

**ANTICIPATED ACQUISITION BY MASTERCARD UK HOLDCO LIMITED
("MASTERCARD") OF VOCALINK HOLDINGS LIMITED ("VOCALINK")**

**Undertakings given by Mastercard to the Competition and Markets Authority
("CMA") pursuant to section 73 of the Enterprise Act 2002**

Whereas:

- (a) Mastercard notified its proposed acquisition of VocaLink (the "**Transaction**") to the CMA on 19 October 2016;
- (b) Under section 22(1) of the Enterprise Act 2002 (the "**Act**"), the CMA has a duty to refer a relevant merger situation for a Phase 2 investigation where it believes that it is or may be the case that the creation of that merger situation has resulted or may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services;
- (c) Under section 73 of the Act the CMA may, instead of making such a reference and for the purpose of remedying, mitigating, or preventing the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept undertakings to take such action as it considers appropriate, from such of the parties concerned as it considers appropriate. In particular, the CMA shall have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
- (d) As set out in the CMA's decision of 4 January 2017 (the "**Decision**"), the CMA believes that, in the absence of appropriate undertakings, it would be under a duty to refer the Transaction for a Phase 2 investigation;
- (e) The CMA considers that the undertakings given below by Mastercard are appropriate to remedy, mitigate, or prevent the substantial lessening of competition, or any adverse effect which has or may have resulted from the Transaction, or may be expected to result from it as specified in the Decision.

NOW THEREFORE Mastercard hereby gives to the CMA the following undertakings for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which has or may have resulted from it or may be expected to result from it.

1. EFFECTIVE DATE OF UNDERTAKINGS

- 1.1 These undertakings shall take effect from the date that having been signed by Mastercard, they are accepted by the CMA.

2. MASTERCARD'S UNDERTAKINGS

- 2.1 Prior to the acceptance of these undertakings by the CMA, Mastercard and VocaLink shall enter into a legally binding agreement (or agreements) with LINK Scheme Limited ("**LSL**") pursuant to which the parties thereto shall commit to, on reasonable terms approved by the CMA in advance of acceptance of these undertakings:

- a) a “**Network Access Remedy**” by which Mastercard will procure that any party, other than a company in the group of companies (including Mastercard) that are controlled by Mastercard Incorporated (“**Mastercard group**”), selected by LSL to replace VocaLink as the provider of automatic teller machine (“**ATM**”) transaction processing services to the interbank network of ATM machines administered by LSL (“**LINK**”) (such party a “**New Processor**”) will be granted access by VocaLink to its existing communications infrastructure used in its provision of ATM transaction processing services to LINK, as follows:
- i. The duration of the Network Access Remedy (the “**NAR Term**”) will be until the earlier of:
 - (A) the end of two consecutive periods of time, each period starting with the effective date of the contract for the provision of ATM transaction processing to LINK awarded by LSL following a competitive tender process, and finishing with the end of the term of that contract (each such period a “**Tender Cycle**”);
 - (B) the commencement of either of the next two Tender Cycles, if at that time VocaLink is not the provider of ATM transaction processing services to LINK or the provider of the underlying communications infrastructure as set out in paragraph 2.1(a);
 - (C) the date on which the New Processor notifies VocaLink that it no longer requires access to its communications infrastructure;
 - (D) the date of award of the contract for the provision of ATM transaction processing to LINK pursuant to the second competitive tender process following the acceptance of these undertakings, if VocaLink is awarded the contract;
 - (E) the release of the Network Access Remedy following review by the CMA pursuant to sub-paragraph 2.1(a)(xv);
 - (F) 15 years from the commencement of the first Tender Cycle following the acceptance of these undertakings (the “**First Tender Cycle**”); and
 - (G) 20 years from the date of acceptance of these undertakings;
 - ii. VocaLink will be maintained as a separate legal entity within the Mastercard group for the NAR Term, unless another member of the Mastercard group acquires ownership or direct control of the ATM transaction processing business activities currently carried on by VocaLink prior to the expiration of the NAR Term, in which case Mastercard will require that such entity observes the terms of these undertakings in all respects as if it were VocaLink;

