

## **Call-Off Schedule 23 (Payment and Related Services (including Payment Equipment) Supply Terms**

### **1. Application of These Terms**

- 1.1 This Schedule sets out specific terms which will apply under this Call-Off Contract to the supply of the Payment Services and/or Payment Equipment (defined below) as identified in the Order Form.
- 1.2 Part 1 of this Schedule sets out the terms which will apply regardless of the type of Payment Services or Payment Equipment which are to be provided under the Call-Off Contract.
- 1.3 Part 2 of this Schedule is divided into separate sections. Each section contains terms which are specific to a particular type of Payment Service or Payment Equipment. The relevant section will apply to the Call-Off Contract as selected in the Order Form.

## **Part 1 - General Payments Terms**

### **1. Definitions and Interpretation**

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions) (where there is a conflict between a definition below and a definition in Joint Schedule 1, the definition below shall, for the purposes of this Schedule, prevail):

<b>"Acquirer"</b>	means a person which is licensed by each Card Scheme and/or has appropriate arrangements in place with a third party relating to the use of a Card Scheme and/or other relevant payment methods and which is able to provide Acquiring Services to the Buyer;
<b>"Acquiring Services"</b>	means services which will allow the Buyer to accept payment by Cards and/or other relevant payment methods (pursuant to the Rules) and for the Buyer to receive payment from the Acquirer in respect of the same, in accordance with the Buyer's Statement of Requirements and as further described in Section 1 (Acquiring Services Terms) of Part 2 of this Schedule (where such Section is included in the Contract);
<b>"Activation Date"</b>	means the date on which the Services and any relevant Deliverables are successfully delivered and/or implemented by the Supplier, tested and accepted by the Buyer, and are ready to commence;
<b>"Activation Due Date"</b>	means the date specified by the Buyer as the due date for successful delivery, implementation, testing and acceptance of the Services and Deliverables;
<b>"Alternative Payment Method" (or "APM")</b>	means any existing or new method by which a Payer can make a payment to the Buyer which does not involve use of a Card or Card number;
<b>"AML"</b>	means the EU Fourth Money Laundering Directive (and all relevant local implementing legislation) as applicable to the UK (and any replacement rules applicable in the UK from time to time);
<b>"APIs"</b>	means Application Programming Interfaces which would or may allow the Buyer and/or Related Suppliers to connect to the Supplier or its system (or those of a third party) (including, in the case of PISP Services any which would or may allow Payers and/or the Buyer to

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	connect to their bank accounts and authorise payments and other transactions to be made to and/or with the Buyer);
<b>"APM Account"</b>	means the account held by the Payer with an APM Provider which enables the Payer to make payments using the relevant APM;
<b>"APM Provider"</b>	means a provider of an APM;
<b>"APM Services"</b>	means provision and/or making available by the Supplier to Payers, of (or the Supplier enabling the Buyer to make available) an APM by which the Payer can make payments to the Buyer in accordance with the Buyer's Statement of Requirements and as further described in Section 2 (Payment Equipment Terms) of Part 2 of this Schedule (where such Section is included in this Call-Off Contract);
<b>"Assisted Person"</b>	has the meaning given in Paragraph 13.1;
<b>"Authorisation"</b>	<p>means the process whereby the Supplier obtains, (and whether in physical, virtual or digital or electronic form) (directly or indirectly) from or via the Card Issuer, Card Scheme and/or APM Provider (as relevant), confirmation that:</p> <ul style="list-style-type: none"> <li>(i) the relevant Card has not been blocked for any reason or listed as lost, stolen or compromised and that there are sufficient funds available to the Cardholder for the relevant Transaction; or</li> <li>(ii) the proposed use of the relevant APM is valid and the APM has not been compromised and that there are sufficient funds available to the Payer for the relevant Transaction</li> </ul> <p>(and references to <b>"Authorise"</b> and <b>"Authorised"</b> shall be construed accordingly);</p>
<b>"Block List"</b>	<p>means any list of:</p> <ul style="list-style-type: none"> <li>(a) either: <ul style="list-style-type: none"> <li>(i) those Cards which the relevant Card Issuer and/or Card Scheme; or</li> <li>(ii) those APM Accounts which the relevant APM Provider (and/or (in either case) which the Supplier in complying with Law and/or the relevant Rules) will not permit to be used for a Transaction and as further described in the Specification; and/or</li> </ul> </li> <li>(b) those Cards and/or APM Accounts (and/or those Payers) which the Buyer does not wish to be permitted to be used for, or to</li> </ul>

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	be able to make, a transaction and as further described in the Specification;
<b>"Buyer Bank Account"</b>	means the bank account to be maintained by the Buyer pursuant to this Schedule;
<b>"Buyer Property"</b>	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Call-Off Contract;
<b>"Buyer Software"</b>	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Services and/or the Deliverables;
<b>"Buyer System"</b>	means the Buyer's (including any provided by a third party) hardware, computer and telecoms networks and/or equipment, equipment, plant, materials, and any other software, systems, computing environment supplied and/or used (or to be supplied and/or used) by the Buyer or the Supplier in connection with the Call-Off Contract (including any which is to interface with the Supplier System or which is otherwise necessary for the Buyer (as the context requires) to receive the Services and/or the Deliverables;
<b>"Card"</b>	means a credit, debit, charge, prepaid, purchase and/or bank card and/or any other form of payment token that is issued by or with the authority of a member of a Card Scheme (and whether commercial, consumer, domestic and/or cross border). For the avoidance of doubt, Cards shall include virtual cards and/or payment tokens including those which may be used via a mobile or digital device (and any other relevant form factor);
<b>"Cardholder"</b>	(a) the person in whose name a Card is issued or whose name is embossed or imprinted on the face of a physical Card; and/or (b) any authorised user of a Card;
<b>"Card Issuer"</b>	means a financial institution or other approved person or body that issues Cards to Cardholders;
<b>"Card Mark"</b>	means the name, trademarks, trade names, service marks or logos of VISA, MasterCard, and any other Card Scheme;

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<b>"Card Scheme"</b>	means MasterCard (including Maestro), VISA (including Electron and VPay) and, where required by the Buyer in the Specification, American Express, JCB, Diners Club, Discover, China Union Pay (Union Pay International / UPOP) and/or any other card payment association or scheme as agreed between the Buyer and the Supplier from time to time;
<b>"Challenge"</b>	has the meaning given in Section 1 (Acquiring Services Terms) of Part 2 of this Schedule 23;
<b>"Chargeback"</b>	means a requirement by (or initiated by) a Card Issuer, Card Scheme or an APM Provider (where relevant) for the Supplier (or the Buyer) to repay (in whole or in part) funds in respect of a Transaction, notwithstanding that Authorisation and/or Settlement funds may have been obtained from the relevant Card Issuer, Card Scheme and/or APM Provider;
<b>"Commercial off the shelf Software" or "COTS Software"</b>	means non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;
<b>"Data Transfer Requirements"</b>	means the requirements specified in the Call-Off Contract and agreed by the Buyer for the transfer of Transaction Data by the Buyer to the Supplier;
<b>"Defect"</b>	means any of the following: <ul style="list-style-type: none"><li>a) any error, damage or defect in the manufacturing of a Deliverable; or</li><li>b) any error or failure of code within the Software which causes a Service and/or Deliverable to malfunction or to produce unintelligible or incorrect results; or</li><li>c) any failure of any Service and/or Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Services and/or Deliverable from passing any Test required under this Call-Off Contract; or</li><li>d) any failure of any Services and/or Deliverable to operate in conjunction with or interface with:<ul style="list-style-type: none"><li>i) any other Service and/or Deliverable; and/or</li><li>ii) the Operating Environment,</li></ul></li></ul>

