

GHX SUPPLIER EPAY TERMS AND CONDITIONS

By executing an Enrollment Form referencing these GHX Supplier ePay Terms and Conditions ("Terms and Conditions", you ("**Customer**" or "**Supplier**") agree to the terms and conditions herein (together with the Enrollment Form, this "**Agreement**"). Each party may be referred to herein as a "**Party**" and collectively as the "**Parties**"). In the event of a conflict between this Agreement the Enrollment Form, the terms of this Agreement will govern, unless specifically stated to the contrary in the Enrollment Form. All capitalized terms will have the meaning given in the Enrollment Form or as defined in this Agreement.

Section 1 Background. Global Healthcare Exchange, LLC ("**Service Provider**" or "**GHX**") operates an on-line, independent payment system (the "**System**") intended to facilitate enhanced, electronic business-to-business payments between suppliers and their healthcare customers ("**Providers**"). Service Provider provides its services, described in the attached Schedule A (the "**Services**") on the established and secure Automated Clearing House ("ACH") network and via the applicable payment card and banking networks.

Section 2 Service Provider Appointed as Agent for Receipt and Processing of Supplier Payments.

Supplier hereby appoints Service Provider, or its designee, to be its authorized agent, to provide it with the Services as a third party processor of receivables transactions (each a "**Transaction**") via the System in accordance with the operating rules of the National Automated Clearing House Association ("**NACHA**") available here www.nacha.org, the applicable U.S. Federal laws and regulations governing the Services (the applicable NACHA rules and the applicable U.S. Federal laws and regulations shall herein be referred to as the "**Rules or Regulations**").

Section 3 Supplier Obligations

3.1 General

Supplier shall (a) comply with all reasonable operating instructions on the use of the System provided by Service Provider which are consistent with this Agreement; (b) promptly review all reports furnished by Service Provider for accuracy; (c) work with Service Provider to reconcile any out of balance conditions or discrepancies and promptly inform Service Provider representatives when such discrepancies are not being resolved on a timely basis due to a continuing difference of opinion involving a material (as reasonably determined by Supplier) dollar amount between the Providers and the Supplier. Service Provider will use commercially reasonable efforts to work with the parties to address and attempt to resolve the dispute. Supplier shall determine and be responsible for the authenticity and accuracy of all information and data submitted to Service Provider by Supplier, and Service Provider shall be responsible for the authenticity and accuracy of all information and data submitted by Service Provider and the Providers. Supplier shall be responsible for the completeness and accuracy of all business rules settings established by Supplier and for complying with the applicable merchant services agreements for virtual card and credit card acceptance, as applicable.

3.2 Responsibility for Acts of Others

Supplier is responsible for all advice from, acts of, as well as omissions, acts of fraud or acts of misconduct by Supplier's employees, processors, advisors, contractors, agents, officers and directors, specifically excluding any acts or omissions of Service Provider and any Providers with which Supplier does business, or the personnel of Providers. Any disputes regarding the goods or services provided by Supplier to Providers which are unrelated to the System or this Agreement shall be resolved between the applicable Providers and Supplier. Although Service Provider will use commercially reasonable efforts to work with the Supplier and the Providers to address and attempt to resolve disputes, Service Provider will not have any legal responsibility for such disputes unless such dispute is related to the breach of this Agreement or the System or matters arising out of this Agreement.

3.3 ACH Authorization

Service Provider will obtain an ACH authorization from its Providers in a form compliant with the Rules or Regulations. Service Provider will maintain records of Provider authorizations as necessary to resolve disputes and, where applicable, process corrections or reversals.

3.4 Identifying Numbers

Supplier understands that Service Provider may rely solely on identifying numbers provided by Supplier to determine the financial institution or bank and account of Provider even if the numbers identify an account holder different from the one Supplier identified by name. Supplier will indemnify Service Provider for any losses, liabilities, costs or expenses Service Provider suffers or incurs as a result of an incorrect account or other identification in an Entry or otherwise.

3.5 Regulatory Compliance

Supplier bears the final responsibility to ensure that the Supplier's policies and procedures and the Entries meet the requirements of the Rules or Regulations. Supplier is encouraged to consult its legal counsel regarding compliance of authorization and payment procedures whenever there is any doubt about compliance. Supplier agrees to regularly and promptly review all Entries and other communication sent by or to Supplier and to immediately notify Service Provider if Supplier discovers any discrepancy between its records and those provided by Service Provider or Supplier's bank, or with respect to any Transaction that Supplier believes was not authorized by it or the applicable Provider. If Supplier fails to notify Service Provider within fourteen (14) calendar days after the date that Service Provider mails or provides a statement of account or other report of activity to Supplier, Service Provider has no obligation to investigate.

