

Merchant Terms & Conditions

About our terms of service

Welcome to MONEK. We developed this multi-channel payment service (the "Service") to make it easy for you to accept payments from your customers across a range of payment types and channels, so you can focus on your own products and services. We are committed to making business as straightforward as possible. We have made the agreements you sign as easy to understand and fair for both parties as possible. We operate as both a technology business and as a regulated financial institution, this can mean our agreements are complex in areas - if you don't understand anything please let us know and we will explain it and see if we can improve the agreement in the future.

When you accept payments, you may need card terminals for face to face transactions and a range of technical services that link call-centres and websites to the same payment infrastructure. These are standard terms and your order will determine which elements of the contract are relevant to your configuration. Any terms that relate to services you do not purchase, will not be applied.

Now, here is the formal legal wording.

These terms and conditions, together with the Customer Operating Instructions and any other documents incorporated by reference below, form the "Agreement" and govern the supply of the Service by MONEK and any additional parties specified in the Agreement and are referenced as "we", "us", "ours" as the context requires. You are referenced as the Merchant(s) or "you", "yours" dependent on the context.

Headings in these Conditions shall not affect their interpretation. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). The schedules and any annexes form part of the Agreement. A reference to writing or written includes faxes but not e-mail.

Any obligation in the Agreement on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done. References to conditions, schedules and appendices are to these General Conditions, any Special Conditions, schedules and appendices of the Agreement.

In respect of any element of the Services governed by Special Conditions, the terms set out in the Special Conditions will prevail over those set out in the General Conditions to the extent of any conflict between the two.

Payment Services Regulations

This agreement applies to Merchants of any size. However, if you acknowledge, that at the time you enter this agreement you are a "Large Enterprise or Large Charity then you:

- (A) Confirm that you are not a consumer, micro-enterprise or a charity as defined by the Payment Services Regulations (PSR).
- (B) Agree that none of the provision of Part 5 of the PSR applies to this agreement.
- (C) Agree that the regulations 54(1), 55(3), 55(4), 60,62,63,64,67,75,76 and 77 of the PSR do not apply.
- (D) Agree that the time period of notifying us of any unauthorised or incorrectly executed transaction is the period specified in this Agreement rather than the regulation 59(1) of the PSR.

Terminal Hire:

Where you wish to hire one or more Terminals from us and you are:

- (A) an individual, or
- (B) a Partnership consisting of 2 or 3 persons not all of whom are bodies corporate, or
- (C) an unincorporated body of persons which does not consist entirely of bodies corporate and is not a partnership, the hire shall be governed by the Service Agreement.

If you are not within one of the categories defined in (A) to (C) above, the Terminal Hire shall be subject to the Unregulated Terminal Rental Terms in Schedule 1.

Definitions

In this Agreement, the following terms shall have the following meanings (unless the context otherwise requires):

Access Code: each personal identification number and/or password that is necessary to enable you to access or use your Merchant Data Account and/or any Services.

Acquiring Services: means the authorisation, transmission and settlement of a Transaction (whether by a Merchant Nominated Acquirer or a MONEK Nominated Acquirer or otherwise).

Affiliate: means, in respect of MONEK, MONEK and any entity which is directly or indirectly owned or controlled by MONEK or is under common ownership or control with MONEK.

Alternative Payment Method or "APM": a payment method (other than Cards) specified in Schedule 2, or as otherwise approved by us in writing from time to time.

Alternative Payment Provider or "APM Provider": mean, for each Alternative Payment Method, the provider of such payment method.

Applicable Law: the law of England and Wales.

Authorisation: means the process whereby the Card Issuer confirms whether the Card used to pay for the relevant Transaction has sufficient cleared funds available to enable the Transaction and has not been listed as lost, stolen, had its security compromised or has been otherwise blocked. Authorisation does not guarantee payment.

BACS: Bankers' Automated Clearing Services.

Business Day: a day, not being a Saturday or Sunday, on which the banks are open for business in London.

Buyer: a Person who or which has ordered goods and/or services from you and has initiated a Transaction in respect of that order, including a Cardholder.

Card: a valid payment card issued under a Card Scheme's issuing license.

Card Issuer: a Card Scheme member that issues Cards to Cardholders pursuant to a Card Scheme.

Cardholder: an individual to whom a Card is issued, or is authorised to use such Card.

Card Scheme: Visa Europe Limited, Visa Inc. and MasterCard Worldwide or such other Card Scheme as agreed by MONEK from time to time, each being a "Card Scheme".

Card Scheme Fines means any fines, charges, sums levied or any similar charge of any nature which a Card Scheme levies on the Acquirer or MONEK at any time to the extent that they relate to the Acquiring Services.

Card Scheme Standards: means all applicable rules, regulations and operating guidelines issued by the Card Schemes.

Charges: the fees, charges and expenses payable by the Merchant to MONEK in respect of the Services in accordance with the Agreement and as itemised on the Order Form, including but not limited to Service or Rental Charges, Transaction Charges, Monthly Charges or Other Charges.

Chargebacks: a Card transaction (or disputed portion of the same) (a) that is partially or fully returned to the Acquirer of the transaction by the Card Issuer; or (b) that the Card Issuer refuses to settle; (c) in respect of which the Card Issuer or Card Scheme seeks reimbursement.

Claim: means a challenge to a payment that you or your customer files directly with us.

Commencement Date: the effective start date of the Agreement as set out on the Order Form.

Contract Year: each successive 12-month period commencing on the Commencement Date.

Controller: means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of Personal Data.

Customer Operating Instructions: means the operating instructions and guidelines as communicated to the Merchant by MONEK from time to time.

Data: documents, data and records of any kind relating to Transactions, Chargebacks, Re-presented Transactions, Retro-Charge or Refunds (including, for the avoidance of doubt, data relating to Cards and Buyers) and shall include Transaction Personal Data and Sensitive Authentication Data.

Data Protection Legislation: means the Data Protection Act 1998 and all other Applicable Law pertaining to the protection of personal data.

Data Subject: an identifiable natural person about whom a Controller holds Personal Data. For the purposes of the Agreement this may include the Cardholder or the Merchant.

Document: includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Fixed Charge: an annual fixed charge, payable in each calendar year of the Agreement in twelve equal monthly instalments in respect of the Merchant being given access to the Services (including, without limitation, the issuing of a user name and password to the Merchant by MONEK for this purpose).

Floor Limit: a monetary limit (of which we notify you from time to time) above which you must obtain Authorisation prior to completing a Transaction.

GDPR: means General Data Protection Regulation (EU) 2016/679 as in force from time to time as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including the laws implementing or supplementing GDPR. **Indemnifier:** is the party providing the indemnity to the other party.

Indemnified Party: is the party receiving indemnity from the Indemnifier.

Intellectual Property Rights ("IPR"): all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, know-how, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Interchange: Fee passed through to Card Issuers.

Large Charity: a charity with an annual income of £1million or more.

Large Enterprise: an enterprise with an annual turnover or annual balance sheet total exceeds £2million or you have ten (10) or more employees.

Losses: means all losses, damages, liabilities, costs, expenses (including legal costs awarded by a court and costs of related professional services and disbursements), charges and penalties whether arising under statute, contract or at common law including wasted expenditure, loss of revenue, loss of profit, loss of business or business opportunity;

Mandate: the direct debit mandate.

Merchant: the person, firm or company including its officers, employees and agents who purchases Services from MONEK as set out on the Order Form.

Merchant Bank Account: an account in your name with a duly authorised credit institution acceptable to us that is maintained by you for the purposes of receiving Settlements and paying your Charges due to us in accordance with this Agreement.

Merchant Customers: means the end customer of the Merchant with whom the Merchant enters into contracts to supply goods and/or services.

Merchant Data Account: electronic management information account in our systems containing Data related to your Transactions, Chargebacks, Refunds, Re-presented Transactions and Retro-Charges, and which may be provided through Other Payment Services from time to time such as the Merchant Services Area.

Merchant Equipment: any equipment, hardware, computer, systems, cabling or facilities provided by the Merchant and used directly or indirectly in the supply of the Services.

Merchant Information: data and any other materials (in whatever form) published or otherwise made available (directly or indirectly) by the Merchant by using the Services or relating to the Services.

Merchant Nominated Acquirer: means the acquirer with whom the Merchant has entered into a direct contractual relationship to provide an acquiring service.

Merchant Receivables: sums due to Merchants from the Merchant's customers in respect of goods or services supplied or to be supplied by the Merchant to the Merchant's customer.

Order Form: the order form appearing as a front sheet to these Conditions.

Other Financial Institution: any third party credit or financial institution which may be involved, or which we in our sole and absolute discretion involve, in the course of our provision of any of the Service.

Other Payment Services: payment or payment related services other than Acquiring Services provided by us from time to time (if any) specified in Schedules 2 or 3 and/or any Order Form.

Party: each party to this Agreement (as the context may require) and includes the successors and permitted assigns of each such party.

Payee Terms: means the terms and conditions of MONEK entered into with the Merchant's customers allowing MONEK to capture Payment Data regarding the Merchant's customers for the purpose of MONEK supplying enhanced Services to the Merchant.

Payment Data: means the data required to assess the transaction and process the transaction.

Payment Support: means some or all of the support services in accordance with the options selected on the Schedules 1 and 3.

Personal Data: any information relating to a Data Subject; who can be identified directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

PCI: Payment Card Industry.

PCI:DSS Standards: the Payment Card Industry Data Security Standards.

Processor: a natural or legal person, public authority, agency or any other body which processes Personal Data on behalf of the Controller. For the purposes of this Agreement, Monek is the Processor of Controller's data.

