

PAYMENT EXPRESS END USER LICENSE AGREEMENT (EULA)

This Payment Express End User License Agreement (this "**Agreement**") is made as of the date you begin using Payment Express Goods or Software ("**Effective Date**"), and is by and between PAYMENT EXPRESS INTERNATIONAL LIMITED ("**PX**") and you, the party using the Goods or Software to process Transactions ("**Customer**").

1. Definitions and Interpretation

1.1 Definitions: In this Agreement, unless the context indicates otherwise:

Acquirer means a bank or any financial institution or a card issuer of financial or non-financial transactions which receives and transmits Transactions via Payment Express;

Agreement means this Agreement, and any attachments that may be agreed between the parties, as each may be amended in writing from time to time;

Business Day means any day of the week except Saturday, Sunday or a day on which banks are authorized or required to be closed in New Zealand;

Chargeback means the procedure by which a sales record or other indicia of a card transaction (or disputed portion thereof) is denied or returned to Acquirer or the card issuer after it was entered into the appropriate settlement network for payment, in accordance with the rules of Visa, MasterCard or a similar card association ("**Rules**"), for failing to comply with the Rules, including, without limitation by reason of cardholder disputes, the liability for which is Customer's responsibility and Customer agrees to pay.

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
- (b) which might reasonably be expected by the other party to be confidential in nature;

Customer means the customer specified on the first page of this Agreement and where applicable includes its employees, contractors and agents;

Customer Personal Data means all Personal Data subsisting in the data provided by the Customer, the users of Payment Express, the Documentation, the Goods, or the Software, or input by PX on the Customer's behalf and which comes into the possession of PX as a result of or in connection with the supply of the Payment Express, the Documentation, the Goods, or the Software;

Data Protection Law means the EU Data Protection Directive 95/46/EC, the Data Protection Act 1998 and any other legislation in force from time to time which implements that Directive, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and any laws that replace or amend any of these (including without limitation the General Data Protection Regulation 2016 (Regulation (EU) 2016/679) (GDPR)), together with the equivalent legislation of any other applicable jurisdiction and all other applicable law, regulations, guidance and codes of conduct in any relevant jurisdiction relating to the processing of personal data and privacy including the guidance and codes of practice issued by the Information Commissioner's Office (ICO), the Article 29 Working Party, the European Data Protection Board or any other relevant supervisory authority 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 the use of Payment Express (or any aspect of Payment Express);

Intellectual Property means registered and unregistered trade marks (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 PX for the transmission of data relating to Payment Express Supported

Transactions between a Customer and an Acquirer, incorporating the Software and including access (via the internet) to the Payment Express Host;

Payment Express Host means the PX host server known as Payment Express Host to which Customer may be connected using the Software 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 from Customers:

- (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 PX agrees to support through Payment Express 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;

Payment Manager means Payment Express Merchant Portal which Customer is able to access by logging onto the PX Website with an assigned username and password;

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 and expressly excludes, without limitation, use for the processing of transactions of, or for the benefit of, any person other than Customer;

Personal Data and Processing shall bear the respective meanings given to them in the Data Protection Act 1998 or General Data Protection Regulation 2016 (as applicable) (in each case as may be amended, updated, replaced or superseded from time to time) (and **Process** and **Processes** shall be construed accordingly);

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;

Reseller means the party with whom Customer has entered into an agreement for the purchase of a license to Payment Express;

Reseller Agreement means the agreement between the Customer and the Reseller;

PX means Payment Express International Limited, a company incorporated in New Zealand (company number 1278310).

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

PX Website means the website maintained by PX and accessible by Customer for viewing transactions, data entry, refunding, report generating and other features related to Transactions;

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;

Software means the software and other related PX products which:

- (a) form part of Payment Express; and
- (b) is owned or licensed by or developed by, or on behalf of, PX and supplied to Customer, including all upgrades, updates, alterations and modifications and other changes to such software by or on behalf of PX from time to time, but excluding any third party software and firmware forming part of, or supplied with, the Payment Express solution;

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;

Tokenized Data means data for which PX has substituted a sensitive data element with a non-sensitive equivalent that has no extrinsic or exploitable meaning or value.

