



Interpay Web
Terms and Conditions
by Interbacs Ltd

InterPay Web Software Terms and Conditions

Please read these terms and conditions carefully, as they set out our and your legal rights and obligations in relation to our InterPay Web software. You will be asked to agree to these terms and conditions before becoming a customer.

If you have any questions or complaints about our services, please contact us by writing to Interbacs Ltd, Warren Bruce Court, Warren Bruce Road, Trafford Park, Manchester, M17 1LB or by email to clientservices@interbacs.com.

1. Definitions and interpretation

1.1 In the Agreement:

"Affiliate" means an entity that Controls, is controlled by, or is under common Control with the relevant entity;

"Agreement" means the agreement between the Provider and the Customer for the provision of InterPay Web as a software package incorporating these terms and conditions (including the Schedules) and the Statement of Services, and any amendments to the Agreement from time to time;

"Business Day" means any week day, other than a bank or public holiday in England

"Business Hours" means between 9:00 and 17:30 London time on a Business Day;

"CCN" means a Change control notice issued in accordance with Clause [11], which may be in the form specified in Schedule [4];

"CCN Consideration Period" means the period of 14 Business Days following the receipt of a CCN sent by the other party;

"Change" means any change to the terms of the Agreement

"Charges" means the amounts payable by the Customer to the Provider under or in relation to the Agreement (as set out in Schedule [2]);

"Confidential Information" means the Customer Confidential Information and the Provider Confidential Information;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** will be construed accordingly);

"Customer" means the customer specified in the Statement of Services;

"Customer Confidential Information" means

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Customer to the Provider during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Provider at the time of disclosure to be confidential;
- (b) The financial terms and conditions of the Agreement;
- (c) The Customer Materials;
- (d) other confidential information

"Customer Indemnity Event" has the meaning given to it in Clause [11.1];

"Customer Materials" all works and materials:

- (a) uploaded to, stored on, processed using or transmitted via InterPay Web by or on behalf of the Customer or by any person or application or automated system using the Customer's account; and
- (b) otherwise provided by the Customer to the Provider in connection with the Agreement;

"Customer Representatives" means the person or persons identified as such in the Statement of Services;

"Customisations" means customisations of InterPay Web which the Provider and Customer agree the

Provider will produce on behalf of the Customer;

"Defect" means a defect, error or bug having an adverse effect on the appearance, operation or functionality of InterPay Web, but excluding any defect, error or bug caused by or arising as a result of:

- (a) an act or omission of the Customer, or an act or omission of one of the Customer's employees, officers, agents, suppliers or sub-contractors; or
- (b) an incompatibility between InterPay Web and any other system, application, program or software not specified as compatible in the Statement of Services

"Documentation" means the documentation produced by the Provider and made available on InterPay Web to the Customer specifying how InterPay Web should be used;

"Effective Date" means the date that the Agreement comes into force as specified in Clause [2]

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, hacker attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Minimum Term" means the period specified as such in the Statement of Services;

"Permitted Purpose" means to capture, modulus check and store Direct Debit instructions from customers;

"Personal Data" has the meaning given to it in the Data Protection Act 1998;

"Provider" means Interbacs Ltd, a company incorporated in England and Wales registration number 04765553, having its registered office at Warren Bruce Court, Warren Bruce Road, Trafford Park, Manchester, M17 1LB

"Provider Confidential Information" means:

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Provider to the Customer during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Customer at the time of disclosure to be confidential;
- (b) the financial terms and conditions of the Agreement; and
- (c) other confidential information

"Provider Indemnity Event" has the meaning given to it in Clause [11.3];

"Provider Representatives" means the person or persons identified as such in the Statement of Services;

"Representatives" means the Customer Representatives and the Provider Representatives;

"Schedule" means a schedule attached to the Agreement;

"Services" means all the services provided or to be provided by the Provider to the Customer under the Agreement, including the Support Services;

"Software" means InterPay Web that is owned and operated by the Provider, and that will be made available to the Customer as software under the Agreement;

"Statement of Services" means document agreed between the parties that specifies the identity of the Customer, and other matters relating to the Agreement;

"Support Services" means support and maintenance services provided or to be provided by the Provider to the Customer in accordance with Schedule [1];

"Term" means the term of the Agreement; and

"Upgrades" means new versions of, and updates to, InterPay Web, whether for the purpose of fixing an error, bug or other issue in InterPay Web or enhancing the functionality of InterPay Web.

- 1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:
- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
 - (b) any subordinate legislation made under that statute or statutory provision.

1.3 The Clause headings do not affect the interpretation of the Agreement.

1.4 The ejusdem generis rule is not intended to be used in the interpretation of the Agreement.

2. Agreement and Term

The Agreement will come into force on the Effective Date for the Minimum Term and indefinitely thereafter unless terminated earlier in accordance with Clause [15].

