

CSA SYSTEMS AUSTRALIA

MASTER AGREEMENT

This **Agreement** is between the Customer and CSA, whose details are set out in the **Order (I)** and confirms that the Customer Appoints CSA to provide the Service Software and the Hardware for the Fees during the Appointment in accordance with this Agreement and that CSA accepts that Appointment, to the intent that the **Order (I), Master Agreement (II), KYC Form (III) and CPA Form (IV)** form part of this Agreement. In the event of a conflict amongst terms, the order of priority shall be the (I), (II), (III) then (IV).

NOW THE PARTIES AGREE THAT

1. INTEGRATION

- 1.1 This Master Agreement will be read and deemed part of the Agreement between the Customer and CSA.
- 1.2 In this Agreement, unless the context requires otherwise, the capitalised terms set out in Schedule 1 shall be given the corresponding meaning.
- 1.3 The Customer agrees to those terms set out in Schedule 2. To the extent that that is any inconsistency between the terms set out in Schedule 2 and the terms set out in this Agreement, the terms in this Agreement will prevail.

2. APPOINTMENT

The Customer Appoints CSA and CSA accepts the Appointment to provide Service Software, Hardware and Additional Services in accordance with this Agreement.

3. ORDERS

- 3.1 During the Appointment the parties agree that the Customer, may request the provision Service Software, Hardware; and/or Additional Services.
- 3.2 Upon the request as set out in clause 3.1, CSA will issue an Order for approval by the Customer.
- 3.3 Upon an Order being approved by the parties, CSA will proceed to fulfil the Order for the Fees in accordance with this Agreement.

4. POLICIES

From time to time during the Appointment, CSA may propose Policies. Such Policies will be provided to the Customer via email and the Customer agrees to comply with all Policies provided by CSA.

5. ADDITIONAL FORMS & STEPS

The Customer agrees to comply with all necessary regulatory requirements as raised by CSA during the Appointment including but not limited to execution or provision of material for 'know-your-customer' forms.

6. SERVICES

- 6.1 In consideration of the payment of the Service Fees during the Term and the exchange of obligations as expressed in this Agreement, CSA hereby agrees to provide the Customer with access to, and grant to the Customer a non-exclusive, non-transferrable Service Software to use, the Cantaloupe Dashboard for the Term on the terms and conditions set out in this Agreement.

- 6.2 CSA will make the Service Software available to the Customer for the Appointment, in accordance with the Order or as set out in an Order accepted by CSA in accordance with clause 3,
- 6.3 During the Appointment CSA will have the right, from time to time in its sole and absolute discretion, to add to, modify, discontinue or withdraw any one or more of the services that are contained in the Service Software should CSA deem it necessary to do so. Any change will be an amendment to the Service Software, will be done in the ordinary course of business with notice to the Customer through the Cantaloupe Dashboard or by email, newsletter or notice on the CSA website, and will be implemented in accordance with Policies.
- 6.4 During the Appointment, the Customer may access and use the Cantaloupe Dashboard solely for its own benefit and in accordance with the terms and conditions of this Agreement.
- 6.5 the Customer acknowledges and agrees that use of and access to the Cantaloupe Dashboard is permitted only by:
- 6.5.1 the Customer's employees; and
 - 6.5.2 independent contractors and consultants who are not competitors of CSA (**Contractors**);
- who are made aware of the terms and conditions of this Agreement and agree to comply with the terms and conditions hereof (**Permitted Users**).
- 6.6 If the Customer is given passwords to access the Cantaloupe Dashboard, the Customer will require that all Permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person.
- 6.7 the Customer agrees that it is solely responsible for any and all actions that are taken by any party using the Customer's accounts and passwords, including all actions and use by the Permitted Users.
- 6.8 the Customer agrees to promptly update and maintain user details within their Account, including any change of address, banking details or contact details as required.
- 6.9 the Customer agrees to immediately notify CSA if there is any unauthorized access to the Customer's accounts or passwords.
- 6.10 the Customer acknowledges and agrees not to (and shall not permit any third party it has retained, employs or controls to):
- 6.10.1 rent, lease, copy, provide access to or sublicense the Service Software to a third party;
 - 6.10.2 use any Service to provide services to, or incorporate any Service into any product or service provided to, a third party,
 - 6.10.3 reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Service Software, except to the extent expressly permitted by applicable law (and then only upon advance notice to CSA),
 - 6.10.4 modify any Service or create any derivative product from any of the foregoing,
 - 6.10.5 remove or obscure any proprietary or other notices contained in any Service (including any reports or data printed from the Cantaloupe Dashboard), or
 - 6.10.6 publicly disseminate information regarding the performance of the Service Software;
 - 6.10.7 use the Account for any purpose that:

- 6.10.7.1 is illegal, unlawful or fraudulent;
 - 6.10.7.2 makes false or misleading allegations or accusations against, or records false or misleading information about, the Customer or any other person or in relation to any event or circumstance;
 - 6.10.7.3 is capable of constituting harassment, discriminatory or defamatory of any other person;
 - 6.10.7.4 attempts to gain unauthorised access to other user accounts or CSA's systems; or
 - 6.10.7.5 places unreasonable load or demand upon the Cantaloupe Dashboard or CSA's systems, including but not limited to conducting denial of service attacks against CSA's systems.
- 6.11 CSA reserves the right to suspend provision of the Service Software at any time and with or without prior notice to the Customer (although written notification will be provided) with respect to any or all of the Customer Products or Hardware:
- 6.11.1 if the Customer breaches any representation, warranty, covenant or obligation in this Agreement or the Customer Processing Agreements;
 - 6.11.2 if the Customer violates or is charged with violating any Applicable Law or breaches or violates any Card Organization Rule, Pci Ssc Data Security Standard, Policy or Processing Agreement;
 - 6.11.3 if a suspension is reasonably required for an update or the like to the Service Software;
 - 6.11.4 if CSA reasonably believes that any such breach or violation has occurred;
 - 6.11.5 if CSA is notified of any claim regarding the Customer or the Customer Products or believes such a claim to be likely;
 - 6.11.6 if CSA receives material complaints regarding the Customer from any of its payment processors, Card Organizations or other partners (including for excessive Refund fees or Chargebacks);
 - 6.11.7 if CSA reasonably determines suspension is necessary to avoid material harm to CSA or its business for any reason; or
 - 6.11.8 for inactivity if no transactions involving the Customer Products have occurred in a consecutive three (3) month period.