Supplier represents that neither it, nor any of its affiliates, officers, employees or agents are listed on any Specially Designated Nationals ("**SDN**") list of the U.S. Department of the Treasury the Office of Foreign Assets Control ("**OFAC**"), or are now or have been in the past, part of any investigation or action, by the Federal Trade Commission, FBI, or U.S. Postal Authority or any other governmental authority whether inside or outside the jurisdiction of the United States.

Furthermore, Supplier and each Guarantor agrees to be responsible and liable for any use, whether authorized or unauthorized, of the Services on behalf of Supplier hereunder. For greater certainty Supplier shall not permit any individual to use the Services unless they are: (i) employees or agents of Supplier; (ii) acting for and on behalf of the Supplier; and (iii) acting in the ordinary course of business of the Supplier. The Supplier and Guarantors authorize Service Provider and its representatives to obtain from third parties financial, credit and background information relating to Supplier and consumer reports on Guarantors, to assist Service Provider in its determination of whether to accept this Agreement and its continuing evaluation of the financial and credit status of Supplier for the entire term hereof.

Supplier shall inform Service Provider immediately of any adverse circumstances or developments impacting Supplier's business or the financial condition of Supplier, its officers or Guarantors. Upon learning of such adverse circumstances, Supplier agrees to immediately stop processing Transactions (except as otherwise permitted by Service Provider) until Service Provider can make a determination on the viability of Supplier's relationship with Service Provider. Supplier also agrees and understands that the withholding of said information could be harmful to Service Provider or its ODFI, and Supplier will be liable to Service Provider and its ODFI for any or all damages resulting from such withholding.

3.6 Indemnification

Supplier shall hereby indemnify and protect, defend and hold harmless Service Provider and its ODFI, and their officers, officials, agents, employees and counsel and their respective heirs, administrators, executors, successors and assigns (each of the foregoing, an "**Indemnified Party**"), from and against, any and all losses, liabilities, claims, damages, interest, judgments, costs, or expenses, including without limitation fees and disbursements of counsel, incurred by any of them arising out of or in connection with or by reason of this Agreement, the Entries, Transactions, the provision of the Services hereunder, or any breach of Rules or Regulations, any breach of any applicable merchant services agreements or Supplier's representations, warranties or covenants set forth herein (collectively, "**Losses**"), except only that Supplier shall not be required to indemnify Service Provider for any Losses to the extent such Loss is finally determined by a

court of competent jurisdiction to have arisen solely out of the gross negligence or willful misconduct of Service Provider. The indemnification obligations of the Supplier under this Agreement shall survive any termination of this Agreement.

Section 4 Service Provider Obligations

4.1 Implementation Services and Provider On-Boarding

Service Provider shall provide the implementation services set forth on Schedule A. Supplier will reasonably cooperate with Service Provider's provision of implementation services and will provide reasonable information and assistance to facilitate the conversion and/or implementation. Service Provider shall notify Supplier within thirty (30) days or as soon as practicable when Providers elect to pay Supplier through the System. Service Provider shall provide Supplier with Provider's name and address and the proposed start date for purchases, as reasonably requested by Supplier.

4.2 Training Services

Service Provider shall provide sufficient training, training aids, and other documentation for Supplier's use as necessary to enable Supplier personnel to become familiar with the System and the Services provided hereunder. All such training aids and manuals remain Service Provider's property.

4.3 Access to Data

Service Provider shall provide Supplier with information reasonably requested with respect to any payment issues or other disputes arising out of this Agreement. During the term of this Agreement, Supplier shall have access to Transaction Data via the Service Provider website portal.

4.4 License and Updates to the System

Service Provider hereby grants Supplier a limited license to access and use the System for internal purposes only and in accordance with this Agreement. The System is owned or licensed to Service Provider and Service Provider has sufficient rights to grant the license set forth hereunder. The System does not and shall not infringe or violate the patent, copyright, or other property rights of any third party when used by Supplier as set forth hereunder. Service Provider shall continually review and modify the System and the Services for compliance with the Rules or Regulations. Service Provider reserves the right to make changes in the System and the Services.

4.5 Service Provider Personnel

In performing the Services hereunder, Service Provider shall only utilize personnel with satisfactory background checks and no personnel providing such Services: (i) are on the List of Excluded Individuals/Entities maintained by the HHS Office of Inspector General pursuant to 42 U.S.C. Sections 1320a-7, 13955ccc, 1320c-5 and regulations promulgated thereunder, which, as of the Effective Date, is located at <http://oig.hhs.gov/fraud/exclusions.html> (the "**OIG List**"); (ii) are on the Excluded Parties List System maintained by the United States General Services Administration which, as of the Effective Date, is located at <http://epls.arnet.gov> (the "**GSA List**"); (iii) are listed as a Specially Designated National or Blocked Person on the U.S Treasury's Office of Foreign Assets Control list of Specially Designated Nationals and Blocked Persons which, as of the Effective Date, is located at <http://www.ustreas.gov/offices/enforcement/ofac/sdn> (the "**SDN List**"); or, (iv) have been convicted of a felony or entered a plea of nolo contendere with respect to a felony charge. Service Provider will promptly inform Supplier if it or personnel providing Services should come to be included on the OIG List or the GSA List or SDN List.