3. Software

3.1 The Provider will make available to the Customer setting up an account for the Customer for the InterPay Web software, as soon as practicable following the Effective Date.

3.2 Subject to the limitations set out in Clause [3.3] and the prohibitions set out in Clause [3.4], the Provider hereby grants to the Customer a non-exclusive use of the InterPay Web for the Permitted via any standard web browser in accordance with the Documentation during the Term.

3.3 The licence granted by the Provider to the Customer under Clause [3.2] is subject to the following limitations:

- (a) InterPay Web may only be used by the named users identified in the Statement of Services, providing that the Customer may change, add or remove a designated named user in accordance with the procedure set out therein;
- (b) InterPay Web may only be used by the employees, agents and sub-contractors of the Customer and:
 - (i) where the Customer is a company, the Customer's officers;
 - (ii) where the Customer is a partnership, the Customer's partners; and
 - (iii) where the Customer is a limited liability partnership, the Customer's members;
- (c) the Customer must comply at all times with the terms of the acceptable use policy supplied with InterPay Web / set out in Schedule [3], and must ensure that all users of InterPay Web agree to and comply with the terms of that acceptable use policy; and
- (e) other limitations otherwise not mentioned.

3.4 Except to the extent mandated by applicable law or expressly permitted in the Agreement, the licence granted by the Provider to the Customer under this Clause [3] is subject to the following prohibitions:

- (a) the Customer must not sub-license its right to access and use InterPay Web or allow any unauthorised person to access or use InterPay Web
- (b) the Customer must not frame or otherwise re-publish or re-distribute InterPay Web;
- (c) the Customer must not alter or adapt or edit InterPay Web save as expressly permitted by the Documentation; and
- (d) other prohibitions

3.5 For the avoidance of doubt, the Customer has no right to access the source code of InterPay Web, either during or after the Term.

3.6 All Intellectual Property Rights in InterPay Web shall, as between the parties, be the exclusive property

of the Provider.

- 3.7 The Customer shall use all reasonable endeavours to ensure that no unauthorised person will or could access InterPay Web Software using the Customer's account.
- 3.8 The Customer must not use InterPay Web in any way that causes, or may cause, damage to InterPay Web or impairment of the availability or accessibility of InterPay Web, or any of the areas of, or services on, InterPay Web.
- 3.9 The Customer must not use InterPay Web:
 - (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
 - (c) sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Application or any part of the Application;
 - (d) circumvent or remove or attempt to circumvent or remove the technological measures applied to the Application for the purposes of preventing unauthorised use

4. Support Services and Upgrades

- 4.1 During the Term the Provider will provide the Support Services to the Customer, and may apply Upgrades to InterPay Web, in accordance with the service level agreement set out in Schedule [1].
- 4.2 The Provider may sub-contract the provision of any of the Support Services without obtaining the consent of the Customer.

5. Customisations

- 5.1 From time to time the Provider and the Customer may agree that the Provider will customise the Software in accordance with a specification agreed in writing between the parties
- 5.2 From the date when a Customisation is first made available to the Customer, the Customisation shall form part of the InterPay Web where appropriate under the Agreement, and accordingly from that date the Customer's rights to use the Customisation shall be governed by Clause [3].
- 5.3 The Customer acknowledges that the Provider may make any Customisation available to its other Customers at any time after the end of the period of 3 months following the making available of that Customisation to the Customer
- 5.4 All Intellectual Property Rights in the Customisations shall, as between the parties, be the exclusive property of the Provider.
- 5.5 The Customer will provide the Provider with:
 - (a) such access to the Customer's computer systems and such other co-operation as is required by the Provider (acting reasonably) to enable the performance by the Provider of its obligations under this Clause [5];
 - (b) all information and documents required by the Provider (acting reasonably) in connection with the performance by the Provider of its obligations under this Clause [5]; and
 - (c) any legal, accountancy or taxation advice reasonably required to ensure the compliance of the Customisations with applicable laws, regulations and standards.
- 5.6 The Customer will be responsible for procuring any third party co-operation reasonably required by the Provider to enable the Provider to fulfil its obligations under this Clause [5].

6. Management

- 6.1 The Customer will ensure that all instructions in relation to the Agreement will be given by a Customer Representative to a Provider Representative, and the Provider:
 - (a) may treat all such instructions as the fully authorised instructions of the Customer; and
 - (b) will not comply with any other instructions in relation to the Agreement without first obtaining the consent of a Customer Representative.

