

eCommerce Gateway Terms and Conditions

eCommerce GATEWAY TERMS AND CONDITIONS

Revision Date: 2 June 2026

Contained herein are two separate legal agreements with Paymark Limited, a company incorporated in New Zealand with registered address Level 18, 88 Shortland St, Auckland 1010, and registered company number 438574, (referred to as **Paymark, we or our**), as follows:

1. the terms and conditions contained on **pages 2 to 5** (inclusive) which constitute a legal agreement between the person or entity using the Gateway test environment available through the URL advised by Paymark from time to time (the **Gateway Demo**) (referred to as **you or your**) and Paymark (the **Gateway Test Environment User Agreement**); and
2. the terms and conditions contained **on pages 6 to 25** (inclusive) which constitute a legal agreement between the entity registered on the Merchant Portal (referred to as **you, your or Customer**) and Paymark (the **Gateway Agreement**).

Please ensure you are familiar with the terms and conditions that apply to your use of Gateway.

Gateway Test Environment User Agreement

The terms and conditions described here constitute a legal agreement (hereinafter, the **Gateway Test Environment User Agreement**) between you and Paymark and applies to your use of the Gateway test environment available through the URL advised by Paymark from time to time (the **Gateway Demo**).

By registering for, accessing and using the Gateway Demo, you acknowledge that you have read, understood and agree to be bound by these terms. If you do not agree to these terms and conditions, you must immediately cease your use of the Gateway Demo.

We may amend this Gateway Test Environment User Agreement at any time. If the changes are material, we will give you reasonable notice before they come into effect.

For the purposes of this Gateway Test Environment User Agreement, unless the context indicates otherwise:

Alternative Payment Methods means a payment method service made available by Paymark, which may include Apple Pay and Google Pay services, that allows a Cardholder to make a Card Transaction through the Paymark eCommerce Solution using the Cardholder's account with that payment method's service.

Gateway means the Gateway solution provided by Paymark;

Gateway API means the application programme interface for Gateway and the Gateway Demo;

Gateway Demo means the Gateway solution provided by Paymark through the Gateway test environment for the transmission of data relating to Test Card Transactions, incorporating certain software owned or licensed by Paymark (including all upgrades, updates, alterations and modifications to such software by or on behalf of Paymark from time to time) and including access (via the internet) to the Gateway Test Server;

Gateway Documentation means any user, training or system manuals for Gateway (whether in printed or electronic form) which describes and provides guidance on Gateway (or any aspect of Gateway including how to integrate with the Gateway API);

Gateway Test Server means the Paymark host server to which you may be connected in the test environment using the software forming part of Gateway and which is in turn linked to a simulator to enable Test Card Transactions to be processed in real time;

Intellectual Property includes copyright and all rights conferred under statute, common law or equity in relation to trade marks (including logos and trade files), domain names, inventions (including patents and petty patents), utility models, designs, circuit layouts, rights in computer software, databases and lists, confidential information, trade secrets, know-how software (whether in object code or source code) and all other proprietary rights, whether registered or unregistered, and all equivalent rights and forms of protection anywhere in the world resulting from intellectual activity, together with all right, interest or licence in or to any of the foregoing;

PCI Standards mean the Payment Card Industry standards and requirements mandated by the Payment Card Industry Data Security Council from time to time including the Payment Card Industry Data Security Standards, PIN Transaction Security Standard and the Payment Application Data Security Standard;

Test Card Transactions means virtual transactions which relate to accepting payment for dummy goods and services by means of a Paymark designated test card;

Test Permitted Use means to determine whether Gateway is appropriate for your business and to test and verify your integration to the Gateway API.

1. TERM

This Gateway Test Environment User Agreement commences on the date on which we first make the Gateway Demo available to you (the **Commencement Date**) and will continue for so long as you continue to use the Gateway Demo (the **Term**).

2. LICENCE

We grant you a personal, non-exclusive, non-transferable licence to use the Gateway Demo, the Gateway API and the Gateway Documentation in your New Zealand operations for the Term solely for the purposes of the Test Permitted Use. Any other use or dealings with Gateway, the Gateway Demo, the Gateway API, the Gateway Documentation or any software forming part of Gateway without our prior written consent will be a material breach of this Gateway Test Environment User Agreement. You must not sublicense, transfer, assign, rent or sell any of Gateway, the Gateway Demo, the Gateway API or the Gateway Documentation or the right to use the Gateway Demo. You must not use the Gateway Demo in any manner which has the effect of causing unnecessary interference or disruption of our business operations or which results in repetitive processing of transactions with no commercial purpose.

3. TERMS OF USE

- 3.1. You must satisfy yourself as to the adequacy, appropriateness and compatibility of Gateway for your requirements. Without limiting clause 5, you acknowledge that you have not relied on any statements or representations on our part as to performance, functionality or suitability for your requirements except as expressly recorded in this Gateway Test Environment User Agreement.
- 3.2. By selecting an Alternative Payment Method as a method of payment to test in the Gateway test environment you agree to be bound by that Alternative Payment Method's terms of service (as may be amended from time to time).
- 3.3. If you are not compliant with the Security Standards (meaning (a) any data protection or data security standards issued by Paymark or any Acquirer; and (b) the PCI Standards), you should not store, process or transmit any card number, card expiry date or cardholder details (**Cardholder Data**) on your or a third party's non-compliant system. If you are not compliant

with the Security Standards, any storing, processing or transmitting of Cardholder Data by you is at your sole risk and responsibility and you indemnify us against all liabilities, losses or costs which we may incur, directly or indirectly, by your non-compliance with the Security Standards.