- iii. VocaLink, pursuant to an agreement to be entered into with the New Processor and/or LSL¹, will connect the New Processor into its existing communications infrastructure that provides connectivity between VocaLink's switching capability and each LINK member's point of access to the system, enabling the New Processor to take advantage of a single connection (plus a back-up connection) to this infrastructure rather than having to connect separately to each individual LINK member. This agreement will specify the date on which VocaLink will commence providing the network access services to the New Processor, including provision for a period of migration prior to the date when the New Processor will replace VocaLink as provider of the ATM transaction processing services to LINK;
- iv. VocaLink will only allow LINK Network Restricted Information to be used for the purposes of providing network access services, and will restrict the access of VocaLink personnel to any LINK Network Restricted Information as follows:
 - (A) promptly following the appointment of the New Processor, VocaLink shall provide to LSL a written list of VocaLink personnel who shall require access to certain network level data to provide network access services VocaLink shall require such personnel to comply with the provisions of this sub-paragraph 2.1(a)(iv), and shall ensure that such personnel have received appropriate training and signed an appropriate confidentiality undertaking in respect of the information prior to being given such access;
 - (B) VocaLink shall promptly notify LSL of any changes to that list;
 - (C) if the New Processor requires services from VocaLink that require access to any LINK Network Restricted Information (for example, in respect of 'troubleshooting'), VocaLink shall notify LSL of such and maintain a record of any such information accessed by VocaLink personnel for such purpose;
 - (D) any LINK Network Restricted Information required to be reported by VocaLink personnel to others within VocaLink or elsewhere will be only for a lawful legitimate purpose²

¹ The agreement will be between VocaLink and the New Processor, unless LSL (in its absolute discretion) notifies VocaLink that it wishes to enter into either a tripartite agreement between VocaLink, LSL and the New Processor or a direct agreement between VocaLink and LSL. Upon such notice, the parties will use their reasonable endeavours to agree the terms of such an agreement. If VocaLink enters into the agreement with LSL and not the New Processor, any obligation of VocaLink to the New Processor in these undertakings shall be construed as an obligation of VocaLink to LSL.

² Including, for the avoidance of doubt, to the extent required by any stock exchange listing requirement, governmental body or regulator or in pursuance of any order of a court of competent jurisdiction or otherwise as required by law for the purposes that that body or law requires.

and appropriately anonymised or aggregated so that transactional activity of individual LINK members or competitively sensitive information related to LSL, a LINK member and/or a New Processor is not provided or cannot be determined; and

- (E) VocaLink shall not disclose any LINK Network Restricted Information to any personnel of any Mastercard group company whose responsibilities include providing any service or function primarily for or primarily relating to, or otherwise integral to the operation, marketing or management of, any Mastercard group company scheme without the prior written consent of LSL (such consent not to be unreasonably withheld), except in accordance with the current Amended and Restated Switching and Settlement Agreement between VocaLink, LSL and the current LINK members (“**S&S Agreement**”).
- v. VocaLink will charge the New Processor for the relevant costs it incurs in providing the network from its external communications provider (“**ECP**”);
 - vi. VocaLink will charge the New Processor for its direct, reasonable and substantiated costs (up to 10% of the costs charged to it by the ECP) as compensation for its monitoring and maintaining of the network. VocaLink will provide reasonable evidence of these costs (and the costs it incurs from the ECP) to the New Processor and to the Trustee, upon request;
 - vii. VocaLink will allocate a reasonable proportion of the costs incurred in connection with its communications infrastructure network to the New Processor, using a transparent cost allocation methodology based on objective criteria set out in the agreement implementing these undertakings;
 - viii. VocaLink will respond to reasonable requests from the New Processor for changes to the network (such as, but not limited to, data centre moves or the addition, removal or merging of LINK scheme members) within five Working Days (or such shorter timeframe agreed with the New Processor), and agree a reasonable time for implementation of such requests;
 - ix. if VocaLink’s network requires upgrading or refreshing during the period for which Mastercard has committed to the Network Access Remedy, VocaLink will carry out such upgrades/refreshes and charge the New Processor for a proportion of the reasonable costs it would incur in doing so according to the cost allocation methodology referred to in sub-paragraph 2.1(a)(vii) above;
 - x. VocaLink will commit to the New Processor that it will achieve specified Service Level Agreements (“**SLAs**”) including Key

Performance Indicators (“KPIs”) relating to the reliability and quality of the communications infrastructure, to ensure network resilience. For services provided by an ECP, the SLAs/KPIs will be the same as those committed to VocaLink by the ECP and will not be lowered or diminished as a result of VocaLink's continuing and concurrent use of services provided by the ECP for the purposes of VocaLink's provision of transaction processing services (with VocaLink's liability for underperformance by the ECP limited to the amount that VocaLink is entitled to recover from the ECP, or a third party supplier to the ECP, in respect of that underperformance³). VocaLink will provide to the New Processor equivalent rights to those it has regarding performance under its contractual arrangements with the ECP, including a share of any service credits that VocaLink receives from the ECP in respect of service outages in accordance with the cost allocation methodology set out in the agreement implementing these undertakings, and will provide monthly reports to the New Processor (and annual reports to the Trustee) on the KPIs and SLAs;