7. ADDITIONAL SERVICES

- 7.1 If the Customer requires additional services or software to be provided in relation to, or connection with, the Service Software, and such services or software are of a type that Supplier could reasonably be expected to deliver or develop (as applicable) (**Additional Services**), then the Customer must request that CSA provide a proposal to the Customer to provide the Additional Services or Additional Software (as applicable) and must give CSA not less than 14 days from the date of the request to provide such a proposal.
- 7.2 the Customer must not, and must procure that its Affiliates do not, engage any person other than CSA to provide Additional Services unless the Customer has first complied with clause 7.1 and:

- 7.2.1 CSA has declined or failed to provide a proposal to the Customer or its Affiliates on or before the date specified in clause 7.1; or
- 7.2.2 CSA has provided a proposal but the engagement with an alternate provider is on terms more favourable to the Customer than those provided by CSA under clause 7.1 as determined by the Customer acting reasonably and in good faith;
- 7.3 If the parties agree to the provision of the Additional Services by CSA in accordance with this clause 7, the parties will execute an Order setting out the Additional Services to be provided and the relevant commercial terms.

8. EQUIPMENT

The parties agree that:

- 8.1 The Customer may use Hardware in connection with the Service Software, which may or may not be purchased, leased or otherwise obtained from or through CSA.
- 8.2 The Customer shall follow any and all reasonable instructions in relation to the operation of the Hardware.
- 8.3 CSA shall not be responsible for any misuse, neglect or abuse of, tampering with or any external forces affecting the Hardware.
- 8.4 The Customer shall be responsible for the purchase, installation and maintenance of any and all Hardware necessary for the provision of Service Software.
- 8.5 The Hardware may be subject to a manufacturer's warranty as between the Customer and the device manufacturer as administered by the manufacturer.
- 8.6 To the extent applicable, CSA shall assign to the Customer any third party warranties for the Hardware and the Customer's sole and exclusive remedy for the breach of any such third party obligations shall be against the applicable third party manufacturer or the Customer, and not against CSA.
- 8.7 The procurement of Hardware from CSA may be subject to additional terms included in the applicable Order.
- 8.8 The Customer acknowledges that CSA may sunset or otherwise discontinue the provision of certain Hardware (**Retired Hardware**) from time to time, provided that CSA will use commercially reasonable efforts to give at least six (6) months advance notice prior to doing so with respect to the applicable Retired Hardware.
- 8.9 CSA's obligations to support the operating systems, firmware or other software relating to Retired Hardware shall only continue for a period of twelve (12) months following the date the Retired Hardware is no longer made available, at which time CSA shall have no responsibility for or obligation relating to the Retired Hardware or the operating systems, firmware or other software.

9. EQUIPMENT USE, TITLE & RISK

- 9.1 Subject to clause 9.2 CSA retains ownership of the Hardware and Customer does not obtain any form of interest (whether legal, equitable or otherwise) in it (even if it is installed on, or is incorporated into, any of customer's hardware).
- 9.2 Title in Hardware passes to Customer on complete payment of the Hardware Fee as set out in its respective Order. For clarity, 'Hardware Item 1' title is transferred to the Customer when the 'Hardware Fee' for 'Hardware Item 1' is paid out in full to CSA.

- 9.3 Risk in the Hardware passes to Customer on the date that it is provided and remains with Customer at all times until it is returned to CSA or CSA recovers it. Customer must do everything reasonably necessary (at its cost) to protect CSA' right, title and interest in the Hardware.
- 9.4 The Customer agrees to be responsible for all costs of insurance, taxes, storage, and transportation of Hardware.
- 9.5 the Customer acknowledges and agrees:
- 9.5.1 to maintain the Hardware in accordance with CSA Maintenance Instructions.
 - 9.5.2 to provide all network connections, electrical or other connections as the Hardware requires at the cost of the Customer (**Connections**).
 - 9.5.3 that all Connections are the responsibility of the Customer and failure to connect, disconnection and insufficiencies in respect of the Connections may impede or prevent the Service Software from being offered under this Agreement.
 - 9.5.4 to ensure the Hardware is safe and secure, from theft, damage or tampering.
 - 9.5.5 not to use any SIMS provided by or facilitated through CSA for any purpose other than as set out in the Order.

10. FEES & PAYMENT

- 10.1 **Payments to Customer.** During the Appointment:
- 10.1.1 CSA may receive amounts on trust for the Customer (**Merchant Fees**).
 - 10.1.2 CSA reserves the right to delay payments of Merchant Fees to the Customer if exceptional events occur, including material fluctuations over ordinary sales volumes or any new data requiring considerable modifications.
- 10.2 **Payments to CSA.** The Customer agrees to pay CSA:
- 10.2.1 the:
 - 10.2.1.1 Service Software Fees;
 - 10.2.1.2 Hardware Fees;on the terms and for the amounts set out in the Order.
 - 10.2.2 the Additional Services Fees in accordance with the parameters proposed under clause 7 or an Order.
 - 10.2.3 any and all other fees charged by CSA in connection with the Service Software or Hardware, including but not limited to Refund fees, chargebacks, foreign exchange amounts, processing fees, fines, assessments, penalties or any other charges incurred.
- 10.3 For clarity, the Customer is required to pay any sales, use, GST, value-added, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of CSA.