Refund: a Transaction, in respect of an initiating Transaction, made wholly or partially to reverse that initiating Transaction.

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

Regulated Terminal Hire Terms: a hire agreement for terminals that is regulated under the Consumer Credit Act 1974 (as amended or replaced).

Re-presented Transaction: a Transaction to reverse a Chargeback by the re-execution of the original Transaction, where you have successfully challenged the Chargeback;

Reserve: means the amount specified in accordance with clause 12 of the Merchant Terms and Conditions.

Retro-Charge: Transaction initiated by you to reverse a Refund to which the Buyer was not entitled;

Reversal: means MONEK Payments Limited reverses the settlement of funds from a processed card transaction that you received because (a) the card transaction is invalidated by the card issuer; (b) the settlement funds were sent to you in error by MONEK Payments Limited; (c) the sender of the payment did not have authorisation to send the payment; (d) you received the payment for activities that violated this Agreement.

Rolling Reserve: means the amount specified in accordance with clause 12 of the Merchant General Terms and Conditions.

Security Deposit: means a sum of money to be withheld from funds to be settled to the Merchant and/or separately deposited with MONEK as security for Chargebacks, Card Scheme Fines and other fees due to MONEK.

Services: the services to be provided by MONEK under the Agreement as indicated on the Order Form which may include one or more of the following: the authorisation and payment of credit, debit, purchase, fuel, charge, eWallet and like card transactions together with the provision of the necessary interface through which authorisation and payment of credit/debit/charge card and eWallet transactions takes place, management information, high speed data feeds, secure hosting, fraud mitigation services and indemnified services entailing the purchase by MONEK of Merchant Receivables.

Settlement: means the net amount of Card and other forms of payment or refunds submitted by the Merchant less any permitted deductions and set-offs.

Special Conditions: special conditions attached relating to particular aspects of the Services required by the Merchant, as identified in the Order Form.

Sub-processor: a natural or legal person, public authority or any other body contracted by the Processor to process Personal Data for the

purpose of carrying out a specific processing activity on behalf of the Controller.

Support: the second line support services (which for the avoidance of doubt do not include MONEK dealing directly with any Third Party) relating to diagnosis of errors, restoration of functionality and mandatory system upgrade by way of correction, re-configuration, patch provision, driver update, software re-load, interface guideline updates or user guidance to remedy a fault and the implementation of mandatory updates, adjustments, additions or modifications to the Services as MONEK may prescribe from time to time or as otherwise set out in the Order Form.

Technical Services: (i) Gateway Services as specified in Schedule 3; (ii) fraud management services; (iii) management information services; and (iv) other such services as we may specify from time to time in our Documentation in each case excluding Acquiring Services.

Terminal: an authorised point-of-sale payment order acceptance terminal and associated equipment and devices.

Terminal Hire Agreements: The Regulated Terminal Hire Terms and the Unregulated Terminal Terms.

Third Party: as individual or legal entity who is neither MONEK nor the Merchant.

Third Party Claims: means any claims, demands, actions, proceedings, fines or similar charges claimed by a Third Party in respect of the provision of the Services whether arising in contract, tort (including negligence or breach of statutory duty) or otherwise.

Third Party Product: Product (whether hardware, software or services) supplied to you by a third party.

Trading Limit: the maximum aggregate value of one or more Transactions that you may complete in respect of any specified period as notified to you from time to time.

Transaction: any payment by a Buyer for goods and/or services purchased by a Buyer from and provided by you, using either: (A) a Card, a Card number or otherwise to debit or credit the applicable Card account; or (B) an Alternative Payment Method, in accordance with the terms of this Agreement and in relation to which we supply any of the Services to you, or a reversal of the same. Unless the context requires otherwise, a reference to "Transaction" shall include a reference to a Refund, a Re-presented Transaction, a Retro Charge, a Recurring Transaction and/or a series of connected Transactions.

Transaction Charge: a charge payable by the Merchant for the processing of payments at the rate set out in the Order Form.

Transaction History: means the details of Transactions as stored by MONEK from time to time.

Transaction Receipt: an electronic or paper record of a transaction generated at the point of sale evidencing the purchase of goods or services by a Cardholder from the Merchant using a Card.

Type Approval Testing: a schedule of testing prescribed by MONEK to determine the readiness of the Merchant's Equipment (if any) and communications to transmit transactions to the Services.

Unregulated Terminal Hire Terms: Terms applicable to unregulated hire agreements for terminal specified in schedule 1.

MONEK: means either MONEK, being a company with registered in England with company number 09767332, or such Affiliate as set out in the Order Form.

MONEK Account: means your payment account held by us in accordance with the terms of this Agreement.

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

MONEK's Nominated Acquirer means the bank(s) or other financial institution to whom MONEK forwards details of transactions for Settlement pursuant to a contract between MONEK and the relevant bank(s) or other financial institution.

MONEK Payment Page: means the technical web-based interface (if selected by the Merchant on the Order Form) to be supplied by MONEK in order to allow the Merchant to offer secure payment facilities to Merchant Customers on the Merchant's website, as more particularly described in the Special Conditions.

MONEK Payment Services: means the overall payment services provided to the Merchant, across multiple payment types and channels.

VAT: value added or other sales tax chargeable under Applicable Law for the time being and any similar additional tax.

1. The Services

- 1.1. We provide card acceptance machines, hosted payment pages, application programming interfaces (collectively, "API"), partner plug-in modules and other software and facilities to enable you to use the Service. The standards and functionality relating to payments changes regularly, we reserve the right to require you to install or update any and all APIs, partner plug-in modules or software to continue using the Service and to maintain the security of the services.
- 1.2. By accepting this Agreement, you authorise us or banks that we designate to hold, receive, and disburse funds on your behalf when we receive funds on your behalf from your customers, as a result of you delivering products and services. You further authorise us to instruct the banks (that we designate) in the way in which your settlement funds should be disbursed to you (such as by BACS, CHAPs or SEPA) and the timing of such disbursements. You also authorise us or banks (that we designate) to hold settlement funds in a deposit account on trust on your behalf pending disbursement of the funds to you in accordance with the terms of this Agreement.
- 1.3. You agree you are not entitled to any interest associated with the funds held in our bank accounts pending settlement to your Merchant Bank Account. In the event that the bank levies fees, charges or negative interest, you accept that you will be responsible for these charges.
- 1.4. From time to time, we may make available to you information in the management dashboard area of the Service regarding anticipated settlement amounts that have been received on your behalf and are being held pending settlement. This settlement information does not constitute a deposit or other obligation owed by us to you. This settlement information reflected in the management dashboard is for reporting and information purposes only, such funds are to be credited to your Merchant Bank Account in accordance with the pay-out schedule and are subject to the other terms of this Agreement (including, without limitation deductions for Charges), Security Deposits, Chargebacks, Re-presented Transactions and Third Party Claims). Your authorisations set forth herein will remain in full force and effect until your account is closed or terminated.

2. Technical Performance

- 2.1. The technical performance of the services is outlined within the implementation guides for each of our specific services. The overall service level is determined by the lowest component part of the payment process, whilst MONEK will aim to maintain a minimum of 99.99% service availability, the availability of MONEK's systems will often be higher than the Acquirers and the connecting communication networks around the world can sometimes achieve. In effect MONEK is one of the most robust elements of the process with multiple layers of technical and communication system redundancy, but the interbank communication network we then rely upon is not warranted above 99.5% (this applies to all payment companies). MONEK has multiple routes to most payment acquirers and can normally automatically route around a telecommunications failure, far more easily than most payment companies, some acquirers are better connected than others. If you want to connect to more than one acquirer in a failover configuration, you should contact us.
- 2.2. In the unlikely event of the Service becoming unavailable we shall notify you via our status pages of such loss (or partial loss) of service and provide you with regular updates as to when the Service is likely to become live again.
- 2.3. If the Service shall fail or break down, we shall use our reasonable endeavours promptly to restore the service to its proper operating condition and shall notify you when this is the case.
- 2.4. We shall not be liable for any loss or damage sustained or incurred by you as a result of any failure or breakdown of your or our servers, the Service or any fault in the Service software.

3. Technical Connection

3.1. The Merchant is responsible for connecting to the Service, achieved via an internet based connection at the cost of the Merchant. Our service commitment starts once the Merchant data enters our data-centres.

4. License to use

4.1. By entering into this Agreement and accepting these terms and any other prevailing conditions and then commencing to use the Service we grant a license to use our software on the terms agreed. The license does not convey any ownership of the code and Merchants are prohibited from attempting to reverse engineer / decompile the code (except to the extent permitted by section 50 of the Copyright Designs and Patents Act 1988). Any attempt to do so will be regarded as a material breach of contract.

5. Payments from Us

5.1. The Service supports most issued cards with a recognised international Card Scheme logo including credit, debit, pre-paid, or gift cards. We will only process Transactions that have been authorised by the applicable Card Scheme or Card Issuer. You are solely responsible for verifying the identity of users and the eligibility of each presented payment card used to purchase your products and services, we do not guarantee or assume any liability for transactions authorised and completed which may later be reversed or charged back. You are solely responsible for all reversed or charged back transactions, regardless of the reason for, or timing of, the reversal or chargeback.

6. Our Obligations

6.1. In return for the Charges related to the Services, we shall supply you with the Services in accordance with this Agreement, in compliance with Applicable Law and the Card Scheme Standards.

6.2. In return for the Charges related to any Other Payment Services, we shall supply you with any such Other Payment Services in accordance with this Agreement and the Applicable Law.

6.3. In return for the Charges related to the Technical Services and Terminal Hire, we shall supply you with, respectively, the Technical Services and Terminal Hire in accordance with this Agreement and in compliance with Applicable Law.