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	in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Call-Off Contract;
<b>"Emergency Maintenance"</b>	means ad hoc and unplanned maintenance provided or performed by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;
<b>"Fines"</b>	means any and all fines, levies and assessments which any Card Scheme and/or APM Provider may require the Supplier to pay or which otherwise is directly recovered from the Supplier by a Card Scheme and/or APM Provider in respect of any breach of the relevant Rules;
<b>"Finish Date"</b>	means the date so specified in the Order Form;
<b>"Fraud Services"</b>	means the provision by the Supplier to the Buyer of services designed to detect, minimise and avoid payments related fraud, in accordance with the Buyer's Statement of Requirements and as further described in Section 4 (Fraud Services Terms) of Part 2 of this Schedule (where such Section is included in the Call-Off Contract) (including, where relevant, the electronic scrutinisation and undertaking by the Supplier of various risk management tests on the Transaction Data sent to it by, or from, the Buyer (or anyone acting on its behalf);
<b>"Gateway"</b>	means any payment gateway portal operated and/or used by the Buyer from time to time;
<b>"Gateway Services"</b>	means the provision to the Buyer of an online gateway which will enable the Buyer to accept payments in accordance, where relevant, with the Buyer's Statement of Requirements and as further described in Section 3 (Gateway Services Terms) of Part 2 of this Schedule (where such Section is included in the Call-Off Contract);

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<b>"Go-live"</b>	means the commencement of the Services (where required, following issue of a Satisfaction Certificate in respect of the relevant Final Milestone);
<b>"ICT Environment"</b>	means the Buyer System and the Supplier System;
<b>"Licensed Software"</b>	means all and any Software licensed by or through the Supplier, its Subcontractors or any third party to the Buyer for the purposes of or pursuant to this Call-Off Contract, including any COTS Software;
<b>"Maintenance Schedule"</b>	has the meaning given to it in Paragraph 9 of this Schedule;
<b>"Malicious Software"</b>	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
<b>"Mandatory Rules"</b>	means such of the Rules as the Supplier is required by the relevant Card Scheme or APM Provider (as relevant) to ensure are complied with in its provision of the relevant Services, failing which the Supplier would not be permitted to perform the Services in relation to a relevant Card or APM Account;
<b>"New Goods and Services"</b>	has the meaning given in Paragraph 13.6;
<b>"New Release"</b>	means an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
<b>"Object Code"</b>	means in relation to software, that software in machine readable form including executable code;
<b>"Open Banking Rules"</b>	means the Second Payment Services Directive (to the extent applicable in the UK) (" <b>PSD2</b> "), the Payment Services Regulations 2017, the Regulatory Technical Standards issued under PSD2 (" <b>RTS</b> "), the UK Competition and Markets Authority's Retail Banking Market Investigation Order 2017, and the rules and guidance of

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	Open Banking Ltd (as may be modified, amended or replaced from time to time);
<b>"Open Source"</b>	means licence terms which enable use, study, change and distribution to any and all persons, and for any and all purposes free of charge;
<b>"Open Source Software"</b>	computer software that has its source code made available subject to an Open Source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;
<b>"Open Standards"</b>	means those standards which are consistent with the open standards principles as set out at <a href="https://www.gov.uk/government/publications/open-standards-principles">https://www.gov.uk/government/publications/open-standards-principles</a>
<b>"Operating Environment"</b>	means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: a) the Deliverables or Services are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables and/or Services; or c) where any part of the Supplier System is situated;
<b>"Payer"</b>	means any person who is to make a payment to the Buyer (including, in the case of a Card, the Cardholder, and/or any person using an APM to make a payment);
<b>"Payment Equipment (or "PE")"</b>	means payment terminal devices, machines, equipment and/or software programmes (including POS and MPOS equipment or equivalent, credit card terminals, EFTPOS terminal (or by the older term as PDQ));
<b>"Payment Services"</b>	means provision of Payment Equipment which will enable the acceptance of Card (and / or, where relevant, APM payments (and related support)) in accordance with the Buyer's Statement of Requirements and as further described in Section 2 (Payment Equipment Terms) of Part 2 of this Schedule (where such Section is included in the Call-Off Contract);
<b>"PCI"</b>	means: (a) Payment Card Industry Data Security Standard (current Version 3.2.1 (PCI DSS v.3.2.1) May 2018) (" <b>PCI-DSS</b> ");

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	(b) Payment Application Data Security Standard (current version 3.2 May 2016); (c) PCI Point to Point Encryption (P2PE); and (d) PIN Transaction Security (PTS) Point of Interaction (POI) Security Requirements (current version PTS POI V5.1 March 2018)  or any updated or replacement versions from time to time;
<b>"Permitted Maintenance"</b>	has the meaning given to it in Paragraph 9.2 of this Schedule;
<b>"PISP Services"</b>	means the provision by the Supplier of services designed to enable a Payer to make a payment to the Buyer directly or indirectly from the relevant Payer's own bank account, in accordance with the Buyer's Statement of Requirements and as further described in Section 5 (PISP Services Terms) of Part 2 of this Schedule (where such Section is included in the Call-Off Contract);
<b>"Procuring Body"</b>	has the meaning given at Paragraph 13.6;
<b>"Quality Plans"</b>	has the meaning given to it in Paragraph 7.1 of this Schedule;
<b>"Refund"</b>	means a return of an amount to a Cardholder's account or an APM Account, or (as the case may be) the reversal of any payment effected, in each case pursuant to the request or instruction of the Buyer (or anyone acting on its behalf) to the Supplier (and <b>"Refunds"</b> shall be construed accordingly);
<b>"Regulatory Bodies"</b>	means those government departments and regulatory, statutory, industry and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Call-Off Contract or any other affairs of the Buyer and/or CCS (and shall include UK Finance, and EMVCo) and any reference to <b>"Regulatory Body"</b> shall be construed accordingly;
<b>"Related Supplier"</b>	means any provider of a Related Supply;
<b>"Related Supply"</b>	means any service or supply of goods, software or equipment (or the use of the same) which the Buyer obtains or provides itself that is related or connected to the Services and/or the Deliverables or any part of the same, or which interface(s) with or interoperate(s)

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	with (or is/are intended to interface or interoperate with) the Services and/or the Deliverables or any part thereof;
<b>"Rules"</b>	<p>means, as relevant;</p> <p>(1) the rules and regulations of:</p> <p>(i) the Card Schemes; and/or</p> <p>(ii) any APM Provider (and/or any other rules which are equivalent to the Card Scheme rules and which are applicable to an APM);</p> <p>(2) any rules, regulations, requirements, orders, policy, directives, guidance and/or codes of practice of a Regulatory Body (or equivalent);</p> <p>(3) PCI;</p> <p>(4) Open Banking Rules; and/or</p> <p>(5) AML</p> <p>which are applicable to the Services, Deliverables, and/or their provision or receipt, or to Payers and/or Transactions (and any future amendment to, or replacement of, the same) from time to time;</p>
<b>"Service-related Data"</b>	has the meaning given in Paragraph 17.2;
<b>"Settlement"</b>	means the payment or remittance by (or initiated by) the Supplier of the proceeds of Transactions to or for the Buyer (or an account designated by the Buyer) (and the terms <b>"Settle"</b> and <b>"Settled"</b> shall be construed accordingly);
<b>"Settlement Time"</b>	means the time agreed between the Parties in the Specification and/or specified by the Buyer from time to time for the making of Settlements by the Supplier;
<b>"Sites"</b>	has the meaning given to it in Joint Schedule 1(Definitions), and for the purposes of this Call-Off Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place;
<b>"Software"</b>	means Specially Written Software, COTS Software, and non-COTS Supplier and third party software;