- 10.4 **Offsets & Adjustments.** The Customer acknowledges and agrees that CSA may;
- 10.4.1 from time to time adjust its current Service Software Fees, Hardware Fees, Additional Services Fees or other such fees but such adjustment shall be reasonable and discussed between the parties;
 - 10.4.2 offset any Service Software Fees, Hardware Fees, Additional Services Fees or other such fees owed to CSA by the Customer from any Merchant Fees payable or due to the Customer.
- 10.5 **Good Faith Invoice Dispute.** In the event of a good faith dispute regarding an item on an invoice, the Customer has the right to withhold such disputed amount while the parties attempt to resolve the dispute. The Customer must notify CSA within ten (10) business days of receipt of an invoice in question of the discrepancy leading to dispute, and the Customer's withholding of such payment shall not constitute a breach of this Agreement so long as the Customer pays on a timely basis those amounts that are undisputed and owing.
- 10.6 **Taxes for the Customer Products.** The Customer shall be solely responsible for collection and payment of all sales taxes for sales of the Customer Products in accordance with any and all applicable laws. The Customer will indemnify, defend and hold CSA harmless from and against any tax, penalty and interest resulting from the Customer's failure to meet its obligations under this clause.
- 10.7 Except as expressly set forth in this Agreement, all fees paid to CSA are non- refundable.

11. PAYMENT FACILITATOR & PROCESSOR

- 11.1 CSA is a payment facilitator or submitter under a processing agreement (**Processing Agreement**) with a payment processor (the **Processor**) who is a member of the Card Organizations. In order for CSA to process the Customer's transactions, the Customer may be required to enter into certain agreements with the Processor that may allow the Customer to be in privity of contract with the Processor and to be a sub- merchant of CSA under the Processing Agreement so that the Customer's transactions can be submitted to the Processor.
- 11.2 the Customer agrees to enter into the additional agreements with CSA and the Processor (the **the Customer Processing Agreements**) that are required by the Processor and to provide Processor with any information that it requests in connection therewith for the operation of this Agreement.
- 11.3 the Customer acknowledges and agrees that it shall not be able to sell the Customer Products through the Hardware or use the Service Software, and CSA shall not be required to provide the Hardware or Service Software, until the Customer has been approved by Processor as a sub-merchant of CSA under the Processing Agreement.
- 11.4 CSA may from time to time transfer the Customer's transactions to a different payment processor, and in such event, the Customer agrees to enter into any required agreements with, and to provide any requested information to, such new processor.
- 11.5 the Customer acknowledges and agrees that sales of the Customer Products through the Hardware or otherwise in connection with the Service Software are subject to (i) applicable laws, rules and regulations (collectively, **Applicable Laws**) of Australia or the nominated jurisdictions, including laws, rules and regulations (a) that prohibit unfair, deceptive and-or abusive practices (UDAAP laws) that apply to the Customer's marketing and sale of the the Customer Products, (b) relating to anti-money laundering regulations and Office of Foreign Assets Control regulations, and (c) relating to privacy and data security, including the Gramm-Leach-Bliley Act, General Data Protection Regulation (GDPR) and state data privacy statutes such as the California Consumer Privacy Act (CCPA); (ii) the standards, bylaws, rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) (collectively, the Card Organization Rules) imposed or adopted by any entity

formed to administer and promote credit, debit and other cards, including MasterCard International, Inc., Visa, Inc., Discover Financial Service Software, LLC and any applicable debit networks (the **Card Organizations**), and other authorities that govern the payments industry generally, including the PCI Security Standards Council (**PCI SSC**); (iii) the rules, guidelines and policies of CSA that CSA may notify the Customer of from time to time in order for CSA to meet its obligations with respect to Applicable Laws, the Card Organizations Rules, the PCI SSC Data Security Standards and the rules, policies and guidelines of its third party payment processors (collectively, the **CSA Policies**); and (iv) the the Customer Processing Agreements.

- 11.6 the Customer covenants and agrees that it shall conduct its business at all times in compliance with all Applicable Laws, Card Organization Rules, PCI SSC Data Security Standards, CSA Policies and the the Customer Processing Agreements and in accordance with best industry practices. the Customer acknowledges and agrees that it may not use the Service Software to sell the Customer Products or process transactions that are in and of themselves illegal or which involve illegal or prohibited products, including the products that are prohibited by the Card Organizations, the Processor or the CSA Policies from time to time. CSA shall conduct its business at all times in compliance with all Applicable Laws, Card Organization Rules and PCI SSC Data Security Standards. Information regarding the Card Organization Rules for VISA can be found at <http://usa.visa.com/merchants/merchant-support/international-operating-regulations.jsp>, and for MasterCard at http://www.mastercard.com/us/merchant/pdf/BM-Entire_Manual_public.pdf and for Discover at www.discovernetwork.com, in each case as amended or modified during the term of this Agreement and at such other replacement site created by the Card Organizations during the term of this Agreement.
- 11.7 **Appointment as Payment Facilitator.** the Customer hereby appoints CSA, and CSA hereby accepts such appointment, as the payment facilitator or submitter of the Customer's transactions under the Processing Agreement. Any collection or receipt of the Customer's payments by CSA from end users is done at the express direction of the Customer, and the Customer hereby directs CSA to collect and process payments on the Customer's behalf in accordance with this Agreement and the Processing Agreement. The parties acknowledge and agree that receipt by CSA of monies or payments that are due to the Customer from end users for the sale of the Customer Products through the Service Software shall satisfy the end user's obligation to the Customer up to the amount of monies or payments received by CSA.
- 11.8 **License to Use the Customer IP.** the Customer hereby grants to CSA, during the Appointment, a worldwide, non-exclusive, irrevocable, royalty-free limited license to use those Trade Marks owned or held by the Customer that are useful to CSA in the provision of the Service Software to the Customer under this Agreement.
- 11.9 **Third Party Refunds.** CSA reserves the right to Refund fees to an end user of the Customer in the following (or the like) situations:
- 11.9.1 an order is fraudulent;
 - 11.9.2 the end user has introduced a duplicate order or has placed a new and correct order for the desired the Customer Product and confirms that the previous order was incorrect and should be cancelled;
 - 11.9.3 the end user has requested a Refund prior to confirmation and delivery of the Customer Product;
 - 11.9.4 if The Customer does not reply in five (5) business days from receipt of
 - 11.9.4.1 a Refund request or
 - 11.9.4.2 a technical support request that was received from an end user and forwarded to The Customer by CSA;