- x. VocaLink will ensure that that the capacity of the network connection for each relevant LINK member is in accordance with the annual forecast of network data usage to be provided by the New Processor in respect of each relevant LINK member⁴ and, where an increase to the capacity is required as a result of this forecast (for example, to install additional circuits), VocaLink shall charge the cost of such increase to New Processor in accordance with the cost allocation methodology referred to in sub-paragraph 2.1(a)(vii).
- xii. Within six months from the date of acceptance of these undertakings VocaLink shall, at its sole cost and expense, develop the technical and operational arrangements for the Network Access Remedy and describe such arrangements in a technical specification agreement that VocaLink shall update annually and agree with LSL (failing which the Trustee shall determine such agreement) so that these can be included in the tender documents produced by LSL for the next tender process following the date of acceptance of these undertakings in relation to the contract for the provision of ATM transaction processing to LINK;
- xiii. VocaLink will create a detailed implementation plan to enable the separation of LINK scheme and non-LINK scheme transactions into two destinations over the existing VocaLink network, enabling LINK members to process these transactions separately and simplifying a future move to a New Processor, under arrangements to be agreed with LSL within six months from the date on which these undertakings are

³ With a reasonable proportion of this liability allocated to the New Processor pursuant to the cost allocation methodology referred to in sub-paragraph 2.1(a)(vii).

⁴ To be provided at least four months prior to commencement of providing the network access services to the relevant New Processor and then four months prior to each anniversary of the commencement date thereafter.

accepted by the CMA (failing which the Trustee shall determine such agreement);

- xiv. if a New Processor is awarded the contract for the provision of ATM transaction processing to LINK pursuant to the first competitive tender process following the acceptance of these undertakings, or (if VocaLink is awarded the contract pursuant to the first such process) pursuant to the second competitive tender process following the acceptance of these undertakings, then in each case VocaLink will agree to waive LSL's minimum contractual financial commitments and charge LSL only for actual transactions switched by VocaLink in respect of a period of six full calendar-months immediately preceding the date on which VocaLink ceases to provide services under the S&S Agreement, or any replacement for the S&S Agreement, while transactions are migrated from the VocaLink infrastructure to that of the New Processor, to help reduce costs associated with switching transactions with two processors during the migration period. This period may be extended by an additional period of up to six full calendar-months at the request of the CMA if the CMA believes such an extension to be necessary for the migration of transactions to the New Processor, having consulted with and taken due regard of the views of VocaLink, LSL and the New Processor, provided that the total period for which VocaLink will agree to waive or reduce LSL's minimum contractual financial commitments shall be no longer than twelve full calendar-months.
 - xv. VocaLink will review with the CMA, with the advice of the Payment Systems Regulator as appropriate, the ongoing necessity for the availability of the Network Access Remedy no later than two years prior to the end of the First Tender Cycle unless VocaLink is no longer the provider of ATM processing to LINK and the New Processor(s) did not select VocaLink as the provider of the communications infrastructure used for the New Processor's provision of ATM transaction processing services to LINK. If the CMA concludes, following this review, that the Network Access Remedy is not necessary, the CMA may release the Network Access Remedy; and
 - xvi. any disputes arising from or in connection with the application of the Network Access Remedy shall be resolved through the dispute resolution procedure set out at paragraph 6.5 below; and
- b) a **"LINK LIS5 Messaging Remedy"**, by which Mastercard will procure that VocaLink will transfer ownership to LSL of all intellectual property rights relating to the messaging standard used for all transactions made within the LINK scheme (the **"LINK LIS5 Standard"**⁵) as follows:
- i. VocaLink will unconditionally transfer to LSL free of charge all intellectual property rights relating to the LINK LIS5 Standard. LSL will be free to develop, use, sublicense and exploit the LINK LIS5 Standard

⁵ As described in the document [§].

as it wishes within its ATM business, and will be free to specify the LINK LIS5 Standard as a condition of any subsequent retendering of the contract for the provision of ATM transaction processing to LINK;

