

Blink Payment is a trading name of FIDELITY PAYMENT PROCESSING LIMITED

Terms and Conditions (these “Terms and Conditions”)

Definitions and interpretation

1.1 In this Agreement unless the context otherwise, the following terms shall have the following meanings:

"Authorisation" means:

(A) In the case of the Acquiring Services related to Cards: the confirmation at the time of a Transaction from the relevant Card Issuer that the Card used to pay for the Transaction has not been blocked for any reason or listed as lost or stolen or as having had its security compromised and that there are sufficient funds available for the relevant Transaction

(B) In the case of Alternative Acquiring Services: authorisation of a Transaction, including, where applicable, the confirmation from the relevant Other Financial Institution or Alternative Payment Provider that adequate funds are available at the time of the Transaction to pay for the relevant Transaction; and “Authorise” and “Authorised” shall be construed accordingly

"Card" is a current and valid credit, debit or charge card that Blink may accept for processing by the Services under the terms of this Agreement

“Account” means a unique electronic Data Transaction account through which Merchant can access the Services and settings related thereto

“Acquirer Fees” the Fees payable by the Merchant to Blink in respect of the financial institution to which the Merchant’s Transaction instructions are routed for authorisation and settlement, in accordance with the Order Form

“Acquirer Services” the services provided by the Acquirer from time to time relating to the authorisation and settlement of Transactions

“Acquirer Terms” the terms and conditions to which the Merchant has contractually agreed in respect of the Acquirer and the Acquirer Services from time to time

“Acquirer” the financial institution to which the Merchant’s Transaction instructions are routed for authorisation and settlement, as notified to Blink by the Merchant

“Acquiring Services” means both Card Acquiring Services and Alternative Acquiring Services

“Admin User” means a User that Merchant has authorized to make Services selection preferences on behalf of the Merchant, activate and deactivate other Users and exercise administrative privileges in the Account

“Agreement” these Terms and Conditions together with the relevant Order Form, the Schedules referred to in that Order Form and any document referred to in these Terms and Conditions, the Order Form or the Schedules

“Alternative Payment Method” means a payment method other than Cards approved by Blink in writing from time to time

“Alternative Payment Provider” mean, for each Alternative Payment Method, the provider of such payment method

“Applicable Law” means all laws or regulations (and including the requirements of any Regulatory Authority) applicable to a Party (including a Party’s rights or obligations) or to any Transaction or Refund for the time being in force in any jurisdiction

“Breach of Duty” the breach of any:

- (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract
- (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty)

“Business Day” a day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business

“Card Issuer” means a Person which issues Cards

“Card Schemes” means schemes governing the issue and use of Cards including Visa, Mastercard or as may be approved and notified by Blink to Merchant in writing from time to time

“Card” means a credit, debit, charge, purchase or other payment card issued by a Card Issuer under a Card Scheme whose payments we are

“Change Control Form” the template form set out in the Order Form, which template must be used by the Parties if they wish to amend this Agreement

“Chargeback” means either:

- (i) any circumstances where Card Issuers, Card Schemes and/or Third Party Servicers either refuse to Settle a Transaction or demand payment from Blink in respect of a Transaction that has been Settled and/or in respect of which Remittance been made to you;
- (ii) (in respect of an Alternative Payment Method) any Reversed Payment;
- (iii) any other circumstance where any Third Party Servicer (e.g. Acquirer) either refuses to make a payment to Blink (including a Payment) or demands payment from Blink in respect of a disputed Payment or other payment made to Fidelity in respect of a

Transaction, or in respect of which Payment or other payment has been made to you; in each case notwithstanding any Authorisation;

“Commencement Date” the date on which this Agreement has been signed by each of the Parties;

“Confidential Information” any information in any form or medium obtained by or on behalf of either Party from or on behalf of the other Party in relation to this Agreement which is expressly marked as confidential or which a reasonable person would consider to be confidential, whether disclosed or obtained before, on or after the Commencement Date, together with any reproductions of such information or any part of it;

“Control” or “Controlled” means the exercise, or ability to exercise or entitlement to acquire, direct or indirect control over Merchant or Blink (as applicable), as defined in ss. 449 and 450 of the Corporation Tax Act 2010 and a “Change of Control” shall be deemed to have occurred if any Person or Persons who control(s) Blink or Merchant at the Commencement Date subsequently cease to control Blink or Merchant, as the case may be;

“Controller” has the meaning set out in UK GDPR;

“Customer” the person that holds a Card and orders products or services from the Merchant in respect of which payment shall be made using the Services;

“Data Protection Legislation” in relation to any Personal Data which is Processed in the performance of this Agreement, the Data Protection Act 2018 and the UK GDPR, in each case together with any national implementing laws, regulations, secondary legislation and any other applicable or equivalent data protection or privacy laws, as amended or updated from time to time, in the UK, and any successor legislation to such laws;

“Data Sharing Annex” the annex to the Order Form setting out the scope, nature and purpose of Processing for the purposes of UK GDPR;

“Data Subject” has the meaning set out in UK GDPR;

“Data Transaction” means the receipt or sending of Merchant Data to or from Merchant, a Customer, a User or Third Party Servicer on Merchant instructions via the Services;

“Data” means documents, data and records of any kind relating to Transactions, Chargebacks, Represent ments, Retro-Charge or Refunds (including, for the avoidance of doubt, data relating to Cards and Customers) and shall include Transaction Personal Data and Sensitive Authentication Data;

“Event of Force Majeure” has the meaning given to it in Clause 12.1;

“Fees” the fees payable by the Merchant to Blink for the provision by Blink of the Services, as set out in this Agreement (including the Order Form and the Schedules);

“Intellectual Property Rights” copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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;

"Inward Payment" means funds received by a Third Party Servicer, either originating from a Customer or otherwise, with a reference identifying Merchant as the intended recipient and beneficiary.

"Liability" means liability in or for breach of contract, Breach of Duty, torts (including negligence and intentional torts), deliberate breach (including deliberate personal repudiatory breach), misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and, for the purposes of this definition, all references to "this Agreement" shall be deemed to include any collateral contract);

"Merchant Bank Account" means an account in the name of Merchant with a duly authorized credit institution acceptable to Acquirer that is maintained by Merchant for the purposes of receiving Remittances and paying your Fees due to Blink or Third Party Servicers;

"Merchant Data Consent" means the express consent granted by Merchant for Blink to collect, process and disclose Merchant Data in accordance with the terms of this Agreement incorporated herein by reference and set out in the Merchant Data Consent Schedule set out at the end of this Agreement;

"Merchant Data" Means data concerning Transactions or other Merchant or Customer activity available through the Services (i) from Blink; or (ii) from a Third Party Servicer;

"Merchant Guide" means any instructions, guidance or manuals made available by Blink with respect to the Services, as amended from time to time;

"Merchant" is the recipient of services from Blink under this Agreement, as set out in the Order Form;

"MID" is the merchant identification number (being a unique code) allocated to the Merchant by the Acquirer in order for the Merchant to receive the Acquirer Services and process Transactions using the Services;

"Network Rules" means all applicable rules, regulations and operating guidelines issued by the Card Schemes or any Alternative Payment Provider from time to time relating to Cards, Transactions, Alternative Payment Methods and any payments or processing of Data relating thereto (including those communicated to you in the Merchant Guide and such rules, regulations and guidelines posted on Card Scheme or Alternative Payment Provider websites from time to time including:

"Network Rules" means all applicable rules, regulations and operating guidelines issued by the Card Schemes or any Alternative Payment Provider from time to time relating to Cards, Transactions, Alternative Payment Methods and any payments or processing of Data relating thereto (including those communicated to you in the Merchant Guide and such rules, regulations and guidelines posted on Card Scheme or Alternative Payment Provider websites from time to time including:

www.visaeurope.com

www.mastercard.co.uk

www.mastercard.us

and such other URLs as Blink may notify Merchant about from time to time); and all amendments, changes and revisions made thereto from time to time, and any current waivers or exceptions agreed with the Card Schemes or any Alternative Payment Provider;

"Normal Business Hours" are from 09:00 to 17:30 Monday to Thursday, and 09:00 to 15:30 Friday, on Business Days;

"Order Form" is the written document Blink provides to the Merchant containing specific information relating to the particular Services supplied or to be arranged to be supplied by Blink to the Merchant;

"Other Financial Institution" means a Third Party Servicer that is a financial institution;

"Other Payments Organization" means a Third Party Servicer that is in business or providing payment services or services in support of payment services;

"Outward Payment" means a payment transaction whereby a Third Party Servicer transfers funds to the bank account designated by Merchant in accordance with Merchant instructions.

"Parties" are Blink and the Merchant, and "Party" shall mean either of them;

"Payments" means together, Inward Payments and Outward Payments.

"Person" means any individual, company, body corporate, corporation sole or aggregate, government, state or agency of a state, firm, partnership, association, organization or trust (in each case, irrespective of the jurisdiction in or under the law of which it was incorporated, formed or otherwise exists);

"Personal Data Breach" has the meaning given to it by UK GDPR;

"Personal Data" has the meaning given to it by UK GDPR, and relates only to personal data, or any part of such personal data, of which the Merchant is the Controller and in relation to which Blink is the Processor and providing services under this Agreement;

"Privacy Policy" Means the [Blink privacy policy](#) and incorporated herein by reference;

"Process" and "Processing" have the meaning given to it by UK GDPR;

"Processor" has the meaning set out in UK GDPR;

"Rates" are Blink's time and materials rates for providing services from time to time in force;

"Reason Code" means a code or category used by any Card Scheme to classify a specific activity, act or omission, including any code in the Visa Merchant Alert Service, Mastercard Member Alert to Control High-Risk Merchants or an equivalent for any other Card Scheme, or a Regulatory Authority black list;

"Refund" means a Transaction, in respect of an initiating Transaction, made wholly or partially to reverse that initiating Transaction;

"Regulatory Authority" means any governmental or regulatory authority, and/or any self-regulatory authority, governmental department, agency, commission, board, tribunal, crown corporation, or court or other law, rule or regulation making entity having jurisdiction over any of the Parties and/or their businesses or any part or subdivision thereof in any territory in which the Services are made available or any local authority, district or other subdivision thereof (including, in respect of the United Kingdom, the Financial Conduct Authority, the Office of Fair Trading, the Office of the Information Commissioner) and any body which succeeds or replaces any of the foregoing;

"Remittance" means any payment a Third Party Servicer or Merchant makes under a Third Party Servicer Agreement (and "Remit" will be construed accordingly);

"Representment" means a Transaction to reverse a Chargeback by the re-execution of the original Transaction, where Merchant has successfully challenged the Chargeback;

"Restricted Person" means a person that is (i) listed on, or owned or Controlled by a Person listed on any Sanctions List; (ii) located in, incorporated under the laws of, or owned or Controlled by, or acting on behalf of, a person located in or organised under

the laws of a country or territory that is the target of country-wide Sanctions; or (iii) otherwise a target of Sanctions.

"Retro-Charge" means a Transaction initiated by you to reverse a Refund to which the Customer was not entitled;

"Reversed Payment" an Inward Payment to the extent that it is fully or partially returned by an Alternative Payment Provider or a bank associated with the Inward Payment or to the extent that any Regulatory Authority requires the return of an Inward Payment, resulting in a financial liability to Acquirer which may include any circumstances where any of the foregoing persons either: (a) refuses to make the Inward Payment; or (b) demands repayment from Acquirer of an Inward Payment due to a disputed corresponding Transaction, and in each case, notwithstanding: (i) any confirmation from an Alternative Payment Provider or bank that a Payment is authorised and/or in progress; and (ii) whether a corresponding Outward Payment has been made;

"Sanctions" means any economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by: (i) the United States government; (ii) the United Nations; (iii) the European Union; (iv) the United Kingdom; or (v) the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Office of Foreign Assets Control of the US Department of Treasury ("OFAC"), the United States Department of State, and Her Majesty's Treasury.