- 11.9.5 if the request from the end user is made in accordance with The Customer's refund policy and within the return period limit;
 - 11.9.6 the Refund is required by law;
 - 11.9.7 CSA determines a refund is necessary to avoid liability or to be consistent with best business practices or to comply with the Card Organization Rules or any rules or requirements of the Processor; or
 - 11.9.8 The Customer fails to comply with its obligations under this Agreement or the Customer Processing Agreements. In the event of a Refund, CSA has the right to retain the respective amount for the Refund or to recover the amount directly from The Customer by direct reimbursement. In the event of any Refund, CSA reserves the right to deduct its margin and Fees.
- 11.10 **Third Party Chargebacks.** In the event of a Chargeback, CSA has the right to retain the respective amount for the Chargeback and any fees, fines, assessments, penalties and other charges or any additional amounts charged by a Card Organization with respect to such Chargeback from the moment the Chargeback request is received by CSA until the issue giving rise to a Chargeback is resolved (including by payment to the end user) or to recover the amount directly from The Customer by direct reimbursement. In the event of any Chargeback, CSA reserves the right to deduct its margin and any fees, fines, assessments, penalties and other charges or any additional amounts charged by a Card Organization with respect to such Chargeback.

12. INTELLECTUAL PROPERTY (IP)

- 12.1 The Customer acknowledge that the Service Software is the subject of IP Rights owned by, or licensed to, CSA or CSA associated entities. The Customer agree that CSA will not any time, conduct or permit any act which infringes the IP Rights subsisting in the Service Software, including but not limited to:
- 12.1.1 modifying, adapting, translating, reverse engineering, decompiling or disassembling the Service Software; or
 - 12.1.2 reproducing the Service Software except as otherwise expressly authorised by this Agreement.
- 12.2 The Customer acknowledges and agrees that this Agreement is a license to use and is not an agreement for sale. The Customer acknowledges that it is obtaining only a limited license to use the Service Software in accordance with the terms of this Agreement and that, irrespective of any use of the words purchase, sale or like terms in this Agreement, no ownership rights are being conveyed by CSA to the Customer under this Agreement.
- 12.3 the Customer agrees that CSA or its licensors retain all rights, title and interest in and to all IP Rights, the Service Software, the Cantaloupe Dashboard, the Hardware, any deliverables, and any and all related and underlying technology and documentation and any derivative works, modifications or improvements of any of the foregoing, including as may incorporate Feedback or Aggregated Anonymous Data (collectively, the **CSA Technology**).
- 12.4 **Aggregated Anonymous Data.** Notwithstanding anything to the contrary herein and without limiting CSA other rights herein, the Customer agrees that CSA may obtain and aggregate technical and other data about the Customer's use of the Service Software that is non-personally identifiable with respect to the Customer (**Aggregated Anonymous Data**), and CSA may use the Aggregated Anonymous Data to improve, support and operate the Service Software and for any other lawful purpose during and after the term of this Agreement.
- 12.5 To the extent that any Customer Data input into the Cantaloupe Dashboard embodies IP Rights:

- 12.5.1 you warrant to CSA that the Customer are the owner of, or are otherwise authorised to use, the IP Rights subsisting in such Content;
- 12.5.2 nothing in this Agreement will constitute the assignment or transfer to CSA of any IP Rights subsisting in such Content; and
- 12.5.3 you grant to CSA a non-exclusive, royalty-free licence to use the Content, and all IP Rights subsisting in such Content, for the purpose of supplying the Customer with the Service Software during the Appointment and otherwise performing CSA's obligations to the Customer under this Agreement.

13. CONFIDENTIAL INFORMATION AND PRIVACY

13.1 **Rights in the Customer Data.** The Customer shall retain all right, title and interest in and to the the Customer Data as provided to CSA. Subject to the terms of this Agreement, the Customer hereby grants to CSA a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of and publicly perform and display the the Customer Data to provide the Service Software to the Customer and for any other lawful purpose.

13.2 **Storage of the Customer Data.** The Customer acknowledges that CSA does not provide an archiving service. CSA expressly disclaims all obligations with respect to storage of the the Customer Data.

13.3 Each party:

13.3.1 may use Confidential Information of the other party solely for the purposes of this Agreement;

13.3.2 must keep confidential all Confidential Information of the other party; and

13.3.3 may disclose Confidential Information of the other party only:

13.3.3.1 to persons who:

13.3.3.1.1 are aware and agree that the Confidential Information of the other party must be kept confidential; and

13.3.3.1.2 either have a need to know (and only to the extent that each has a need to know), or have been specifically approved by the other party; or

13.3.3.2 as required by law or stock exchange regulation.

Even though information is the Confidential Information of a party, the other party does not have to comply with this clause in relation to that Confidential Information if:

13.3.4 the Confidential Information becomes public knowledge during this Agreement; or

13.3.5 the other party became aware of that Confidential Information from a third person, in circumstances where there was no breach of any obligation of confidence.

13.4 Each party must comply with:

13.4.1 the reasonable directions of the other party in relation to the handling of any Personal Information; and

13.4.2 the Privacy Act 1988 (Cth).

- 13.5 At the Customer's written request, CSA will assist the Customer at the Customer's expense in answering or complying with any privacy inquiry or privacy request within thirty (30) days, or as otherwise advised by CSA, of the Customer's written request.

14. WARRANTIES

- 14.1 The Customer hereby warrant to CSA that the Customer:

14.1.1 has exercised their independent judgment in entering into this Agreement and have not relied on any representation made by CSA or CSA servants, agents, which have not been stated expressly in this Agreement, or upon any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by CSA or CSA servants, officers, agents or representatives;

14.1.2 have full legal capacity to enter into, perform and be bound by this Agreement and are not subject to any Insolvency Event or any other restriction that hinders or prevents CSA capacity to enter into, perform and be bound by this Agreement; and

14.1.3 by tendering any method of payment in respect of any amount due to us, are the account holder or have the authority and consent of the account holder of such payment methods.