- 3.4. You must not, and must not permit any other person to, copy, reproduce, translate, adapt, vary, repair or modify all or any of Gateway, the Gateway Demo or the Gateway Documentation without our prior written consent.
- 3.5. If this Gateway Test Environment User Agreement is terminated, your right to use the Gateway Demo and the Gateway Documentation will automatically terminate, and you must immediately remove all copies of the software forming part of Gateway or the Gateway Demo from your system(s).
- 3.6. You must not, and must not permit any other person to, reverse assemble or decompile the whole or any part of the software forming part of Gateway or the Gateway Demo.
- 3.7. Except as expressly provided for in this Gateway Test Environment User Agreement, you must not provide, or otherwise make available any component of Gateway or the Gateway Demo in any form to any third party without our prior written consent.

4. YOUR RESPONSIBILITIES

4.1. You:

- (a) represent and agree that you have full power and authority necessary to validly enter into and perform all obligations under this Gateway Test Environment User Agreement;
- (b) acknowledge that you have made and will continue to make your own assessment of the suitability of Gateway for your purposes;
- (c) will comply with our restrictions and instructions in relation to the use of the Gateway Demo;
- (d) will ensure that only authorised persons use the Gateway Demo and that the Gateway Demo is used only for the Test Permitted Use;
- (e) will accept all responsibility for reliance on and use of the Gateway Demo by you and your employees, contractors and agents;
- (f) acknowledge that any personal information concerning you or your personnel which is provided to us by you or on your behalf may be:
 - a. used by us for the purpose of providing the Gateway Demo and any other services to you; and
 - b. disclosed by us to our service providers to enable us to provide the Gateway Demo and any other services to you;
- (g) will immediately notify us upon becoming aware of any third party infringing our Intellectual Property or of any breach by you or any third party of the Security Standards in connection with the Gateway Demo or a Test Card Transaction; and
- (h) will comply with all relevant laws in your use of the Gateway Demo and carrying out your obligations under this Gateway Test Environment User Agreement.

- 4.2. You agree to indemnify and hold Paymark, its officers, directors and employees harmless from any claim, suit or demand (including legal fees) made or incurred by any third party due to or arising out of your breach of this Gateway Test Environment User Agreement or any terms of Alternative Payment Methods, or your violation of any law or the rights of a third party relating to your use of the Gateway Demo.

5. PERFORMANCE BY US

- 5.1. We do not make any promises or claims as to the availability or uptime of the Gateway Demo. The Gateway Demo is a test environment. You may only use anonymous, non-live data. In particular, you must ensure that any payment data that is entered on the Gateway Demo is not live or production data. Any accounts or transactions made on the Gateway Demo are not real and no real money will change hands.
- 5.2. To the fullest extent permitted by law, except as expressly set out in this Gateway Test Environment User Agreement, we exclude all warranties, conditions, terms, representations or undertakings, whether express, implied, statutory or otherwise, including without limitation any condition or warranty of merchantability or fitness for a particular purpose.
- 5.3. To the fullest extent permitted by law in no event will we be liable to you whether in contract, tort (including negligence) or otherwise:
 - (a) in excess of \$500; and
 - (b) in respect of any:
 - (i) loss of data, lost profits, loss of revenue, loss of goodwill, loss of business or for any indirect, consequential or special loss, damage, cost or expense suffered or incurred by you;
 - (ii) loss, damage, cost or expense suffered or incurred by you, to the extent to which this results from any act or omission by you; or
 - (iii) any event or circumstance outside our direct control, including any Third-Party Outage or mistakes, errors or omissions which are attributable to a third party.

6. INTELLECTUAL PROPERTY & CONFIDENTIALITY

- 6.1. All Intellectual Property rights in Gateway, the Gateway Demo, the Gateway API and the Gateway Documentation are exclusively owned by us (or our licensors). You acknowledge that there is no transfer of title, Intellectual Property rights, interest or ownership of Gateway, the Gateway Demo, the Gateway API or the Gateway Documentation or any part of them to you under this Gateway Test Environment User Agreement. You will treat information about our Intellectual Property as our confidential information.
- 6.2. You agree that you will not, except to the extent authorised in writing by us, use the confidential information we disclose to you for any purpose other than in connection with the performance of this Gateway Test Environment User Agreement or disclose to any third party any such confidential information.
- 6.3. You covenant and agree that all of the confidential information will:
 - (a) be kept strictly confidential;
 - (b) not, without our prior written consent, be photocopied or reproduced;
 - (c) be used exclusively, and only to the extent necessary, for the purposes of performing or obtaining the benefit of this Gateway Test Environment User Agreement;
 - (d) be safely and securely stored when not in use; and
 - (e) remain our absolute and exclusive property.

7. TERMINATION

- 7.1. We may end the availability of the Gateway Demo if the Gateway solution is no longer viable, is unable to be provided by us or is to be withdrawn from general availability by us.
- 7.2. We may, at any time without notice and with immediate effect, suspend your right to use and prevent you from using the Gateway Demo and the Gateway Documentation if:
 - (a) you fail to comply with any term of this Gateway Test Environment User Agreement;

- (b) we consider that Gateway is being, or is likely to be, used fraudulently or in a manner that will jeopardise the security or integrity of Gateway, the Gateway Demo or our systems;
- (c) maintenance and/or technical upgrades are necessary; or
- (d) it is reasonably necessary for any other reason.

7.3. Termination of this Gateway Test Environment User 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, without limitation, the indemnity in clause 4.2 and clause 6.

