

# Macquarie Merchant Services

## General Terms & Conditions

10 December 2021



## Important Notice – Fraud Protection

Fraud is a problem for many merchants and can have a substantial financial impact on your business.

You must ensure that you and your staff carefully read the Fraud Protection Guide, and for Navigator merchants the Visa E-Commerce Merchants' Guide to Risk Management, that will be given to you with your Welcome Letter upon installation.

The Fraud Protection Guide contains important information regarding the appropriate security measures and checks you should take when performing Credit Card Transactions in order to minimise the incidence of fraud. It also contains important steps you can take to ensure your Equipment is kept safe and used in the appropriate manner, and various safeguards that you can implement for MOTO and E-Commerce Transactions in order to minimise fraud.

You should also note the Chargeback provisions contained throughout this Agreement. You may be charged back for a Transaction (ie liable for that Transaction) if that Transaction is deemed to be an invalid or unacceptable transaction in accordance with this Agreement – this includes instances of fraud.

If you are suspicious of any transactions, would like to report a possible incidence of fraud, or require further information on fraud protection, please contact the Merchant Support Team on 1800 183 879 or your relationship manager.

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# General Terms and Conditions

## 1. Introduction

These are the general terms and conditions which govern the provision of Merchant Services by us to you as the merchant.

These terms and conditions may be subject to change from time to time. Please see clause 24 to find out what changes we can make and what notice you will receive of these changes.

## 2. Merchant Services

### 2.1 Merchant Services Generally

- a. We will provide you with the Merchant Services on the terms and conditions of this Agreement.
- b. We will provide you with Our Equipment, to the extent you require, for the monthly rental fee specified in the Letter of Offer.

### 2.2 Internet Merchant Services

- a. You may elect to receive Internet Merchant Services, either on a standalone basis or in combination with another Product. If so, you must establish your own separate agreement with a Payment Gateway Provider who must be approved by us.
- b. You must procure that your Payment Gateway Provider will comply with all Relevant Laws, PCI-DSS requirements and all applicable Card Scheme Rules.
- c. Our approval of the Payment Gateway Provider may be given or withheld in our absolute discretion and/or be subject to conditions, taking into account compliance by the relevant Payment Gateway Provider with our systems and processes.

### 2.3 Multi-Merchant Facilities

If you require your Merchant Services facility to be part of a Multi-Merchant Facility, you must also comply with the terms and conditions in Schedule 1.

### 2.4 Multi-Settlement Account Facilities

If you require your Merchant Services facility to be a Multi-Settlement Accounts Facility, you must also comply with the terms and conditions in Schedule 2.

## 3. Your Obligations

### 3.1 General obligations

- a. You must comply with, and pay any applicable fees in relation to:
  1. these general terms and conditions;
  2. the Letter of Offer;
  3. the Terminal User Guide, the Fraud Protection Guide and any other guides, manuals or instructions provided by us to you in relation to the Merchant Services;
  4. the terms and conditions relating to any specific Card Scheme (as varied by the relevant Card Scheme provider from time to time); and

5. the Direct Debit Request(s) included with the Letter of Offer (if applicable), which will apply to your Nominated Account(s) and/or any separate fees and charges account which you have notified to us.
- b. You must:
  1. not carry on business in a place which has not been approved by us and not change your place of business without our prior written consent (such consent and approval not to be unreasonably withheld);
  2. only process sale Transactions where you sell and supply the goods or services;
  3. not process Transactions on behalf of a third party, including, without limitation, processing payments for goods or services sold on another Person's website;
  4. not change your business name and not substantially change the type of goods and services you sell without giving us prior written notice;
  5. immediately notify us of any change to your financial position which may affect your ability to perform your obligations under this Agreement;
  6. provide us with all information and assistance we reasonably require to perform our obligations;
  7. allow our employees and Representatives, or those of any Card Scheme operator, reasonable access to your premises during normal business hours to check your compliance with this Agreement or the relevant Card Scheme Rules;
  8. comply with our reasonable instructions, all Relevant Laws and contractual requirements in using the Merchant Services and performing your obligations under this Agreement;
  9. not use, or attempt to use, the Merchant Services to transmit, publish or communicate material that is defamatory, offensive, abusive, indecent, menacing or unwanted;
  10. not infringe Intellectual Property Rights (such as by using, copying or distributing data or software without the permission of the owner); and
  11. not interfere with or impair the operation of the Merchant Services or any Equipment.
- c. If we agree to supply you with Merchant Services in relation to E-Commerce Transactions, you must comply with any additional terms and conditions which we reasonably prescribe from time to time.

### 3.2 Data Security Standards

- a. You and your Payment Gateway Provider (if applicable) must comply with the Data Security Standards and PCI-DSS requirements, and you must successfully complete the protocols for the Data Security Standards within a reasonable time frame stipulated by us or the Card Schemes.
- b. You must ensure appropriate security measures are in place to achieve and maintain at least Payment Card Industry (PCI) certification as it relates to your provision of goods or services and the transmission of all Transaction information.

- c. If you fail to comply with sub-clauses (a) or (b) above:
  - 1. you are liable for any fine imposed upon us by the relevant Card Schemes as a result of your failure to comply; and
  - 2. we may immediately suspend or terminate the Merchant Services.
- d. You acknowledge and agree that we and/or any of our suppliers or Representatives may be required by a Relevant Law, regulator or Card Scheme to intercept communications over the Merchant Services network and/or monitor your usage of the Merchant Services and communications sent over it.
- i. provide sufficient training to your employees to ensure you meet your obligations under this Agreement; and
- j. if we have notified you that you can offer Cardholders an instalment option:
  - 1. disclose to the Cardholder in writing whether the instalment terms limit the goods or services that they may purchase. The disclosure must also include the shipping and handling charges and any applicable tax;
  - 2. ensure that the sum of the instalment Transactions does not exceed the total price of the goods or services, and you must not add any finance charges to the instalment arrangement;
  - 3. inform a Cardholder not billed in the Transaction currency that each instalment amount may vary due to currency conversion rate fluctuations;
  - 4. provide Cardholders with an easy means of informing you of changes to their Nominated Card details or their election to cancel the instalment option and action all such Cardholder requests within five Business Days of the request; and
  - 5. obtain Authorisation for all instalment Transactions.