6.4. In respect of the Technical Services when we are not providing the Acquiring Services and/or related Other Payment Service(s) to you, you acknowledge and agree that the Merchant Nominated Acquirer, other financial institution or Alternative Payment Provider providing related payment services to you shall be solely responsible for authorising and settling Transactions and paying you any sums due in respect of Transactions, Re-presented Transactions and Retro-Charges.

6.5. In view of the nature of Technical Services, you acknowledge and agree that in circumstances when we only provide Technical Services, we may not be able to ascertain whether there are any errors in the transmission of Data and accordingly you shall be responsible for notifying us of any discrepancies between the amount you received and the amount you expected to be paid. Such notice must be given to us in writing within thirty (30) days following the date of the relevant Transactions, Re-presented Transactions or Retro-Charges.

6.6. For the term of this Agreement, we grant to you a non-exclusive, non-transferable, worldwide licence to access and use:

6.6.1. the Data that we make available via your Merchant Data Account; and

6.6.2. the Documentation, solely for the purpose of receiving the Services in accordance with the provisions of this Agreement.

6.7. While we may display your Transactions in your Merchant Data Account and otherwise supply certain information to you, you are responsible for maintaining your own records related to the Transactions, Refunds, Re-presented Transactions, Chargebacks and Retro-Charges, and for reconciling these with your own bank account data and other accounting records. Upon the termination of this Agreement,

we will have no obligation to retain, store or make available to you any Data, records or other information.

6.8. We shall maintain such safeguards as we shall deem necessary against the destruction, loss or unauthorised access of your data and shall institute security procedures to restrict the destruction, corruption or unauthorised access to the Service, data and data files, including back up material.

6.9. We shall notify you as soon as practically possible of any data breaches, including personal data breaches, pertaining your data and provide you with reasonable assistance allowing you to communicate this with your clients.

6.10. We acknowledge that we are responsible for the security of confidential cardholder data that we store, process and transmit to your chosen acquirer(s) on your behalf. We process your data in accordance with the PCI:DSS standards for data security.

6.11. We acknowledge that we are responsible for the security of Personal Data that we store, process to your chosen Acquirer and other relevant sub-processors on your behalf. We process your data in accordance with the terms of this contract and with the applicable Data Protection regulations, including GDPR.

6.12. We will provide you with information you require to ensure that we (the 'Data Processor') and you (the 'Data Controller') meet the obligations of Article 28 under GDPR.

6.13. Where applicable, we will assist you in performing Data Protection Impact Assessments (DPIA's) of your data.

6.14. We will notify you immediately if we are asked to do something infringing the GDPR or other data protection law of the EU or a member state.

6.15. We acknowledge our obligation to delete or return the personal data that we handle for you, if requested. For more details and limitations, please refer to our Privacy Policy. You have the right to audit and inspect the personal data we process on your behalf. Please refer to our Privacy Policy for detail.

7. Your Obligations

7.1. You shall at all times comply with:

7.1.1. the provisions and obligations under this Agreement and the Scheme Rules provided to you from time to time, or made publicly available by a Card Scheme;

7.1.2. all Applicable Law, including those which apply to the sale of your goods and/or services;

7.1.3. any regulations that may apply in relation to anti-money laundering processes you may need to undertake (or in respect of any anti-money laundering processes which we require of you from time to time);

7.1.4. your obligations relating to the sale and/or supply of goods and/or services by you to Buyers.

7.2. You shall:

7.2.1. only accept payments from and/or make Refunds to Buyers in connection with goods and/or services which you have sold and supplied and only Refund using the payment method used for the original Transaction;

7.2.2. notify us in writing before you make any change to the nature of your business as notified to us;

7.2.3. before accepting any payments notify us in writing of the URL of any website where you accept or will accept payments using any of the Services;

7.2.4. where we have agreed in writing that you may accept Recurring Transactions from your customers, it is your responsibility to obtain your customers' consent to be billed on a recurring basis in compliance with applicable legal requirements and the Scheme Rules (including, without limitation, those established by Visa Europe Ltd, ("Visa"), MasterCard Europe S.A. ("MasterCard"), any of their successors or other payment providers);

7.2.5. ensure that you inform Buyers of your identity (including prominently displaying your company name and any trading name on any website you conduct Transactions), so that the Buyer can readily identify you as the counterparty to the relevant Transaction;

- 7.2.6. only submit Data to us directly from your own staff or systems, or via a Third Party Product which has been expressly approved by us in writing.
- 7.3. You warrant that all instructions provided to Monek in relation to the processing of Personal Data are lawful and are provided in accordance with the Privacy and Data Protection Requirements.
- 7.4. You should notify us immediately if you suspect that there may be or has been an unauthorised use of the Access Codes or of any other confidential material or information used in the provision of your Merchant Data Account.
- 7.5. You acknowledge and agree that you are solely responsible for establishing and applying adequate security systems and procedures; for monitoring all use of or access to your Access Codes, Terminals, Merchant Data Account or any other confidential material or information used in the provision of the service to ensure that any Authorised User is using or accessing your Merchant Data Account within the limits of their authority and that no unauthorised persons are in possession of your Access Codes
- 7.6. You are responsible for all losses resulting from any unauthorised activity in connection with your Merchant Data Account (including use of Access Codes and Terminals). You acknowledge and agree that without limitation we may suspend the Services and/or at your cost take such other steps as we consider necessary if you have acted fraudulently or through negligence, failed to comply with the provisions of this Agreement.
- 7.7. You shall co-operate with us to the fullest extent possible in the prosecution or defence of such action or proceeding, if any action or proceeding is brought:
- 7.7.1. against us by a third party; or
- 7.7.2. by us against a third party, in relation to any Transaction or dealing with you;
- 7.8. You shall only access and use:
- 7.8.1. the Data that we make available via your Merchant Data Account; and
- 7.8.2. the Documentation, solely in accordance with the licence granted to you by us under this agreement.
- 7.9. Except as expressly permitted under this Agreement, you must not copy, download, disclose or make available to any third party any Data from your Merchant Data Account or the Documentation in whole or in part.
- 7.10. You will comply promptly with all requests for information that we make for the purpose of meeting our operational and legal requirements to carry out Customer Due Diligence in relation to you.
- 7.11. Unless otherwise agreed by us in writing, you acknowledge and agree that you shall (at your own cost) be solely responsible throughout the duration of this Agreement for the provision of all equipment, software, systems and telecommunications facilities which are required to enable you to receive the Services, including any integration related costs, incurred prior and after the Commencement Date.
- 7.12. Where we provide you with Acquiring Services in the Europe Region, you agree to maintain your registered office and Centre of Main Interests within a member state of the European Union, European Economic Area or United Kingdom.
- 7.13. You shall comply with all laws to which you may be subject and shall comply in all respect with all Card Scheme Standards.
- 8. Charges, Refunds and Other Payments Due from you**
- 8.1. In return for us providing you with the Services, you shall pay the Charges and all other sums payable by you in accordance with the provisions of this Agreement and terms of the invoices that we issue to you in respect of such payments due from you.
- 8.2. We may from time to time vary the Charges and/or introduce new Charges, we will give you at least sixty (60) days' notice of any varied or new charges. If you notify MONEK before the varied or new charge comes into effect that you do not accept the varied or new charges, MONEK has the option to either take this as notice from you to terminate the agreement, or to enter a discussion to agree a specific pricing schedule that matches the specific requirements of both businesses.
- 8.3. The form and procedure for making Refunds is specified in the Customer Operating Instructions. A Refund only arises in circumstances where there is an originating Transaction which is being reversed or partially reversed. You must ensure the amount of any Refund does not exceed the amount of the initiating Transaction, or if it needs to exceed the initiating Transaction it is still compliant with card scheme rules. You are solely liable for any misuse of your facility or any Service to process Refunds, including where there is no originating Transaction.
- 8.4. Subject to the provisions of this Agreement, where we are providing Acquiring Services the value of any Refund will be credited to the Buyer's payment service provider's account.
- 8.5. We may refuse to execute a Refund if it does not meet the conditions in this Agreement or is prohibited by Applicable Law and/or the Scheme Rules.
- 8.6. Where Transaction or Refund details provided by you are incorrect, we are not liable for the non-execution or defective execution of the Transaction or Refund.
- 8.7. You must notify us promptly after becoming aware of any Transaction or Refund which has not been correctly executed.
- 9. Chargebacks**
- 9.1. You acknowledge and agree that you are required to reimburse us for Chargebacks. We shall notify you as soon as reasonably practicable of any applicable Chargebacks and costs which have occurred or been incurred.
- 9.2. In the event that you wish to dispute a Chargeback, it is your responsibility to prove to our reasonable satisfaction that the transaction was authorised by the Buyer; and to provide evidence that we or any Card Issuer, financial institution, APM Provider or Card Scheme may require.
- 9.3. You acknowledge and agree that, notwithstanding any termination of this Agreement, we shall remain, without prejudice entitled to recover Chargebacks and Chargeback costs from you and, where relevant, from any Person who has provided us with a security relating to your obligations in respect of all Chargebacks relating to Transactions effected during the term of this Agreement.
- 10. Floor and Trading Limits**
- 10.1. In respect of the Acquiring Services and/or Other Payment Services, we may from time to time notify you of a Trading Limit and/or a Floor Limit. You shall not exceed the Trading Limit or complete a Transaction in excess of the Floor Limit without obtaining our prior written approval (to be given in our sole and absolute discretion). In the event that you exceed the Trading Limit or fail to submit for Authorisation any Transaction the value of which exceeds the Floor Limit, then we retain the right to suspend the provision of the Services.
- 10.2. Unless otherwise agreed by us or notified by us, the monetary value of the Floor Limit shall be zero.
- 11. Bank Account and Payments**
- 11.1. You shall maintain in your name a Merchant Bank Account throughout the term of this Agreement and for such period as may be required thereafter for the purposes of any applicable provisions of this Agreement. You are required to maintain with your bank a Direct Debit instruction to authorise us to BACS Direct Debit all sums due and payable by you to us (including the Charges) under this Agreement.
- 11.2. You shall notify us in writing in advance of any changes proposed by you or any third party in respect of the Merchant Bank Account or in respect of the Direct Debit instruction referred to in Clause 11.1 and shall not implement such changes without our prior written consent.
- 11.3. You will ensure that the Merchant Bank Account shall at all times have a credit balance sufficient to meet any sums due and payable to us under this Agreement.
- 11.4. We shall, if practicable, notify you in advance of any sums payable by you to us which we intend to debit by Direct Debit.

