

Important Changes to Our Terms Of Service – March 2018

Global Payments (“GPN”) made several important amendments to our *Terms of Service* as a result of The Payment Services Regulations 2017 changes that went live in January 2018 and the new General Data Protection Regulation (GDPR), which will come into force in May 2018.

The variations below that relate to the Payment Services Regulations (in green text) are effective immediately. The remaining variations relate to the GDPR and will be effective from 25th May 2018.

This document should be read in conjunction with our *Terms of Service*. Please retain this document for future reference.

2. CHANGES TO THE AGREEMENT – the following clause has been updated:

2.6 If you are a Micro Enterprise or a Small Charity:

- GPN will notify you of any change proposed pursuant to clauses 2.1, 2.2 and 2.4 at least two (2) months prior to the date on which such change is due to take effect;
- **you may give GPN written notice that you do not accept such change and wish to terminate this Agreement at any time before such change comes into effect;** and
- if you do not notify GPN as set out above you will be deemed to have accepted the change and it will take effect automatically in accordance with the notice provided by GPN and you will not have any right to terminate this Agreement as a result of such change.

3. OTHER TERMS EXPLAINED – six new definitions have been added:

- **“Data Protection Laws”** means the Data Protection Act 1998, and from 25th May 2018, the General Data Protection Regulation (EU) 2016/679 and any implementing legislation in the UK.
- **“Data Security Incident”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- **“International Transfer”** means a transfer to a country outside the European Economic Area (EEA) (as it is made up from time to time) of Personal Data which is undergoing processing or which is intended to be processed after transfer.
- **“Personal Data”** means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one 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.
- **“Regulated Card”** means a card-based payment instrument as defined in Article 2(20) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions, excluding where the instrument is issued by an issuer located outside of the EEA and commercial cards as defined in Article 2(6) of Regulation (EU) 2015/751.
- **“Sub-Processor”** means any third party appointed by GPN to process Personal Data.

4. ACCEPTANCE OF CARDS

The following clause has been updated:

- #### 4.7
- A different price from the cash price may be charged for transactions by credit and debit cards (on all card types, with the exception of Regulated Cards and UnionPay cards, where it is strictly not allowed). If you choose to surcharge for accepting non-Regulated Cards, then you must not charge surcharges that exceed the costs borne by you for accepting those cards as a method of payment.** If you intend to surcharge, then any pricing differential must be clear to cardholders before payment is made and you must display prominently at the point of sale both the intention to surcharge and the surcharge amount or basis of its calculation so that the cardholder is aware of this information before choosing a method of payment.

The following clause has now been removed and all subsequent clause numbers have been amended:

4.8 ~~You must not impose any minimum or maximum transaction values for the use of cards.~~

A new clause has been added and all subsequent clause numbers remain the same:

4.18 Where you reserve an amount of money on a card to make sure that there are sufficient funds for a future transaction (for example, if a cardholder stays in a hotel room), you must agree the exact amount to be taken with the cardholder before you reserve any funds.

14. AGREEMENT TERM AND ENDING THE AGREEMENT – the following clause has been updated:

14.4 Notwithstanding anything to the contrary set forth herein, in the event you terminate the Agreement in accordance with clause 14.2 or if GPN ends the Agreement in accordance with clause 14.3 or 14.6, if either occurs within the first **six (6) months** of the Agreement, then you shall pay GPN £150 in respect of our reasonable administrative costs. Such amount shall be in addition to any other remedies available to GPN.

18. DATA PROTECTION – This new clause replaces the current clause 18 entitled 'Your Information'. This new clause must be read in conjunction with the Merchant Data Processing Notice.

In this clause, for sole traders, partnerships and other un-incorporated customers "you" or "Merchant" means the individuals who own the business and for corporate customers "you" or "Merchant" means both the company and (if applicable), the directors, officers, shareholders and other parties responsible for the operation of the business. Unless otherwise stated below, in this clause 18 "we", "us" and "our" refer to one or more of GPN, Global Payments U.K. Ltd and Group Companies; "Group Companies" refers to companies within the Global Payments group, including without limitation subsidiaries, associated and affiliated companies.

18.1 **Merchant Data Processing Notice** – The Merchant Data Processing Notice ("Notice") sets out how we collect and use your Personal Data, and any individuals who provide us with Personal Data in order to procure Card Processing Services ("Services").

18.2 **Data Sharing with Credit Reference Agencies (CRA), Fraud Prevention Agencies and Law Enforcement** – GPN may exchange information with CRAs, Fraud Prevention Agencies, Law Enforcement and Debt Recovery Agencies, the Card Schemes and other organisations, in accordance with the Notice.

GPN may share with CRAs the details of how you manage any card processing services. If GPN makes demands for repayment following any default by you and you fail to repay the sum due in full or make (and adhere to) acceptable proposals for repayment within twenty eight (28) days, then in the absence of any genuine dispute about the amount owed, GPN may register the default with CRAs. This may affect your ability to obtain further credit.