### 3.3 Your obligations to Cardholders

You must:

- a. disclose to a Cardholder any fee you charge for their use of the Merchant Services before the Credit Card Transaction or EFT Transaction is completed and do it in such a way that allows the Cardholder to cancel the Transaction if they so wish, without the Cardholder incurring any cost;
- b. accept any valid and acceptable Nominated Card in a Transaction but must not accept any particular Nominated Card or a Transaction which is of a type we have previously advised you is not acceptable to us;
- c. not accept a Nominated Card in a Credit Card Transaction for the purpose of giving a Cardholder cash;
- d. not charge a fee for giving a Cardholder cash in a relevant Debit Card Transaction;
- e. supply all goods and/or services to the Cardholder before processing a sales Transaction, except in the case of a Future Dated Payment Transaction where clause 5.1(b) applies;
- f. not sell, purchase, provide or exchange any information or document relating to a Cardholder's account number, or Nominated Card number, to any Person other than:
  - 1. us;
  - 2. the agents you use in your business for an approved purpose;
  - 3. the card Issuer; or
  - 4. any other person as required by law; in each case, in compliance with all Relevant Laws and taking reasonable steps to ensure such information or documents are protected against misuse, loss, unauthorised access, modification or disclosure;
- g. not make any representation in connection with any goods or services you sell which may bind us or any Card Scheme, nor make any indication or imply that we or any Card Scheme endorse any goods or services you sell or refer to a Nominated Card in stating eligibility for goods, services or any membership;
- h. inform the Cardholder of your identity at all points of your interaction with the Cardholder (including on any relevant website, promotional material and invoice) so that the Cardholder can readily distinguish you from any other party;

### 3.4 Tipping

Tips can be processed in one of the two following ways:

- a. the Cardholder entering the tip amount on the Transaction Receipt and signing the new total; or
- b. the Cardholder entering the tip amount on the Terminal when requested to do so and confirming the new total amount before finalising the Transaction.

### 3.5 Security Interest

- a. If we determine that this Agreement (or any Equipment or any other document in connection with it) is or contains or is subject to a Security Interest, you agree to do anything at your own expense (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which we reasonably ask and consider necessary for the purposes of:
  - 1. ensuring that the Security Interest is enforceable, perfected (including, where possible, by control in addition to registration) and otherwise effective;
  - 2. enabling us to apply for any registration, or give any notification, in connection with the Security Interest so that the Security Interest has the priority required by us; or
  - 3. enabling us to exercise rights in connection with the Security Interest.
- b. We need not give any notice under the PPSA unless the notice is required by the PPSA and cannot be excluded.
- c. You agree to reimburse our reasonable costs in connection with anything you are required to do under this clause.

## 4. Accepting Nominated Cards and Processing Transactions

Failure to observe any of the requirements in this clause 4 may increase the risk of you incurring Chargebacks or falling victim to fraud.

### 4.1 General processing obligations

You must:

- a. use all reasonable endeavours to detect forged or unauthorised signatures, or the unauthorised use or forgery of a Nominated Card;
- b. immediately notify us if you become aware of or suspect fraud on the part of a Person presenting a Nominated Card to you for use in a Transaction;
- c. not deliberately reduce the value of any one Transaction below your Floor Limit by:
  1. splitting a Transaction into two or more Transactions; or
  2. allowing a Cardholder to purchase items separately;
- d. if a Credit Card Transaction for a sale does not cover the full amount of the proposed sale, require the remainder to be simultaneously be paid in cash;
- e. not set a minimum or maximum amount for a Nominated Card Transaction without our prior written consent;
- f. not ask a Person presenting a Nominated Card to you for use in a Transaction to reveal their PIN or any other secret identifier; and
- g. contact us for instructions if the identification of a Person presenting a Nominated Card to you for use in a Transaction or the validity of the Nominated Card is uncertain.

### 4.2 Point of Sale Transactions

For a Point of Sale Transaction, you must:

- a. always use the Terminals to process Transactions, either by tapping, inserting (if it is a Chip Card) or otherwise swiping the Nominated Card and following any prompts indicating the need for a PIN and/or a signature;
- b. obtain prior Authorisation where:
  1. the Terminal displays an encoded account number, and that number differs from the account number embossed on the Nominated Card;
  2. the embossed account number on the Nominated Card is different from the account number displayed, indented or otherwise shown on the Nominated Card; or
  3. you suspect that a signature is unauthorised or there is an unauthorised use or forgery of the Nominated Card, and in each of these cases, you should seek to retain the Nominated Card by reasonable, peaceful means until Authorisation is given;

- c. verify that the signature (if any) on a Nominated Card matches the signature on the Transaction Receipt (if applicable);
- d. if the signature panel on a Nominated Card is blank:
  1. obtain prior Authorisation for the Transaction; and
  2. ask the Cardholder for additional identification information, but you must not record it. If you are satisfied that the information you are given is true and correct, you must ask the Cardholder to sign the blank signature panel on the Nominated Card;
- e. without endangering you or your Personnel, retain by reasonable, peaceful means any Nominated Card that is invalid, does not have the usual card security features or which we otherwise instruct you to retain (via the Terminal or otherwise). You must then let us know that you have done so or, if you are unable to recover or retain the Nominated Card, follow any further instructions we give you;
- f. give the Cardholder a copy of the Transaction Receipt (if requested by the Cardholder) immediately after completing the Transaction; and
- g. include the disclosure we require on all Transaction Receipts in line with clause 6.

### 4.3 Card Not Present Transactions

- a. For Card Not Present Transactions, you must:
  1. take all reasonable steps to verify the identity of the Person you are dealing with, in order to confirm that they are the genuine Cardholder, including by observing and implementing the recommendations in the Fraud Protection Guide or any recommendations or procedures of the Card Schemes;
  2. record these identification details, as well as the expiry date of the Nominated Card, in accordance with relevant Privacy Laws and Data Security Standards; and
  3. comply with such other specific procedures we notify you from time to time which we consider necessary to verify the identity of the Cardholder you are dealing with prior to a Transaction.
- b. Where the steps you take to verify a Cardholder's identity are inadequate, we may recommend you to carry out additional authentication measures. Implementation of such additional measures does not guarantee that fraud won't occur. If you elect to proceed with the Transaction then you may be liable for a Chargeback in respect of it in accordance with clause 9.
- c. Despite the above, we reserve the right to accept or reject any Transactions where adequate steps have not been taken to verify the Cardholder's identity, and even where we do accept a particular Transaction, this does not mean we will accept any future Transactions of the same type. We are not liable for any Losses in connection with actions we take under this sub-clause.

## 4.4 Refund, return and credit transactions

You must:

- a. establish a fair policy for dealing with refunds and disputes about Transactions in accordance with the requirements of the Card Scheme Rules, and you must include information about that policy on Transaction Receipts. Your policy must be on the same terms and apply equally for all payment methods;
- b. only process a Transaction as a refund to a Cardholder if it is a genuine refund of a previous sale Transaction. All refunds must be processed to the same card that was used in the original sales Transaction (unless that card is no longer valid) and be for the original sale amount;
- c. not process a refund Transaction as a way of transferring funds between your accounts, including by accepting cash from a Cardholder in exchange for crediting their card (excluding valid 'top up' value load transactions for prepaid or gift cards);
- d. only give refunds for Credit Card Transactions by means of credit and not in cash or cheque; and
- e. when processing a refund, also refund any surcharge amount which was assessed on the initial Transaction.