"Schedule" a schedule containing a further description of the Services provided by Blink to the Merchant, including further rights and obligations for the Parties in relation to such Services;

"Sensitive Authentication Data" means security related information used to authenticate Cardholders and authorise Card transactions. Sensitive Authentication Data elements include magnetic stripe data (PAVE, CVV, CVC, CID) PINs, PIN blocks and the three or four digit number security code found either on the front or on the back of a card (e.g. MasterCard CVC2/ Visa CVV2);

"Services" the services that Blink provides to the Merchant under this Agreement, as set out in the Order Form and the relevant Schedule(s);

"Settlement" means the crediting to Merchant of the value of a Transaction as determined by the relevant Card Scheme or Third Party Servicer as the case may be (and "Settle" and "Settled" shall be construed accordingly).

"Special Categories of Personal Data" - those categories of data listed in Article 9(1) UK GDPR.

"Supervisory Authority" - any regulatory authority responsible for the enforcement of Data Protection Legislation.

“Term” - has the meaning given to it in Clause 10.1.

“Third Party Servicer Agreement” - means an agreement between Merchant and a Third Party Servicer concerning the supply of Third Party Servicer Services to or for the benefit of Merchant.

“Third Party Servicer Service” - means the services of Third Party Servicers pursuant to Third Party Servicer Agreements.

“Third Party Servicer” - means a party to a Third Party Servicer Agreement with Merchant, such as, for example, an Acquirer or an Issuer.

“Transaction” - means any payment by a Customer for goods and/or services purchased by a Customer from and provided by Merchant, using either: (A) a Card, a Card number or otherwise to debit or credit the applicable Card account; or (B) an Alternative Payment Method; in each case in accordance with the terms of the applicable Third Party Servicer Agreement (e.g. Acquirer agreement) and in relation to which Blink supplies any of the Services to Merchant, or a reversal of the same. Unless the context requires otherwise, a reference to “Transaction” shall include a reference to a Refund, a Representment, a Retro-Charge, a Recurring Transaction and a series of connected Transactions.

“UK GDPR” - Regulation (EU) 2016/679 General Data Protection Regulation as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019.

“User” - means an employee or independent contractor of Merchant who is authorized by the Merchant to use the Services on behalf of the Merchant.

1.4 References to “Clauses” are to clauses of this Agreement; references to “Paragraphs” are to paragraphs of a Schedule.

1.5 The headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

1.6 A “person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.7 A reference to a Party includes its personal representatives, successors or permitted assigns.

1.8 Words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral.

1.9 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.10 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression, shall be construed as illustrative, shall not limit the sense of the words preceding or following those terms, and shall be deemed to be followed by the words “without limitation” unless the context requires otherwise.

1.11 A reference to “writing” or “written” includes in electronic form and similar means of communication.

Agreement

The terms of this Agreement apply to the exclusion of any terms and conditions submitted, proposed or stipulated by the Merchant in whatever form and at whatever time. These Terms and Conditions apply to all Services.

Save as expressly provided in this Agreement, this Agreement shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties preceding the date of this Agreement and in any way relating to the subject matter of this Agreement and to the exclusion of any representations not expressly stated in this Agreement except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Each of the Parties acknowledges that it has not entered into this Agreement based on any representation that is not expressly incorporated into this Agreement.

This Agreement constitutes the whole agreement and understanding of the Parties as to the subject matter of this Agreement and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to in this Agreement.

The Order Form shall be in the form that Blink requires from time to time. This Agreement shall be legally formed and the Parties shall be legally bound when Blink has received and signed the Order Form that has been signed by an authorised signatory of the Merchant and submitted by the Merchant to Blink. Submission to Blink by the Merchant of the Order Form as signed by the Merchant shall be deemed to be an offer by the Merchant to purchase Services (as specified in the Order Form) from Blink, subject to the provisions of this Agreement, and Blink’s counter-signature on the Order Form shall be considered acceptance of such offer, but the requirements for Blink to perform any of its obligations under this Agreement shall be conditional upon Blink’s receipt from the Merchant of any advance payment of Fees as required under this Agreement.

If the Merchant provides to Blink a purchase order for the Merchant's receipt of Services other than as set out in Clause 2.4, that purchase order (and any terms and conditions attached or referred to in it) shall be purely for the Merchant's administrative purposes and shall not form part of this Agreement.

In the event of a conflict between these Terms and Conditions, Schedules and the Order Form, then:

The Order Form shall prevail over

These Terms and Conditions, which shall prevail over

A Schedule.

Services

Blink will provide the Services to the Merchant as set out in the Order Form.

Blink warrants that it shall provide the Services with reasonable skill, care and diligence using appropriately experienced and qualified personnel.

Services

3.1 Blink will provide the Services to the Merchant as set out in the Order Form.

3.2 Blink warrants that it shall provide the Services with reasonable skill, care and diligence using appropriately experienced and qualified personnel.

3.3 So long as Merchant are not in breach of this Agreement, Merchant shall be granted a unique and private Account accessible through the Services. The Account shall be a record of Data Transactions. Blink shall provide Merchant with access codes for the Account. Merchant shall not disclose such codes or permit any third party to use them on penalty of forfeiting the whole of the Account. Merchant assumes full responsibility for the use of Account. From time to time, Merchant will be invited to enter certain preferences and specifications within the Account that will apply to the Services; Merchant assumes exclusive responsibility for such selections even if they contain errors by Merchant, or result in losses to Merchant. Any additional terms and conditions posted to the Account or specific Blink Service preferences selected by Merchant are incorporated herein by reference.

3.3.1 An Admin User may be granted administrative rights in Account, including the right to allow more than one individual User from Merchant organization to access Merchant Account. Where there is more than one User in Account, Merchant is responsible for all acts and omissions of each individual User. Merchant guarantees that each User shall comply with the terms of this Agreement. Each reference to Merchant in this Agreement shall refer to both Merchant and each of its Users.

3.3.2 Except as required to deliver the Blink Service or as otherwise required by law, Blink shall not grant any third party access to Account.

3.3.3 Merchant shall notify Blink by email to welcome@Blinkpayment.co.uk immediately of any loss or disclosure, whether voluntary or otherwise, of any Account password or access code to a third party. Blink may interrupt or refuse all access and any orders made using this password within one (1) business day following the receipt of the notification.

3.4 Blink shall ensure that it:

3.4.1 has all necessary consents, rights and permission to enter into, and perform its obligations under, this Agreement; and

3.4.2 shall comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of its rights and performance of its obligations under this Agreement.

3.5 Blink is not responsible for any people, equipment, deliverables or services that it is not expressly stipulated to provide in this Agreement. The Merchant is responsible for any people, equipment, deliverables and services that it needs to obtain from someone other than Blink. Except for any matter in relation to which Blink specifically agrees in writing to advise or do, it shall not be responsible, or have any Liability (subject to Clause 9.2) for advising on, or failing to advise on, or doing, or failing to do, anything else.

3.6 Subject to Clause 9.2, Blink shall not have any Liability for any delays or failures to accurately perform its obligations under this Agreement if caused by any failure or delay on the Merchant's part or on the part of the Merchant's employees, agents or subcontractors or by any breach by the Merchant of this Agreement or any other agreement. If there is any slippage in time, Blink shall use its reasonable endeavours to reschedule delayed tasks to a mutually convenient time.

3.7 If Blink is delayed or hindered in providing any Services as a result of any breach, delay or failure by the Merchant to perform any of its obligations under this Agreement or of any other agreement between the Parties, then Blink may charge the Merchant at the Rates for any time reasonably incurred as a result of the hindrance or breach.

3.8 The Merchant acknowledges that Blink's ability to provide the Services may be subject to the approval and acceptance of Third Party Servicers, including but not limited to the Acquirer, that provides merchant-acquiring or other services to the Merchant. Any such Third Party Servicer Services are the responsibility and liability of the relevant Third Party Servicer and the Merchant acknowledges that the acts or omissions of any such third party may impact on Blink's ability to perform the Services. Blink shall not have any Liability (subject to Clause 9.2) for any delay in or non-

performance of the Services which is caused by any Third Party Servicer. Where Third Party Servicer Services are indicated as being compatible with the Services within the Account, Merchant may initiate Data Transactions with respect to such Third Party Servicers the results of which are determined as per the terms of the applicable Third Party Servicer Agreement. Blink may, at its sole discretion, add or remove integrations and compatibility of the Services with any one or another Third Party Servicer Service without prior notice to or consent of Merchant.

3.9 The Services may also enable electronic communication between Merchant and its Customers.

3.10 Blink reserves the right to change the Services at any time, including making changes to the Services to comply with applicable laws and/or regulations, or changes which do not materially affect the functionality of the Services. In the event that such changes impact the way in which the Merchant uses the Services, Blink will inform the Merchant in advance of the change.

3.11 Blink shall not provide any training of personnel utilised by the Merchant as part of the Services.

3.12 Blink:

3.12.1 does not warrant that the Merchant's use of the Services will be uninterrupted or error-free; and

3.12.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet, and the Merchant acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

Whilst Blink use Blink's reasonable endeavours to make the Services available, Blink shall not have any Liability (subject to Clause 9.2) if for any reason the Services are unavailable for any time or for any period.

3.13 Blink does not guarantee that the Services will be free from faults. Subject to any other support made available in respect of a specific Service as set out in the Order Form or any Schedule, Blink shall use its reasonable endeavours to:

3.13.1 provide technical support via a "Help Desk" telephone service available during Normal Business Hours; and

3.13.2 correct any errors or omissions in the Services as soon as practicable during Normal Business Hours after receiving full and clear information on them from the Merchant via the Help Desk telephone service;

("Support Services"). Blink shall respond to a request for Support Services within a reasonable time, but Blink cannot guarantee any particular result or outcome nor within any particular time. In particular, without limitation, Blink may need to obtain support in turn from a third party that assists Blink with the provision of the Support Services.

3.14 Third Party Servicers of a particular Third Party Servicer Service may from time to time offer independent support services to the Merchant in respect of that service, for which the Merchant acknowledges that Blink has no Liability (subject to Clause 9.2); in such circumstances, the contact details for the Merchant to obtain such support shall be as set out in the Order Form, as notified to the Merchant by Blink from time to time, or as otherwise made available to the Merchant by the relevant Third Party Servicer.

3.15 The Support Services exclude the resolution of faults or defects that arise as a result of the Merchant's failure to comply with this Agreement or any other agreement between the Parties, or due to the act or omission of any third party. Blink may provide those excluded services as part of the Support Services at its absolute discretion and at the Rates; subject to Clause 9.2, Blink shall not have any Liability for its provision of any of those excluded services to the Merchant.

3.16 Except as specifically stipulated in this Agreement, Blink:

3.16.1 Shall not be responsible for providing or achieving any particular results or outcomes or within a particular time; and

3.16.2 Excludes all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of this Agreement and the Services.

The Merchant's obligations

4.1 The Merchant shall:

4.1.1 Ensure that any instructions it provides to Blink for or in respect of the Services are complete, accurate and up-to-date.

4.1.2 Ensure that Transaction information shared by the Merchant with Blink in respect of the Services is complete, accurate and up-to-date.

4.1.3 Comply with the Acquirer Terms and other Third Party Servicer Agreements; the Merchant acknowledges that any such Third Party Servicer Agreement forms a contract that is solely between the Merchant and the Third Party Servicer; the enforcement of any contractual obligations arising out of such Third Party Servicer Agreement is the responsibility of the Merchant and the relevant Third Party Servicer (being the parties to such Third Party Servicer Agreement), and, subject to Clause 9.2, Blink shall not have any Liability for the failure of either the Merchant or the Third Party Servicer to fulfil such obligations.

4.1.4 During the term of this Agreement and for such period as may be required following termination or expiry of this Agreement as may be reasonably necessary, open and maintain in its name a MID.

4.1.5 Obtain the prior written authorisation of Blink prior to moving the relevant Acquirer Services away from an Acquirer to another Acquirer.

4.1.6 Provide Blink with accurate and up to date information in respect of the Merchant's MID and the Merchant's access to and use of the Acquirer Services, on which information Blink shall be entitled to rely in order to provide the Services.

4.1.7 For each Third Party Servicer Service that Merchant wishes to be integrated with the Services, as indicated by preferences within the Services, Merchant shall: (i) ensure that the relevant Third Party Servicer agrees to such integration and send and accept Data Transactions drawn from them or provided to them through the Services as if they were requested or provided by the Merchant itself pursuant to the relevant Third Party Servicer Terms; and (ii) acknowledge to each Third Party Servicer that all Data Transactions drawn or presented to a Third Party Servicer are deemed to be those of the Merchant under the applicable Third Party Servicer Agreement.

