

1. DEFINITIONS AND INTERPRETATION

In this agreement, unless the context indicates otherwise:

1.1 Definitions:

"Acquirer" means a bank or any financial institution or a card issuer of financial or non-financial transactions which receives and accepts Payment Express Supported Transactions from merchants;

"Agreement" means this agreement, including these terms and conditions, the Application Form and any other specific terms DPS advises or confirms with Customer in writing prior to the Commencement Date (Specific Terms), as each may be amended from time to time by written agreement between the parties;

"Application Form" means Customer's online Payment Express application form submitted to DPS;

"Business Day" means any day of the week except Saturday, Sunday or a statutory public holiday in the jurisdiction in which DPS is located;

"Commencement Date" means the date on which DPS supplies or makes available Payment Express to Customer;

"Confidential Information" means in relation to either party, any information:

- (a) relating to the terms of this Agreement;
- (b) relating directly or indirectly to research or development by, accounting for or the marketing of the business of that party or its suppliers or customers;
- (c) disclosed by that party to the other party on the express basis that such information is confidential; or
- (d) which might reasonably be expected by the other party to be confidential in nature;

"Customer" means the person or organisation to which DPS has agreed to supply Payment Express and provide the Support Services in accordance with the terms and conditions set out in this Agreement;

"Default Interest Rate" means interest at the rate of 2% above the base lending rate charged by DPS's bankers from time to time;

"Documentation" means any user, training or system manuals for Payment Express (whether in printed or electronic form) which describes and provides guidance on Payment Express (or any aspect of Payment Express);

"DPS" means, if Customer's physical address (as recorded in the Application Form) is in:

- (a) Australia, Direct Payment Solutions Australia Pty Limited, a company incorporated in Australia (ACN 111 433 339);
- (b) any other country, Direct Payment Solutions International Limited, a company incorporated in New Zealand (company number 1278310);

"DPS Logo" means the DPS logo supplied (in electronic format) by DPS to Customer (as may be updated from time to time by DPS);

"DPS Website" is defined in clause 5.5;

"Intellectual" Property means registered and unregistered trademarks (including logos and trade files), domain names, copyright, patents, petty patents, utility models, registered and unregistered designs, circuit layouts, rights in computer software, databases and lists, confidential information, software (whether in object code or source code), and all other rights anywhere in the world resulting from intellectual activity;

"Payment Express" means the Payment Express solution provided by DPS for the transmission of data relating to Payment Express Supported Transactions, between a merchant and an Acquirer, incorporating certain software owned or licensed by DPS (including all upgrades, updates, alterations and modifications to such software by or on

behalf of DPS from time to time) and including access (via the internet) to the Payment Express Host and the Support Services;

"Payment Express Host" means the DPS host server known as Payment Express Host to which Customer may be connected using the software forming part of Payment Express and which is in turn linked to an Acquirer to enable Payment Express Supported Transactions to be processed in real time;

"Payment Express Supported Transactions" means transactions entered into by merchants which relate to:

(a) accepting payment for goods and services by means of credit card, debit card, prepaid card, gift card or any other means of payment which DPS agrees in writing to support and process through the Payment Express solution from time to time;

(b) accepting loyalty cards, rewards cards, points cards, discount cards or club cards; or

(c) providing services in relation to the sale and use of any of the cards referred to in paragraphs (a) and (b) above, including the issue of such cards and the crediting or debiting of value to such cards;

"PCI Standards" means the Payment Card Industry standards, requirements and guidelines issued by the Payment Card Industry Data Security Council from time to time including the Payment Card Industry Data Security Standard, PIN Entry Device requirements and guidelines, and the Payment Application Data Security Standard;

"Permitted Use" means the transmission to, and receipt from, an Acquirer of data relating to Payment Express Supported Transactions processed by Customer but expressly excludes, without limitation, use for the processing of any transactions of, or for the benefit of, any person other than Customer;

"Related Company" has the meaning given to that term in section 2(3) of the Companies Act 1993 (New Zealand) except that all references in that definition to a "company" will be deemed to include a company or body corporate incorporated outside of New Zealand;

"Security Standards" means each of:

(a) any data protection or data security standards issued by an Acquirer which receives and accepts Payment Express Supported Transactions from Customer; and

(b) the PCI Standards;

"Support Hours" means the period from 9am to 5pm (NZST) on any day of the week except Saturday, Sunday or a statutory public holiday in Auckland, New Zealand;

"Support Services" has the meaning given to that term in clause 5.1; and

"Transaction" means a message pair consisting of a message relating to a Payment Express Supported Transaction transmitted by Customer to an Acquirer through Payment Express and a response to that message from the Acquirer to Customer through Payment Express.

