

GHX SUPPLIER EPAY TERMS AND CONDITIONS

By executing an Order Form referencing these GHX Supplier ePay Terms and Conditions (“Terms and Conditions”), you (“**Supplier**”) agree to the terms and conditions herein (together with the Order 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 these Terms and Conditions and the Order Form, these Terms and Conditions will govern, unless specifically stated to the contrary in the Order Form. All capitalized terms will have the meaning given in the Order Form or as defined in this Agreement.

SECTION 1 BACKGROUND AND APPOINTMENT AS AGENT

1.1 General

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 (“**Participating 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.

1.2 Service Provider Appointment 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”). A “**Debit Entry**” initiated by Supplier and a “**Credit Entry**” initiated by a Provider with respect to Transactions made through the System will have the meanings as defined under the NACHA Rules, and are collectively referred to as “**Entries**”.

SECTION 2 SUPPLIER OBLIGATIONS

2.1 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 and the Service Provider Acceptable Use policy, located at <https://www.ghx.com/epaysupplier/acceptable-use-policy/>; (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 Participating 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. 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.

2.2 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 Participating Providers with which Supplier does business, or the personnel of Participating Providers.

2.3 ACH Authorization

Supplier will provide Service Provider with ACH authorizations in a form compliant with the Rules or Regulations. Service Provider will maintain records of Supplier authorizations as necessary to help resolve disputes and, where applicable, process corrections or reversals.

2.4 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 Supplier even if the numbers identify an account holder different from the one Supplier identified by name. Supplier agrees to provide GHX with complete and accurate identifying numbers and update such identifying numbers as necessary to maintain completeness and accuracy.

2.5 Regulatory Compliance

Supplier bears the final responsibility to ensure that the Supplier's policies and procedures and the Entries comply with 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 from 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. If Supplier fails to notify Service Provider within fourteen (14) calendar days after the date of payment 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.

Supplier hereby authorizes Service Provider and its representatives to obtain from third parties financial, credit and background information relating to Supplier 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 immediately inform Service Provider of any adverse circumstances or developments impacting Supplier's business or the financial condition of Supplier. Upon learning of such adverse circumstances, Supplier agrees to immediately stop processing Transactions (except as otherwise permitted by Service Provider) until Service Provider can determine the viability of Supplier's relationship with Service Provider. Supplier also acknowledges that the withholding of said information could be harmful to Service Provider or its originating depository financial institution ("ODFI"), and Supplier will be liable to Service Provider and its ODFI for any or all damages resulting from such withholding.

SECTION 3 SERVICE PROVIDER OBLIGATIONS

3.1 Implementation and Training Services; 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 provide Supplier with training, training aids, and other documentation to help Supplier personnel become familiar with the System and the Services. All such training aids and manuals remain Service Provider's property. 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.

3.2 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 (defined below) of this Agreement, Supplier shall have access to Transaction Data via the Service Provider website portal.

3.3 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.

3.4 Service Provider Personnel

In performing the Services hereunder for Supplier, Service Provider shall only utilize personnel with satisfactory background checks and that: (i) are not 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 (defined herein), is located at <http://oig.hhs.gov/fraud/exclusions.html> (the "OIG List"); (ii) are not 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 not 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 not 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.

3.5 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) make available to Participating Providers and Suppliers sufficient information to comply with their Medicare and Medicaid rebate/discount reporting requirements.

3.6 Accepting and Originating Transactions

Service Provider will accept online Entries from Participating Providers via electronic transmission on a 24-hour basis, or office delivery during normal business hours of Service Provider. Service Provider will use the information provided by the Participating 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.

3.7 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.

3.8 Settlement

In the event there are insufficient funds in the Supplier demand deposit account ("DDA") to cover Supplier's obligations under these Terms and Conditions, Supplier agrees to pay Service Provider the amount of the deficiency on demand in immediately available funds. Service Provider may debit the account maintained by Supplier to facilitate delivery of the Service and cover Supplier's obligations, such as for example the Supplier DDA, without further notice to or approval from Supplier. Any Debit Entry initiated by Supplier or any Credit Entries initiated by a Participating Provider with respect to payments made through the System will be deducted from the applicable Participating Provider's DDA in accordance with the hold period prior to the payment amount being distributed to Supplier's accounts. Service Provider shall notify Supplier if any Entry is returned for any reason.