## 4.5 Equipment

For Transactions using the Equipment:

- a. you must:
  1. only use Our Equipment or Your Equipment which must be approved by us;
  2. comply with the Terminal User Guide and any other relevant Equipment user guide;
  3. ensure that you use the Equipment only as permitted by this Agreement (and, in the case of Your Equipment, any agreement with your own third-party supplier);
  4. follow our reasonable directions regarding any necessary updates or changes to the Equipment and implement those updates or changes. Where this relates to Your Equipment, you agree to do so at your own cost;
  5. allow our employees and Representatives to enter your premises as reasonable during normal business hours, to install, inspect, maintain, remove or make changes or updates to Our Equipment; and
  6. process all Transactions by reading card data with the Equipment; and
- b. you must not:
  1. process a Transaction by manually keying details into the Equipment unless it is a MOTO Transaction or an E-Commerce Transaction; or
  2. deliberately engineer a situation in which a Transaction is processed as an Offline Transaction.

## 4.6 Website requirements

- a. If you wish to accept payments through a website (i.e. for E-Commerce Transactions and Internet Merchant Services), your website must clearly display the following information:
  1. your business name (and Australian Business Number as applicable);
  2. your business contact details (including telephone and an email address) and the street and postal address of your approved place of business;
  3. a complete description of the goods and services available for purchase on your website with the price advertised in Australian dollars. You may also display the price in a foreign currency if we have given our prior written consent allowing you to process Transactions in that currency;
  4. details of your delivery times for goods and services. Delivery times are to be appropriate for your type of business. If the delivery is to be delayed, the Cardholder must be notified of the delay and be provided with the option of obtaining a refund;
  5. a clear statement that your business is an Australian business and that all Transactions will be billed in Australian dollars. You may indicate that Transactions will be billed in a foreign currency if we have given our prior written consent allowing you to process Transactions in that currency;
  6. details of any Australian export restrictions (if applicable);
  7. details of your privacy policy (and, if applicable, your credit information policy) and how you intend to deal with, or share, Personal Information obtained from and about the Cardholder;
  8. details of your return and refund policy, including how a Transaction can be cancelled by a Cardholder;
  9. a description of the measures you have to maintain the security of Cardholders' account data; and
  10. any other information which we reasonably require you to display from time to time.
- b. If your website does not comply with any of these requirements, we are not obliged to provide you with Merchant Services in respect of E-Commerce Transactions or Internet Merchant Services.
- c. You must ensure that your business name corresponds with the name of your website and the name that will appear on Cardholder statements and Transaction Receipts. If you wish to change any of the information referred to on your website or how they appear on Transaction Receipts, you must give us at least 10 Business Days prior written notice. This will enable us to implement the changes and undertake acceptance testing. We will not recommence the live operation of the Merchant Services until we have satisfactorily completed acceptance tests of your website.
- d. You must provide us reasonable access to view, monitor and audit the pages of your website.

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- e. Your website payments page must be protected by SSL or other forms of security method approved by us.
- f. Before commencing live operation of the Merchant Services on your website, you must undertake your own testing to ensure:
  1. Transactions are accessible by you through the internet payments merchant reporting module; and
  2. any reporting requirements you have are working to your satisfaction. You must inform us once you are satisfied as to the above. We will then consider whether all of our operational requirements are met and if we are satisfied that they are met, we will approve you for live operation of the Merchant Services on your website.

## 5. Authorisation

### 5.1 Authorisation

**Authorisation** means, in respect of a Transaction, confirmation at the time of the Transaction that:

- the number on the card exists and is valid;
- there are sufficient funds available to pay for the Transaction; and
- the card has not been reported stolen or lost.

Authorisation is **not** a guarantee of payment nor that the Person using the card is the genuine Cardholder.

Authorisation is achieved by following the prompts on the Equipment or through your Payment Gateway Provider. If the Equipment is not working, the Transaction may be processed as an Offline Transaction.

- a. You must:
  1. obtain Authorisation from us before a Transaction:
    - A. if the Transaction is an instalment payment for goods or services;
    - B. as instructed by us through the Equipment or otherwise; or
    - C. if we have otherwise told you not to accept the Nominated Card;
  2. for an E-Commerce Transaction, identify the Transaction as an E-Commerce Transaction and seek Authorisation using the Equipment;
  3. for an Internet Merchant Services Transaction, in addition to any other required information, submit the three-digit card verification value (CVV) of the Nominated Card to us and seek Authorisation via your Payment Gateway Provider; and
  4. comply with all procedures relating to Authorisation as we reasonably require and advise you of from time to time.
- b. For any Card Not Present Transaction which requires goods to be shipped, you may obtain Authorisation from us up to seven days before the date on which the goods are shipped.

- c. Following Authorisation, you must not record the contents of any electronic data which is stored or encoded on the card (e.g. the magnetic stripe or chip data), any CVV numbers or any tokens associated with a Card Scheme. Any other information retained by you must be stored in accordance with PCI-DSS requirements and the relevant Card Scheme Rules.

### 5.2 Pre-Authorisation

**Pre-Authorisations** are Transactions which have received Authorisation but are not charged until a later time. The amounts to be charged are retained as available funds on the Nominated Card account for the pre-authorisation period, which is usually determined by the card Issuer as agreed between you and your customer. Pre-Authorisations can be obtained through the Equipment by following the prompts.

- a. Pre-Authorisations must be evidenced by the Cardholder signing a receipt ('Pre-Authorisation Receipt'). For Debit Card Transactions, you must also ask the Cardholder to enter their PIN into the Equipment. For Credit Card Transactions you must give the Cardholder the option to enter their PIN or sign your copy of the Pre-Authorisation Receipt.
- b. Once processed, Pre-Authorisations can only be refunded if:
  1. the underlying Transaction has been completed;
  2. the Nominated Card that was used in the original Pre-Authorisation is used for the refund and only if that card and the Cardholder are both present at the time of the refund;
  3. the Cardholder entered their PIN in the Equipment for both the original Pre-Authorisation and the refund Transaction (if applicable);
  4. the Cardholder signed a Transaction Receipt or Pre-Authorisation Receipt for the original Pre-Authorisation and signs a refund receipt for the refund;
  5. details of the original Pre-Authorisation match the details of the refund transaction; and
  6. the refund transaction is processed within 30 days of the original Pre-Authorisation.

