

**EMBOSS – BUREAU SERVICE AGREEMENT****AGREEMENT** made on the **PARTIES:** 1. YESpay International Limited ("YESpay"), Checknet House, 153 East Barnet Road, Barnet, Hertfordshire EN4 8QZ2.  NAME:  ("the Merchant")  
of:  ADDRESS: **TERMS:****1 DEFINITIONS**

In this Agreement the following words shall (unless the context otherwise requires) bear the following meanings:

**Agreement:** This agreement between the parties, including the recital and any schedules or appendices to this agreement.

**Card Acquirer:** The financial institution with which the Merchant has a Merchant Service Agreement.

**EMBOSS Bureau Service:** A fully hosted Card Acquirer and MasterCard accredited payment bureau service that provides the capture, validation, authorisation and settlement of EMV and magnetic Credit/Debit card transactions linking to authorisation and settlement host systems of Card Acquirers.

**General Terms:** The terms set out in this Agreement.

**Merchant Registration Form:** The registration form to be completed by the Merchant detailing information required to register the Merchant as an active user of the EMBOSS Bureau Service.

**Merchant Service Agreement:** The agreement between the Merchant and its Card Acquirer which sets out the Card Acquirers service charges and specific terms and conditions relating to assigning the Merchant a merchant account.

**Minimum Period:** means the Minimum Period set out in Schedule 2

**Payment Device Provider:** A company other than YESpay supplying payment devices to the Merchant

**Products:** The payment devices to be supplied to the Merchant by YESpay as part of the Services as defined in Schedule 1.

**Service Charges:** The initial and monthly fees charged to the Merchant by YESpay as defined in Schedule 2.

**Services:** The EMBOSS Bureau Services to be supplied to the Merchant by YESpay.

**Systems Integrator:** An organisation that has partnered with YESpay to deliver the Merchant's card transaction and payment processing platform.

**2 TERM and CONTRACT**

2.1 The Agreement will commence on the date the Merchant Registration Form has been accepted by YESpay, and shall continue for the Minimum Period unless and until terminated in accordance with Clause 8.

2.2 Any supply of Services or Products by YESpay shall be subject to these General Terms.

2.3 Each of the parties acknowledges and agrees that, in entering into this Agreement it does not rely upon any Representations other than as expressly set out in this Agreement. Accordingly no such Representations shall give rise to any claim for damages by either party hereto nor to any right of rescission unless such Representations were made fraudulently.

2.4 YESpay shall be entitled to use sub-contractors in relation to its supply of Products or Services. In such event YESpay shall remain responsible for its obligations to the Merchant under these General Terms.

**3 FEES and CHARGES**

3.1 In return for YESpay providing the Merchant with the Services and Products detailed in this Agreement, the Merchant will pay YESpay on demand the fees and charges set out in the Service Charges which YESpay shall be entitled to debit from the Merchant's bank account by direct debit together with any other amount due or payable under this Agreement. Such fees and charges are agreed on the basis that YESpay is the sole processor of all card transactions generated via the Merchant payment devices hosted on the EMBOSS Bureau Service.

3.2 Unless stated otherwise, all fees, charges and other payments to be made by the Merchant are exclusive of VAT (at the prevailing rate) and any other relevant taxes and in addition to paying all such fees, charges and other payments, the Merchant will pay any such taxes.

3.3 The Merchant agrees to pay YESpay and YESpay shall be entitled to debit the Merchant bank account with the following items:

3.3.1 the agreed Service Charges made on a monthly basis

3.3.2 charges for any exceptional support services that the Merchant has requested

3.3.3 YESpay may vary the fees by the prevailing rate of RPI plus 2% as set out in the Service Charges by giving the Merchant 30 days' notice in writing.

3.4 Without prejudice to any other right or remedy of YESpay if payment is not received by YESpay on the due date YESpay shall be entitled to:

3.4.1 charge the Merchant interest on a daily basis on the overdue amount at a rate of 2% over the Card Acquirer base rate.

3.4.2 suspend the provision of any Products or Services until payment in full is made.

**4. SERVICES TO BE PERFORMED**

4.1 YESpay will provide the Merchant the Services and Products to the best of its ability pursuant to the completion of the following stages:

4.1.1 the Merchant having fully conducted connectivity testing from the location(s) where the payment device(s) will be installed thus approving its payment device(s) with the EMBOSS Bureau Service, such tests to be performed between YESpay and the Merchant (or its Payment Device Provider or Systems Integrator) to ensure proper and correct operation of the payment device(s) and the hosted EMBOSS Bureau Service.