- ii. the transfer described in sub-paragraph is to be completed in six months from the date on which these undertakings are accepted by the CMA, assuming cooperation from LSL;
 - iii. VocaLink will maintain and develop the LINK LIS5 Standard during the term of the S&S Agreement, in accordance with the provisions of the S&S Agreement, at no cost to LSL or any LINK member. For the avoidance of doubt (and subject to 2.1(b)(v) below), this means that if any consequential changes are required to the LINK LIS5 Standard as a result of requests for changes or other developments made pursuant to the S&S Agreement, these changes to the LINK LIS5 Standard shall be made by VocaLink at no additional cost to LSL or any LINK member, except that any other part of such request shall be charged by VocaLink in accordance with the S&S Agreement.;
 - iv. the messaging standard used by VocaLink for all card-based transactions processed for its customers outside the scope of the LINK Scheme, such as Post Office Counter cash withdrawal transactions and mobile phone top-up transactions available at ATMs (the "**VocaLink LIS5 Standard**"), will be retained by VocaLink, which will be free to develop, use, sublicense and exploit the standard as it wishes (subject to an obligation to inform LSL of any such changes which may have an impact on the LINK scheme). For the avoidance of doubt, changes and improvements to the VocaLink LIS5 Standard will not affect the LINK LIS5 Standard; and
 - v. to the extent that LSL and VocaLink agree to make modifications to the common parts of the LINK LIS5 Standard and VocaLink LIS5 Standard, VocaLink and LSL shall each have the right to use those modifications (with the intellectual property rights associated with the modifications to each of the LINK LIS5 Standard and VocaLink LIS5 Standard owned by LINK and VocaLink respectively); and
- c) a contribution to LINK members' switching costs, by which Mastercard will ensure that VocaLink will commit £5 million⁶ for the purpose of contributing to the costs incurred by LINK members for transitioning to a New Processor from the appointment of such New Processor up to the date of commencement of the next tender process following the appointment of the New Processor. Each LINK member who incurs transition costs during this period will be entitled to

⁶ At the end of each twelve-month period starting on the date of acceptance of these undertakings, this £5 million contribution will be adjusted (upwards or downwards) by the same percentage as the percentage increase or decrease (as the case may be) in the UK consumer price index published by the Office for National Statistics (or any successor body) during that same twelve-month period, provided that the total increase in the £5 million contribution shall never exceed 15% of the original £5 million contribution.

receive the lower of an agreed percentage of the £5 million⁷ or their total switching costs. VocaLink will pay all claims which the Trustee has determined to be (i) a direct result of the transition to the New Processor or, if the New Processor chooses not to access VocaLink's communications network pursuant to the Network Access Remedy (either at the commencement of or during the Tender Cycle), of LINK members' transition from VocaLink's network infrastructure to a replacement network of a third party provider, (ii) no more than the claimant's agreed percentage or such other proportion as may be requested by LSL and approved by the Trustee and (iii) not for costs that have otherwise been recovered from a third party (including, for the avoidance of doubt, another LINK member or the New Processor). An amount of £100,000 of the £5 million contribution will consist of 100 days of professional services support from VocaLink to advise how best to minimise LINK members' transition costs in the event of a change of processor, or in the event of a transition to a replacement network of a third party provider. Any disputes in relation to requested contributions will be resolved according to the dispute resolution procedure set out at paragraph 6.5 below.

2.2 Mastercard will obtain all third party consents as necessary.

2.3 Mastercard shall be deemed to have complied with its obligations at paragraph 2.1 above if, prior to acceptance of these undertakings by the CMA, Mastercard and VocaLink enter into a legally binding agreement (or agreements) with LSL, conditional only on acceptance by the CMA of these undertakings.

3. APPROVAL OF TERMS OF THE UNDERTAKINGS

3.1 For the purposes of the CMA approving the terms of these undertakings:

a) Mastercard shall, save as required or permitted by the CMA, have satisfied the CMA that the acquisition by Mastercard of VocaLink, on the terms set out above, remedies, mitigates or prevents the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it, or may be expected to result from it, in particular having regard to the need to achieve as comprehensive a solution as it is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it; and

b) the CMA may require Mastercard to provide it with such information and documentation as it may reasonably require.

4. APPOINTMENT OF A TRUSTEE

4.1 Mastercard shall propose to the CMA for approval:

a) the names of at least two individuals to exercise the Trustee Functions; and

⁷ The percentages set out at the date of the appointment of the New Processor in [§], or such other proportion as may be requested by LSL and approved by the Trustee.

