

**Annex to the Card program membership agreement SoftPOS services**

**1 BACKGROUND**

- 1.1 The Merchant and Paycomet execute this Appendix under and in addition to the Card Program Membership Agreement signed by the Parties (“**Membership Agreement**”)
- 1.2 The use, conditions and responsibilities for SoftPos on the part of the Merchant are governed by the terms, clauses and conditions of the Membership Agreement.
- 1.3 The Parties have agreed that Paycomet, in addition to the products and services stipulated in the Membership Agreement, also delivers SoftPos (as defined below) to the Merchant.
- 1.4 This Appendix governs, together with the Membership Agreement, Paycomet’s delivery and the Merchant’s purchase of Softpos (as defined below in Clause 3).

**2 INTERPRETATION**

- 2.1 The defined terms in the Membership Agreement shall have the same meaning in this Appendix unless otherwise is stated.
- 2.2 This Appendix forms an integrated part of the Membership Agreement and modifies only the Membership Agreement, including the terms and conditions, in respect of the matters included herein.
- 2.3 In case of discrepancies between the text of this Appendix and the text of the Membership Agreement, the text of the Appendix shall prevail.

**3 SOFTPOS**

**3.1 General**

- 3.1.1 SoftPos consists of a mobile payment application and backend system which can turn a COTS Device (as defined below in clause 3.4.1) into a contactless payment terminal (“**SoftPos**”).
- 3.1.2 The Merchant acknowledges and accepts that the SoftPOS, including the source codes and any adaptations, developments and improvements made by Paycomet, of the related documentation, as well as all the rights of economic use on the same, remain in the full and exclusive ownership of Paycomet (or any third party who has granted relevant licence of use to Paycomet), and undertakes to use the SoftPOS in compliance with the intellectual and/or industrial property rights of Paycomet (or any third party, as applicable).
- 3.1.3 In relation to SoftPos, Paycomet carries out the exchange and communication of transaction data between the COTS Devices and the relevant acquirer(s) engaged and possible other service providers as agreed from time to time (the “**PSP Services**”). Paycomet’s delivery of the PSP Services is governed by the Membership Agreement.
- 3.1.4 For the avoidance of doubt, it is noted that SoftPos does not include acquiring services or cash register services/software.
- 3.1.5 Paycomet may, without the Merchant’s prior written consent, use subcontractors to deliver SoftPos to the Merchant.

**3.2 The SoftPos Application**

- 3.2.1 The use of SoftPOS shall be activated upon downloading relevant application according to the instructions sent to the Merchant at the email address and/or the mobile stated in the Application.
- 3.2.2 Paycomet shall, upon request from the Merchant, provide the Merchant with credentials to activate SoftPos on each COTS Device when downloaded and installed.
- 3.2.3 Paycomet is not affiliated, associated, authorized, endorsed by, or in any way connected to the application store (or Google), and is not responsible for the use or function hereof.

### **3.3** License

- 3.3.1 Paycomet grants the Merchant a limited non-exclusive right to use SoftPos in accordance with the terms and duration of the Membership Agreement. The Merchant shall, at all times, follow Paycomet' written instructions on the use of SoftPos.
- 3.3.2 No ownership, title or similar of SoftPos is transferred to the Merchant and Paycomet / Paycomet' licensor retains all rights to SoftPos.
- 3.3.3 The Merchant shall not transfer or sublicense the Merchant's license to SoftPos or any other deliverables or other work products in whole or in part.
- 3.3.4 The Merchant shall not modify, change, or copy SoftPos.
- 3.3.5 The Merchant shall only use SoftPos for its points of sale in such countries agreed with Paycomet, cf. clause 3.9.1.