4.1.2 the Merchant having established a formal Merchant Service Agreement with its Card Acquirer that enables the Merchant to use the Services provided by YESpay.

4.1.3 the Merchant having correctly completed and returned the Merchant Registration Form to YESpay and YESpay having created a merchant account within the EMBOSS Bureau Service database.

4.1.4 the Merchant having paid the initial Service Charges as stated in this Agreement.

4.2 YESpay will ensure the Service is available (99.9% availability) 24 hours per day and 7 days a week to perform the following activities:

4.2.1 Route the on-line EMV credit/debit card transactions, generated from payment devices registered within the EMBOSS Bureau Service database, on behalf of the Merchant to card acquirer authorisation Hosts.

4.2.2 Batched transaction files will be prepared on a daily basis within the EMBOSS Bureau Service to clear the payment transactions via the acquirer host systems. The Merchant's Card Acquirer will then be able to settle the payment values directly into the Merchant's bank account.

4.3 In return for the Services and Products being supplied by YESpay, the Merchant agrees to punctually pay the monthly Service Charges as set out in this Agreement. For the avoidance of doubt, the Service Charges shall be payable in accordance with the provisions of clause 3 and are in addition to any other fees and charges payable under this Agreement. Time of payment is of the essence of the Agreement.

4.4 YESpay will operate a Merchant help desk between the hours of 08:30 – 18:30 Monday-Saturday. The help desk operator will analyse the Service or Product problem the Merchant is experiencing and will take appropriate action to help resolve the Service problem and/or instruct the Merchant about the process to replace the Product if it is faulty.

4.4.1 Where agreed between YESpay and the Merchant, and where the Merchant's payment system has been provided by a Payment Device Provider or Systems Integrator, the Merchant agrees to contact its Payment Device Provider or Systems Integrator as

**Gateway to Managed Payment Services**

**first line support.** Out of hours support can also be provided at additional cost to be agreed with the Merchant.

**5 PRODUCTS TO BE SUPPLIED**

5.1 As part of the Services provided by YESpay, it may, at the Merchant's request, provide the Merchant with a variety of payment device Products. The Merchant agrees to operate its payment device in accordance with the provisions of any operating manuals and instructions issued by YESpay or the provider of the Merchant's payment device(s).

5.2 The Products are supplied to the Merchant for the purpose of using the EMBOSS Bureau Service. The Merchant shall not sell, charge, encumber, part with possession or otherwise dispose of the Products. The Merchant will insure against loss or damage to the Products. The Merchant will install and use the Products only at the agreed location(s) or trading premises, being premises in which the Merchant has previously notified YESpay on the Merchant Registration Form.

5.3 The Merchant acknowledges that YESpay is not the manufacturer of the Products it supplies in this Agreement. YESpay has no obligations or liabilities to the Merchant or any person claiming through the Merchant in respect of the quality or condition of the Products or their use. However, YESpay will use reasonable endeavours to extend the benefit of any warranty given by the supplier of the Products to the Merchant in respect of the Products at the written request of the Merchant.

5.4 The Products installed at the Merchant's premises shall be at the sole risk of the Merchant who shall indemnify YESpay against loss or damage caused howsoever it occurred. The Merchant will take reasonable care of the Products and keep the same in a safe condition and good working order and will not alter, amend or interfere with the same. The Merchant will report any damage to the Products forthwith to YESpay.

5.5 The Merchant will provide all necessary power and telecommunication links for the Products and YESpay shall not be under any obligation to install any Products if such links are not in place. The Merchant shall not modify or change the telecommunication link from the Products to the EMBOSS Bureau Service without prior notification or written agreement with YESpay. Any such unauthorised changes may invalidate the Merchant's approved status as a valid EMBOSS Bureau Service merchant.

5.6 The Merchant will indemnify YESpay against all claims and all losses, costs, expenses, damages and liabilities whatsoever incurred by YESpay (including cost of repairing or replacing or removing the Products) by reason of, or in any way attributable to, the Merchant's use of the Products.

**6 LIABILITY**

6.1 YESpay warrants that it has the authority to offer the Merchant the Services pursuant to this Agreement.

6.2 The express obligations and warranties made by YESpay in this Agreement are in lieu of and to the exclusion of any warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to the Products (or any modified version of the Products) or Services supplied or provided by YESpay under or in connection with this Agreement including (without limitation) as to the condition, quality, performance, satisfactory quality or fitness for the purpose of the Products or the Services or any part thereof and the same are excluded to the maximum extent permitted by law.

