

Part 2 Section 1: Acquiring Services Terms

1. Introduction

- 1.1. The Buyer wishes to procure and the Supplier has agreed to supply Acquiring Services under the Call-Off Contract.

2. Definitions

- 2.1. In this Section, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions) and the definitions contained in Part 1 above:

"Acquiring Fees"	means the fees and charges (exclusive of any applicable VAT) payable to the Supplier by the Buyer under the Call-Off Contract for the full and proper performance by the Supplier of its obligations under the Call-Off Contract and the provision of the Acquiring Services and all related Services and Deliverables (which shall be in line with the fees and, where relevant, the amounts provided for in the Framework Contract from time to time);
"Acquiring Terms"	means the terms and conditions of supply set out in Part 1 of this Call-Off Schedule 23 and in this Section 1 of Part 2; and
"Challenge"	has the meaning given at Paragraph 8.4.3.

3. Supply of Acquiring Services

- 3.1. In consideration of the payment of the Acquiring Fees, the Supplier will supply the Acquiring Services to the Buyer in a timely manner and in accordance with the Call-Off Contract.
- 3.2. The Supplier shall advise the Buyer on any installation and/or configuration work to be carried out in respect of the Acquiring Services so as to ensure that they will be of satisfactory quality, suitable for the requirements of the Buyer, and fit for purpose.
- 3.3. The Supplier will assist with and co-operate in any supplier certification, configuring relevant Gateway and/or Payment Equipment identifiers, encryption key loading and connectivity to the Buyer's relevant equipment and relevant providers as required by the Buyer or its third party providers including APM Providers, Gateway providers and/or Payment Equipment providers.

4. Implementation and acceptance

- 4.1. The Activation Due Date for the Acquiring Services will be set out in the Order Form.
- 4.2. The Supplier shall ensure that the Activation Date is no later than the Activation Due Date.
- 4.3. If required, the Supplier shall provide support for and enable the migration of any existing recurring payments received by the Buyer and/or of any other services equivalent to the Acquiring Services.
- 4.4. The Acquiring Services (and any associated items provided by the Supplier) shall only be regarded as delivered and ready for use once they have been successfully installed, implemented, and configured (as required) and tested and a duly authorised representative of the Buyer has confirmed provision and acceptance of the same in writing. However, any such confirmation shall not be regarded as evidence that the Acquiring Service and/or any related Deliverable complies with the requirements of the Contract.
- 4.5. The Buyer can at its sole discretion reject any item supplied by the Supplier and/or this Agreement which is not of the requested standard. Except where due to default of the Buyer, in the event of rejection of any item by the Buyer, the Supplier will, at its own expense promptly remedy the relevant defect or non-conformity and confirm that the item is ready for use.
- 4.6. If the Supplier does not deliver and make available the Acquiring Services and all related Deliverables by the Activation Due Date, then the Buyer can withhold payment of the Charges until the Activation Date and once the Supplier actually commences the Acquiring Services in full and in accordance with this Contract.
- 4.7. If the Supplier becomes aware that the Services and/or any Deliverable cannot be delivered and made available by the agreed Activation Due Date or if the Activation Date is later than the Activation Due Date, the Supplier shall inform the Buyer promptly of the revised Activation Date. If the Supplier does not meet the Activation Due Date for any reason other than as a direct result of the Buyer's breach of the Contract, the Supplier must meet and promptly refund to the Buyer all and any additional costs incurred by the Buyer for provision of an alternative solution until the Activation Date of the Acquiring Services.
- 4.8. Where Call-Off Schedule 11 (Implementation Works) and/or Call-Off Schedule 13 (Implementation Plan and Testing) are incorporated into this Call Off Contract then they are intended to supplement the

implementation and testing provisions in this Paragraph 4 but in the event of any conflicts then the provisions in Call-Off Schedule 11 (Implementation Works) and/or Call-Off Schedule 13 (Implementation Plan and Testing) shall prevail.

