



## Schedule 4 – Payment Facilitating Services Terms and Conditions

This Schedule 4 applies ONLY if the Merchant uses the Payment Facilitating Services, in addition to all other terms of the Agreement.

### 1. PROVISION OF THE PAYMENT FACILITATING SERVICES

- 1.1. DNAP agrees to provide the Merchant with the Payment Facilitating Services.
- 1.2. The Payment Facilitating Services shall be provided for the Minimum Term and thereafter unless and until the Agreement is terminated in accordance with its terms.
- 1.3. The Payment Facilitating Services are supplied to the Merchant for the sole purpose of effecting Transactions. Provision of the Payment Terminal is therefore necessary, but ancillary and not the primary substance of these Conditions or the Agreement.

### 2. SERVICES

#### Airtime Service

- 2.1. DNAP will:
  - 2.1.1. fit a SIM Card into and configure each Payment Terminal (where a Payment Terminal is to be provided to the Merchant);
  - 2.1.2. arrange connection to a suitable Network (subject always to clause 2.9);

#### Terminal & Transaction Processing Services

- 2.2. DNAP will:
  - 2.2.1. configure the Payment Terminal with appropriate software for the processing of Transactions by any Card capable of being accepted by the Merchant pursuant to the Acquiring Services;
  - 2.2.2. provide upgrades to such software from time to time;
  - 2.2.3. ensure secure routing for Transactions to and from the Acquirer.

#### Help Desk and Support Service

- 2.3. DNAP will provide a help desk service on the telephone number shown on the Merchant Application Form, available between the hours of 9.00 am and 5.00 pm (UK time) on Business Days.

#### 24hr Swap Out for Payment Terminals

- 2.4. If a Payment Terminal develops a fault, DNAP will, unless prevented by circumstances outside its reasonable control, endeavour to provide a replacement Payment Terminal within 24 hours of being aware of such fault. The Merchant acknowledges that this target response time is DNAP's service level goal and DNAP does not warrant that any particular replacement shall be provided within 24 hours.
- 2.5. Any replacement Payment Terminal shall be provided configured for the Merchant's use and will be of a similar or improved specification to the Payment Terminal it is replacing, but may not be new.
- 2.6. The replacement services under clause 2.4 shall not extend to (and accordingly DNAP shall have no obligation to provide a replacement) where the relevant fault arises out of or relates to:
  - 2.6.1. accidental damage;
  - 2.6.2. misuse or malicious damage;
  - 2.6.3. batteries or battery packs or other Consumables;
  - 2.6.4. Network outages; or
  - 2.6.5. any third-party device, software or attachment that is not provided by DNAP or a Relevant Acquirer.

- 2.7. DNAP shall also have no obligation to replace any Payment Terminal which is lost or stolen. For the avoidance of doubt, the replacement services under clause 2.4 excludes Consumables.

- 2.8. Replacement of a Payment Terminal under clause 2.4 shall be limited to no more than one occasion during the first 12 months following the Commencement Date and no more than two occasions during the Term after that.

- 2.9. DNAP shall be entitled to charge a Replacement Fee in respect of a Payment Terminal which is replaced by DNAP and which, upon inspection, is not found to be faulty or which DNAP was not obliged to replace in accordance with clause 2.6 or 2.7. The Merchant shall pay a Replacement Fee prior to despatch of the replacement Payment Terminal. If following the inspection, DNAP, acting reasonably, determines that the Replacement Fee should not have been paid, DNAP will offset the Replacement Fee against Fees.

### 3. PAYMENT TERMINALS

- 3.1. Payment Terminals will be provided without charge and for the purpose of carrying out Transaction (and for no other purpose). DNAP will



endeavour to deliver the Payment Terminal(s) to the delivery location shown in the Merchant Application Form within a reasonable period after DNAP has approved the Merchant for the Services and collected the Collateral pursuant to clause 2.1 of Schedule 2.