6.3 Except in respect of death or injury resulting from YESpay's negligence, YESpay will not be liable, whether under contract, tort (including negligence) or otherwise, for loss of production, loss of or corruption to data, loss of profits or of contracts, loss of revenue, loss of operation time, loss of goodwill or anticipated savings, wasted management or staff time and/or any indirect loss or consequential loss, damage, cost or expense of any kind whatsoever and howsoever caused.

6.4 In all other cases not falling within clause 6.3, YESpay's total liability (whether in contract, tort, including negligence, or based on any claim for indemnity or contribution or otherwise) in respect of each event arising out of or in connection with this Agreement shall not exceed the total amount payable by the Merchant to YESpay in respect of this Agreement.

6.5 The Merchant acknowledges and agrees that except as expressly provided in this clause 6 YESpay shall not be under any liability of any kind whatsoever and howsoever caused arising directly or indirectly in connection with this Agreement.

6.6 The Merchant acknowledges and agrees that the allocation of risk contained in this clause 6 is reflected in the fees agreed by the parties.

**7 CONFIDENTIALITY AND DATA PROTECTION**

7.1 The Merchant will ensure that any confidential data it receives from YESpay, including but not limited to the provision of the Services and Products including Service Charges, shall remain the confidential property of YESpay. The Merchant shall not disclose in any form to any third party such confidential information without the prior written agreement of YESpay. The Merchant acknowledges that YESpay's rights in and to the Services and Products are unique and that the financial remedies will be insufficient to compensate YESpay for any infringement of such rights. In relation to all other information which is either marked as being confidential or which, due to the nature of such information and the circumstances under which it was disclosed, ought reasonably to be treated as

confidential information of the party disclosing it, the receiving party agrees that it shall not use such information except for the performance of this Agreement, and further agrees not to disclose the other's confidential information to any third party except to the extent required for the proper performance of any Specific Agreement or as may be required by law. The provisions of this clause shall survive the termination of this Agreement and shall not apply to any information which is in the public domain or enters it other than as a result of a breach of the provisions of this clause.

7.2 The Merchant's personal data retrieved from the Merchant Registration Form will be held electronically within the EMBOSS Bureau Service operational database in order that it may be used to provide the Services and Products to the Merchant.

7.3 Disclosure of the Merchant's personal data may be made under the terms of this Agreement to assist in verifying the Merchant's identity and credit rating. In addition, YESpay may disclose information concerning the Merchant to Card Acquirers for use in fraud prevention programmes or for the purposes of identifying merchants involved in, amongst other things, fraud or suspected fraud, insolvency, or in any other effort to prevent fraud.

**8 TERMINATION**

8.1 Subject to the terms of Clause 8.3 below, either party can terminate this Agreement at any time after expiry of the Minimum Period, by the giving of one month's notice in writing to the other party.

8.2 YESpay can terminate this Agreement immediately and stop providing the Services if any of the following happens:

8.2.1 the Merchant shall fail to pay any Service Charges or other sums due under this Agreement when due or break an important condition of this Agreement; or

8.2.2 the Merchant shall break any other condition of this Agreement and do not put it right within 7 days of a notice from YESpay requiring it to be remedied; or

8.2.3 the Merchant shall become bankrupt or make any arrangement with its creditors or be liquidated or have an Administrator or receiver appointed or suffer any other form of insolvency event; or

8.2.4 the Merchant is otherwise unable to pay its debts as they fall due.

8.3 Upon termination of this Agreement for any reason, the Merchant must, pay to YESpay forthwith:

8.3.1 any and all sums then due and owing; and

8.3.2 all Service Charges which would have been payable for the remainder of the Minimum Period but for the termination less such discount of 3% per annum for accelerated repayment; less

8.3.3 at the discretion of YESpay, such sum as is reasonable in all the circumstances to reflect the return of the Products in good condition or any other costs that are saved by YESpay as a consequence of the termination prior to expiry of the Minimum Period.

**9 FORCE MAJEURE**

Neither party hereto will be liable for delay or for failure to perform its obligations if and to the extent such delay or failure results from circumstances beyond its reasonable control, but any such circumstances shall not relieve the Merchant from its obligations to pay for any Service Charges relating to Products supplied or to Services supplied to it prior to such circumstances.

