



## PARTIES

- (1) GoCardless Inc is a company, incorporated in Delaware, United States of America whose registered office address is 135 Madison Ave., New York, NY 10016 (**GoCardless**)
- (2) The person or entity referred to as 'Supplier' in the Purchase Order (**Supplier**)

## 1. DEFINITIONS

**Affiliate:** any entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity.

**Agreement:** the Purchase Order and these terms and conditions including the Code of Conduct set out at Schedule 1 entered into between GoCardless and the Supplier, for the supply of Services, as amended from time to time in accordance with clause 17.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charges:** the charges payable by GoCardless for the supply of the Services in accordance with clause 6.

**Confidential Information:** means any information in whatever form (whether in writing, electronic or digital form, verbally or by inspection of documents, computer systems or sites or pursuant to discussions or by any other means) which is confidential in nature, designated orally or in writing by GoCardless as confidential or which may reasonably be considered by a business person to be commercially sensitive provided by GoCardless (directly or indirectly) by any means to the Supplier (or its Authorised Persons) before or after the date of this Agreement in connection with or in anticipation of the Services

**Control:** the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company, and the expression "change of Control" and "Controlled" shall be construed accordingly;

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Delivery Date:** has the meaning in the Purchase Order

**GoCardless Materials:** has the meaning set out in clause 3.3.9.

**Good Industry Practice:** the exercise of the degree of skill, diligence, prudence and foresight that one would reasonably and ordinarily expect from a person skilled and experienced in the practice or activity in question;

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** GoCardless' order for the supply of Services, as set out in a Purchase Order completed by GoCardless or in GoCardless' written acceptance of the Supplier's quotation.

**Premises:** the location where the Services are to be delivered and/or Services are to be performed, as specified in the Purchase Order.

**Services:** the services and/or provision of goods, including any Deliverables, to be provided by the Supplier under the Agreement as set out in the Purchase Order.

## 2. BASIS OF CONTRACT

- 2.1. The Order constitutes an offer by GoCardless to purchase Services in accordance with this Agreement.
- 2.2. The Purchase Order constitutes GoCardless' offer to Supplier and shall become a binding contract upon the terms and conditions stated in the Purchase Order and in accordance with this Agreement upon acceptance by Supplier by any expression of acceptance, or commencement of performance, whichever occurs first. Any terms and conditions proposed by Supplier in acknowledging or accepting GoCardless' offer which are different from or in addition to the terms set forth in the Purchase Order shall not be binding upon GoCardless and shall be void and of no effect, except to the extent expressly accepted in writing by GoCardless' authorised procurement representative(s).
- 2.3. This Agreement applies to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4. In the event of any discrepancy, inconsistency or divergence arising between the Purchase Order and the clauses in the main body of this Agreement, the following shall be the order of precedence: (i) the Purchase Order then (ii) the clauses of the main body of this Agreement.

## 3. SUPPLIER OBLIGATIONS

- 3.1. The Supplier shall from the date set in the Order and for the duration of this Agreement provide the Services to GoCardless and/or GoCardless' Affiliates in accordance with the terms of this Agreement. Where Supplier provides the Services to any GoCardless Affiliates, any terms in this Agreement relating to the provision of the Services to GoCardless shall be deemed to apply mutatis mutandis to the provision of Services to such GoCardless' Affiliates.
- 3.2. The Supplier shall meet any performance dates for the Services specified in the Order, including the Delivery Date if specified, or notified to the Supplier by GoCardless, as the case may be.
- 3.3. In providing the Services, the Supplier warrants that it shall:
  - 3.3.1. co-operate with GoCardless in all matters relating to the Services, and comply with all instructions of the GoCardless;
  - 3.3.2. provide any information reasonably requested by GoCardless from time to time in relation to ensuring compliance by the Supplier with any relevant laws, including but not limited to anti-bribery law;
  - 3.3.3. perform the Services with reasonable care, skill and diligence in accordance with Good Industry Practice;
  - 3.3.4. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Agreement;
  - 3.3.5. ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Order, and that the Deliverables shall be fit for any



purpose expressly or impliedly made known to the Supplier by GoCardless;