## 6. Transaction Receipt

- a. You must prepare a Transaction Receipt for each Transaction in accordance with any applicable requirements of the Card Scheme Rules and sub-clause (b) below, and you must not charge a fee for doing so.
- b. The information contained on the Transaction Receipt must be identical with the information on any other copy and must legibly include:
  1. your business and entity names, ABN and address;
  2. the date and time of the Transaction (if practicable);
  3. the amount of the Transaction and any tip;
  4. a description of any goods or services sold sufficient to identify them;



5. an indication of the relevant Card Scheme;
  6. the currency symbol if it is in a foreign currency (where we have approved foreign currency processing under this Agreement);
  7. details of any cash provided;
  8. details of card number (a truncated version of the card number), card Issuer, Cardholder (if possible) and merchant;
  9. card validity dates;
  10. the Transaction Authorisation number (if any);
  11. for Chip Card Transactions, all requirements of the Card Schemes of which we notify you;
  12. for E-Commerce Transactions and Internet Merchant Services:
    - A. the merchant's name most recognisable to the Cardholder;
    - B. contact information for service enquiries;
    - C. the terms and conditions of sale, if restricted;
    - D. the exact date free trial ends, if offered;
    - E. any cancellation policy; and
    - F. the website address, and
  13. for Dynamic Currency Conversion (DCC) (if available to you as notified by us), all requirements of the Card Schemes of which we notify you.
- c. For a Point of Sale Transaction, you must give the Cardholder a copy of the Transaction Receipt (if requested by the Cardholder) immediately after completing the Transaction.
  - d. For a Card Not Present Transaction, you must give the Cardholder a copy of the Transaction Receipt as soon as possible after one is requested by the Cardholder.
  - e. You must not require a Cardholder to sign a Transaction Receipt until the final amount of the Transaction is entered on the Transaction Receipt.
  - f. For at least 30 months after a Transaction, you must retain:
    1. for a Point of Sale Transaction, copies of the Transaction Receipt; or
    2. for a Card Not Present Transaction, the Transaction Receipt and any document that is evidence of the Person presenting the Nominated Card to you for use in a Transaction (in accordance with relevant Privacy Laws and Data Security Standards).
  - g. You must provide us with the Transaction Receipt and any other required evidence of the Transaction within 10 Business Days if we ask for it. If you fail to do so to our satisfaction, we may reverse a sales Transaction as a Chargeback to you.
  - h. You agree to allow us to examine your books of account or records relating to any Transaction.

## 7. Informing Us About Transactions

- a. You must give us information about a Transaction:
  1. by entering the Transaction details immediately via the Equipment if you are using the Equipment (unless it is an Offline Transaction, in which case details must be entered via the Equipment within five Business Days); or
  2. within the time frames we specify from time to time in relation to other Transaction methods.
- b. In giving us information on a Transaction or otherwise for the purposes of this Agreement, you warrant that:
  1. all the particulars are true;
  2. the Transaction is valid and acceptable; and
  3. the Cardholder is not disputing the Transaction or making a set-off or counterclaim.
- c. You must give us information about a Transaction only in the form and using a method approved by us for your use.
- d. In addition to any other information you are required to give us about a Transaction, you must separately and uniquely identify any Transaction that we have previously advised you is of high risk.

## 8. Using A Bureau

- a. If you choose to use a Bureau in connection with the transmission of information to us, you must:
  1. notify us in writing before you commence using or change your Bureau;
  2. give us such information as we may reasonably require in relation to that Bureau;
  3. only use a Bureau that we have approved;
  4. ensure that any Bureau you use has and maintains a Bureau certification agreement or any other agreement we require with us, and
  5. be registered as a third party processor with the Card Schemes.
- b. Any Bureau you use is at your cost and risk.
- c. We are not responsible for any Losses (including consequential loss) you suffer in connection with your Bureau's conduct, and you release and indemnify us from any claims or Losses incurred as a result of the use of a Bureau.
- d. If you use a Bureau to inform us about Transactions, we may rely on any information or instruction that we receive as if that information or instruction was received from you. This also applies to any information we process in reliance on the information received from the Bureau on your behalf.
- e. Should a Bureau cease operating, or is no longer approved by us, we will no longer accept Transactions sent by that Bureau. Further, we will not be responsible for any ongoing costs, including any migration costs.

## 9. Chargebacks And Invalid Or Unacceptable Transactions

- a. Liability for Chargebacks is determined in accordance with the relevant Card Scheme Rules. You are liable for all Chargebacks which are determined against you, as well as all invalid and unacceptable Transactions processed by you.
- b. Some of the factors which the relevant Card Schemes consider in determining liability for Chargebacks, or whether a Transaction is invalid or unacceptable, include if:
  1. the Transaction is illegal;
  2. the Transaction is fraudulent (whether you had knowledge of this fact or not);
  3. the Transaction is before or after any validity period indicated on the relevant Nominated Card;
  4. the signature on the Transaction Receipt or authority is forged or unauthorised (whether you had knowledge of this fact or not);
  5. the Transaction is not authorised by the Cardholder;
  6. the particulars on the copy of the Transaction Receipt given to the Cardholder are not identical to the particulars on any other copy;
  7. you have not complied with a term of this Agreement which relates to the Transaction or anything you were required to do in relation to the Transaction;
  8. we have told you not to accept the Nominated Card;
  9. the price charged for the goods or services is more than your normal price for them;
  10. another Person has provided or is to provide the goods, services or cash the subject of the Transaction to a customer or you arranged for another Person to process the Transaction;
  11. you did not actually supply the goods, services or cash to a genuine customer as required by the terms of the Transaction, or have indicated your intention not to do so;
  12. the Transaction did not relate to the actual sale of goods or services to a genuine customer;
  13. the Transaction is offered, recorded or billed in a currency which we have not authorised you to process Transactions in;
  14. the goods, services or cash were supplied outside Australia without our consent; or
  15. the Transaction occurs during a period in which your rights under this Agreement were suspended or after this Agreement was terminated.
- c. We can, at our full discretion, refuse to accept a Transaction for a sale, refund or provision of cash if:
  1. the Cardholder disputes liability for the Transaction for any reason or makes a claim for set-off or a counterclaim; or
  2. it is of a class which we reasonably decide is not acceptable.
- d. You acknowledge and agree that we may:
  1. refuse to accept a Transaction if it is invalid or unacceptable, or may process a Chargeback to you if we have already processed the Transaction (even if we have given you an Authorisation);
  2. reverse a sales Transaction as a Chargeback for any of the reasons in clause 9(b) or any other reason in accordance with this Agreement; and
  3. set-off any amounts owing to us by you in respect of a Chargeback (including any fees identified in the Letter of Offer) against funds standing to the credit of your Nominated Account(s) or any other account you hold with us.

## 10. Settlement of Transactions and Your Nominated Account(s)

### 10.1 Your Nominated Account(s)

- a. Unless we agree otherwise, you must hold at least one account with us in Australian dollars for processing the settlement of Transactions (**'Nominated Account'**).
- b. If we agree that you may process Transactions in a foreign currency then we may also require you to hold an additional account with us for recording Transactions in that foreign currency
- c. Under ordinary circumstances, we will pay to your Nominated Account(s) the full amount of all valid and acceptable sales and cash Transactions processed by you in the applicable currency within 5 Business Days.
- d. We will debit your Nominated Account(s) with the full amount of all valid and acceptable refund Transactions and Chargebacks, in the applicable currency.
- e. If a Transaction is recorded in a foreign currency then, except to the extent we have agreed to use a foreign currency, we will process in Australian dollars (using an exchange rate reasonably determined by us) any event relating to that Transaction.
- f. Where:
  1. we are aware or have reason to believe that a Transaction is fraudulent or that a counterfeit Credit Card or Nominated Card has been used;
  2. the total number of Transactions or the total dollar amount of Transactions processed on your Merchant Services facility in any one day is in our reasonable opinion abnormally excessive; or
  3. the dollar amount of an individual Transaction is in our reasonable opinion abnormally high; then we reserve the right for a period of 30 days to:
  4. withhold payment to your Nominated Account in respect of a particular Transaction or the whole day's Transactions (as applicable), and
  5. unless otherwise agreed in writing, prevent the debit of that part of the balance of the Nominated Account as is equal to the amount we estimate may become owing to us by you in respect of the Transaction(s) in question.

