

ADS Alliance Data Systems, Inc.
PURCHASE ORDER TERMS AND CONDITIONS

1. DEFINITIONS

- "Alliance Data" means ADS Alliance Data Systems, Inc., who is the purchaser of the goods and/or services identified on the front of this Purchase Order.
- "Vendor" means the vendor identified on the front of this Purchase Order.

2. ACCEPTANCE – In accordance with the Uniform Commercial Code, acceptance of this Purchase Order constitutes acceptance of the following terms and conditions. This Purchase Order shall be deemed accepted on the earlier of when: (a) Vendor acknowledges receipt and acceptance of the Purchase Order through signature and return of requisite documentation to Alliance Data, or (b) work has been started by Vendor in order to satisfy said Purchase Order, or (c) Vendor places orders with its suppliers and/or subcontractors in order to satisfy this Purchase Order, or (d) no counter offer, amendment, or objection from the Vendor has been received in writing by Alliance Data within five (5) business days of receipt of this Purchase Order. Alliance Data objects to and shall not be bound by additional or different provisions in any document submitted by Vendor unless such provisions are expressly agreed to in writing signed by Alliance Data. Alliance Data's acceptance and payment for material shipped and/or services rendered shall constitute acceptance of such material and/or services subject to the provisions herein, and shall not constitute acceptance of any additional or different terms submitted by Vendor.

3. INSPECTION AND ACCEPTANCE

- (a) Alliance Data and its customers may inspect all services, goods or work ("Work") at reasonable times and places. Vendor shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge. Alliance Data's final inspection and acceptance shall be at destination.
- (b) No such inspection or acceptance of Work shall relieve Vendor of its obligations to furnish Work in accordance with the requirements of this Purchase Order.
- (c) If Vendor delivers non-conforming Work, Alliance Data may: (i) accept all or part of such Work at an equitable price reduction and return non-conforming Work to Vendor at Vendor's expense; (ii) reject such Work and return goods to Vendor at Vendor's expense; or (iii) make, or have a third party make, all repairs, modifications, or replacements necessary to enable such Work to comply in all respects with Purchase Order requirements and charge the cost incurred to Vendor.
- (d) Vendor shall not re-tender rejected Work without disclosing the corrective action taken.

4. WARRANTY – Vendor hereby warrants that all work furnished hereunder shall conform to specifications, proposals, samples, drawings, and descriptions, shall be in good working order and shall be free from defects in material, workmanship and design. Vendor warrants that the material will be new, merchantable, and free of any liens or encumbrances. If Vendor knows or has any reason to know the particular purpose for which Alliance Data intends to use the material or services, Vendor warrants that the material and services will be fit for that particular purpose. Services shall be performed to Alliance Data's satisfaction in accordance with specifications, proposals and descriptions. Should Alliance Data provide no specifications, proposals or descriptions, Vendor shall use best commercial practices in the performance of this Purchase Order. All warranties shall run to Alliance Data and customers of Alliance Data. If any non-conforming Work is identified within the warranty period, Vendor, at Alliance Data's option, shall promptly repair, replace, or re-perform the Work. Such warranty work will be further warranted for an additional one-year period. Transportation of replacement Work, return of non-conforming Work, and re-performance of Work shall be at Vendor's expense. If repair or replacement or re-performance of Work is not timely, Alliance Data may elect to return Work for a full credit or refund, or may re-perform, repair, replace, or re-procure the Work at Vendor's expense. All warranties shall run to Alliance Data and its customers.

In addition, Vendor agrees to comply with all relevant consumer privacy language and will not use, disclose, or transfer across borders any information that may identify an individual ("Personal Data") that is processed for Alliance Data, except to the extent necessary to perform under this Purchase Order. The Vendor will comply with all applicable data privacy laws and regulations, will implement and maintain appropriate technical and organizational measures and other protection for the Personal Data (including, without limitation, not loading and Personal Data provided to Supplier on (a) any laptop computers or (b) any portable storage media that can be removed for Alliance Data premises unless such data has been encrypted and such data is loaded onto portable storage media solely for the purpose of moving such data to off-site stores), will immediately report to Alliance Data any breached of protection of Personal Data or any compromises thereof and will cooperate fully with Alliance Data in investigating any such breaches or compromises, will cooperate fully with Alliance Data's requests for access to, correction of, and destruction of Personal Data in Vendor's possession, and will comply with all instructions or other requirements provided or issued by Alliance Data from time-to-time relating to such Personal Data.