4.6 Compliance and Reimbursement Reporting

Service Provider and its Personnel will: (i) adhere to all Rules or Regulations in the performance of this Agreement; and (ii) treat and report for all purposes, including without limitation, Medicare and Medicaid reimbursement purposes, any rebates representing a portion of the Negotiated Discounts provided by Service Provider to the Providers as a discount from the prices set forth on the corresponding invoices from Supplier to such Providers.

4.7 Accepting and Originating Transactions

Service Provider will accept on line Entries from Providers via electronic transmission on a 24-hour basis, or hand delivery to the office during normal business hours of Service Provider. Service Provider will use the information provided by the Provider to originate Entries to the ACH. Supplier understands that Service Provider may reject Entries or delay or decline to originate a transaction for any reason such as those permitted or required in the Rules or Regulations. Supplier also understands that an Entry may be rejected by Service Provider or its origination may be declined or delayed if the Entry would cause Service Provider to violate any U.S Federal Reserve or other regulatory risk control program or any other law or regulation. Service Provider will have no liability or responsibility for any of the aforementioned rejections, declines or delays.

4.8 Returned Entries and Notices of Change (“NOC”)

In the event of returned Entries or NOCs, Supplier shall submit correcting demand deposit account (“DDA”) information or confirm NOC information. Service Provider will update the System with such corrected or confirmed information in accordance with the Rules or Regulations and process returned Entries in accordance with the same.

4.9 Debit Settlement

If any Debit Entry is returned to Service Provider (as described in the Rules), Service Provider may debit the Supplier DDA for the amount of the returned item plus fees and costs incurred by Service Provider. In the event there are not sufficient funds in the Supplier DDA to cover Supplier's obligations under this Agreement, Supplier agrees to pay Service Provider the amount of the deficiency on demand in immediately available funds. Service Provider may debit any account maintained by Supplier, such as for example the Supplier DDA, without further notice to or approval from Supplier. Any Credit Entries that Supplier creates will be debited from the Supplier DDA in accordance with the hold period prior to the credit being distributed to Supplier's payees' accounts. In the event that the Debit Entry is returned for any reason, the Credit Entries will be cancelled due to the unavailability of funds.

4.10 Limits of Liability

SERVICE PROVIDER WILL BE RESPONSIBLE FOR THE PERFORMANCE OF THE SERVICES AS A THIRD PARTY SERVICE PROVIDER IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND THE RULES OR REGULATIONS. SERVICE PROVIDER IS NOT RESPONSIBLE FOR ERRORS, ACTS OR FAILURES TO ACT OF OTHERS, INCLUDING, AND AMONG OTHER ENTITIES, BANKS, ODFI, PROVIDERS, COMMUNICATIONS CARRIERS OR CLEARING HOUSES THROUGH WHICH ENTRIES MAY BE ORIGINATED OR SERVICE PROVIDER MAY RECEIVE OR TRANSMIT INFORMATION, AND NO SUCH ENTITY SHALL BE DEEMED SERVICE PROVIDER'S AGENT.

SERVICE PROVIDER IS NOT RESPONSIBLE FOR ANY LOSS, DELAY, COST OR LIABILITY WHICH ARISES, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, FROM: SUPPLIER'S ACTIONS OR OMISSIONS, SUPPLIER'S NEGLIGENCE OR BREACH OF ANY WARRANTY OR AGREEMENT; ANY AMBIGUITY, INACCURACY OR OMISSION IN ANY INSTRUCTION OR INFORMATION PROVIDED TO SERVICE PROVIDER; ACCIDENTS, STRIKES, LABOR DISPUTES, CIVIL UNREST, WAR, TERRORISM, FIRE, EARTHQUAKE, FLOOD, WATER DAMAGE (E.G., FROM FIRE SUPPRESSION SYSTEMS), TELE-COMMUNICATIONS OR COMMUNICATION NETWORK DISRUPTION, POWER SURGES OR FAILURES, LEGAL CONSTRAINTS OR ACTS OF GOD OR GOVERNMENT; OR THE ACTIONS OF OTHERS OR CAUSES THAT ARE BEYOND SERVICE PROVIDER'S REASONABLE CONTROL.