4.1.8 Merchant acknowledges that any communication between Merchant and a Customer via the Services occurs within the context of the relationship between Merchant and their Customer for which Merchant assumes exclusive liability; Merchant shall ensure that it has put in place all necessary agreements, privacy consents and other disclosure necessary for any such communication by way of the Services.

4.1.9 Promptly provide to Blink such data, information and assistance that will enable Blink to carry out fully, accurately and promptly its obligations under this Agreement.

4.1.10 Have all rights, permissions and consents to enter into, and perform its obligations under, this Agreement, and to make use of the Services; and

4.1.11 Comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of its rights and performance of its obligations under this Agreement.

4.2 The Merchant acknowledges that it requires a MID to access the Services, and that the Acquirer may at any time:

4.2.1 Reject MID applications at its discretion; and/or

4.2.2 Terminate the Merchant's merchant services agreement with the Acquirer in accordance with the Acquirer Terms.

In the event that Clause 4.2.1 or Clause 4.2.2 applies to the Merchant, Blink may terminate this Agreement with immediate effect by giving notice to the Merchant; the Merchant shall be obligated to pay to Blink the Fees that would otherwise have been payable by the Merchant to Blink in respect of each Service, had this Agreement

continued (and not terminated early) until the earliest date that each Service could otherwise have been terminated by the Merchant in accordance with this Agreement, together with the Acquirer Fees until the latest such date.

4.3 It is the Merchant's responsibility to ensure that the Services are sufficient and suitable for its purposes and meet its individual requirements. This responsibility includes ensuring that the Services, and any deliverables or other materials Blink provides as part of the Services, are compliant with any regulatory regime to which the Merchant is subject. Blink shall not be responsible or, subject to Clause 9.2, have any Liability in the event that the Services are not suitable for the Merchant's purposes or do not meet the Merchant's individual requirements, including if they fail to comply with any laws or regulations to which the Merchant is subject.

4.4 The Merchant is responsible for ensuring that it provides Blink with the information and assistance required to enable Blink to properly provide the Services. Blink shall not be responsible or, subject to Clause 9.2, have any Liability for any failure to provide the Services to the extent caused by the Merchant's failure to properly ensure the provision of the relevant information and/or assistance, including as set out in Clause 4.1.

4.5 The Merchant is responsible for any complaints made by Customers in respect of goods and services made available by the Merchant, or the Services. Blink will direct any such complaints it receives from Customers to the Merchant.

4.6 The Merchant shall notify Blink immediately in the event that the Merchant becomes aware of any:

4.6.1 Breach of applicable laws and/or regulations in respect of use of the Services;

4.6.2 Matter which may impact the ability of Blink to provide the Services in accordance with this Agreement and applicable laws and/or regulations;

4.6.3 Errors in the Services or the Merchant's use of the Services, including in respect of Transactions; and/or

4.6.4 Dispute between the Merchant and the Acquirer or any other Third Party Servicer.

4.7 The Merchant acknowledges that each Third Party Servicer has its own privacy policies and that Blink do not accept any responsibility or Liability (subject to Clause 9.2) for those policies.

Acquirer Services

5.1 For the avoidance of doubt, Blink accepts Liability in respect of the Services only. The Merchant's access to, and the availability of, Acquirer Services is subject to the relevant Acquirer Terms. The Merchant warrants that it has read and accepted the Acquirer Terms. Blink shall not have any Liability (subject to Clause 9.2) in respect of

any Acquirer Terms, including any failure by the Merchant or the Acquirer to comply with the relevant Acquirer Terms or to honour the terms of any Transaction.

5.2 The Merchant shall indemnify Blink against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Blink arising out of or in connection with:

5.2.1 any breach, negligent performance or non-performance by the Merchant or the Acquirer of any Acquirer Terms or the Acquirer Services;

5.2.2 any claim made against Blink by any third party arising out of the Acquirer Services in respect of any Transaction;

5.2.3 any claim made against Blink arising from or out of any other Third Party Services; and

5.2.4 any failure by the Merchant to obtain, or maintain, a valid and current MID.

This indemnity shall apply whether or not Blink have been negligent or at fault.

Intellectual Property Rights

6.1 The Merchant acknowledges that all Intellectual Property Rights in the Services belong and shall belong to Blink or the relevant third-party owners (as the case may be), and the Merchant shall have no rights in or to the Services other than the right to use them in accordance with the terms of this Agreement.

6.2 Blink acknowledges that the Merchant shall own and retain all rights, title and interest in and to the Personal Data. Blink shall not have any rights to access, use or modify the Personal Data without the Merchant's prior written consent, except to the extent necessary for the Merchant to access the Services or as otherwise required by applicable law.

Data Protection

7.1 The Parties acknowledge that, for the purposes of Data Protection Legislation, the Merchant is the Controller and Blink is the Processor of any Personal Data, and that the scope, nature and purpose of Processing is set out in the Data Sharing Annex.

7.2 Each Party confirms that it holds, and during the term of this Agreement will maintain, all registrations and notifications required in terms of the Data Protection Legislation which are appropriate to its performance of the obligations under this Agreement.

7.3 Each Party confirms that, in the performance of this Agreement, it will comply with Data Protection Legislation.

7.4 Blink shall:

7.4.1 Process Personal Data only on documented instructions from the Merchant, unless required to do so by Data Protection Legislation or any other applicable law to which Blink is subject; in such a case, Blink shall inform the Merchant of that legal requirement before Processing, unless that law prohibits Blink to so inform the Merchant;

7.4.2 Ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

7.4.3 Ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of Blink's systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by Blink);

7.4.4 Notify the Merchant as soon as reasonably practicable before appointing any subcontractor in respect of Processing of Personal Data, and ensure that any such subcontractor is subject to a contract for Processing that complies with Data Protection Legislation (or, as a minimum, the requirements set out in Article 28(3) of UK GDPR in respect of the obligations of Processors); if the Merchant (acting reasonably) objects to the appointment of the subcontractor for reasons relating to the Processing of Personal Data, the Merchant shall have the right to terminate this Agreement on 90 days' written notice; for the avoidance of doubt, by entering into this Agreement the Merchant provides its consent to Blink using those subcontractors listed in the Data Sharing Annex;

7.4.5 Taking into account the nature of the Processing, assist the Merchant by putting in place appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Merchant's obligation to respond to requests for exercising the Data Subject's rights laid down in Data Protection Legislation, to the extent that such requests relate to this Agreement and Blink's obligations under it;

7.4.6 Assist the Merchant, at the Merchant's cost, in responding to any request from a Data Subject and in ensuring compliance with the Merchant's obligations under Data

Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

7.4.7 At the Merchant's option, delete (to the extent practicable) or return all the Personal Data to the Merchant after the termination of this Agreement or otherwise on the Merchant's request, and delete existing copies (to the extent practicable) unless applicable law requires Blink's ongoing storage of the Personal Data;

7.4.8 Not share the Personal Data with any other processors of personal data that the Merchant commissions without the Merchant's prior written consent;

7.4.9 Make available to the Merchant all information necessary to demonstrate Blink's compliance with this Clause 7.4, and allow for and contribute to audits, including inspections, conducted by the Merchant or another auditor mandated by the Merchant, provided that:

(a) Blink is given reasonable notice of any such audit;

(b) Any audit takes place during normal business hours and with no unreasonable disruption to Blink's business;

(c) The Merchant (or its nominee) shall have access only to information relating to the Processing of Personal Data and Blink's compliance with this Clause 7.4; and

(d) The Merchant (or its nominee) shall not have access to any information that is proprietary to Blink, or confidential information that Blink holds on behalf of third parties;

7.4.10 Inform the Merchant immediately if, in Blink's opinion, an instruction from the Merchant infringes (or, if acted upon, might cause the infringement of) Data Protection; and

7.4.11 Not transfer any Personal Data outside of the United Kingdom and the European Economic Area unless the prior written consent of the Merchant has been obtained and the following conditions are fulfilled:

(a) Fidelity has provided appropriate safeguards in relation to the transfer;

(b) The Data Subject has enforceable rights and effective legal remedies;

(c) Blink complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(d) Blink complies with reasonable instructions notified to it in advance by the Merchant with respect to the Processing of the Personal Data.

7.5 Data processing hereunder by Blink shall be in accordance with its Privacy Policy.

7.6 Each Party will notify the other Party as soon as is reasonably practicable (and in any event within 24 hours) if it becomes aware of a Personal Data Breach relating to either Party's obligations under this Agreement.

7.7 The Merchant shall undertake appropriate data protection impact assessments to ensure that Processing of Personal Data complies with Data Protection Laws. Blink will provide the Merchant with reasonable assistance, where necessary and upon the Merchant's request, in carrying out any data protection impact assessment and undertaking any necessary prior consultation of the Supervisory Authority.

7.8 It is the Merchant's responsibility to ensure that Personal Data is dealt with in a way that is compliant with the 'data protection principles' set out in Data Protection Legislation.

7.9 The Merchant shall ensure that:

7.9.1 The Merchant is able to justify the Processing of Personal Data in accordance with Data Protection Legislation (including, where applicable, obtaining any and all consents of Data Subjects required in order to commence the Processing), and that the Merchant has recorded or documented this in accordance with the record-keeping requirements of Data Protection Legislation;

7.9.2 Where Personal Data falls within the Special Categories of Personal Data, the Processing of such Special Categories of Personal Data is justified as lawful under Data Protection Legislation;

7.9.3 Where the Processing of Special Categories of Personal Data is not justified as lawful under Data Protection Legislation, no such Personal Data will be sent to Blink; and

7.9.4 The Merchant has all necessary appropriate consents and notices in place to enable the lawful transfer of the Personal Data to Blink for the Term for the purposes of this Agreement.

7.10 Each Party agrees to indemnify, and keep indemnified and defend at its own expense, the other Party, against all costs, claims, damages or expenses incurred by the other Party or for which the other Party may become liable, due to any failure by the first Party or its employees or agents to comply with this Clause 7.

Fees

8.1 In consideration of the Merchant obtaining the relevant Services from Blink pursuant to this Agreement, the Merchant shall pay to Blink the Fees.

8.2 Blink will issue invoices to the Merchant for the Fees on a monthly basis in accordance with the Order Form (and otherwise as set out in this Agreement). The Merchant shall pay the Fees to Blink within 30 days of the date of the invoice.

8.3 All sums due under this Agreement are exclusive of VAT or other sales, import or export duties or taxes (if applicable) which shall be payable in addition at the same time as payment of any sums due.

8.4 The Merchant shall pay to Blink all sums due under this Agreement:

8.4.1 by any payment method that Blink may stipulate from time to time; no payment shall be considered paid until Blink has received it in cleared funds in full;

8.4.2 in the currency in force in England from time to time; and

8.4.3 in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8.5 Blink reserves the right to increase the Fees by giving the Merchant not less than 30 days' notice of such increase taking effect. If, following receipt of such notice from Blink, the Merchant intends to terminate this Agreement, the Merchant may terminate this Agreement by the provision to Blink of 30 days' notice, to be served on Blink no later than two Business Days following the Merchant's receipt of Blink's notice in respect of the Fee increase.

8.6 If the Merchant is late in paying any part of any monies due to Blink under this Agreement and such payment remains outstanding for seven days following Blink providing notice to the Merchant of such outstanding payment, Blink may (without prejudice to any other right or remedy available to Blink whether under this Agreement or by any statute, regulation or bye-law) do any or all of the following:

8.6.1 recover Blink's costs and expenses and charges (including legal and debt collection fees and costs) in collecting the late payment; and/or

8.6.2 suspend performance of this Agreement until payment in full has been made.

8.7 The Merchant agrees that Blink may engaged in Data Transactions with Third Party Servicers as per Merchant instructions provided through an Order Form, the Account or otherwise hereunder. The Merchant acknowledges that Blink may use and share the Merchant's information with third parties (including credit reference agencies, Blink's associated companies, Blink's funders and any person to whom Blink may assign its rights under this Agreement) to help Blink and those third parties assess financial and insurance risks, recover debt, develop customer relationships, services and systems, and prevent and detect crime. That information may include information about Transactions.