Gateway Agreement

This agreement (this **Agreement**) is a contract between the entity registered on the Merchant Portal and Paymark.

We may amend this Agreement at any time by posting a revised version on our website and/or Merchant Portal (as defined below). The revised version will be effective at the time we post it. You are responsible for ensuring you are familiar with the latest terms and conditions. Your continued use of the Services represents your agreement to be bound by the terms and conditions as amended.

For the purposes of this Agreement, unless the context indicates otherwise:

Acquirer means a bank or any financial institution or an issuer of financial or non-financial payment instruments which receives and accepts Card Transactions from the Customer;

Alternative Payment Methods means a payment method service made available by Paymark, which may include Apple Pay and Google Pay services, that allows a Cardholder to make a Card Transaction through the Paymark eCommerce Solution using the Cardholder's account with that payment method's service;

AML Act means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (as amended, reenacted, re-numbered or extended from time to time);

Business Day means a day except Saturday, Sunday or a statutory public holiday in Auckland, New Zealand;

Card Transactions means transactions entered into by the Customer which relate to:

- (a) accepting payment for goods and services or a bona fide donation by means of credit card, debit card, prepaid card, gift card or any other means of payment which Paymark agrees in writing to support (including payments via an Alternative Payment Method) and process through the Gateway solution from time to time;
- (b) accepting loyalty cards, rewards cards, points cards, discount cards or club cards which Paymark agrees in writing to support and process through the Gateway solution from time to time; or
- (c) providing services in relation to the sale and use of any of the instruments referred to in paragraphs (a) and (b) above, including the issue of such instruments and the crediting or debiting of value to such instruments, and each related transaction, attempted transaction or transaction request (including without limitation, a preauthorisation, cardholder verification, capture, look-up or refund) is a separate **Card Transaction**;

Cardholder Data is defined in clause 3.3;

Gateway means the Gateway solution provided by Paymark for the transmission of data relating to Card Transactions, incorporating certain software owned or licensed by Paymark (including all upgrades, updates, alterations and modifications to such software by or on behalf of Paymark from time to time) and including access (via the internet) to the Gateway Server;

Gateway API means the application programming interface for Gateway that enables you to integrate with Gateway;

Gateway API Specification means the documentation detailing the Gateway API fields and definitions which is detailed at [the URL advised by Paymark from time to time](#);

Gateway Documentation means any user, training or system manuals for Gateway (whether in printed or electronic form) which describes and provides guidance on Gateway (or any aspect of Gateway including how to integrate with the Gateway API);

Gateway Permitted Use means the transmission to, and receipt from:

- (a) an Acquirer of data relating to Card Transactions;
- (b) an Alternative Payment Method of data relating to a Card Transaction through that Alternative Payment Method, entered into by the Customer but expressly excludes, without limitation, use for the processing of any transactions of, or for the benefit of, any person other than the Customer;

Gateway Server means the Paymark host server to which the Customer may be connected using the software forming part of Gateway and which is in turn linked to the Acquirer to enable Card Transactions to be processed in real time;

Condition is defined in clause 1.1;

Confidential Information means and includes any documentation or Information supplied by a party which by its nature is confidential including all scientific, technical, manufacturing, performance, sales, financial, commercial, contractual or marketing information possessed by a party;

Default Interest Rate means interest at the rate of 5% above the base lending rate charged by Paymark's bank from time to time;

Disclosing Party means a party who discloses Confidential Information under this Agreement;

Fees means the fees and charges for Gateway as notified to you when you enter into this Agreement, and as updated by Paymark from time to time in accordance with clause 5.1;

GDPR means The General Data Protection Regulation (Regulation EU) 2016/679;

Go Live Date means the date on which the last of the Conditions has been fulfilled as notified by Paymark to you and production information has been sent to you;

Information means and includes information of any nature, knowledge, technology, ideas, technical data, concepts, techniques, processes, formulas, expertise, computer programs, trade secrets, inventions, discoveries, designs, methods, know-how and data, whether recorded or not;

Intellectual Property includes copyright and all rights conferred under statute, common law or equity in relation to trade marks (including logos and trade files), domain names, inventions (including patents and petty patents), utility models, designs, circuit layouts, rights in computer software, databases and lists, confidential information, trade secrets, know-how software (whether in object code or source code), and all other proprietary rights, whether registered or unregistered, and all equivalent rights and forms of protection anywhere in the world resulting from intellectual activity, together with all right, interest or licence in or to any of the foregoing;

Merchant Portal means the registration and maintenance portal which may be provided by Paymark in respect of the Services at [the URL advised by Paymark from time to time](#);

Paymark's Branding Guidelines means the branding guidelines published by Paymark and available on request.

Paymark Logos means the Paymark and Gateway logos supplied (in electronic format) by Paymark to the Customer (as may be updated from time to time by Paymark);

PCI Standards means the Payment Card Industry standards and requirements mandated by the Payment Card Industry Data Security Council from time to time including the Payment Card Industry Data Security Standards, PIN Transaction Security Standard and the Payment Application Data Security Standard, to the extent they are applicable to the Services being provided under this Agreement;

Privacy Act means the Privacy Act 2020 (as amended, re-enacted, re-numbered or extended from time to time);

Receiving Party means a party who receives Confidential Information under this Agreement;

Registration Details means the details entered by or on behalf of the Customer in the Merchant Portal;

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

Security Standards means each of:

- (a) any data protection or data security standards issued by Paymark, an Acquirer or an Alternative Payment Method; and
- (b) the PCI Standards;

Services means the services provided under this Agreement as selected by the Customer in the Merchant Portal from time to time;

Support Services is defined in clause 4.2;

Term has the meaning given to it in clause 1.2;

Third Party is defined in clause 3.8; and

Third Party Outage means an outage or incident arising from a non-Paymark controlled network or system component including ISP server or component failures, telecommunications network failures and local area faults.