SERVICE PROVIDER WILL NOT BE RESPONSIBLE UNDER ANY CIRCUMSTANCES FOR SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH SUPPLIER INCURS AS A RESULT OF SERVICE PROVIDER'S ACTIONS OR OMISSIONS, EVEN IF SERVICE PROVIDER IS AWARE OF THE POSSIBILITY FOR SUCH DAMAGES. SERVICE PROVIDER'S LIABILITY AND SUPPLIER'S SOLE AND EXCLUSIVE REMEDY FOR ACTUAL COSTS AND LOSSES RESULTING FROM SERVICE PROVIDER'S ACTIONS AND/OR OMISSIONS DURING ANY 12-MONTH PERIOD, WHETHER THE CLAIM IS IN CONTRACT OR TORT, WILL NOT EXCEED THREE (3) TIMES THE AVERAGE MONTHLY FEES (AS DEFINED BELOW) FOR THE SERVICES PROVIDED OVER THE THREE (3) MONTHS

PRIOR TO THE EVENT GIVING RISE TO LIABILITY. ANY CLAIM, ACTION OR PROCEEDING BY SUPPLIER TO ENFORCE THE TERMS OF THIS AGREEMENT OR TO RECOVER FOR ANY SERVICE PROVIDER SERVICE-RELATED LOSS MUST BE COMMENCED WITHIN ONE (1) YEAR FROM THE DATE THAT THE EVENT GIVING RISE TO THE CLAIM, ACTION OR PROCEEDING FIRST OCCURS FAILING WHICH SUPPLIER SHALL FOREGO RIGHT TO MAKE SUCH CLAIM. SUPPLIER AGREES TO COOPERATE WITH SERVICE PROVIDER IN ANY LOSS RECOVERY EFFORTS SERVICE PROVIDER MIGHT UNDERTAKE TO REDUCE ANY LOSS OR LIABILITY THAT ARISES IN CONNECTION WITH THE SERVICES.

TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, SERVICE PROVIDER MAKES NO, AND HEREBY DISCLAIMS ALL, REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY MADE IN THIS AGREEMENT.

Section 5 Fees and Payment

Supplier shall be responsible for the fees and payments ("**Fees**") set forth in Schedule A and Supplier shall not incur any fees, expenses or charges from Service Provider except as expressly set forth therein.

Section 6 Ownership, Confidentiality and Licenses

6.1 Definitions

The following terms will have the indicated meanings:

"Aggregated Data" means a compilation of Transaction Data from multiple Service Provider customers concerning which Service Provider has taken commercially reasonable precautions to ensure that no individual, particular transaction or entity can be identified.

"Intellectual Property" means any and all copyrights, patents, patent registration rights, business processes, data rights, mask works, trademarks and associated goodwill, trade secrets, know how, moral rights, design and so-called "look and feel" and graphical user interface, data flows, product and connectivity specifications, schematics, documentation, source code and object code, data maps and definitions, and other proprietary rights arising or enforceable under any U.S. law, foreign law, or international treaty regime.

"Transaction Data" means any information communicated to or by Service Provider to or from a System participant in connection with Transactions effectuated through the System including, without limitation, products or services purchased, price, terms of payment or order status, including summaries of such information.

6.2 Ownership By Service Provider

As between Service Provider and Supplier, Service Provider owns, and will own, all rights, title and interest in and to all Intellectual Property, whether now existing or hereafter arising, embodied in or associated with: (i) Service Provider; (ii) the System (including, without limitation, all web pages of the System); (iii) the Services; and (iv) Aggregated Data, but excluding in each of (i) through (iv) above, Transaction Data. In addition, Service Provider retains the right to use its knowledge, experience, and know-how, including processes, ideas, concepts, and techniques developed in the course of performing any Services. The Intellectual Property described in this section titled Ownership By Service Provider constitutes the "**Service Provider Intellectual Property.**"

6.3 Ownership By Supplier:

As between Supplier and Service Provider, Supplier will own all Transaction Data jointly with the Provider that is a party to the transaction generating the Transaction Data, each with the right to use such Transaction Data as if it were the sole owner and without any duty to account to the other, except as may be provided in a separate agreement among the parties to such transaction. Service Provider may provide reports relating to Transaction Data in accordance with the instructions of either the Supplier or the Provider that is a party to a transaction giving rise to such Transaction Data. Supplier will not issue any instructions regarding Transaction Data which would violate any agreement with a third party. Service Provider will be under no duty of inquiry regarding the ownership of such data or Supplier's right to dispose of such data.

6.4 Aggregated Data

Supplier grants Service Provider a worldwide, irrevocable, perpetual, royalty-free license to use Transaction Data for the preparation of Aggregated Data. Service Provider may grant sublicenses of its rights to Transaction Data provided that each sublicense contains confidentiality provisions at least as favorable to Supplier as those specified in this Agreement. As between Service Provider and Supplier, Service Provider owns, and will own, all rights, title and interest in and to all Aggregated Data.