- 3.3.6. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - 3.3.7. obtain and at all times maintain all necessary licences;
  - 3.3.8. comply with all applicable laws, statutes, regulations and codes from time to time in force;
  - 3.3.9. hold all materials, equipment and tools, drawings, specifications and data supplied by GoCardless to the Supplier (**GoCardless Materials**) in safe custody at its own risk, maintain the GoCardless Materials in good condition until returned to GoCardless, and not dispose or use the GoCardless Materials other than in accordance with GoCardless' written instructions or authorisation;
  - 3.3.10. not do or omit to do anything which may cause GoCardless to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that GoCardless may rely or act on the Services; and
  - 3.3.11. comply with any obligations set out in the Order.
- 3.4. Where in the reasonable opinion of GoCardless the Supplier has failed to provide the Services or any part of them in accordance with this Agreement, the Supplier shall, without prejudice to any of the GoCardless's other rights, re-perform the Services or part thereof as requested by GoCardless at no additional cost and within such period of time as reasonably specified by GoCardless.
  - 3.5. The Supplier shall deliver the Services at the times and dates and to the Premises as specified in the Purchase Order. Unless otherwise stated in the Purchase Order, where the Services are delivered by the subcontractor, the point of delivery shall be when the Services are delivered to the Premises, accepted, and signed for by GoCardless.
  - 3.6. Title and risk in the Services shall, without prejudice to any other rights or remedies of GoCardless, pass to GoCardless at the time of its acknowledgement of delivery.
  - 3.7. GoCardless shall be entitled to inspect and examine the performance of the Services at the Supplier's Premises and notify Supplier of its intention to do so at any other Premises where all or any part of the Services are being performed.

#### 4. GOCARDLESS REMEDIES

- 4.1. If the Supplier fails to perform the Services by the Delivery Date(s) to the Delivery Location, GoCardless shall, without limiting its other rights or remedies, have one or more of the following rights:
  - 4.1.1. to terminate this Agreement with immediate effect by giving written notice to the Supplier;
  - 4.1.2. to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - 4.1.3. where GoCardless has paid in advance for Services that have not been provided by the Supplier, to have a pro-rata refund of Services pre-paid for but not used; or
  - 4.1.4. to claim damages for any additional costs, loss or expenses incurred by GoCardless, which are in any way attributable to the Supplier's failure to meet such dates.
- 4.2. This Agreement shall extend to any substituted or remedial services provided by the Supplier.
- 4.3. GoCardless' rights under this Agreement are in addition to its rights and remedies implied by statute and common law.

#### 5. GOCARDLESS' OBLIGATIONS

- 5.1. GoCardless shall provide such information to the Supplier as the Supplier may reasonably request and GoCardless considers reasonably necessary for the purpose of providing the Services.

#### 6. CHARGES AND PAYMENT

- 6.1. The Charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by GoCardless, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 6.2. In consideration of the supply of the Services by the Supplier, GoCardless shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier, or such other payment terms stated in the Purchase Order.
- 6.3. Where the amounts payable by GoCardless under the Agreement do not specify amounts in respect of value added tax chargeable (VAT), the amounts paid by GoCardless to the Supplier will be deemed to have been inclusive of VAT.
- 6.4. The Supplier shall not be entitled to invoice GoCardless and GoCardless shall not be obliged to pay the Supplier, for Deliverables that are not invoiced within three months of the date on which the Deliverables could have first been included in an invoice.
- 6.5. In order to be valid, invoices issued by the Supplier must:
  - 6.5.1. be valid tax invoices for the purposes of VAT legislation and be invoiced in United States dollars;
  - 6.5.2. not be issued before a Purchase Order is submitted by GoCardless;
  - 6.5.3. identify the Supplier, reference the Purchase Order number and specify the Deliverables to which the invoice relates;
  - 6.5.4. be sent to the address stated in the Purchase Order;
  - 6.5.5. include any necessary information to support the invoiced amount; and
  - 6.5.6. be in any form requested by GoCardless which may include the use (at the Supplier's cost) of GoCardless' preferred electronic invoicing system through GoCardless' then current service provider, as notified to the Supplier from time to time.