5. SHIPPING AND BILLING – Shipments shall be made in accordance with specific shipping instructions, and all supporting documents will bear the Purchase Order number. Shipping and routing instructions may be altered as mutually agreed without a written change. Taxes and freight shall be billed as separate line items on Vendor's invoices. Regardless of F.O.B. point, Vendor agrees to bear all risk of loss and injury, and for destruction of goods and materials ordered herein which occur prior to acceptance by Alliance Data. No such loss, injury, or destruction shall release Vendor from any obligations hereunder. Alliance Data will not accept any increase in price above that indicated on this Purchase Order. Any general price decrease announced by Vendor in classification of equipment and/or materials similar to the items described on this Purchase Order shall automatically reduce the price thereof by a comparable percentage on all items not yet accepted by Alliance Data.

Alliance Data employs "e-invoicing" methodology and will not accept paper invoices from Vendor unless otherwise expressly provided for herein. All invoices must be submitted via OB10 and will be paid by Alliance Data according to the Payment Terms on this Purchase Order after receipt of an accurate invoice from Vendor via Alliance Data's e-invoicing system. Vendor will (a) comply with all country of origin marking instructions and all instructions for exports to Alliance Data; (b) comply with all packaging and labeling requirements set forth in this Purchase Order and best commercial practice shipping instructions; (c) shall not use premium transportation unless specifically authorized by Alliance Data; (d) not include more than one daily shipment for one destination on one bill of lading; and (e) not declare a value or purchase additional insurance on all domestic F.O.B. Origin shipments to Alliance Data. To learn more about Alliance Data's e-invoicing system with OB10, please visit: <http://www.ob10.com/AllianceData>.

6. IDENTIFICATION – All invoices, packages, shipping notices, instruction manuals and any other written documentation affecting this Purchase Order shall contain the applicable Purchase Order number. Packing lists shall be affixed to the outside of each box or package shipped pursuant to this Order, indicating the contents therein.

7. CHANGES – Alliance Data may at any time, by written change order, suspend performance in whole or in part, make changes in drawings, designs, specifications, method of shipment or packing, time or place of delivery, or require additional or diminished Work. If any such change causes an

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increase or decrease in the cost of, or the time required for performance, an equitable adjustment shall be made in the Purchase Order price or delivery schedule or both and this Purchase Order shall be modified accordingly in writing. Any claim by the Vendor for such an adjustment must be made within (30) thirty days from the date of receipt by Vendor of the change order or shall be unconditionally waived.