**10 ASSIGNMENT**

10.1 The Merchant may not transfer its account or any of its rights and responsibilities under this Agreement.

10.2 YESpay may assign or transfer its rights under this Agreement to a third party (an "Assignee") without consent of the Merchant. If YESpay assigns or transfers all or any its rights under this Agreement the Merchant will pay all Service Charges to the Assignee without deduction, set-off or counterclaim irrespective of whether or not the Services or Products are being used by the Merchant or for any other reason whatsoever.

10.3 The Assignee will have no obligations to the Merchant under this Agreement whether in relation to the Products and/or the Services other than the quiet enjoyment of any Products provided by YESpay to the Merchant.

**11 NOTICE**

Any notice or other communication to be given under this Agreement shall be in writing and shall be delivered by hand or post within the UK, by airmail if sent abroad, or by fax to the other party at its address contained herein (or such other address as shall have been notified to the other party) and shall be deemed to have been given in the case of a notice which is delivered by hand when it is deposited at the appropriate address, in the case of a notice sent by post (to and from destinations within the UK), 3 days after the date on which such notice is posted or 7 days if sent by airmail and in the case of a notice sent by fax when it is despatched (provided that in the case of a notice sent by fax, a confirmation copy shall also be sent by post).

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12.1 No variation modification or waiver of any provision of these General Terms within the Agreement shall in any event be of any force or effect, unless the same shall be agreed in writing between the parties and then such variation, modification, waiver or consent shall be effective only on the specific instance and for the purpose and to the extent for which made or given.

12.2 No failure, delay, or indulgence on the part of YESpay or the Merchant in exercising any power or right conferred upon such party pursuant to these General Terms shall operate as a waiver of such power or right. Further, no single or partial exercise of any such power or right shall preclude any other or further exercise thereof or the exercise of any other such power or right arising or under the Agreement. Termination of this Agreement or the provision of any Service shall not affect the rights and obligations of either party prior to the termination.

12.3 In the event that any supply by YESpay of any Product or Service shall fail fully to comply with the Agreement YESpay shall be afforded a reasonable opportunity to correct such failure.

12.4 If any provision hereof shall be held by a court of competent jurisdiction to be invalid or voidable such provision shall be deleted and the remainder thereof shall remain in full force and effect.

12.5 The Merchant shall indemnify and keep YESpay indemnified in respect of any claims by third parties which are caused by or arise out of or in connection with any act or omission of YESpay carried out pursuant to instructions of the Merchant.

12.6 Clause headings are inserted for ease of reference only and shall be given no effect in the construction of these General Terms.

12.7 These General Terms (if and as varied and/or supplemented from time to time) shall be governed by and construed in accordance with the laws of England and both parties hereby submit to the exclusive jurisdiction of the English Courts.

12.8 YESpay is free to provide Services or Products to any other person in relation to any matter covered by this agreement. Nothing in this agreement shall restrict YESpay from doing so.

12.9 If the Merchant is more than one person, each person shall be jointly and severally liable under this Agreement.

**USE OF YOUR INFORMATION**

YESpay may use and share your information with third parties (credit reference agencies, our associated companies, our funders and any person to whom we may assign our rights under this Agreement) to help us and them assess financial and insurance risks, recover debt, develop customer relationships, services and systems, prevent and detect crime. Your information includes information about your transactions. From time to time we may change the way we use your Information. Where we believe you may not reasonably expect such a change we shall write to you. If you would like a copy of the information we hold about you please write to us. A fee may be payable.

**Credit Reference and fraud prevention agencies**

A link between you and anyone with whom you have a joint account or similar financial association will be recorded at credit reference agencies, creating a "financial association". All parties' information will be taken into account in future applications until one of you successfully files a "notice of disassociation" at the credit reference agencies. We may make periodic searches of and provide information (including how you manage your account and any arrears) to credit reference agencies and fraud prevention agencies to manage and make decisions about your account. Such information may be used by other credit providers to take decisions about you and your financial associates. We and our assignees may send you information about our products or of other organisations which may be of interest to you or pass your information to selected third parties so that they may pass you information about their products or about products of other organisations by post or by telephone.

IN WITNESS whereof the parties have by their duly authorised representatives executed this Agreement as at the date first before written.