SECTION 4 FEES AND PAYMENT

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

SECTION 5 TERM AND TERMINATION

5.1 Term

Unless sooner terminated as provided below or as otherwise set forth in the Order Form, this Agreement will commence on the effective date of the Order Form ("**Effective Date**") and continue in effect until expiration of the initial service term set forth on the Order Form ("**Initial Service Term**"). Thereafter, this Agreement will automatically renew for additional one-year terms (each a "**Renewal Term**"), 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. "**Term**" means the Initial Service Term and any Renewal Terms.

5.2 Termination:

(a) Either Party may terminate this Agreement, or alternatively to suspend further performance of Services without terminating 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: comply with the section titled Return of Confidential Information; and terminate any hyperlinks or other functionality enabling payment to Supplier through the System.

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

5.3 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, Indemnification, Governing Law and Agreement to Arbitrate, and General.

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.

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 identifiable to a System participant. 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 Participating 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 Participating 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 and its affiliates 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, each 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.

(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 LIMITS OF LIABILITY AND DISCLAIMERS

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 APPLICABLE 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.

NEITHER PARTY WILL BE RESPONSIBLE UNDER ANY CIRCUMSTANCES FOR SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES INCURRED AS A RESULT OF EITHER PARTY'S ACTIONS OR OMISSIONS, EVEN IF EITHER PARTY IS AWARE OF THE POSSIBILITY FOR SUCH DAMAGES. EITHER PARTY'S LIABILITY FOR ACTUAL COSTS AND LOSSES RESULTING FROM THE OTHER PARTY'S ACTIONS AND/OR OMISSIONS DURING ANY 12-MONTH PERIOD, WHETHER THE CLAIM IS IN CONTRACT OR TORT, WILL NOT EXCEED THE AVERAGE NET MONTHLY FEES PAID BY SUPPLIER (NET OF ANY REBATES PAID TO PARTICIPATING PROVIDERS BY SERVICE PROVIDER) FOR THE SERVICES PROVIDED OVER THE THREE (3) MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY. ANY CLAIM, ACTION OR PROCEEDING BY EITHER PARTY TO ENFORCE THE TERMS OF THIS AGREEMENT OR TO RECOVER FOR ANY DAMAGES 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 SUCH PARTY 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. IN ADDITION TO THE FOREGOING LIMITS OF LIABILITY, IN THE EVENT OF ANY UNAUTHORIZED PAYMENT THROUGH THE SYSTEM, SERVICE PROVIDER WILL NOT HAVE ANY LIABILITY (MONETARY OR OTHERWISE) FOR SUCH UNAUTHORIZED PAYMENT BUT WILL, UPON SUPPLIER'S REQUEST, REASONABLY COOPERATE WITH THE SUPPLIER'S, PARTICIPATING PROVIDER'S, AND THE APPLICABLE DESPOSITORY INSTITUTION'S EFFORTS TO REMEDIATE THE UNAUTHORIZED PAYMENT.

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. OTHER THAN AS EXPRESSLY SET FORTH HEREIN, SERVICE PROVIDER PROVIDES ALL SERVICES "AS IS." SERVICE PROVIDER DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF DATA, NONINFRINGEMENT, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE WITH REGARD TO THE SERVICES AND THE SYSTEM AND THE SERVICES AND SYSTEM SOFTWARE AND ITS USER INTERFACE. SERVICE PROVIDER DOES NOT WARRANT THAT IT WILL BE ABLE TO CORRECT ALL REPORTED DEFECTS IN THE SERVICES OR THE SYSTEM OR THAT USE OF THE SERVICES OR SYSTEM, ACCESS TO TRANSACTION DATA OR LINKS TO OTHER MATERIALS FROM THE SYSTEM WILL BE UNINTERRUPTED OR ERROR-FREE. SERVICE PROVIDER PROVIDES NO WARRANTIES WITH RESPECT TO THE FUNCTIONALITY OF THE SERVICES, SYSTEM, SOFTWARE

OR ITS USER INTERFACE. GHX MAKES NO WARRANTY REGARDING FEATURES, SOFTWARE OR SERVICES PROVIDED BY THIRD PARTIES.