- 3.2. The provision of any Payment Terminal is subject to availability. If a Payment Terminal is not available, DNAP will inform the Merchant and will offer the Merchant an alternative product.
- 3.3. If the Merchant fails to accept delivery of any Payment Terminal (or any part thereof), then, except where such failure is caused by DNAP's failure to comply with its obligations under the Agreement:
  - 3.3.1. delivery of the Payment Terminal(s) shall be deemed to have been completed;
  - 3.3.2. all risk (but, for the avoidance of doubt, not title) in the Payment Terminal shall pass to the Merchant;
  - 3.3.3. DNAP (or its supplier) may store the Payment Terminal until the Merchant takes delivery of the Payment Terminal, whereupon the Merchant shall be liable for all related costs and expenses (including without limitation re-delivery, storage and insurance); and
  - 3.3.4. any discount or other allowance in respect of the Payment Terminal, which is or would be otherwise be allowed to the Merchant, shall be forfeited.
- 3.4. Where DNAP has agreed to load the Merchant's digital file and/or logo on a Payment Terminal or replacement Payment Terminal (as the case may be) to be displayed on the screen or elsewhere, the Merchant is solely responsible for providing the information and designs to be uploaded by DNAP and for updating DNAP with any alterations or changes required to the Merchant's digital file and/or logo. The Merchant shall ensure that it has the necessary rights to enable DNAP to use such digital files and logos and warrants that such use will not infringe the rights (including the IPR) of any third parties. While DNAP will endeavour to ensure that the Merchant's digital file and/or logo is correctly loaded onto the Payment Terminal, DNAP will not be liable to the Merchant for a failure to do so.
- 3.5. DNAP does not warrant that Payment Terminals will be new and the Merchant acknowledges and agrees that any Payment Terminal provided by DNAP may be refurbished.
- 3.6. The Merchant must inspect the Payment Terminal(s) upon delivery and sign a delivery receipt confirming that there are no apparent defects or damages. Thereafter, the Merchant must notify DNAP immediately of any defect or damage to the Payment Terminal(s).
- 3.7. The Merchant must report to DNAP, as soon as practicable, any theft or loss of any Payment Terminal, in writing, providing full details of the date, time and circumstances of the theft or loss (together with a police crime reference number in the case of theft).
- 3.8. The Merchant is solely responsible for providing all Consumables necessary for the operation of the Payment Terminal(s) or associated services and for ensuring that those Consumables are compatible for the Payment Terminal(s).

#### **4. NETWORKS**

- 4.1. DNAP will always try to ensure that the Payment Facilitating Services are available for the processing of Transactions, but sometimes they may be affected by things beyond DNAP's control, including (inter alia) the availability of the Network for use of a Payment Terminal.
- 4.2. The Merchant acknowledges and agrees that the performance of a Payment Terminal is dependent upon it being in range of base stations forming part of the Network and that DNAP shall have no liability in the event that the Payment Terminal is unable to connect properly or at all due to connection difficulties with the Network.
- 4.3. DNAP cannot guarantee Network coverage. If at any time during the Term, Network coverage cannot be obtained by the Merchant, DNAP will assist in finding an alternative Network or Payment Terminal solution where possible, however the Merchant will remain liable for the payment of all Fees and any additional costs relating to the alternative Network or Payment Terminal solution.
- 4.4. In the event that geographic conditions prevent regular connection to a GPRS Network to operate the Payment Terminal, DNAP will work with the Merchant to identify and supply alternative SIM Card(s), if available. If an alternative is not available, DNAP will offer the Merchant an alternative terminal solution that is not reliant on GPRS connectivity. Additional charges may apply for the alternative terminal solution.
- 4.5. While providers of a Network make every effort to ensure the security of their Network, the Merchant acknowledges and agrees that, for reasons beyond the control of DNAP or such provider, there is a risk that the Merchant's communications may be intercepted or accessed by those other than the intended recipient.
- 4.6. Where DNAP provides any Payment Terminal for connection to the Merchant's own WiFi / IP Network:
  - 4.6.1. the Merchant shall be responsible for connecting the Payment Terminal to its WiFi / IP Network according to its own system requirements, but DNAP will provide instructions on how to do this;
  - 4.6.2. it is the Merchant's sole responsibility to provide the necessary a WiFi / IP Network connectivity in order for the Payment Terminal to connect to and that the Payment Terminal will not operate properly (or at all) without such connection;
  - 4.6.3. DNAP is not responsible for the speed, maintenance, connectivity or efficiency of the Merchant's WiFi / IP Network and that responsibility for this lies solely with the Merchant; and
  - 4.6.4. the Merchant is solely responsible for the maintenance of all its in-house systems (including WiFi / IP connections), their features and their PCI DSS compliance.
- 4.7. All numbers allocated by DNAP for use by the Merchant, whether on the Network or otherwise, are not the property of the Merchant and:



- 4.7.1. the Merchant shall use such number only for the purposes for which it has been allocated by DNAP;
- 4.7.2. the Merchant shall not be entitled to use any such number after termination of the Agreement for any reason;
- 4.7.3. DNAP reserves the right to reallocate or change any such number from time to time during the Term and shall have no liability to the Merchant with regard to any such change.
- 4.8. DNAP shall be entitled, at any time, without prior notice and without liability to the Merchant, to withdraw the Payment Facilitating Services (or any part thereof) if the provider of the Network or any SIM Card ceases, withdraws or suspends access to, or availability of, the Network.
- 4.9. The Merchant acknowledges and agrees that it is the Merchant's sole responsibility to provide the Network connectivity where Airtime Services are not provided by DNAP.
- 4.10. The Merchant will remain liable to pay all Fees due under the Agreement notwithstanding any unavailability, suspension or disconnection of the Network or any applicable Payment Facilitating Services.

## **5. MERCHANT WARRANTIES AND OBLIGATIONS**

- 5.1. The Merchant warrants to DNAP that the Merchant will:
  - 5.1.1. use the relevant services outlined in clause 2 only in respect of the Payment Facilitating Services and any SIM Cards provided for use with the Network;
  - 5.1.2. use the Payment Facilitating Services and each SIM Card only for the purposes of processing Transactions and no other purpose;
  - 5.1.3. not modify or remove (or attempt to modify or remove) a SIM Card from the Payment Terminal unless otherwise instructed by DNAP;
  - 5.1.4. to keep each Payment Terminal in the Merchant's own possession in the United Kingdom and not to alter, sell or lend it to a third party without DNAP's prior written consent.
- 5.2. The Merchant shall:
  - 5.2.1. be solely responsible (at the Merchant's own cost) for providing any applicable telecommunications services and correctly configured equipment which is necessary to access or use Payment Facilitating Services;
  - 5.2.2. (unless otherwise agreed by DNAP) be solely responsible for configuration and management of access to the Payment Facilitating Services, including configuration of network, firewall, DNS, routers and any personal computers as well as (where permitted by DNAP) any integration of the Payment Facilitating Services into a website or call centre application;
  - 5.2.3. where material compliance issues are identified in the Merchant's processes or use of the Payment Terminal, implement the recommendations given by DNAP or any appointed PCI Qualified Security Assessor in relation to the Payment Facilitating Services;
  - 5.2.4. (except if and to the extent that DNAP agrees to provide any services or assistance to the Merchant regarding PCI DSS compliance) be solely responsible for being PCI DSS compliant regarding its use of the Payment Facilitating Services;
  - 5.2.5. inform DNAP immediately if there has been (or is likely to be) a breach of security or misuse of the Payment Facilitating Services or associated services;
  - 5.2.6. promptly change any or all of the passwords used in connection with the Payment Facilitating Services or associated services when requested to do so by DNAP;
  - 5.2.7. only access and use the Payment Facilitating Services as permitted by the Agreement and not at any time circumvent (or attempt to circumvent) any security systems or protocols of DNAP or relating to the Payment Facilitating Services;
  - 5.2.8. immediately notify DNAP if the Merchant become aware of any unauthorised use of all or any part of the Payment Facilitating Services;
  - 5.2.9. protect the interests of DNAP and its suppliers in respect of the Payment Terminal(s) and shall not do anything inconsistent with those interests (including attempting to sell or dispose, grant any interest or encumbrance, part possession with, or place any plates, stickers or marks on, the Payment Terminal(s) without the prior written consent of DNAP);
  - 5.2.10. take all reasonable steps to ensure that the Payment Terminal(s) are not confiscated, seized or taken out of the Merchant's possession or control under any distress, execution or other legal process (provided always that if the Payment Terminal(s) are so confiscated, seized or taken, the Merchant shall:
    - 5.2.10.1. immediately notify DNAP
    - 5.2.10.2. use its best endeavours, at its own expense, to procure an immediate release of the Payment Terminal(s); and
    - 5.2.10.3. indemnify the Indemnified Parties and hold them harmless from and against any and all Losses arising out of or in connection with such confiscation;
  - 5.2.11. ensure that at all times the Payment Terminal(s) remains identifiable as being the property of DNAP or its suppliers (as



applicable).