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<b>"Software Supporting Materials"</b>	has the meaning given to it in Paragraph 10.1.1(b)10.1 of this Schedule;
<b>"Source Code"</b>	means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
<b>"Specially Written Software"</b>	means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Subcontractor or other third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;
<b>"Specified Item"</b>	has the meaning given in Paragraph 13.5;
<b>"Supplier Assets"</b>	means all assets and rights used by the Supplier to provide the Deliverables in accordance with the Call-Off Contract but excluding the Buyer Assets;
<b>"Supplier System"</b>	means the Supplier Equipment and any other software or systems supplied and/or used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under the Call-Off Contract including the COTS Software, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);
<b>"Supply Period"</b>	means the period commencing on the Activation Date and ending on the Finish Date unless extended or terminated early in accordance with this Call-Off Contract;
<b>"Transaction"</b>	means any payment or Refund and/or any other standard or mandated Card Scheme or APM Provider (as relevant) transaction types made, by use of a Card, a Card number, an APM or otherwise (as relevant) including to debit or credit the applicable Cardholder's account or Payer's APM Account, and whether domestic or foreign (where and to the extent that UK sanctions permit the same) and shall include reversals and the initiation of or request for any of the items mentioned above;

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<b>"Transaction Data"</b>	means documents, data and records of any kind relating to Transactions (including, for the avoidance of doubt, data relating to Cards, Cardholders, Payers, APMs and/or the Payer's bank accounts);
<b>"Transaction Revenue"</b>	means any money acquired by the Supplier and to be Settled to or for the benefit of the Buyer in respect of each payment Transaction in the course of the Services; and
<b>"Watch List"</b>	means any list of: (a) either: (i) those Cards which the relevant Card Issuer and/or Card Scheme; or (ii) those APM Accounts which the relevant APM Provider (and/or (in either case) which the Supplier in complying with Law and/or the relevant Rules) has flagged for additional monitoring and as further described in the Specification; and/or (b) those Cards and/or APM Accounts (and/or those Payers) which the Buyer has flagged for additional monitoring and as further described in the Specification;
<b>"White List"</b>	means any list of those Cards and/or APM Accounts (and/or those Payers) which the Buyer does specifically wish to be permitted to be used for, or to be able to make, a transaction and as further described in the Specification;
<b>"Working Day"</b>	means any day on which Banks in the City of London are open for business.

- 1.2 The term "Law" as defined in Joint Schedule 1 (Definitions) shall for the purpose of this Schedule be deemed to include all laws, legislation, bye-laws, judgments of a relevant court of law, and/or decrees which are applicable or relevant to Payers, Transactions and/or the Services and/or Deliverables (and/or their provision or receipt from time to time (including without limitation the Data Protection Legislation)).
- 1.3 When the Parties have entered into a Call-Off Contract which incorporates this Call-Off Schedule 23 the following Core Terms are modified in respect of the Call-Off Contract (but are not modified in respect of the Framework Contract):

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- 1.3.1. Clause 3.1.2 does not apply to the Call-Off Contract in the sense that there shall be no time limit on that or any other warranty and that Clause shall not limit or exclude any of the warranties which are set out in this Schedule 23 (including any of its Sections);
- 1.3.2. Clause 11.5 shall be amended to include the following sentence: "In addition, nothing in the Framework Agreement or any Contract shall serve to limit or exclude the liability of:
- (i) the Supplier under any indemnity in the Contract, or to pay any Settlement under this Contract, or for the amount of any Transaction where the relevant loss arises as a result of the breach, negligence or default of the Supplier; or
  - (ii) the Buyer for the amount of:
    - (A) any Chargeback and/or Refund;
    - (B) fees for Transactions; and/or
    - (C) any fines imposed by a Card Scheme as a direct result of a breach by the Buyer of a Mandatory Rule affecting the relevant Services (and where and to the extent that such breach is not caused, or contributed to, by the Supplier or anyone acting on its behalf)
- which the Buyer is responsible for under and in accordance with the terms of the Contract.
- 1.3.3. Clause 20.2 shall be amended so that only the Buyer may terminate the Contract in the circumstances described in Clause 20.2. Clause 20 is without prejudice to (and any claim for relief by the Supplier under that clause is subject to) the Supplier's obligation under the Contract to take steps to resume provision of the Services and/or Deliverables in the event of an interruption (including under Call-Off Schedule 8, where used). The Supplier shall, without prejudice to its other obligations, where the relevant Force Majeure Event is attributable to a third party such as a Card Scheme, banking provider, and or internet services provider, take all steps available to it and/or as may be necessary or desirable to ensure the resumption of any required services and/or performance by the relevant third party as soon as possible.

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1.3.4. Clause 24.5 shall also apply in relation to any change in the Rules following the Start Date.

1.3.5. Clause 26 shall be amended so that the Buyer, where it is the Beneficiary may, at any time, acting reasonably take back control of the defence or settlement of a Claim. Also the level of effort to be taken by the Buyer under Clause 26.6 shall be "reasonable steps".

**2. General Service Provision**

2.1 The Supplier shall provide the Payment Services as from the Start Date. For the avoidance of doubt, if Go-live does not take place on the Start Date, the Supplier shall be deemed to be in material Default of the Call-Off Contract.

2.2 In the event of the Supplier's failure to provide the Services or to otherwise comply with its obligations in accordance with the Call-Off Contract, the Buyer may, without prejudice to its other rights, require the Supplier at the Supplier's own cost to re-perform the Services and/or to comply with its obligations.

2.3 The Supplier shall perform the Payment Services to a level at or better than the applicable Service Level Performance Measure.

2.4 The Supplier shall monitor and report its performance of the Services in accordance with Call-Off Schedule 14 (Service Levels). The Buyer may also monitor the performance of the Services by the Supplier. The Supplier shall (and shall ensure that its Subcontractors shall) reasonably co-operate with the Buyer in conducting any monitoring referred to in this Paragraph at no additional charge to the Buyer.

2.5 The Supplier shall monitor and inform the Buyer of new and emerging payment and fraud avoidance and/or detection innovations, developments, technologies and methods that become available in the market. If requested by the Buyer, the Supplier shall make such innovations, methods, developments, and/or technologies available to (or support their adoption by) the Buyer in order that they can be implemented by the Buyer if required, (including, but not limited to: tokenisation; new terminal types and capabilities, software only acceptance solutions, biometrics, migration from Dual message to Single message transactions, emerging APMs, new Card BIN ranges, and digital currencies and other alternative payment methods).

2.6 The Supplier shall provide expert technical consultancy, free of charge, to work with the Buyer to support the government's strategy

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to improve its capabilities in the area of electronic purchasing and payment, and to encourage and assist the Buyer to move away from traditional payment acceptance methods (such as cash or cheque) where appropriate, and move towards greater use of new technology that can be utilised to increase electronic receipt of payments through Card and APM payments.