6.5 Confidentiality

(a) **Confidential Information:** Certain information furnished or disclosed by each Party to this Agreement, including, without limitation, Transaction Data and non-public information about each Party's business may contain or reflect the confidential information of such Party. Confidential information of Service Provider is referred to hereinafter as "**Service Provider Confidential Information.**" Except as provided below in this section titled Confidential Information, Service Provider Confidential Information includes, without limitation, all Service Provider Intellectual Property, information about or of other System participants and information accessed through use of or concerning the System. Confidential information of Supplier is referred to hereinafter as "**Supplier Confidential Information.**" Supplier Confidential Information includes, without limitation, all Transaction Data. Service Provider Confidential Information and Supplier Confidential Information are collectively referred to hereinafter as "**Confidential Information.**" Confidential Information of the disclosing Party also includes information that a reasonable person would generally understand and expect to be confidential or proprietary, as well as information that the disclosing Party identifies at the time of disclosure as confidential. Confidential Information does not include information that the receiving Party demonstrates:

- (i) was published or otherwise became available to the general public without breach of this Agreement;
- (ii) was furnished by a third party without a breach of such third party's obligations to the disclosing Party;
- (iii) was in a Party's possession prior to the disclosure by the other Party; and
- (iv) was developed independently by an employee or agent who was not aware of Confidential Information furnished to it pursuant to this Agreement.

Notwithstanding anything to the contrary set forth herein, any Party to this Agreement (and each employee, representative, or other agent of such Party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the relationship contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure. This authorization of tax disclosure is retroactively effective to the commencement of the first discussions between the parties regarding the relationship contemplated herein. The preceding two sentences will be interpreted to comply with the requirements of Treasury Regulation 1.6011-4(b)(3)(iii).

(b) **Obligations:** Each Party agrees to protect the confidentiality of the other's Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event with less than due care and attention. Neither Party will reproduce or use any Confidential Information of the other Party, except for the purpose of conducting authorized Transactions on the System. Neither Party will disclose to any other person the other Party's Confidential Information without the prior written consent of the other Party. Each Party will give prompt notice to the other of any unauthorized disclosure of the other Party's Confidential Information of which it becomes aware.

(c) **Legal Process:** If either Party receives a subpoena or other validly issued administrative or judicial process requesting the Confidential Information of the other Party, the Party receiving the subpoena or other process will provide prompt notice to the other Party of such receipt and the substance of such subpoena or process if reasonably practical and permitted by law. In addition, to the extent permitted by applicable law, the receiving Party will cooperate with the other Party in any attempt to contest or limit such required disclosure, at such other Party's sole expense. The receiving Party will

thereafter be entitled to comply with such subpoena or process to the extent reasonably required by law. Notice will not be required prior to disclosure of Confidential Information to tax authorities to the extent reasonably required in connection with tax audits of Service Provider or Supplier.

(d) **Return of Confidential Information:** Upon termination or expiration of this Agreement, each Party will promptly return to the other Party and/or destroy all copies of the other Party's Confidential Information in its possession, custody or control, except that Service Provider may retain Transaction Data for archive purposes and for purposes of its joint owner. If a Party becomes aware of the unauthorized disclosure of the other Party's Confidential Information, it will give prompt notice to the other Party of such disclosure.

(e) **Limits on Exchange of or Access to Information:** Supplier will not use the System or activities related to the System for the purposes of exchanging among Suppliers or their affiliated entities competitively sensitive information such as prices or terms of sale.

Section 7 Term and Termination

7.1 Term

Unless sooner terminated as provided below, this Agreement will commence on the Effective Date and continue in effect until the Initial Termination Date. Thereafter, this Agreement will automatically renew for additional one-year terms, unless either Party notifies the other in writing of its intent to terminate this Agreement, at least sixty (60) days prior to the end of the then current term.

7.2 Termination:

(a) Either Party may terminate this Agreement, or alternatively to suspend further performance of services without terminating this Agreement, or any statement of work executed by the parties under this Agreement in the event of a breach by the other Party, if such breach is not cured within thirty (30) days after written notice by the non-breaching Party.

(b) In addition, either Party may terminate this Agreement by written notice to the other Party if one of the Parties: (a) commences a voluntary proceeding under any Federal or state bankruptcy, insolvency or reorganization law; or (b) has such a proceeding filed against it and fails to have such proceeding stayed or vacated within thirty (30) days; or (c) upon the end of any such stay, fails to have such involuntary proceeding vacated within ten (10) business days thereafter; or (d) admits the material allegations of any petition in bankruptcy filed against it; or (e) is adjudged bankrupt; or (f) makes a general assignment for the benefit of its creditors, or if a receiver is appointed for all or a substantial portion of such Party's assets and is not discharged within ten (10) business days after the appointment of the receiver.

(c) Finally, if any governmental authority or third party initiates any action or communication asserting that actions by parties under this Agreement violates any governmental requirements, or if either Party reasonably concludes that this Agreement cannot be performed without violating applicable governmental requirements, or if the application of such governmental requirements impose material, additional and reasonably unavoidable costs to be incurred by a Party, either Party may, by giving written notice, terminate this Agreement as of a date specified in such notice.