In this Agreement, unless the context indicates otherwise:

- (a) 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;
- (b) the singular includes the plural and vice versa;
- (c) clause and other headings are for ease of reference only and will not affect this Agreement's interpretation;
- (d) the term includes or including (or any similar expression) is deemed to be followed by the words without limitation;
- (e) any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (f) references to clauses are to clauses in this Agreement;
- (g) references to any party are references to a party to this Agreement (including the successors and permitted assigns of that party); and
- (h) all monetary amounts are stated exclusive of tax (including any applicable goods and services tax, value added tax or similar).

1. TERM

1.1. Conditions

This Agreement and your access to the Services are conditional upon:

- (a) you establishing a merchant acquiring relationship (if you do not already have one); and
- (b) Paymark being satisfied (in its sole discretion) that all customer due diligence required under the AML Act together with any credit checks or other customer due diligence measures that Paymark requires have been successfully completed;

(together, the **Conditions** and each a **Condition**).

1.2. Term

This Agreement commences on the Go Live Date and will continue until it is terminated by either party in accordance with this Agreement (the **Term**).

1.3. Failure to satisfy Condition

If a Condition has not been satisfied within 90 days following your acceptance of this Agreement, Paymark will have the right to terminate this Agreement and, except as provided under clause 11.7, each party's rights and obligations under this Agreement cease immediately on termination.

2. LICENCE

2.1. Grant of licence to Gateway

Paymark grants to the Customer a personal, non-exclusive, non-transferable licence to use Gateway and the Gateway Documentation in the Customer's New Zealand operations for the term of this Agreement solely for the purposes of the Gateway Permitted Use. Except as and to the extent authorised under any applicable laws, any other use or dealings with Gateway, the Gateway Documentation or any software forming part of Gateway without the prior written consent of Paymark will be a material breach of this Agreement. Except to the extent specifically authorised under this Agreement, the Customer must not sub-license, transfer, assign, rent or sell any of Gateway or the Gateway Documentation or the right to use Gateway.

2.2. No unnecessary interference

The Customer must not use the Services in any manner which has the effect of causing unnecessary interference or disruption of the business operations of Paymark or which results in repetitive processing of transactions with no commercial purpose.

3. TERMS OF USE

3.1. Adequacy

The Customer must satisfy itself as to the adequacy, appropriateness and compatibility of the Services for its requirements. Without limiting clause 8, the Customer acknowledges that it has not relied on any statements or representations on the part of Paymark as to performance, functionality or suitability for the Customer's requirements, verbal or otherwise, except as expressly recorded in this Agreement.

3.2. Paymark Logos and privacy statement

The Customer agrees to comply with Paymark's Branding Guidelines as updated from time to time. The Paymark Logos must not be altered or used for any other purpose without the prior written consent of Paymark. The Customer must also display, in a readily visible position, a privacy statement that complies with the requirements of the Privacy Act, as well as GDPR to the extent it applies. If the Customer wishes to make any modifications from the Paymark eCommerce Solution's default template to customise the payment page interface, Paymark may refuse a modification or insertion of a logo if Paymark deems it inappropriate or if it does not comply with Paymark's Branding Guidelines. The Customer should refer to [the URL advised by Paymark from time to time](#) for guidance on best practices and/or contact Paymark if unsure whether they are complying with Paymark's Branding Guidelines.

3.3. Compliance

The Customer agrees to comply with the Security Standards. If the Customer is not compliant with the Security Standards, the Customer should not store, process or transmit any card number, card expiry date or cardholder details (**Cardholder Data**) on the Customer's or a third party's non-compliant system. If the Customer is not compliant with the Security Standards, any storing, processing or transmitting of Cardholder Data by the Customer is at the Customer's sole risk and responsibility and the Customer indemnifies Paymark against all liabilities, losses or costs which Paymark may incur, directly or indirectly, by the Customer's non-compliance with the Security Standards.

3.4. No right to copy, alter or modify

The Customer must not, and must not permit any other person to, copy, reproduce, translate, adapt, vary, repair or modify all or any of Gateway or the Gateway Documentation by any means or in any form without Paymark's prior written consent.

3.5. Permitted use

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

- (a) use Gateway or the Gateway Documentation for any purpose other than the Gateway Permitted Use; or
- (b) use the software forming part of Gateway independently of the other components of Gateway unless Paymark has given its prior written consent; or
- (c) merge all or any part of Gateway with any other software unless Paymark has given its prior written consent.

3.6. Termination of Agreement

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

3.7. Reverse engineering

The Customer must not, and must not permit any other person to, reverse assemble or decompile the whole or any part of the software forming part of Gateway.

3.8. No Third-Party use

Except as expressly provided for in this Agreement, the Customer must not provide, or otherwise make available, Gateway or any component of Gateway in any form to any person (the **Third Party**) without the prior written consent of Paymark. If Paymark grants such consent, the Customer must ensure that the Third Party complies with the provisions of clauses 2, 3, 7 and 12 as if the Third Party were a party to this Agreement. The Customer will be liable to Paymark for all acts or omissions of any Third Party in contravention of the provisions of clauses 2, 3, 7 and 12.