11.5. The rights granted to us in respect of the Merchant Bank Account shall not limit or affect any of our other rights under this Agreement.

12. Security

12.1. In order to secure all existing and future claims – also conditional claims and claims that are limited in time – to which MONEK is entitled against the Merchant resulting from this Agreement, in particular claims arising out of Chargebacks, the Merchant shall furnish MONEK with a Rolling Reserve. The amount and term of the Rolling Reserve are laid down in the Order Form where required.

12.2. MONEK shall regularly review the amount of the Rolling Reserve and shall assess the extent of the security risk. If the amount of the Rolling Reserve exceeds the foreseeable security requirement (as determined by us in our sole and absolute discretion) by more than 10% MONEK shall pay out the excess amount. If the estimated security requirement (as determined by us in our sole and absolute discretion) exceeds the Rolling Reserve, MONEK shall have the right to alter the amount of the Rolling Reserve and/or to reasonably extend the period during which the Rolling Reserve is to be retained. MONEK's security requirement shall particularly be increased if:

12.2.1. the Merchant's chargeback rate (or the amounts of all Chargebacks) exceeds the limits laid down in the Order Form (where appropriate) or has actually increased by more than 50% compared to the preceding month;

12.2.2. the Merchant's turnover falls significantly;

12.2.3. the Merchant submits transactions under this Agreement to MONEK, which significantly exceed agreed transaction limits (including, without limitation, the Trading Limits) or transactions are repeatedly submitted, which exceed agreed transaction limits (including, without limitation, the Trading Limits);

12.2.4. taking into account the usual principles for assessing credit standing there is evidence to suggest that the Merchant's financial circumstances have considerably deteriorated;

12.2.5. a petition for the opening of, or an agreement or arrangement in respect of, insolvency, administration, winding-up, moratorium over debts, or other proceedings over the Merchant's assets is filed or the Merchant is otherwise unable to pay its debts as they fall due; or

12.2.6. notice to terminate the Agreement has been given.

12.3. MONEK has a right to realise the Rolling Reserve as soon as the Merchant does not pay following a statement of account in accordance with these General Conditions within two (2) weeks of the date of the statement of account.

12.4. Nothing in this condition shall limit or exclude the liability of either party for fraud.

12.5. You shall not be entitled to any interest or any other compensation whatsoever in respect of any sums held by us in accordance with this Agreement pursuant to the provision of this Agreement.

13. Interest

13.1. Subject to the provisions of Clause 1.3 and 12.5 and paragraph 4.3 of Schedule 1, if a Party fails to pay any amount under this Agreement when due, then the other Party shall be entitled to charge the defaulting party interest at a rate equal to three percent (3%) per annum above The Bank of England base rate.

14. Set-Off

14.1. You hereby irrevocably authorise us and any other financial institution, from time to time without notice to set off by whatever means the whole or any part of your liabilities to us under this Agreement against any Settlement due to you or against any sums held by us.

14.2. Any credit balance with us will not be repayable, or being disposed of by you until your liabilities have been met.

15. Your Liability

15.1. You agree to reimburse your customers, us, and any third party designated by us for any Claim or Reversal in respect of a Transaction.

15.2. We will have the final decision-making authority with respect to Claims and Reversals, including without limitation claims for refunds for purchased items that are filed with MONEK by you or your customers. You will be required to reimburse MONEK for your liability. Your liability will include the full purchase price of the item plus the original shipping cost. You will not receive a refund of any Fees paid to us.

16. Indemnity

16.1. You will defend, indemnify us and hold us and our employees and agents harmless and indemnified from, against and in respect of all and any Losses in relation to any claims, fines, fees, penalties brought against us by a Buyer, Card Scheme, Card Issuer, Other Financial Institution, Other Payments Organisation, Acquirer, Other Acquirer, Regulatory Authority or any other third party, to the extent such claims arise out of or in consequence of or in connection with:

16.1.1. your breach of this Agreement, and/or your use of the Service;

16.1.2. a Transaction, Refund, Re-presented Transaction, Retro-Charge, Card Scheme Fines, Chargeback and/or Chargeback Cost and attorney's fees;

16.1.3. any breach of the requirements or failure by you to comply with: the Scheme Rules and any requirements or guidelines of a Regulatory Authority; or Applicable Law;

16.1.4. any security breach and any reasonable steps taken in the protection of our interests in connection with such breach;

16.1.5. the enforcement or attempted enforcement of this Agreement;

16.1.6. any reasonable steps taken in the protection of our interests in connection with any allegation of fraud made in relation to you or your business; and/or

16.1.7. Any breach by us of PCI-DSS where such breach was caused or contributed to by any act or omission of you.

16.2. We shall indemnify and hold you indemnified from and against any Losses in relation to any Claims brought against you by a third party, to the extent such Claims arise out of or in connection with:

16.2.1. Subject to clause 16.1.7, any actual security breach or security breach reported to you by a Card Scheme, Acquirer, Other Acquirer, Card Issuer or us relating to Data which is directly attributable to our failure to comply with any PCI DSS Standards;

16.2.2. any reasonable steps taken in the protection of your interests in connection with any allegation of fraud made in relation to your business which is caused by our negligence.

16.3. If you are liable for any amounts owed to us, MONEK may immediately remove such amounts from any account (including without limitation the Merchant Bank Account) and/or deduct or off-set the amounts owed to us from such Rolling Reserve. If you do not have sufficient funds in such account to cover your liability, you will be required to immediately add additional funds to such any account (including without limitation the Merchant Bank Account) and/or your Rolling Reserve to cover funds owed. If you do not do so, we may engage in collections efforts to recover such amounts from you at your cost and expense.

17. Exclusion and Limitation of Liability

17.1. Nothing in this Agreement excludes or restricts liability for:

17.1.1. losses suffered by a Party arising out of the other Party's fraud, fraudulent misrepresentation or wilful default;

17.1.2. death or personal injury resulting from a Party's negligence;

17.1.3. losses suffered by us in respect of any Chargebacks or Card Scheme Fines recoverable;

17.1.4. any Charges or other amounts due by you to us;

17.1.5. any other liability to the extent it cannot be lawfully excluded or limited;

17.2. Each Party shall only be liable for direct Losses arising out of or in connection with its own breach of this Agreement or negligence.

18. Limitation of Liability

18.1. The aggregate liability of MONEK to you in relation to all Claims arising out of, or in connection with the Services or this Agreement during each Contract Year shall be limited to a sum equal to the Charges paid or payable during that Contract Year less any fees incurred by us under the Scheme Rules and other direct costs in respect of Transactions which were processed during that Contract Year.

18.2. In addition to any other exclusion or limitation of liability contained in this Agreement, the following additional exclusions and limitations apply in relation to the Services:

18.2.1. We accept no responsibility, and shall not be liable for:

18.2.1.1. the accuracy or reliability of any data you send to us;

18.2.1.2. our interpretation of that data; or

18.2.1.3. the consequences or accuracy of our interpretation of that data.

18.2.2. The Data available via your Merchant Data Account is supplied to you on an "as is" basis for your information only.

18.2.3. We do not warrant that the Data available via your Merchant Data Account is accurate, up-to-date, reliable or error-free.

18.2.4. We accept no responsibility, and shall not be liable for any Third Party Product you use in connection with the Service and any reference by us to a Third Party Product shall not constitute any recommendation or endorsement.

18.3. We are not responsible for any damages resulting from use of the Service, including without limitation damages for loss of business profits, business interruption, loss of business information, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage.

18.4. We shall not under any circumstances be responsible for any charges due from, or fraudulent use of the Service by you, your employees or agents or any third party, including your customers.

18.5. We do not give any guarantee or warranty that the Service will avert or prevent fraudulent uses of Cards or other transactions and you are recommended to consider obtaining insurance to protect you in such circumstances.

18.6. These terms set out the full extent of our obligations and liabilities in respect of the supply of the Service. All conditions, warranties or other terms concerning the Service which might otherwise be implied into these terms and conditions or any collateral contract (whether by statute or otherwise) are expressly excluded.

19. Materials

19.1. You shall only use materials identifying the Services, us, any Card Scheme or any Alternative Payment Method if such materials have previously been approved by us in writing.

20. Waiver

20.1. No failure or delay by a Party in exercising any of its rights or remedies provided under the Agreement shall be construed as a waiver or release of that right or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy.

21. Data and Confidentiality

21.1. The Merchant and MONEK shall comply with the relevant provisions of GDPR and PCI DSS Standards and protect the personal data, which is collected, stored and / or disposed of in connection with performance of the Agreement.

21.2. The Merchant and MONEK each undertake to the other to keep business and trade secrets and other business or technical information or know-how of the other, which they

obtain in connection with this Agreement, strictly confidential and to impose a corresponding confidentiality obligation on their employees and on third parties insofar as they entrust them with performance of this Agreement.

