# Personal data processing agreement

The Merchant as referred to in the Merchant Application/Agreement Form (**"Merchant"**) and SaltPay hf. (**"SaltPay"**) have entered into a framework Merchant Agreement with respect to SaltPay's acquistion of certain of the Merchant's transactions ("**Merchant Agreement**").

This Personal Data Processing Agreement ("**Agreement"**) sets out the additional terms, requirements and conditions on the Merchant to process Personal Data when fulfilling obligations under the Merchant Agreement. This Agreement contains the mandatory clauses required by Article 28(3) of the General Data Protection Regulation (*(EU) 2016/679*) for contracts between controllers and processors.

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

The following definitions and rules of interpretation apply in this Agreement. Any capitalised term that is not defined in this Agreement has the meaning given to it in the Merchant Agreement.

**1.1 Definitions:**

**Business Purposes:** the services described in the Merchant Application Agreement or any other purpose specifically identified in *Annex A*.

**Data Protection Legislation:** all applicable privacy and data protection laws including the General Data Protection Regulation (*(EU) 2016/679*) and any applicable national implementing laws, regulations and secondary legislation in the relevant country as defined in the Merchant Agreement relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (*2002/58/EC*) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (*SI 2003/2426*).

**Data Subject:** an individual who is the subject of Personal Data.

**Personal Data:** means any information relating to an identified or identifiable natural person that is processed by the Provider as a result of, or in connection with, the provision of the services under the Master Agreement; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Personal Data Breach:** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

**Processing, processes and process:** either any activity that involves the use of Personal Data or as the Data Protection Legislation may otherwise define processing, processes or process. It includes any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring Personal Data to third parties.

**1.2** This Agreement is subject to the terms of the Merchant Agreement and is incorporated into the Merchant Agreement. Interpretations and defined terms set out in the Merchant Agreement apply to the interpretation of this Agreement.

**1.3** The Annexes form part of this Agreement and will have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Annexes.

**1.4** A reference to writing or written includes email.

**1.5** In the case of conflict or ambiguity between:
**(a)** any provision contained in the body of this Agreement and any provision contained in the Annexes, the provision in the body of this Agreement will prevail;
**(b)** the terms of any accompanying invoice or other documents annexed to this Agreement and any provision contained in the Annexes, the provision contained in the Annexes will prevail;
**(c)** any of the provisions of this Agreement and the provisions of the Merchant Agreement, the provisions of this Agreement will prevail.

## 2. PERSONAL DATA TYPES AND PROCESSING PURPOSES

**2.1** SaltPay and the Merchant acknowledge that for the purpose of the Data Protection Legislation and in respect of data collected by the Merchant about Cardholders for fulfilling obligations under the Merchant Agreement, SaltPay is the data controller and the Merchant is the data processor. The Merchant is however the controller of any other data processing in relation to the selling of goods and/or products of the Merchant.

**2.2** SaltPay retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, including providing any required notices and obtaining any required consents, and for the processing instructions it gives to the Merchant.

**2.3** *Annex A* describes the subject matter, duration, nature and purpose of processing and the Personal Data categories and Data Subject types in respect of which SaltPay may process to fulfil the Business Purposes of the Merchant Agreement.

## 3. MERCHANT'S OBLIGATIONS

**3.1** The Merchant will process the Personal Data only to the extent, and in such a manner, as is necessary for the Business Purposes in accordance with SaltPay's written instructions. The Merchant will not process the Personal Data for any other purpose or in a way that does not comply with this Agreement or the Data Protection Legislation. The Merchant must promptly notify the Merchant if, in its opinion, SaltPay's instructions would not comply with the Data Protection Legislation.

**3.2** The Merchant must promptly comply with SaltPay's request or instruction requiring the Merchant to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing.

**3.3** The Merchant will maintain the confidentiality of all Personal Data and will not disclose Personal Data to third parties unless SaltPay or this Agreement specifically authorises the disclosure, or as required by law. If a law, court, regulator or supervisory authority requires the Merchant to process or disclose Personal Data, the Merchant must first inform SaltPay of the legal or regulatory requirement and give SaltPay an opportunity to object to or challenge the requirement, unless the law prohibits such notice.