- 8. SPECIAL CHARGES** – Protective packaging shall be compliant with Alliance Data's specification or, lacking specification, to best commercial practices and all items must be properly labeled. Vendor shall be responsible for the payment of all charges for handling, packaging, wrapping, bags, containers and related matters unless Alliance Data has assumed an express obligation therefor by notation on the face of the Purchase Order.
- 9. INDEMNIFICATION** – Vendor shall defend, indemnify and save harmless Alliance Data, its affiliates and their respective officers, directors, agents and employees from and against all losses, costs, damages, expenses, claims, demands or other liabilities (including attorneys' fees and costs of defense) of Alliance Data, arising out of or relating to: (a) providing the material and/or doing the work herein provided; and/or (b) any act or omission of Vendor, its employees or agents, or others under Vendor's control; and/or (c) Vendor's providing a defective or dangerous product; and/or (d) Vendor's breach of any term of this Purchase Order. This expressly includes, but is in no way limited to, penalties imposed upon Alliance Data by its customers arising from late delivery of Work directly resulting from Vendor's failure to meet delivery schedules or other conditions of this Purchase Order. The remedies reserved in this Purchase Order shall be cumulative and in addition to any other or further remedies provided in law or equity.
- 10. INTELLECTUAL PROPERTY** – Subparagraph (a) is NOT applicable for commercial off-the-shelf purchases unless such off-the-shelf Work is modified or redesigned pursuant to this Purchase Order.
- (a) Vendor shall assign, convey and transfer to Alliance Data without any further consideration each and every modification, redesign, invention, discovery, improvement, maskwork, and patent relating to the Work, first conceived, developed, or generated in performance of this Purchase Order and upon request shall execute any required papers and furnish all reasonable assistance to Alliance Data to vest all right, title and interest in such inventions, discoveries, improvements, maskworks, and patents to Alliance Data.
- (b) All data, copyrights, reports, and works of authorship developed in performance of this Purchase Order shall be the sole property of Alliance Data and shall be used by Vendor solely in Work for Alliance Data. To the extent that any of the deliverable items may not, by operation of law, be Works made for hire, Vendor hereby assigns to Alliance Data the ownership of copyright in the deliverable items and Alliance Data shall have the right to obtain and hold in its own name copyrights, registrations, and similar protection which may be available in the deliverable items. Vendor agrees to give Alliance Data or its designees all assistance reasonably required to perfect such rights. Vendor warrants the originality of all deliverable items and states that no portion is protected by any copyright or similar right vested in any third party.
- (c) Subject to any Vendor license terms expressly referenced in the Purchase Order, to the extent that any pre-existing materials are contained in the deliverable items and not owned by Alliance Data, Vendor grants to Alliance Data an irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, use, sell, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon, such pre-existing materials and derivative works thereof, and (ii) authorize others to do any, some or all of the foregoing.
- (d) Vendor warrants that the services or goods performed or delivered under this Purchase Order shall not infringe or otherwise violate the intellectual property rights of any third party in the United States and Vendor agrees to obtain a no-cost license for Alliance Data, modify the goods so as to be non-infringing, or defend, indemnify, and hold harmless Alliance Data and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Purchase Order infringes or otherwise violates the intellectual property rights of any person.
- 11. OWNERSHIP OF WORK PRODUCT** – For purposes of this Agreement, "Work Product" shall include, without limitation, all designs, discoveries, creations, works, devices, masks, models, work in progress, Service deliverables, inventions, products, computer programs, procedures, improvements, developments, drawings, notes, documents, business processes, information and materials made, conceived or developed by Vendor alone or with others which result from or relate to the services performed hereunder. Standard Goods manufactured by Vendor and sold to Alliance Data without having been designed, customized or modified for Alliance Data do not constitute Work Product.

All Work Product shall at all times be and remain the sole and exclusive property of Alliance Data. Vendor hereby agrees to irrevocably assign and transfer to Alliance Data and does hereby assign and transfer to Alliance Data all of its worldwide right, title and interest in and to the Work Product including all associated intellectual property rights. Alliance Data will have the sole right to determine the treatment of and Work Product, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name or to follow any other procedure that Alliance Data deems appropriate.

Vendor agrees: (a) to disclose promptly in writing to Alliance Data all Work Product in its possession; (b) to assist Alliance Data in every reasonable way, at Alliance Data's expense, to secure, perfect, register, apply for, maintain, and defend for Alliance Data's benefit all copyrights, patent rights, mask work rights, trade secret rights, and all other proprietary rights or statutory protections in and to the Work Product in Alliance Data's name as it deems appropriate; and (c) to otherwise treat all Work Product as Alliance Data's Confidential Information as described above. These obligations to disclose, assist, execute and keep confidential survive the expiration or termination of this Agreement. All tools and equipment supplied by Alliance Data to Vendor shall remain the sole property of Alliance Data.

Vendor will ensure that Vendor's affiliates appropriately waive any and all claims and assign to Alliance Data any and all rights or any interests in any Work Product or original works created in connection with this Agreement. Vendor irrevocably agrees not to assert against Alliance Data or its direct or indirect customers, assignees or licensees any claim of any intellectual property rights of Vendor affecting the Work Product.

Alliance Data will not have rights to any works conceived or reduced to practice by Vendor which were developed entirely on Vendor's own time without using equipment, supplies, facilities or trade secret or Alliance Data Confidential Information, unless (i) such works relate to Alliance Data's business, or Alliance Data's actual or demonstrably anticipated research or development, or (ii) such works result from any Services performed by Vendor for Alliance Data.