- g. During this 30 day period, we will investigate the Transaction(s) (acting reasonably and in cooperation with you) to determine whether the Transaction(s) are legitimate. If legitimacy is unable to be determined in our reasonable opinion, then we may:
  1. refuse to process the Transaction(s) and return the Transaction(s) to you; or
  2. if the Transaction(s) has/have been processed, charge the Transaction(s) back to you; and
  3. set-off amounts owing to us by you in respect of the Transaction(s) against funds standing to the credit of your Nominated Account or any other account you hold with us.
- e. You must not create any charge, encumbrance or security interest (as defined in and for the purposes of section 12 of the PPSA) over, or otherwise deal with, any part of the Float Account.
- f. Unless otherwise agreed by us, you cannot alter the status of that account as a Float Account.
- g. We may at any time in our reasonable discretion increase or decrease the Float Amount and will notify you in writing if we do so (providing 30 days prior notice if we increase the Float Amount).
- h. We may at any time, in our absolute discretion and without notice to you, apply any part or all of the balance of the Float Account against the full amount of all valid and acceptable refund Transactions processed by you in the applicable currency or any other expenses or liabilities arising under this Agreement.

## 10.2 Merchant Statements

- a. We will give you a merchant statement each month (via email or as otherwise agreed) showing the full amount of all Transactions processed by us during the previous month and the fees charged. This merchant statement also comprises our tax invoice. You may raise any issue that you have concerning an amount paid, or not paid, within 3 months of the date of payment or the date the payment was due.
- b. The merchant statements we provide for the Merchant Services facility are separate from the statements of account that we provide for your Nominated Account(s).
- i. We will provide you information and statements on your Float Account in accordance with the relevant account operating terms and conditions for the Float Account.
- j. We are not liable for any Losses you may incur as a result of us not permitting withdrawals from the Float Account.
- k. For the avoidance of doubt, any fees or charges in connection with or related to the implementation of this clause and the establishment and maintenance of the Float Account, including the use of direct debit, shall be borne by you and recoverable by us, including by set-off against your Nominated Account(s) or against any other account or facility that you hold with us.

## 10.3 Float Account

- a. Upon 30 days prior written notice, we may (at any time in our reasonable discretion and having regard to the risk we assume in providing you with the Merchant Services) decide that your Merchant Services facility is subject to, or is no longer subject to, a Float.
- b. If we determine that your Merchant Services facility is subject to a Float, you authorise us to open a separate bank account in your name to maintain the Float ('**Float Account**'). Upon establishing the Float Account and upon depositing the Float Amount, you will only be able to access funds which exceed the Float Amount.
- c. We will not release the Float Amount to you until your entire liabilities (whether actual or contingent) under this Agreement have been satisfied in full. We are under no obligation to provide or make available banking facilities to you (including withdrawal) by any means in respect of the Float Account. Our rights under this paragraph (and any related clauses under this Agreement) survive termination of this Agreement (the '**Termination Date**') for up to six months after the Termination Date, so as to satisfy any liabilities which accrue after the Termination Date.
- d. You agree to do any act or execute any document (including relevant account opening forms and direct debit authorities) to establish the Float Account, to effect the deposit of funds into the Float Account and to ensure that the Float Account balance does not fall below the Float Amount.
- l. The Float Amount (including any changes to it and the period of time that we require it to be held for) equals any amount reasonably determined by us having regard to the following factors:
  1. the value of Transactions processed;
  2. the volume of Transactions processed;
  3. the turnover of your business;
  4. the nature of the industry in which you operate;
  5. the Future Dated Risk associated with the goods or services you provide;
  6. your history of, or the increased incidence of, Chargebacks, refunds and invalid or unacceptable Transactions;
  7. the credit risk to us;
  8. the potential for any fines or charges levied on us by a Card Scheme because of your conduct or omission, and the amount of any fine or charges levied; and
  9. the fees, charges and other payments described in clause 13 that are payable to us by you.
- m. Nothing in this clause 10 affects our ability to exercise any rights of set-off arising by law or under this Agreement.

- n. If, due to any Chargebacks, increased Transaction volumes, a change in the nature of your business or a change in the types of Transactions you process, the risk we assume in providing you with the Merchant Services increases (as determined in our commercially reasonable discretion), we may as a condition of continuing to provide Merchant Services to you also require you to provide a guarantee and indemnity and/or security over property of a type and magnitude to be reasonably determined by us.
- o. Due to the delayed nature of credit risks associated with Chargebacks, this entire clause 10 survives termination of this Agreement.

## 11. Non-Standard Cards

- a. We may facilitate the transmission of Non-Standard Card Transaction information between you and certain Non-Standard Card Issuers provided that:
  - 1. we are satisfied that you and the relevant Non-Standard Card Issuer can receive and participate properly in such transmission; and
  - 2. you have given us your current merchant numbers for each of the relevant Non-Standard Card Issuers.
- b. Before accepting any Non-Standard Cards, you must establish a separate agreement with the card Issuer(s) unless this would cause you to breach any term of this Agreement (in which case you cannot accept such Non-Standard Card(s)).
- c. We accept no responsibility for your acceptance of any Non-Standard Cards and the related terms and conditions, whether you do so with Equipment supplied by us or otherwise.

## 12. Promotional Material and Advertising

You must:

- a. display any promotional material we supply you prominently at the point of sale at each of your business premises and on any website you maintain to indicate that you accept Nominated Cards for Transactions (except where we agree otherwise); and
- b. use advertising and promotional material for the Nominated Cards or which show a Card Scheme logo or mark only with our consent and in the manner we approve.