1.2 Interpretation: In this Agreement, unless the context indicates otherwise:

(a) the singular includes the plural and vice versa;

(b) clause and other headings are for ease of reference only and will not affect this Agreement's interpretation;

(c) the term "includes" or "including" (or any similar expression) is deemed to be followed by the words "without limitation";

(d) references to a "person" include an individual, company, corporation, partnership, firm, joint venture, association, trust, unincorporated body of persons, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal identity;

(e) any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;

- (f) references to "clauses" are to clauses in this Agreement;
- (g) references to any "party" are references to a party to this Agreement (including the successors and permitted assigns of that party);
- (h) references to "the jurisdiction in which DPS is located" are references to:
 - (i) where the country in which DPS is subject to both state and federal laws, the jurisdiction of the state of that country in which DPS has its registered office; or
 - (ii) where paragraph (i) above does not apply, the jurisdiction of the country in which DPS is incorporated;
- (i) all monetary amounts are stated exclusive of tax (including any applicable goods and services tax, value added tax or similar);
- (j) in the event of any inconsistency between the terms of any of the following, they will have precedence in the descending order of priority set out below:
 - (i) these terms and conditions;
 - (ii) the Specific Terms;
 - (iii) the Application Form.

2. TERM AND CUSTOMISED AGREEMENT

2.1 Term: This Agreement commences on the Commencement Date and will continue until terminated under clause 2.2, 14.1 or 14.2.

2.2 Customised Agreement: If DPS or one of its Related Companies and Customer have entered into a separate customised written agreement for the supply of Payment Express (Customised Agreement), the Customised Agreement will govern Customer's use of Payment Express and this Agreement will terminate, with immediate effect.

3. LICENCE

3.1 Grant of Licence: DPS grants to Customer a non-exclusive, non-transferable licence to use Payment Express and the Documentation for the term of this Agreement solely for the purposes of the Permitted Use. Except as and to the extent authorised under any applicable laws, any other use or dealings with Payment Express, the Documentation or any software forming part of Payment Express without the prior written consent of DPS will be a material breach of this Agreement. Except to the extent specifically authorised under this Agreement, Customer must not sub-license, transfer, assign, rent or sell any of Payment Express or the Documentation or the right to use Payment Express.

3.2 DPS Warranty: DPS warrants that DPS has the right and authority to grant to Customer the licence set out in clause 3.1, in accordance with the terms of this Agreement.

4. TERMS OF USE

4.1 Adequacy: Customer must satisfy itself as to the adequacy, appropriateness and compatibility of Payment Express for its requirements. Without limiting clause 8.1, Customer acknowledges that it has not relied on any statements or representations on the part of DPS as to performance, functionality or suitability for Customer's requirements, verbal or otherwise, except as expressly recorded in this Agreement.

4.2 DPS Logo: If Customer uses a data capture method for processing Payment Express Supported Transactions using a system which is not hosted by DPS, Customer agrees to

display the DPS Logo in a readily visible position on the user interface of Customer's system where the data is captured. The DPS Logo must not be altered or used for any other purpose without the prior written consent of DPS.

4.3 Compliance: If Customer is not compliant with the Security Standards, Customer must not capture or store any card number, card expiry date or cardholder details locally on Customer's or a third party's non-compliant system.

4.4 No Right to Copy, Alter or Modify: Subject to clause 4.8, Customer must not, and must not permit any other person to, copy, reproduce, translate, adapt, vary, repair or modify all or any of Payment Express or the Documentation by any means or in any form without DPS's prior written consent.

4.5 Permitted Use: Except as and to the extent authorised under any applicable laws, Customer may not:

(a) use Payment Express or the Documentation for any purpose other than the Permitted Use; or

(b) use the software forming part of Payment Express independently of the other components of Payment Express unless DPS has given prior written consent to do so.

If this Agreement is terminated or expires, Customer's right to use Payment Express and the Documentation will automatically terminate and Customer must immediately remove all copies of the software forming part of Payment Express from its system(s).

4.6 Reverse Engineering: Customer must not, and must not permit any other person to, reverse assemble or decompile the whole or any part of the software forming part of Payment Express.