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; and
- (f) in the event of any inconsistency between the terms this Agreement and the terms of the Reseller Agreement, the terms of this Agreement will control.

2. Term

2.1 Term: This Agreement commences on the Effective Date and will continue until terminated under Clause 9 (the "**Term**").

3. Customer Responsibilities

Customer represents and agrees that it:

- 3.1 Power and Authority:** that it has full power and authority necessary to validly enter into and perform all its obligations under this Agreement
- 3.2 Requirements:** to comply with the other party's reasonable security, confidentiality and operational requirements of which it has been given reasonable notice
- 3.3 Suitability:** has made, and will continue to make, its own assessment of the suitability, adequacy, compatibility and appropriateness of Payment Express for its purposes;
- 3.4 Comply with Instructions:** will comply with PX's restrictions, instructions and Documentation in relation to the use of Payment Express, including those set out in this Agreement;
- 3.5 Use by Others:** will ensure that only authorized persons use Payment Express and that Payment Express is used only for the Permitted Use and as expressly authorized under this Agreement;
- 3.6 Responsibility for Use:** will accept all responsibility for the reliance on and use of Payment Express by Customer and its employees, contractors and agents;
- 3.7 Obtain Equipment etc:** will obtain and maintain all equipment, software and services needed to enable it to receive and use Payment Express;
- 3.8 Accurate Customer Information:** warrants that all information provided by Customer to PX in the Application Form is accurate and correct, and that Customer will notify PX in writing if such information changes or ceases to be accurate in any way;
- 3.9 Provide Sufficient Information:** will ensure that sufficient information is given to PX to enable PX to comply with its obligations under this Agreement and that such information is timely, complete and accurate;
- 3.10 Personal Information:** acknowledges that any personal information concerning Customer or its personnel which is provided to PX by or on behalf of Customer may be:
 - (a) used by PX for the purpose of providing Payment Express, the Support Services and any other services to Customer; and
 - (b) disclosed by PX to its affiliates and other services providers to enable PX to provide Payment Express, the Support Services and any other services to Customer;
- 3.11 Notify of Third Party Infringement:** will immediately notify PX upon becoming aware of any third party infringing PX's Intellectual Property rights in any manner;
- 3.12 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. PX will

provide Customer with reasonable technical information and Software necessary to enable Customer to connect to the Payment Express Host; and

3.13 Comply with Law Generally: will comply with all relevant laws in its use of Payment Express and carrying out its obligations under this Agreement.

3.14 Requisite Review of Payline Portal: will review Customer's payline portal, established by PX, with due care on a daily basis for transaction errors. If an error is discovered by Customer, Customer will notify PX in writing within three (3) Business Days of the date such error occurs; provided that PX will have no liability or obligations of any kind with respect to errors that are not reported to PX within such three (3) Business Day period. In addition, Customer shall be required to review with due care its bank settlement files on a daily basis to ensure deposits occur without error. If an error is discovered by Customer in the course of such review, Customer will notify PX in writing within three (3) Business Days of the date of such error occurring; provided that PX will have no liability or obligations of any kind with respect to errors that are not reported to PX within such three (3) Business Day period. PX's liability under this Section 3.14 (Requisite Review of Payline Portal) of the Agreement is governed by, and fully subject to, the terms of Section 9 of this Agreement.

3.15 Improperly Deposited Funds: will return funds that PX deposits in Customer's bank account(s) that do not rightfully belong to Customer ("Improperly Deposited Funds") without offset or delay. Customer will return all Improperly Deposited Funds to PX within five (5) calendar days of a written request to do so by PX. If Customer fails to comply with the terms of this Section, PX may immediately suspend services to Customer until Customer returns the Improperly Deposited Funds. Customer will be liable to PX for the Improperly Deposited Funds, and all costs (including legal costs on an attorney-client basis) incurred by PX in recovering the Improperly Deposited Funds.