5. Right to Use

- 5.1. The Supplier Assets are (including any encryption keys provided by the Supplier in Software form) and shall remain the property of the Supplier. The Buyer will not acquire ownership of any Supplier Assets other than as expressly set out in the Contract. The Buyer, its personnel and other authorised users shall have (and the Supplier hereby grants to them) the right to connect to, access and use the Services and the Supplier Assets (including acting as or via Related Suppliers and/or Related Supplies) for the purposes of and in accordance with the Call-Off Contract. To the extent that the Services and Deliverables involve the provision of software by the Supplier, the provisions of Part 1 of Schedule 23 shall also apply.
- 5.2. The right to use as referred to above shall commence on the Activation Date and shall continue for the Supply Period.

6. Supplier's Warranties

- 6.1. The Supplier warrants, represents and undertakes (in addition to any other provisions in the Contract) that:
 - 6.1.1. the Supplier is and shall at all times remain a fully authorised Acquirer.
 - 6.1.2. the Services and all other Deliverables supplied and/or made available shall:
 - 6.1.2.1. be sufficient and able at all times to facilitate the acceptance, authorisation, receipt, processing, transfer, clearing, settlement, and accounting of Transactions (including payments by the Payer to the Buyer's Gateways) required by the Buyer (including, in the case of Cards, using Chip and PIN, CVC, and contactless technology or its replacement). The Supplier shall provide, maintain and update all hardware and software required to facilitate the acceptance, processing and acquiring of Transactions required by the Buyer through the Services;

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- 6.1.2.2. be available for uninterrupted service 24 hours a day/7 days a week/ 365 days per year (366 in a leap year);
 - 6.1.2.3. collect and process (where relevant in co-operation with the Buyer and/or its Gateways and/or relevant Gateway providers) Transaction Data including for transmission to (and the Supplier will transmit the same to) the relevant Card Scheme, Card Issuers (where relevant), and/or other relevant providers and/or the Buyer System and/or the Buyer's other nominated provider (and in accordance with PCI);
 - 6.1.2.4. facilitate both "Cardholder Present" and "Cardholder Not Present" Transactions for Cards;
 - 6.1.2.5. support and interface to the Buyer's Payment Equipment and other equipment and systems set out in the Specification;
 - 6.1.2.6. have all encryption keys invalidated on any tampering with the relevant Gateway or Payment Equipment; and
 - 6.1.2.7. allow the Buyer to decide which Cards and/or the Cards of which Card Schemes can be accepted and processed at any time (it being acknowledged that where the Buyer has chosen to accept specific Cards issued under a particular Card Scheme, the Supplier may be required under the relevant Mandatory Rules of that Card Scheme to ensure that all such Cards issued under the relevant Card Scheme are capable of acceptance regardless of who the relevant Card Issuer is).
- 6.2. The Supplier shall ensure that all Transactions are processed and any issues are resolved in accordance with:
 - 6.2.1. the Service Levels; and
 - 6.2.2. all Laws and Rules at all times.

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- 6.3. In connection with the warranty at Paragraph 6.1.2.3 above the Buyer acknowledges and agrees that the Supplier may be required, by Mandatory Rules, to ensure that any Gateway and/or Gateway provider, and/or PE of the Buyer is compliant with PCI and the Mandatory Rules. The Supplier shall notify the Buyer as soon as possible on becoming aware that any Gateway, Gateway provider, Payment Equipment, Related Supplier, and/or any other element of the Buyer System and/or a Related Supply is or may be non-compliant with PCI and/or the Mandatory Rules (giving full details and an explanation and confirmation, acting reasonably and in good faith, of any steps which would ensure compliance with PCI and the relevant Mandatory Rules).

7. Transactions and Settlement

- 7.1. The Supplier shall deal with the Authorisation and acquiring of relevant Transactions, the processing of Refunds, and the Settlement of relevant Transaction Revenue in accordance with the Specification.
- 7.2. The Supplier shall, at the Settlement Time, send Settlements where relevant by direct bank transfer to the Buyer Bank Account.
- 7.3. The Supplier shall, where agreed as part of the Services, request and obtain funds for and make Settlements for Transactions for which Authorisation has not been obtained.
- 7.4. The Supplier shall provide the Buyer with full details of any denied Authorisations (including details of the relevant Cards, accounts, and Transactions) and shall also provide the Buyer with any and all Block Lists in such form and frequency as may be required under the Contract and/or by Law and/or the Rules.
- 7.5. The Buyer shall:
- 7.5.1. not knowingly request payments from and/or process Refunds to Cardholders which are not made in connection with the Buyer's operations and/or dealings with the Cardholder;
 - 7.5.2. not knowingly request payments and/or process Refunds in respect of items, and/or other activities, which fall outside the business and operations of the Buyer; and
 - 7.5.3. only request payments and/or process Refunds in respect of activities, items or operations that the Cardholder would reasonably expect to receive (or to be the subject of) and