3.9. Right to suspend

We may decline or suspend any Card Transaction that we believe may violate this Agreement or if we believe it may expose you, Paymark or others to risks unacceptable to Paymark.

4. SERVICES

4.1. Services

Paymark will provide the Services to you in accordance with the terms of this Agreement. In no circumstance will Paymark be liable in respect of, or be responsible to resolve, a Third-Party Outage.

4.2. Support

Paymark will provide the following support services (the **Support Services**):

- (a) Technology support in respect of technology queries regarding the use of Gateway and the Merchant Portal, including assistance with a system down situation in which no operation can continue, the activation of maintenance releases and bug fixes and any other urgent request which does not fall into the business support category described in paragraph (b) below. Urgent user support may be requested by calling 0800 PAYMARK (0800 729 627) 24 hours a day, 365 days a year.
- (b) Business support in respect of general user queries regarding the use of Gateway and the Merchant Portal, including support for user enquiries such as forgotten passwords and assistance with any failure in the transmission of Card Transactions. Business support may be requested by sending an email to support@paymark.co.nz or by calling

0800 PAYMARK (0800 729 627) 24 hours a day, 365 days a year. Paymark will endeavour to acknowledge receipt of, and address, any requests for Support Services within (in each case) a reasonable timeframe.

4.3. **Other services**

If you require services additional to the Services, Paymark may, if it agrees to provide those services, charge you for those services on such terms and conditions as may be agreed between us.

4.4. **Alterations**

Paymark may, at its sole discretion, alter, upgrade, update or change Gateway and/or the Gateway Server at any time during the term of this Agreement. Where Paymark believes that such alteration, upgrade, update or change will, or is likely to, materially affect your use of the Services, Paymark will endeavour to notify you of this in advance. You acknowledge and agree that, if you fail to promptly upgrade the integration of Gateway (as notified to you by Paymark in connection with this Agreement), you may be unable to process Card Transactions and that:

- (a) Paymark will not be liable to you under this Agreement in respect of such inability; and
- (b) Paymark will be released from any obligation to supply the Support Services during any period in which you have failed to undertake any such upgrade.

4.5. **Merchant Portal**

You acknowledge and agree that Paymark may, at its sole discretion, determine what information, data, features and functionality is made available to you via the Merchant Portal. You agree to comply with any terms that Paymark may specify in relation to your use of the Merchant Portal. In the event of any inconsistency between the terms and conditions of this Agreement and those on the Merchant Portal, the terms and conditions of this Agreement will apply to the extent of that inconsistency. Paymark will supply you with usernames and passwords to enable you to access the Merchant Portal. You must keep such usernames and passwords secure and made known only to authorised users and will be responsible for all use of the Merchant Portal, both during and after the term of this Agreement, through use of your usernames and passwords. If you breach any term of this Agreement or the terms of use of the Merchant Portal, Paymark may disable your usernames and passwords.

5. **PAYMENT**

5.1. **Fees**

Unless otherwise agreed in writing between the Customer and Paymark, the Customer will pay Paymark the Fees for the Services, as amended by Paymark in accordance with this clause 5.1. Paymark may review and amend the Fees provided that Paymark will give the Customer at least one month's prior written notice of any increase in any of the Fees payable by the Customer to Paymark. The Fees are based on transaction volumes, and on Paymark's website and/or the Merchant Portal. Transactions that exceed those volume thresholds may attract an overage fee or require you to upgrade to a revised pricing arrangement.

5.2. **Payment of invoices**

Each invoice received by the Customer from Paymark will be payable, without set off or deduction, no later than the 20th day of the month following the date of invoice.

5.3. **Taxes**

The Customer is responsible for all taxes, duties and levies (including any applicable goods and services tax, value added tax or similar, but excluding Paymark's income tax) assessed in connection with its use of the Services and the provision of Services under this Agreement. Paymark is entitled to charge an additional amount equal to the charge of GST on top of the fees expressed in this Agreement.

5.4. Default interest

If the Customer fails to pay the Fees when due, the Customer must pay the Default Interest Rate on any overdue amounts under this Agreement, calculated daily from the due date until the actual day of payment. The Customer must also pay any costs (including collection costs and legal costs on a solicitor-client basis) reasonably incurred by Paymark in attempting to recover any such overdue amounts.

5.5. Disputed invoices

Where the Customer has reasonable grounds to dispute any amount invoiced by Paymark to the Customer under this Agreement (the **Disputed Amount**):

- (a) the Customer will notify Paymark of such dispute and the grounds for such dispute within five Business Days of receiving that invoice;
- (b) any undisputed portion of the invoice will remain payable on the due date for payment;
- (c) provided that the Customer has complied with clause 5.5(a), the Customer will not be required to pay the Disputed Amount until the parties' dispute has been resolved by agreement between the parties or in accordance with clause 14 or 16.6.

6. JOINT RESPONSIBILITIES

Each party:

- (a) represents that it has full power and authority necessary to validly enter into and perform all its obligations under this Agreement; and
- (b) agrees to comply with the other party's reasonable security, confidentiality and operational requirements of which it has been given reasonable notice.