**3.4** The Merchant will reasonably assist SaltPay with meeting SaltPay's compliance obligations under the Data Protection Legislation, taking into account the nature of the Merchant's processing and the information available to the Merchant, including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with supervisory authorities under the Data Protection Legislation.

**3.5** The Merchant must promptly notify SaltPay of any changes to Data Protection Legislation that may adversely affect the Merchant's performance of the Merchant Agreement.

## 4. MERCHANT'S EMPLOYEES

**4.1** The Merchant shall ensure that all employees:
**(a)** are informed of the confidential nature of the Personal Data and are bound by confidentiality obligations and use restrictions in respect of the Personal Data;
**(b)** have undertaken training on the Data Protection Legislation relating to handling Personal Data and how it applies to their particular duties; and
**(c)** are aware both of the Merchant's duties and their personal duties and obligations under the Data Protection Legislation and this Agreement.

## 5. SECURITY

**5.1** The Merchant must at all times implement appropriate technical and organisational measures against unauthorised or unlawful processing, access, disclosure, copying, modification, storage, reproduction, display or distribution of Personal Data, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of Personal Data including, but not limited to, the security measures set out in *Annex B*.

**5.2** The Merchant must implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:
**(a)** the pseudonymisation and encryption of personal data;
**(b)** the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
**(c)** the ability to restore availability and access to personal data in a timely manner in the event of a physical or technical incident; and
**(d)** a process for regularly testing, assessing and evaluating the effectiveness of security measures.

## 6. PERSONAL DATA BREACH

**6.1** The Merchant will promptly and without undue delay notify SaltPay if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Merchant will restore such Personal Data at its own expense.

**6.2** The Merchant will without undue delay and within 12 hours notify SaltPay if it becomes aware of:
**(a)** any accidental, unauthorised or unlawful processing of the Personal Data; or
**(b)** any Personal Data Breach.

**6.3** Where the Merchant becomes aware of (a) and/or (b) above, it shall, without undue delay, also provide SaltPay with the following information:
**(a)** description of the nature of (a) and/or (b), including the categories and approximate number of both Data Subjects and Personal Data records concerned;
**(b)** the likely consequences; and
**(c)** description of the measures taken, or proposed to be taken to address (a) and/or (b), including measures to mitigate its possible adverse effects.

**6.4** Immediately following any unauthorised or unlawful Personal Data processing or Personal Data Breach, the parties will co-ordinate with each other to investigate the matter. The Merchant will reasonably co-operate with SaltPay in SaltPay's handling of the matter, including:
**(a)** assisting with any investigation;
**(b)** providing SaltPay with physical access to any facilities and operations affected;
**(c)** facilitating interviews with the Merchant's employees, former employees and others involved in the matter;
**(d)** making available all relevant records, logs, files, data reporting and other materials required to

comply with all Data Protection Legislation or as otherwise reasonably required by SaltPay; and
**(e)** taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the Personal Data Breach or unlawful Personal Data processing.

**6.5** The Merchant will not inform any third party of any Personal Data Breach without first obtaining SaltPay's prior written consent, except when required to do so by law.

**6.6** The Merchant will cover all reasonable expenses associated with the performance of the obligations under *Clause 6.2* and *Clause 6.4* unless the matter arose from SaltPay's specific instructions, negligence, wilful default or breach of this Agreement, in which case SaltPay will cover all reasonable expenses.

## 7. CROSS-BORDER TRANSFERS OF PERSONAL DATA

**7.1.** The Merchant (or any subcontractor) must not transfer or otherwise process Personal Data outside the European Economic Area (**EEA**) without obtaining SaltPay's prior written consent.

**7.2** If any Personal Data transfer between SaltPay and the Merchant requires execution of the European Commission's Standard Contractual Clauses for the transfer of Personal Data from the European Union to processors established in third countries, as set out in the Annex to Commission Decision 2010/87/EU, and as later amended, in order to comply with the Data Protection Legislation, the parties will execute such Standard Contractual Clauses, and take all other actions required to legitimise the transfer.