4. Disclaimer of Warranties

4.1 Limitations on Warranties: To the fullest extent permitted by law, except as expressly set out in this Agreement, PX disclaims and excludes all warranties, conditions, terms, representations or undertakings, whether express, implied, statutory or otherwise, including any condition or warranty of merchantability or fitness for a particular purpose. PX does not warrant that:

- (a) Payment Express, the Software or the Documentation will meet Customer's requirements; or
- (b) Payment Express, the Software and the Documentation will be uninterrupted or error free, or that all errors will be corrected.

Customer understands and acknowledges that an authorization obtained through Payment Express only confirms the availability of the cardholder's credit at the time of the authorization. It does not warrant that the person presenting the card is the rightful cardholder, nor is it an unconditional promise, guarantee or representation by Acquirer, processor or PX that a transaction is or will be deemed valid and not subject to dispute, debit or chargeback.

4.2 No Requirement to Decrypt Tokenized Data: PX will at no time be obligated to decrypt and transmit Tokenized Data to Customer or any third party.

5. Intellectual Property

All Intellectual Property rights in Payment Express, the Software, the Documentation and any work or thing developed or created by or on behalf of PX under or in connection with this Agreement (such work or thing being **Developed Works**), are exclusively owned by PX (or PX's licensors or suppliers). Customer acknowledges that there is no transfer of title, Intellectual Property rights or ownership of:

- (a) Payment Express, the Software, the Documentation or any part thereof; or
- (b) any Developed Works; to Customer under this Agreement and Customer will not dispute PX's (or PX's licensors or suppliers) ownership of the property referred to in this clause 5.

6. Indemnity

Customer shall indemnify PX (and at PX's sole discretion, defend PX) at all times against any liability, loss, damage or cost (including attorney's fees) suffered or incurred by PX and all actions, proceedings, claims or demands

made against PX as a result of any negligent act or omission or any breach of this Agreement by Customer, its personnel or agents.

7. Liability

7.1 Remedy: Subject to clauses 7.2 and 7.3, Customer's sole and exclusive remedy for breach of any warranty or of any of PX's obligations under this Agreement is (at PX's option) the supply or re-supply of Payment Express, the Goods, the Software, or the Documentation or the refund or waiver of fees paid by Customer to PX for the relevant part of Payment Express the Goods, the Software, or the Documentation which is the subject matter of, or directly related to, the breach.

7.2 Limitation: In no event will PX's total liability to Customer under this Agreement for any reason exceed \$1,000.

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

- (a) **punitive, incidental, indirect or consequential damages, damages for loss of profits, business interruption, loss of data, loss of goodwill, arising out of, or in connection with, this Agreement, in each case even if such party has been advised of the possibility of such damages;**
- (b) **loss, damage, cost or expense suffered or incurred by Customer, to the extent this results from any act or omission by Customer; or any event described in clause 11 (Force Majeure).**

8. Commercial Purpose

It is expressly acknowledged and agreed by Customer that Payment Express, the Software and the Documentation are supplied to Customer for business and commercial purposes.

9. Termination

9.1 PX Termination Upon Notice: PX may terminate this Agreement without liability or obligation to Customer of any kind upon written notice to Customer if the Reseller Agreement expires or is terminated by Customer and/or Reseller for any reason.

9.2 PX Termination for Cause: PX may terminate this Agreement without liability or obligation to Customer of any kind at any time and with immediate effect by written notice to Customer:

- (a) if Customer breaches any of its obligations under this Agreement; or
- (b) if Customer fails to pay any amounts due to Reseller pursuant to the Reseller Agreement; or
- (c) goes into voluntary or involuntary bankruptcy or liquidation or has a receiver appointed.

9.3 Customer Termination: Customer may terminate this Agreement if PX breaches any of its obligations under this Agreement and fails to cure such breach within 10 Business Days after receipt of such notice of such breach.

9.4 Consequences: 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 3-7, 10, 13, and 14, together with those clauses which are incidental to, and required in order to give effect to, those clauses). Upon termination of this Agreement, Customer must immediately cease use of Payment Express, the Software and the Documentation.