8.8 Blink reserves the right to:

8.8.1 share information it holds in respect of the Merchant with credit reference agencies; and

8.8.2 make periodic searches of and provide information (including how the Merchant manages its account and any arrears) to credit reference agencies and fraud prevention agencies to manage and make decisions about the Merchant's account.

Such information may be used by other credit providers to take decisions about the Merchant and its financial associates.

Limitation of Liability

9.1 This Clause 9 prevails over all of this Agreement and sets forth the entire Liability of Blink, and the sole and exclusive remedies of the Merchant, in respect of:

9.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or any services in connection with this Agreement; or

9.1.2 otherwise in relation to this Agreement or entering into this Agreement.

9.2 Neither Party excludes or limits its Liability for:

9.2.1 its fraud; or

9.2.2 death or personal injury caused by its Breach of Duty; or

9.2.3 any breach of the obligations implied by Section 2 of the Supply of Goods and Services Act 1982; or

9.2.4 any other Liability which cannot be excluded or limited by applicable law.

9.3 Subject to Clause 9.2, and other than any Liability arising pursuant to this Agreement, Blink does not accept, and hereby excludes, any Liability for Breach of Duty.

9.4 Subject to Clause 9.2, Blink shall not have any Liability in respect of any:

9.4.1 indirect or consequential losses, damages, costs or expenses;

9.4.2 loss of actual or anticipated profits;

9.4.3 loss of contracts;

9.4.4 loss of use of money;

9.4.5 loss of anticipated savings;

9.4.6 loss of revenue;

9.4.7 loss of goodwill;

9.4.8 loss of reputation;

9.4.9 loss of business;

9.4.10 ex gratia payments;

9.4.11 loss of operation time;

9.4.12 loss of opportunity;

9.4.13 loss caused by the diminution in value of any asset; or

9.4.14 loss of, damage to, or corruption of, data;

whether or not such losses were reasonably foreseeable or Blink or its agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 9.4.2 to 9.4.14 (inclusive) of this Clause 9.4 apply whether such losses are direct, indirect, consequential or otherwise.

9.5 Subject to Clause 9.2, Blink's total aggregate Liability arising out of or in connection with:

9.5.1 a particular Service shall be limited to the extent set out in each relevant Schedule; and

9.5.2 all other claims in aggregate (including claims in respect of a Service for which a limit is not set out in that relevant Schedule) shall be limited to 110% of all amounts paid and total other sums payable, in aggregate, by the Merchant to Blink under this Agreement in the 12 months prior to the date on which the claim first arose.

9.6 The limitation of Liability under Clause 9.5 has effect in relation both to any Liability expressly provided for under this Agreement and to any Liability arising by reason of the invalidity or unenforceability of any term of this Agreement.

9.7 The Merchant acknowledges and accepts that Blink only provides the Services on the express condition that Blink will not be responsible, nor, subject to Clause 9.2, shall Blink have any Liability, directly or indirectly, for any act or omission of the Merchant, the Merchant's affiliates or its or their employees, agents, contractors or customers or any third party.

9.8 Nothing in this Agreement shall restrict or limit either Party's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this Agreement.

Term and Termination

10.1 This Agreement shall commence on the Commencement Date and, unless terminated earlier in accordance with the termination provisions under this Agreement, shall continue in full force and effect until the latest of:

10.1.1 The completion of the provision of the Services under the last extant Schedule;
or

10.1.2 The conclusion of payment of all Fees due under this Agreement;

(The “Term”).

10.2 Without prejudice to any of Blink’s rights or remedies, Blink may terminate this Agreement (or any Schedule) with immediate effect (or such other notice period as Blink sees fit at its absolute direction) by giving notice to the Merchant if:

10.2.1 The Merchant fails to pay any amount due under this Agreement on the due date for payment and such amount remains in default not less than 14 days after being notified to make such payment;

10.2.2 In accordance with Clause 4.2; and/or

10.2.3 If the Acquirer requires Blink to do so.

10.3 Without affecting any other rights or remedies that it may be entitled to, either Party may give notice in writing to the other Party terminating this Agreement (or any Schedule) immediately if:

10.3.1 Without prejudice to Clause 10.2, the other Party is in material breach of any of its obligations under this Agreement (or in respect of that particular Schedule), and, where such material breach is capable of remedy, the other Party fails to remedy such breach within a period of 10 Business Days of being notified of such breach by the Party;

10.3.2 The other Party gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party’s assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction; and/or

10.3.3 The other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

10.4 Without prejudice to any of Blink’s rights or remedies, Blink may terminate this Agreement (or any Schedule) at any time by giving not less than one month’s notice to the Merchant.

10.5 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement (or in

respect of the relevant terminated or expired Schedule) shall remain in full force and effect.

10.6 Termination or expiry of this Agreement (or any Schedule) 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 (or in respect of a Schedule) which existed at or before the date of termination or expiry.

10.7 On termination or expiry of this Agreement (or any Schedule) for any reason:

10.7.1 Blink shall cease to provide the Services under this Agreement (or that particular Schedule); and

10.7.2 The Merchant shall pay to Blink all amounts owing to Blink under this Agreement (or in respect of that Schedule), whether invoiced or not.

10.8 On termination (or expiry) of this Agreement, howsoever arising, each Schedule (and any Services) then in force at the date of such termination shall continue in full force and effect for the remainder of the term of such Schedule (and such Services), unless terminated earlier in accordance with the terms of such Schedule.

10.9 The termination of any Schedule shall not affect any other Schedule or this Agreement.

Confidentiality

11.1 Each Party must keep the other Party's Confidential Information confidential and must not:

11.1.1 Use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement; or

11.1.2 Disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 11.

Each Party must use adequate procedures and security measures to protect the other Party's Confidential Information from inadvertent disclosure or release to unauthorized persons.

11.2 A Party may disclose the other Party's Confidential Information to those of its employees, agents and subcontractors who need to know such Confidential Information provided that:

11.2.1 It informs such employees, agents and subcontractors of the confidential nature of the Confidential Information before disclosure; and

11.2.2 It does so subject to obligations equivalent to those set out in this Clause 11.

11.3 A Party may disclose the Confidential Information of the other Party to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 11.3, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.

11.4 The obligations of confidentiality in this Clause 11 shall not extend to any matter which either Party can show:

11.4.1 Is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of this Agreement; or

11.4.2 Was independently developed by it; or

11.4.3 Was independently disclosed to it by a third party entitled to disclose the same; or

11.4.4 Was in its written records prior to receipt.

11.5 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in this Agreement are granted to the other Party, or to be implied from this Agreement.

11.6 On termination of this Agreement, each Party must:

11.6.1 Return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;

11.6.2 Erase all the other Party's Confidential Information from its computer systems (to the extent possible); and

11.6.3 Certify in writing to the other Party that it has complied with the requirements of this Clause 11.6, provided that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority, or to otherwise maintain reasonable business records. The provisions of this Clause 11 shall continue to apply to any such documents and materials retained by a recipient Party following termination of this Agreement for any reason.

11.7 The provisions of this Clause 11 shall continue to apply after termination of this Agreement.

11.8 Blink may identify the Merchant as Blink's client and the type of services provided by Blink to the Merchant, including the use by Blink of the Merchant's brand and/or logo from time to time for marketing and sales purposes, provided that, in doing so, Blink shall not reveal any of the Merchant's Confidential Information (without the Merchant's prior written consent).

Force Majeure

12.1 Subject to Clause 9.2, Blink shall not have any Liability for any breach, hindrance or delay in performance of its obligations under this Agreement which is caused by an Event of Force Majeure, regardless of whether the circumstances in question could have been foreseen. An "Event of Force Majeure" means any cause outside of Blink's reasonable control, including act of God, actions or omissions of third parties (including hackers, suppliers, couriers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions, national emergencies, terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detainments of any competent authority, blockade, strikes or combinations or lock-out of workmen, epidemic, fire, explosion, storm, flood, drought, adverse weather conditions, loss at sea, earthquake, natural disaster, accident, collapse of building structures, failure of plant machinery or machinery or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), and/or shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation.

12.2 Blink agrees to inform the Merchant upon becoming aware of an Event of Force Majeure, such information to contain details of the circumstances giving rise to the Event of Force Majeure.

12.3 The performance of Blink's obligations shall be suspended during the period that the circumstances persist and Blink shall be granted an extension of time for performance equal to the period of the delay.

12.4 Each Party shall bear its own costs incurred by the Event of Force Majeure.

12.5 If the performance of any obligations is delayed under this Clause 12, the Merchant shall nevertheless accept performance as and when Blink shall be able to perform.

12.6 If the breach, hindrance or delay caused by the Event of Force Majeure as set out in Clause 12.1 continues without a break for more than one month, Blink may terminate this Agreement immediately by notice to the Merchant, in which event neither Party

shall have any Liability (subject to Clause 9.2) to the other Party by reason of such termination.

12.7 If Blink has contracted to provide identical or similar services to more than one client and Blink is prevented from fully meeting its obligations to the Merchant due to an Event of Force Majeure, Blink may decide at its absolute discretion which contracts it will perform and to what extent.

Change control

13.1 Blink may, at any time, vary the terms of this Agreement by the provision of a minimum of 30 days' notice to the Merchant; in the event that the Merchant does not agree to the variation, it may terminate this Agreement on the provision to Blink of not less than 20 days' notice to take effect at the end of the 30 day notice period in respect of the variation. No other change to this Agreement shall be binding unless it is agreed in writing signed by each of the Parties, expressed to be for the purpose of such amendments and in the format of a Change Control Form.

13.2 If Blink would like to make any change to this Agreement, it may recommend a proposal for the change.

13.3 If the Merchant would like to make any change to this Agreement, one of the Merchant's authorised representatives may request that Blink makes a proposal for bringing about the change.

13.4 To the extent the change is feasible, Blink shall state within a reasonable time what would be the effects of the change, including on cost, Fees, timetable and any impact on the rest of the Services and this Agreement and any other agreement between the Parties.

13.5 Neither Party shall unreasonably withhold or delay agreement to a change reasonably requested by the other Party. Both Parties shall use their respective reasonable endeavours to agree to the change and in a timely manner.

13.6 To the extent the change affects any timescales, the timescales shall be automatically extended accordingly.

13.7 The final agreed change shall be noted in an agreed Change Control Form and signed by each of the Parties. Change Control Forms shall be numbered sequentially by the Parties and a status log kept by each of the Parties.

13.8 Until a Change Control Form is signed by both Parties, no change shall come into effect.

Freedom to contract

14.1 The Parties declare that they each have the right, power and authority and have taken all action necessary to execute and deliver and to exercise their rights and perform their obligations under this Agreement.

Counterparts

15.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

Notices

16.1 Any notice given to either Party under or in connection with this Agreement shall be in writing, addressed to the relevant Party at its registered office or such other address as that Party may have specified to the other Party in writing, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier or by email (provided that a confirmatory copy is given by hand, sent by pre-paid first-class post or recorded delivery, or by commercial courier, in accordance with this Clause 16.1 within one Business Day of transmission of such email).

16.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 16.1; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, at the time at which that email has been sent (where the confirmation of sending shall be conclusive evidence of proof that a notice was sent by email).

16.3 The provisions of this Clause 16 shall not apply to the service of any proceedings or other documents in any legal action.

Assignment

17.1 The Merchant must not assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of its obligations under it, without the prior written consent of Blink (such consent not to be unreasonably withheld or delayed).

17.2 Blink may, from time to time, assign or subcontract any or all of its rights and obligations under this Agreement to a member of its Group, where, for such purposes, "Group" means, in relation to Blink, Blink, any subsidiary or holding company from time to time of Blink, and any subsidiary from time to time of a holding company of Blink.

Severance

18.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

18.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

Waiver

19.1 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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 preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

19.2 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.

Third party rights

A person who is not a Party shall not have any rights under or in connection with this Agreement.

No partnership

Nothing in this Agreement shall constitute a partnership or employment or agency relationship between the Parties.

Governing law and jurisdiction

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

22.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.