21.3. The Merchant shall treat all know-how about the way in which software is used by MONEK confidentially. Furthermore, it will not pass on software or corresponding documentation, either in whole or in part, whether in an unaltered or only negligibly altered form.

21.4. The Merchant undertakes to observe the strictest confidentiality in relation to Customers and transaction information connected with its transactions with Customers.

21.5. The Merchant authorises MONEK to release Transaction Receipts and any data or other information relating to Transaction Receipts or the Card Schemes to MONEK's Nominated Acquirer or any agent of MONEK's Nominated Acquirer or any other party as is reasonably necessary for the purpose of fulfilling MONEK's obligations under its agreement with MONEK's Nominated Acquirer or MONEK's Nominated Acquirer's obligations as a Card Scheme Member.

21.6. In an event of security breach MONEK, MONEK's Nominated Acquirer and/or the Card Schemes may request that a PCI DSS Forensic Investigator (PFI) conducts an independent forensic investigation to assess the cause, scope, magnitude, duration, and effects of the event or potential event. If the PFI's findings show that the Merchant was not PCI DSS Standards compliant at the time of the security breach or event and that said breach or event was a result of such non-compliance the Merchant shall bear all costs of the investigations and/or any related fines (including Card Scheme Fines) or damages.

21.7. The Merchant must, at our request, grant certification authorities and/or investigators access to the Merchant's Card acceptance equipment and systems.

21.8. If accepting Card payments via the internet the Merchant shall ensure that all Card numbers are encrypted during transmission and storage.

21.9. The Merchant shall ensure that all third parties that provide processing services to the Merchant including, but not limited to, terminal operations, authorisation routing, electronic data capture and clearing file preparation, shall be correctly registered with the Card Schemes. The Merchant shall not use any affiliates in order to increase traffic through its website(s) without prior written permission from MONEK. MONEK may, at any time, request a copy of the Merchant's agreement with any such affiliates. The Merchant shall prevent the transfer of information regarding the Cardholder's name or Card Account Number to any unauthorised third parties.

21.10. You acknowledge that you have received, read in full and agree with the terms of our Privacy Policy (<http://www.Monek.com/privacy-policy/>).

21.11. linked to and incorporated into this Agreement by reference.

21.12. Our Privacy Policy contains our justification to our collection, use, retention, and disclosure of personal information as well as other matters set forth therein and which explains how and for what purposes we collect, use, retain, disclose, and safeguard the information you provide to us.

21.13. Protection of personal data is very important to us. We will comply with the applicable data protection laws, including in particular, General Data Protection Regulation (EU) 2016/679 binding in United Kingdom, as amended from time to time.

21.14. For any personal data processed on your behalf under this Agreement, we both agree that you are the data controller and we are the data processor in relation to that data. We shall process the personal data only in accordance with the terms of this Agreement and lawful instructions reasonably given by you to us from time to time. We will employ appropriate technical and organisational measures to protect such personal data. As data processor, we may appoint sub-processors for parts of its processing of personal data, provided however, that the sub-processor assumes the same obligations as are imposed on us as data processor. A list of sub-processors Monek employs is available at www.monek.co.uk

21.15. You acknowledge that MONEK is reliant on you for direction as to the extent to which we are entitled to use and process the personal data you provide us with. Consequently, we will not be liable for any claim brought by a data subject arising from any action or omission by us, to the extent that such action or omission resulted from your instructions.

22. Data Requests

22.1. We will notify you (within a reasonable time frame) if we receive a request from a person to have access to that person's personal data; a complaint or request relating to your obligations under applicable data protection legislation; or any other communication relating directly to the processing of any personal data in connection with this Agreement.

22.2. We will provide you with reasonable co-operation and assistance in relation to any complaint or request made in respect of any personal data processed by us on your behalf, including by providing you with details of the complaint or request, complying with any data subject access, rectification or deletion requests (within the relevant timescales determined by GDPR and documented in our Personal Data Retention Policy) and providing you with any personal data we hold in relation to a person making a complaint or request. Please refer to our Privacy policy and Data Subject Access policy for more information.

23. Retention of Records

23.1. The services from MONEK use data extensively to determine the integrity of payments, this includes the validation of personal data with data we retain and data we purchase from other sources.

23.2. In working with us, you grant us a, royalty free license to the data provided by you to us. The data you license to us will be used by MONEK in the provision of its products and services, primarily to assess risk and for the prevention and detection of crime, . The data will only be shared with external parties with your permission (save in circumstances where we are not required to obtain, or are not permitted by Applicable Law to seek to obtain, that permission). By way of example, we are able share data relating to fraud and/or criminal behaviour, without your or their permission; we do so to detect and prevent fraud and other serious crimes.

23.3. Personal Data will be retained as per the information in our Privacy Policy.

24. Right of Audit

24.1. If we believe that a security breach or compromise of data has occurred, the Merchant shall, upon request, permit MONEK, representatives of the payment systems (e.g. credit card organisations) or a third party instructed by MONEK or by a payment system to inspect its business premises and to carry out security checks in order to enable MONEK to check compliance with the provisions of this Agreement. In doing so, checks may particularly be made as to whether, and the extent to which, the Merchant's organisational measures are appropriate in accordance with the standards customary in the trade to exclude the possibility of any unauthorised use and/or other manipulation of any kind of the Merchant's systems. The Merchant undertakes that it will

- at its own cost - fully cooperate with and enable such audits. Furthermore, the Merchant must ensure that all audits can be carried out directly in relation to and at the business premises of the technical service providers and other subcontractors commissioned by the Merchant and vicarious agents of the Merchant, whom the Merchant has commissioned in connection with the submission and processing of card transactions.

25. Duty to cooperate

25.1. The Merchant shall maintain all of the permits necessary for its business operation during the term of this Agreement and to comply with all of the statutory provisions applicable to its activity. Upon request the Merchant shall prove without undue delay and in a suitable form its continuing compliance with said duties.

25.2. The Merchant must provide MONEK with its details in the Order Form in full and truthfully. If the details provided

change after the mandate has been granted the Merchant is obliged to correct the details by way of a message to support@Monek.com without undue delay.

25.3. The Merchant undertakes to use its best efforts to provide all assistance requested by MONEK, and which can reasonably be expected of the Merchant, to enforce claims against Merchant Customers, particularly by providing information, handing over documents and giving all declarations and powers of attorney which may be necessary for the enforcement. In the event of any negligent or intentional non-compliance or failure, the Merchant shall be under a duty to compensate MONEK for the loss incurred.

25.4. Without being asked to do so, the Merchant is under a duty to provide MONEK with its general Terms and Conditions of business, which apply in relation to the Merchant Customers, in the version as applicable from time to time and to inform MONEK of any changes without undue delay and, upon request by MONEK, to provide all information and proof that appears necessary to MONEK.

25.5. Following the completion of an Order the Merchant is under a duty to provide the Merchant Customer with a record of the Order (receipt) in writing or electronically. Said receipt must include a clear transaction ID as well as the Merchant's web address and that of MONEK.

25.6. Against the background of any possible liability of MONEK for tax obligations of the Merchant:

25.6.1. the Merchant releases the tax office responsible for it from its duty of confidentiality; and

25.6.2. the Merchant shall fully indemnify MONEK from and against any liability claims of the tax authorities or third parties for tax obligations in connection with the Merchant Receivables.

25.7. MONEK is entitled to ask for the information that is relevant to it. The Merchant further undertakes to, upon first demand, provide MONEK with suitable documents to prove the fulfilment of tax obligations (such as advance tax notifications, tax returns and proof of payment). Upon request by MONEK the Merchant shall be obliged to sign a separate written copy of this declaration for MONEK (for the purposes of production to the person under the duty of confidentiality or third parties).

25.8. The Merchant is further under a duty to inform MONEK without undue delay of all material circumstances which affect the Merchant or its undertaking and to hand over the corresponding documents to MONEK free of charge.

26. Change of Business

26.1. When we agree to process payments for you, it is partially based on the commercial and regulatory risks that exist at the time we jointly enter this Agreement; if your business is changing what you do, you (i) need to inform us prior to the change and gain our written confirmation we have received the notification; (ii) acknowledge that, to the extent we reasonably believe that the change is likely to result in an adverse change to the commercial and regulatory risk profile of the Services, we may suspend the provision of the Services.

26.2. Your business needs to be able to function safely and fairly with the consumers, as such must notify us of any voluntary or involuntary insolvency proceedings, petitions, administration, receivership, bankruptcy, or similar action or proceeding initiated by or against you or any of your principals, we will endeavour to support the business in the event one of these situations occur (to the extent we are permitted to do so by Applicable Law).

26.3. You will include us on the list and matrix of creditors as filed with any insolvency, commercial or civil court, whether or not a claim may exist at the time of filing (any of the foregoing, a "Bankruptcy Proceeding"). Failure to do so will be cause for immediate termination of this Agreement and shall allow the pursuit of any other action available to us under applicable Network Rules or law. You also agree to promptly notify us of any adverse change in your financial condition, any planned or anticipated liquidation or substantial change in the basic nature of your business, any transfer or sale of 25% or more of your total assets or any change in the control or ownership of you or your parent entity.

or that is approved by us conduct a security audit of your systems and facilities and issue a report to be provided to us and/or the Card Networks and you shall be required to remedy any defects identified within a reasonable period or a timeframe given by the Card Network.

27. Business Conduct

27.1. At all times, the Merchant shall conduct its business in accordance with applicable laws, Card Scheme Standards and any other regulations or guidelines of a Regulatory Authority. The Merchant shall ensure that no Transaction is submitted that is illegal, or may damage the goodwill of MONEK and/or the Card Schemes and/or the Acquirer or reflect negatively on the Card Scheme trademarks. The Merchant acknowledges, and agrees to comply with, all applicable Card Scheme Standards, as amended from time to time. The Card Scheme Standards of MasterCard and Visa are available from their websites.