10. Confidentiality

10.1 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;
- (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:
 - (i) required by law;
 - (ii) 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;
 - (iii) 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;

- (iv) that the information is developed independently by the receiving party without reliance on any of the Confidential Information of the other party;
- (v) authorized in writing by the other party; or
- (vi) 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).

10.2 PX's Intellectual Property: Customer acknowledges and agrees that the computer programs, computer software, specifications, databases, images, designs, codes, and configurations contained in or utilized by the equipment and PX's network are proprietary and confidential to PX and protected under United States copyright law. Customer shall not copy, modify, adopt, translate, merge, reverse engineer, decompile, or disassemble, the equipment or Software, or create any derivative works based on the equipment, PX network or Software. Without limiting the effect of clause 10.1, Customer will treat information about PX's Intellectual Property as Confidential Information of PX.

11. Force Majeure

11.1 Customer acknowledges that PX relies on third-party providers in the delivery of its services, including, but not limited to, wireless data network providers, cellular radio service provided by third parties that is available only when within the operating range of cellular systems, and cellular service is subject to transmissions limitations and dropped or interrupted transmissions. Cellular service may be temporarily refused, limited, interrupted, or curtailed because of government regulations or orders, atmospheric and/or topographical conditions, and cellular system modifications, repairs, and upgrades. Customer agrees that PX shall not be liable for, and to hold PX harmless for any losses, damages, or business interruptions sustained as a result of interruptions caused by its wireless data network providers or any other third-party provider.

11.2 Neither party (the "Affected Party") shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by

- (a) fire, flood, elements of nature or other acts of God;
- (b) any outbreak or escalation of hostilities, war, riots or civil disorders in any country;
- (c) any act or omission of the other party or any government authority;
- (d) any labor disputes (whether or not employees' demands are reasonable or within the party's power to satisfy); or
- (e) the nonperformance by a third party for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications or other equipment such as described in clause 14.1.

11.3 In any such event, the Affected Party shall be excused from any further performance and observance of the obligations so affected only for as long as such circumstances prevail and such party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable, provided that:

- (a) **Notice:** 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;
- (b) **Continued Performance:** each party will continue to use commercially reasonable efforts to perform its obligations as required under this Agreement; and
- (c) **No Deemed Acceptance of Extra Costs:** 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 or otherwise resulting from such act, omission or failure; and

12. License

12.1 Grant of License: PX grants to Customer a limited, non-exclusive, non-transferable, non-assignable, revocable license to use Payment Express, the Software and the Documentation for the Term of this

Agreement solely for the Permitted Use. Any other use or dealings with Payment Express, the Software or the Documentation without the prior written consent of PX will be a material breach of this Agreement. Except to the extent specifically authorized under this Agreement, Customer must not sub-license, transfer, assign, rent or sell any of Payment Express, the Software or the Documentation or the right to use Payment Express, the Software or the Documentation.

12.2 PX Warranty: PX warrants that PX has the right and authority to grant to Customer the license set out at clause 12.1, in accordance with the terms of this Agreement.

13. Terms of Use

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

13.2 PX Logo: If Customer uses a capture method for credit or debit card processing using a system which is not hosted by PX, Customer agrees to display the PX Logo in a readily visible position on the user interface of Customer's system where the credit or debit card data is captured. The PX Logo must not be altered or used for any other purpose without the prior written consent of PX.

13.3 Compliance: If Customer is not compliant with one or more of the Security Standards, Customer must not capture or store any credit or debit card number or expiry date locally on Customer's or a non-compliant third party's system.

13.4 No Right to Copy, Alter or Modify: Customer may make a reasonable number of copies of the Software for backup and disaster recovery purposes only. Except for such back-up copies, Customer must not, and must not permit any other person to, copy, reproduce, translate, adapt, vary, repair or modify all or any part of Payment Express, the Software or the Documentation by any means or in any form without PX's prior written consent.