- 6.2 A party requesting a contract management meeting to be held will give to the other party at least 3 Business Days' notice of the meeting.
- 6.3 Wherever necessary to enable the efficient conduct of business, the Customer will be represented at a contract management meeting by at least one Customer Representative and the Provider will be represented at a contract management meeting by at least one Provider Representative.

7. Customer Materials

- 7.1 The Customer grants to the Provider during the Term a non-exclusive licence to store, copy and otherwise use the Customer Materials on the InterPay Web for the purposes of operating the InterPay Web, providing the Services, fulfilling its other obligations under the Agreement, and exercising its rights under the Agreement.
- 7.2 Subject to Clause [7.1], all Intellectual Property Rights in the Customer Materials will remain, as between the parties, the property of the Customer.
- 7.3 The Customer warrants and represents to the Provider that the Customer Materials, and their use by the Provider in accordance with the terms of the Agreement, will not:
- (a) breach any laws, statutes, regulations or legally-binding codes;
 - (b) infringe any person's Intellectual Property Rights or other legal rights; or
 - (c) give rise to any cause of action against the Provider or the Customer or any third party,
- in each case in England and Wales and under English law.
- 7.4 Where the Provider reasonably suspects that there has been a breach by the Customer of the provisions of this Clause [7], the Provider may:
- (a) delete or amend the relevant Customer Materials; and/or
 - (b) suspend any or all of the Services and/or the Customer's access to the InterPay Web while it investigates the matter.
- 7.5 Any breach by the Customer of this Clause [7] will be deemed to be a material breach of the Agreement for the purposes of Clause [15].
- 7.6 The Provider shall ensure that the Customer Materials stored and processed by InterPay Web are stored separately from, and are not co-mingled with, the materials of other customers of the Provider.

8. Charges

- 8.1 The Provider will issue invoices for the Charges to the Customer in accordance with the provisions of Schedule [2].
- 8.2 The Customer will pay the Charges to the Provider immediately upon an invoice issued in accordance with Clause [8.1].
- 8.3 All Charges stated in or in relation to the Agreement are stated exclusive of VAT, unless the context requires otherwise. VAT will be payable by the Customer to the Provider in addition to the principal amounts.
- 8.4 Charges must be paid by bank transfer, card payment or cheque (using such payment details as are notified by the Provider to the Customer from time to time).
- 8.5 If the Customer does not pay any amount properly due to the Provider under or in connection with the Agreement, the Provider may:
- (a) charge the Customer interest on the overdue amount at the rate of 4% over the base rate for the time being of National Westminster Bank PLC such interest to accrue on daily basis from the due date to the date of payment and to be compounded monthly; or
 - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.6 The Provider may vary the Subscription Charges payable under Schedule [2] on and from any anniversary of the Effective Date by giving to the Customer not less than 90 days' written notice of the variation, providing that no such variation will result in the relevant element of the Charges increasing

during the Term by more than the percentage increase during the same period in the Retail Prices Index (all items) published by the UK Office for National Statistics.

- 8.7 The Provider may suspend access to InterPay Web and the provision of the software if any amounts due to be paid by the Customer to the Provider under the Agreement are overdue by more than 30 days.

9. Change control

- 9.1 The provisions of this Clause [9] apply to all Changes requested by a party.

- 9.2 Either party may request a Change at any time.

- 9.3 When requesting a Change, the requesting party will notify the other party and provide a CCN (which may be in the form specified in Schedule [4]). The CCN will set out (as a minimum):

- (a) details of the impact on the Services;
- (b) details of any additional resources expected to be required as a result of the Change; and
- (c) details of any variation to the Charges consequent upon the Change.

- 9.4 The other party will consider any proposed Change within the CCN Consideration Period.

- 9.5 Either party may:

- (a) accept or reject a CCN issued by the other party;
- (b) request further information concerning any aspect of a CCN issued by the other party; and/or
- (c) request amendments to a CCN issued by the other party.

- 9.6 Following agreement of a CCN, each party will confirm its agreement to the CCN by:

- (a) signing a copy of the CCN and sending the signed CCN to the other party; or
- (b) otherwise sending its written acceptance of the CCN to the other party.

- 9.7 Until a CCN recording a proposed Change has been signed or agreed in writing by each party, the proposed Change will not take effect.

10. Warranties

- 10.1 The Customer warrants to the Provider that it has the legal right and authority to enter into and perform its obligations under the Agreement.