28. Use of Trademarks and Logos

28.1. MONEK grants the Merchant the right to use MONEK's logo in their marketing material, including websites and checkout pages. The brand guidelines and artwork are available from the marketing department by emailing them at marketing@Monek.com.

28.2. The Merchant grants MONEK the right that the name and logo of its company and its undertaking may be used by MONEK as a reference on customer lists in the context of MONEK's business operations in relation to third parties. In this connection MONEK is also entitled to use non-confidential correspondence of the Merchant, which the latter has sent MONEK in connection with the contractual relationship, in relation to third parties (also together with statements made by other Merchants) in order to document the Merchant's satisfaction with MONEK's services. MONEK shall in each case for said purposes send the Merchant a draft of the respective text (as the case may be with the Merchant's logo) for its information in advance before using such references.

29. Illegal Use

29.1. The Merchant agrees to use the services to trade with their customers, by providing goods and services that are legal in the jurisdictions where the parties are based, the parties being all the technical and financial organisations, the Merchant and the customers. Failure to operate within the laws and regulations relevant to the services will be regarded as a material breach of contract.

30. Data Protection and PCI Regulations

30.1. You are fully responsible for the security of data on your site, through your app, in your store, or otherwise in your possession. You agree to comply with all applicable national or regional laws and rules in connection with your collection, security and dissemination of any personal, financial, Card, or transaction information (defined as "Payment Data") on your site or through your app.

30.2. MONEK is fully compliant with PCI regulations and our approvals can be used to help you demonstrate compliance, however you are solely responsible for compliance with any laws, regulations, or rules applicable to your business. You specifically agree that at all times you will be compliant with the Payment Card Industry Data Security Standards (PCI-DSS) and the Payment Application Data Security Standards (PA-DSS), as applicable.

30.3. The steps you will need to take to comply with PCI-DSS and PA-DSS when using our services will vary based on your implementation. For more information about implementing our services, please refer to our documentation. If we believe it is necessary based on your implementation and request it of you, you will promptly provide us with documentation evidencing your compliance with PCI DSS and/or PA DSS. You also agree that you will use only PCI compliant service providers in connection with the storage, or transmission of Payment Data defined as a Cardholder's account number, expiration date, and CVV2. Please follow our implementation instructions carefully for each payment method; for example, you must not store CVV2 data at any time. Information on the PCI DSS can be found on the [PCI Council's website](#) and it is your responsibility to comply with these standards.

30.4. If we believe that a security breach or compromise of data has occurred, we may require you to have a third party audit

31. Taxes

31.1. It is your responsibility to determine what, if any, taxes apply to the sale of your goods and services and/or the payments you receive in connection with your use of the Service ("Taxes"). It is solely your responsibility to assess, collect, report, or remit the correct tax to the proper tax authority. We are not obligated to, nor will we determine whether Taxes apply, or calculate, collect, report, or remit any Taxes to any tax authority arising from any transaction.

31.2. You acknowledge that we may make certain reports to tax authorities regarding transactions that we process and Merchants to which we provide card payment services.

31.3. We reserve the right to report to relevant revenue or taxing authorities regarding payments processed by us on your behalf, to the extent we are required to do so by applicable law.

32. Payment Methods

32.1. MONEK may add or remove one or more types of cards and Alternative Payment Methods as a supported payment method subject to clause 40.1.

33. The Agreement

33.1. These Conditions shall apply to and be incorporated into the Agreement; and prevail over any inconsistent terms or conditions (whether express or implied) contained, or referred to, in any Merchant purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Merchant, or which have been or may be entered into between the parties implied by law, trade custom, practice or course of dealing.

33.2. An agreement for the supply and purchase of the Services on and subject solely to these Conditions will be established at such time as both parties have signed the Order Form or on the Commencement Date whichever is the earlier. The Merchant shall be notified of any amendments to these Conditions in electronic form by e-mail to the e-mail address stored in the MONEK Account.

34. Intellectual Property

34.1. MONEK provides you a limited licence to use the MONEK Services as described in and subject to this Agreement. Each of the foregoing is licensed and not sold, and we reserve all rights not expressly granted to you in this Agreement.

34.2. The Services are protected by copyright, trade secret and other intellectual property laws. We own all interest, title, and other worldwide IP Rights (as defined below) in the MONEK Services and all copies of the MONEK Services.

34.3. For the purposes of this Agreement, "IP Rights" means all patent rights; copyright, including rights in derivative works; moral rights; rights of publicity; trademark, trade dress, and service mark rights; goodwill; trade secret rights; and other intellectual property rights as may now exist or hereafter come into existence, including all applications and registrations, renewals, and extensions thereof, under the laws of any state, country, territory, or other jurisdiction.

34.4. You may choose to or we may invite you to submit comments or ideas about the Services, including without limitation about how to improve the MONEK Services or our products ("Ideas"). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place MONEK under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, MONEK does not waive any rights to use similar or related ideas previously known to MONEK, or developed by its employees, or obtained from sources other than you.

35. Term & Termination

- 35.1. The Agreement is effective upon the date you agree to it (by electronically indicating acceptance) and continues until terminated by you or by MONEK.

36. Termination

- 36.1. You may terminate this Agreement by closing your MONEK Account at any time by providing thirty (30) days' notice following the instructions on our website in your MONEK Account.
- 36.2. Subject to the following sentence, we may terminate this Agreement and close your MONEK Account effective upon providing you sixty (60) days prior notice in accordance with clause 42.1.
- 36.3. We may suspend your access to the Service and any funds otherwise pending disbursement to you, or terminate this Agreement immediately upon notice to you in accordance with clause 42.1 if:
- 36.3.1. we determine in our sole discretion that you are ineligible for the Service because of the risk associated with your use of MONEK, including without limitation significant credit or fraud risk, or for any other reason;
 - 36.3.2. you do not comply with any of the provisions of this Agreement, or
 - 36.3.3. upon request of a Card Scheme or a Card Issuer or any Regulatory Authority.

37. Consequences of Termination

- 37.1. Upon termination and closing of your MONEK Account, we will immediately discontinue your access to the Service.
- 37.2. You agree to complete all pending transactions, immediately remove all logos for Cards, and stop accepting new transactions through the Service. Any funds in our custody will be paid out to you subject to the terms of this Agreement and your Pay-out Schedule.
- 37.3. Termination does not relieve you of your obligations as defined in this Agreement and MONEK Payments Limited may elect to continue to hold any funds deemed necessary pending resolution of any other terms or obligations defined in this Agreement, including but not limited to Chargebacks, Fees, refunds, or other investigations or proceedings.
- 37.4. Upon termination you agree:
- 37.4.1. to immediately cease your use of the Service;
 - 37.4.2. to discontinue use of any MONEK trademarks and to immediately remove any MONEK references and logos from your Site or other trademarks;
 - 37.4.3. that the licence granted under this Agreement shall end;
 - 37.4.4. that we reserve the right (but have no obligation) to delete all of your information and account data stored on our servers, and
 - 37.4.5. we will not be liable to you for compensation, reimbursement, or damages in connection with the deletion of your information or account data. Please note that certain Sections survive termination, see clause 37.6.
- 37.5. Where you use the Services for card processing, at any time within thirty (30) days after terminating your MONEK Account you may request in writing that we transfer Payment Data associated with your Transaction History that you are entitled to receive to an alternative PCI-DSS Level 1 certified payment processor that you identify to us. We will use commercially reasonable efforts to transfer permitted Payment Data within ten (10) business days from receipt of your written request. You will be responsible for the agreed fees associated with the preparation and execution of the data transfer to a new supplier.
- 37.6. Upon termination of this Agreement all rights and obligations of any Party shall cease to have effect immediately, save that:
- 37.6.1. the clauses which expressly or by implication have effect after termination will continue to be enforceable notwithstanding such termination (including, clauses 7.4, 7.6; 7.12, 8.1, 8.3, 8.5, 9.3, 11, 12.5, 13, 14, 15, 16, 17, 21, 22.2, 23, 24, 25.3, 25.5, 25.6, 27, 30.1, 30.3, 30.4, 34, 39, 43, 46)

- 37.6.2. termination shall not affect accrued rights and obligations of any Party under this Agreement as at the date of termination.

- 37.7. The clauses which expressly or by implication have effect after termination will continue to be enforceable notwithstanding such termination.
- 37.8. Upon termination of this Agreement, you shall immediately pay to us all amounts owed by you to us under this Agreement and we shall immediately pay you all amounts owed to you by us under this Agreement.

38. Severance

- 38.1. You accept that if any provision of this Agreement is found to be void or unenforceable in whole or in part, the Agreement shall continue to be valid as to the other provisions and the remainder of the affected provision.

39. Assignment & Novation

- 39.1. You shall not assign or transfer all or any of Your rights or obligations under this Agreement without Our prior written consent but this Agreement will bind Your personal representatives. We may assign the benefit and/or burden of this Agreement and may use agents and subcontractors for the performance of any of Our obligations or exercise of Our rights under this Agreement.
- 39.2. No term of this agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to it.

40. Variation

- 40.1. MONEK may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements or PCI standard guidance, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.
- 40.2. The Merchant agrees that MONEK may amend the Agreement, including these General Conditions and the Charges from time to time. MONEK shall notify the Merchant of any amendments by giving the Merchant not less than thirty (30) days written notice, such notice to be provided in accordance with clause 42.1. Changes to the Charges shall be dealt with in accordance with Clause 8.2.