13.5 Permitted Use: Customer may not:

- (a) use Payment Express, the Software or the Documentation for any purpose other than the Permitted Use; or
- (b) use the Software independently of the other components of Payment Express unless PX has given prior written consent to do so.

If this Agreement is terminated, Customer's right to use Payment Express, the Software and the Documentation will automatically terminate and Customer must immediately remove all copies of the Software from its system(s) and return Payment Express, the Software and the Documentation to PX

13.6 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.

13.7 No Third Party Use: Except as expressly provided for in this Agreement, the Customer must not provide, or otherwise make available, Payment Express, the Software or the Documentation or any component thereof in any form to any person (a "Third Party") without the prior written consent of PX. If PX grants such consent, Customer must ensure that the Third Party complies with the provisions of clauses 5, 10, 12, and 13 (so far as those provisions relate to Customer) as if the Third Party were a party to this Agreement. Customer will be liable to PX for all acts or omissions of any Third Party in contravention of the provisions of clauses 5, 10, 12, and 13.

14. General

14.1 Entire Agreement: This Agreement including all schedules hereto records the entire arrangement between the parties relating to all matters dealt with in this Agreement and supersedes all previous arrangements, whether written, oral or both, relating to such matters.

14.2 Disputes: If the parties fail to negotiate a resolution to a dispute within a reasonable time (not exceeding 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 Auckland, New Zealand. If the parties fail to agree on a mediator within 5 Business Days after the submission to

mediation, one will be appointed by the President for the time being of the New Zealand Law Society or its successor. 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 confidential and without prejudice. 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.

14.3 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.

14.4 Severance: Any provision in this Agreement which is or becomes unenforceable, illegal or invalid for any reason shall be severed and shall not affect the enforceability, legality, validity or application of any other provision which shall remain in full force and effect.

14.5 Assignment: PX 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 PX's prior written consent.

14.6 Amendment: Except as expressly provided for in this Agreement, no amendment to this Agreement will be valid unless recorded in writing and signed by a duly authorized senior representative of each party.

14.7 Governing Law and Jurisdiction: This Agreement is governed by the laws of New Zealand. Subject to the terms of clause 14.2, the parties submit to the jurisdiction of the courts of the New Zealand in respect of all matters relating to this Agreement.

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

14.9 Subcontracting: PX may appoint subcontractors to perform any of its obligations under this Agreement.

14.10 Notices: Any notice or other communication to be given under this Agreement must be in writing and must be served by one of the following means and in respect of each is deemed to have been served as described:

- (a) By personal delivery – when received by the party.
- (b) By post by registered or ordinary mail – on the second working day following the date of posting in the United States mail to the addressee's registered office.
- (c) By email – when acknowledged by the party orally or by return email or otherwise in writing.
- (d) By facsimile – when sent to the correct facsimile number (with written transmission confirmation).

The addresses for the parties for Notices shall be as set out on Page 1 of this Agreement or such other address as either party specifies by notice in writing to the other given in accordance with this clause 14.10.

14.11 In the event of any conflict or inconsistency between this Agreement and the terms of a purchase order made by Customer to PX or a reseller of PX goods or services, this Agreement shall govern and control.

15. General

15.1 The Customer, to the extent it is a data controller, warrants and represents that:

- (a) it will comply at all times with the Data Protection Law and not do or cause anything to be done or omit to do anything that would, or is likely to, place PX in breach of the Data Protection Law; and
- (b) it has provided all information necessary to, and obtained any requisite consent from, any individual who is the subject of the Customer Personal Data for the purpose described under this Agreement in accordance with its obligations under the Data Protection Law.

15.2 Taking into account the state of technical development and the nature of Processing, PX shall implement appropriate technical and

organisational measures to protect the Customer Personal Data against accidental or unlawful destruction, loss, alteration and unauthorised disclosure or access.