12. CONFIDENTIALITY

- (a) Definition. All information disclosed by Alliance Data to Vendor or otherwise learned by Vendor in connection with its Vendor's performance under this Purchase Order ("Confidential Information") shall be treated by Vendor as confidential information of Alliance Data. Alliance Data's Confidential Information includes, but is not limited to, personal, consumer, customer, client, or employee information; business plans, marketing

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information, cost estimates, forecasts, bid and proposal data, or financial data; or formulae, products, processes, procedures, programs, inventions, systems, or designs.

- (b) Ownership and Use. Vendor acknowledges that all Confidential Information remains the property of Alliance Data. Vendor agrees not to use any Alliance Data Confidential Information for any purpose except to perform this Purchase Order. Vendor shall keep all Confidential Information in confidence and shall not disclose any Confidential Information to any third party. Vendor shall not use any Confidential Information for any purpose other than to perform the Work for Alliance Data pursuant to this Purchase Order. Such obligations do not apply to information which is or hereafter becomes generally known, or is hereafter furnished to Vendor by a third party without restriction on disclosure.
 - (c) Protection. Vendor will establish commercially reasonable controls to ensure the protection of Alliance Data's Confidential Information. Vendor has established and will follow procedures for all employees with access to Confidential Information to protect the privacy of such information.
 - (d) Security. Vendor will notify Alliance Data as soon as possible in the event it believes, or has reason to believe, that either a confidentiality or security breach has occurred.
 - (e) Return. Within five days following the earlier of (i) the request of Alliance Data, or (ii) the expiration or termination of the Purchase Order, Vendor shall return to Alliance Data or destroy all Confidential Information and all related documents and materials. Such Confidential Information must be destroyed by modifying, shredding, erasing or otherwise making the information unreadable or undecipherable.
 - (f) Other Nondisclosure Obligations. This Purchase Order does not diminish, revoke or supersede any existing Nondisclosure Agreement or similar agreement between the parties. The obligations of the parties set forth in this Confidential Information Section are in addition to the obligations of the parties set forth in any existing Nondisclosure Agreement or otherwise arising under applicable law.
 - (g) Injunctive Relief. Vendor acknowledges that Alliance Data may not have an adequate remedy at law in the event of any breach or threatened breach by Vendor of this Purchase Order pertaining to Alliance Data's Confidential Information and intellectual property, and that Alliance Data or its customers or suppliers may suffer irreparable injury as a result. In the event of any such breach or threatened breach, Vendor hereby consents to the granting of injunctive relief without the posting by Alliance Data of any bond or other security.
- 13. RIGHT TO AUDIT** – Vendor shall maintain complete, legible and accurate records of all hours worked and costs incurred in the performance of this Purchase Order for five (5) years. Alliance Data shall have the right through its designated representative to examine and audit at all reasonable times, all such records and other records and accounts as may, under recognized accounting practices, contain information bearing upon the amount payable to the Vendor hereunder.
- 14. ASSIGNMENT AND DELEGATION.**
- (a) No Assignment or Delegation. Vendor may not assign any of its rights nor may Vendor delegate any performance under this Agreement, except with the prior written consent of Alliance Data. Any assignment of Vendor's rights or delegation of Vendor's duties are prohibited under this subsection, whether they are voluntary or involuntary, by subcontract, agency, merger, consolidation, dissolution, operation of law, change of control, or any other manner.
 - (b) Agents and Subcontractors. In the event Vendor does delegate any performance under this Agreement to an agent or subcontractor, Vendor shall advise subcontractor and/or agent of the terms of this Agreement, ensure such subcontractor's compliance with all provisions of this Agreement, and shall indemnify Alliance Data for any and all losses, damages, claims, and/or expenses (including but not limited to attorney fees and court costs) resulting from the actions or inactions of such subcontractor or agent.
 - (c) Ramifications of Purported Assignment or Delegation. Without limiting any other remedy Alliance Data may have against Vendor for such purported assignment, any purported assignment of rights or delegation of performance in violation of this section is void.
 - (d) Successors and Assigns. This Agreement binds and benefits the parties and their respective permitted successors and assigns.
- 15. RELATIONSHIP OF THE PARTIES; VENDOR PERSONNEL**
- (a) Vendor's relationship to Alliance Data shall be that of independent contractor and this Purchase Order does not create an agency, partnership, or joint venture relationship between Alliance Data and Vendor.
 - (b) Vendor shall determine the specific time and manner in which the Work is performed pursuant to this Purchase Order, and the resources that are used to perform such Work. Alliance Data shall have no authority to direct the day-to-day activities of Vendor or any of Vendor's employees.
 - (c) Personnel supplied by Vendor hereunder shall be deemed employees of Vendor and shall not for any purposes be considered employees or agents of Alliance Data.
 - (d) Vendor will ensure that any Vendor personnel assigned to work on Alliance Data's or its customers' premises shall comply with any on-premises guidelines.
 - (e) All persons, property and vehicles entering or leaving Alliance Data's or its customer's premises shall be subject to search. Vendor must coordinate with Alliance Data access to Alliance Data's or its customer's premises.
- 16. PUBLICITY** – Vendor shall not (a) use the names(s), trademark(s), or trade name(s) (whether registered or not) of Alliance Data or any of its affiliates, which includes any entity controlling, controlled by, or under common control with Alliance Data, or (b) publicly refer to Alliance Data or any of its affiliates or the existence of this Purchase Order, in publicity releases, promotional materials, business plans, investment memoranda, announcements, or advertising or in any other manner, including customer lists, without securing Alliance Data's prior written approval.
- 17. IMPORT/CUSTOMS** – Vendor will remain knowledgeable with, and will remain in full compliance with all applicable export and import laws, regulations, orders, and policies (including, but not limited to, securing all necessary clearance requirements, proper filings with appropriate government bodies and/or disclosures relating to the release or transfer to non-U.S. nationals of technology and software in the U.S., or outside the U.S., release or transfer of technology and software having U.S. content or derived from U.S.-origin software or technology); it is knowledgeable with applicable supply chain security recommendations issued by applicable governments and industry standards organizations and will make best efforts to comply with such recommendations; and it will not export, directly or indirectly, any technology, software or commodities of U.S. origin having U.S. content provided by Alliance Data or their direct product to any of the countries or to nationals of those countries, wherever located, listed in U.S. Export Administration Regulations, as modified from time to time, unless authorized by appropriate government license or regulations. Vendor agrees to comply with all laws and regulations governing the importation of goods into the United States Customs Territory. Vendor agrees to hold harmless and indemnify Alliance Data, its directors, officers and employees against all losses, claims, penalties, judgments, liabilities and expenses which any of them may pay or incur arising out of this order, including but not limited to all representations made by the Vendor with response to documentation or other Customs or Governmental requirements with regard to entry requirements, classification, valuation, preferential treatment, duty drawback or trade terms (INCOTERMS, latest revision).