4.7 No Third Party Use: Except as expressly provided for in this Agreement, Customer must not provide, or otherwise make available, Payment Express or any component of Payment Express in any form to any person (Third Party) without the prior written consent of DPS. If DPS grants such consent, Customer must ensure that the Third Party complies with the provisions of clauses 3, 4, 11 and 15 (so far as those provisions relate to Customer) as if the Third Party were a party to this Agreement. Customer will be liable to DPS for all acts or omissions of any Third Party in contravention of the provisions of clauses 3, 4, 11 and 15.

4.8 Backup Copies: Customer may make a reasonable number of copies of the software forming part of Payment Express for backup and disaster recovery purposes only.

5. SUPPORT SERVICES

5.1 Support: Subject to the terms of any Customised Agreement, DPS will provide the following support services (Support Services) to Customer:

(a) General end user support in respect of the use of Payment Express and the DPS Website, including support for user enquiries such as forgotten passwords, assistance with any failure in the transmission of Transactions, the activation of maintenance releases and bug fixes and any other request which does not fall into the developer support category as described in paragraph (b) but does not involve developing any enhancements, modifications or customisations of Payment Express. General user support may be requested by sending an email to support@paymentexpress.com or by calling +64 9 309 4693 during Support Hours.

(b) Developer support where Customer is integrating its specific applications with Payment Express for non-live configurations. Where DPS has consented to Customer making Payment Express available to third parties in accordance with clause 4.7, DPS will also provide developer support where Customer is integrating third party customer specific applications with Payment Express for non-live configurations. Information and documentation for developers is available on DPS's website, and additional developer support may be requested

by sending an email to support@paymentexpress.com or by calling +64 9 309 4693 during Support Hours.

DPS will endeavour to acknowledge receipt of, and address, any requests for Support Services within (in each case) a reasonable timeframe.

5.2 Defect in Software: DPS will correct any defect in the software forming part of Payment Express which is notified to DPS within 90 days of supply of Payment Express to Customer, provided that Customer has complied with all of DPS's recommendations and instructions relating to installation and use of Payment Express. This obligation will not apply if any defect in the software or any failure of the software results from accident, abuse or misuse of Payment Express by Customer or any breach of clause 4.

5.3 Other Services: If Customer requires services additional to the Support Services, DPS may, if it agrees to provide those services to Customer, charge Customer for those services on a time and materials basis and on such other terms and conditions as may be agreed between the parties.

5.4 Alterations to Payment Express: DPS may, at its sole discretion, alter, upgrade, update or change Payment Express at any time during the term of this Agreement. Where DPS believes that such alteration, upgrade, update or change will, or is likely to, materially affect Customer's use of Payment Express, DPS will endeavour to notify Customer of this in advance. Customer acknowledges and agrees that, if Customer fails to promptly install all updates to any software forming part of Payment Express supplied to Customer by DPS in connection with this Agreement, Customer may be unable to process Transactions and that: (a) DPS will not be liable to Customer under this Agreement in respect of such inability; and (b) DPS will be released from any obligation to supply the Support Services during any period which Customer has failed to install any such update.

5.5 Website: DPS may from time to time maintain a website accessible by Customer for viewing Transactions, data entry, report generating and other features related to Transactions (DPS Website). Customer acknowledges and agrees that DPS may, at its sole discretion, determine what information, data, features and functionality is made available to Customer via the DPS Website. Customer agrees to comply with any terms that DPS may specify in relation to Customer's use of the DPS Website. In the event of any inconsistency between the terms and conditions of this Agreement and those on the DPS Website, the terms and conditions of this Agreement will apply to the extent of that inconsistency. DPS will supply Customer with user names and passwords to enable Customer to access the DPS Website. Customer must keep such user names and passwords secure and made known only to authorised users and will be responsible for all use of the DPS Website, both during and after the term of this Agreement, through use of Customer's user names and passwords. If Customer breaches any term of this Agreement or the terms of use of the DPS Website, DPS may disable Customer's user names and passwords.

6. PAYMENT

6.1 Fees: Customer will pay DPS the applicable fees for Customer's nominated pricing plan published or notified by DPS from time to time in respect of Customer's use of Payment Express. DPS may alter the fees payable by Customer at any time. DPS will endeavour to give Customer at least 2 months' prior written notice of any increase in the fees payable by Customer to DPS. Each invoice received by Customer from DPS will be payable, without set off or deduction, no later than the 10th day of the month following the date of invoice.