15.3 As at the date of this Agreement, the Customer gives a general written authorisation to PX to engage any agent, sub-contractor or other third party ("**Sub-processor**") subject to PX informing the Customer of any intended changes concerning the addition or replacement of any Sub-processors and allowing the Customer to object to such changes. If the Customer does object to any Sub-processor, then PX will not use that Sub-processor. If any Sub-processor is identified as an authorised Sub-processor and used by PX for such Sub-processing services, the Customer consents to their appointment as a Sub-processor under this Agreement subject to PX putting in place an agreement with such Sub-processor in accordance with the requirements under this clause.

15.4 To the extent that PX Processes any Customer Personal Data, PX shall:

- (a) only Process the Customer Personal Data in accordance with its provision of Payment Express, the Goods, the Documentation, and the Software in accordance with this Agreement and on the documented instructions of the Customer from time to time;
- (b) subject to Clause 15.5, not transfer, or otherwise directly or indirectly disclose, any the Customer Personal Data to countries outside the European Economic Area (EEA) without the prior written consent of the Customer except where PX is required to transfer the Customer Personal Data by the laws of the member states of the EU or EU law (and shall inform the Customer of that legal requirement before the transfer, unless those laws prevent it doing so);
- (c) ensure that access to the Customer Personal Data is limited to PX's personnel and authorised Sub-Processors who need access to it to satisfy its obligations under this Agreement and who are subject to an enforceable obligation of confidence with regards to the Customer Personal Data;
- (d) taking into account the nature of the Processing, assist the Customer (by appropriate technical and organisational measures), insofar as this is possible, in relation to any request from any data subject for: access, rectification or erasure of the Customer Personal Data, or any objection to Processing;
- (e) notify the Customer in writing without undue delay if any the Customer Personal Data has been disclosed in breach of this section 15 (General Data Protection Regulation (GDPR) Compliance Provisions);
- (f) notify the Customer promptly if it becomes aware of a breach of security of the Customer Personal Data, such notices shall include full and complete details relating to such breach;
- (g) provide such assistance (at the Customer's cost) as the Customer may reasonably require in relation to:
 - (1) the need to undertake a data protection impact assessment in accordance with the Data Protection Law; and
 - (2) any approval of the Information Commissioner or other data protection supervisory authority to any Processing of the Customer Personal Data; and
 - (3) on termination of this Agreement, at the Customer's cost and its option, either return all of the Customer Personal Data (and copies of it) or securely dispose of the Customer Personal Data except to the extent that any applicable legal requirement mandates PX to store the Customer Personal Data.

15.5 PX shall be permitted to transfer the Customer Personal Data to countries outside of the EEA to the extent that any one or more of the following applies:

- (a) PX has in place with the non-EEA receiving entity the EU model contractual clauses as set out in Decision 2010/87/EU or any alternative version of those clauses issued by the European Commission or a supervisory authority from time to time;
- (b) the transfer is to a non-EEA country that is deemed to have an adequate level of protection from time to time by the European Commission or such other supervisory authority;
- (c) to the extent that the transfer is to a PX group company located outside of the EEA, PX's group of companies has in place Binding Corporate Rules for the transfer of Personal Data to a non-EEA

group company, the PX has in place with the non-EEA group company the EU model contractual clauses as set out in Decision 2010/87/EU (or any alternative version of those clauses issued by the European Commission or a supervisory authority from time to time) or an intra-group transfer agreement that provides for the necessary protection of the Customer Personal Data in accordance with Data Protection Law;

- (d) there is an approved code of conduct in place by an association or other body representing PX or the Customer that applies to the non-EEA territory or territories to which the Customer Personal Data is to be transferred;
- (e) there is an approved certification mechanism in place in respect of the non-EEA territory; or
- (f) to the extent that the transfer is to an entity located in the United States, such entity participates in the EU-US Privacy Shield or such other mechanism that may replace or supersede it from time to time.

15.6 At the Customer's cost, PX shall allow for a reasonable audit (no more than once per annum) by the Customer and any auditors appointed by it in order for PX to demonstrate its compliance with this section 15. For the purposes of such audit, upon reasonable notice, PX shall make available to the Customer and any appointed auditors all information that the Customer deems necessary (acting reasonably) to demonstrate PX's compliance with this section 15.