- 5.3. The Merchant acknowledge and agree that if DNAP receive any complaints from any Customer, DNAP will direct the Customer to the Merchant. The Merchant shall be responsible for any complaints with the Customers (including those directed to the Merchant by DNAP) and the Merchant will work in good faith to promptly resolve any such complaints. If a Customer continues to contact DNAP regarding the Merchant's services provided to that Customer, DNAP will make reasonable attempts to discuss the matter with the Merchant but reserve the right to either:
- 5.3.1. suspend the provision of all or any part of the Payment Facilitating Services until such time as DNAP reasonably believe that the complaint has been resolved; or
  - 5.3.2. terminate the Agreement with immediate effect on giving notice to the Merchant.
- 5.4. In the event that the Merchant refuses, for any reason, to accept delivery and/or installation of the Payment Terminal within 28 (twenty-eight) days of DNAP attempting to effect delivery and/or installation:
- 5.4.1. DNAP reserves the right to charge the Merchant (and the Merchant shall pay to DNAP upon demand) a failed delivery fee;
  - 5.4.2. any subsequent delivery or installation of the Payment Terminal will be at the Merchant's expense and be repayable to DNAP on demand;
  - 5.4.3. failure to accept delivery of delivery or installation of the Payment Terminal will not affect any other provision of the Agreement (including the Merchant's obligation to pay Payment Facilitating Services Fees and DNAP's rights to terminate the Agreement).
- 5.5. If the Merchant wishes to take any Payment Terminal outside of the Permitted Country, it must obtain prior written approval from DNAP and give not less than 7 Business Days' notice. The Merchant acknowledges and agrees that additional charges may be payable by the Merchant to DNAP regarding any use of a Payment Terminal outside of the Permitted Country.
- 5.6. DNAP may (at its discretion) suspend the Payment Facilitating Services and/or disconnect any or all Payment Terminal(s) from the Network if the Merchant fail to pay any Fees when due or are otherwise in breach of the Agreement or if DNAP reasonably believes that the Merchant is using the Payment Terminal(s) or Services for illegal purposes or purposes for which it is not intended.
- 5.7. If disconnection occurs by reason of clause 5.6, DNAP may charge a reconnection fee for any subsequent reconnection.

## **6. WARRANTIES**

- 6.1. As the Payment Terminals are not manufactured or produced by DNAP, DNAP does not give any warranties in relation to them. In particular, but without prejudice to the foregoing, DNAP does not warrant that any Payment Terminal: (a) will be error-free or be free of defects; (b) will achieve any particular performance criteria; or (c) will be suitable for the Merchant's particular use or purposes.
- 6.2. DNAP warrants that:
- 6.2.1. it will, throughout the Term, remain certified in accordance with the requirements of PCI DSS; and
  - 6.2.2. that all Payment Terminal(s) provided under the Agreement will, at the time of initial deployment, be PCI PTS approved.

## **7. TERMINATION AND SUSPENSION**

- 7.1. If the Agreement is terminated for any reason before expiry of the Minimum Term (including termination by the Merchant pursuant to clause 3.4 of Schedule 2 or clause 24.2.2 of Schedule 2), in addition to payment of all other relevant Fees, the Merchant shall pay DNAP immediately:
- 7.1.1. a closure fee;
  - 7.1.2. all Payment Facilitating Services Fees which would have been payable for the remainder of the Minimum Term but for such termination; and
  - 7.1.3. any buy-out contribution which is repayable under clause 8.
- 7.2. DNAP may at its discretion, be able to offer a reduction in the amount payable upon termination set out in clause 7.1 in exchange for return of the Payment Terminal and SIM card in good condition and complete with all accessories, power leads, batteries, chargers and handbooks. The Merchant should contact DNAP to make arrangements for redelivery and valuation of the Payment Terminal for this purpose..
- 7.3. Without affecting any other rights or remedies available to DNAP, the Merchant shall be liable to pay to DNAP, on demand:
- 7.3.1. any costs and expenses incurred by DNAP in recovering the Payment Terminal(s) if the Merchant does not, for any reason, return any Payment Terminal to DNAP in accordance with clause 7.2; and
  - 7.3.2. any applicable repair and/or refurbishment costs incurred by DNAP if the Payment Terminals returned by the Merchant (or otherwise recovered by DNAP) are not in a good state of repair and condition (with the exception of fair wear and tear).
- 7.4. DNAP shall have the right at any time without notice and without liability to suspend the Payment Facilitating Services or any part thereof and/or disconnect the Payment Terminal(s) and charge the Merchant a Disconnection Fee in any of the following circumstances:
- 7.4.1. if the quality of the Payment Facilitating Services and/or the SIMs may be or is impaired or otherwise adversely affected due to