endeavour to supply any relevant goods or services and submit Transactions in accordance with applicable Laws.

7.6. The Buyer acknowledges and agrees that:

7.6.1. it has no authority from the Supplier to permit use of the Card Marks by any of its representatives or agents; and

7.6.2. any Card Scheme may at any time and without advance notice prohibit the Buyer from using its respective Card Marks for any reason.

7.7. The Supplier shall Settle to the Buyer without any set-off, deduction or withholding of any kind save as may be expressly agreed between the Parties in writing in the Contract.

7.8. The Supplier shall hold all amounts which are due to be paid to the Buyer on trust for the Buyer pending payment over to the Buyer. Where required by and agreed with the Buyer, the Supplier shall hold all such amounts in a separate and identifiable account which indicates that its contents are the sole property of the Buyer. In all other respects the relevant sums shall be handled by the Supplier in accordance with relevant Laws.

8. Chargebacks

8.1. It is acknowledged that, in certain circumstances, Card Issuers (via the Card Schemes and in accordance with the relevant Mandatory Rules) may require repayment from the Supplier in respect of a Chargeback or may wish to withhold settlement of a particular Transaction to effect a Chargeback relating to that Transaction.

8.2. The Buyer acknowledges and agrees that, subject to Paragraphs 8.3 to 8.5:

8.2.1. it may be required to reimburse the Supplier for a Chargeback in circumstances where the Buyer has received Settlement of the payment in respect of the relevant Transaction; or

8.2.2. where Settlement of the relevant Transaction has not yet happened the Supplier may withhold the Settlement of the relevant Transaction which is subject to the Chargeback.

The obligation of the Buyer to reimburse (and the ability of the Supplier to withhold) shall not apply to any Chargebacks required by a Card Issuer or a Card Scheme or otherwise where, and to the extent that, the relevant Chargeback was caused or contributed to by any act, omission, breach, or Default of the Supplier or anyone acting

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on its behalf. In such cases the Supplier shall remain liable to Settle the amount of the relevant Transaction to the Buyer.

- 8.3. All Chargebacks shall not exceed the value of the relevant Settlement of the original Transaction.
- 8.4. The Supplier shall, as soon as possible:
 - 8.4.1. notify the Buyer of any Chargebacks which have accrued or which have not previously been notified to the Buyer;
 - 8.4.2. investigate the validity of any such Chargeback (including to confirm that the Card Issuer has charged back the correct Transaction in accordance with the relevant Rules);
 - 8.4.3. query and challenge the relevant Chargeback when required to do so by the Buyer pursuant to Paragraph 8.5 and/or where otherwise required under this Contract ("**Challenge**"); and
 - 8.4.4. provide assistance to the Buyer in respect of any Chargeback which the Buyer acting reasonably disputes in good faith.
- 8.5. The Supplier shall provide to the Buyer such details as the Buyer may require in respect of any Chargeback and/or Challenge.
- 8.6. If, within thirty (30) calendar days of the Supplier notifying the Buyer pursuant to Paragraph 8.4 of a Chargeback, the Buyer confirms that it wishes to dispute such Chargeback (and/or, otherwise, if required under the Contract) the Supplier shall, acting in good faith (and in accordance with Good Industry Practice) submit such information to, and dispute the Chargeback with, the relevant Card Scheme Card Issuer and/or other relevant entity on behalf of the Buyer, and pursue such dispute in accordance with Good Industry Practice. The Supplier shall keep the Buyer informed at all times and on request of the status of any dispute.
- 8.7. Where the Buyer is responsible for a Chargeback in accordance with the Contract which relates to the amount of a Transaction which has already been Settled to the Buyer, it shall not be set-off any other amount owed by the Supplier to the Buyer. The Supplier shall invoice the Buyer separately for the amount of such Chargeback.
- 8.8. Where the Buyer is not responsible for a Chargeback it shall be paid by (and be the responsibility of) the Supplier, and the Supplier shall credit (and, where relevant, refund) to the Buyer the amount of any Charges which were otherwise due to the Supplier in respect of the Transaction which was the subject of the Chargeback.