- 6.6. GoCardless may at any time, without notice to the Supplier, set off any liability of the Supplier to GoCardless against any liability of GoCardless to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. Any exercise by GoCardless of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.

#### 7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. In respect of any Deliverables that are transferred to GoCardless under this Agreement, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to GoCardless, it will have full and unrestricted rights to transfer all such items to GoCardless.
- 7.2. The Supplier assigns to GoCardless, with full title guarantee and free from all third-party rights, all Intellectual Property Rights in the products of the Services, including the Deliverables.



7.3. The Supplier shall, promptly at the GoCardless' request, do (or procure to be done) all such further acts and things and the execution of all such other documents as GoCardless may from time to time require for the purpose of securing for GoCardless the full benefit of this Agreement, including all right, title and interest in and to the Intellectual Property Rights assigned to GoCardless in accordance with clause 7.2.

7.4. All GoCardless Materials are the exclusive property of GoCardless.

## 8. INDEMNITY

8.1. The Supplier shall keep GoCardless indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by GoCardless as a result of or in connection with:

8.1.1. any claim brought against GoCardless for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

8.1.2. any claim made against GoCardless by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Supplier, its employees, agents or subcontractors.

8.2. This clause 8 shall survive termination of this Agreement.

## 9. LIABILITY

9.1. NOTHING IN THIS AGREEMENT SHALL OPERATE TO EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY FOR:

9.1.1. DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE;

9.1.2. FRAUD, DECEIT OR FRAUDULENT MISREPRESENTATION; OR

9.1.3. ANY OTHER LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED BY LAW.

9.2. SUBJECT TO CLAUSE 9.1, NEITHER PARTY, OR ANY OF SUCH A PARTY'S AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS OR AGENTS, SHALL IN ANY CIRCUMSTANCES BE LIABLE, WHETHER IN TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), CONTRACT, MISREPRESENTATION (WHETHER INNOCENT OR NEGLIGENT) OR OTHERWISE FOR LOSS OF PROFITS, LOSS OF BUSINESS OR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PURE ECONOMIC LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES, EVEN IF A PARTY WAS AWARE OF THE POSSIBILITY THAT SUCH LOSSES OR DAMAGES MIGHT BE INCURRED BY THE OTHER PARTY.

9.3. SUBJECT TO CLAUSES 9.1 AND 9.2, THE TOTAL AGGREGATE LIABILITY OF GOCARDLESS TO THE SUPPLIER (EITHER DIRECTLY OR AS A THIRD PARTY DEFENDANT IN ANY ACTION OR PROCEEDING) IN RESPECT OF ANY LOSS, DAMAGE, LIABILITY, CHARGE, EXPENSE, OUTGOING OR COST (INCLUDING ALL LEGAL AND OTHER PROFESSIONAL COSTS ON A FULL INDEMNITY BASIS) OF ANY NATURE OR KIND INCURRED BY THE SUPPLIER UNDER OR IN RELATION TO THIS AGREEMENT, INCLUDING LIABILITY FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND

BREACH OF STATUTORY DUTY), MISREPRESENTATION (WHETHER INNOCENT OR NEGLIGENT), OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE, THE PRICE PAID BY GOCARDLESS IN THE TWELVE (12) CALENDAR MONTHS PRECEDING THE DATE ON WHICH THE FIRST SUCH EVENT OR EVENTS OCCURRED.

## 10. INSURANCE

10.1. For the duration of this Agreement and for 2 years after termination or expiration of this Agreement, the Supplier shall, at its own cost, maintain in force insurance cover from reputable insurers of a sufficient value and of the correct types to cover all of the Supplier's activities carried out under this Agreement, as well as any other insurance required by law.

## 11. DATA PROTECTION

11.1. The Supplier shall provide the Services in compliance with this Agreement and where applicable, with any data processing agreement entered between the Parties.