Terminal Services Schedule

This is a Schedule to the Terms and Conditions of Fidelity Payment Processing Limited. This Schedule applies to the Terminal Services as stipulated in the Order Form (as amended by the Parties by a Change Control Form).

Unless the context otherwise requires, the definitions used in the Terms and Conditions apply to this Schedule. Any other terms defined in this Schedule have that meaning for this Schedule only.

1. Interpretation

In this Schedule, the following terms shall have the following meanings unless the context requires otherwise:

"Consumables" batteries, paper rolls, printer ink or cartridges, all power and other accessories required or desired for operation of the Terminal;

"Delivery" the transfer of physical possession of the Terminal to the Merchant at the Location;

"Hire Fees" the fees paid and payable by the Merchant for the provision by Blink of the Terminal Services, as set out in the Order Form;

"Hire Period" the Initial Hire Period together with all Renewed Hire Periods;

"Hire Start Date" has the meaning set out in the Order Form;

"Infrastructure" all necessary telecommunications devices, connections, third-party equipment, utilities and other requirements necessary for the use and performance of the Terminal (including networks, systems and Internet access as appropriate);

"Initial Hire Period" has the meaning set out in the Order Form;

"Location" has the meaning set out in the Order Form;

"Network" - the PSTN, Broadband or mobile telephone network upon which the Terminal will operate to process Transactions.

"Renewed Hire Period" - has the meaning given to it in the Order Form.

"SIM Card" - the card used with a Terminal which uses a Network to process Transactions.

"Terminal" - the items of equipment listed in the Order Form, all substitutions, replacements or renewals of such equipment, and all related accessories, manuals and instructions provided for it.

"Terminal Services" - the hire to the Merchant by Blink of the Terminal, together with ancillary services provided by Blink (including processing Transactions through the Terminal), in accordance with this Agreement.

Terminal hire

2.1 Blink shall hire the Terminal to the Merchant for use at the Location subject to this Agreement for the Hire Period, for the purposes of Transactions.

2.2 Blink shall not, other than in the exercise of its rights under this Agreement or applicable law, interfere with the Merchant's quiet possession of the Terminal.

2.3 The Hire Period shall commence on the Hire Start Date. Unless terminated earlier in accordance with this Agreement, the Hire Period shall continue for the Initial Hire Period and shall automatically extend for a Renewed Hire Period at the end of the Initial Hire Period and at the end of each Renewed Hire Period. Either Party may give notice to the other Party, not later than one month before the end of the Initial Hire Period or the relevant Renewed Hire Period, to terminate the Terminal Services at the end of the Initial Hire Period or the relevant Renewed Hire Period, as the case may be.

Hire Fees

3.1 The Merchant shall pay the Hire Fees to Blink in accordance with this Agreement.

3.2 The Merchant must pay to Blink such other Fees relating to the use of a Terminal as are set out in the Order Form (or, if not set out in the Order Form, Fees as Blink may notify to the Merchant from time to time), including:

- (a) Fees relating to lost Terminals;
- (b) Fees relating to Terminal Services being terminated prior to the expiry of the Initial Hire Period or a Renewed Hire Period, as appropriate;
- (c) restocking Fees;
- (d) damaged Terminal Fees;
- (e) minimum monthly Fees; and
- (f) Terminal swap-out Fees.

Delivery

4.1 Blink shall make Delivery of the Terminal, and shall use reasonable endeavours to effect Delivery by the date and time agreed between the Parties.

4.2 The Merchant shall procure that a duly authorized representative of the Merchant shall be present at the Delivery of the Terminal. Acceptance of Delivery by such representative shall constitute conclusive evidence that the Merchant has examined the Terminal and has found it to be in good condition, complete, and fit in every way for the purpose for which it is intended. If required by Blink, the Merchant's duly authorized representative shall sign a receipt confirming such acceptance.

4.3 If set out in the Order Form, Blink shall (at the Merchant's expense) install and configure the Terminal at the Location. The Merchant shall procure that a duly authorized representative of the Merchant shall be present at installation and configuration of the Terminal. Acceptance by such representative of installation and

configuration shall constitute conclusive evidence that the Merchant has examined the Terminal and has found it to be in good condition, complete, and fit in every way for the purpose for which it is intended. If required by Blink, the Merchant's duly authorized representative shall sign a receipt confirming such acceptance.

4.4 To facilitate Delivery, installation, and configuration, the Merchant shall (at its sole expense) provide all requisite materials, facilities, access, and suitable working conditions to enable the same to be carried out safely and expeditiously by Blink at the Location.

4.5 The Terminal shall at all times remain the property of Blink or its third-party licensors, and the Merchant shall have no right, title, or interest in or to the Terminal (save the right to possession and use of the Terminal subject to the terms and conditions of this Agreement).

4.6 The risk of loss, theft, damage, or destruction of the Terminal shall pass to the Merchant on Delivery. The Terminal shall remain at the sole risk of the Merchant during the Hire Period and any further term during which the Terminal is in the possession, custody, or control of the Merchant ("Risk Period") until such time as the Terminal is redelivered to Blink. During the Hire Period and the Risk Period, the Merchant shall, at its own expense, obtain and maintain the following insurances:

(a) Insurance of the Terminal to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Blink may from time to time nominate in writing;

(b) Insurance for such amounts as a prudent owner or operator of the Terminal would insure for, or such amount as Blink may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Terminal; and

(c) Insurance against such other or further risks relating to the Terminal as may be required by law, together with such other insurance as Blink may from time to time consider reasonably necessary and advise to the Merchant.

4.7 All insurance policies procured by the Merchant shall be endorsed to provide Blink with at least 20 Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon Blink's request name Blink on the policies as a loss payee in relation to any claim relating to the Terminal. The Merchant shall be responsible for paying any deductibles due on any claims under such insurance policies.

4.8 The Merchant shall give immediate written notice to Blink in the event of any theft, loss, accident, or damage to the Terminal arising out of or in connection with the Merchant's possession or use of the Terminal, or if the Terminal otherwise becomes

inoperable for any reason. The Merchant will be responsible to pay Blink's then current replacement or repair charges (as applicable, and charged at the Rates where relevant) in respect of each Terminal which is stolen, lost, damaged or otherwise inoperable, and the Merchant will indemnify Blink from and against any loss, damage, costs and expenses and other liabilities Blink may incur as a consequence of Blink hiring the Terminal to the Merchant.

4.9 If the Merchant fails to effect or maintain any of the insurances required under this Agreement, Blink shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Merchant.

4.10 The Merchant shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to Blink and proof of premium payment to Blink to confirm the insurance arrangements.

Merchant Responsibilities

5.1 The Merchant shall during the Hire Period:

- (a) Ensure that the Terminal is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions.
- (b) Take such steps (including compliance with all safety and usage instructions provided by Blink) as may be necessary to ensure, so far as is reasonably practicable, that the Terminal is at all times safe and without risk to health when it is being set, used or maintained by a person at work.
- (c) Maintain at its own expense the Terminal in good and substantial repair in order to keep it in as good an operating condition as it was on the Hire Start Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, make good any damage to the Terminal, and keep the Terminal at all times safely and securely.
- (d) Make no alteration to the Terminal and shall not remove any existing component(s) from the Terminal.
- (e) Keep Blink fully informed of all material matters relating to the Terminal.
- (f) Keep the Terminal at all times at the Location and shall not move or attempt to move any part of the Terminal to any other location without Blink's prior written consent.
- (g) Permit Blink or its duly authorised representative to inspect, repair, maintain and/or remove the Terminal at all reasonable times and for such purpose to enter upon the Location or any premises at which the Terminal may be located, and shall grant reasonable access and facilities for the same.

(h) Maintain operating and maintenance records of the Terminal and make copies of such records readily available to Blink, together with such additional information as Blink may reasonably require.

(i) Not, without the prior written consent of Blink, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Terminal or allow the creation of any mortgage, charge, lien or other security interest in respect of it.

(j) Not do or permit to be done any act or thing which will or may jeopardize the right, title and/or interest of Blink in the Terminal.

(k) Not suffer or permit the Terminal to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Terminal is so confiscated, seized or taken, the Merchant shall notify Blink and the Merchant shall at its sole expense use its best endeavors to procure an immediate release of the Terminal and shall indemnify Blink on demand against all losses, costs, charges, damages, and expenses incurred as a result of such confiscation.

(l) Have in place all Infrastructure;

(m) Monitor the connectivity of the Terminal, and the Merchant acknowledges that Blink will not monitor for, or inform the Merchant in respect of, any loss of connectivity;

(n) Provide all Consumables necessary for the operation of the Terminal during the Hire Period;

(o) Reconcile Card payments made using the Terminal in a timely way and inform Blink of any discrepancy immediately;

(p) Store and, where appropriate, destroy receipts and Customer information securely;

(q) Be responsible for any unauthorised or fraudulent transactions performed on the Terminal whilst in the Merchant's possession or under the Merchant's control;

(r) Download and use any software updates in respect of the Terminal made available by Blink for remote download;

(s) Not use the Terminal for any unlawful purpose;

(t) Ensure that at all times the Terminal remains identifiable as being Blink's property and wherever possible shall ensure that a visible sign to that effect is attached to the Terminal;

(u) Deliver up the Terminal at the end of the Rental Period or on earlier termination of this Agreement at such address as Blink requires, or if necessary allow Blink or its representatives access to the Location or any premises where the Terminal is located for the purpose of removing the Terminal; and

(v) Not do or permit to be done anything which could invalidate the insurances referred to in Paragraph 4.6.

5.2 The Merchant acknowledges that Blink shall not be responsible for any loss of or damage to the Terminal whilst the Terminal is within the Merchant's control, or otherwise arising out of or in connection with any negligence, misuse, mishandling of the Terminal or otherwise caused by the Merchant or its officers, employees, agents and contractors, and the Merchant undertakes to indemnify Blink on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Merchant to comply with the terms of this Schedule.

Warranty

6.1 Blink warrants that the Terminal shall substantially conform to its specification (as made available by Blink), be of satisfactory quality, and fit for any purpose held out by Blink. Blink shall use all reasonable endeavours to remedy, free of charge, any material defect in the Terminal which manifests itself during the Hire Period, provided that:

- (a) the Merchant notifies Blink of any defect, using the Support Services, within five Business Days of the defect occurring or of becoming aware of the defect;
- (b) Blink is permitted to make a full examination of the alleged defect (in respect of which the Merchant shall give to Blink access to such premises and information as Blink may require);
- (c) the defect did not materialise as a result of misuse, neglect, alteration, mishandling, or unauthorised manipulation by any person other than Blink's authorised personnel;
- (d) the defect did not arise out of any information, design, or any other assistance supplied or furnished by the Merchant or on its behalf; and
- (e) the defect is directly attributable to defective material, workmanship, or design.

6.2 Insofar as the Terminal comprises or contains equipment or components which were not manufactured or produced by Blink, the Merchant shall be entitled only to such warranty or other benefit as Blink has received from the manufacturer. In the event that the Terminal is manufactured by a third party, Blink does not warrant that the Terminal will be free from defects or faults.

6.3 If Blink fails to remedy any material defect in the Terminal in accordance with Paragraph 6.1, Blink shall, at the Merchant's request, accept the return of part or all of the Terminal and make an appropriate reduction (at Blink's absolute discretion) to the Hire Fees payable during the remaining term of the Hire Period.

6.4 If the Merchant makes an invalid claim under the warranty set out in Paragraph 6.1, Blink may charge the Merchant for Blink's fees and costs of dealing with that claim,

including examining (and travelling in order to examine), storing, repairing, or replacing the Terminal.

6.5 Blink does not warrant that the use of the Terminal will be uninterrupted or error-free (including due to the dependency of the Terminal on third parties for operational use).

6.6 The Merchant acknowledges that:

- (a) the Merchant's use of the Terminal is not within Blink's control;
- (b) the Terminal is not designed to meet the Merchant's individual requirements; and
- (c) in the event of any failure in respect of the Terminal, the Merchant has access to alternative payment methods.

6.7 Blink shall use its reasonable endeavours to make the Terminal Services available; the Merchant acknowledges that the Terminal Services may not be available at certain times, including during planned and emergency maintenance (in respect of which Blink shall use its reasonable endeavours to give to the Merchant such notice as Blink is reasonably able in the circumstances).