## 8. SUBCONTRACTORS

**8.1** The Merchant may authorise a third party (subcontractor) to process the Personal Data only if:
**(a)** SaltPay is provided with an opportunity to object to the appointment of each subcontractor within 30 days after the Merchant supplies the Merchant with full details regarding such subcontractor;
**(b)** the Merchant enters into a written contract with the subcontractor that contains terms substantially the same as those set out in this Agreement, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon SaltPay's written request, provides SaltPay with copies of such contracts;
**(c)** All the conditions set out in the Merchant Agreement terms and conditions for the use of subcontractors are fulfilled;
**(d)** The Merchant maintains control over all Personal Data it entrusts to the subcontractor; and
**(e)** the subcontractor's contract terminates automatically on termination of this Agreement for any reason.

**8.2** Where the subcontractor fails to fulfil its obligations under such written agreement, the Merchant remains fully liable to SaltPay for the subcontractor's performance of its agreement obligations.

**8.3** On SaltPay's written request, the Merchant will audit a subcontractor's compliance with its obligations regarding SaltPay's Personal Data and promptly provide SaltPay with the audit results.

## 9. COMPLAINTS, DATA SUBJECT REQUESTS AND THIRD PARTY RIGHTS

**9.1** The Merchant must, at no additional cost to SaltPay, take such technical and organisational measures as may be appropriate, and promptly provide such information to SaltPay as SaltPay may reasonably require, to enable SaltPay to comply with:
**(a)** the rights of Data Subjects under the Data Protection Legislation, including subject access rights, the rights to rectify and erase personal data, object to the processing and automated processing of personal data, and restrict the processing of personal data; and
**(b)** information or assessment notices served on SaltPay by any supervisory authority under the Data Protection Legislation.

**9.2** The Merchant must notify SaltPay immediately if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data.

**9.3** The Merchant must notify SaltPay within three (3) working days if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Legislation.

**9.4** The Merchant will give SaltPay its full co-operation and assistance in responding to any complaint, notice, communication or Data Subject request.

**9.5** The Merchant must not disclose the Personal Data to any Data Subject or to a third party other than at SaltPay's request or instruction, as provided for in this Agreement or as required by law.

## 10. TERM AND TERMINATION

**10.1** This Agreement will remain in full force and effect so long as:
**(a)** the Merchant Agreement remains in effect, or
**(b)** the Merchant retains any Personal Data related to the Merchant Agreement in its possession or control (**Term**).

**10.2** Any provision of this Agreement that expressly or by implication should come into or continue in force on or after termination of the Merchant Agreement in order to protect Personal Data will remain in full force and effect.

**10.3** If a change in Data Protection Legislation prevents either party from fulfilling all or part of its Merchant Agreement obligations, the parties will suspend the processing of Personal Data until that processing complies with the new requirements. If the parties are unable to bring the Personal Data processing into compliance with the Data Protection Legislation within three (3) months, either party may terminate the Merchant Agreement on written notice to the other party.

## 11. DATA RETURN AND DESTRUCTION

**11.1** At SaltPay's request, the Merchant will give SaltPay a copy of or access to all or part of SaltPay's Personal Data in its possession or control in the format and via the media reasonably specified by SaltPay.

**11.2** On termination of the Merchant Agreement for any reason or upon expiry of its term, the Merchant will securely delete or destroy or, if directed in writing by SaltPay, return and not retain, all or any Personal Data related to this Agreement in its possession or control.

**11.3** If any law, regulation, or government or regulatory body requires the Merchant to retain any documents or materials that the Merchant would otherwise be required to return or destroy, it will notify SaltPay in writing of that retention requirement, giving details of the documents or materials that it must retain, the legal basis for retention, and establishing a specific timeline for destruction once the retention requirement ends.

## 12. RECORDS

**12.1** The Merchant will keep detailed, accurate and up-to-date written records regarding any processing of Personal Data it carries out for SaltPay, including but not limited to, the access, control and security of the Personal Data, approved subcontractors and affiliates, the processing purposes, categories of processing, any transfers of personal data to a third country and related safeguards, and a general description of the technical and organisational security measures referred to in *Clause 5.1* (**Records**).