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9. Data

- 9.1. The Supplier shall ensure a PCI-DSS secure connection (TLS 1.2 standard and as amended and upgraded from time to time) is used between the Supplier and the Buyer, the Buyer's website, Buyer's Payment Equipment point of presence, and/or Gateway and between the Supplier and any third party (including any Card Scheme, and/or Card Issuer).
- 9.2. The Supplier shall, on demand, provide details to the Buyer of all other integration mechanisms for use by the Buyer e.g. mobile SDKs, silent order POST, encrypted (TLS 1.2 and subsequent as amended from time to time) API connection from another PCI compliant Level 1 Service provider including, but not limited to, GOV.UK Pay.
- 9.3. Subject to the requirements of PCI and the Data Protection Legislation, the Buyer shall use all reasonable efforts to retain legible copies of Transaction Data which it has collected on its Payment Equipment for a minimum period of eighteen (18) months from the date of each Transaction.
- 9.4. The Supplier may, from time to time and on reasonable notice, reasonably request the Buyer to provide copies of relevant Transaction Data to enable the Supplier to comply with Law and/or to comply with the Rules. The Buyer shall, where reasonably possible, provide such copies to the Supplier within a reasonable period of such request being received by the Buyer from the Supplier.
- 9.5. The Buyer shall provide the Transaction Data to the Supplier pursuant to Paragraph 9.4 in a medium and format agreed with the Supplier ("**Data Transfer Requirements**").
- 9.6. The Supplier may refuse to accept relevant Transaction Data from the Buyer where, but only to the extent that, the relevant Data Transfer Requirements are not satisfied. The Supplier shall notify the Buyer as soon as possible should the Data Transfer Requirements not have been met in respect of any Transaction Data.

10. Indemnity and Remedies

- 10.1. The Supplier shall indemnify the Buyer against all Losses suffered or incurred by the Buyer whilst the Acquiring Services unavailable due a Default or due to the negligence of the Supplier, its servants or agents.

11. New Developments

- 11.1. The Supplier shall provide the Buyer with details and information of any new and/or potential Cards, Card Schemes and/or other

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developments relating or relevant to the Services as and when they become available and shall ensure that, if required by the Buyer, the scope of the Acquiring Services is extended to accommodate the same (within the timescales as set out in the Call-Off Contract (if any)).

- 11.2. The Supplier shall provide the Buyer with details of new card BIN (Bank Identification Number) ranges, and the BINs of Card Schemes in use, as and when they are provided by the Card Schemes and shall ensure the Buyer can accept them, if required, across all the Acquiring Services (and the Buyer's Payments Equipment and/or Gateway) and that they can be handled from the date they are available in the market.

12. Financial

- 12.1. The Supplier may invoice the relevant Charges which are due in accordance with the Call-Off Contract.
- 12.2. The Supplier may also invoice the Buyer separately for the following:
- 12.2.1. any Refunds properly processed by the Supplier that have not already been debited to or paid by the Buyer; and
 - 12.2.2. any Chargebacks and any Fines which are properly due from the Buyer to the Supplier in accordance with the Contract.
- 12.3. The Supplier shall ensure that there is no netting-off or setting-off of monies from the Buyer's bank account(s) and/or any sums due or paid to the Buyer (unless otherwise expressly agreed between the Parties).
- 12.4. For the avoidance of doubt, the Supplier shall not be entitled to recover any Fine from the Buyer where and/or to the extent that the relevant Fine has been caused or contributed to by any act, omission, breach or default of or by the Supplier (or anyone acting on its behalf) including a breach of the Rules and/or PCI.
- 12.5. The Supplier shall notify the Buyer (providing all evidence) as soon as possible in the event that any element of the Acquiring Fees which consists of a third party charge such as "Interchange" fees and/or Card Scheme fees (and where it has been agreed that the Supplier can pass those charges on) is due to change. The Supplier shall give the Buyer as much notice as possible (and not less than thirty (30) days in advance) of any proposed change.