### **3.4** Devices

- 3.4.1 SoftPos only works on a commercial of-the-shelf mobile device (e.g. smartphone or tablet) that is designed for mass-market distribution and using the Android operating system (the "**COTS Device**").
- 3.4.2 The Merchant undertakes to ensure that the Device complies with the following minimum requirements for the Devices:

- 3.4.2.1 That the minimum version of the operating system on the Device regarding the "Security Patches" is as officially released by Google and approved by the VISA and MC circuits.
- 3.4.2.2 That the Device is compatible with currently O.S. official Android 8.1 and above;
- 3.4.2.3 That the Device must be equipped with NFC antenna;
- 3.4.2.4 That the Device must be connected to the internet;
- 3.4.2.5 That the Device components are updated to the manufacturer's specifications, are free from malicious code and virus and from any applications that can compromise the automatic security controls of the SoftPos (e.g. antivirus, software for remote management of devices);
- 3.4.2.6 The manufacturer's safety restrictions have not been changed (i.e. no unlocking procedures, commonly referred to as "root", have been used, which allow all the restrictions provided by the manufacturer to be circumvented) and
- 3.4.2.7 Safety parameters have been used in line with international best practices.
- 3.4.3 Paycomet reserves the right to from time to time amend above minimum requirements in writing and such amendments will automatically be considered as an amendment to this Appendix.
  - 3.4.3.1 Meeting above requirements is the sole responsibility of the Merchant and Paycomet bears no liability with respect thereto.
- 3.4.4 The Merchant must acquire the necessary COTS Devices and bear all costs related hereto, and Paycomet shall not be responsible for the functionality of the COTS Devices.
- 3.4.5 Any SoftPOS supplied by Paycomet under the Agreement is compliant with the mandatory instructions and regulations of the competent regulatory authorities and certified and/or compliant with the international payment systems communicated by Paycomet (including through its website) from time to time (currently, VISA, MasterCard, Diners, Amex, China Union Pay), as well as the Payment Card Industry Data Security Standard (PCI DSS).
- 3.4.6 It is required that each COTS Device has online connectivity to function, which the Merchant is responsible for. The Merchant shall bear all costs in connection with the use and operation of the SoftPos, e.g. electricity, online connectivity, and consumables.
- 3.5** Security
  - 3.5.1 SoftPos entails performance of VISA and Mastercard transactions. Paycomet is entitled to block transactions if Paycomet suspects that the security of a COTS Device or SoftPos could have been compromised. This could happen from rooted devices, suspicious apps installed on the device, usage patterns, etc.
  - 3.5.2 After the activation of SoftPos on the applicable COTS Devices, all COTS Devices must at all times supervised by the Merchant and the Merchant's representatives. The COTS Devices must not be used as an unattended payment terminal.
- 3.6** Updates of SoftPos
  - 3.6.1 The Merchant shall update or allow Paycomet to update SoftPos as requested by Paycomet, and as Paycomet deems it necessary. Any use of a software-version older than the latest versions

shall be at the Merchant's own risk. The latest version and supported version of SoftPos must be downloaded from the application store, unless otherwise notified by Paycomet.

### **3.7** Data Collection

3.7.1 Paycomet shall be entitled to collect data (Technical Android Crashlytics logs) to improve performance and functionality of SoftPos and perform relevant analysis.

### **3.8** Suspension

3.8.1 Paycomet shall be entitled to suspend the Merchant's use of SoftPos, if the Merchant breaches the Membership Agreement, (including if the Merchant has unpaid due fees) as well as any of the obligations set forth in this Appendix.

### **3.9** Territory

3.9.1 The Merchant shall only use SoftPos for its points of sale in Spain (the "**Territory**").

## **4 PRICES AND INVOICING**

**4.1** For the SoftPos license and each COTS Device on which SoftPos is installed and activated, the Merchant shall pay the amount stated above on the Particular Conditions.

**4.2** Paycomet shall invoice the Merchant on a monthly basis in arrears in accordance with the Membership Agreement.

## **5 PERSONAL DATA**

**5.1** If the Merchant uses SoftPos with Paycomet as acquirer, the Merchant and Paycomet will be independent data controllers. I.e. no Party processes Personal Data on behalf of the other Party.

**5.2** The processing of personal data resulting from SoftPOS solution will be performed in accordance with the provisions of Condition 18 "Basic information on the protection of personal data", included in the general conditions of the Membership Agreement.

## **6 TERM AND SIGNATURE**

**6.1** This Appendix enters into force upon signing by both Parties and remain in force until terminated by a Party either as set out in this Appendix or the Membership Agreement.

**6.2** Each Party can terminate this Appendix with 3 months' written notice to the other Party.

The validity of this Appendix is linked to that of the Membership Agreement of which it forms an inseparable part, so that the termination of the Membership Agreement shall mean the termination of this Appendix. However, this Appendix can be terminated and the Membership Agreement will remain valid.