## 13. Costs, Fees and Other Payments

- a. You must pay us, and you authorise us to withdraw without notice, the following amounts from any account you have with us (including your Nominated Account(s) and Float Account):
  - 1. all fees, charges and costs in connection with the Merchant Services and any use of the Equipment as set out in this Agreement, the Letter of Offer and each Pricing Offer;
  - 2. any outstanding amount arising from a refund Transaction which we have paid to you, but which was not a valid or acceptable Transaction;
  - 3. all over-credits paid by us on sales and cash Transactions due to errors or omissions;
  - 4. all credits paid by us on sales and cash Transactions which we have determined to Chargeback under clause 9(d);
  - 5. all stamp duties, taxes, and other government charges levied on the services, any Equipment, your accounts with us and this Agreement;
  - 6. any amounts found to be due to us during an audit or check by us;
  - 7. all fees, charges and costs agreed to be paid to us for the processing of information in connection with a loyalty program and the processing of any Non-Standard Cards;
  - 8. all fines, penalties or similar costs imposed on us by a Card Scheme because of your conduct in relation to the Merchant Services (including an unacceptable rate of Chargebacks or failure to comply with the Data Security Standards);
  - 9. all reasonable costs, charges and expenses of any description incurred by us (or any Person(s) referred to in clause 3.1(b)(7)) in connection with this Agreement including administration costs and legal costs on the higher of a full indemnity basis or solicitor and client basis; and
  - 10. all other amounts you owe us under this Agreement.
- b. If there are insufficient funds in any such accounts or facilities, then you must pay us on demand any balance that remains unpaid.
- c. We may vary existing fees or introduce new fees relating to this Agreement at any time either by written notice to you or by advertising in the national or local media. Such changes will take effect no sooner than 30 days after the date of such notice.
- d. We may require you to provide a direct debit request in order to debit your preferred account with the amounts referred to in this clause 13.
- e. You can obtain information on current standard fees and charges from us upon request.

## 14. Using Equipment

### 14.1 Installation of Equipment

- a. You must prepare a site at your business premises for the installation of the Equipment. The site must be a secure location which minimises fraud risk, including being away from any cameras, skimming devices or reflective surfaces that might allow the information being entered by the Cardholder to be observed or recorded.
- b. If required, either you or we may arrange for a telecommunications supplier to install a compatible telephone line at your cost for the transmission of information between the Equipment and us. We are not responsible for maintaining the telephone line nor are we liable for any loss or expenses incurred in installing the telephone line.

### 14.2 Maintenance of Equipment

- a. You must take proper care of Our Equipment and follow all our directions for its maintenance, protection, service and repair.
- b. You must not, by any negligence, wilful act or omission, cause a situation where the Equipment cannot operate normally.
- c. You must tell us immediately when you become aware that the performance or functionality of any part of the Merchant Services is compromised or if any Equipment is lost, stolen, damaged or otherwise interfered with. Failure to do so may expose you to a higher risk of fraud.
- d. If we are responsible for the operation of that part of the Merchant Services, we will use commercially reasonable endeavors to repair it in a timely manner.
- e. You may only move or alter the Equipment with our written consent and at your full cost and assumption of liability.
- f. You are responsible for any loss or damage to Our Equipment, except where we have caused such loss or damage.
- g. You must not allow any Person except our employees and Representatives to service or repair any of Our Equipment.
- h. You are responsible for arranging your own maintenance provider for Your Equipment, but you must notify us when you do so.

### 14.3 Ownership of Equipment

- a. Our Equipment always remains our property (or the property of our third-party suppliers), even if it is attached to any other property.
- b. If Our Equipment is attached to any other Equipment or property, at our request you must obtain from the owner of that property an acknowledgment that we have all rights and interest in Our Equipment and that the owner has no interest in it.
- c. You must not part with possession or control of Our Equipment unless we ask you to.

- d. You acknowledge and agree that all Equipment is subject to the rights of its respective owners (whether this is us or a third-party supplier) and in the event of a breach by you of this Agreement, or upon termination or expiry of this Agreement, the owner of any such Equipment is entitled to enter your premises (with or without legal process) and repossess and remove any such Equipment. You hereby waive any claim of trespass or right of action for damages by reason of such entry and repossession.

### 14.4 Software

You must comply with any additional terms and conditions we prescribe from time to time in relation to software that we supply to you as part of the Merchant Services.

### 14.5 Preventing unauthorised terminal access

In order to help prevent unauthorised access to the Equipment, you must:

- a. regularly change your Refund Password in accordance with the relevant user guide; and
- b. refrain from disclosing your Refund Password to anyone other than your authorised Personnel.

## 15. Intellectual Property

- a. You acknowledge that all Intellectual Property Rights subsisting in the Materials and any Equipment developed by or for us in relation to this Agreement, vest in us (or a licensor, if applicable) and are our property (or the licensor's, if applicable) including but not limited to:
  1. any list of Cardholder details (whether personalised or not) and any promotional material we supply you;
  2. any trade mark, business name, trading style or get-up;
  3. any software or computer program; and
  4. any report, file, script, inventory, database, record or information required to be created, maintained or provided by you pursuant to, for the purpose of or in connection with this Agreement.
- b. You must not, without our consent:
  1. subject to clause 15(c), use or alter our trade marks, business names, trading styles or get-ups whether as part of your corporate or business name or on or in relation to any goods or services;
  2. reproduce or modify any of our software or computer programs; or
  3. merge any report, file, script, inventory, database, record or information referred to in clause 15.1(a) (4) in or with any other information that is held by you and that is not obtained or generated by you in relation to this Agreement.

# General Terms and Conditions

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- c. If we allow you to use one of our trade marks or business names, we grant you a royalty-free, non-exclusive licence during the term of this Agreement or for any shorter period that we specify. This licence will allow you to use that trade mark or business name (as the case may be) in the manner and form which we notify you from time to time solely for the purposes of this Agreement. You acknowledge and agree that we may require you to enter into a separate agreement in relation to the grant of any trade mark, business name or Intellectual Property Rights usage.
  - d. We represent and warrant that we have the right to grant relevant sub-licences of any Materials, Equipment or promotional material provided to you under this Agreement which is not owned by us.
  - e. On termination of this Agreement and at our request and cost, you will assign to us all Intellectual Property Rights in and to:
    - 1. all software designed specifically for; and
    - 2. all modifications, enhancements and application development to software undertaken by you specifically for the purposes of, the Merchant Services the subject of this Agreement.
  - f. You must also observe the requirements of any Card Scheme Rules relating to the display of any trademarks or other intellectual property of that Card Scheme.
- c. You are responsible for any act or omission of the Authorised Signatory or Authorised Phone User as if you had performed such act or omission. When an Authorised Signatory or Authorised Phone User instructs us to carry out an action or makes a transaction, we will act on the instructions of that Person as if it was you who carried out the action or made the transaction. We are not required to make any inquiries in relation to any instructions received from an Authorised Signatory or Authorised Phone User in relation to the operation of your Merchant Services facility.
  - d. Acceptance of an Authorised Signatory or Authorised Phone User is entirely in our discretion. If we do agree:
    - 1. we may impose conditions on the functions that the Authorised Signatory or Authorised Phone User may carry out at any time;
    - 2. the Authorised Signatory will be authorised to operate and instruct us on your Merchant Services facility and your Nominated Account(s) on your behalf;
    - 3. the Authorised Phone User will be authorised to operate and instruct us on your Merchant Services facility for matters that may be dealt with over the phone;
    - 4. relevant terms and conditions of this Agreement will apply to the Authorised Signatory and Authorised Phone User in the same way that they apply to you;
    - 5. the instructions that we will accept from an Authorised Signatory may include requests to:
      - A. alter account details, add new accounts and perform all deposit/withdrawal transactions; and
      - B. authorise changes to or add other Authorised Signatories, in relation to both the Nominated Account and/or the Merchant Services facility.
  - e. You can arrange to have the authority of an Authorised Signatory or Authorised Phone User revoked at any time by notifying us in writing.
  - f. You consent to us giving an Authorised Signatory or Authorised Phone User information about your Merchant Services facility and Nominated Account(s) (where applicable).