6.2 Taxes: Customer is responsible for all taxes, duties and levies (including any applicable goods and services tax, value added tax or similar, but excluding DPS's income tax) assessed

in connection with its use of Payment Express and the provision of services under this Agreement.

6.3 Default Interest for Late Payment: Customer must pay DPS interest at the Default Interest Rate on any overdue amounts under this Agreement, calculated daily from the due date until the actual day of payment. Customer will pay DPS all reasonable costs (including collection costs and legal costs on a solicitor-client basis) that DPS incurs in attempting to recover or recovering any such overdue amounts.

6.4 Disputed Invoices: Where Customer has reasonable grounds to dispute any portion of any amount invoiced by DPS to Customer under this Agreement (Disputed Portion):

(a) Customer will notify DPS of such dispute and the grounds for such dispute within 5 Business Days of receiving that invoice;

(b) any undisputed portion of the invoice will remain payable on the due date for payment;

(c) provided that Customer has complied with clause 6.4(a), Customer will not be required to pay:

(i) the Disputed Portion until the parties' dispute has been resolved by agreement between the parties or in accordance with clause 17.2; or

(ii) any interest under clause 6.3 on the Disputed Portion unless the dispute is resolved with the effect that Customer is required to pay all (or part) of the Disputed Portion, in which case Customer will pay the interest on the Disputed Portion (or that part of that Disputed Portion) in accordance with clause 6.3. Interest will be payable from the date that payment would have been due under clause 6.1 but for the dispute until the date that the Disputed Portion (or that part of the Disputed Portion) is paid to DPS in full.

7. JOINT RESPONSIBILITIES

Each party represents and agrees:

7.1 Power and Authority: that it has full power and authority necessary to validly enter into and perform all its obligations under this Agreement; and

7.2 Requirements: to comply with the other party's reasonable security, confidentiality and operational requirements of which it has been given reasonable notice.

8. CUSTOMER RESPONSIBILITIES

Customer:

8.1 Suitability: acknowledges that it has made and will continue to make its own assessment of the suitability, adequacy, compatibility and appropriateness of Payment Express for its purposes;

8.2 Comply with Instructions: will comply with DPS's restrictions and instructions in relation to the use of Payment Express, including those set out in this Agreement;

8.3 Use by Others: will ensure that only authorised persons use Payment Express and that Payment Express is used only for the Permitted Use and as expressly authorised under this Agreement;

8.4 Responsibility for Use: will accept all responsibility for reliance on and use of Payment Express by Customer and its employees, contractors, and agents;

8.5 Obtain Equipment etc: will obtain and maintain all equipment, software and services needed to enable it to receive and use Payment Express;

8.6 Accurate Customer Information: warrants that all information provided by Customer to DPS in the Application Form is accurate and correct, and that Customer will notify DPS in writing if such information changes or ceases to be accurate in any way;

8.7 Provide Sufficient Information: will ensure that sufficient information is given to DPS to enable DPS to comply with its obligations under this Agreement and that such information is timely, complete and accurate;

8.8 Personal Information: acknowledges that any personal information concerning Customer or its personnel which is provided to DPS by or on behalf of Customer may be:

(a) used by DPS for the purpose of providing Payment Express, the Support Services and any other services to Customer; and

(b) disclosed by DPS to its Related Companies and other services providers to enable DPS to provide Payment Express, the Support Services and any other services to Customer;

8.9 Notify of Third Party Infringement: will immediately notify DPS upon becoming aware of any third party infringing DPS's Intellectual Property rights in any manner;

8.10 Responsible for Connecting to Payment Express Host: is responsible for all charges and costs associated with connecting to the Payment Express Host to operate Payment Express. DPS will provide Customer with reasonable technical information necessary to enable Customer to connect to the Payment Express Host; and

8.11 Comply with Law Generally: will comply with all relevant laws, including all statutory, regulatory and common laws, in its use of Payment Express and carrying out its obligations under this Agreement.

9. DPS'S GENERAL RESPONSIBILITIES

DPS will:

9.1 Care and Skill: perform its obligations under this Agreement with care, skill and diligence; and

9.2 Comply with Law and Co-operate: comply with all relevant laws and co-operate with Customer (and Customer's service providers) in connection with Payment Express.

10. DPS'S WARRANTIES

10.1 DPS Warranties:

10.1 PCI Standards: DPS confirms that DPS will throughout the term of this Agreement comply with the requirements of the PCI Standards.