- 10.2 The Provider warrants to the Customer:

- (a) that it has the legal right and authority to enter into and perform its obligations under the Agreement;
- (b) that it will perform its obligations under the Agreement with reasonable care and skill;
- (c) that InterPay Web will operate without Defects and will perform substantially in accordance with the Documentation (subject to any Upgrades and Customisations);
- (d) that InterPay Web will be hosted in accordance with the requirements set out in the Statement of Services, and will be available to the Customer in accordance with the uptime commitments given in Schedule [1];
- (e) InterPay Web (excluding for the avoidance of doubt the Customer Materials) will not:
 - (i) breach any laws, statutes, regulations or legally-binding codes;
 - (ii) infringe any person's Intellectual Property Rights or other legal rights; or
 - (iii) give rise to any cause of action against the Provider or the Customer or any third party,
- (f) that the Software developed, in relation to InterPay Web, will meet the Bacs Direct Debit Guarantee Guidelines, consequently major banks approval standards provided the customer given adequate cooperation and supply of necessary information required.

in each case in England and Wales and under English law; and

10.3 The Customer acknowledges that:

- (a) Softwares are never wholly free from defects, errors and bugs, and the Provider gives no warranty or representation that InterPay Web will be wholly free from such defects, errors and bugs;
- (b) the Provider does not warrant or represent that InterPay Web will be compatible with any application, program or software not specifically identified as compatible in the Statement of Services ; and
- (c) the Provider will not and does not purport to provide any legal, taxation or accountancy advice under the Agreement or in relation to InterPay Web and (except to the extent expressly provided otherwise) the Provider does not warrant or represent that InterPay Web will not give rise to any civil or criminal legal liability on the part of the Customer or any other person.

10.4 All of the parties' warranties and representations in respect of the subject matter of the Agreement are expressly set out in the terms of the Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Agreement will be implied into the Agreement.

11. Indemnities

11.1 Subject to the Provider's compliance with Clause [11.2], the Customer will indemnify and will keep indemnified the Provider against all liabilities, damages, losses, costs and suffered or incurred by the Provider and arising as a result of any breach by the Customer of Clause [7.3] (a "**Customer Indemnity Event**").

11.2 The Provider will:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer all reasonable assistance in relation to the Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements relating to the Customer Indemnity Event; and
- (d) not admit liability in connection with the Customer Indemnity Event or settle the Customer Indemnity Event without the prior written consent of the Customer.

11.3 Subject to the Customer's compliance with Clause [11.4], the Provider will indemnify and will keep indemnified the Customer against all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid upon legal advice in settlement of any disputes) suffered or incurred by the Customer and arising as a result of any breach by the Provider of Clause [10.2(e)] (a "**Provider Indemnity Event**").

11.4 The Customer will:

- (a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;
- (b) provide to the Provider [all] reasonable assistance in relation to the Provider Indemnity Event;
- (c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements relating to the Provider Indemnity Event; and
- (d) not admit liability in connection with the Provider Indemnity Event or settle the Provider Indemnity Event without the prior written consent of the Provider.

12. Limitations and exclusions of liability

12.1 Nothing in the Agreement will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit any liability of a party in any way that is not permitted under applicable law; or
- (d) exclude any liability of a party that may not be excluded under applicable law.

- 12.2 The limitations and exclusions of liability set out in this Clause [12] and elsewhere in the Agreement:
- (a) are subject to Clause [12.1];
 - (b) govern all liabilities arising under the Agreement or in relation to the subject matter of the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty; and
 - (c) will not limit or exclude the liability of the parties under the express indemnities set out the Agreement.
- 12.3 The Provider will not be liable in respect of any loss of profits, income, revenue, use, production or anticipated savings.
- 12.4 The Provider will not be liable for any loss of business, contracts or commercial opportunities.
- 12.5 The Provider will not be liable for any loss of or damage to goodwill or reputation.
- 12.6 The Provider will not be liable in respect of any loss or corruption of any data, database or software.
- 12.7 The Provider will not be liable in respect of any special, indirect or consequential loss or damage.
- 12.8 The Provider will not be liable for any losses arising out of a Force Majeure Event.
- 12.9 The Provider's liability in relation to any event or series of related events will not exceed the greater of:
- (a) £500 or
 - (b) the total amount paid and payable by the Customer to the Provider under the Agreement period immediately preceding the event or events giving rise to the claim.
- 12.10 The Provider's aggregate liability under the Agreement will not exceed the greater of:
- (a) £700 or
 - (b) the total amount paid and payable by the Customer to the Provider under the Agreement.
- 13. Data protection**
- 13.1 The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Agreement.
- 13.2 The Provider warrants that:
- (a) it will act only on instructions from the Customer in relation to the processing of any Personal Data performed by the Provider on behalf of the Customer; and
 - (b) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Personal Data and against loss or corruption of Personal Data processed by the Provider on behalf of the Customer.
- 14. Confidentiality and publicity**
- 14.1 The Provider will:
- (a) keep confidential and not disclose the Customer Confidential Information to any person save as expressly permitted by this Clause [14];
 - (b) protect the Customer Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care; and
 - (c) without prejudice to the generality of Clause [14.1(b)], deploy and maintain the security systems and technologies detailed in the Statement of Services in relation to the Customer Confidential Information held on InterPay Web.
- 14.2 The Customer will:
- (a) keep confidential and not disclose the Provider Confidential Information to any person save as expressly permitted by this Clause [14];

