directed to the client with a covering letter explaining the reason for non-delivery, and charged for at the rate specified in Schedule 2 - Service Schedule.

3. PAYMENT INSTRUCTION

The Supplier will issue Payment instructions to BACS two (2) days prior to the DDI payment date.

4. DIRECT DEBIT RULES

The rules of the Direct Debit scheme for Direct Debit origination include, but are not limited to, the following, which the Client agrees to conform to at all times:

4.1. Ensure the Advance Notice period is adhered to for all DDI submissions, both new and by way of amendment.

4.2. If the Payer requests a Direct Debit Instruction be cancelled, both the Supplier and the Client, whose primary responsibility is to the Payer, must comply immediately. In instances where the Payer makes direct contact with the Supplier, their wishes will be complied with and the Client informed. In cases where the Payer disputes the amount to be debited or has other queries relating to their account, they will be advised to contact the Client direct.

4.3. Under the terms of the Direct Debit Guarantee, if the Payer claims the Supplier, or the Client on the Supplier's behalf, has made an error processing a DD Payment, the Paying Bank is duty bound to immediately refund to the Payer, the value of that Payment, and will raise an Indemnity Claim against the Supplier. The Supplier is obliged to settle the claim within fourteen (14) days and will reclaim the money from the Client. Any disagreement as to the validity of the claim must be pursued by the Client.

4.4. No counterclaim is permissible by the Supplier under Condition 4.3 above. The Client, acting as the Supplier's agent, retains the right to take action directly against the Payer, and in order to do so, should ensure proper archived records of account are retained to facilitate a clear audit trail.