(d) Consequences of Termination:

(i) For Service Provider: Upon termination of this Agreement, Service Provider will: (i) comply with the section titled Return of Confidential Information; and (ii) terminate any hyperlinks or other functionality enabling payment to Supplier through the System.

(ii) For Supplier: Upon termination of this Agreement, Supplier will: (i) cease all use of the System (ii) pay all outstanding Fees; (iii) comply with the section titled Return of Confidential Information; and (iv) honor all outstanding contracts with Providers.

(iii) Survival: All rights and obligations with regard to information disclosed or matters occurring or arising before the effective date of termination will survive the termination or expiration

of this Agreement, including without limitation, the rights and obligations set forth in the sections titled Ownership, Confidentiality and Licenses, Consequences of Termination, Limitation of Liability, Indemnity, Governing Law and Agreement to Arbitrate for Suppliers Domiciled in the United States, and General.

Section 8 Data Protection and Security

During the term of this Agreement, Service Provider shall maintain a security program designed to: (i) maintain the confidentiality and integrity of the System and all Confidential Information handled or processed by Service Provider including, without limitation, using commercially reasonable efforts to construct and maintain firewalls and other security controls to limit any unauthorized access to information accessible from the System; (ii) protect against any anticipated threats or hazards to the security of the System and the Confidential Information; and (iii) protect against unauthorized access to or use of the System and the Confidential Information that could result in substantial harm to any Supplier or Provider. Service Provider shall notify Supplier if it becomes aware of a breach of security that results in misuse of Supplier's Confidential Information or the confidential information provided to Service Provider by any Provider for whom Service Provider pays Supplier's invoices pursuant to this Agreement, or is likely to result in such misuse, and shall take appropriate actions to address the incident. Service Provider and Supplier each will take commercially reasonable precautions to avoid introducing into the other's computers any "computer virus," "trojan horse," "worm" or other malicious code. Supplier may not upload, download, modify, disassemble, decompile, or copy Service Provider Intellectual Property (including, without limitation, the System) or otherwise take any action that may affect the use or functionality of the System.

Section 9 Governing Law and Agreement to Arbitrate for Suppliers Domiciled in the United States

This Section 9 applies only to Suppliers domiciled in the United States.

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS SUPPLIER'S RIGHTS AND WILL IMPACT HOW CLAIMS SUPPLIER AND Service Provider HAVE AGAINST EACH OTHER ARE RESOLVED.

9.1 Governing Law

Supplier and Service Provider agree that the laws of the State of Delaware, without regard to principles of conflict of laws, will govern this Agreement and any claim or dispute that has arisen or may arise between the parties, except as otherwise stated in this Agreement. All court actions arising out of or relating to this Agreement will be brought exclusively in a state or federal court located in Wilmington, Delaware. Customer consents to the jurisdiction of these courts.

9.2 Agreement to Arbitrate

Supplier and Service Provider agree that any and all disputes or claims that have arisen or may arise between Supplier and Service Provider shall be resolved exclusively through final and binding arbitration, rather than in court, except that Supplier may assert claims in small claims court, if Supplier's claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The Federal Arbitration Act governs the interpretation and enforcement of this provision.

THE PARTIES ALSO AGREE THAT SUPPLIER AND SERVICE PROVIDER MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS BOTH SUPPLIER AND Service Provider AGREE OTHERWISE, THE ARBITRATOR(S) MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR(S) MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED CANNOT AFFECT OTHER SERVICE PROVIDER SUPPLIERS.

The arbitration will be conducted by the American Arbitration Association (“AAA”) under its Commercial Arbitration Rules, as modified by this Agreement to Arbitrate. The AAA’s rules are available at www.adr.org. Payment of all filing, administration, and arbitrator fees will be governed by the AAA’s rules. All issues are for the arbitrator to decide, except that issues relating to arbitrability, or the scope or enforceability of this Agreement to Arbitrate, shall be for a court of competent jurisdiction to decide. If a court decides that any part of this Section 9 is invalid or unenforceable, the other parts of this Section 9 shall still apply.

Arbitrations will take place in Wilmington, Delaware. If the value of the relief sought is \$10,000 or less, Supplier or Service Provider may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on Supplier and Service Provider subject to the discretion of the arbitrator(s) to require an in-person hearing, if the circumstances warrant. In cases where an in-person hearing is held, Supplier and/or Service Provider may attend by telephone, unless required otherwise by the arbitrator(s).

The arbitrator(s) will decide the substance of all claims in accordance with the laws of the State of Delaware, including recognized principles of equity, and will honor all claims of privilege recognized by law. The arbitrator(s) shall not be bound by rulings in prior arbitrations involving different merchants, but is/are bound by rulings in prior arbitrations involving the same merchant to the extent required by applicable law. The arbitration award shall be final and binding and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Section 10 GENERAL

10.1 Independent Contractor Relationship

Service Provider is serving as an independent contractor under this Agreement. Nothing in this Agreement shall be deemed or construed to create the relationship of partnership or joint venture or agent, or representative between the parties, it being understood that neither the method of computing compensation nor any other provision contained in this Agreement shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting for services. Neither Party has, and shall not hold itself out as having, any authority to enter into any contract or create any obligation or liability on behalf of, in the name of, or binding upon the other Party.