- (b) protect the Provider Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 14.3 Confidential Information of a party may be disclosed by the other party to that other party's [officers, employees, agents, insurers and professional advisers], provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information disclosed.
- 14.4 The obligations set out in this Clause [14] shall not apply to:
 - (a) Confidential Information that is publicly known (other than through a breach of an obligation of confidence);
 - (b) Customer Confidential Information that is in possession of the Provider prior to disclosure by the Customer, and Provider Confidential Information that is in possession of the Customer prior to disclosure by the Provider;
 - (c) Customer Confidential Information that is received by the Provider, and Provider Confidential Information that is received by the Customer, from an independent third party who has a right to disclose the relevant Confidential Information; or
 - (d) Confidential Information that is required to be disclosed by law, or by a governmental authority, stock exchange or regulatory body, provided that the party subject to such disclosure requirement must where permitted by law give to the other party prompt written notice of the disclosure requirement.
- 14.5 Neither party will not make any public disclosure relating to the Agreement (including press releases, public announcements and marketing materials) without the prior written consent of the other party.

15. Termination

- 15.1 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:
 - (a) commits any material breach of any term of the Agreement, [and:
 - (i) the breach is not remediable; or
 - (ii) the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; or
 - (b) persistently breaches the terms of the Agreement (irrespective of whether such breaches collectively constitute a material breach).
- 15.2 Either party may terminate the Agreement immediately by giving written notice to the other party if:
 - (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or
 - (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

- 15.3 Either party may terminate the Agreement by giving at least 60 days' written notice of termination to the other party, expiring at any time after the end of the Minimum Term
- 15.4 If the Provider stops or makes a good faith decision to stop operating InterPay Web generally, then the Provider may terminate the Agreement by giving at least 60 days' written notice of termination to the Customer.
- 15.5 Either party may terminate the Agreement by giving written notice of termination to the other party in the event that the parties cannot reasonably agree on any Change request made in accordance with Clause [9].
- 15.6 The Provider may terminate the Agreement immediately by giving written notice of termination to the Customer where the Customer fails to pay to the Provider any amount due to be paid under the Agreement by the due date.

16. Effects of termination

- 16.1 Upon termination of the Agreement, all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses [1, 4.4, 8.5, 11, 12, 14.1 to 14.4, 16 and 19].
- 16.2 Termination of the Agreement will not affect either party's accrued liabilities and rights as at the date of termination.
- 16.3 Subject to Clause [16.5], within 30 days following the termination of the Agreement, the Provider will:
- (a) irrevocably delete from InterPay Web all Customer Confidential Information; and
 - (b) irrevocably delete from its other computer systems all Customer Confidential Information, and return to the Customer or dispose of as the Customer may instruct all documents and materials containing Customer Confidential Information.]
- 16.4 Subject to Clause [16.5], within 30 days following the termination of the Agreement, the Customer will:
- (a) return to the Provider or dispose of as the Provider may instruct all documents and materials containing Provider Confidential Information; and
 - (b) irrevocably delete from its computer systems all Provider Confidential Information.
- 16.5 A party may retain any document (including any electronic document) containing the Confidential Information of the other party after the termination of the Agreement if:
- (a) that party is obliged to retain such document by any law or regulation or other rule enforceable against that party; or
 - (b) the document in question is a letter, fax, email, order confirmation, invoice, receipt or similar document addressed to the party retaining the document.

17. Notices

- 17.1 Any notice given under the Agreement must be in writing (whether or not described as "written notice" in the Agreement) and must be delivered personally, sent by recorded signed-for post, or sent by fax or email, for the attention of the relevant person, and to the relevant address or fax number or email address given below (or as notified by one party to the other in accordance with this Clause).

The Provider:
Interbacs Ltd, Warren Bruce Court, Warren Bruce Road
Trafford Park
Manchester
M17 1LB

clientservices@interbacs.com

The Customer: XXX

- 17.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):
- (a) where the notice is delivered personally, at the time of delivery;
 - (b) where the notice is sent by recorded signed-for post, 48 hours after posting; and
 - (c) where the notice is sent by fax [or email], at the time of the transmission (providing the sending party retains written evidence of the transmission).