7. CUSTOMER RESPONSIBILITIES**7.1. Responsibilities**

The Customer:

- (a) will comply with Paymark's restrictions and instructions in relation to the use of the Services, including those set out in this Agreement and instructions in respect of any breach of the Security Standards;
- (b) will ensure that only authorised persons use Gateway and that Gateway is used only for the Gateway Permitted Use and as expressly authorised under this Agreement;
- (c) will accept all responsibility for reliance on and use of the Services by the Customer and its employees, contractors, and agents;
- (d) will obtain and maintain all equipment, software and services needed to enable it to receive and use the Services;
- (e) will integrate with the latest Gateway API in accordance with the Gateway release schedule as published by Paymark from time to time and comply with the latest available Gateway API Specification ;
- (f) warrants that all of the Registration Details are accurate and correct, and that the Customer will promptly notify Paymark in writing if such information changes or ceases to be accurate in any way including, without limitation, the Customer's registered address;
- (g) will ensure that sufficient information is given to Paymark to enable Paymark to comply with its obligations under this Agreement and to deal with any queries in relation to the Services and will ensure that such information is timely, complete and accurate;
- (h) acknowledges that Paymark may from time-to-time request certain information from the Customer for customer due diligence purposes. The Customer will at all times comply with any reasonable requests of Paymark to provide such information;
- (i) will immediately notify Paymark upon becoming aware of any third-party infringing Paymark's Intellectual Property rights in any manner;
- (j) will immediately notify Paymark upon becoming aware of any breach by the Customer or any third party of the Security Standards;

- (k) is responsible for all charges and costs associated with connecting to the Gateway Server to operate Gateway and with integrating with the Gateway API to operate Gateway;
- (l) is responsible for any Cardholder Data retained on its system and any legal or financial consequences of unauthorised use or disclosure of this information; and
- (m) will comply with all relevant laws, including all statutory, regulatory and common laws, in its use of the Services, and carrying out its obligations under this Agreement.

7.2. **Obligation to notify**

You agree to promptly notify us:

- (a) if you change registered office;
- (b) if any step is taken to appoint a receiver, a trustee in bankruptcy, a liquidator, an administrator or similar of the whole or any part of your assets or business;
- (c) if you cease to carry on business or cease to be able to pay your debts as they become due;
- (d) if any step is taken by a mortgagee to take possession or dispose of the whole or any part of your assets, operations or business;
- (e) if any step is taken to enter into any arrangement between you and your creditors;
- (f) of any adverse change in your financial condition, any planned or anticipated liquidation or substantial change in the basic nature of your business;
- (g) of any transfer or sale of 25% or more of your assets or any change in your control or ownership or your ultimate parent entity; and
- (h) of any judgment against 25% or more of your assets not later than three days after you obtain knowledge of such judgment.

7.3. **Warranty**

The Customer warrants and represents to Paymark that it will not use Gateway, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of Gateway. The representation and warranty set out in this clause are ongoing throughout the term of this Agreement.

7.4. **Indemnity**

The Customer will indemnify Paymark against all liabilities, losses and costs which Paymark may incur, directly or indirectly, as a result of:

- (a) any breach by the Customer of this Agreement; or
- (b) any fraud or negligence of the Customer or its employees or agents in using, or any misuse or unauthorised act or act causing damage by any of them in relation to Gateway or an Alternative Payment Method.

7.5. **Waiver of claim against Paymark suppliers**

The Customer agrees that it will not bring any claim against any supplier to Paymark in connection with or in respect of the Services provided by Paymark under this Agreement.

8. **PERFORMANCE BY PAYMARK**

8.1. **Standard of care**

Paymark will:

- (a) perform its obligations under this Agreement with reasonable care, skill and diligence;
- (b) comply with all relevant laws and co-operate with the Customer (and the Customer's service providers) in connection with the Services; and
- (c) provide the Customer with reasonable technical information necessary to enable the Customer to connect to the Gateway Server and integrate with the Gateway API.

8.2. **PCI Standards**

Paymark confirms that Paymark will, throughout the term of this Agreement, maintain the required certification in respect of the PCI Standards. Paymark acknowledges that it is responsible for the security of cardholder data Paymark possesses, stores, processes or

transmits on behalf of the Customer, or to the extent that Paymark could impact the security of the Customer's cardholder data environment. Evidence of our PCI DSS compliance is available on request.

8.3. **Limitations on warranties**

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

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

9. **INTELLECTUAL PROPERTY**

All Intellectual Property rights in Gateway are exclusively owned by Paymark (or Paymark's licensors). The Customer acknowledges that there is no transfer of title, Intellectual Property rights, interest or ownership of Gateway or any part of Gateway to the Customer under this Agreement.

10. **LIMITATION OF LIABILITY**

To the fullest extent permitted by applicable law:

- (a) subject to clauses 10(b) and 10(c), the Customer's sole and exclusive remedy for breach of any warranty or of any of Paymark's obligations under this Agreement is (at Paymark's option) the supply or re-supply of the Services or refund or waiver of fees for the relevant part of the Services which is the subject matter of, or directly related to, the breach;
- (b) in no event will Paymark's total liability to the Customer under or in connection with this Agreement, whether in contract, tort (including negligence) or otherwise, exceed the amount paid by the Customer to Paymark under this Agreement in the six months immediately preceding the breach; and
- (c) in no event will Paymark be liable to the Customer whether in contract, tort (including negligence) or otherwise in respect of any:
 - (i) loss of data, lost profits, loss of revenue, loss of goodwill, loss of business or for any indirect, consequential or special loss, damage, cost or expense suffered or incurred by the Customer arising out of or in connection with this Agreement;
 - (ii) loss, damage, cost or expense suffered or incurred by the Customer, to the extent to which this results from any act or omission by the Customer;
 - (iii) any event or circumstance outside Paymark's direct control, including any Third-Party Outage or mistakes, errors or omissions which are attributable to a third party; or
 - (iv) any event described in clause 13.