- 14.2 For Hardware only, CSA provides a twelve (12) month warranty covering repairs or, where the Hardware is deemed by CSA to be defective, a replacement.

- 14.3 Customer acknowledges that: (a) CSA acquires Hardware from third parties and (b) CSA makes no warranties or representations of any kind about Hardware (including, without limitation, whether it is fit for any purpose of use that Customer may wish to make of it. To the fullest extent permissible by law CSA has no obligations of any kind, and no liability of any kind (whether in contract, tort (including negligence), equity, under any statute or otherwise), relating in any way to the Hardware.

- 14.4 For clarity, CSA's warranty as set out in clause 14.2 does not include:

14.4.1 accidents, vandalism, abuse, alteration, modification of the Hardware;

14.4.2 failure to maintain a suitable environment, including appropriate power supply and protection from elements;

14.4.3 components and accessories of the Hardware including but not limited to cables and antennas;

14.4.4 misuse of the Hardware;

14.4.5 Ingenico card readers previously paired with 3G Modem;

- 14.5 Notwithstanding clause 14.2, the Customer acknowledge that the Hardware or Service Software are provided on an as-is basis and that, to the maximum extent permitted by law, CSA do not warrant or guarantee that the Service Software or Hardware will:

14.5.1 be free from errors or defects;

14.5.2 be continuously available or operational; or

14.5.3 incorporate particular functions or features.

- 14.6 In particular, CSA will retain the right to:

14.6.1 add or remove functions or features of the site at CSA's sole discretion; and

- 14.6.2 restrict or limit access to the Service Software for the purpose of conducting scheduled and unscheduled maintenance of the Service Software.
- 14.7 Subject to clause 15.3 and to the maximum extent permitted by the Australian Consumer Law 2010 (Cth) (**the ACL**) (and relevant state legislation):
 - 14.7.1 CSA's sole obligation to the Customer is to provide the Hardware or Service Software in accordance with this Agreement; and
 - 14.7.2 in no event will CSA, or any of CSA's servants, officers, agents or representatives, be liable to the Customer for any:
 - 14.7.2.1 other claims or damages including, but not limited to, claims for faulty design, negligent or misleading advice, damages arising from loss or use of the Software or any goods or services provided to the Customer under this Agreement, and any indirect, special or consequential damages or injury to any person.
 - 14.7.2.2 default or failure in performance of CSA's obligations pursuant to this Agreement resulting directly or indirectly from a Force Majeure event or your breach of any provision of this Agreement; or
 - 14.7.2.3 Liabilities caused by, or suffered by the Customer in relation to, an error or defect in the Software or errors or faults caused by any person.
- 14.8 If the Hardware or Service Software, or any other goods or services provided to the Customer in accordance with this Agreement, (jointly Deliverables) is supplied to the Customer as a 'consumer' of goods or services (within the meaning of that expression in the ACL), then:
 - 14.8.1 you will have the benefit of certain non-excludable rights and remedies in respect of the Deliverables; and
 - 14.8.2 nothing in this Agreement excludes or restricts or modifies any condition, warranty, right or remedy which pursuant to the ACL (or similar legislation) is so conferred;

PROVIDED THAT if the Deliverables are goods or services not ordinarily acquired for personal, domestic or household use or consumption pursuant to section 68A of the ACL (and similar provisions of relevant state legislation), CSA's liability will be limited to:
 - 14.8.3 the supplying of the Deliverables again; or
 - 14.8.4 the payment of the cost of having the Deliverables supplied again.

15. **LIABILITY**

- 15.1 CSA warrants and acknowledges to the Customer that the provisions of clause 15 and 16 do not purport to exclude or modify the application of any statutory guarantee.
- 15.2 Notwithstanding any other provision of this Agreement, CSA will not be liable to the Customer for:
 - 15.2.1 any indirect loss, loss of revenue, loss of profit, loss of goodwill, lost opportunity, financial penalties imposed by any governmental agency or any other indirect or consequential loss arising from or in relation to this Agreement and notwithstanding termination of the Appointment or Agreement by either party; or
 - 15.2.2 any liability in negligence for acts or omissions of CSA arising out of or in connection with this Agreement; or
 - 15.2.3 any Claim suffered or incurred by the Customer in connection with the Customer's use or modification of the Hardware, Cantaloupe Dashboard or Service Software;

and the Customer releases CSA from such Liability.

- 15.3 CSA is not liable for any Loss or Claim if, and to the extent that, it is due to, or comprises:
- 15.3.1 An item under 14.4;
 - 15.3.2 failure by the Customer to immediately notify CSA when the Loss or Claim first occurs;
 - 15.3.3 superficial defects, dents or marks that do not impact the performance of the Hardware;
 - 15.3.4 damage or deterioration that occurs during shipping or transportation after title has passed from CSA;
 - 15.3.5 misuse or abusive use of the Hardware or Cantaloupe Dashboard;
 - 15.3.6 the incorrect or improper installation or operation of CSA Hardware or not following any operation or documentation provided with the Hardware
 - 15.3.7 the incorrect or improper maintenance of the Hardware or not following any operation or maintenance instructions or documentation;
 - 15.3.8 the storage, installation, commissioning, modification, repair of the Hardware that is performed by anyone other than by CSA authorised personnel;
 - 15.3.9 exposure to abnormal conditions; adverse external conditions such as extreme weather events, acts of God, vermin or insect infestation, water damage (liquid spillage or ingress) or acts of terrorism;
 - 15.3.10 the use of non-authorised/non-standard, defective or incompatible parts;
 - 15.3.11 or any attempt to extend or reduce the life or increase the performance of the Hardware, whether by physical means or otherwise without the express written consent of CSA;
 - 15.3.12 caused by an accident for which CSA is not responsible.
- 15.4 Subject to compliance with the provisions in the ACL, the Customer accepts that CSA is not the manufacturer and will not be liable for any economic loss, liability or tort for negligence in the sale or supply of a Hardware to the Customer or to a third party by the Customer