SECTION 8 INDMENNIFICATION

8.1 Service Provider Indemnification

Service Provider will defend, indemnify and hold harmless Supplier, its officers, directors, agents, assigns and successors-in-interest (collectively the "Supplier Indemnitees") from and against any claims, demands, suits, causes of action, legal or administrative proceedings and pay all damages, costs and expenses, including, without limitation, reasonable attorneys' fees and expenses, paid, incurred or suffered by any of the Service Provider Indemnitees directly or indirectly attributable to any third party claims that any Service Provider Intellectual Property infringes, misappropriates or violates such third party's rights under any trademark, copyright, trade secret or any patent issued as of the Effective Date unless such claim is caused by misuse or modification by Supplier (except as authorized by Service Provider) or by Service Provider's use of such Service Provider Intellectual Property in combination with any product or information not owned by or developed by Service Provider.

8.2 Supplier Indemnification

Supplier will defend, indemnify 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 related to: (i) the Entries, Transactions, or the provision of the Services hereunder or (ii) 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.

8.3 Indemnification Process

Promptly after receipt by an indemnified party of a notice of any third party claim or the commencement of any action, such indemnified party must (a) notify the indemnifying party in writing of any such claim; (b) provide the indemnifying party with reasonable assistance to settle or defend such claim at the indemnifying party's own expense; and (c) grant to the indemnifying party the right to control the defense and/or settlement of such claim, at the indemnifying party's own expense; provided, however, that (i) the failure to so notify, provide assistance or grant authority and control will only relieve the indemnifying party of its obligation to the indemnified party to the extent that the indemnifying party is prejudiced thereby; (ii) the indemnifying party will not, without the indemnified party's consent (such consent not to be unreasonably withheld or delayed), agree to any settlement which: (x) makes any admission on behalf of the indemnified party; or (y) consents to an injunction against the indemnified party (except an injunction relating solely to the indemnified party's continued use of any infringing intellectual property); and (iii) the indemnified party will have the right, at its expense, to participate in any legal proceeding to contest and defend a claim and to be represented by legal counsel of its choosing, but will have no right to settle a claim without the indemnifying party's written consent, such consent not to be unreasonably withheld or delayed, and (iv) in the event the indemnifying party elects not to assume the control granted pursuant to clause (c) above, the indemnified party will have the right, notwithstanding anything in the preceding clause (iii) to the contrary, to control the defense and/or settlement of such claim, at the indemnifying party's expense.

SECTION 9 DATA PROTECTION AND SECURITY

9.1 General

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 Participating 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 Participating 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.

9.2 Identification and Authorized Use of Services

Service Provider will provide Supplier with log-on identifications and passwords (each, an "Identification") for its representatives approved to use the Services. Supplier shall not permit any individual to use the Services unless they are: (a) employees or agents of Supplier; (b) acting for and on behalf of the Supplier; and (c) acting in the ordinary course of business of the Supplier. Supplier agrees to be responsible and liable for any use, whether authorized or unauthorized, of the Services on behalf of Supplier hereunder. Each of Supplier's authorized representatives must have a unique Identification to access the Services. Supplier shall use commercially reasonable efforts: (i) to protect the security of each Identification; (ii) not to permit individuals other than employees or contractors approved by it to use each Identification to gain access to the Services; (iii) not to disclose any Identification to any person except on a need-to-know basis; and (iv) to ensure that approved employees or contractors access the Services only in connection with Supplier's business purposes. Supplier will provide GHX prompt notice of the loss or unauthorized disclosure of any Identification.

SECTION 10 GOVERNING LAW AND AGREEMENT TO ARBITRATE

This Section 10 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.

10.1 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. Supplier consents to the jurisdiction of these courts.

10.2 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 10 is invalid or unenforceable, the other parts of this Section 10 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 11 GENERAL

11.1 Independent Contractors; Non-Exclusive; No Third Party Beneficiaries

Each party to this Agreement is an independent contractor with respect to the other, and neither will have any authority to bind or commit the other. Nothing in this Agreement will create a joint venture, partnership, or agency relationship between the parties. This Agreement is not intended to be an exclusive arrangement and nothing contained herein will prevent Supplier from purchasing or selling any product through any other electronic or other medium or channel. There are no third-party beneficiaries of this Agreement.

11.2 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 Order Form. 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.