11.2. The Supplier represents and warrants that it has obtained all personal data (as defined below) it supplies as part of the Services in accordance with GoCardless' directions, the GoCardless Code of Conduct and applicable law.

## 12. TERMINATION

12.1. Without affecting any other right or remedy available to it, GoCardless may terminate this Agreement with immediate effect by giving written notice to the Supplier if:

12.1.1. the Supplier's financial position deteriorates to such an extent that in GoCardless' opinion the Supplier's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy;

12.1.2. the Supplier commits a breach of any data processing agreement entered between the Parties;

12.1.3. there is a change of Control of the Supplier; or

12.1.4. for convenience by giving written notice to that effect to the Supplier.

12.2. Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if:

12.2.1. the other Party commits a material breach of any term of this Agreement which breach is irremediable or, if such breach is remediable, fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so;

12.2.2. the other Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

12.2.3. the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

12.3. Termination of this Agreement shall not affect any of the Parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination.



12.4. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## 13. CONSEQUENCES OF TERMINATION

13.1. On termination of this Agreement for any reason, the Supplier shall immediately deliver to GoCardless all Deliverables whether or not then complete, and return all GoCardless Materials. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Agreement.

## 14. FORCE MAJEURE

14.1. Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for one month, the Party not affected may terminate this Agreement by giving 5 Business Days' written notice to the affected Party.

## 15. ASSIGNMENT AND OTHER DEALINGS.

15.1. GoCardless may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.

15.2. The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement without the prior written consent of GoCardless. Any attempt to assign, transfer or declare a trust without consent shall be null and void and shall be a breach of this Agreement by the Supplier.

## 16. CONFIDENTIALITY.

16.1. Each Party undertakes that it shall not at any time during this Agreement, and for a period of three years after termination of this Agreement, disclose any Confidential Information of the other party, except as permitted by clause 14.2.

16.2. Each Party may disclose the other party's Confidential Information:

16.2.1. to its or its Affiliates' employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the Party's obligations under this Agreement, provided that the Party procures the persons to whom it discloses the other Party's Confidential Information to comply with this clause 15; and

16.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. The Party receiving the Confidential Information (the "Receiving Party") must, to the extent permitted by the foregoing requirement, as soon as reasonably possible, notify the Party disclosing the Confidential Information (the "Disclosing Party") in writing of any request or requirement for disclosure. If the Receiving Party is unable to notify the Disclosing Party before such disclosure is made, it shall to the extent permitted by the foregoing requirement, notify the Disclosing Party as soon as reasonably possible afterwards. The Receiving Party shall make all reasonable endeavours to resist any requirement for disclosure and to assist the Disclosing Party in resisting that requirement.

16.3. Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

## 17. ENTIRE AGREEMENT

17.1. This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

## 18. VARIATION

18.1. No variation of this Agreement shall be effective unless it is in writing and signed by the Parties.

## 19. WAIVER

19.1. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, or prevent or restrict the further exercise of that or any other right or remedy.

## 20. SEVERANCE

20.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

## 21. NOTICES

21.1. Any notice or other communication given to a Party under or in connection with this Agreement shall be in writing, addressed to that Party at its registered office or such other address as that Party may have specified to the other Party in writing in accordance with this clause, and shall be sent by pre-paid first-class post or other next working day delivery service, or by email.

21.2. A notice or other communication shall be deemed to have been received: if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or, if sent by email, one Business Day after transmission.

## 22. THIRD PARTIES

22.1. No one other than a Party to this Agreement shall have any right to enforce any of its terms.

## 23. GOVERNING LAW

23.1. The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws of the state of Delaware, United States.

## 24. JURISDICTION

24.1. Each Party irrevocably agrees that the courts of Wilmington, Delaware, United States shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.



# GoCardless

## **Schedule 1**

The Supplier acknowledges that it has reviewed the GoCardless Code of Conduct and agrees to comply with such Code of Conduct (as amended from time to time) in connection with its performance under this Agreement.