### **3. Supplier Performance**

3.1 The Supplier warrants, represents and undertakes that:

- 3.1.1. it has and shall at all times maintain and comply with all licences, consents, certifications, and authorisations necessary in respect of the provision of the Services and the Deliverables (which, for the avoidance of doubt shall include certification to either Cyber Essentials or Cyber Essentials Plus or its replacement). On request, the Supplier shall provide the Buyer with such evidence of the same as the Buyer may require;
- 3.1.2. it, and where required any Payers and/or Related Suppliers, can use (and where relevant hold) the relevant Deliverables and Supplier Assets (including any APIs) for the duration of the Call-Off Contract free of any interference from the Supplier and any actual or purported third party owner (or any person acting or claiming to act through the same);
- 3.1.3. it shall (and the Services and Deliverables (and their provision) shall) comply at all times with the Rules, and any applicable Laws;
- 3.1.4. it shall not, by any act, omission, breach or default (and none of the Services and/or Deliverables (or their use or receipt) shall) cause or contribute to any non-compliance by the Buyer, or any of its Affiliates with any of the Rules or applicable Laws;
- 3.1.5. the provision by the Supplier of the Services and their receipt by the Buyer will not infringe the rights (including the Intellectual Property Rights) of any third party;
- 3.1.6. the Supplier System and Services shall at all times comply with the Statement of Requirements;
- 3.1.7. the Services and Deliverables will:

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- (a) comply with their relevant Specifications and any other requirements of the Buyer relating to them;
- (b) be provided by the Supplier in accordance with Good Industry Practice;
- (c) be fully available at the times and for the period specified in the Call-Off Contract (unless otherwise expressly agreed);
- (d) enable any required connection to and interfacing and interoperability with the Buyer's Related Suppliers and Related Supplies (including APM Providers, PISP Service Providers, Fraud Services and identity verification providers, Gateway Services providers and/or Acquiring Service providers from time to time) and the Supplier shall, in the provision of the Deliverables, co-operate and co-ordinate as and when requested by the Buyer, with the Buyer's Related Suppliers and any relevant Related Supplies;
- (e) at all times (including in terms of performance and availability), be provided so as to at least meet the applicable Service Levels (and any Service Level Performance Measures);
- (f) where relevant, have sufficient capacity to meet all the Buyer's required volume for Transactions and requirement for the Services without any adverse impact to the Services, Deliverables, the Buyer and/or any Payer (or any other services provided to them);
- (g) be secure, tamper-proof, and display evidence of any tampering;
- (h) to the extent that they involve web-based interfaces to be used by the Buyer or Payers:
  - (A) meet (as a minimum) Level AA of the Web Content Accessibility Guidelines (WCAG) 2.0 and UK Equality Act 2010 legislation (as shall be updated and/or replaced from time to time);

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- (B) shall require as a minimum, secure two-factor authentication role-based access;
    - (C) maintain, as a minimum, the equivalent level of browser support as GOV.UK; and
    - (D) have all pages which are rendered correctly for compatibility with devices with variable screen sizes, including:
      - (1) all types of desktops;
      - (2) all types of laptops;
      - (3) smart phones;
      - (4) tablet devices; and
      - (5) other software-only devices as standards allow now and in the future;
  - (i) enable and ensure separation of each Buyer's equipment data and that of any other merchants to avoid exposing each Buyer's data to unauthorised parties; and
  - (j) shall be of satisfactory quality, free from defects and fit for their intended purpose as specified by the Buyer or where not specified by the Buyer, which is implicit from the nature of the Deliverables and/or Services;
- 3.1.8. all user and operational documentation provided by the Supplier to the Buyer will be complete, up to date, accurate and sufficient so far as is reasonably necessary to enable the Buyer and its personnel to make full and proper use of them;
- 3.1.9. all versions of the Supplier System (including all software comprised in it) used by or on behalf of the Supplier in the provision of the Services shall be a currently supported version;
- 3.1.10. the Supplier will not by virtue of any act or omission cause the Buyer or any other person to lose any consent or

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permission upon which it relies for the purposes of conducting its business or operations;

- 3.1.11. the Services, Deliverables and Supplier System shall at all times be fully compatible, and interoperable, with the Buyer System and any Related Supplies;
- 3.1.12. the Services and the Deliverables shall be capable of use at (and from) locations in the UK and globally (including UK Military bases, third party locations, and /or ships abroad); and
- 3.1.13. the Services shall interface at all times with the Buyer's Related Suppliers and Related Supplies

#### **4. Buyer IT due diligence requirements**

- 4.1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
  - 4.1.1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
  - 4.1.2. operating processes and procedures and the working methods of the Buyer;
  - 4.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
  - 4.1.4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Call-Off Contract and/or which the Supplier will require the benefit of for the provision of the Services and/or Deliverables.
- 4.2. The Supplier confirms that it has advised the Buyer in writing of:
  - 4.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;
  - 4.2.2. the actions needed to remedy each such unsuitable aspect; and
  - 4.2.3. a timetable for and the costs of those actions.

## **5. Licensed software warranty**

- 5.1. Without prejudice to the generality of Paragraph 3.1 of this Schedule, the Supplier represents and warrants that:
- 5.1.1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Subcontractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Call-Off Contract including the receipt of the Services and the Deliverables by the Buyer;
  - 5.1.2. all components of the Specially Written Software shall:
    - (a) be free from material design and programming errors;
    - (b) perform in all material respects in accordance with the relevant specifications contained in Call-Off Schedule 14 (Service Levels) and Documentation; and
    - (c) not infringe any IPR.

## **6. Provision of ICT Services**

- 6.1. The Supplier shall:
- 6.1.1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (subject to Paragraph 10.7, except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or Upgrade;
  - 6.1.2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
  - 6.1.3. ensure that the Supplier System will be free of all encumbrances;
  - 6.1.4. ensure that the Services and Deliverables are fully compatible with any Buyer Software, Buyer System, or

otherwise used by the Supplier in connection with this Call-Off Contract; and

- 6.1.5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Services and Deliverables;

## **7. Standards and Quality Requirements**

- 7.1. The Supplier shall develop, in the timescales specified in the Order Form, quality plans that ensure that all aspects of the Services and Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 7.2. The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services and Deliverables are provided to the standard required by this Call-Off Contract.
- 7.3. Following the approval of the Quality Plans, the Supplier shall provide the Services and all Deliverables in accordance with the Quality Plans.
- 7.4. The Supplier shall ensure that the Supplier Personnel shall at all times during the Call-Off Contract Period:
  - 7.4.1. be appropriately experienced, qualified and trained to supply the Services and Deliverables in accordance with this Call-Off Contract;
  - 7.4.2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Services and Deliverables; and
  - 7.4.3. obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Services and Deliverables to the reasonable satisfaction of the Buyer.

## **8. ICT Audit**

- 8.1. The Supplier shall allow any auditor appointed by, on behalf or in respect of the Buyer access to the Supplier premises to:

- 8.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
- 8.1.2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
- 8.1.3. review the Supplier's quality management systems including all relevant Quality Plans.

## **9. Maintenance of the ICT Environment**

- 9.1. If specified by the Buyer in the Order Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 9.2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance in accordance with the Maintenance Schedule or as otherwise expressly agreed between the Supplier and the Buyer. Such maintenance shall be known as "**Permitted Maintenance**" for the purposes of the Call-Off Contract. The Parties acknowledge and agree that the Order Form and/or relevant Specification (or part of the Specification) may contain details of the permitted and agreed times and durations for Permitted Maintenance by the Supplier.
- 9.3. The Supplier shall give as much notice as is possible to the Buyer prior to carrying out any Emergency Maintenance.
- 9.4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

## **10. Intellectual Property Rights in ICT**

- 10.1. **Assignments granted by the Supplier: Specially Written Software**
  - 10.1.1. The Supplier assigns (by way of present assignment of future rights to take effect immediately on it coming into existence) to the Buyer with full title guarantee free from

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any rights, claims or other third party interests (or shall procure such assignment to the Buyer), title to and all rights and interest in the Specially Written Software together with and including:

- (a) the Documentation, Source Code and the Object Code of the Specially Written Software; and
- (b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the **"Software Supporting Materials"**).