If GPN terminates or suspends service under this Agreement under clause 14.6, GPN may pass details of the reason it is terminating or suspending service under the Agreement together with details of your business including without limitation the names and addresses of the principal proprietors or directors, to fraud prevention databases operated by Card Schemes. The types of reason which may be notified to Card Schemes include, but are not limited to, circumstances such as insolvency, breach of the Agreement or excessive levels of fraudulent transactions or Chargebacks. If we have terminated your UnionPay acceptance under clause 14.6, we will inform UnionPay in writing that we have terminated our agreement with you to process UnionPay transactions. UnionPay will then add you to their "Negative File" a list of all merchants who are suspended from UnionPay card payment acceptance. Any merchant who is placed on the Negative File will not be allowed to enter into a new UnionPay agreement for two (2) years after termination. Should you enter into a new UnionPay agreement within this time period a warning will be issued by UnionPay to your new card processor and UnionPay will be entitled to terminate the processing of any transactions that you submit during this two (2) year suspension period. By signing the *Service Schedule* or accepting your first UnionPay transaction you confirm that you have not had UnionPay card acceptance terminated by any card processor within the last two (2) years.

- 18.3 **Confidentiality** - Since the documents constituting the Agreement contain certain information designed to help you reduce the risk of fraud you must keep them secure and not disclose them to the general public.
- 18.4 **Data Processing** – This provision sets out the obligations and rights of the parties with regard to processing of Personal Data to provide Services under this Agreement, as required by the Data Protection Laws. In particular, it sets out, in relation to the processing:
- Subject matter, nature and purpose – the processing of data in the course of providing card processing services, in order to permit the Merchant to take payment from customers for goods or services
 - Duration – the term of this Agreement
 - Type of personal data – transactional data required for the provision of the Services, including card number
 - Categories of data subjects – customers of the Merchant who engage in payment card transactions.

You authorise GPN to process the Personal Data during the term of this Agreement. You warrant that you have all necessary rights to authorise GPN to process Personal Data in accordance with this Agreement and the Data Protection Laws, and that your instructions to GPN relating to processing of Personal Data will not put GPN in breach of Data Protection Laws, including with regard to transfer of Personal Data outside the UK or EEA.

If GPN considers that any of your instructions relating to processing of Personal Data may put GPN in breach of Data Protection Laws, GPN will be entitled not to carry out that processing and will not be in breach of this Agreement or otherwise liable to you as a result of its failure to carry out that processing.

GPN will process the Personal Data only on your documented instructions (including this Agreement), unless GPN or the relevant Sub-Processor is required to process Personal Data to comply with applicable laws, in which case GPN will notify you of such legal requirement prior to such processing unless such applicable laws prohibit notice on public interest grounds. Nothing in this clause will permit you to vary GPN's obligations under this Agreement.

GPN will ensure that any individual authorised to process Personal Data is subject to appropriate confidentiality obligations and comply with this clause 18.4.

GPN will delete or return to you all Personal Data after the end of the provision of Services relating to processing, and delete any remaining copies. GPN will be entitled to retain any Personal Data which it has to keep to comply with any applicable law or which it is required to retain for insurance, accounting, taxation or record keeping purposes.

You authorise GPN to engage any person as a Sub-Processor for the processing of Personal Data. We will inform you of any intended changes concerning the addition or replacement of Sub-Processors, thereby giving you the opportunity to object to such changes. If you object to such a change and GPN is not reasonably able to make such adjustments to remove the objection, you will be entitled to terminate this Agreement by giving not less than one (1) months' written notice to that effect to GPN.

If GPN appoints a Sub-Processor, GPN will put a written contract in place between GPN and the Sub-Processor that specifies the Sub-Processor's processing activities and imposes on the Sub-Processor substantially similar terms to those imposed on GPN in this clause 18. GPN will remain liable to you for performance of the Sub-Processor's obligations. If GPN makes any transfers of Personal Data outside the UK or EEA in relation to its provision of the Services, it will comply with the Data Protection Laws, and will execute such documents or take such actions as may be required to assist with such compliance.

GPN will implement appropriate technical and organisational measures to protect against a Data Security Incident, and notify you without undue delay after becoming aware of a Data Security Incident, and will provide reasonable assistance to you (at your cost) in:

- complying with your obligations under the Data Protection Laws relating to the security of processing Personal Data;

- responding to requests within the timescales required by the Data Protection Laws for exercising data subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
- documenting any Data Security Incidents and reporting any Data Security Incidents to any supervisory authority and/or data subjects; and
- conducting privacy impact assessments of any processing operations and consulting with supervisory authorities, data subjects and their representatives accordingly.

GPN will make available to you all information necessary to demonstrate compliance with the obligations set out in this clause 18.4.

20. MISCELLANEOUS

The following is a new clause and all subsequent clause numbers have been amended:

20.5 We will contact you by telephone, email or text message if we need to tell you about suspected or actual fraud, or a security threat.

The following clause, previously 20.13, has been updated:

20.14 Payment Services Regulations Applicability and Warranties.

The parties agree that unless you are a Micro Enterprise or Small Charity:

- the provisions of **Part 6** of the Payment Services Regulations (**SI 2017/752**) (the "Regulations"); and
- all of regulations **66(1), 67(3) or (4), 75, 77, 79, 80, 83, 91, 92, 94** of **Part 7** of the Regulations do not apply to the Agreement, and
- a different time period applies for the purposes of regulation **74(1)** of **Part 7** of the Regulations.

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Global Payments is the trading name of GPUK LLP. GPUK LLP is authorised by the Financial Conduct Authority under the Payment Services Regulations 2017 (504290) for the provision of payment services and under the Consumer Credit Act (714439) for the undertaking of terminal rental agreements.

GPUK LLP is a limited liability partnership registered in England number OC337146. Registered Office: 51, De Montfort Street, Leicester, LE1 7BB. The members are Global Payments U.K. Limited and Global Payments U.K. 2 Limited. Service of any documents relating to the business will be effective if served at the Registered Office.