## 16. Authorised Signatories and Authorised Phone Users

An **'Authorised Phone User'** means any Person nominated by you (or nominated by an Authorised Signatory) via the relevant appointment form (i.e. the Authorised Phone User Form, or **'APU Form'**) to operate, access and instruct us in relation to your Merchant Services facility, in accordance with the authority granted on the APU Form.

An **'Authorised Signatory'**, for the purposes of your Merchant Services facility, means any Person you have appointed as an 'authorised signatory' to operate your Nominated Account(s).

All Authorised Signatories must also be appointed as an Authorised Phone User via the APU Form, in order to be able to give instructions by phone for your Merchant Services facility.

- a. You may appoint an Authorised Signatory or Authorised Phone User to operate, access and instruct us on matters related to your Merchant Services facility.
- b. If you wish to change an Authorised Signatory or an Authorised Phone User, you must instruct us in writing in the form required by us.

## 17. Acknowledgements by You

### 17.1 Acknowledgements in relation to this Agreement

You acknowledge and agree that:

- a. you have not entered into this Agreement as a result of, or in reliance upon, any representation, promise or statement given or made by or on behalf of us;
- b. nothing contained or implied in this Agreement constitutes you as our partner, agent, or legal representative for any purpose, nor creates any partnership, agency or trust, and you have no authority to bind us in any way; and

- c. we are not the agent of, nor represent in any way, any Card Scheme or their affiliates.

## 17.2 Authority to complete

You authorise us (acting reasonably and in good faith) to date, correct, fill in any minor blanks and otherwise complete the Letter of Offer and any other documents associated with this Agreement.

## 17.3 Cardholder's creditworthiness

You acknowledge and agree that you cannot infer from the fact that a Cardholder has been issued with a Nominated Card, or that a Transaction has been processed or an Authorisation has been given, that we have guaranteed:

- a. the Cardholder's creditworthiness;
- b. the correct identity of the Cardholder; or
- c. that the Transaction is valid and acceptable and will not be subsequently charged back or reversed.

## 18. Representations and Warranties

You represent and warrant to us that:

- a. you are not in a material breach of any Relevant Law;
- b. all Cardholder information that you collect and all associated computer systems and manual storage systems that you use (including your Payment Gateway Provider, if applicable) is administered and maintained in accordance with all relevant Data Security Standards;
- c. if you are an incorporated body, you validly exist under the laws of your place of incorporation and have the power and authority to carry on your business as that business is now being conducted and using any name under which that business is being conducted; and
- d. none of you, a Related Body Corporate or any officer, employee or agent of you or a Related Body Corporate has at any time been listed on a database of terminated merchants maintained by any Card Scheme or have otherwise had Merchant Services terminated by another acquiring bank, unless otherwise disclosed to us in writing.

## 19. Term, Termination and Suspension

### 19.1 Term

- a. Unless terminated earlier, this Agreement is for the term stated in the Letter of Offer, beginning on the Commencement Date ('**Initial Term**').
- b. Subject to sub-clause (c), upon expiry of the Initial Term the parties acknowledge and agree that unless we notify you otherwise, this Agreement will automatically be renewed for a further term consisting of the same duration as the Initial Term and continue indefinitely thereafter until terminated by either party ('**Further Term**').

- c. If you do not wish the term to automatically renew, or you wish to terminate this Agreement before the end of the Initial Term or during the Further Term, you must give us at least 60 days written notice.

### 19.2 Suspension

- a. We, in conjunction with your Payment Gateway Provider (if applicable), may suspend all or part of the Merchant Services without notice to you if:
  - 1. a suspension of the Merchant Service is reasonably required in order to reduce or prevent fraud;
  - 2. we or one of our Representatives are required to suspend the Merchant Service under a Relevant Law or Supplier Agreement, or pursuant to an order or instruction of a regulator or Card Scheme;
  - 3. we or one of our Representatives reasonably consider that the use of the Merchant Services by you may:
    - A. cause death or personal injury to someone, or damage to property; or
    - B. materially impair the operation of any of the networks which are used to provide the Merchant Services;
  - 4. you breach a material provision of this Agreement, or cause us to be in breach of a Supplier Agreement;
  - 5. we do so in accordance with our rights under Schedule 1 (if applicable);
  - 6. we or one of our Representatives are required to conduct emergency repairs, maintenance or servicing to a part of the network(s) that is used to provide the Merchant Services;
  - 7. technical problems are experienced interconnecting any of the networks which are used to provide the Merchant Services; or
  - 8. we reasonably consider it necessary to protect our or your interests.

### 19.3 Termination

- a. We may terminate this Agreement (or any part of it):
  - 1. at any time without reason upon 60 days prior written notice to you;
  - 2. upon 14 days prior written notice where you are in material breach of a provision of this Agreement and, if capable of remedy, that breach is not remedied to our satisfaction within any time period required by us;
  - 3. in accordance with the directions of a Card Scheme (but, without limiting any of our other rights to terminate, only in respect of the services associated with that Card Scheme); or
  - 4. immediately without notice if we reasonably consider it necessary to protect our or your interests.
- b. You may terminate this Agreement (or any part of it) upon 60 days prior written notice in accordance with clause 19.1(c).

- c. When this Agreement ends:
  - 1. you must return to us all stationery, Our Equipment, Terminal User Guides and other Materials we supplied to you in connection with the provision of Merchant Services, and you must remove any Card Scheme logo or any Materials that we have provided you from your business premises and/or websites; and
  - 2. you must immediately pay us any outstanding fees, charges and costs due under this Agreement and each Pricing Offer. You authorise us to withdraw, without notice, any such amounts from any account you have with us.
- d. Upon termination, in order to facilitate closure of your Nominated Account(s) and any other associated accounts ('Accounts'), you acknowledge and agree that we may keep your Accounts open and active for a period of 30 days following termination of this Agreement, in order to finalise and process any outstanding settlement values, fees or charges. Nothing in this clause affects our rights under clause 10.
- e. You are responsible for any fees, charges and costs which accrue until Our Equipment and the Materials referred to in sub-clause (c) above have been returned to us.
- f. If you terminate any part of this Agreement that relates to the supply of Our Equipment (e.g. you no longer require those services because you have sourced your own), then you must pay us any fees, charges and costs that we have prepaid for services in connection with Our Equipment (for example, rental costs from a third-party supplier).
- g. You agree that we may notify any other Person or Card Scheme the fact that all or part of this Agreement has been terminated and the reasons for termination. You acknowledge that the information concerning termination of this Agreement then becomes available to any member of the Card Schemes and may be used in assessing subsequent applications by you for merchant facilities with another acquirer.
- h. This clause 19 survives termination or expiry of this Agreement.