- b) the full terms of a mandate in accordance with which the Trustee shall carry out the Trustee Functions.
- 4.2 Mastercard and/or any individuals nominated pursuant to paragraph 4.1 shall satisfy the CMA that, save as required or permitted by the CMA:
- a) such nominated individuals have the necessary qualifications to carry out their mandates, and are employees or partners of an investment bank, retail bank, commercial property agent, building society, law firm or accountancy firm with an established reputation either nationwide or in a substantial part of the UK or in another EU member state;
 - b) such nominated individuals are each independent of Mastercard and of the Group of Interconnected Bodies Corporate to which Mastercard belongs and of any Associated Person or Affiliate of Mastercard or of such Group of Interconnected Bodies Corporate and of LSL and, in the reasonable opinion of Mastercard, are appropriate to be appointed as Trustee; and
 - c) such nominated individuals neither are, nor are likely to become, exposed, either directly or indirectly, to a conflict of interest that impairs or may be likely to impair their objectivity or independence in discharging the Trustee Functions.
- 4.3 Within two Working Days of the CMA approving, at its discretion, one or more of the persons nominated by Mastercard and their proposed mandates pursuant to paragraph 4.1 above, and subject to any modifications the CMA deems necessary for the Trustee to carry out the Trustee Functions, Mastercard shall use its best endeavours to appoint from the persons so approved one person to carry out the Trustee Functions in accordance with the mandate approved by the CMA pursuant to paragraph 4.1 above.
- 4.4 In the event that:
- a) Mastercard fails to propose any person or persons in accordance with paragraph 4.1 above; or
 - b) none of the persons proposed by Mastercard pursuant to paragraph 4.1 is approved by the CMA; or
 - c) Mastercard is unable for any reason to appoint within the time limit stipulated in paragraph 4.3 above any such person following approval by the CMA;

Mastercard shall use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Trustee Functions on the terms of a mandate approved by the CMA. Mastercard shall use its best endeavours to make such appointment within five Working Days of receiving the nominations from the CMA.

- 4.5 The appointment of the Trustee pursuant to paragraph 4.3 or paragraph 4.4 above shall be irrevocable unless:
- a) a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Trustee in discharging the Trustee Functions arises;
 - b) the Trustee ceases to perform the Trustee Functions; or

- c) the CMA is otherwise satisfied that there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Trustee Functions.

4.6 In the event that the appointment of the Trustee is terminated in accordance with paragraph 4.5 above, Mastercard shall, if requested to do so in writing by the CMA, use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Trustee Functions in accordance with such mandate as is approved by the CMA. Mastercard shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the CMA. Where required by the CMA, the outgoing Trustee shall continue as Trustee until a new Trustee is in place and a full handover of all relevant information has taken place.

5. THE MANDATE

5.1 The terms of the mandate proposed by Mastercard pursuant to paragraph 4.1 above shall, as a minimum, contain all provisions necessary to enable the Trustee to carry out the Trustee Functions including, without limitation to the generality of this paragraph:

- a) an exclusive, irrevocable mandate to monitor the implementation of and enforce compliance with these undertakings;
- b) a mandate to take any other steps necessary for, or incidental to, the Trustee's mandate under sub-paragraph (a) above;
- c) a mandate to comply with any orders and/or directions given by the CMA; and
- d) a mandate to appoint at Mastercard's expense such advisers as the CMA and/or the Trustee reasonably considers necessary or appropriate in connection with the performance of the Trustee Functions.

6. FUNCTIONS OF TRUSTEE

6.1 The Trustee shall monitor and seek to ensure Mastercard's compliance with its obligations under these undertakings and shall promptly take such measures as it considers necessary to ensure such compliance, as well as reporting in writing to the CMA, if the Trustee concludes on reasonable grounds that Mastercard is failing or will fail to comply with such obligations. The Trustee's monitoring and enforcement obligations shall include (but shall not be limited to) oversight of:

- a) the costs allocated by VocaLink to the New Processor for its monitoring and maintenance of the network (pursuant to sub-paragraph 2.1(a)(vi) above);
- b) the costs allocated by VocaLink to the New Processor incurred in connection with VocaLink's communication infrastructure network (pursuant to sub-paragraph 2.1(a)(vii) above);
- c) the costs allocated by VocaLink to the New Processor in relation to network upgrades or refreshes;
- d) requests from the New Processor to make changes to the network (pursuant to sub-paragraph 2.1(a)(ix) above);