18. Force Majeure Event

- 18.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under the Agreement (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.
- 18.2 A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under the Agreement, will:
- (a) forthwith notify the other; and
 - (b) will inform the other of the period for which it is estimated that such failure or delay will continue.
- 18.3 The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

19. General

- 19.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 19.2 If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 19.3 Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.
- 19.4 The Agreement may not be varied except in accordance with Clause [9] by a written document signed by or on behalf of each of the parties.
- 19.5 The Customer hereby agrees that the Provider may freely assign any or all of its contractual rights under the Agreement to any Affiliate of the assigning party or any successor to all or a substantial part of the business of the assigning party from time to time. Save as expressly provided in this Clause or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any contractual rights or obligations under the Agreement.
- 19.6 Neither party will, without the other party's prior written consent, either during the term of the Agreement or within 6 months after the date of effective termination of the Agreement, engage, employ or otherwise solicit for employment any employee, agent or contractor of the other party who has been involved in the performance of the Agreement.
- 19.7 Each party agrees to execute (and arrange for the execution of) any documents and do (and arrange for the doing of) any things reasonably within that party's power, which are necessary to enable the parties to exercise their rights and fulfil their obligations under the Agreement.
- 19.8 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.
- 19.9 Subject to Clause [12.1]:
- (a) the Agreement and the acceptable use policy and end user licence agreement referred to in herein constitute[s] the entire agreement between the parties in relation to the subject matter

of the Agreement, and supersede[s] all previous agreements, arrangements and understandings between the parties in respect of that subject matter; and

- (b) neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Agreement.

19.10 The Agreement will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

Schedule 1 Service Level Agreement

1. Introduction

1.1 In this Schedule:

"New Functionality" means new functionality that is introduced to the Direct Debit Software by an Upgrade; and

"Protected Functionality" means the ability to allow direct debit instructions to be imported, processed, and collected from Bacs under a hosted site.

1.2 References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.

2. Helpdesk

2.1 The Provider will make available, during Business Hours, a telephone and email helpdesk facility for the purposes of:

- (a) assisting the Customer with the configuration of the Direct Debit Software;
- (b) assisting the Customer with the proper use of Direct Debit Software; and/or
- (c) determining the causes of errors and fixing errors in the Direct Debit Software.

2.2 The Customer must make all requests for Support Services through the helpdesk.

2.3 The Provider will use reasonable endeavours to ensure that a member of its support staff can be reached by mobile phone outside Business Hours in the case of an emergency.

3. Response and resolution times

3.1 The Provider will:

- (a) use reasonable endeavours to respond to requests for Support Services made through the helpdesk; and
- (b) use reasonable endeavours to resolve issues raised by the Customer,

in accordance with the following response time matrix.

Severity	Examples	Response time	Resolution time
Critical	Server Failure, Power Loss, Data corruption, Loss of Smart cards, All users locked out of system, Inability to submit BACS files	15 mins	4 hours with regular dialogue
Serious	User unable to access system, System errors preventing data entry or import of data	1 hour	8 hours with hourly updates
Moderate	Speed issue when importing/submitting to BACS, Generic Intermittent faults, Intermittent submission errors, software loading slowly	4 hours	2 days with update within 2 hours
Minor	Spelling mistakes, font issues,	1 day	2 days with daily updates

3.2 The Provider will determine, acting reasonably, in to which severity category an issue raised through the Support Services falls.

3.3 All Support Services will be provided remotely unless expressly agreed otherwise by the Provider.

4. Limits on Support Services

- 4.1 Where the total person-hours spent by the Provider performing the Support Services under Paragraphs [2] and [3] during any 1-month period exceed 24 hours, then:
- (a) the Provider will cease to have an obligation to provide those Support Services to the Customer during that period; providing that
 - (b) the Provider may agree to provide additional such Support Services to the Customer during that period, but the provision of such services will be subject to payment by the Customer of additional Charges at the Provider's standard daily rate from time to time.
- 4.2 The Provider shall have no obligation under the Agreement to provide Support Services in respect of any fault or error caused by:
- (a) the improper use of the Direct Debit Software; or
 - (b) the use of the Direct Debit Software otherwise than in accordance with the Documentation.

5. Upgrades

- 5.1 The Customer acknowledges that from time to time during the Term the Provider may apply Upgrades to InterPay Web and that such Upgrades may, subject to Paragraph [5.2], result in changes the appearance and/or functionality of InterPay Web.
- 5.2 No Upgrade shall disable, delete or significantly impair the Protected Functionality.
- 5.3 The Provider will give to the Customer at least 7 days' prior written notice of the application of any significant Upgrade to the Direct Debit Software. Such notice shall include details of the specific changes to the functionality of InterPay Web resulting from the application of the Upgrade.
- [5.4 The Customer shall not be subject to any additional Charges arising out of the application of the Upgrade, save where:
- (a) the Upgrade introduces New Functionality to InterPay Web;
 - (b) that New Functionality does not serve the same purpose as legacy functionality that ceases or has ceased to be available as a result of any Upgrade;
 - (c) access to or use of the New Functionality is chargeable to the customers of the Provider using InterPay Web generally; and
 - (d) any decision by the Customer not to pay the Charges for the New Functionality will not prejudice the Customer's access to and use of the rest of InterPay Web.