## 13. AUDIT

**13.1** The Merchant will permit SaltPay and its third-party representatives to audit the Merchant's

compliance with its Agreement obligations, on at least ten (10) days' notice, during the Term. The Merchant will give SaltPay and its third-party representatives all necessary assistance to conduct such audits. The assistance may include, but is not limited to:
**(a)** physical access to, remote electronic access to, and copies of the Records and any other information held at the Merchant's premises or on systems storing Personal Data;
**(b)** access to and meetings with any of the Merchant's personnel reasonably necessary to provide all explanations and perform the audit effectively; and
**(c)** inspection of all Records and the infrastructure, electronic data or systems, facilities, equipment or application software used to store, process or transport Personal Data.

**13.2** The notice requirements in *Clause 13.1* will not apply if SaltPay reasonably believes that a Personal Data Breach occurred or is occurring, or the Merchant is in breach of any of its obligations under this Agreement or any Data Protection Legislation.

**13.3** If a Personal Data Breach occurs or is occurring, or the Merchant becomes aware of a breach of any of its obligations under this Agreement or any Data Protection Legislation, the Merchant will:
**(a)** promptly conduct its own audit to determine the cause;
**(b)** produce a written report that includes detailed plans to remedy any deficiencies identified by the audit;
**(c)** provide SaltPay with a copy of the written audit report; and
**(d)** remedy any deficiencies identified by the audit within 14 days.

**13.4** At least once a year, the Merchant will conduct site audits of its Personal Data processing practices and the information technology and information security controls for all facilities and systems used in complying with its obligations under this Agreement, including, but not limited to, obtaining a network-level vulnerability assessment performed by a recognised third-party audit firm based on recognised industry best practices.

**13.5** On SaltPay's written request, the Merchant will make all of the relevant audit reports available to SaltPay for review, including as applicable: The Merchants's latest Payment Card Industry (PCI) Compliance Report, and as applicable: Attestation of Compliance (AOC), Self-Assessment Questionnaire report (SAQ), Scans from an Approved Scanning Vendor (ASV) and/or Report on Compliance (ROC).

**13.6** The Merchant will promptly address any exceptions noted in the audit reports by way of its management developing and implementing a corrective action plan.

## 14. WARRANTIES

**14.1** The Merchant warrants and represents that:
**(a)** its employees, subcontractors, agents and any other person or persons accessing Personal Data on its behalf are reliable and trustworthy and have received the required training on the Data Protection Legislation relating to the Personal Data;
**(b)** it and anyone operating on its behalf will process the Personal Data in compliance with the Data Protection Legislation and other laws, enactments, regulations, orders, standards and other similar instruments;
**(c)** it has no reason to believe that the Data Protection Legislation prevents it from providing any of the Merchant Agreement's contracted services; and
**(d)** considering the current technology environment and implementation costs, it will take appropriate technical and organisational measures to prevent the unauthorised or unlawful processing of Personal Data and the accidental loss or destruction of, or damage to, Personal Data, and ensure a level of security appropriate to:

**(i)** the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage;
**(ii)** the nature of the Personal Data protected; and

**(iii)** comply with all applicable Data Protection Legislation and its information and security policies, including the security measures required in *Clause 5.1*.

**14.2** SaltPay warrants and represents that the Merchant's expected use of the Personal Data for the Business Purposes and as specifically instructed by SaltPay will comply with the Data Protection Legislation.

## 15. NOTICE

**15.1** Any notice or other communication given to a party under or in connection with this Agreement must be in writing and delivered in accordance with the terms of the Merchant Agreement.

**ANNEX A**
**PERSONAL DATA PROCESSING PURPOSES AND DETAILS**

Subject matter of processing: Cardholder and transaction information and other information that is necessary for SaltPay to provide the service under the Merchant Agreement.

Duration of processing: the Term of the Merchant Agreement.

Nature of processing and Business Purposes: the aim of the processing is for the Merchant to make available to its customers a convenient means of purchasing goods and/or services through the use of Cards issued under the Card Scheme Marks. Under the Merchant Agreement the Merchant may accept properly presented Cards as a means of payment and submit transactions to SaltPay for authorisation, clearing and settlement purposes as otherwise described in the Merchant Agreement.

Personal Data categories: Data related to Cardholders and transaction information that may in some circumstances include special categories of data as defined in Data Protection Legislation.

Data Subject types: Cardholders.

**ANNEX B**
**SECURITY MEASURES**

The Merchant shall comply to a current version of the PCI-DSS standard. The PCI-DSS and supporting document are available at https://www.pcisecuritystandards.org/document_library