- e) VocaLink's commitments to the New Processor regarding SLAs and KPIs (pursuant to sub-paragraph 2.1(a)(x) above);
 - f) LINK members' claims for contributions to their switching costs (pursuant to paragraph 2.1(c) above).
- 6.2 The Trustee may give written directions to Mastercard to take such steps as may be specified or described in the directions for the purpose of securing Mastercard's compliance with its obligations under these undertakings or enabling the Trustee to carry out the Trustee Functions.
- 6.3 The Trustee shall, as soon as reasonably practicable, comply at all times with any reasonable instructions or written directions made by the CMA for the purposes of carrying out or securing compliance with the undertakings (or any matter incidental thereto) and shall provide to the CMA such information and reports in relation to the carrying out of the Trustee Functions as the CMA may require. The Trustee shall promptly report in writing to the CMA if the Trustee concludes on reasonable grounds that Mastercard is failing or will fail to comply with any of its obligations under these undertakings. The Trustee shall also report in writing to the CMA regarding Mastercard's compliance with its obligations under these undertakings on a semi-annual basis during (i) the first year following the acceptance of these undertakings and (ii) the first year of either of the first two Tender Cycles following the acceptance of these undertakings if VocaLink is the provider of the underlying communications infrastructure as set out in paragraph 2.1(a), and otherwise on an annual basis.
- 6.4 The Trustee shall, as soon as reasonably practicable, provide the Payment Systems Regulator with copies of all information and reports provided to the CMA pursuant to paragraph 6.3 above.
- 6.5 The Trustee shall have the ultimate⁸ responsibility for resolving disputes between Mastercard/VocaLink and LSL and/or a New Processor, including (but not limited to) disputes as to the commencement of the network access service, cost allocation, SLAs/KPIs, the technical and operational arrangements for the Network Access Remedy or contributions to LINK members' switching costs (as listed at sub-paragraphs 6.1 (a)-(f) above), on the following basis:
- a) the determination of the Trustee shall (in the absence of manifest error) be final and binding on the parties (although, in the case of a request by a LINK member for a contributions to its switching costs, the LINK member shall have the opportunity for a further re-submission in the event that its initial request is not approved by the Trustee);

⁸ At first instance such disputes shall be referred to the Managing Director (Card Transaction Services) of VocaLink and the Chief Executive Officer of LSL for determination within 28 days of such referral. If the parties are unable to resolve the dispute in this manner, or if any party requests such in writing, then the dispute shall be referred to the Trustee. Disputes relating to (i) the time period for the six-to-twelve full calendar-month waiver / reduction of contractual financial commitments (as set out in paragraph 2.1(a)(xiv) above) and (ii) charges for changes to the LINK LIS5 Standard as a result of requests for changes or other developments made pursuant to the S&S Agreement (as set out in paragraph 2.1(b)(iii) above), shall be resolved in accordance with the dispute resolution procedure set out in the S&S Agreement.

- b) the Trustee shall decide the procedure to be followed in the determination and shall be requested to make their determination within 30 days after such referral to them or as soon as practicable after that;
- c) any amount payable by one party to the other party as a result of the Trustee's determination shall be due and payable within 30 days after such determination has been notified to the parties;
- d) the Trustee may, if they think fit, award interest at the rate of four per cent. per annum above the repo rate of the Bank of England for the time being in force on any amount which is determined to be payable by a party to another party from such date as the Trustee shall determine; and
- e) the Trustee shall determine how and by whom the costs of the determination are to be paid.

6.6 For the purpose of fulfilling the Trustee Functions, the Trustee shall not be bound by instructions of Mastercard nor shall the Trustee Functions be extended or varied in any way by Mastercard save with the prior express written consent of the CMA.

7. **OBLIGATIONS OF MASTERCARD FOLLOWING APPOINTMENT OF TRUSTEE**

7.1 Mastercard shall not give any instruction or request to the Trustee which conflicts with the Trustee Functions.

7.2 Mastercard shall take all such steps as are reasonably necessary to enable the Trustee to carry out the Trustee Functions, including but not limited to:

- a) complying with such written directions as the Trustee may from time to time give pursuant to paragraph 6.3 above; and
- b) providing the Trustee with all such assistance and information as it may reasonably require in carrying out the Trustee Functions.
- c) providing the Trustee on an annual / semi-annual basis (for the purposes of assisting the Trustee with the preparation of its report to the CMA, pursuant to Paragraph 6.3 above) with a compliance report setting out the following information:
 - i. a description of any connection to a New Processor that took place over the course of the preceding year (including an analysis of the timing of the migration process and of any difficulties or connectivity problems);
 - ii. a breakdown and description of any charges to a New Processor over the preceding year;
 - iii. a description of any request made by a New Processor over the preceding year for changes to the network, how quickly they were addressed and whether they were actioned;
 - iv. current SLAs/KPIs agreed with a New Processor;

- v. a description of any disputes currently arising from or in connection with the application of the Network Access Remedy, and how they are being addressed;
- vi. any developments to the LINK LIS5 Standard (if not yet transferred/licensed to LSL) over the preceding year;
- vii. any developments to the VocaLink LIS5 Standard over the preceding year;
- viii. any contributions to LINK members' switching costs over the preceding year;
- ix. a description of any disputes currently arising from or in connection with contributions to LINK members' switching costs, and how they are being addressed; and
- x. any other information the Trustee deems necessary to prepare the report.