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- 18. EXPORT RESTRICTIONS** – Vendor agrees that it will not export or re-export, directly or indirectly, any of Alliance Data Confidential Proprietary Information or items to any country for which the United States of America, at the time of export or re-export, requires an export license or other governmental, without first obtaining such license or approval.
- 19. COMPLIANCE WITH LAWS** – Vendor shall comply with all applicable federal, state, county and local laws, ordinances, regulations, orders and codes (including procurement of required permits or certificates) in the performance hereunder, including, but not limited to, all applicable employment, tax, export control, health and safety, and environmental laws by the laws of the country where the Alliance Data is located. In addition, Vendor warrants that all goods and services supplied pursuant to this order will have been performed, produced and supplied in compliance with all applicable rules and regulations of the Federal Communication Commission (FCC) and the Occupational Safety and Health Administration (OSHA). Vendor agrees to indemnify Alliance Data and Alliance Data’s customers for any loss or damage sustained because of Vendor’s noncompliance.
- 20. INSURANCE** – Vendor shall maintain insurance of the kind and in the amounts required by law and sufficient to cover the entire obligation assumed in this Purchase Order including, without limitation, Worker’s Compensation, employers’ liability or “stop gap,” commercial general liability, advertisers’ liability (if applicable), and fidelity bond. In addition, Vendor accepts full responsibility for any and all bodily injury, property damage, fire, theft, collision or public liability damage claims, which may be caused as a result of representatives of Vendor driving a vehicle. The foregoing notwithstanding, Vendor shall maintain personal injury, property damage and errors and omissions insurance in the minimum amounts below.