16. INDEMNITIES

- 16.1 the Customer agree to at all times promptly indemnify, save and hold CSA (and CSA's related bodies corporate) harmless from and against all and any claims, damages, liabilities, costs and expenses (including legal costs and expenses) arising out of:
- 16.1.1 the Customer's breach of any warranty or obligation under this Agreement;
 - 16.1.2 any act of negligence committed by or on behalf of the Customer in performing or omitting to perform any obligations under this Agreement;
 - 16.1.3 any loss suffered by a third party in connection with any of your acts or omissions, and those of your employees or agents (if any);
 - 16.1.4 any claim by a third party against CSA (or related bodies corporate) arising out of or in connection with the Customer's entry into this Agreement with CSA.

17. DISPUTES

- 17.1 Neither party may start court proceedings (except proceedings seeking interlocutory relief) in respect of any dispute arising from, or in connection with, this Agreement (**Dispute**) unless it has first complied with this clause 17.
- 17.2 A party claiming that a Dispute has arisen must notify the other party in writing of the event occurring that has given rise to the Dispute.
- 17.3 If a Dispute is not resolved within a 20 day working period (or if the parties agree a longer period, that longer period), of a Dispute being notified under clause 17.2, the Dispute must be referred for mediation, in accordance with the Australian National Mediation Standards and to a mediator agreed by the parties, or if the parties do not agree on a mediator, a mediator nominated by the then current President of the Queensland Law Society (or the President's nominee).
- 17.4 Unless CSA otherwise agree in writing, the Customer will not be entitled to withhold payment of any amounts due to CSA under this Agreement or offset such amount against any Claim that the Customer may have against us.

18. VARIATION

- 18.1 CSA may vary the terms of the Master Agreement, in its sole and reasonable discretion (where a variation is reasonably necessary to protect CSA legitimate interests or where CSA is required to vary the terms of the Master Agreement because the terms provided by a supplier of Hardware or Software Services have changed), by giving the Customer reasonable notice of the variation (**Variation**).
- 18.2 The Variation as set out by CSA will apply to the Customer and be incorporated into the terms of this Agreement from the later of the date that the relevant Variation is stated to commence or when CSA notifies the Customer of the relevant Variation.
- 18.3 The Customer agrees to advise CSA within ten (10) business days upon notice of the Variation as set out in clause 19.2 if it does not accept the Variation.
- 18.4 If the Customer provides notice that it does not accept the Variation in accordance with clause 19.3, the parties agree to discuss the Variation and either:
- 18.4.1 terminate the Appointment in accordance with clause 20.1 and 20.2; or
 - 18.4.2 revert the Master Agreement to its previous version (excluding the proposed Variation changes).

19. TERMINATION

- 19.1 Upon the completion of an Order and unless otherwise agreed in writing, the parties agree for CSA to extend the provision of the Service Software on a year to year basis for the Service Software Fees.
- 19.2 Subject to clause 19.3, the Customer may terminate this Appointment with immediate effect by giving notice to CSA that it wishes to terminate the Appointment (**Early Termination**).
- 19.3 In case of Early Termination, as described in clause 19.2, by the Customer, CSA will issue a final invoice which sets out those fees due and payable contemplated in this clause and the Customer agrees to within 14 days pay that invoice. For clarity, that final invoice may include but is not limited to all outstanding payments, the balance of the Hardware to CSA at the time of termination, early termination fees and any other fees set forth in an Order or those fees contemplated in clause 19.1.
- 19.4 CSA may terminate this Appointment with immediate effect by giving reasonable notice to the Customer.

- 19.5 A party may terminate this Appointment with immediate effect by giving notice to the other party if that other party:
- 19.5.1 breaches any term of this Agreement, such breach is not capable of remedy; or fails to remedy such breach within 30 days after receiving notice requiring it to do so; or
 - 19.5.2 becomes subject to an Insolvency Event.
- 19.6 Immediately after termination or expiry of this Appointment:
- 19.6.1 each party (first party) must return to the other party (or at the other party's direction, destroy) all Confidential Information of that other party in material form (including without limitation, those parts of all notes or records of the first party containing Confidential Information of the other party) in the first party's possession or control;
 - 19.6.2 the Customer must cease any and all use of and access to the Service Software (including any and all related CSA Technology).

20. SURVIVAL

The provisions of this Agreement which by their nature survive the Termination of the Appointment continue in force after the expiration or Termination of this Agreement including without limitation this clause 20 and 9, 10, 12, 13, 14, 16 and 17.

21. NOTICES AND OTHER COMMUNICATIONS

- 21.1 A notice, demand, consent, approval or communication under this Agreement (**Notice**) must be:
- 21.1.1 in writing, in English and signed by a person duly authorised by the sender;
 - 21.1.2 hand delivered, sent by pre-paid express post or email to the recipient's address for Notices being the parties respective ASIC registered office.
- 21.2 A Notice given in accordance with clause 21.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
- 21.2.1 if hand delivered, on delivery;
 - 21.2.2 if sent by pre-paid express post, four business days after the date of posting (or seven business days after the date of posting to or from a place outside Australia); or
 - 21.2.3 if sent by email, when received by the recipient's electronic information system, pursuant to section 24(1) of the *Electronic Transactions (Queensland) Act 2001*/section 13A of the *Electronic Transactions Act 2000* (NSW)];
 - 21.2.4 if the delivery or receipt is not on a business day or is after 5:00pm on a business day, the notice is taken to be received at 9:00am on the next business day.

22. MISCELLANEOUS

22.1 Governing Law

This Agreement is governed by and construed in accordance with the laws of Queensland.

22.2 Jurisdiction

Each party irrevocably:

22.2.1 submits to the non-exclusive jurisdiction of the courts of Queensland and the courts competent to determine appeals from those court, with respect to any proceedings which may be brought at any time relating to this Agreement; and

22.2.2 waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 22.2.1.