8. REMUNERATION OF TRUSTEE

- 8.1 Mastercard shall pay the Trustee a reasonable remuneration for the services it provides in carrying out the Trustee Functions, and shall pay the Trustee in a way that does not impede the independent and effective fulfilment of the Trustee Functions, which shall be set out in the Trustee's mandate referred to in paragraph 5 above.

9. COMPLIANCE

- 9.1 Mastercard shall comply promptly with such written directions as the CMA, in consultation with the Payment Systems Regulator (where appropriate), may from time to time give:
- a) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or
 - b) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or to refrain from doing.
- 9.2 Mastercard shall co-operate fully with the CMA when the CMA is:
- a) monitoring compliance with the provisions of these undertakings; and
 - b) investigating potential breaches of the provisions of these undertakings.
- 9.3 Mastercard shall procure that any member of the same Group of Interconnected Bodies Corporate as Mastercard complies with these undertakings as if it had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate as Mastercard shall be attributed to Mastercard for the purposes of these undertakings.

- 9.4 Where any Affiliate of Mastercard is not a member of the same Group of Interconnected Bodies Corporate as Mastercard, Mastercard shall use its best endeavours to procure that any such Affiliate shall comply with these undertakings as if it had given them.

10. PROVISION OF INFORMATION

- 10.1 Mastercard shall furnish promptly to the CMA such information as the CMA considers necessary in relation to or in connection with the implementation and/or enforcement of and/or the compliance with these undertakings, including for the avoidance of doubt, any Confidential Information. Any such information may be shared with the Payment Systems Regulator.

11. EXTENSION OF TIME LIMITS

- 11.1 The CMA may, in response to a written request from Mastercard, or otherwise at its own discretion, grant an extension to any time period referred to in these undertakings.

12. SERVICE

- 12.1 Mastercard hereby authorizes Clifford Chance LLP, whose address for service is 10, Upper Bank Street, London E14 5JJ, to accept service on its behalf of all documents connected with these undertakings (including any document of any kind which falls to be served on or sent to Mastercard, or any of its Subsidiaries in connection with any proceedings in Courts in the UK, orders, requests, notifications or other communications connected with these undertakings).

- 12.2 Unless Mastercard informs the CMA in writing that Clifford Chance LLP has ceased to have authority to accept and acknowledge service on its or any of its Subsidiaries' behalf, any document, order, request, notification or other communication shall be validly served on Mastercard if it is served on Clifford Chance LLP; and service shall be deemed to have been acknowledged by Mastercard if it is acknowledged by Clifford Chance LLP or such other nominee.

- 12.3 Paragraph 12.2 above has effect irrespective of whether, as between Mastercard and Clifford Chance LLP or other nominees, Clifford Chance LLP or other nominees has or continues to have any authority to accept and acknowledge service on Mastercard's or any of its respective Subsidiaries' behalf.

- 12.4 No failure or mistake by Clifford Chance LLP or other nominees (including a failure to notify Mastercard of the service of any document, order, request, notification or other communication) shall invalidate any action taken in respect of these undertakings including any proceedings or judgment.

- 12.5 Any communication from Mastercard to the CMA under these undertakings shall be addressed to Manager, Market and Mergers Remedies Monitoring, Competition and Markets Authority, Victoria House, Southampton Row, London WC1B 4AD or such other person or address as the CMA may direct in writing.

13. EFFECT OF INVALIDITY

- 13.1 Should any provision of these undertakings be contrary to law or invalid for any reason, Mastercard undertakes to continue to observe the remaining provisions.

14. **GOVERNING LAW**

- 14.1 Mastercard recognises and acknowledges that these undertakings shall be governed and construed in all respects in accordance with English law.
- 14.2 In the event that a dispute arises concerning these undertakings, Mastercard undertakes to submit to the courts of England and Wales.

15. **TERMINATION**

- 15.1 Mastercard recognises and acknowledges that these undertakings shall be in force until such time as they are varied, released or superseded under the Act.
- 15.2 Mastercard recognises and acknowledges that the variation, release or supersession of these undertakings shall not affect the validity and enforceability of any rights or obligations that arose prior to such variation, release or supersession.