11. **TERMINATION**

11.1. **Termination for convenience**

The Customer may terminate this Agreement at any time on not less than one month's notice to Paymark.

11.2. **Termination for cause**

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

- (a) is in material breach of any of its obligations under this Agreement and that breach is not capable of remedy, or where it is capable of remedy, the Second Party, has failed to

remedy the breach within 20 Business Days of receiving written notice from the First Party to remedy the breach; or

- (b) ceases or threatens to cease to carry on most or all of its business, makes or proposes to make any compromise, assignment, arrangement or composition with or for the benefit of any of its creditors, goes into liquidation, has a receiver, administrator, statutory manager or similar insolvency administrator appointed or is unable to pay its debts as they fall due or suffers any other similar insolvency event.

11.3. Change of control of Customer

Paymark may immediately terminate or suspend this Agreement by giving the Customer notice in writing of its intention to do so if effective management or control of the Customer is transferred to any person or company without Paymark's prior written approval.

11.4. Breach of licence terms

Any use of Gateway by the Customer for any purpose other than the Gateway Permitted Use or any breach by Customer of the provisions of clause 2, will be deemed to be a material breach of this Agreement which is not reasonably capable of remedy.

11.5. Withdrawal of Gateway or an Alternative Payment Method

Paymark may end the availability of any part of Gateway or an Alternative Payment Method if such service is no longer viable, is unable to be provided by Paymark or is to be withdrawn from general availability by Paymark. Where Paymark replaces a service with a new service that provides equivalent or better functionality at a similar price, the Customer will not unreasonably refuse to migrate to that service. If Paymark has withdrawn all Services in accordance with this clause 11.5, it will be entitled to terminate this Agreement on not less than one month's notice to the Customer.

11.6. Right to suspend

Paymark may, at any time without notice and with immediate effect, suspend the Customer's right to use and prevent the Customer from using the Services if:

- (a) the Customer fails to comply with any term of this Agreement (including for the avoidance of doubt, failure to pay an invoice in accordance with clause 5);
- (b) Paymark considers on reasonable grounds that serious circumstances exist and that the principles of prudential banking relevant to operation of Gateway so require;
- (c) Paymark believes a Card Transaction may expose the Customer, Paymark, an Alternative Payment Method or any third party to risks unacceptable to Paymark;
- (d) Paymark considers that Gateway is being, or is likely to be, used fraudulently or in a manner that will jeopardise the security, reputation or integrity of Gateway or Paymark's systems;
- (e) if effective management or control of the Customer is transferred to any other person or entity without Paymark's prior written consent;
- (f) maintenance and/or technical upgrades are necessary;
- (g) it is reasonably necessary for any other reason, including without limitation, for customer due diligence purposes as required pursuant to the AML Act; or
- (h) the Customer fails to comply with any requirements of an Alternative Payment Method in relation to its use of that Alternative Payment Method.

11.7. 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 5, 9, 10, 11, this 11.7, 12, 16.2 and 16.6, together with those clauses which are incidental to, and required in order to give effect to, those clauses).

12. CONFIDENTIALITY AND PERSONAL INFORMATION

12.1. No unauthorised use or disclosure of Confidential Information

Subject to clause 12.5, the Receiving Party agrees that it will not, except to the extent authorised by the Disclosing Party in writing, use the Confidential Information for any purpose other than in connection with the performance of this Agreement or disclose to any third party any such Confidential Information, provided that the foregoing restrictions on use and disclosure will not apply to such Confidential Information which:

- (a) at, prior or subsequent to the time of such disclosure is independently known to the Receiving Party;
- (b) was in the public domain, but not known to the Receiving Party, prior to the Go Live Date;
- (c) comes into the public domain subsequent to the Go Live Date, otherwise than as a result of a breach by the Receiving Party of its obligations hereunder;
- (d) is disclosed to the Receiving Party on a non-confidential basis by any third party having the lawful right to do so; or
- (e) is developed by the Receiving Party independently of the information disclosed by the Disclosing Party.

12.2. Storage and security of Confidential Information

The Receiving Party covenants and agrees in favour of the Disclosing Party that all of the Confidential Information provided to or obtained by the Receiving Party or of which the Receiving Party becomes aware as a result of the exercise of the rights granted to the Receiving Party under this Agreement:

- (a) will be kept strictly confidential;
- (b) will, having first received the Disclosing Party's authorisation in writing, before disclosing any of the Confidential Information to any third party, take all reasonable action (including if necessary, the execution of confidentiality agreements) to ensure that such third party will not use or disclose the Confidential Information except in the manner and to the extent permitted in this Agreement;
- (c) will not, without the prior written consent of the Disclosing Party, be photocopied or reproduced in any way;
- (d) will be used exclusively, and only to the extent necessary, for the purposes of performing or obtaining the benefit of this Agreement and not for any other purpose;
- (e) will be safely and securely stored when not in use; and
- (f) will remain the absolute and exclusive property of the Disclosing Party.

12.3. Disclosure to third parties

Where the Receiving Party is:

- (a) expressly permitted under this Agreement; or
- (b) authorised by the Disclosing Party in writing, to disclose any Confidential Information to a third party, it will, before disclosing any of the Confidential Information to any third party, take all reasonable action (including if necessary, the execution of confidentiality agreements) to ensure that such third party will not use or disclose the Confidential Information except in the manner and to the extent permitted in this Agreement.

12.4. Disclosure to employees

Each Party will limit access to the Confidential Information to that Party's consultants, officers, employees, agents or advisers:

- (a) who are assigned to work pursuant to this Agreement; and
- (b) who reasonably require the Confidential Information for the purpose of this Agreement.