Personal Injury	Property Damage	Errors and Omissions
\$1,000,000 per occurrence	\$1,000,000 per occurrence	\$1,000,000 per occurrence
\$1,000,000 annual aggregate	\$1,000,000 annual aggregate	\$1,000,000 annual aggregate

21. DEFAULT

- (a) Alliance Data, by written notice, may terminate this Purchase Order for default, in whole or in part, if Vendor fails to comply with any of its obligations hereunder and fails to cure any breach thereof within ten (10) days after notice thereof from Alliance Data. Default involving performance delays shall not be subject to the cure provision.
- (b) Vendor shall be compensated only for Work actually delivered and accepted. Vendor shall continue all Work not terminated.
- (c) In the event of a termination for default, Vendor shall be liable to Alliance Data for cover costs, in addition to Alliance Data’s other rights and remedies at law of in equity.
- (d) If, after termination under paragraph (a), it is determined that Vendor was not in default, such termination shall be deemed a Termination for Convenience.

22. TERMINATION FOR CONVENIENCE – Alliance Data may terminate part or all of this Purchase Order for its convenience by giving written notice to Vendor. Upon termination, in accordance with Alliance Data’s written direction, Vendor will immediately: (i) cease work; (ii) prepare and submit to Alliance Data an itemization of all completed and partially completed Work; (iii) deliver to Alliance Data deliverables satisfactorily completed up to the date of termination at the agreed-upon prices herein; and (iv) deliver upon request any Work in process. Alliance Data will compensate Vendor for the actual, allowable, and reasonable expenses and profit incurred by Vendor for Work in process up to and including the date of termination, provided Vendor uses reasonable efforts to mitigate Alliance Data’s liability under this clause.

23. FORCE MAJEURE – Neither party shall be liable for any delay or failure to deliver or accept any or all of the Work where such delay or failure is caused by fire, flood, other act of God, act of war, labor disturbance, or other event beyond such party’s control (“Force Majeure”). If Vendor experiences Force Majeure, it shall use best efforts to minimize the impact on Alliance Data, including arranging for substitute material and/or performance. Alliance Data may terminate this Purchase Order in whole or in part if Force Majeure occurs.

24. TIME IS OF THE ESSENCE – Time is of the essence to this Purchase Order. At the outset of any delay from any cause, including Force Majeure, Vendor shall immediately notify Alliance Data in writing of the delay or anticipated delay and shall undertake to shorten the delay by all reasonable means. If such delay is caused by Force Majeure, the costs of shortening the delays shall be paid by Alliance Data to the extent such costs are attributed to action authorized by Alliance Data. If the delay is from any other cause, Vendor shall be solely responsible for the costs of overcoming delays.

25. GRATUITIES/KICKBACKS – No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by Vendor to any customer or employee of Alliance Data for the purpose of obtaining or rewarding favorable treatment as a supplier.

26. LIENS – Vendor agrees to deliver to Alliance Data the Work covered by this Purchase Order free and clear of all liens, claims, and encumbrances.

27. MASTER CONTRACT – If this Purchase Order is issued as shipping instructions (and/or release document) pursuant to the terms of an existing contract between Alliance Data and Vendor, this Purchase Order shall be governed exclusively by the terms of such existing contract.

28. NON-SOLICITATION OF EMPLOYEES

- (a) Vendor agrees that, during the term of this Agreement, and for a period of 12 months following its termination, Vendor will not directly, or indirectly through a third party, solicit, offer employment to, employ, obtain services from, or in any other manner engage the services of any individual who was, or was at any time during the 12 months prior to such solicitation, offer, or other engagement by Vendor, an employee, agent, or contractor of Alliance Data or Alliance Data’s affiliates.
- (b) If, during the term of this Agreement, or at any time during the period of 12 months following its termination, Vendor directly or indirectly solicits, offers employment to, employs, obtains services from, or in any other manner engages the services of, any individual who is, or was at any time during the 12 months prior to such solicitation, offer, or other engagement by Vendor, an employee, agent, or contractor of Alliance Data, the Vendor shall pay to Alliance Data an amount equal to 18 times the highest monthly fees or salary paid by Alliance Data to such individual at any time during the term of this Agreement.

29. GENERAL

- (a) **ENTIRE AGREEMENT; MODIFICATION** – This Purchase Order is the complete, final and exclusive statement of the terms of the agreement between the parties and supersedes any and all other prior and contemporaneous negotiations and agreements, whether oral or written, between them relating to the subject matter hereof. This Purchase Order may not be varied, modified, altered, or amended except as set forth herein. The

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terms and conditions of this Purchase Order shall prevail notwithstanding any variance with the terms and conditions of any acknowledgment or other document submitted by Vendor. Vendor is an independent contractor in the performance of its obligations under this order, and Alliance Data is to have no control over the method and means Vendor uses to fulfill its obligations. Neither Vendor nor its employees shall be considered employees of Alliance Data or entitled to participate in any Alliance Data employee benefits or plans of any kind. Notwithstanding the foregoing, this Purchase Order will not supersede or take the place of any written agreement which is signed by both parties and covers the same subject matter as this Purchase Order or its related purchase orders.

- (b) **ENFORCEMENT** – Alliance Data’s failure to enforce any of the provisions, rights or options of this Purchase Order will in no way be construed to be a waiver of such provisions, rights, or options or in any way to affect the validity of the contract. The exercise by Alliance Data of any rights or options under the terms or provisions herein shall not preclude or prejudice the exercising thereafter of the same or any other right under this Purchase Order. Alliance Data’s remedies shall be cumulative and remedies herein specified do not exclude any remedies allowed by law or equity.
- (c) **SEVERABILITY** – In the event that any of the provisions contained herein are held to be unenforceable in any respect, such unenforceability shall not affect any other portion of this Purchase Order. This Purchase Order shall then be construed as if such unenforceable provisions had never been contained herein.
- (d) **SUCCESSORS** – This Purchase Order shall inure to the benefit of the successors and assigns of Alliance Data.
- (e) **NOTICES** – Any notice required or permitted to be given by either party hereto to the other shall be mailed certified or registered mail to the address stated on this Purchase Order and shall be deemed to have been given when deposited in the United States mail with postage prepaid.
- (f) **GOVERNING LAW** – This Purchase Order shall be governed by the laws of the State of Texas, without regard to its conflict of law principles.
- (g) **COMPLIANCE WITH EQUAL OPPORTUNITY/AFFIRMATIVE ACTION LAWS AND REGULATIONS** – Unless exempt under the rules and regulations of the Secretary of Labor or other proper authority, this Purchase Order is subject to applicable laws, executive orders, and regulations (collectively “Laws”) relating to equal opportunity and affirmative action. Vendor agrees to and will certify compliance with all such applicable Laws in the performance under this Purchase Order.
- (h) **SURVIVAL** – Any obligations and duties which by their nature extend beyond the termination of this Purchase Order shall survive the expiration or termination of this Purchase Order.
- (i) **The United Nations Convention on Contracts for the International Sale of Goods (1980) [CISG] and its participating companies does not apply to the release of any Alliance Data Purchase Orders or Long Term Agreements.**

30. TAXES

- (a) Alliance Data will be responsible for, and agrees to pay, all sales, use, excise, and value-added taxes, or taxes of a similar nature (excluding personal property taxes and taxes based on Vendor’s income which shall be borne by Vendor), imposed by the United States, any state or local government, or other taxing authority, on all goods and/or services provided to Alliance Data by Vendor under this Agreement. The parties agree to cooperate with each other to minimize any applicable sales, use, or similar tax and, in connection therewith, the parties shall provide each other with any relevant tax information as reasonably requested (including without limitation, resale or exemption certificates, multi-state exemption certificates, information concerning the use of assets, materials and notices of assessments).
- (b) Vendor shall calculate and include the appropriate amount of taxes on each monthly invoice to Alliance Data. Vendor shall be solely responsible for remitting to the appropriate taxing authority the tax amounts paid by Alliance Data. Vendor agrees to be responsible for paying any tax, penalty, and interest resulting from Vendor not including the appropriate taxes on each monthly invoice to Alliance Data.
- (c) Vendor shall be responsible for and shall pay all sales, use, excise, value-added taxes or taxes of a similar nature, imposed by the United States, any state, local government authority, or other taxing authority, on all taxable items sold to and purchased by Vendor under the terms of this agreement.