10.1.2. The Supplier shall:

- (a) inform the Buyer of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
- (b) deliver to the Buyer the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer and the Buyer shall become the owner of such media upon receipt; and
- (c) without prejudice to Paragraph 10.1.2(b), provide full details to the Buyer of any of the Supplier's Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Buyer and shall procure that any relevant third party licensor shall grant to the Buyer a perpetual, irrevocable, non-exclusive, assignable, royalty-

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free licence to use, sub-license and/or commercially exploit such Supplier's Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Buyer to obtain the full benefits of ownership of the Specially Written Software and New IPRs.

- 10.1.3. The Supplier shall promptly execute and/or procure the execution of all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Buyer.

**10.2. Licences for non-COTS IPR from the Supplier and third parties to the Buyer**

- 10.2.1. Unless the Buyer gives its Approval the Supplier must not use any:

- (a) of its own Existing IPR that is not COTS Software;
- (b) third party software that is not COTS Software

- 10.2.2. Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software, the Supplier shall grant to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Services and Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Call-Off Contract Period and after expiry of the Call-Off Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

- 10.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software, the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph 10.2.2. If the Supplier cannot obtain such a licence for the Buyer it shall:
- (a) notify the Buyer in writing giving details of what licence terms can be obtained and whether

there are alternative software providers which the Supplier could seek to use; and

- (b) only use such third party IPR as referred to at Paragraph 10.2.3(a) if the Buyer Approves the terms of the licence from the relevant third party.

10.2.4. Where the Supplier is unable to provide a licence to the Supplier's Existing IPR in accordance with Paragraph 10.2.2 above, it must meet the requirement by making use of COTS Software or Specially Written Software.

10.2.5. The Supplier may terminate a licence granted under Paragraph 10.2.1 by giving at least thirty (30) days' notice in writing if there is an Authority Cause which constitutes a material breach which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

**10.3. Licenses for COTS Software by the Supplier and third parties to the Buyer**

10.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

10.3.2. Where the Supplier owns the COTS Software it shall make available the COTS software to a Replacement Supplier (or anyone performing an equivalent role after the End Date) at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.

10.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph 10.3 the Supplier shall support the Replacement Supplier (or anyone performing an equivalent role after the End Date) to make arrangements with the owner or authorised licensee to renew the licence at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.



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10.3.4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:

(a) will no longer be maintained or supported by the developer; or

(b) will no longer be made commercially available

**10.4. Buyer's right to assign/novate licences**

10.4.1. The Buyer may assign, novate or otherwise transfer its rights and/or obligations under the licences granted pursuant to Paragraph 10.2 to:

(a) a Central Government Body; or

(b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.

10.4.2. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in Paragraph 10.2.

**10.5. Licence granted by the Buyer**

10.5.1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer Software and the Specially Written Software solely to the extent necessary for providing the Services and Deliverables in accordance with this Call-Off Contract, including the right to grant sub-licences to Subcontractors provided that any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 15 (Confidentiality).

**10.6. Open Source Publication**

10.6.1. Unless the Buyer otherwise agrees in advance in writing (and subject to Paragraph 10.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be converted (in which case the Supplier shall also provide the converted format to the Buyer) into a format, which is:

(a) suitable for publication by the Buyer as Open Source Software; and

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(b) based on Open Standards (where applicable),

and the Buyer may, at its sole discretion, publish the same as Open Source Software.

10.6.2. The Supplier hereby warrants that the Specially Written Software and the New IPR:

(a) are suitable for release as Open Source Software and that the Supplier has ensured when developing the same that publication by the Buyer will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Buyer System;

(b) have been developed to ensure that their publication by the Buyer shall not cause any harm or damage to any party using them;

(c) do not contain any material which would bring the Buyer into disrepute;

(d) can be published as Open Source Software without breaching the rights of any third party;

(e) will be supplied in a format suitable for publication as Open Source Software ("the **Open Source Publication Material**") no later than the date notified by the Buyer to the Supplier; and

(f) do not contain any Malicious Software.

10.6.3. Where the Buyer has Approved a request by the Supplier for any part of the Specially Written Software or New IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Supplier Existing IPRs and/or Third Party IPRs (and where the Parties agree that such IPRs are not intended to be published as Open Source Software), the Supplier shall:

(a) as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Deliverables based on IPRs which are to be excluded from Open Source publication; and

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- (b) include in the written details and information about the impact that inclusion of such IPRs or Deliverables based on such IPRs, will have on any other Specially Written Software and/or New IPRs and the Buyer's ability to publish such other items or Deliverables as Open Source Software.

## **10.7. Malicious Software**

- 10.7.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
- 10.7.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.
- 10.7.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph 10.7.2 shall be borne by the Parties as follows:
  - (a) by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
  - (b) by the Buyer, if the Malicious Software originates from the Buyer Software or the Government Data (whilst the Government Data was under the control of the Buyer).

## **11. Supplier-Furnished Terms**

### **11.1. Software Licence Terms**

Terms for licensing of non-COTS third party software in accordance with Paragraph 10.2.3 and COTS software in accordance with Paragraph 10.3 are detailed in the Order Form.

## **11.2. Software as a Service Terms**

Additional terms for provision of a Software as a Service solution and provision of Software Support & Maintenance Services are detailed in the Order Form.

## **12. Compliance and Support**

12.1. The Supplier will provide all required support and information to the Buyer in connection with the Card Schemes, APM Providers, Rules, PCI, and any Regulatory Body at all times. The Supplier shall provide the Buyer with current and accurate information detailing the Buyer's PCI responsibilities and shall work with the Buyer to ensure that the Buyer is compliant with the same.

12.2. Following confirmation:

12.2.1. by a Card Scheme or APM Provider of any changes to the relevant Rules; or

12.2.2. by any Regulatory Body of any changes to any Law or the relevant Rules; or

12.2.3. of any changes to PCI,

which, in each case, will impact upon the Buyer (and/or any of its Affiliates or operations), and/or any of the Services or Deliverables (or their use or receipt), the Supplier will notify the Buyer as soon as possible of such changes and provide all relevant details. The Supplier shall at all times ensure that the Services and Deliverables are compliant with all applicable Rules, Law and PCI. Any changes to the Services and/or Deliverables which are necessary in order to maintain compliance with Rules, Law and PCI shall be conducted by the Supplier at its own expense and ensuring that there is no impact or interruption to the provision by the Supplier of, and the receipt by the Buyer (and/or its related parties) of the Deliverables and/or the Services.

12.3. The Supplier's obligations under Paragraphs 12.1 and 12.2 shall survive termination of the Call-Off Contract and shall continue in full force and effect until all Transaction Data obtained under the Call-Off Contract has been destroyed or as otherwise agreed in writing by the Buyer.