16. **INTERPRETATION**

- 16.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.
- 16.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.
- 16.3 In these undertakings the word “including” shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word “include” and its derivatives shall be construed accordingly.
- 16.4 For the purposes of these undertakings:

“**the Act**” means the Enterprise Act 2002;

“**Affiliate**” of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

“**Associated Person**” means a person or persons associated with Mastercard within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

“**ATM**” means automated teller machine;

“**business**” has the meaning given by section 129(1) and (3) of the Act;

“**CMA**” means the Competition and Markets Authority or any successor body;

“**Confidential Information**” means any business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;

“**Decision**” means the CMA’s decision under section 22 of the Act dated 4 January 2017 in connection with the Transaction;

“**ECP**” means VocaLink's external communications provider;

“**First Tender Cycle**” means the first Tender Cycle following the acceptance of these undertakings;

“**Group of Interconnected Bodies Corporate**” has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

“**KPIs**” means Key Performance Indicators;

“**LINK**” means the interbank network of ATM machines operated by LSL;

“**LINK LIS5 Messaging Remedy**”, means Mastercard's commitment to procure that VocaLink will transfer ownership of all intellectual property rights relating to the LINK LIS5 Standard to LSL, as described in paragraph 2.1(b);

“**LINK LIS5 Standard**” means intellectual property rights relating to the messaging standard used for all transactions made within the LINK scheme, as described in the document [§];

“**LINK Network Restricted Information**” means information concerning a LINK member or LSL which has been disclosed pursuant to the S&S Agreement (including in connection with the implementation of these undertakings) and which concerns the business, operations or customers of the disclosing party, whether disclosed electronically, orally or in writing, and whether or not such information is expressly stated to be confidential or marked as such;

“**LSL**” means LINK Scheme Limited;

“**Mastercard**” means MasterCard UK Holdco Limited;

“**Mastercard group**” means the group of companies (including Mastercard) that are controlled by Mastercard Incorporated;

“**NAR Term**” means a period lasting until the earlier of: (i) the end of two Tender Cycles; (ii) the commencement of either of the next two Tender Cycles (if at that time VocaLink is not the provider of ATM transaction processing services to LINK or the provider of the underlying communications infrastructure as set out in paragraph 2.1(a)); (iii) the date on which the New Processor notified VocaLink that it no longer requires access to its communications infrastructure; (iv) the date of award of the contract for the provision of ATM transaction processing to LINK pursuant to the second competitive tender process following the acceptance of these undertakings, if VocaLink is awarded the contract; (v) the release of the Network Access Remedy following review by the CMA pursuant to sub-paragraph 2.1(a)(xv); (vi) 15 years from the

commencement of the First Tender Cycle and (vii) 20 years from the acceptance of these undertakings;

“**Network Access Remedy**” means Mastercard's commitment to procure that a New Processor will be granted access by VocaLink to its existing communications infrastructure used in its provision of ATM transaction processing services to LINK, as described at paragraph 2.1(a);

“**New Processor**” means any party, other than a company in the Mastercard group, selected by LSL to replace VocaLink as the provider of ATM transaction processing services to LINK;

“**S&S Agreement**” means the current Amended and Restated Switching and Settlement Agreement between VocaLink, LSL and the current LINK members

“**SLAs**” means Service Level Agreements;

“**Subsidiary**” shall be construed in accordance with section 1159 of the Companies Act 2006 (as amended), unless otherwise stated;

“**Tender Cycle**” means a period starting with the effective date of the contract for the provision of ATM transaction processing to LINK awarded by LSL following a competitive tender process, and finishing with the end of the term of that contract;

“**Transaction**” means the proposed acquisition of VocaLink by Mastercard;

“**Trustee**” means the person appointed pursuant to paragraph 4.4, paragraph 4.5 or paragraph 4.7 to carry out the Trustee Functions;

“**Trustee Functions**” means the functions set out in paragraph 6;

“**UK**” means the United Kingdom of Great Britain and Northern Ireland;

“**VocaLink**” means VocaLink Holdings Limited;

“**VocaLink LIS5 Standard**” means the messaging standard used by VocaLink for all card-based transactions processed for its customers outside the scope of the LINK Scheme;

“**Working Day**” means any day of the week other than a Saturday or a Sunday or any day that is a public holiday in England; and

unless the context requires otherwise, the singular shall include the plural and vice versa.

FOR AND ON BEHALF OF MASTERCARD

Signature

Name

Title

Date

DATE ACCEPTED BY THE CMA

Date [•] 2017