11.3 Assignment

Supplier will not assign, delegate, sublicense, transfer or subcontract the whole or any part of this Agreement or its rights hereunder without Service Provider’s prior written consent, provided however, that the merger, consolidation, reorganization or change in control or the acquisition of substantially all of the business and assets of Supplier will not be deemed an assignment and will not require the consent of Service Provider provided that Supplier’s successor-in-interest undertakes in writing to be bound by the terms of this Agreement. Service Provider may assign, delegate, sublicense, transfer, or subcontract any of its rights or obligations hereunder to any of its wholly-owned subsidiaries. Subject to the foregoing, this Agreement will be binding upon, and will inure to the benefit of, the parties hereto and their respective permitted successors and assigns.

11.4 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.

11.5 Captions; Severability

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

11.6 Force Majeure

Except for obligations to make payment, neither party will be liable to the other for any delay in performance or inability to perform due to Force Majeure. In the event of GHX's inability to perform for more than five days as a result of Force Majeure, no Fees will be owed by Supplier to the extent that Supplier is affected by the inability to perform during such period. "Force Majeure" means any acts or omissions of any civil or military authority, acts of God, acts or omissions of the other party hereto, terrorism, fires, strikes or other labor disturbances, major equipment failures, fluctuations or non-availability of electrical power, heat, light, air conditioning or telecommunications equipment that cannot reasonably be foreseen or prevented, or any other act, omission or occurrence beyond either party's reasonable control, irrespective of whether similar to the foregoing enumerated acts, omissions or occurrences. If either party's performance is delayed by Force Majeure, the time for performance will be reasonably extended.

11.7 Counterparts; Binding Effect

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

11.8 Entire Agreement

This Agreement with any 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,

11.9 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 Supplier to receive electronic payments through the System from Participating Providers. 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, with the specific payment format to be used for the Services to be elected by Supplier in the applicable Order Form:

i. *ACH Payments (Accelerated or Automated):* ACH payments originated through 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 Supplier’s RDFI. The enriched remittance information is transmitted in a standard CTX/EDI820 based on each Supplier’s requirements.

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

3. **Fees & Payments**

GHX monitors the invoices processed through the Services to determine Supplier’s usage and Supplier authorizes GHX to deduct the Fees if “Net Payment” is selected in the applicable Order Form. If “Payment in Full” is selected in the applicable Order Form, then Supplier authorizes GHX to execute a separate debit ACH transaction from the Supplier’s designated account in an amount equal to the Fees, as applicable.

Supplier agrees, subject to GHX’s performance of its obligations hereunder, that Supplier’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 Supplier has received only the invoice amount less the Fees, as applicable. Nothing herein controls the manner in which Supplier may invoice Providers.

a. **ACH Acceleration Fee Determination:** The initial ACH Acceleration Fee will be as set forth in the Order Form and will be re-calculated annually as provided below:

"Annual Volume" as used in this Description of Services Schedule means the aggregate gross dollar amount of all Supplier invoices paid in which the ACH Acceleration Fee 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 ACH Acceleration Fee. Annual Volume does not include invoice amounts for which GHX is not entitled to take an ACH Acceleration Fee (*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.

4. **GHX Responsibilities**

a. **Supplier account setup:** Setup Supplier accounts on the System, including bank accounts and other fields of information necessary to facilitate payment processing between the Participating Providers and Supplier.

b. **Integration:** Provide Supplier 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 Supplier contract and preferences.
- d. **Utilization:** Continued utilization efforts through business reviews and Participating Provider onboarding activities.

5. Supplier Responsibilities

- a. **Supplier 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. **Hardware and Software:** Supplier will be responsible for obtaining and maintaining all hardware and software necessary to access the internet and Service Provider's website portal
- c. **Banking Process:** If necessary, in GHX's discretion, facilitate communications with Supplier's preferred bank for testing purposes.
- d. **Support Process:** Implement an internal support process for the Services, including first-call resolution to Supplier's internal support point-of-contact prior to escalation to GHX for support.
- e. **Testing:** Perform two rounds of testing of the standard functionality in the Services test environment to confirm banking information and supporting remittance information is in accordance with Supplier specifications.

- 6. **Acceptance:** The Services are accepted when Supplier is setup as a trading partner in the production environment of the Services.