6. Uptime commitment

- 6.1 The Provider shall use reasonable endeavours ensure that InterPay Web is available 99.5% of the time during each calendar month, subject to Paragraph [8].

7. Back-up and restoration

- 7.1 The Provider will:
- (a) make back-ups of the Customer Materials stored on InterPay Web on a daily basis and will retain such back-ups for at least 2 weeks; and
 - (b) at least once every 1 day, the Provider will arrange for the off-site storage of a current back-up of the Customer Materials stored on InterPay Web (which will be over-written on the following off-site back-up date).
- 7.3 In the event of the loss of, or corruption of, Customer Materials stored on the Direct Debit Software, the Provider shall if so directed by the Customer to use reasonable endeavours promptly to restore the Customer Materials from the most recent available back-up copy.

8. Scheduled maintenance

- 8.1 The Provider may suspend access to InterPay Web in order to carry out scheduled maintenance, such maintenance to be carried out outside Business Hours where possible and such suspension to be for not more than 5 hours in each calendar month.

- 
- 8.2 The Provider must give to the Customer at least 7 days' written notice of schedule maintenance, including full details of the expected InterPay Web downtime.
- 8.3 InterPay Web downtime during scheduled maintenance carried out by the Provider in accordance with this Paragraph [8] shall not be counted as downtime for the purposes of Paragraph [6].

Schedule 2 Charges

1. Introduction

- 1.1 References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.
- 1.2 The Charges under the Agreement will consist of the following elements:
- [(a) access Charges, in respect of access to and use of InterPay Web;
 - (b) support Charges, in respect of the Support Services; and
 - (c) other Charges.]

2. Access Charges

- 2.1 The Charges in respect of access to and use of Interpay Web shall be made up of two elements, installation Charges and a fixed Charges.
- 2.2 The installation charge will be **£XXX plus VAT** for set-up and configuration of Interpay Web on the licensee's computers. The charge is payable before work commencing.
- 2.3 The fixed Charge will be made up of two charges, the license charge and the maintenance charge. It is agreed that a total of **£XXX plus VAT** for the 36 months of term inclusive of both license charge, Installation charge and maintenance charge payable as
- One annual payment of **£XXX plus VAT**, paying same amount each year or
 - Full 3-year payment of **£XXX plus VAT**

Additional licenses can be purchased at a later date:

- Service User Number license: £500 per License
- Concurrent User License: £150 per License
- Transactions License: £80 per 1000 License (payer/payee license are only sold in block of thousand)

3. Other Charges

- 3.1 In addition to the Charges detailed in Paragraphs [1] and [2] above, the Provider will invoice in respect of other charges, and the Customer shall pay to the Provider:
- (a) all other Charges that are agreed between the parties in writing from time to time, should such charges come up for additional work.
 - (b) Where other Charges are to be calculated by reference to an hourly or daily rate, the following rates shall apply as at the date of the Agreement: **£895.00 plus VAT per day**.

Schedule 3 Acceptable Use Policy

(1) This Policy

This Acceptable Use Policy (the "**Policy**") sets out the rules governing the use of our web services (the "**Service**") and any content that you may submit to the Service ("**Content**").

By using the Service, you agree to the rules set out in this Policy.

(2) General restrictions

You must not use the Software in any way that causes, or may cause, damage to the Software or impairment of the availability or accessibility of the Software, or any of the areas of, or services on, the Software.

You must not use the Software:

- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
- (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

(3) Unlawful and illegal material

You must not use the Software to store, host, copy, distribute, display, publish, transmit or send Content that is illegal or unlawful, or that will or may infringe a third party's legal rights, or that could give rise to legal action whether against you or us or a third party (in each case in any jurisdiction and under any applicable law).

Content (and its publication on the Software) must not:

- (a) be libellous or maliciously false;
- (b) be obscene or indecent;
- (c) infringe any copyright, moral rights, database rights, trade mark rights, design rights, rights in passing off, or other intellectual property rights;
- (d) infringe any rights of confidence, rights of privacy, or rights under data protection legislation;
- (e) constitute negligent advice or contain any negligent statement;
- (f) constitute an incitement to commit a crime;
- (g) be in contempt of any court, or in breach of any court order;
- (h) be in breach of racial or religious hatred or discrimination legislation;
- (i) be blasphemous;
- (j) be in breach of official secrets legislation; or
- (k) be in breach of any contractual obligation owed to any person.