SIGNED on behalf of YESpay and thereby duly authorised:

SIGNED on behalf of the MERCHANT and thereby duly authorised:

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

FULL NAME \_\_\_\_\_

FULL NAME \_\_\_\_\_

POSITION \_\_\_\_\_

POSITION \_\_\_\_\_

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**SCHEDULE 1 – THE PRODUCTS**

1. Specify PIN Pad					
Number of Chip and PIN installations (Mandatory – please tick)	EPOS	Kiosks	Mobile POS	Hospitality EPOS	Mail Order EPOS
<b>Selected Chip and PIN Reader</b> (EMV Level 1 PIN Pad)	Tick (✓)	Quantity	Model/Part Number (Delete as appropriate)		
Verifone (Attended mode – EPOS)	<input type="checkbox"/>		SC5000 M5 / Secura PIN Pad		
Verifone (Hospitality mode – EPOS)	<input type="checkbox"/>		Xplorer (Bluetooth) / VX670 (Wifi)		
Verifone (Unattended mode – Kiosk)	<input type="checkbox"/>		Secura UPT / OpenPay 3100		
Sagem (Unattended mode – Kiosk)	<input type="checkbox"/>		INT 5010 (Kiosk Terminal)		
Mobile POS (Handheld)	<input type="checkbox"/>		MT 3000		
Merchant Supplied	<input type="checkbox"/>		NOTE: Please tick here if the PIN Pads are NOT supplied by YESpay		

**SCHEDULE 2 – SERVICE CHARGES**

1. EMBOSS Bureau INITIAL Charges	Per Unit Price	Quantity	Total
Merchant setup fee	£		£
Advance Payment per Unit <sup>(1)</sup>	£		£
<b>INITIAL TOTAL PAYMENT (at Contract Signature) excluding VAT</b>			£
<b>TOTAL VAT</b>			£
<b>INITIAL TOTAL PAYMENT (at Contract Signature) including VAT</b>			£

(1) The Advance Payment per Unit (if any) will be used in payment of the Service Charges falling due at the end of the Minimum Period.

The above initial charges may be made by the following means:

Payment by Direct Debit       Payment by Cheque   
 (Please complete & sign attached DD Mandate)      (Cheque MUST be included with Agreement)

2. EMBOSS Bureau Service Charges	Per Unit Price	Quantity	Total
Monthly Service Fee	£		£
Additional monthly services description:			£
<b>TOTAL MONTHLY VAT</b>			£
<b>TOTAL MONTHLY PAYMENT including VAT</b>			£
<b>MINIMUM PERIOD from the due date of the first Service Charge</b>			<b>36 months</b>

Monthly billing will commence at the end of the first calendar month of live operation. The above monthly service fee will be collected by Direct Debit from your nominated bank account on or immediately after the first Monday of every month for the preceding months bureau fee which will be invoiced to you at least 3 working days prior to the direct debit.

**Please complete the attached direct debit mandate and return to YESpay International Limited with this signed Agreement.**

Please fill in the complete form including the official use box using a ball point pen and sent it to:

YESpay International Ltd  
 Checknet House  
 153 East Barnet Road  
 Barnet  
 Hertfordshire  
 EN4 8QZ

**Customer Name**

**Name(s) of Account Holder(s)**

**Bank / Building Society account number**

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**Branch Sort Code**

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**Name & address of your Bank / Building Society**

To: The Manager	Bank/Building Society
Address	
Postcode	

**Reference Number (YESpay International Ltd use only)**

**Instruction to your Bank or Building Society to pay by Direct Debit**

Originator's Identification Number

6	4	5	8	6	2
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**FOR YESPAY OFFICIAL USE ONLY**

This is not part of the instruction to your Bank or Building Society

**Please complete before sending out**

Acquirer Merchant ID: \_\_\_\_\_

YESpay Payers Reference: \_\_\_\_\_

Please indicate purpose:

Set-up and Advance Payment	<input checked="" type="checkbox"/>
Monthly Bureau Fee	<input checked="" type="checkbox"/>

**Instruction to your Bank / Building Society**

Please pay YESpay International Ltd Direct Debits from the account detailed in this instruction subject to the safeguards assured by the Direct Debit Guarantee.

I understand that this instruction may remain with YESpay International Ltd and, if so, details will be passed electronically to my Bank / Building Society.

Signature(s)
Date

Banks and Building Societies may not accept Direct Debit Instructions from some types of account.

This guarantee should be detached and retained by the Payer.



**The Direct Debit Guarantee**

- This guarantee is offered by all Bank and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own Bank or Building Society
- If the amounts to be paid or the payment dates change YESpay International Ltd will notify you 3 working days in advance of your account being debited or as otherwise agreed.
- If an error is made by YESpay International Ltd or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch or the amount paid.
- You can cancel a Direct Debit at any time by writing to your Bank or Building Society. Please also send a copy of your letter to us – YESpay International Ltd, Checknet House, 153 East Barnet Road, Barnet, Hertfordshire EN4 8QZ.