41. Entire Agreement

- 41.1. These terms and conditions and all policies and procedures that are incorporated herein by reference constitute the entire agreement between you (and supersedes and renders of no legal effect any and all previous agreements, arrangements and/or statements (whether written or oral) between the parties relating to the subject-matter of this Agreement) and MONEK with respect to the provision of the Service. In the event of a conflict between this Agreement and any other MONEK agreement or policy, this Agreement shall prevail on the subject matter of this Agreement.
- 41.2. Except as expressly provided in this Agreement, these terms describe the entire liability of MONEK and our vendors and suppliers (including processors) and sets forth your exclusive remedies with respect to the Service and your access and use of the Service. If any provision of this Agreement (or portion thereof) is held to be invalid or unenforceable under applicable law, then it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.
- 41.3. This Agreement has been reviewed by you with the benefit of independent legal counsel to the extent you consider necessary and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the construction or interpretation of this Agreement.
- 41.4. The rights conferred upon us in this Agreement are not intended to be exclusive of each other or of any other rights and remedies we may have at law or in equity. Rather, each and every right we may have under this Agreement, at law or in equity is cumulative and concurrent and in addition to every other right.

41.5. Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties.

42. Notices

42.1. Any notice required to be given under the Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party, to: -

MONEK Limited
Innovation House
Davidson Road
Lichfield
WS14 9DZ
United Kingdom

42.2. Any notice shall be deemed to have been duly received if delivered personally to the address specified on the Order Form or as otherwise notified to the other party in writing or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

42.3. This Condition shall not apply to the service of any in any proceedings or other documents in any legal action.

42.4. A notice required to be given under the Agreement shall not be validly served if sent by e-mail.

43. DISPUTE RESOLUTION PROCEDURE

43.1. If any dispute between you and us arises out of or in connection with this Agreement or its subject matter, formation, validity or enforceability then, except as expressly provided in this Agreement, the disputing parties shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with any relevant supporting documentation.

43.2. Following service of the Dispute Notice, the Representatives of each of the disputing parties shall attempt in good faith to resolve the Dispute.

43.3. If the Representatives of the disputing parties are unable to resolve the Dispute within fourteen (14) Business Days of service of the Dispute Notice, either disputing party shall be entitled to commence proceedings. If the Dispute is resolved by the Representatives within fourteen (14) Business Days of service of the Dispute Notice the settlement shall be recorded in writing and signed by each of the disputing parties within seven (7) Business Days.

43.4. Nothing in this clause shall prevent either disputing party making any application for injunctive relief that it considers necessary.

44. Force Majeure

44.1. Our obligations are subject to the following:

44.1.1. any messages that originate from Your server or the server of a third party designated by You and are received in the same form as sent will be deemed to be authorised by You and We shall not be liable for any consequence of processing such messages;

44.1.2. we are not responsible for the security of data residing on a server of Yours or a third party designated by You.

44.2. We shall have no liability for any failure or delay caused by Your acts or omissions or resulting from actions taken by us in good faith to avoid violating a law, rule or regulation of any governmental authority or which is caused by circumstances beyond Our control whether foreseeable or not, including (without limit) breakdown or failure in transmission or communication links or any third party equipment, strikes or industrial disputes.

45. Non-solicitation

45.1. The Merchant agrees that they shall not, without the prior written consent of MONEK, at any time from the Commencement Date to the expiry of 12 months after the last date of supply of the Services or termination of the Agreement (whichever is the later), solicit or entice away from MONEK or employ (or attempt to employ) any person

who is, or has been, engaged as an employee, consultant or subcontractor of MONEK.

45.2. In the event that the Merchant breaches the clause above, the Merchant shall be liable to compensate MONEK by paying, on demand, an amount which is equal to 100% of the relevant gross annual salary of each person solicited or enticed in circumstances set out in the clause above.

46. Law

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

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

47. Regulatory Information

47.1. MONEK is registered in England No. 09767332 with a registered Office at Innovation House, Davidson Road, Lichfield, WS14 9DZ United Kingdom.

Schedule 1

MONEK PAYMENT TERMINAL RENTAL TERMS

Introduction

These terms and conditions relate to the rental of hardware from MONEK, these may include chip and pin machines, point of sale devices and communication, dedicated computer hardware, software and security equipment, as defined by the Order Form.

These terms, together with the details set out in the relevant sections of the attached Order Form shall form our MONEK Rental Agreement ("Contract"). This contract is made between you the Hirer ("You" or "Hirer") as named in the Order Form and MONEK of City House, City Wharf, Davidson Road, Lichfield, Staffordshire, WS14 9DZ ("Us", "Our" "We" or "MONEK").

These terms together with the information set out in the Order Form set out the basis upon which we rent the payment terminal to You. Please carefully read and ensure you understand this document (and all documents to which it refers) before accepting its terms.

Please note this contract is personal to you and cannot be assigned without the prior written consent of MONEK.

Additional Definitions

Hardware Support: means the support services to be supplied by MONEK under this Contract in connection with the rent of the Payment Terminal (or other equipment) as described in clause 2.

Minimum Term: means the minimum term for which the payment terminal or other rental device will be rented to You as stated in Your Order Form.

Payment Terminal: means the payment terminal(s) described on the Order Form provided to You for the purpose of processing Payment Transactions or Refunds.

Payment Transaction: means a Card transaction processed with the intention of a cardholder or other identifiable individual incurring a liability resulting in monies being received from the Card issuer to Your Acquirer and credited to Your bank account.

Refund: means a Card transaction which has been processed with the intention of monies being remitted to the cardholder's Card account.

Rental Charges: means the rental charges payable by You for the supply of the Payment Terminal including the installed software as set out in the Order Form.

1. Application of Terms

- 1.1. The terms set out below apply to and shall be incorporated into the Contract between You and Us for the rent of the Payment Terminal.
- 1.2. The Contract for the rent of the Payment Terminal shall be established at such time as we notify you of our acceptance or your Order and/or provide the Payment Terminal to You, whichever is the earlier ("the Commencement Date").
- 1.3. These terms apply to the Contract to the exclusion of Your terms or which are implied by trade, custom, practice or course of dealing. Where MONEK provides quotations it does so only to give indicative information. A Contract shall only be formed in accordance with clause 1.2 above.

2. Rent of the Payment Terminal

- 2.1. The Payment Terminal is rented to you with the installed software against payment of the Rental Charges. It is provided to You for the purpose of You effecting payment transactions and refunds and to provide secure routing of transactions to Your Acquirer.
- 2.2. We agree to provide a Payment Terminal Help Desk service, available between the hours of Monday to Saturday 08:00-23:00, Sunday & Bank Holidays 10:00-17:00 (Closed Christmas Day) as a telephone advice bureau for operational difficulties.
- 2.3. In addition to the Help Desk service set out in 2.2, if the Payment Terminal develops a fault, we will, unless prevented by circumstances outside our control, provide a replacement Payment Terminal within 1 working day for faults reported before 2pm. You acknowledge that this target response time is our service level goal and we do not warrant

that any particular replacement shall be made within 1 working day.

- 2.4. Any replacement Payment Terminal shall be provided configured for your use and will be of a similar or improved specification, but may be new or refurbished.
- 2.5. Our repair services under this clause 2 shall not extend to accidental damage to the Payment Terminal, nor in respect of any damage caused to the Payment Terminal or any part thereof though misuse or malicious damage, or for theft or loss of the Payment Terminal, nor to faults in respect of batteries or battery packs, network outages or to any third party device or attachment that is not part of the Payment Terminal provided by us.
- 2.6. We shall be entitled to levy a charge up to £300 in respect of a Payment Terminal which, upon inspection, is found to be broken or damaged in accordance with clause 2.5 or is outside the manufacturer's warranty period and is not covered by an additional hardware support service. We shall also be entitled to levy a charge up to £100 in respect of a Payment Terminal which, on inspection, is not found to be faulty and a charge of up to £50 for any terminal amendments.
- 2.7. The Payment Terminal is provided to you with installed software. We may provide software upgrades from time to time.

3. Your obligations

- 3.1. You undertake that the information provided to Us within Your Order is complete and accurate in all material respects. You agree to promptly update Us in the event there is any material change to the information provided.
- 3.2. You agree to cooperate promptly with MONEK in all matters relating to the Contract. You must not sub-rent the Payment Terminal.
- 3.3. You shall comply fully with the user instructions, requirements or operating procedures relating to the Payment Terminals and of other parties with whom you deal in connection with this Contract.
- 3.4. You undertake to correctly configure Your systems and ensure You have the equipment necessary to connect to it.
- 3.5. You acknowledge that Our obligations under this Contract extend solely to the supply of the Payment Terminal and related Support and do not include the provision of payment services.
- 3.6. You agree to use the Payment Terminal only for the purpose of processing Payment Transactions and/or Refunds and not for any other purpose. In particular, you agree not to use the Payment Terminals for or to access anything illegal, immoral or improper.
- 3.7. You agree to keep the Payment Terminal in good repair and condition and save as provided for herein, to be responsible for any loss or damage to it and not to remove any identifying marks. You further agree to insure the Payment Terminal for loss or damage against its full replacement value or otherwise indemnify Us against the full cost repair or replacement (other than as set out under clause 2.3).
- 3.8. You agree to keep the Payment Terminal in Your own possession and not to alter, sell, lend or otherwise dispose of it.
- 3.9. You agree to indemnify Us at all times against all losses, actions, claims, demands, costs or expenses arising directly or indirectly from use, possession, operation, condition or maintenance of the Payment Terminal or your failure to carry out any obligation under this Contract.