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- 12.4. Where the Supplier reasonably suspects that a Transaction, which the Supplier would otherwise process, may be fraudulent or involves fraud or any other criminal activity, the Supplier shall, to the extent permitted by Law and AML, notify the Buyer immediately and shall (without prejudice to any of the Buyer's rights and/or remedies where the Supplier was responsible for detecting or avoiding any fraud) suspend the processing of that Transaction, until the satisfactory completion of the Supplier's investigation or that of any third party (which investigation the Supplier shall conduct immediately, without delay, acting reasonably, in good faith, and in accordance with Good Industry Practice).
- 12.5. The Supplier shall provide the Buyer with a dedicated customer service team for queries in order to ensure effective running of the Services and Deliverables. This shall include a dedicated customer and technical helpdesk which is available 24 hours per day, 7 days per week and 365 days of the year (366 in a leap year). This shall be available to deal with amongst other things, incidents, problems, alerts, account queries, invoice queries, and Payer queries. Where it is reasonably anticipated that the Supplier will process 1 million or more Transactions per annum it shall provide a named account manager who will oversee the provision of Services for the Buyer. Where the anticipated number of Transactions is less than 1 million then account management shall be appropriate to the size of the Buyer's specific requirements.
- 12.6. The Supplier shall provide the Buyer with initial and on-going training (including e-training) free of charge and as and when required, on how to use the Services and any Deliverables including any management tools and shall provide updated guidance documents as and when required, free of charge, to the Buyer.
- 12.7. On the Effective Date and on an annual basis (as a minimum), and following any material system change, the Supplier shall provide the following information assurance evidence to the Buyer:
- 12.7.1. evidence, in the form of independent certification, that the Services and other Deliverables provided conform to PCI-DSS, and evidence of any other claimed security measures, or equivalents, and security controls implemented; and
- 12.7.2. evidence of an independent IT health check using a CESA approved check service provider.

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- 12.8. The Supplier shall provide the same information assurance evidence specified at Paragraph 12.7 to the Buyer at regular intervals and upon request.
- 12.9. The Supplier's information security management system (relevant to the Services) shall be:
  - 12.9.1. accredited to the ISO27001(2013) Standard; and
  - 12.9.2. compliant with the relevant ISO27001(2013) measures, (as such standard may be replaced in the industry from time to time).
- 12.10. If the Supplier's information security management system (relevant to the Services) is accredited to the ISO27001(2013) Standard, or equivalent, or the Supplier can demonstrate compliance with the relevant ISO27001(2013) measures, the Supplier shall provide evidence of this accreditation and compliance to the Buyer at regular intervals and upon request.
- 12.11. Where the Supplier detects unusual patterns of activity that might indicate malicious activities, for example a denial of service attack or distributed denial of service attack the Supplier shall inform the Buyer's designated security contact immediately by alerting via email and SMS.

**13. Co-operation and Collaboration**

- 13.1. The Supplier shall, at the request of the Buyer from time to time provide to the Buyer, and such of the Buyer's (actual or proposed) other suppliers and/or Related Suppliers as are specified by the Buyer ("**Assisted Person**"), such co-operation, information, advice and/or assistance in connection with the Services and the Deliverables as may be necessary or required to:
  - 13.1.1. implement and install the Services and Deliverables, all connected Services and Deliverables, all Supplier Assets, and all Related Supplies;
  - 13.1.2. enable any such Assisted Person to create and maintain technical or organisational interfaces with the Services and/or Deliverables and/or to ensure the interoperability and/or integration of applicable Related Supplies and systems of that Assisted Person with the Services, Deliverables and systems of the Supplier and/or its Subcontractors;

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- 13.1.3. enable the timely transition of the Services and/or Deliverables or equivalent activities or Replacement Deliverables (or any of them) to any Replacement Supplier on the ending of Call-Off Contract for any reason;
- 13.1.4. support the replacement of any Related Suppliers and/or Related Supplies with an alternative;
- 13.1.5. deal with any enquiries and/or requests relating to the Services including from Payers and/or Regulatory Bodies and including any relating to disputes, referrals, refunds, errors and/or fraud;
- 13.1.6. enable the submission collection and processing of payment data in compliance with PCI; and / or
- 13.1.7. enable suppliers to conduct due diligence as a potential Replacement Supplier on the ending of the Call-Off Contract for any reason.

The support referred to above shall include, where integration is required between the Buyer, the Services and/or Deliverables, and any other of the Buyer's suppliers, provision of a "sand-box" environment for use by the Buyer and its other suppliers to allow for "production"-like testing of integrations, including the use of any identifiers that are in use for the production environment and to allow for penetration testing to verify the end-to-end security of the integrated service.

- 13.2. The Supplier shall at the reasonable request of the Buyer co-operate and liaise with Related Supplier(s) so as to assist such Related Supplier(s) with the successful and timely delivery of those Related Supplies.
- 13.3. The Supplier shall:
  - 13.3.1. inform the Buyer in writing reasonably in advance of any adverse effects of carrying out its obligations under the Call-Off Contract (to the extent that it is aware of the same) on any Related Supplies;
  - 13.3.2. minimise any such adverse effects to the extent reasonably practicable in the circumstances; and
  - 13.3.3. liaise with the Buyer regarding the most appropriate time to carry out these obligations and comply with the Buyer's reasonable requirements in this regard.

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- 13.4. If there is any dispute between the Supplier and any Related Supplier relating to the interfacing or interoperability of all or any part of the Services or a Deliverable with a Related Supply, the Supplier shall promptly notify the Buyer in writing of the dispute and shall provide, at the reasonable request of the Buyer or the Related Supplier, all reasonable co-operation and assistance (including the provision of personnel, documents, design information/ documentation Know-How, information, materials and codes) to assist with the resolution, correction or remedy of that dispute.
- 13.5. If, in providing the Services or Deliverables, the Supplier is required to specify the requirements (including any technical specification) of any deliverable, service, or work-product to be provided to the Buyer by any Related Supplier or other third party ("**Specified Item**") then:
- 13.5.1. to the extent that the Specified Item complies with the requirements provided by the Supplier in all material respects; but
- 13.5.2. does not satisfy, deliver or perform the required outputs or is otherwise defective or unfit for purpose having regard to the Buyer's requirements,
- such event shall be deemed to constitute a failure by the Supplier to meet the Statement of Requirements and shall be a Default by the Supplier.
- 13.6. In any case where the Buyer or a related third party ("**Procuring Body**") wishes to procure goods and/or services (other than Deliverables to be provided by the Supplier under the Call-Off Contract) ("**New Goods and Services**") which are related to or which interface with or are intended to interface with the Services or any Deliverables, the Supplier shall promptly provide the relevant Procuring Body (and any person bidding for those New Goods and Services) with all reasonable information and assistance as may be required from time to time to:
- 13.6.1. carry out appropriate due diligence with respect to the New Goods and Services;
- 13.6.2. effect a smooth inter-operation between the Services or Deliverables (as relevant) and the New Goods and Services; and
- 13.6.3. enable the relevant Procuring Body to carry out a fair and compliant competition for the New Goods and Services.



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- 13.7. If the Supplier (or an Affiliate of the Supplier) wishes to be considered as a provider of New Goods and Services to a Procuring Body (whether as prime contractor or as sub-contractor to another person) where it continues to provide Services or Deliverables under the Call-Off Contract the Buyer may require (where it is requested to do so by that Procuring Body), that the Supplier shall (and the Supplier shall ensure that its Affiliates and/or its relevant Subcontractors shall) establish and maintain an appropriate "ethical wall" arrangement approved by that Procuring Body (such approval not to be unreasonably withheld or delayed) between the personnel who are involved in operational aspects of the Services or provision of Deliverables and the personnel who are bidding for the New Goods and Services.
- 13.8. The Supplier shall provide a facility, whether in the normal testing sandbox environment or another replica environment for the Buyer to run where relevant to the Supplier's Services realistic end-to-end performance and capacity testing to allow the Buyer to prepare before launching a new service and/or before a period of peak demand of Services users in the UK and abroad.
- 13.9. The Supplier shall (at its own expense) provide certification testing facilities, and assistance with certification, where relevant to the Supplier's Services between the Buyer and the Buyer's other providers.