Consequences of termination

7.1 On termination or expiry of the Terminal Services for any reason:

(a) Blink's consent to the Merchant's possession of the Terminal shall terminate and Blink may, by its authorised representatives, without notice and at the Merchant's expense, retake possession of the Terminal and for this purpose may enter the Location or any premises at which the Terminal is located;

(b) in the event of any failure by the Merchant to comply with Paragraph 7.1(a) or Paragraph 5.1(c) of this Schedule, the Merchant shall pay to Blink on demand the greater of:

(i) £200; and

(ii) such amount for the replacement of the Terminal as is Blink's reasonable assessment of the market value of a similar model and age terminal on sale; and

(c) the Merchant shall pay to Blink on demand:

(i) all Hire Fees and other sums due but unpaid at the date of such demand together with any other sums accrued under this Agreement;

(ii) in the event of the Terminal Services coming to an end before the end of the Initial Hire Period or the relevant Renewed Hire Period, all sums that would have been due to Blink had the Terminal Services continued for the remainder of that relevant period, plus such restocking Fee as Blink may charge from time to time; and

(iii) any costs and expenses incurred by Blink in recovering the Terminal and/or in collecting any sums due under this Agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

Liability

For the purposes of Clause 9.5 of the Terms and Conditions, Blink's total aggregate Liability arising out of or in connection with the Terminal Services shall be limited to the total amount of the Hire Fees paid and payable, in aggregate, by the Merchant to Blink under this Agreement in the 12 months prior to the date on which the claim first arose.

Gateway Services Schedule

This is a Schedule to the Terms and Conditions of Fidelity Payment Processing Limited. This Schedule applies to the Gateway Services as stipulated in the Order Form (as amended by the Parties by a Change Control Form).

Unless the context otherwise requires, the definitions used in the Terms and Conditions apply to this Schedule. Any other terms defined in this Schedule have that meaning for this Schedule only.

1. Interpretation

In this Schedule, the following terms shall have the following meanings unless the context requires otherwise:

"Access Period": the Initial Access Period together with all Renewed Access Periods;

"Access Start Date": has the meaning given to it in the Order Form;

"Gateway": the management interface platform through which the Merchant is able to authorise and allow for payment of Transactions, as detailed in the Order Form;

"Gateway Fees": the fees paid and payable by the Merchant for use of the Gateway Services, as set out in the Order Form;

"Gateway Services": the services provided by Blink to the Merchant for processing of Data with respect to the authorisation and payment of Transactions through a virtual gateway, together with the provision of the necessary interface platform through which authorisation and payment of Transactions takes place;

"Hosted Payment Page": means a Merchant-branded web page hosted by Blink through which, as part of the Gateway Services, Blink accepts Customer, Card and Transaction information that it submits to the Acquirer on behalf of the Merchant;

"Initial Access Period": has the meaning given to it in the Order Form;

"Material": material that the Merchant uploads (or permits to be uploaded) onto Blink's (or any third party's) servers as part of Blink's provision of the Gateway Services;

“Minimum Volume”: the minimum number of Transactions the Merchant is to process using the Gateway Services in any calendar month during the Access Period, as set out in the Order Form;

“MPTV”: maximum permitted transaction volume, as communicated by Blink to the Merchant from time to time;

“Payment Link” or “Pay-by-Link”: means a web link created and hosted by Blink through which Blink and a Customer is able to input Card and other Transaction Data that Blink submits to the Acquirer as part of the Gateway Services;

“Renewed Access Period”: has the meaning given to it in the Order Form;

“Transaction Fees”: the Fees payable by the Merchant to Blink for each Transaction processed using the Gateway Services, as set out in the Order Form; and

Account

2.1 Through the Account, Blink will allocate to the Merchant access information and functionality for use of the Gateway Services; in order for Blink to allocate such access, the Merchant must provide such information as Blink may require from time to time.

Gateway Services

3.1 The Merchant may access the Gateway only with a device and browser that is compatible with the Gateway, including any security features that are part of the Gateway.

3.2 Subject to compatibility of Merchant and Customer equipment, systems and browsers, each as determined by Blink, the Gateway Services shall provide for the secure transmission of Card and other Transaction Data from any of: (i) the Merchant; (ii) a Hosted Payment Page; or (iii) a Payment Link to the Acquirer whilst maintaining records thereof accessible to the Merchant via the Account.

3.3 The Gateway Services are subject to technical specifications prescribed by Blink; Merchant shall ensure that its equipment, systems and browsers are within such specifications, such as they may be from time to time.

3.4 In relation to the Gateway Services:

(a) Blink hereby grants to the Merchant a non-exclusive, non-transferable licence to allow Users to use the Gateway Services solely for the Merchant’s own business purposes and not for any third party;

(b) the rights provided under this Agreement are granted to the Merchant only, and shall not be considered granted to any subsidiary or holding company of the Merchant; and

(c) the Merchant shall not:

- (i) attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Gateway Services except to the extent expressly set out in this Agreement or as may be required by any applicable law;
- (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Gateway Services, except as may be required by any applicable law;
- (iii) access all or any part of the Gateway Services in order to build a product or service which competes with any part of the Gateway Services; or
- (iv) use the Gateway Services to provide services to third parties other than Customers.

3.5 Blink is not responsible for any connections, deliverables or services that Blink is not expressly stipulated to provide in this Agreement.

3.6 Blink does not warrant that the Gateway Services, the Account and/or the Gateway will be secure from unauthorised access. Due to the nature of the Internet, this cannot be guaranteed.

3.7 Blink may, at Blink's absolute discretion (subject always to Data Protection Legislation), from time to time either host the Gateway on Blink's own servers or use third-party suppliers to do so in whole or in part. The Merchant acknowledges that Blink may from time to time without prior notice and without the need for prior agreement provide reasonable additional obligations or requirements on users or reasonably restrict users' rights due to the requirements of the third-party suppliers.

3.8 Blink reserves the right, at any time, to carry out repairs, maintenance or introduce new facilities and functions in respect of all or any part of the Gateway Services.

3.9 Blink does not warrant that the Gateway Services will be compatible with all Material.

3.10 Blink shall be entitled to suspend the Gateway Services (or any part thereof) at any time with immediate effect:

(a) For operational reasons such as repair, maintenance or improvement, provided that Blink shall endeavour to give the Merchant as much notice as is reasonably possible before doing so and shall restore the Gateway Service as soon as reasonably practicable following any such suspension;

(b) Where Blink reasonably believes that the continued access of the Gateway Services represents a threat or potential threat to the operation, security or functionality of any or all of the following (or any part thereof):

(i) The integrity of the Gateway Services, including any software or hardware with which it is provided by Blink;

- (ii) The system or operation of any third party; or
- (iii) Any aspect of services provided to a third party by Blink; and/or
- (iv) Where Blink identifies or reasonably suspects any out-of-character traffic profile attributable or connected to the utilisation of the Gateway Services by the Merchant (including MPTV). Blink will promptly inform the Merchant that the MPTV is being exceeded, ahead of suspending the Gateway Services.

For the avoidance of doubt, the right to suspend is designed to protect the Gateway Services from risks such as denial of service attacks, and Blink will take reasonable steps to maintain the Gateway Services.

Merchant obligations

4.1 In order to use the Gateway Services and process Transactions through the Gateway, the Merchant must provide to the Gateway such information as Blink may require from time to time. The Merchant must ensure that all information is complete and accurate.

4.2 The Merchant must:

- (a) Report any faults or suspected faults with or in the Gateway Services to Blink immediately upon discovery;
- (b) Be responsible (at its own cost) for providing the telecommunications services and correctly configured hardware that is needed to connect to the Gateway Services;
- (c) Provide details of a systems administrator who, on behalf of the Merchant, will be familiar with the Gateway Services and available to be contacted by Blink to provide details of any change to the contact details of the system administrators;
- (d) Be responsible for configuration and management of access to the Gateway Services including configuration of network, firewall, DNS, routers and any personal computers as well as any integration of the Gateway Services into a website or call centre application as required by the Merchant;
- (e) Allow Blink to incorporate information of the Merchant (including Transaction information) into the Blink databases solely for the purpose of providing the Gateway Services;
- (f) Process the Minimum Volume in any calendar month during the Access Period;
- (g) Not store Card details on its systems whether in plain text or encrypted form; where the Merchant, with the agreement of the Acquirer, needs to store card details on its systems whether in plain text or encrypted form, the Merchant agrees to notify Blink in order to be assessed for adherence to PCI: DSS requirements. In such a case, the Merchant will be authorised by Blink to maintain a store of Card numbers only provided

that the Merchant is able to provide to Blink such information and proof of certification as Blink may request in respect of such requirements in advance of such storage;

(h) Apply adequate security measures to protect any information accessible through the Gateway. Such information is available to the Merchant for the Merchant's internal purposes only, and the Merchant must not copy or download, or otherwise make available to any third party, any such information for any purpose; and

(i) Report to Blink any abuse of the Internet (including spam, hacking and phishing) that the Merchant considers to have taken place through the use of the Gateway Services and/or the Gateway by any person, and the Merchant must include in such report as much information as the Merchant is able to provide to Blink relating to the type of abuse that the Merchant has witnessed.

4.3 The Merchant must not in any way use the Gateway, or submit to Blink or the Gateway, anything which in any respect:

(a) is in breach of any law, statute, regulation or byelaw of any applicable jurisdiction;

(b) is fraudulent, criminal or unlawful;

(c) is inaccurate or out-of-date;

(d) is obscene, indecent, vulgar, discriminatory, offensive, threatening, defamatory or untrue;

(e) is in contravention of any applicable law, nor allow or assist any third party in doing so;

(f) impersonates any other person or body or misrepresents a relationship with any person or body;

(g) may infringe or breach the copy or Intellectual Property Rights of any third party;

(h) may be contrary to Blink's interests;

(i) is contrary to any specific rule or requirement that Blink may stipulate for the Gateway Services; or

(j) involves the Merchant's use, delivery or transmission of any viruses, unsolicited communications, Trojan horses, trap doors, cancelbots, back doors, worms, easter eggs, time bombs or computer programming routines that are intended to damage, interfere with, surreptitiously intercept or expropriate any data, personal information or system.

4.4 Access to the Gateway Services, the Account and/or the Gateway may be suspended or withdrawn to or from the Merchant or all Users temporarily or permanently at any time without notice. Blink may also impose restrictions on the

length and manner of usage of any part of the Gateway and/or the Gateway Services or access for any reason. If Blink imposes restrictions on the Merchant, the Merchant must not attempt to use the Gateway Services, the Account or the Gateway under any other name or user.

4.5 Blink provides the Merchant with access to the Gateway on an “as is” basis; the Merchant is responsible for maintaining appropriate records in connection with its business activities relating to the Gateway Services. Following termination of the Gateway Services, the Merchant acknowledges that Blink will not retain or store any information relating to the Gateway Services (including Transaction data), or make such information available to the Merchant.

Fees

5.1 In consideration of the provision by Blink to the Merchant of the Gateway Services and access to the Gateway, the Merchant shall pay to Blink:

- (a) the Gateway Fees on a monthly basis in advance; and
- (b) the Transaction Fees on a monthly basis in arrears.

5.2 If in any month the Merchant fails to process the Minimum Volume, the Merchant shall pay the Transaction Fees to Blink as if the Minimum Volume had been achieved.

Termination

In the event that the Gateway Services are terminated for any reason, the Merchant will cease to have access to the Gateway Services, the Account and the Gateway.

Liability

7.1 Blink shall endeavour to provide the Gateway Services with 99.5% availability. This availability refers to an access point on Blink’s hosting provider's backbone network and the Gateway Services being available on the Internet at large; it does not apply to the portion of the circuit that does not transit the hosting provider's backbone network, as the Merchant is responsible for its own Internet access. The following shall not be considered a lack of availability:

- (a) Scheduled service maintenance, of which Blink shall use its reasonable endeavours to give the Merchant reasonable notice to ensure minimum disruption to the Merchant. It shall be the responsibility of the Merchant to act in accordance with Blink’s reasonable instructions in such circumstances.
- (b) Merchant-caused or third-party-caused outages or disruptions.
- (c) Outages or disruptions attributable in whole or in part to Events of Force Majeure.