4. Charges and payment

- 4.1. The Rental Charges shall be charged by and payable to Us (or another MONEK group company or Our nominated collection company) in accordance with the Order Form. We may assign Our right to collect the Rental Charges to Our nominated collection company, which shall be entitled to pursue any claim We may have against You for non-payment by You of the Rental Charges. Rental Charges shall be paid by You in Sterling by Direct Debit, unless stated otherwise in the Order Form. You agree to pay the Rental Charges detailed in the Order Form during the Minimum Term whether or not You use the Payment Terminal.

- 4.2. All amounts payable by You under the Contract are, where applicable, exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). In the event that a taxable supply for VAT purposes is made under the Contract You agree, on receipt of a valid VAT invoice, to pay such additional amounts in respect of VAT as are chargeable. Invoices are due for payment within 14 days.
- 4.3. You must pay the Rental Charges by direct debit on the due date and prompt payment is an essential condition of the Contract. If You do not pay promptly, we may terminate this Contract immediately. If You fail to make any payment when due under the Contract, then We reserve the right to charge interest on the overdue amount at the rate of 5% per cent per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.
- 4.4. You agree to pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting Our other rights or remedies, set off any amount owing to us by You against any amount payable by Us.

5. Term and Termination

- 5.1. The term of this Contract starts on the Commencement Date (as described in clause 1.2) and shall continue to be in force for the Minimum Term and thereafter unless or until terminated by either party at any time in accordance with clause 5 or by serving at least 30 days' written notice on the other. Whilst such notice can be served at any time, if such notice is served to expire and take effect before the end of the Minimum Term, You agree to make a payment equivalent to all Rental Charges which would have been payable for the remainder of the Minimum Term but for the early termination ("the Early Exit Fee").
- 5.2. Without limiting any other rights or remedies, either party (You or MONEK) may terminate the Contract with immediate effect by giving written notice to the other party if the other commits a material breach of this Contract (and if such a breach is remediable) that party fails to remedy that breach within 30 days of being notified in writing to do so.
- 5.3. MONEK may also terminate this Contract if:
 - 5.3.1. You do not pay your Rental Charges or other charges promptly in accordance with the Contract;
 - 5.3.2. You suspend or cease or threaten to suspend or cease to carry on all or a substantial part of your business;
 - 5.3.3. insolvency proceedings are commenced by or against You or any guarantor (where applicable) or a receiver, administrator, liquidator or any other insolvency practitioner is appointed in relation to the same or any arrangement is entered or composition is entered into with creditors (other than a voluntary and solvent reorganisation of Your business);
 - 5.3.4. any event or proceeding is taken against You in any jurisdiction to which You are subject and is, in effect, analogous to any of the events referred to in clause 5.3.2 above or We reasonably believe that You are about to become subject to any of them, or if You fail to pay any amount due under this Contract on the due date for payment;
 - 5.3.5. Your financial position deteriorates to such an extent that in Our reasonable opinion Your capability to adequately fulfil Your obligations under this Contract has been placed in jeopardy;
 - 5.3.6. You undergo a change of control or there is a material change to the nature of Your business

6. Consequences of termination

- 6.1. On termination of the Contract for any reason:
 - 6.1.1. You shall immediately return the Payment Terminal to Us at the address specified by us for returns and bear the cost of the same as well as the risk of loss or damage of the Payment Terminal in transit;
 - 6.1.2. You shall immediately pay to MONEK the Early Exit Fee (if applicable) and any costs and expenses incurred by Us in recovering the Payment Terminal (if

You have not complied with Your obligation to return it) and/or in collecting any sums due under this agreement. MONEK shall submit an invoice, which shall be payable by You immediately on receipt;

- 6.1.3. Our consent to Your possession of the Payment Terminal shall terminate and We may, either Ourselves or by Our authorised representatives, without notice and at Your expense, retake possession of the Payment Terminal and for this purpose may enter Your or any premises at which the Payment Terminal is located;
- 6.1.4. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 6.1.5. clauses which expressly or by implication survive termination shall continue in full force and effect.

7. General

- 7.1. We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of Our rights under the Contract and may subcontract or delegate in any manner any or all of Our obligations under the Contract to any third party or agent.
- 7.2. You shall not, without Our prior written consent, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of Your rights or obligations under the Contract.
- 7.3. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 7.4. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 7.5. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties.
- 7.6. A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 7.7. No variation of or change to the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by MONEK.
- 7.8. Any notice required to be given under the Contract shall be in writing and shall be delivered personally or sent by pre-paid first class post, recorded delivery or courier. Any notice shall be deemed duly received if delivered personally when left at the address listed on the Order Form, if sent by post or recorded delivery on the second Business Day after posting or if delivered by courier on the date and time that the courier's delivery receipt is signed. A notice shall not be validly served if served by e-mail.
- 7.9. This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of England.
- 7.10. Each party irrevocably agrees that courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Schedule 2

Terms for Specific Alternative Payment Methods

Not applicable

Schedule 3

MONEK PAYMENT GATEWAY SERVICES TERMS

Introduction

The Gateway acts as a technical bridge between your business and the card acquirers and other payment processors. It has certain specific conditions that allow its use in the processing of payments.

The Gateway can be used with a range of different card acquirers; it is technically independent from MONEK's sponsored acquiring facilities. The service supports the concurrent use of multiple acquirers. The conditions of the connected acquirers are independent of MONEK's Terms and Conditions.

1. Term of Contract

- 1.1. The service contract provided in exchange for the Charges covers the Service for an Initial Term defined on the Order Form.

2. Gateway Support

- 2.1. On purchase of the Service you are entitled to free, unlimited online chat, email and telephone support for the Service for the period of your contract; however, we ask that you have reviewed the documentation and instructions located within the account menu and also the FAQ section on our web site before contacting us. Support is offered on UK working days between the hours of 08:30 and 17:30.

3. Fair Usage and Defending DDoS

- 3.1. We impose no official maximum limit to the number of transactions that can be placed through your account. However, we reserve the right to close immediately or suspend any accounts that make excessive use of the system to the detriment of other customers.

4. Misuse

- 4.1. You acknowledge that we have no control over any content placed on your payment website by customers and other visitors and we do not purport to monitor the content of your payment website. We reserve the right to require you to remove content from your payment website and/or to suspend the Services where we reasonably suspect such content is inappropriate content or is unlawful or in breach of industry guidelines including, without limitation, those of the Card Schemes.
- 4.2. You agree to notify us immediately if you become aware of any unauthorised use of the Service.
- 4.3. You shall ensure that all passwords and other secure access data are kept confidential, used properly and not disclosed to unauthorised persons.
- 4.4. You shall notify us immediately if you have any reason to believe that such security information has been compromised in any way.

5. Processing of Transactions

- 5.1. Our responsibility only extends to accepting payment transactions for processing on your behalf in accordance with these terms and conditions as part of the Service.
- 5.2. You acknowledge that the bank or other financial institution or other third party to whom you have instructed us to forward details of a transaction for authorisation, clearing and settlement (Acquirer) shall be solely responsible for settlement of transactions in accordance with your arrangements with that Acquirer.
- 5.3. We cannot be held responsible for any declined or fraudulent transactions, for whatever reason, nor for problems with submitting authorisations or settlements to Acquirers where the delays are caused by problems with either Acquirer or card scheme systems.
- 5.4. Acceptance by us of a transaction for processing and authorisation does not provide any guarantee that payment will be made by your Acquirer.

- 5.5. You agree to comply with any operating procedures which either we or your Acquiring Bank require from time to time.
- 5.6. We will seek to comply with any new standards required by you, an Acquirer or any other third party, but we cannot be held responsible for failings in the Service due to any Acquirer accreditations required, any chargebacks or disputes that result, or any fines or costs associated with disputed or failed transactions or general inability to use the Service.
- 5.7. It is your responsibility to inform us in writing of any card scheme or bank initiatives that affect your ability to process transactions via the Service, with at least 6 months' notice where practicable.
- 5.8. In the event that MONEK or any other third party passes on to us any charges from Acquirers, card schemes or associated parties for type approval or similar, we reserve the right to require you to pay such charges. It is your responsibility to establish if any charges will be levied by your Acquirer or any third party's Acquirer or any other party in the processing of any transactions.
- 5.9. You shall comply fully with any obligations to the issuer of any charge, credit, debit or payment card (Cards) in relation to accepting Cards in payment for goods or services supplied by you.
- 5.10. You shall comply fully with any Acquirer and/or Card security scheme initiatives as shall be required from time to time, such as (but not limited to) the PCI DSS requirements set out at www.pcisecuritystandards.org.
- 5.11. You shall take all steps which we may reasonably require to assist us in dealing with any questions or complaints raised by any Card holder. Failure to do so may result in us terminating your right to use the Service.
- 5.12. You agree to keep us indemnified against all actions, claims, costs (including legal fees), damages, demands, expenses, losses and liabilities incurred by, or made against us, as a result of your acts, omissions or breach of these terms and conditions or any relevant law or in the event that we are deemed to be your agent.
- 5.13. You agree to use the Service only for lawful purposes.

6. 3-D Secure

- 6.1. We provide access to 3D Secure software to our customers and whilst we will do our best to comply with general industry standards we cannot be held responsible for failings in the Service, any Acquirer accreditations required, any chargebacks or disputes that result, or any fines or costs associated with disputed or failed transactions or general inability to use the Service.
- 6.2. Since we are not a party to the communications between you and your acquirer, we cannot provide support in the event of chargebacks and disputes and you should contact your Acquirer with any queries relating to disputed or declined transactions. Furthermore, it is the Merchant's responsibility to register their Merchant numbers for 3D Secure with the relevant card schemes and Acquirers, and to ensure that payment pages/receipts and email confirmation receipts comply with the various card scheme and Acquirer requirements.