22.3 **Severability**

If anything in this Agreement is or is determined to be unenforceable, illegal, voidable or void in a jurisdiction then that provision of the Agreement is to be read down, if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

22.4 **Further Assurances**

Each party will execute such documents, and do all acts and things as are necessary or desirable to give full effect to this Agreement.

22.5 **Entire Agreement**

This Agreement inclusive of Order (I), Master Agreement (II), KYC Form (III) and CPA Form (IV) and the Schedules constitutes the entire agreement between the parties relative to this Agreement and supersedes all prior understandings, agreements or representations.

22.6 **Assignment**

The parties may assign its rights or delegate its duties under this Agreement in connection with any merger, acquisition or other change of control of such party, including but not limited to the purchase of all or substantially all of its assets, provided that such assignee agrees to be bound by the terms and conditions of this Agreement.

22.7 **Relationship.**

CSA acknowledges that this Agreement does not create a relationship of employer and employee, principal and agent, or partnership between the Customer and CSA;

Schedule 1 – Definitions & Interpretation

1. In this Agreement the following capitalised terms shall be given the corresponding meaning, unless the context requires otherwise:
 - 1.1 **ACL** means the Australian Consumer Law Act 2010 (Cth)
 - 1.2 **Additional Service Fees** means those fees set out in an Order for services other than Service Software or for goods other than Hardware.
 - 1.3 **Affiliates** means any related business entity or the like;
 - 1.4 **Agreement** means the Agreement between the Customer and CSA inclusive of the Parts.
 - 1.5 **Appointment** means that appointment of CSA by the Customer to provide the Service Software, Hardware and/or Additional Services in accordance with this Agreement and each respective Order.
 - 1.6 **Business** means those business operations conducted by CSA or an Affiliate of CSA;
 - 1.7 **Cantaloupe Dashboard** means that dashboard provisioned by CSA to the Customer as set out in the Order.
 - 1.8 **Chargeback** means (i) any failure of any third party system or Processor to pay The Customer or CSA, on behalf of The Customer, for any end user transaction through the Service Software and (ii) any retrieval request by a third party system or Processor with respect to any end user transaction. Customer assumes full risk of payment refusal related to a Chargeback.
 - 1.9 **Claim** means includes a notice, demand, action, cause of action, proceeding, litigation, arbitration, investigation, verdict, judgement, debt due, or Liabilities however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or under the provisions of any statute (except for those non-excludable provisions under the ACL), award, order or determination, whether involving a third party or a party to this Agreement, and whether or not known at the date of this Agreement.
 - 1.10 **Copyrights** those rights of copyright under the Commonwealth Copyright Act in respect of the Material and other rights of copyright throughout the world; any of the following which is not in the public domain other than due to a breach by a party of this Agreement: the recipes, compositions or makeup of the Product Range; any FAQ or wiki or portal or collection of information compiled for the Customer; the nature and extent of the IP Rights or Developments; Materials created in respect of the Development, use or proposed use of the Rights; any information about the Business including but not limited to the size of the business, supply chain, trees planted, operations or design of this Agreement; any information which by its very nature might reasonably be understood to have been Improved or disclosed in circumstances of confidence; any information which has been specifically designated by CSA as confidential; all databases, source codes, methodologies, manuals, artwork, advertising manuals, trade secrets and all financial, accounting, marketing and technical information, customer and supplier lists, know-how, technology, operating procedures and other information, used by or relating to the Business or Goods/Services; all notes and reports incorporating or derived from information referred to in (a) (b) (c) (d) (e) and (f); and all copies of the information, notes and reports referred to in (a) (b) (c) (d) (e) and (f);
 - 1.11 **CPA Form** (IV) means that Cashless Payment Authority form provided to the Customer in the Order.
 - 1.12 **Customer Data** means any business information or other content or data of any type that is (a) provided by The Customer to CSA in connection with the Service Software, including information input by The Customer, or provided to CSA for inputting, into the Service Software and (b) all information that The Customer or CSA, on The Customer's behalf, collects from end users, including contact information and payment information.

- 1.13 **Customer Products** means any assets, goods and/or services of The Customer that are sold by The Customer through the Hardware or otherwise using the Service Software.
- 1.14 **Design Rights** each and every one of those rights comprised in the definition of a registered design in the Design Act of the Commonwealth of Australia and granted in relation to CSA's business, Software Services or the Hardware, or otherwise during the Appointment, together with all rights of registered design now confirmed by the laws enforced in any other part of the World;
- 1.15 **Fees** means any Service Software Fees, Hardware Fees, Additional Services Fees or other such fees contemplated or set out in this Agreement to be paid by the Customer to CSA;
- 1.16 **Future Rights** jointly and severally all those rights (statutory and otherwise) comprised in Technical Information and the definition of Patent Rights, Design Rights, Trade Mark Rights or Copyright and which may be granted or acquired in any way whatsoever in relation to Service Software, Hardware or the Business and which are Improved in the future by or on behalf of CSA or the Customer and in respect of all media either in existence now or in the future;
- 1.17 **Hardware Fees** means those amounts payable to CSA by the Customer for the provision of the Hardware as set out in the Order;
- 1.18 **Hardware** means each item of hardware as set out in the Order;
- 1.19 **Improvement** means means any improvement, adaptation, translation or modification to the IP Rights or any invention, discovery, thing, method or approach that can be adapted to the CSA's business, Software Services or the Hardware which would make it cheaper, more effective, in any way easier to access or more useful or valuable, in any way preferable as a commercial article, system or process in any part of the world which is Improved or acquired by or on behalf of CSA or the Customer after the date of this Agreement and **Improve** or **Improved** will have a corresponding meaning;
- 1.20 **Insolvency Event** means in relation to a party of this Agreement means anything that reasonably indicates that there is a significant risk that that person is or will become unable to pay its debts as they fall due. This includes: a meeting of the person's creditors being called or held; (d)a step being taken to make the person bankrupt or to wind the person up; (e)the appointment of a controller or administrator as defined in section 9 of the Corporations Act; (f)the person entering into any type of arrangement with, or assignment for the benefit of all or any of its creditors; (g)the person being made subject to a deed of company arrangement; or (h)a step being taken to have a receiver, receiver and manager, liquidator or provisional liquidator appointed to the person or any of its assets.
- 1.21 **IP Rights** means jointly and severally the Future Rights, Patent Rights, Copyright, Design Rights, Trade Mark Rights and the Technical Information and any developments or improvements to the foregoing and **Rights** will have a corresponding meaning;
- 1.22 **KYC Form (III)** means each and every one of those Know Your Customer forms provided by CSA to the Customer from time to time.
- 1.23 **Liabilities** includes all liabilities (whether actual, contingent or prospective), losses, damages, costs and expenses (including any legal costs and expenses) of whatever description and **Loss** and **Liability** will have a corresponding meaning.
- 1.24 **Maintenance Instructions** means those instructions provided by CSA from time to time for the maintenance of Hardware.
- 1.25 **Master Agreement (II)** means this Agreement, provided to the Customer in the Order and available on the CSA website that sets out the general terms and conditions and definitions of the Parts.