12.5. Disclosure required by law

If the Receiving Party is legally required to disclose any of the Disclosing Party's Confidential Information, the Receiving Party must (if permitted by law) advise the Disclosing Party before disclosing it. The Receiving Party must only disclose that part of the Disclosing Party's Confidential Information that the Receiving Party's legal advisers (including in-house legal counsel) reasonably believe is necessary to disclose by law.

12.6. **Paymark Intellectual Property**

Without limiting this clause, the Customer will treat information about Paymark's Intellectual Property as the Confidential Information of Paymark.

12.7. **Notification of unauthorised disclosure**

If either party becomes aware or suspects that any unauthorised person has obtained, attempted to obtain, or may obtain access to Confidential Information or has used or attempted to use such Confidential Information for purposes not authorised or permitted by the terms of this Agreement, that party will:

- (a) immediately notify the other party; and
- (b) fully cooperate with and assist the other party in dealing with the consequences of any such breach.

12.8. **Personal Information**

You acknowledge that any personal information concerning you, your personnel or any third party which is provided to Paymark at any time, whether in writing, by telephone, electronically or any other means, may be used by Paymark for the purposes of providing services to you. You acknowledge and accept Paymark's privacy policy for digital payments (including the services provided under this Agreement) available at <https://Paymark.com/en-nz/compliance/privacy> as updated from time to time. You confirm and acknowledge that for the purposes of Paymark providing services to you Paymark may be required to collect personal information relating to you or your personnel from third parties including (but not limited to) credit and information bureaus and customer due diligence information collected from your bank for the purposes of the AML Act. Both Paymark and the Customer also commit to respect the obligations that apply to it according to GDPR to the extent that it applies.

13. **FORCE MAJEURE**

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

- (a) 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) each party will continue to use its best endeavours to perform its obligations as required under this Agreement;
- (c) the Affected Party will resume full performance as soon as reasonably practicable;
- (d) 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 13 or otherwise resulting from such act, omission, failure or delay; and
- (e) this clause 13 will not apply in respect of the Customer's obligation to pay any charges or fees payable under this Agreement.

14. **DISPUTE RESOLUTION**

- 14.1. If there is a dispute between the parties in relation to this Agreement, either party may give the other party notice of the nature and details of the dispute. Within 10 Business Days of receipt of the notice of the dispute, senior managers of the parties will meet to endeavour to resolve the dispute. If the parties fail to negotiate a resolution to a dispute within a reasonable time (at

most 20 Business Days from formal notice of the dispute being given by one party to the other), either party may require that the dispute be submitted to mediation, such mediation to take place in Auckland, New Zealand. The mediation will be conducted under the Resolution Institute standard mediation agreement.

- 14.2. If the parties fail to agree on a mediator within five Business Days after the submission to mediation, one will be appointed by Paymark. 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.
- 14.3. All discussions in mediation will be without prejudice and will not be referred to in any later proceedings (if any).
- 14.4. 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.

15. **AUDIT AND INFORMATION RIGHTS**

You must allow the employees, contractors or agents of Paymark reasonable access to your premises during normal business hours to check your compliance with this Agreement or the Security Standards.

16. **GENERAL**

16.1. **Entire agreement**

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

16.2. **Assignment**

You may not transfer or assign any of your liabilities or rights under this Agreement to any other person without our prior written consent (such consent not to be unreasonably withheld provided we are satisfied as to the suitability of the assignee, and you meet our reasonable costs in relation to the assignment). This Agreement binds you and your respective heirs, representatives and permitted and approved successors or any permitted assigns. Paymark may assign its rights and obligations under this Agreement to any Related Company provided we give you at least one month's prior written notice.

16.3. **Waiver**

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

16.4. **Amendment**

Paymark has the right to change or add to the terms of this Agreement at any time, and to change, delete, discontinue, or impose conditions on any feature or aspect of the Services with notice that Paymark in its sole discretion deems to be reasonable in the circumstances, including such notice on Paymark's website, the Merchant Portal or any other website maintained or owned by Paymark for the purposes of providing services in terms of this Agreement. Any use of the Services after Paymark's publication of any such changes will constitute your acceptance of this Agreement as modified.

16.5. **Set-off**

Paymark may at any time without notice to you set off any Liability owed by Paymark to you on any account against any Liability owed by you to Paymark under or in connection with this Agreement. For the purpose of this clause, Liability means any debt or monetary liability, irrespective of whether the debt or monetary liability is future or present, actual or contingent.

16.6. Governing law and jurisdiction

This Agreement is governed by the laws of New Zealand and, subject to clause 14, the parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

16.7. Invalidity

If any provision of this Agreement (or portion thereof) is held to be invalid or unenforceable under applicable law, then it will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.

16.8. Remedies

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

16.9. Subcontracting

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

16.10. Notices

All notices or other communications to be given under this Agreement must be in writing and will be deemed validly given if:

- (a) in the case of notices to the Customer, delivered by hand, registered mail or email to Customer at the respective addresses specified in the Merchant Portal; and
- (b) in the case of notices to Paymark, sent by email to Paymark at support@paymark.co.nz.

Receipt will be deemed upon delivery by hand, four Business Days after posting, or at the time at which the email is sent unless the sender subsequently receives an email delivery failure notification or similar (whichever is applicable).

Revision Notes	
Version	Changes
2 October 2024	Updates to out-of-date URLs and Worldline branding
2 June 2026	Updates to out-of-date URLs, re-branding from Worldline to Cuscal Paymark and resulting changes to terms