10.2 Notices

Any notices to be given hereunder to any Party, including any notice of a change of address, shall be in writing and shall be deemed validly given if: (i) delivered personally; (ii) sent by overnight or second day express delivery service; or (iii) sent by registered or certified mail, postage prepaid, return receipt requested if to Service Provider at Global Healthcare Exchange, 1315 W. Century Drive, Suite 100, Louisville, CO 80027 Attn: General Counsel or to Supplier at the address set forth on the cover page. All such notices shall be deemed given on the date of actual receipt by the addressee if delivered personally, by email with return of receipt requested and confirmed by the other Party, on the date of deposit with the express delivery service or the postal authorities if sent in either such manner.

10.3 Assignment

Neither Party shall have the right to assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. This Agreement shall be binding upon all successors and permitted assigns. Notwithstanding the above, the merger, consolidation, reorganization or change in control or the acquisition of substantially all of the business and assets of GHX will not be deemed an assignment and will not require the consent of Supplier.

10.4 Amendment or Waiver

No amendment or modification of this Agreement shall be valid unless it is in writing and signed by both parties. No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the Party who is asserted to have made the waiver; any waiver of a breach or observance of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

10.5 Headings; Captions

The headings and captions of this Agreement are included for convenience only and shall not be considered in construction of the provisions hereof.

10.6 Force Majeure

Unless otherwise specified herein, neither Party shall be liable to the other Party for failure to perform or delay in performing any of its obligations under this Agreement (other than an obligation to pay money) as a result of any circumstance outside its reasonable control including, without limiting the generality of the foregoing, failure of electrical, gas, water or steam supply, an Act of God, flood, fire, accident, explosion, war, civil commotion, strike or other industrial action, or any act of a third party government or quasi-government organization.

10.7 Severability

If any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of this Agreement, which shall be construed as if such invalid or unenforceable provision had never been a part of this Agreement but in a manner so as to carry out as nearly as possible the parties' original intent.

10.8 Binding Effect

This Agreement shall be binding upon and shall benefit the parties and their respective successors and permitted assigns.

10.9 No Third Party Beneficiaries

There are no third-party beneficiaries of this Agreement.

10.10 Counterparts

This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

10.11 Entire Agreement

This Agreement with the Schedules, constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any letters of intent, memorandums of understanding, and other agreements and communications, oral or written,

10.12 Schedules

The Schedules attached, which may be amended from time to time, are part of the terms and conditions of this Agreement. To the extent there is any conflict or inconsistency between the provisions of this Agreement, and any Schedule, the terms and provisions of the body of this Agreement shall control and govern. Certain of these Schedules summarize the available services under the provisions of these Terms and Conditions and the applicable fees.

Schedule A
Description of Services

1. **Overview:** GHX Supplier ePay (the “**Services**”) allows Customer to receive electronic payments from its healthcare customers (“**Participating Providers**”) through the System. GHX provides the Services on the Automated Clearing House (“**ACH**”) network and via the applicable payment card and banking networks.
2. **Services Details and Selections:**
 - a. The Services consist of converting electronic remittance data from the Participating Providers’ Accounts Payable/Enterprise Resource Planning (“**AP/ERP**”) system into electronic based payments in the following payment formats, to the extent elected by Customer in this Service Schedule:
 - i. ACH payments originated though the Participating Provider’s bank account utilizing a NACHA standard ACH file. The NACHA file may contain enriched invoice level remittance information that is passed to the Customer’s RDFI. The enriched remittance information is transmitted in a standard CTX/EDI820 based on each Customer’s requirements.
 - ii. Straight Through Processing (“**STP**”) card based payments transmitted directly to the Customer’s merchant processor and/or Visa/Mastercard to facilitate a card based payment through normal Interchange processes.

The Services expressly exclude dispute resolution related to invoice presentment and processing.

- b. Services Selected: As set forth in the applicable Enrollment Form.

3. **Fees & Payments**

- a. **Accelerated Payments:** Payments due GHX for Accelerated Payments are based on: (i) a negotiated discount off of the total purchase price of goods and services sold to the Participating Providers as set forth below (the “**Negotiated Discount**”); and (ii) the Average DSO set forth above. The Average DSO shall be calculated based on total invoices processed and paid from the Participating Provider to the Customer during the calendar quarter. If Customer receives remittances during the most recent calendar quarter on or before the Average DSO timeframe, such payments shall be subject to the Negotiated Discount.
 - b. **Automated Payments:** Payments processed through the Services which do not meet the Average DSO timeframe due to non-compliance will be considered Automated Payments. Automated Payments shall be subject to a transaction fee equal to \$1.00 per invoice (the “**Transaction Fee**”).