7.2 All measurements of availability are performed at five-minute intervals and measure the availability of an availability test page within the Gateway Services within 30 seconds. Availability measurement begins on the first day of the first calendar month of the Access Period. Availability measurement shall be carried out by Blink or its third-party supplier, and is based on the monthly average percentage availability, calculated at the end of each calendar month as the total actual uptime minutes divided by total possible uptime minutes in the month. Blink shall keep and shall send to the Merchant, on request, records of its availability measurement activities in respect of the Gateway Services.

7.3 In the event that Blink fails to make the Gateway Services available for 99.5% of the time within a given calendar month (with the Blink system log measurements being the conclusive record of this availability), Blink shall credit the Merchant's account by an amount calculated as the product of the total cumulative downtime (expressed as a percentage of the total possible uptime minutes in the month concerned) and the total Gateway Fees owed for that month ("Service Credit").

7.4 Blink shall not pay a Service Credit unless the Merchant requests it by notifying Blink within 10 days of the service-affecting event(s). The maximum Service Credit allowable in a given month is limited to an amount equal to the total Gateway Fees owed by the Merchant for that month.

7.5 The Merchant acknowledges and agrees that the Service Credit shall act as the Merchant's sole and exclusive remedy in respect of, and constitutes a genuine pre-estimate of the loss or damage that the Merchant would suffer as a result of, the Gateway Services downtime.

7.6 For the purposes of Clause 9.5 of the Terms and Conditions, Blink's total aggregate Liability arising out of or in connection with the Gateway Services shall be limited to the total amount of the Gateway Fees paid and payable, in aggregate, by the Merchant to Blink under this Agreement in the 12 months prior to the date on which the claim first arose.

MID Assistance Services Schedule

Schedule to the Terms and Conditions of Fidelity Payment Processing Limited

This Schedule applies to the MID Assistance Services as stipulated in the Order Form (as amended by the Parties by a Change Control Form).

Unless the context otherwise requires, the definitions used in the Terms and Conditions apply to this Schedule. Any other terms defined in this Schedule have that meaning for this Schedule only.

1. MID Assistance Services

1.1 MIDs are provided and administered by the Acquirer as an authorized payments institution.

1.2 Blink will provide the Services to:

- (a) assist the Merchant in applying for a MID with the Acquirer;
- (b) where required by the Merchant, submit the application for a MID to the Acquirer on the Merchant's behalf;
- (c) liaise with the Acquirer on the Merchant's behalf in respect of the MID application and the maintenance of the MID throughout the Term;

("MID Assistance Services")

1.3 The Merchant:

- (a) warrants that any information it provides as part, or in respect, of its MID application shall be accurate and up-to-date;
- (b) acknowledges that Blink may rely on any such information in respect of providing the MID Assistance Services; and
- (c) must inform Blink immediately on becoming aware that any such information is incorrect.

1.4 In the event that the Acquirer accepts the Merchant's application for a MID, the Merchant will enter into a direct contractual relationship with the Acquirer, in respect of which the Merchant shall be responsible for complying with certain obligations (including in respect of the payment of fees to the Acquirer).

1.5 A MID will allow the Merchant to manage, process, and settle all Transactions, manage any chargebacks, and access any other functionality listed in the Acquirer Terms that is accessible to the Merchant.

1.6 The Acquirer will administer the MID directly with the Merchant and invoice the Merchant directly for all fees associated with MID.

2. Fees and Liability

2.1 Blink provides the MID Assistance Services as an ancillary Service to other Services performed under this Agreement. No additional Fees shall be payable by the Merchant to Blink in respect of the MID Assistance Services.

2.2 For the purposes of Clause 9.5 of the Terms and Conditions, Blink shall have no separate limit on its Liability in respect of MID Assistance Services, and Blink's total aggregate Liability arising out of or in connection with the MID Assistance Services shall be limited under, and in accordance with, Clause 9.5.2 of the Terms and Conditions.

Merchant Data Consent Schedule

Merchant has entered into an agreement (the “Agreement”) with Fidelity Payment Processing Limited (“Blink”) pursuant to which Merchant has engaged Blink to perform certain services related to the payment processing services it is procuring from a financial institution (the “Acquirer”). The purpose of this consent is for the Merchant to grant Blink the right to collect, store, and process data in the course of its performance under the Agreement.

Capitalized terms not defined in this consent have the meanings given to them in the Agreement.

The [Blink privacy policy](#) applies to all Data supplied or processed under this consent.

Merchant hereby authorizes:

1. Blink;
2. any Other Financial Institution;
3. any Other Payments Organization (including any Alternative Payment Provider or Card Scheme); and
4. any credit institution at which Merchant maintains the Merchant Bank Account,

to use, share, and release Data and any other information relating to Merchant, including information relating to Merchant which is held in connection with the provision of the Services and/or by the Card Schemes, Other Financial Institutions, or Other Payments Organizations (or, if instructed by Blink, Merchant shall provide such Data or information or procure that such Data or information is provided), to any Person, including our affiliates and their respective officers, Card Issuers, Alternative Payment Providers, Card Schemes, Regulatory Authorities, law enforcement agencies, fraud prevention agencies, and credit reference agencies, and third parties:

(a) for the purpose of fulfilling Blink or any Other Financial Institutions obligations under this Agreement, the applicable Third Party Servicer Agreement, or the Network Rules or requirements of an Other Payments Organization (including a Card Scheme or Alternative Payment Provider) or otherwise as required by Applicable Law;(b) to assess financial and insurance risks;(c) in relation to any breach of, or to enforce, this Agreement or a Third Party Servicer Agreement;(d) to recover debt or in relation to Merchant insolvency;(e) to maintain and develop customer relationships, services, and systems;(f) to prevent and detect fraud or crime;(g) in the course of any investigation by us, any Other Financial Institution, Regulatory Authority, Card Scheme, Other Payments Organization, or any third party into any suspected criminal activity;(h) regarding information security, the risk of fraud, sector risk, and credit risk; and(i) to enable the Card Schemes to assign a Reason Code to any undesirable act or omission.

Partners terms & conditions

FIDELITY PAYMENT PROCESSING LIMITED TERMS AND CONDITIONS for the FIDELITY PAYMENT REFERRAL AGREEMENT

(these "Terms and Conditions")

1. Interpretation

In this Agreement:

1.1 Unless the context requires otherwise, the following terms shall have the following meanings:

"Agent": has the meaning set out in Clause 4.10;

"Agreement": these Terms and Conditions together with the relevant Order Form and the Data Protection Addendum as well as any document referred to in these Terms and Conditions, the Order Form or the Data Protection Addendum;

"BA 2010": has the meaning set out in Clause 14.1(a);

"Bank": a bank whose merchant services are promoted by FIDELITY;

"Client": an entity to whom FIDELITY has not at any time previously provided the Merchant Services;

"Commencement Date": has the meaning set out in Clause 2.4;

"Compensation": has the meaning set out in the Order Form;

"Confidential Information": means all proprietary, secret or confidential information or data relating to either party and its affiliates, operations, employees, fundraisers, donors, products or services, clients, customers, Clients, Leads or potential customers. Confidential Information shall include customer lists, cardholder account numbers, pricing information, computer access codes, instruction and/or procedural manuals, and the terms and conditions of this Agreement. Information shall not be considered Confidential Information to the extent, but only to the extent, that such information is: (i) already known to the receiving party free of any restriction at the time it is obtained; (ii) subsequently learned from an independent third party free of any restriction and without breach of this Agreement; (iii) or becomes publicly available through no wrongful act of the receiving party;

(iv) independently developed by the receiving party without reference to any Confidential Information of the other; or (v) required to be disclosed by law;

"Data Protection Addendum": the document attached to the Order Form setting out each party's respective data protection obligations under this Agreement;

"Extended Term": has the meaning set out in the Order Form; **"Initial Term"**: has the meaning set out in the Order Form; **"Lead"**: has the meaning set out in Clause 3.1;

"Merchant": each Lead that executes a Merchant Agreement for Merchant Services as a result of Referrer's solicitation efforts hereunder;

"Merchant Agreement": an electronic or written merchant agreement between Merchant, FIDELITY and/or Bank for Merchant Services together with application material submitted by the Merchant;

"Merchant Services": FIDELITY's promotion of merchant services offered by certain banks;

"Net Revenue": the compensation received by FIDELITY from the relevant Bank in respect of the Merchants including any value added tax or other sales tax, less the costs and expenses of FIDELITY related to Merchants and the processing the transactions under the Merchant Agreements;

"Order Form": the written document, that FIDELITY provides to the Referrer for signature and submission to FIDELITY in accordance with Clause 2.4, containing specific information relating to this Agreement;

"Relevant Policies": has the meaning set out in Clause 14.1(c);

"Relevant Requirements": has the meaning set out in Clause 14.1(a);

"Relevant Terms": has the meaning set out in Clause 14.2; and

"Term": the Initial Term and/or each relevant Extended Term;

1.2 A **"person"** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality);

1.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

1.4 A reference to **"writing" or "written"** includes in electronic form and similar means of communication (except in relation to Clause 11);

1.5 Any phrase introduced by the terms **"including", "include", "in particular"** or any similar expression, shall be construed as illustrative, shall not limit the sense of the

words preceding or following those terms, and shall be deemed to be followed by the words "without limitation" unless the context requires otherwise; and

1.6 References to "**Clauses**" are to the clauses of these Terms and Conditions.

2. Agreement

2.1 This Agreement applies to the exclusion of any terms and conditions submitted, proposed or stipulated by the Referrer in whatever form and at whatever time.

2.2 Save as expressly provided in this Agreement, this Agreement shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the parties preceding the date of this Agreement and in any way relating to the subject matter of this Agreement and to the exclusion of any representations not expressly stated in this Agreement except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Each of the parties acknowledges that it has not entered into this Agreement based on any representation that is not expressly incorporated into this Agreement.

2.3 This Agreement constitutes the whole agreement and understanding of the parties as to the subject matter of this Agreement and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to in this Agreement.

2.4 The Order Form provided by the Referrer to FIDELITY must be in the form that FIDELITY requires from time to time. This Agreement shall be legally formed and the parties shall be legally bound when FIDELITY has received and signed the Order Form that the Referrer has signed and submitted to FIDELITY ("**Commencement Date**"). Submission by the Referrer to FIDELITY of the Order Form shall be deemed to be an offer by the Referrer to submit Leads to FIDELITY, subject to the provisions of this Agreement, and FIDELITY's counter-signature on the Order Form shall be considered acceptance of such offer.

2.5 In the event of a conflict between these Terms and Conditions and the Order Form and any documents referred to in these Terms and Conditions or the Appendix, then the Order Form shall prevail over these Terms and Conditions, which prevails over any other document.

3. Promotion

3.1 Referrer agrees to endorse the Merchant Services to Clients in a manner that is agreeable to both parties hereto. In the event that a Client may be interested in procuring Merchant Services, the Referrer will provide the contact information of that Client to FIDELITY. Each such Client whose contact information has been provided to FIDELITY by Referrer shall be referred to herein as a "**Lead**". The Referrer shall use its best endeavours to procure Leads.

4. Obligations on the Referrer

4.1 As per the rules and regulations of Visa and MasterCard, which are binding on the FIDELITY, Referrer will (a) use only the name of FIDELITY and not its own business name or any other name or identifying mark other than those prescribed by FIDELITY; (b) not distribute or publish any marketing or other promotional materials or press releases, utilize any name, trademark, trade name, logo or other intellectual property rights of FIDELITY or any of its sponsoring institutions or Visa, MasterCard or other payment card association or brand without prior express written consent of FIDELITY; (c) use a business card featuring FIDELITY's logo and Bank's name, city and country that has been preapproved by FIDELITY; and (d) answer and respond to all telecommunications or other correspondence relating to the Referrer's activities hereunder using the name of FIDELITY and no other name. Both parties shall comply with all applicable laws and all rules of Visa, MasterCard, any other relevant payment card associations or brands, and the sponsoring bank of FIDELITY and FIDELITY itself such as they may be from time to time.

4.2 The Referrer shall serve FIDELITY faithfully and diligently and not allow its interests to conflict with its duties under this Agreement.