You must not submit any Content that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.

(4) Data mining

You must not conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to the Software without our express written consent.

(5) Graphic material

Content must not depict violence in an explicit, graphic or gratuitous manner.

Content must not be pornographic or sexually explicit, or consist of or include explicit, graphic or gratuitous material of a sexual nature.

(6) Harmful software

You must not use the Software to promote or distribute any viruses, Trojans, worms, root kits, spyware, adware

or any other harmful software, programs, routines, applications or technologies.

You must not use the Software to promote or distribute any programs, routines, applications or technologies that will or may negatively affect the performance of a computer or introduce significant security risks to a computer.

(7) Factual accuracy

Content must not be untrue, false, inaccurate or misleading.

Statements of fact contained in the Content must be true; and statements of opinion contained on the Content must be truly held and where possible based upon facts that are true.

(8) Negligent advice

Content must not consist of or contain any instructions, advice or other information that may be acted upon and could, if acted upon, cause:

- (a) illness, injury or death; or
- (b) any other loss or damage.

(9) Marketing and spam

You must not without our prior written permission use the Software for any purposes related to marketing, advertising, promotion, or the supply and/or sale of goods and/or services.

Content must not constitute spam.

You must not use the Software to transmit or send unsolicited commercial communications.

You must not use the Software to market, distribute or post chain letters, ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar schemes, programs or materials.

(10) Gambling

You must not use the Software for any purpose related to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

(11) Netiquette

Content must be appropriate, civil, tasteful and accord with generally accepted standards of etiquette and behaviour on the internet.

Content must not be offensive, deceptive, threatening, abusive, harassing, or menacing, hateful, discriminatory or inflammatory.

Content should not cause annoyance, inconvenience or needless anxiety.

Do not flame or conduct flame wars on the Software ("flaming" is the sending hostile messages intended to insult, in particular where the message is directed at a particular person or group of people).

Do not troll on the Software ("trolling" is the practice of deliberately upsetting or offending other users).

You must not flood the Software with Content focusing upon one particular subject or subject area, whether alone or in coordination with other users.

Content must not duplicate existing Content on the Software.

You must submit Content to the appropriate part of the Software.

Do not unnecessarily submit textual content in CAPITAL LETTERS.

You should use appropriate and informative titles for all Content.

You must at all times be courteous and polite to other Software users.

(12) Hyperlinks

You must not link to any website or web page containing material that would, were it posted on the Software, breach the preceding terms of this Policy.

(13) Breaches of this Policy

We reserve the right to edit or remove any Content in our sole discretion for any reason, without notice or explanation.

Without prejudice to this general right and our other legal rights, if you breach this Policy in any way, or if we reasonably suspect that you have breached this Policy in any way, we may:

- (a) delete or edit any of your Content;
- (b) send you one or more formal warnings;
- (c) temporarily suspend your access to a part or all of the Software; and/or
- (d) permanently prohibit you from using a part or all of the Software.

(14) Banned users

Where we suspend or prohibit your access to the Software or a part of the Software, you must not take any action to circumvent such suspension or prohibition (including without limitation using a different account).

(15) Monitoring

Notwithstanding the provisions of this Policy, we do not actively monitor Content.

(16) Report abuse

If you become aware of any material on the Software that contravenes this Policy, you must notify us by email.

Statement of Services¹

Customer

The Customer is **XXX**

Provider

The Provider, **INTERBACS LTD** whose registered office is at **Warren Bruce Court, Warren Bruce Road, Old Trafford, Manchester M17 1LB**

Minimum Term

The Minimum Term shall be the period of 12 months following the Effective date for Interpay Web. Contract term of 36 months agreed with the Customer.

Contract Start Date: XXX

Contract Renewal Date: XXX

Products Purchased: Interpay Web

InterPay Web

InterPay Web is a licensed and bespoke developed software to allow direct debit instructions to be imported, processed, and collected from Bacs under a hosted site.

InterPay Web Software will comply with the following standards:

Software will comply with BACS Direct Debit Scheme Guidelines for Paperless Submitter status by all banks

InterPay Web Software will be hosted at a facility meeting the following requirements:

Hosted by Interbacs meeting BACS approved Bureaux security standards.

InterPay Web Software will be protected using the following security systems and technologies:

Licensing

XXX

Representatives

Customer Representative:

Contact: XXX
Job Title: XXX
Email: [XXX](#)

Provider Representative:
Fikayomi Agbola – 07888867538 / 0161 667 0758
Email: agbolao@interbacs.com

The parties have indicated their acceptance of the terms of the Agreement by signing below

SIGNED by

duly authorised for and on behalf of the Provider

.....

Date:

SIGNED by

duly authorised for and on behalf of the Customer

.....

Date:

