

## TERMS AND CONDITIONS FOR INTERFACE AGREEMENT

These Terms and Conditions for Interface Agreement (the “Online Terms”) apply to the Interface Agreement or Platform Interface Agreement executed by the Company and NCR Voyix (the “Interface Agreement” and, together with the Online Terms, the “Agreement”) that references these Online Terms. These Online Terms are subject to change by NCR Voyix without prior written notice at any time, in NCR Voyix’s sole discretion. Capitalized terms used and not defined in these Online Terms are as defined in the Interface Agreement. References to Exhibits below refer to the Exhibits to the Interface Agreement.

1. **Definitions.** This Agreement and related documents use the following defined terms:

1.1 “Affiliate” means an entity of which a party is the majority owner, or which is majority owner of a party, as well as any other entity which is majority-owned by such an entity.

1.2 “API” means the NCR Voyix application programming interface listed in Exhibit A and related documentation.

1.3 “Company Data” means all information and data transmitted to the Platform by Company except NCR Voyix Data.

1.4 “Company Interface” means a software program using the API in accordance with this Agreement solely for the limited purpose of interfacing the Company Product with the NCR Voyix Product using the Platform (if indicated in Exhibit A) to achieve the functionality described in Exhibit A.

1.5 “Company Product” has the meaning set forth in Exhibit A.

1.6 “Data Subject” means the individual to whom any Personal Information refers.

1.7 “Customer” means an organization set forth in Exhibit A using an NCR Voyix Product and the Company Product.

1.8 “Customer Data” means information (which may include Personal Information) which Company provides to NCR Voyix for processing and that is collected, stored, or maintained in the course of performing this Agreement. Customer Data excludes any data that does not connect or associate Customer, Customer employees, or consumers to or with such data.

1.9 “NCR Voyix Data” means information NCR Voyix makes available to Company through use of the NCR Voyix Materials, except Customer and Company Data.

1.10 “NCR Voyix Materials” mean collectively the Platform, the NCR Voyix Product, and the API.

1.11 “NCR Voyix Product” means NCR Voyix software products indicated in Exhibit A that are licensed to Customer by NCR Voyix or authorized reseller.

1.12 “Personal Information” means information relating to an identified or identifiable natural person to the extent treated as such under applicable law.

1.13 “Platform” means NCR Voyix’s hosted solution connecting the NCR Voyix Product and Company Interface using the API.

1.14 “Privacy Laws” means all laws and regulations that govern the access, use, disclosure, or protection of Personal Information which are applicable to this Agreement.

1.15 “Production Locations” means Customer stores or restaurants (as applicable) available for the sale of goods and services.

## 2. **NCR Voyix Materials.**

2.1 NCR Voyix reserves all rights not expressly granted in this Agreement, including all right title and interest in and to the NCR Voyix Materials. Except as expressly granted in this Agreement, NCR Voyix provides no express or implied license or right of any kind to Company regarding the NCR Voyix Materials

including any right to know, use, produce, receive, reproduce, copy, market, sell, distribute, transfer, translate, modify, import, offer for sale, display, or adapt the NCR Voyix Materials or create derivative works based on the NCR Voyix Materials or any portions thereof, or obtain possession of any technical material relating to the NCR Voyix Materials. NCR Voyix Materials may not be used for commercial timesharing, service bureau business, or other rental or sharing arrangements. Company will not decompile, reverse assemble, or otherwise reverse engineer the NCR Voyix Materials.

2.2 Company will indemnify, defend, and hold harmless NCR Voyix against any and all third-party claims, losses, liabilities, damages, costs and expenses, including reasonable attorneys' fees incurred by NCR Voyix, arising out of or related to any claim that the Company Interface or that the combined solution, i.e. integration of the Company Product and the NCR Voyix Product via the Company Interface, infringes any intellectual property right of a third party.

2.3 Company's use of the API or Platform may be tracked and controlled via one or more service keys. Service keys may require renewal from time to time in NCR Voyix's discretion. If Company's service keys expire, Company will no longer be permitted to access and use the Platform. Company is liable for its unauthorized use or disclosure of service keys, even for such use or disclosure by third parties who have obtained them through Company.

2.4 NCR Voyix will own, and Company hereby assigns to NCR Voyix: (a) any improvements, modifications, corrections, enhancements, extensions, or derivatives Company may make to, or that are based on, the NCR Voyix Materials and all associated intellectual property rights (collectively, "Improvements"); and (b) any comments, suggestions or feedback related to the NCR Voyix Materials that may be provided by Company and all associated intellectual property rights (collectively, "Feedback"). Company will own the Company Product, except to the extent it incorporates, uses, or is based on any NCR Voyix Materials, Improvements, or Feedback. Without limiting the generality of the foregoing, NCR Voyix may use Improvements and Feedback without restriction, including without providing attribution or compensation to Company or any third party.

### **3. Prices, Invoices, and Payment**

3.1 Prices do not include any federal, state, county, or local sales, use, and like taxes (but not taxes on NCR Voyix's net income). Any such taxes, interest (if not due to NCR Voyix's delay), or charges will be added to the invoice. Company will reimburse NCR Voyix for any taxes to be paid by Company, but in fact paid by NCR Voyix (whether that fact is discovered through audit or otherwise), upon receipt of NCR Voyix's invoice.

3.2 If Company disputes any portion of an invoice, Company will immediately notify NCR Voyix of the amount and basis of the dispute, and Company will timely pay the undisputed portion. NCR Voyix may charge late fees on unpaid, undisputed amounts equal to the lesser of 1.5% per month of the unpaid amount, or any applicable limit imposed by law. If Company fails to make payments when due, NCR Voyix may, upon written notice, suspend its obligations without waiving its right to payment.

3.3 Upon reasonable prior notice and during regular business hours, Company will permit NCR Voyix or its authorized representatives to inspect all books, records, and accounts of Company that pertain or relate to this Agreement.

### **4. Warranties.**

4.1 NCR Voyix warrants to Company that the API and Platform will materially conform to its documentation. Warranties commence upon Effective Date and continue for 30 days.

4.2 If the API or Platform does not materially conform to its warranty and Company gives NCR Voyix notice during the warranty period, NCR Voyix will at its discretion correct, repair, or replace the API or Platform. If NCR Voyix is unable to do so within a reasonable time, and Company requests a refund in writing within 30 days, NCR Voyix will refund the purchase price.

4.3 THIS SECTION STATES THE SOLE AND EXCLUSIVE WARRANTIES AND WARRANTY REMEDIES MADE BY NCR VOYIX. THERE ARE NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. THERE ARE NO OTHER WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED. NCR Voyix does not warrant: that the NCR Voyix Materials will yield any particular business or financial results; that data, reports, or analysis will be accurate in all respects; availability of data; that NCR Voyix Materials will be free from all bugs, viruses, or errors; or that NCR Voyix Materials will operate without interruption.

## **5. Mutual Liability Limitations.**

5.1 **EXCLUDED DAMAGES.** NEITHER PARTY WILL BE LIABLE TO THE OTHER, WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STRICT LIABILITY, STATUTE, LAW, EQUITY, OR OTHERWISE, ARISING UNDER OR RELATED TO THIS AGREEMENT, FOR: (A) INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES; (B) LOSS OF PROFITS OR REVENUE (OTHER THAN IN AN ACTION BY NCR VOYIX TO RECOVER AMOUNTS OWED); OR (C) LOSS OF REPUTATION, GOODWILL, TIME, OPPORTUNITY, DATA, OR ACCESS TO DATA. As used in this Section, a “party” includes its Affiliates, employees, agents, contractors, and suppliers when acting in that capacity, and any persons or entities claiming by or through that party.

5.2 **LIABILITY CAP.** NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY AMOUNT GREATER THAN \$250,000.00 OR THE AMOUNT OF FEES CHARGED BY NCR VOYIX DURING THE PRECEDING 12 MONTHS FOR THE AFFECTED CUSTOMERS, WHICHEVER IS GREATER.

5.3 Section 5.1 and Section 5.2 will not limit Company’s liability for: (a) infringing, misappropriating, misusing, or otherwise violating NCR Voyix’s or any of its Affiliates’ intellectual property rights; or (b) Company’s indemnification obligations.

5.3 EACH CLAUSE AND PHRASE OF THIS SECTION IS SEPARATE FROM EACH OTHER CLAUSE AND PHRASE, AND FROM THE REMEDY LIMITATIONS AND EXCLUSIONS ELSEWHERE IN THIS AGREEMENT, AND WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF A REMEDY, ANY TERMINATION OF THIS AGREEMENT, OR SEVERABILITY OF ANY CLAUSE OR PHRASE IN THIS AGREEMENT.

## **6. Confidentiality.**

6.1 “Confidential Information” means information and materials first disclosed through oral, written, visual, sample, electronic, or other means by one party (the “Discloser”) to the other (the “Recipient”) which is reasonably related to this Agreement, and which is either clearly identified as confidential when disclosed, or is of a nature such that Recipient knows or should know it to be confidential. This Agreement is Confidential Information. Information related to individual persons (including but not limited to Personal Information and Customer Data) is addressed in the “Data and Data Security” Section and is not subject to this “Confidentiality” Section. Confidential Information does not include information that: (a) was possessed or known by Recipient without any confidentiality obligations prior to receipt under this Agreement; (b) becomes publicly available through no act or omission of Recipient; (c) is furnished to Recipient by a third party where Recipient does not know and reasonably does not believe it to be subject to use or disclosure restrictions; or (d) is independently developed by or for Recipient without breach of this Agreement.

6.2 For a period of three years from the date of first disclosure (except with respect to trade secrets, including source code, which are subject to potentially indefinite obligations in accordance with applicable law), and notwithstanding termination of this Agreement, Recipient will: (a) not use Confidential Information other than as required to carry out its rights or obligations under this Agreement; (b) exercise the same degree of care in protecting Confidential Information as it uses to protect its own confidential information of a similar nature, but in no event less than reasonable care; (c) not disclose Confidential Information to any person, except to those of its Affiliates, and its and their employees and contractors, who have a legitimate need to know it, and who are obligated to protect any disclosed Confidential Information under terms no less protective than those contained in this Section; and (d) promptly notify Discloser upon discovery of any unauthorized use or disclosure of Confidential Information and cooperate with Discloser to mitigate any adverse consequences. Subject to its compliance with this Section, either party may develop or improve any product or service. A party will be liable for any failure of its Affiliates,

and its and their employees and contractors, to comply with obligations in this Section as if the failure was its own act or omission.

6.3 A disclosure by Recipient of Confidential Information required pursuant to any judicial or governmental proceeding will not constitute a breach of this Section if, to the extent permitted under the circumstances, Recipient has first given Discloser notice and opportunity to protect such Confidential Information by protective order or other means, and discloses only that portion which it is legally required to disclose.

6.4 Notwithstanding termination or expiration of this Agreement, and upon written request, Recipient will promptly return or destroy all copies of Confidential Information, except for electronic copies which Recipient may retain in accordance with its standard data retention policies and applicable law, and which will remain subject to this Section.

## **7. Data and Data Security.**

7.1 NCR Voyix has implemented reasonable and appropriate security policies and procedures designed to protect the security of Company Data and Customer Data in NCR Voyix's possession, and to prevent the unauthorized access, use, storage, and disposal of such data. Such policies and procedures include: (a) maintaining an appropriate level of physical security controls over its data center including, but not limited to, appropriate alarm systems, fire suppression, and access controls (including off-hour controls); (b) periodically testing its systems for security breach vulnerabilities; and (c) using commercially reasonable efforts to protect its systems from unauthorized access, including the use of firewalls and, where appropriate, data encryption technologies. Company Data and Customer Data may be subject to regulations and examination by auditors and regulatory agencies. NCR Voyix will use reasonable efforts to prevent the disclosure of Company Data and Customer Data to third parties and its employees who do not have a need to know, but may disclose it to the extent compelled by process of law, provided that Company is given notice (unless providing such notice is prohibited by law). Notwithstanding the foregoing, Company acknowledges that NCR Voyix cannot guarantee that unauthorized third parties will never be able to defeat these measures or use Company Data and Customer Data for improper purposes.

7.2 Company Data and Customer Data will remain Company's property. Company is responsible for the content of Company Data and Customer Data and for its compliance with any Privacy Laws, regulations (including without limitation Payment Card Industry standards), or other legal duties applicable to its possession, transmission, processing, or use of Company Data and Customer Data, including providing appropriate notifications and communications to, and managing any complaints from, Data Subjects. NCR Voyix will take steps designed to ensure that the Company Data and Customer Data it collects is used for its intended purpose.

7.3 Company grants NCR Voyix a perpetual, non-exclusive, irrevocable, sub-licensable, transferrable license to use Company Data and Customer Data: (a) to provide the NCR Voyix Product and the Platform as well as related products, software, materials and services under this Agreement or another agreement between Company and NCR Voyix; (b) for product and service enhancements, as well as research and development purposes; and (c) after it has been aggregated, for analytics, commercial and benchmarking purposes.

7.4 Company will obtain Customer's written consent for NCR Voyix to transfer Customer Data to the Company consistent with the terms of this Agreement. If Company provides any Customer Data to NCR Voyix, Company will obtain the right for NCR Voyix to use such Customer Data for purposes consistent with this Agreement. During and after the Term, each party may use and retain Customer Data obtained through the Platform or otherwise pursuant to this Agreement in accordance with any agreement between such party and the Customer that made such Customer Data available. Company will not use Customer Data for any purpose that competes with NCR Voyix products (including, NCR Voyix Product) or services.

7.5 Company acknowledges that NCR Voyix does not control the transfer of data over telecommunications facilities and that the Internet is inherently insecure and provides opportunity for unauthorized access by third parties. Company is responsible for maintaining the security of Company's

systems, servers, communications links, and data, and for providing secure access to those systems and data, including Personal Information. Company will: (a) not disclose Personal Information to NCR Voyix other than that which is reasonably required for NCR Voyix to carry out this Agreement, and then only during the time period reasonably required; (b) have in place appropriate privacy and security safeguards designed to prevent the unauthorized use and disclosure of Personal Information; (c) guard against misuse of any password provided by NCR Voyix, and change it upon NCR Voyix's direction; (d) not transmit any data, including Company Data and Customer Data, to NCR Voyix for processing for a purpose that does not comply with applicable law or regulations; and (e) provide reasonable cooperation to facilitate the parties' compliance with applicable law and regulation. To the extent they may affect NCR Voyix's use or disclosure of Personal Information, Company will notify NCR Voyix in writing of any limitations or restrictions on the permitted use or disclosure of Personal Information; or any changes in, or revocation of, permission by a Data Subject to use or disclose Personal Information.

## **8. General Terms.**

8.1 Except for Company's obligation to make payments when due, neither party will be liable for failing to fulfill its obligations due to acts of God or government, civil commotion, military authority, war, riots, terrorism, strikes, fire, or other causes beyond its reasonable control.

8.2 Upon receiving NCR Voyix's written consent, Company may assign or transfer its rights or duties (other than its obligation to pay) under this Agreement. NCR Voyix may use Affiliates, contractors, resellers, or suppliers to act on its behalf without altering NCR Voyix's obligations to Company, and may assign this Agreement to an Affiliate or to an assignee or transferee upon NCR Voyix's entry into a merger, consolidation, or sale of assets transaction.

8.3 Each party, at its own expense, will maintain at least statutory minimum workers' compensation coverage regarding its employees; statutory minimum automobile insurance coverage regarding its vehicles used in relation to this Agreement; and General Liability insurance coverage of not less than one million dollars per occurrence.

8.4 The parties are independent contractors to one another. Employees or contractors of one will not be deemed to be or act as employees or representatives of the other. A party will not be responsible for compensating the other's employees or contractors, or for: providing them insurance or benefits; making unemployment, Social Security, or Medicare contributions on their behalf; setting their work hours or work schedules; supervising their work performance; disciplining them; or withholding taxes or other withholdings against their earnings. Except as expressly stated otherwise, no third party will be a beneficiary of this Agreement.

8.5 This Agreement will govern all activities, discussions, developments, and activities between the parties related to the NCR Materials, the Company Interface, and Customer Data. If any provision of this Agreement is held to be illegal, invalid, or unenforceable in whole or in part, it will be enforced to the maximum extent permissible to effect the intent of the parties, and the remaining provisions will remain in full force and effect. Terms intended by the parties to survive termination of this Agreement will survive termination. Failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

8.6 During the term of this Agreement, and for a period of two years after any termination of this Agreement, Company and its principals, affiliates, employees, and agents, will not, directly or indirectly, solicit, encourage, or induce any Customer (including any Customer which Company knows, learns, or reasonably should know is using an NCR Voyix payments gateway or receiving payment processing services from NCR Voyix or its Affiliate) to: (a) discontinue the use of the products or services of NCR Voyix or its Affiliates, in whole or in part, or receive services similar to the products or services from any provider other than NCR Voyix or its Affiliates, including another payment processor; or (b) terminate, fail to renew, or breach any customer agreement with NCR Voyix or its Affiliates.