**14. Buyer Compliance**

- 14.1. Subject to the compliance of the Supplier with Paragraph 12.2, the Buyer shall not, knowingly act in breach of the Mandatory Rules (where and to the extent that such Rules have been provided by the Supplier to the Buyer by written notice and a reasonable time in advance).
- 14.2. The Buyer shall throughout the Contract Period and for such period as may be required thereafter for the purposes of any applicable provisions of this Call-Off Contract, maintain in the Buyer's name a bank account for the purposes of receiving payment from the Supplier.

**15. Service Failures**

- 15.1. The Supplier shall monitor the Services and Deliverables at all times and inform the Buyer in accordance with the relevant Service Levels of any issues or incidents affecting the Services and/or Deliverables. The Supplier shall provide remediation of any issues or incidents

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affecting the Services and/or any Deliverables in such a way as to ensure compliance with the Service Level Performance Measures.

- 15.2. The Supplier shall (without prejudice to any other rights or remedies of the Buyer, or obligations of the Supplier) remedy, as soon as possible, and at its own cost any defect in the Deliverables and/or Services which manifests itself (including where relevant by providing a replacement). Such remedy shall be free of charge, provided that the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by the Buyer. If the Supplier does not remedy any defect in the Services and/or Deliverables in accordance with this paragraph, the Supplier must, at the Buyer's request and without prejudice to any other rights or remedies of the Buyer (or obligations of the Supplier), make an appropriate reduction to the Charges payable during the remaining term of the Call-Off Contract.
- 15.3. Without prejudice to any other rights or remedies of the Buyer (or obligations of the Supplier), should a Supplier Non-Performance occur (or should the Supplier believe that one is likely to occur) then the Supplier shall:
- 15.3.1. notify the Buyer immediately of the actual or likely Supplier Non-Performance;
  - 15.3.2. investigate the underlying causes of the Supplier Non-Performance and at the request of the Buyer provide (by the time reasonably required by the Buyer) a Rectification Plan which shall be dealt with under the Rectification Plan Process;
  - 15.3.3. take all remedial action that is necessary to rectify the Supplier Non-Performance (and prevent it from recurring) or prevent the Supplier Non-Performance from taking place and otherwise mitigate the impact of the Supplier Non-Performance (all in accordance with any agreed Rectification Plan).
- 15.4. In addition, in the event of any Service Level Failure, the Supplier shall be liable to deduct the relevant Service Credits in accordance with Call-Off Schedule 14 (Service Levels). The Parties agree that Service Credits are an adjustment of the Charges to reflect the reduction in services and are not an estimate of the loss or damage that may be suffered by the Buyer as a result of a Service Level Failure and that, save as expressly set out in Schedule 14 the application of Service Credits is without prejudice to any other rights or remedies of the Buyer due to the Service Level Failure.

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- 15.5. Should a Service Level Failure give rise to any Losses that are covered by an indemnity under the Call-Off Contract then, in addition to any other right or remedy of the Buyer, the Buyer may recover such Losses under that indemnity.
- 15.6. If a Service Level Failure also comprises a failure to pay any sums due to the Buyer under the Call-Off Contract (including the amount of any Settlement), no Service Credits shall in any way limit or exclude the Supplier's liability to pay any such sums due to the Buyer.
- 15.7. Although the Supplier may be granted relief in the event of an Authority Cause, the Supplier shall ensure that it (and its relevant Subcontractors) take all reasonable steps to eliminate (or if that is not possible, at least mitigate) the impact of any Authority Cause and the losses and expenses that it incurs or would otherwise incur due to the Authority Cause.
- 15.8. If the Supplier seeks any relief in relation to an Authority Cause, it shall provide the Buyer with all relevant details as soon as possible after any alleged Authority Cause and in any event within two (2) Working Days.
- 15.9. Any Dispute regarding an Authority Cause or its impact on a Supplier Non-Performance shall be resolved through the Dispute Resolution Procedure. Pending the resolution of the Dispute the Supplier shall continue to use all reasonable endeavours to resolve the causes of, and mitigate the effects of, any failure.
- 15.10. If the Supplier is prevented from, or delayed in, performing any of its obligations by a Force Majeure Event, the Buyer may suspend payment normally due to the Supplier for those parts of the Services that are not performed and/or engage a third party to perform all or the relevant affected Services until the Supplier has given the Buyer reasonable notice in writing that it is able to perform in accordance with the Contract. The Buyer may allow the Supplier to resume performance of the relevant Services only when the Buyer can terminate its arrangement with any such third party without any cost or penalty and once the Buyer is satisfied that the relevant Services can be resumed. The Buyer will use reasonable efforts to minimise the term of its arrangement with any such third party to enable the Supplier to resume performance after a Force Majeure Event has ceased.

**16. Service Suspension**

- 16.1. The Supplier shall not be obliged to provide the Services if, but only to the extent that (and for as long as) a Regulatory Body, APM

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Provider or Card Scheme (as relevant) objects to such provision and so long as such objection has not arisen due to any Default of the Supplier or anyone acting on its behalf.

- 16.2. The Supplier may suspend the Services in the event that the Buyer is in material breach of the Call-Off Contract (in relation to those Services) and has failed to remedy the breach within thirty (30) days of notice from the Supplier identifying the breach and requiring it to be remedied. Such suspension shall end as soon as the Buyer confirms that the relevant breach has been remedied. For the purposes of this paragraph, a breach by the Buyer shall not be regarded as being incapable of remedy simply because the time for performance (as set out in the Call-Off Contract) of the relevant breached obligation has elapsed.

## **17. Transaction Data**

- 17.1. The Parties agree, in relation to the provision of the Services, to comply with all applicable Data Protection Legislation as they apply to the respective roles of each Party as allocated in but not limited to the provisions of Clause 14 of the Core Terms. The Supplier shall also, without prejudice to the foregoing comply with any Rules which are equivalent to the Data Protection Legislation. The Supplier shall ensure that all necessary notices are provided to, and all permissions, consents and information are obtained from the prospective Payers where necessary to enable the performance of the Services and the provision of the Deliverables in accordance with the Call-Off Contract.
- 17.2. The Supplier shall securely store, for seven (7) years and in accordance with PCI and the Rules, all data related to the Services and Deliverables and any relevant Transactions (such as in the case of Payment Services and/or Gateway Services logs of maintenance and encryption key data) created or processed for and/or on behalf of the Buyer ("**Service-related Data**").
- 17.3. The Supplier shall provide the Buyer with such mechanisms as are required to enable the Buyer to retrieve Transaction Data and/or Service-related Data and a mechanism for deletion of specified data according to the Rules, Laws and the Data Protection Legislation from time to time.
- 17.4. The Supplier shall make available to the Buyer on request and whether before or after termination of the Call-Off Contract, all Service-related Data and/or Transaction Data which may at any time be in the possession, custody or control of the Supplier and/or anyone acting on its behalf (including any which is stored on

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equipment belonging to them, or Supplier Assets, regardless of its location) from time to time.

- 17.5. The Supplier shall ensure the full logical and physical segregation of the Buyer's Service-related Data and Transaction Data (and any data of Payers) from that of any other merchants and/or customers of the Supplier and ensure that none of the Buyer's (or any Payer's) data is exposed to any unauthorised persons.
- 17.6. Any processing by the Supplier and/or the Deliverables of Transaction Data and/or any other payment data shall be carried out in accordance with the PCI standards.