any act or omission of You or allowed by the Merchant; or

- 7.4.2. if the Merchant's equipment used in connection with the Payment Facilitating Services infringes or is alleged to infringe the intellectual property rights of a third party; or
- 7.4.3. if DNAP becomes aware of, or have reasonable cause to believe that, fraudulent or unlawful use of the Payment Terminal(s), SIMs and/or the Services is taking place; or
- 7.4.4. if in DNAP's opinion the Merchant fails to take or unreasonably delay in taking any necessary action in respect of fraud or unlawful activity when the particular circumstances of such fraud or activity have been notified to the Merchant by DNAP; or
- 7.4.5. if the Payment Facilitating Services are subject to technical failure, modification or maintenance, or access to the Payment Facilitating Services is denied to DNAP and/or the Network provider for any reason.
- 7.5. If DNAP subsequently resumes provision of the Payment Facilitating Services, or reconnect the Payment Terminal(s) or SIMs to the Payment Facilitating Services, DNAP shall be entitled to charge the Merchant a Reconnection Fee.
- 7.6. In the event that the Merchant fails to comply with Merchant's obligations under the Agreement, DNAP shall have the right (without prejudice to DNAP's other rights and remedies) at any time without notice and without liability to disconnect the Payment Facilitating Services and / or relevant SIMs and charge the Merchant the Disconnection Fee

## 8. BUY-OUT PROVISIONS

- 8.1. This clause 8 applies if the Merchant has terminated the Merchant's agreement (the **Relevant Agreement**) with a third party for the sole purpose of the Merchant entering into the Agreement for the provision of the Payment Facilitating Services by DNAP as a replacement to similar supplies or services provided under such agreement with the third party (the **Relevant Termination**). Notwithstanding the foregoing, the Relevant Termination and the buy-out contribution referred to in clause 8.2 shall not apply if the Merchant has terminated the Relevant Agreement with the third party in breach of its terms, or if such third party terminated the Relevant Agreement as a result of the breach (or suspected breach) by the Merchant of the Relevant Agreement.
- 8.2. DNAP will, at its discretion, contribute to the Merchant an amount equal to the fees payable by the Merchant directly relating to the Relevant Termination pursuant to the terms of the Relevant Agreement, provided always that:
- 8.2.1. the Merchant provides to DNAP, within 3 (three) calendar months of the date of the Agreement, an invoice issued by the third party for such fees;
- 8.2.2. DNAP's contribution shall be limited only to such fees which relate directly to the cost of the Relevant Termination (and not for any other services or other costs or liabilities of the Merchant under or in connection with the Relevant Agreement); and
- 8.2.3. DNAP shall contribute a maximum of £500 (five hundred pounds), including any applicable VAT.
- 8.3. Any buy-out contribution in relation to a Relevant Termination paid by DNAP shall be reimbursed (calculated in accordance with clause 8.4) to DNAP upon demand if the Agreement is terminated before the expiry of the Minimum Term.
- 8.4. The amount of the reimbursement pursuant to clause 8.3 shall be calculated by dividing the amount of the buy-out contribution paid by DNAP by the number of months of the Minimum Term and then multiplying the result by the number of full or part months of the Minimum Term not yet expired as at the date of termination of the Agreement.

## 9. Additional Charges

- 9.1. In addition to the Initial and Regular charges set out in the Merchant Application Form, the Merchant may be required to pay:

Failed delivery fee	£20
Closure fee	£150
Reconnection Fee	£10
Disconnection Fee	£10
Direct Debit Resubmission Charge	£10
Monthly Paper Invoice Fee	N/A
Keypad fascia missing/damaged	£100
Keypad damaged	£100
Screen window cracked	£100
Holes in Plastic	£100
Printer damage (broken/missing parts)	£100
Graffiti (ink/permanent marker on plastics)	£100
Fee for a lost or stolen Payment Terminal	£250
Replacement Fee	£250