10.2 Limitations on Warranties: To the fullest extent permitted by law, except as expressly set out in this Agreement, DPS excludes all warranties, conditions, terms, representations or undertakings, whether express, implied, statutory or otherwise, including without limitation any condition or warranty of merchantability or fitness for a particular purpose. DPS does not warrant that:

(a) Payment Express will meet Customer's requirements; or

(b) Payment Express will be uninterrupted or error free, or that all errors will be corrected.

11. INTELLECTUAL PROPERTY

All Intellectual Property rights in Payment Express are exclusively owned by DPS (or DPS's licensors). Customer acknowledges that there is no transfer of title, Intellectual Property

rights or ownership of Payment Express or any part of Payment Express to Customer under this agreement.

11.1 Payment Express or any part of Payment Express; or

11.2 any Developed Works;

to Customer under this Agreement and Customer will not dispute DPS's (or DPS's licensors' or suppliers') ownership of the property referred to in this clause 11.

12. INDEMNITIES

12.1 DPS Indemnity: Subject to clause 13, DPS will indemnify Customer against any loss, damage or cost suffered or incurred by Customer arising from any successful third party claim against Customer that Payment Express infringes any patent or copyright of that third party, provided that:

(a) the claim has not, in part or full, arisen from misconduct, negligence or breach of this Agreement by Customer or any of its personnel or agents;

(b) Customer notifies DPS in writing within 5 Business Days of the claim;

(c) Customer gives DPS sole control of the defence of the claim and all related settlement negotiations;

(d) Customer gives DPS the assistance, information and authority necessary to defend and/or settle the claim (and any reasonable out-of-pocket expenses incurred by Customer in providing such assistance will be reimbursed by DPS); and

(e) Customer has not made any admission of liability in respect of the claim.

12.2 Mutual Indemnities: Subject to clause 13, each party (First Party) indemnifies the other at all times against any loss, damage or cost (including all reasonable legal expenses on a solicitor and client basis) suffered or incurred by the other party as a direct result of any negligent act or omission, or breach of this Agreement by the First Party, its personnel or agents.

13. LIABILITY

To the fullest extent permitted by applicable law:

13.1 Remedy: subject to clauses 13.2 and 13.3, Customer's sole and exclusive remedy for breach of any warranty or of any of DPS's obligations under this Agreement is (at DPS's option) the supply or re-supply of Payment Express or refund or waiver of fees for the relevant part of Payment Express which is the subject matter of, or directly related to, the breach;

13.2 Limitation: in no event will DPS's total liability to Customer under this Agreement exceed the amount paid by Customer to DPS under this Agreement in the 3 months following the Commencement Date;

13.3 Exclusion: in no event will DPS be liable to Customer whether in contract, tort (including negligence) or otherwise in respect of any:

(a) loss of data, lost profits, loss of revenue, loss of goodwill, loss of business or for any indirect, consequential or special loss, damage, cost or expense suffered or incurred by Customer arising out of or in connection with this Agreement;

(b) loss, damage, cost or expense suffered or incurred by Customer, to the extent to which this results from any act or omission by Customer; or

(c) any event described in clause 16.

14. TERMINATION

14.1 Termination for Convenience: Either party may terminate this Agreement at any time on not less than 3 months' prior written notice to the other party.

14.2 Termination for Cause: Either party (the First Party) may terminate this Agreement at any time and with immediate effect by written notice to the other party (the Second Party) if the Second Party:

(a) is in material breach of any of its obligations under this Agreement and that breach is not capable of remedy, or where it is capable of remedy, the Second Party, has failed to remedy the breach within 20 Business Days of receiving written notice from the First Party to remedy the breach; or

(b) goes into liquidation, has a receiver appointed or is unable to pay its debts as they fall due.

14.3 Breach of Licence Terms: Without limiting clause 14.1(b), any use of Payment Express by Customer for any purpose other than the Permitted Use, or any breach by Customer of the provisions of clause 4, will be deemed to be a material breach of this Agreement which is not reasonably capable of remedy.

14.4 Consequences: Expiry or termination of this Agreement will not affect the rights or obligations of the parties which have accrued prior to or accrue on termination or which by their nature are intended to survive termination (including clauses 6, 10.2, 11, 13, this 14.3, 15, 17.2 and 17.6, together with those clauses which are incidental to, and required in order to give effect to, those clauses).