- 1.26 **Material means** means all documents associated with the CSA's business, Software Services or the Hardware or the IP Rights including but not limited to data, client lists, supplier lists, formulae, recipes, notes, correspondence, drawings, diagrams, photographs, specifications and software;
- 1.27 **Order** (l) means each of those order forms prepared by CSA for the Customer which sets out the the particulars and details of the Software Service, Hardware and/or Additional Services to be provided and '**Order**' will have a corresponding meaning;
- 1.28 **Parts** means each of those documents that form the Agreement, including the Order/s, Master Agreement, KYC Form, CPA Form and the Schedules of this Master Agreement.
- 1.29 **Patent Rights** means each and every one of those rights comprised in the definition of "patent" or "letters patent" in the Patents Act 1990 (Cth) (or similar laws throughout the world) in respect of CSA's business, Software Services or the Hardware;
- 1.30 **Personal Information** means has the meaning given by the Privacy Act 1988 (Cth);
- 1.31 **Policies** means each of those policies, procedures or manuals generated or varied from time to time by CSA for its provision of the Hardware or Service Software;
- 1.32 **Refund** means any amount paid by The Customer or CSA, on behalf of The Customer, to an end user or any amount The Customer or CSA, on behalf of The Customer, is required to return to any third party system or Processor as a result of a refund event.
- 1.33 **Service Software Fees** means those amounts payable to CSA by the Customer for the provision of the service Software as set out in the Order;
- 1.34 **Service Software** means each of those services or service software set out in the Order;
- 1.35 **Technical Information** means all information, advice and knowhow of a proprietary nature in relation to CSA's business, Software Services or the Hardware, which is confidential to CSA prior to, after or during the Term;
- 1.36 **Trade Mark** means each and every one of those rights in: each and every trade mark registered by CSA; and each and every business name or trading name registered or capable of being registered in relation to CSA's business, Software Services or the Hardware pursuant to the Business Names Registration Act 2011 (Cth) (or similar laws throughout the world); and the brand or trade nominations of CSA and such other names, marks, styles and symbols Improved or acquired by CSA or the Customer, which might describe the CSA's business, Software Services or the Hardware and are capable of registration or protection under the Trade Marks Act 1995 (Cth), the Corporations Act 2001 (Cth), the Business Names Registration Act 2011 (Cth) or other laws throughout the world.

2. Interpretation

In this Agreement, unless the contrary intention appears:

- 2.1.1 headings are for ease of reference only and do not affect the meaning of this Deed and do not form part of the clause;
- 2.1.2 the singular includes the plural and vice versa and words importing a gender include other genders;
- 2.1.3 words used in this Agreement and defined in the dictionary will have the meaning set out in the dictionary. Other grammatical forms of defined words or expressions have corresponding meanings;
- 2.1.4 a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this Agreement and a reference to this Agreement includes any schedules and annexures attached to this Agreement;

- 2.1.5 a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- 2.1.6 a reference to a right includes a benefit, remedy, authority, discretion and power;
- 2.1.7 a reference to a Party includes its executors, administrators, successors and permitted assigns and if more than one, includes those persons jointly and each of them severally, their respective executors, administrators and assigns;
- 2.1.8 words importing the whole of the matter or thing include a part of the matter or thing;
- 2.1.9 words and expressions importing natural persons include partnerships, bodies corporate, associations (whether incorporated or not), firms, joint ventures, trusts, authorities, governments and governmental, semi-governmental and local authorities and agencies;
- 2.1.10 words and expressions defined in the *Corporations Act 2001* (Cth) (**Corporations Act**) as at the date of this Agreement have the meanings given to them in the Corporations Act at that date;
- 2.1.11 any provision in this Agreement stating that a Party "must" do something or "must" not do something should be read and construed as an agreement by that Party to do or not to do the matter or thing referred to;
- 2.1.12 no provisions (or part of provision) of this Agreement shall be construed against a Party merely because that Party was responsible for drafting same;
- 2.1.13 each Clause in this Agreement is not, except where expressly provided, limited in meaning or effect by any other clause in this Agreement;
- 2.1.14 a reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form;
- 2.1.15 any agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty entered into by a Party for or with another person binds them jointly and severally and an agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty in favour of a Party for or with another person is for the benefit of them jointly and severally; a release given to the other person shall not release the Party from any other obligation; and the granting of time or another indulgence to another person will not release the Party of its obligations under this Agreement; and
- 2.1.16 references to "includes" or "including" are illustrative only and shall not, in any way, be construed to limit or reduce the effect of the Clause or this Agreement to the examples given.

Schedule 2 – Cantaloupe USA Conditions

<https://www.cantaloupe.com/wp-content/uploads/2021/04/Master-Services-Agreement-04242021.pdf>.