GHX monitors the invoices processed through the Services to determine Customer’s usage and Customer authorizes GHX to deduct the Negotiated Discount and/or Transaction Fee if “Net Discount per Remittance” is selected above. If “Payment in Full with Discount Assessed As Separate Debit ACH” is selected, then Customer authorizes GHX to execute a separate debit ACH transaction from the Customer’s designated account in an amount equal to the Negotiated Discount or Transaction Fee, as applicable.

Customer agrees, subject to GHX’s performance of its obligations hereunder, that Customer’s invoices to Participating Providers which are paid via ACH according to the Accelerated Payments and Automated Payments processes will be considered paid in full even though Customer has received only the invoice amount less the Negotiated Discount or Transaction Fee, as applicable. Nothing herein controls the manner in which Customer may invoice Participating Providers.

The initial Negotiated Discount will be as follows and will be re-calculated annually as provided herein:

Tiers	Base Tier	Tier II	Tier III	Tier IV	Tier V	Tier VI	Tier VII	Tier VIII
Annual Volume	Less than \$75M	\$75M to less than \$150M	\$150M to less than \$250M	\$250M to less than \$400M	\$400M to less than \$600M	\$600M to less than \$1B	\$1B to less than \$2B	Above \$2B
Negotiated Discount	95 BPS	90 BPS	85 BPS	80 BPS	75 BPS	70 BPS	65 BPS	60 BPS

DETERMINATION OF NEGOTIATED DISCOUNT

"Annual Volume" as used in this Services Schedule means the aggregate gross dollar amount of all Customer invoices paid in which the Negotiated Discount was assessed through the System during the applicable annual period. "M" means one million. 1% = 100 basis points or bps. For purposes of this calculation, Annual Volume shall be calculated before the invoice amounts are reduced by application of the Negotiated Discount. Annual Volume does not include invoice amounts for which GHX is not entitled to take a Negotiated Discount (*i.e.*, invoices not paid within the Average DSO).

The annual periods on which Annual Volume is calculated shall begin on January 1st and each anniversary thereof and shall end one year later.

The Negotiated Discount will be adjusted quarterly (on a calendar basis), if necessary, using the average three-month London Interbank Offered Rate ("**LIBOR**"). The average three-month LIBOR Rate set forth above was used to arrive at the Negotiated Discount set forth herein as of the Effective Date and, unless the parties agree otherwise in writing, future rates for the Base Tier I shall be calculated by adjusting the Negotiated Discount up for that Tier by 1 basis point for each 10 basis point increase in the average three-month LIBOR rate; provided however, the Negotiated Discount will not (i) increase unless there is at least a cumulative 50 basis point change in the average three-month LIBOR rate from the most recent calendar quarter during which the Negotiated Discount was changed or (ii) decrease during the Term. The basis point adjustment to Base Tier I shall be applied to all Tiers. Changes in the Negotiated Discount apply prospectively only and discounts taken prior to the change shall not be affected. Newly determined Negotiated Discount amounts, if any, will be effective no more than ten business days after the end of each calendar quarter. GHX shall notify Customer in the event a change in the average three-month LIBOR rate results in a corresponding change in the Negotiated Discount.

4. GHX Responsibilities

- a. **Customer account setup:** Setup Customer accounts on the System, including bank accounts and other fields of information necessary to facilitate payment processing between the Participating Providers and the Customer.
- b. **Integration:** Provide Customer with the standard EDI820/CTX electronic remittance formats available.
- c. **Transition/Rollout:** Assist in the communication process to implement current Participating Providers. This will include setup necessary to begin facilitating payments based on the Customer contract and preferences.
- d. **Utilization:** Continued utilization efforts through business reviews and Participating Provider onboarding activities.

5. Customer Responsibilities

- a. **Customer account setup:** Provide GHX with the required documentation and information to setup and confirm banking information and/or additional information required for card based payment processing. This will include, without limitation, determining the preferred remittance format for current and future Participating Providers.
- b. **Banking Process:** If necessary, in GHX's discretion, facilitate communications with Customer's preferred bank for testing purposes.

- c. **Support Process:** Implement an internal support process for the Service, including first-call resolution to Customer's internal support point-of-contact prior to escalation to GHX for support.
 - d. **Utilization Strategy:** Implement a utilization strategy to manage trading partner onboarding including initial and ongoing engagement. Drive utilization strategy template, including framework and content collateral. Assist in driving Services use by routing all eligible payment volume to GHX for Participating Providers.
 - e. **Testing:** Perform two rounds of testing of the standard functionality in the Service test environment to confirm banking information and supporting remittance information is in accordance with Customer specifications.
6. **Acceptance:** The Service is accepted when Customer is setup as a trading partner in the production environment of the Service.