13. Buyer's Obligations

- 13.1. The Buyer shall not alter, tamper with, or modify any Software or other Supplier Assets which belong to the Supplier but which are supplied to enable receipt of the Acquiring Services (except where and to the extent permitted as part of the required Specification) without the Supplier's written consent, which cannot be unreasonably withheld or delayed.
- 13.2. The Buyer shall use reasonable efforts to:
 - 13.2.1. comply with the agreed interface requirement, set out in the Contract regarding the connection of the Buyer's Payment Equipment to the Acquiring Services reasonable provided by the Supplier;
 - 13.2.2. not knowingly do or allow to be done anything which will or might jeopardise the right, title and/or interest of the Supplier in any Software provided by the Supplier for the use on the Buyer Payment Equipment (save for the exercise of a lawful lien by the Buyer); and
 - 13.2.3. not knowingly use the Acquiring Services for any unlawful purpose (without prejudice to the warranties by the Supplier regarding the use and lawfulness of the Acquiring Services).
- 13.3. The Buyer shall notify the Supplier as soon as reasonably possible if the Buyer becomes aware that the Acquiring Services and/or any related Deliverables are materially defective.
- 13.4. The Buyer will operate the Acquiring Services in accordance with the Supplier's reasonable recommendations and/or user instructions and where and to the extent that they have been notified to and agreed by the Buyer in the Specification.

14. Termination or Suspension of Services Supply

- 14.1. At any time with effect from the date which is 90 days after the start of the Contract Period, the Buyer can terminate the supply of any Services and/or Deliverable by giving at least ten (10) days' written notice to the Supplier.
- 14.2. The Supplier may, on notice to the Buyer suspend the Acquiring Services where but only to the extent and for the duration that:
 - 14.2.1. the Buyer is in material breach of any Mandatory Rule, such breach has not been caused or contributed to by any act or omission of the Supplier (or anyone acting on its

behalf) or by a Deliverable, and the Buyer has not remedied such breach within thirty (30) days of written notice from the Supplier identifying the breach and requiring the breach to be remedied; or

- 14.2.2. the Supplier is expressly required to do so under Law, Mandatory Rules or Regulations (and provided that the Supplier has notified the Buyer as soon as possible in advance of any relevant requirement giving full reasons).

15. Consequences of Expiry or Termination

- 15.1. Where the supply of the Acquiring Services is terminated for any reason, the Supplier shall:

- 15.1.1. continue to provide all necessary Services in respect of Transactions Authorised prior to the date of expiry or termination; and

- 15.1.2. shall return to the Buyer or its nominated Supplier all Transaction Data in the Supplier's possession, custody or control.

- 15.2. Where the Buyer terminates the Call-Off Contract under Clause 10 (Ending the Contract) and then makes other arrangements for the supply of a replacement to the Acquiring Services, the Buyer can (without prejudice to its other rights and remedies, and save where the termination is under Clause 10.3.2 of the Core Terms) recover the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Buyer, from the Supplier.

- 15.3. On expiry of the Supply Period or in the event of early termination of the Contract in respect of the Acquiring Services the Buyer will as soon as reasonably possible (and without prejudice to any continuing obligation of the Supplier):

- 15.3.1. cease use of the Services and Deliverables;

- 15.3.2. remove any Software belonging to the Buyer from the Payment Equipment.

16. Reporting

- 16.1. The Supplier shall provide the Buyer with reporting at the times and in the format required by the Buyer, including in relation to:

- 16.1.1. Transaction types and volumes (as set out where relevant in the Call-Off Contract);

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- 16.1.2. fault reporting analysis;
 - 16.1.3. tamper evidence;
 - 16.1.4. status and progress of Challenges and Chargebacks;
- and such other details as the Buyer may request.

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