4.3 The Referrer shall report in writing to FIDELITY from time to time on progress made with Clients.

4.4 The Referrer shall comply with all reasonable and lawful instructions of FIDELITY.

4.5 The Referrer shall have no authority, and shall not hold itself out, or permit any person to hold it self out, as being authorised to bind FIDELITY in any way, and shall not do any act which might reasonably create the impression that the Referrer is so authorised.

4.6 The Referrer shall not make or enter into any contracts or commitments or incur any liability for or on behalf of FIDELITY, including for the provision of Merchant Services or the price for them, and shall not negotiate any terms for the provision of Merchant Services with Clients.

4.7 The Referrer shall not produce any marketing material for Merchant Services or use FIDELITY's name, logo or trade marks on any marketing material for Merchant Services without FIDELITY's prior written consent.

4.8 The Referrer shall not, without FIDELITY's prior written consent, make or give any representations, warranties or other promises concerning Merchant Services which are not contained in FIDELITY's marketing material.

4.9 The Referrer shall at its own expense comply with all laws and regulations relating to its activities under this Agreement, as they may change from time to time, and with

any conditions binding on it in any applicable licenses, registrations, permits and approvals.

4.10 The Referrer shall not engage any subcontractor, delegate or agent (collectively, "**Agents**") to assist in the performance of Referral's obligations and duties hereunder unless agreed to by FIDELITY in writing and subject to any terms and conditions required by FIDELITY. Referrer is fully responsible and liable for all acts and omissions of its employees, Agents and any other representatives.

4.11 During and following the Term hereof and so long as Referrer is receiving any payments hereunder, Referrer shall immediately notify FIDELITY if Referrer becomes aware of any adverse information concerning the financial condition of a Merchant or any other potential liabilities relating to Merchants.

4.12 During the term of this Agreement, Referrer shall not itself, nor shall any of its affiliates, enter into any agreement similar to this Agreement with a third party or otherwise solicit Clients to offer them credit or debit card processing services or any other payment services offered by FIDELITY or Bank for or on behalf of any third party.

5. Consideration

5.1 Referrer shall be paid the Compensation. Compensation shall be paid by FIDELITY to the Referrer:

(a) so long as (i) Referrer and its Agents are in compliance with the terms hereof; (ii) FIDELITY is receiving its own compensation indirectly from Bank in respect of such Merchant; (iii) the Merchant is continuing to process transactions through Bank in conformity with the Merchant Agreement; and (iv) this Agreement has not been terminated; and

(b) for the initial term of the Merchant Agreement not including any extension or renewal beyond the initial term of such contract.

5.2 FIDELITY reserves the right to offset from Compensation: (a) any amounts owed by Referrer or any Agents FIDELITY or Bank for any reason including, without limitation, indemnification obligations hereunder; (b) any revenue paid to Referrer that is uncollected from the Merchant or Bank or that is refunded by Bank to the Merchant; or (c) any losses incurred by FIDELITY due to wrongful or negligent acts by Referrer or any Agents.

5.3 In order for any Compensation to become due and payable hereunder, Referrer's total Compensation payable for the period then due must equal or exceed £100.00, lower balances will be carried over until the minimum is met. If, after 180 days, the monthly minimum is not met, no amounts will be payable hereunder and this Agreement shall automatically terminate. There shall be no Compensation payable to

Referrer in respect of any Merchant that was referred to FIDELITY prior to Referrer referring the Merchant to FIDELITY.

6. Non-Solicitation

6.1 Referrer agrees that, during the Term hereof, so long as Referrer is receiving Compensation hereunder and for a period of 12 months thereafter neither it nor any of its affiliates will directly or indirectly itself, or permit or assist any third party to as an employee, employer, consultant, agent, principal, partner, stockholder, corporate officer, director, or in any other individual or representative capacity to, call on, solicit, take away, or attempt to call on, solicit, or take away any of the Leads, Merchants, or other customers of FIDELITY whether referred by the Referrer or not. During such time, Referrer shall also not:

- (a) entice, induce or in any manner influence any person or entity who is, or shall be in the direct or indirect service of FIDELITY to leave the same for the purpose of engaging in a business or being employed by or associated with any other business; or
- (b) engage or participate in any business that is in competition in any manner whatsoever with the business and/or contractual relationships of FIDELITY, Bank or other sponsoring banks or processors of FIDELITY.

6.2 None of FIDELITY or any of its affiliates may directly or indirectly itself or permit any third party to use information concerning Leads or Merchants to solicit any of the Clients to offer them any product or service other than Merchant Services.

7. Term

7.1 This Agreement shall begin on the Commencement Date and shall continue for the Initial Term after which it shall renew for successive Extended Terms automatically, unless terminated in accordance with the terms hereof. Either party hereto shall have the right to terminate this Agreement at the end of the Initial Term or the then current Extended Term, upon sixty (60) days prior written notice to the other party.

8. Termination

8.1 Without affecting any other rights that it may be entitled to, FIDELITY may give notice in writing to the Referrer terminating this Agreement immediately if:

- (a) the Referrer is in breach of any of its obligations under this Agreement, and, where such breach is capable of remedy, the Referrer fails to remedy such breach within a period of 10 normal working days of being notified of such breach by FIDELITY;
- (b) the Referrer gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the Referrer or an administration order is made or an administrator is

appointed to manage the affairs, business and property of the Referrer or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the Referrer's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the Referrer takes or suffers any similar or analogous action in consequence of debt in any jurisdiction;

(c) the Referrer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; and/or

(d) there is a change of control of the Referrer (within the meaning of section 1124 of the Corporation Tax Act 2010).

8.2 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

9. Relationship of the parties

9.1 Referrer and FIDELITY agree that in performing their responsibilities pursuant to this Agreement they are in the position of independent contractors. This Agreement is not intended to create, nor does it create and shall not be construed to create, a relationship of partnership or joint venture or agency or any association for profit between Referrer and FIDELITY.

9.2 Referrer is not authorized here under to hold itself out as an agent of FIDELITY or any of its sponsoring institutions or suppliers or to inform or represent to any person that Referrer has authority to bind or obligate FIDELITY or to otherwise act on behalf of FIDELITY.

9.3 As per Visa MasterCard rules and regulations Referrer may not quote any rates to any merchants.

9.4 Referrer shall not make any representation or warranty, or create any liability or potential liability on behalf of FIDELITY.

9.5 All expenses and disbursements, including those for travel and maintenance, entertainment, training, office, employees, source deductions, taxes, employee taxes or remittances, clerical and general selling expenses that may be incurred by Referrer in connection with this Agreement shall be borne wholly and completely by Referrer, and FIDELITY shall not be in any way responsible or liable therefore. Additionally, Referrer shall be liable for any and all taxes payable on the Compensation earned by it

hereunder. The total amount of Compensation the Referrer receives hereunder, if any, shall be reported on a tax form applicable to independent contractors at the end of each calendar year.

9.6 Except as otherwise provided, each party shall bear its own administrative costs and overhead expenses arising out of its performance of this Agreement.

9.7 As between FIDELITY and Referrer, FIDELITY has full and exclusive ownership rights in all Merchant Agreements and all Merchant Services-related information relating to Merchants. FIDELITY may have the right to cause the Bank to assign Bank's rights in all or any of the Merchant Agreements to any third party at any time and for any reason, in accordance with FIDELITY's agreement with the Bank and FIDELITY may dispose of its right to receive compensation in respect of some or all Merchants.

10. Assignment

10.1 The Referrer must not assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of its obligations under it, without the prior written consent of FIDELITY (such consent not to be unreasonably withheld or delayed).

11. Notices

11.1 Any notice given to either party under or in connection with this Agreement shall be in writing, addressed to the relevant party at its registered office or such other address as that party may have specified to the other party in writing, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery or commercial courier.

11.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 11.1 above; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second normal working day after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

11.3 The provisions of this Clause 11 shall not apply to the service of any proceedings or other documents in any legal action.

12. Confidential Information

12.1 Each party shall keep the other party's Confidential Information confidential and shall not:

(a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement; or

(b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 12.

12.2 A party may disclose the other party's Confidential Information to those of its employees and Agents who need to know such Confidential Information provided that:

(a) it informs such employees and Agents of the confidential nature of the Confidential Information before disclosure; and

(b) it does so subject to the employees' and Agents' agreeing in writing to comply with obligations that are equivalent to those set out in this Clause 12.

12.3 A party may disclose the Confidential Information of the other party to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 12.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

12.4 The obligations of confidentiality in this Clause 12 shall not extend to any matter which either party can show:

(a) is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of this Agreement; or

(b) was independently developed by it; or

(c) was independently disclosed to it by a third party entitled to disclose the same; or

(d) was in its written records prior to receipt.

12.5 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Agreement are granted to the other party, or to be implied from this Agreement.

12.6 On termination of this Agreement, each party shall:

(a) return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;

(b) erase all the other party's Confidential Information from its computer systems (to the extent possible); and

(c) certify in writing to the other party that it has complied with the requirements of this Clause 12.6, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential

Information to the extent required by law or any applicable governmental or regulatory authority.

The provisions of this Clause 12 shall continue to apply to any such documents and materials retained by a recipient party following termination of this Agreement for any reason.

12.7 The provisions of this Clause 12 shall continue to apply after termination of this Agreement.

13. Liability

13.1 The Referrer agrees to indemnify, defend, and hold harmless FIDELITY, its employees and agents, from and against any loss, liability, damage, penalty or expense (including, without limitation, reasonable attorneys' fees and cost of defence) that FIDELITY may suffer or incur as a result of:

- (a) any failure by the Referrer or any of its employees or Agents to comply with the terms of this Agreement;
- (b) any warranty or representation made by the Referrer or any of its employees or Agents being false or misleading;
- (c) any representation, warranty or undertaking made by the Referrer or any of its employees or Agents other than as specifically authorized by this Agreement;
- (d) acts or omissions of Referrer or any Agent or any of their respective affiliates, including negligence, fraud and wilful misconduct.

13.2 UNDER NO CIRCUMSTANCES SHALL FIDELITY BE LIABLE TO THE REFERRER FOR ANY INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES. UNDER NO CIRCUMSTANCES SHALL THE LIABILITY OF FIDELITY HEREUNDER EXCEED THE TOTAL AMOUNT OF COMPENSATION PAID OR PAYABLE HEREUNDER FOR THE PRECEDING 6 (SIX) MONTH PERIOD.

14. Anti-bribery and corruption

14.1 The Referrer shall:

- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption ("**Relevant Requirements**"), including but not limited to the Bribery Act 2010 ("**BA 2010**");
- (b) not engage in any activity, practice or conduct outside the UK which would constitute an offence under sections 1, 2 or 6 of the BA 2010 if such activity, practice or conduct had been carried out inside the UK;

- (c) comply with FIDELITY's ethics and anti-bribery policies as may be provided to the Referrer by FIDELITY from time to time ("**Relevant Policies**");
- (d) have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the BA 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Clause 14.1(b) above, and will enforce them where appropriate;
- (e) promptly report to FIDELITY any request or demand for any undue financial or other advantage of any kind received by the Referrer in connection with the performance of this Agreement;
- (f) immediately notify FIDELITY in writing if a foreign public official becomes an officer or employee of the Referrer or acquires a direct or indirect interest in the Referrer, and the Referrer warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of this Agreement; and
- (g) within three months of the date of this Agreement, and annually thereafter, certify to FIDELITY in writing signed by an officer of the Referrer, compliance with this Clause 14 by the Referrer and all persons associated with it under Clause

14.2. The Referrer shall provide such supporting evidence of compliance as FIDELITY may reasonably request.

14.2 The Referrer shall ensure that any person associated with the Referrer who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Referrer in this Clause 14 ("Relevant Terms"). The Referrer shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Referrer for any breach by such persons of any of the Relevant Terms.

14.3 For the purpose of this Clause 14, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of this Clause 14, a person associated with the Referrer includes, but is not limited to, any Agent of the Referrer.

15. Governing law and jurisdiction

15.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including, without limitation, non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England. The parties irrevocably agree that the courts of England shall have exclusive jurisdiction

to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.

16. Miscellaneous

16.1 A person that is not a party to this Agreement shall not have any rights under or in connection with this Agreement.

16.2 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.3 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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 preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

16.4 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.

16.5 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).