15. CONFIDENTIALITY

15.1 Confidential Information: Each party will maintain as confidential at all times, and will not at any time, directly or indirectly:

(a) disclose or permit to be disclosed to any person; or

(b) use for itself or to the detriment of the other party;

any Confidential Information of the other party except as, and then only to the extent:

(c) required by law;

(d) that the information is already or becomes public knowledge, otherwise than as a result of a breach, by the receiving party, of any provision of this Agreement;

(e) that the information is disclosed to the receiving party, without restriction, by a third party and without any breach of confidentiality by the third party;

(f) that the information is developed independently by the receiving party without reliance on any of the Confidential Information of the other party;

(g) as authorised in writing by the other party; or

(h) reasonably required by this Agreement (and, without limiting the effect of this clause, a party may disclose Confidential Information of the other party only to those of its officers, employees or professional advisers on a "need to know" basis, as is reasonably required for the implementation of this Agreement).

15.2 DPS IP: Without limiting the effect of this clause, Customer will treat information about DPS's Intellectual Property as the Confidential Information of DPS.

16. FORCE MAJEURE

Neither party (Affected Party) will be liable for any act, omission or failure by it under this Agreement if that act, omission or failure results directly from an event or circumstances beyond the reasonable control of the Affected Party, provided that:

16.1 whenever the Affected Party becomes aware that such a result has occurred or is likely to occur, the Affected Party will, as soon as practicable, notify the other party by written notice accordingly;

16.2 each party will continue to use its best endeavours to perform its obligations as required under this Agreement;

16.3 neither party will be deemed to have accepted any liability to pay or share any extra costs which may be incurred by the other party in complying with this clause 16 or otherwise resulting from such act, omission or failure; and

16.4 this clause 16 will not apply in respect of Customer's obligation to pay any charges or fees payable under this Agreement.

17. GENERAL

17.1 Entire Agreement: This Agreement records the entire arrangement between the parties relating to all matters dealt with in this Agreement and shall supersede all previous arrangements, whether written, oral or both, relating to such matters.

17.2 Disputes: If the parties fail to negotiate a resolution to a dispute within a reasonable time (at most 20 Business Days from formal notice of the dispute being given by one party to the other), either party may require that the dispute be submitted to mediation, such mediation to take place in the jurisdiction in which DPS is located. If the parties fail to agree on a mediator within 5 Business Days after the submission to mediation, one will be appointed by DPS. In the event of any submission to mediation:

(a) the mediator will not be acting as an expert or as an arbitrator;

(b) the mediator will determine the procedure and timetable for the mediation; and

(c) the parties will share equally the cost of the mediation.

All discussions in mediation will be without prejudice and will not be referred to in any later proceedings (if any).

Neither party may issue any legal proceedings (other than for urgent interlocutory relief) relating to any dispute, unless that party has first taken all reasonable steps to comply with the dispute resolution process above.

17.3 Assignment: DPS may assign all or any of its rights and obligations under this Agreement to any person without Customer's consent. Customer may not transfer or assign any of its liabilities or rights under this Agreement to any other person without DPS's prior written consent (such consent not to be unreasonably withheld provided DPS is satisfied as to the suitability of the assignee and Customer meets DPS's reasonable costs in relation to the assignment).

17.4 Waiver: No waiver of any breach, or failure to enforce any provision, of this Agreement at any time by either party shall in any way limit or waive the right of such party to subsequently enforce and compel strict compliance with the provisions of this Agreement.

17.5 Amendment: No amendment to this Agreement will be valid unless recorded in writing and signed by a duly authorised senior representative of each party.

17.6 Governing Law and Jurisdiction: This Agreement is governed by the laws of the jurisdiction in which DPS is located and the parties submit to the non-exclusive jurisdiction of the courts in that jurisdiction in respect of all matters relating to this Agreement.

17.7 Remedies: The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law.

17.8 Subcontracting: DPS may appoint subcontractors to perform any of its obligations under this Agreement. DPS will, at all times, remain primarily liable to Customer for all acts or omissions of any subcontractor appointed by DPS.

17.9 Notices: Any written notice or other communication to be given under this Agreement will be deemed validly given if:

(a) in the case of notices to Customer, delivered by hand, registered mail, facsimile or email to Customer at the respective addresses specified in the Application Form;

(b) in the case of notices to DPS, sent by email to DPS at support@paymentexpress.com Receipt shall be deemed upon delivery by hand, 5 Business Days after posting, upon the sender's facsimile machine generating an error free facsimile transmission confirmation, or at the time at which the email is sent unless the sender subsequently receives an email delivery failure notification or similar (whichever is applicable).