**18. Supplier Indemnity**

- 18.1. The Supplier shall indemnify on demand, defend and hold harmless the Buyer in full, from and against all Losses, incurred or agreed to be paid by, or awarded against the Buyer arising from the following whether arising individually, cumulatively or collectively:
- 18.1.1. wilful Default by the Supplier, any Subcontractor, or any Supplier Staff;
  - 18.1.2. all fines, levies and/or penalties imposed on the Buyer (and/or any other Losses which it may suffer or incur) as a consequence (directly or indirectly) of any failure by the Supplier, or anyone acting on its behalf, and/or any of the Services and /or Deliverables to comply with Law, PCI and/or the Rules and/or any other act, omission, breach or Default of the Supplier or anyone acting on its behalf in connection with this Call-Off Contract;
  - 18.1.3. the abandonment by the Supplier of any of its obligations under the Call-Off Contract;
  - 18.1.4. death or personal injury arising due to any Supplier Default;
  - 18.1.5. any failure by the Supplier or anyone acting on its behalf to comply with PCI or any act or omission of the Supplier or anyone acting on its behalf which results in the Buyer failing to comply with PCI;
  - 18.1.6. any fraudulent or dishonest act, default or omission by the Supplier, any of its Affiliates, any Subcontractor or any member of the Supplier Staff;
  - 18.1.7. any breach by the Supplier of any obligations under:

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- (a) Clause 15 (What you must keep confidential); or
  - (b) Call-Off Schedule 9 (Security Requirements);
- 18.1.8. the breach by the Supplier, any Subcontractor or any of the Supplier Staff of any Laws or Rules, or any Default by the Supplier, any Subcontractor or any of the Supplier Staff under and/or in connection with the Call-Off Contract which causes or contributes to any breach of any Law or the Rules by, or imposition of any regulatory fine or penalty on, the Buyer;
- 18.1.9. any claim by a third party in connection with the provision or receipt of the Services and/or use of the Deliverables and/or performance of the Call-Off Contract to the extent that such claim arises from or is otherwise caused by any act or omission of the Supplier, any Subcontractor or any member of the Supplier Staff;
- 18.1.10. any loss or corruption of Transaction Data and/or Personal Data arising as a consequence of any act or omission of the Supplier, any Subcontractor or any member of the Supplier Staff including any costs of restoration of data;
- 18.1.11. any failure by the Supplier or a Subcontractor to Settle the proceeds of any Transaction to the Buyer by the relevant Settlement Date or to make a required Refund to the relevant Card as required under the Call-Off Contract; and / or
- 18.1.12. any failure by the Supplier to:
  - (a) provide any confirmation or information required under the Call-Off Contract relating to the refusal or denial of Authorisation in respect of a Card and/or Transaction; or
  - (b) provide, maintain, and implement full, accurate and complete Block Lists in accordance with the terms of the Call-Off Contract.

However, for the avoidance of doubt, the Buyer shall not be entitled to recover Losses to the extent that such Losses arise as a direct consequence of any breach of the Call-Off Contract by the Buyer.

- 18.2. Where reasonably practicable to do so, having regard amongst other things to the applicable events or circumstances and their impact on the Services and the business and/or operations of the Buyer, and

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any commercial sensitivities, obligations of confidentiality and other legal or regulatory restrictions, the Buyer shall:

- 18.2.1. notify the Supplier of any claim for which it appears that the Buyer is or may become entitled to indemnification under the Call-Off Contract; and
- 18.2.2. allow the Supplier to make reasonable comment upon such claim prior to any action being taken by the Buyer and shall afford such comments reasonable consideration.

## **19. Buyer Indemnities**

- 19.1. Subject and without prejudice to Clause 11 (How much you can be held responsible for) the Buyer shall indemnify and hold the Supplier indemnified from and against all:

- 19.1.1. fines properly imposed on the Supplier by a Card Scheme due to a breach of a Mandatory Rule by the Supplier (which Rule was made known to the Buyer by the Supplier in accordance with Paragraph 4); or
- 19.1.2. fines or penalties properly imposed on the Supplier by a Regulatory Body due to any breach by the Supplier of the Data Protection Legislation,

in each case if and only to the extent arising directly out of any breach by the Buyer of the Call-Off Contract or any Authority Cause (but not where and/or to the extent caused or contributed to by the Supplier or anyone acting on its behalf).

- 19.2. The Supplier shall as soon as reasonably practicable from time to time notify the Buyer of any fines or penalties referred to at Paragraph 19.1.2
- 19.3. If, within thirty (30) calendar days of the Supplier notifying the Buyer pursuant to Paragraph 19.2 of Fines levied by a Card Scheme, the Buyer confirms to the Supplier that it wishes to dispute such Fines, then the Supplier shall in good faith submit such information and dispute to the relevant Card Scheme on behalf of the Buyer and pursue such dispute in accordance with Good Industry Practice. The Supplier shall keep the Buyer informed as to the status and progress of any such dispute.
- 19.4. Where reasonably practicable to do so, having regard amongst other things to the applicable events or circumstances and their impact on the Services and the business of the Supplier and any commercial sensitivities, the Supplier shall allow the Buyer to make reasonable

comment upon any matter which is the subject of an indemnity claim by the Supplier against the Buyer under the Call-Off Contract prior to any action being taken by the Supplier in relation to the claim and shall afford such comments reasonable consideration.

## **20. Fees and Charges**

- 20.1. The Charges for the provision of relevant Services and Deliverables by the Supplier shall be set out in the Call-Off Contract. Where and to the extent that the Supplier's pricing depends on a particular volume of transactions taking place, the Supplier agrees that any volume bands shall apply for the life of the Call-Off Contract and that once a particular volume of transactions has been reached by the Buyer, the relevant achieved volume will not re-set at the end of a Contract Year.

## **21. Exit Requirements**

- 21.1. Upon termination of the Call-Off Contract for whatever reason each of the Buyer and the Supplier shall return to the other (or, in the case of the Buyer, to such other person as the Buyer may nominate) all documentation or other records (including all copies of documents and records) whatsoever in its possession or control containing Transaction Data (save if and to the extent copies thereof are required to be kept in accordance with applicable Laws or the Rules and provided that if, but only to the extent that, the Supplier in order to perform any of its obligations under Call-Off Schedule 10 (Exit Management) requires the use of such Transaction Data of the Buyer it may retain and use the same but only for the purposes of, and for the period necessary to ensure the proper performance of such exit related responsibilities) and each of the Buyer and the Supplier shall cease using any Marks or the name, brand and/or logo of the other.
- 21.2. In the event of termination for any reason of supply of Services by the Supplier, the Supplier shall provide a simple mechanism for the Buyer to obtain access to all past and current data held by Supplier pertaining to the Buyer and all past and current data pertaining to the Buyer's customers and Transactions including but not limited to past or in-flight transaction data as required by the Buyer free of charge and Supplier will provide necessary technical assistance to achieve this in a timescale that does not exceed that set by the termination mechanism or Call-Off Contract (and otherwise a reasonable period) and any such data must be in a format which is machine readable and if encrypted or tokenised can be decrypted or detokenised either by Supplier prior to delivery to the Buyer or on receipt by the Buyer.



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**22. Subcontracting**

- 22.1. The Supplier shall not subcontract any of its obligations or the performance or provision of any of the Services and / or Deliverables under this Call-Off Contract without the Buyer's express prior written consent (such consent not to be unreasonably withheld or delayed).