## 20. Non-Disclosure

### 20.1 Confidentiality

- a. A party to this Agreement shall not disclose Confidential Information provided by another party (including the existence or terms of this Agreement) except:
  - 1. to employees, agents and advisers of that party;
  - 2. to a person intending to exercise or deal with rights or obligations under this Agreement;
  - 3. where the information is publicly available or the disclosing party reasonably believes the disclosure is required by any law, stock exchange or rating agency; or
  - 4. otherwise as permitted by this Agreement.
- b. Despite sub-clause (a), you consent to us disclosing information relating to you or any Transaction to any Person in order to enable us to comply with any Relevant Law, this Agreement, the rules of any Card Scheme or any obligation under any Supplier Agreements to which we are a party. In particular, you consent to us disclosing, to the extent permitted by law:
  - 1. such information to Issuers in the event we are aware or form a view that a Transaction has been debited or credited incorrectly to a particular Cardholder account;
  - 2. to participants in any Nominated Card Scheme, information in connection with the cause for termination of this Agreement or any information where we know or have reasonable grounds to suspect you have engaged in fraud when processing Transactions (including the disclosure of any information under clause 19.3(h)); and
  - 3. such information to any employee or Representative of ours or our Related Bodies Corporate to be used or disclosed:
    - A. for credit assessment and administration purposes;
    - B. to enable us to carry out our obligations under this Agreement; or
    - C. for marketing or product development purposes.
- c. Each party must destroy any document containing Confidential Information that is no longer required to be retained.
- d. To the extent the law permits, you agree not to exercise your rights to make any request of us under section 275 of the PPSA, to authorise the disclosure of any information under that section, or to waive any duty of confidence that would otherwise permit non-disclosure under that section.



## 20.2 Publicity and Advertising

- a. You must not (and must ensure that none of your Personnel will) without our prior written consent (which may be given or withheld in our absolute discretion):
  1. use in advertising, publicity or otherwise (including any offer documents, promotional material, in-house publications and circulars) our name (or that of any Related Body Corporate) or of any officer or employee of us or any trade name, trade mark, trade device, service mark, symbol mark, symbol or any abbreviation, contraction or simulation thereof or any other Intellectual Property Rights owned by us (or any Related Body Corporate); or
  2. represent directly or indirectly, that any product or any service provided by you has been approved or endorsed by us or by any officer or employee of us (or any Related Body Corporate).
- b. The consent required under sub-clause (a) shall include the manner in which the announcement or release is to be made and its form and content, unless and only to the extent that the announcement or release is required by a Relevant Law (unless otherwise agreed between the parties).

## 20.3 Survive termination

This clause 20 will survive expiry or termination of this Agreement.

## 21. Limitation of Liability

### 21.1 No representations or warranties

Except for the express representations and warranties contained in this Agreement and to the extent permitted by a Relevant Law, we make no representations or warranties, express or implied, in fact or at law, with respect to the Merchant Services provided by us under this Agreement nor as to the description, merchantability or fitness for purpose of the Merchant Services or any Equipment we supply.

### 21.2 Liability limited

- a. Subject to any clause to the contrary in this Agreement and to the extent permitted by law, we are not be liable to you or any third party for any Losses, including any consequential, incidental, indirect, special, punitive or exemplary damages, or for damages related to loss of profits, opportunity, revenue, goodwill, anticipated savings, inconvenience or other losses, whether or not any such loss or damage was foreseeable and whether or not we had been advised of the possibility of the loss or damage, suffered or incurred by you in connection with this Agreement, the Merchant Services or the Equipment.
- b. Where we are liable, then subject to clause 21.4 and to the extent permitted by law, our liability to you in connection with this Agreement will not exceed the total amount actually paid by you to us in respect of the provision of Merchant Services under this Agreement during the twelve month period immediately preceding the date on which your cause of action first accrued.

## 21.3 Release

To the extent permitted by law and subject to any clause to the contrary in this Agreement, you agree that we are not responsible for, and you release us from, any Losses for which we may become liable, whether during or after the term of this Agreement, arising from or in connection with this Agreement or the Equipment.

## 21.4 Consumer legislation

- a. You may have rights and remedies under the Competition and Consumer Legislation.
- b. If our liability to you for the breach of any term, condition or warranty implied by law is capable of exclusion, it is excluded.
- c. If we have breached any condition or warranty implied under the Competition and Consumer Legislation that is not capable of exclusion, to the extent permitted under law, our liability is limited to the re-supply of the services or the payment of the cost of having the services supplied again at our discretion.

## 22. Force Majeure Event

- a. If a party is wholly or partially precluded from complying with its obligations under this Agreement by a Force Majeure Event affecting that party, then that party's obligation to perform such obligations will be suspended to the extent and for the duration of the delay arising out of the Force Majeure Event.
- b. As soon as possible after a Force Majeure Event arises, the party affected by it must notify the other party of the Force Majeure Event and the extent to which the notifying party is unable to perform its obligations under this Agreement, as far as it is able to ascertain at that time.

## 23. Notices

- a. Subject to any particular notice provisions to the contrary contained in this Agreement, any notice to be given to a party will be deemed to have been given by it:
  1. upon delivery by hand to the other party at the address last notified;
  2. one Business Day after emailing it to the email address last advised, provided the sender has keyed in the correct email address and has not been informed by way of an email alert that the email has failed to reach its intended destination; or
  3. two Business Days after posting it by ordinary pre-paid post addressed to the other party at the address last notified.
- b. A notice takes effect from the time it is delivered unless a later time is specified in it.
- c. You must immediately advise us of any change in your contact details and we shall endeavour to do likewise.

## 24. Changes to this Agreement

- a. Subject to the notice requirements in sub-clause (b), we may change the terms and conditions in this Agreement in our reasonable discretion at any time where there is a legitimate need for us to do so, including to deal with any regulatory change or unforeseen event that may arise.
- b. Unless otherwise specified in this Agreement or separately agreed between you and us, we will give you notice of changes as follows:

Changes	Minimum number of days notice	Method of notice
Increase a fee or charge, introduce a new fee or charge or change any other term or condition which we reasonably believe is unfavourable to you (excluding government fees or charges)	30	In writing or by advertising in the national or local media
Change to any other term or condition which we reasonably believe is not unfavourable to you (excluding government fees or charges)	Any time before the change takes effect	In writing or by advertising in the national or local media
Introduction or variation of any government fees or charges	As soon as practicably after but no later than 1 month after the change takes effect	In writing or by advertising in the national or local media

- c. We may give you a shorter notice period, or no notice, of an unfavourable change if we believe doing so is necessary for us to avoid, or to reduce, a material increase in our credit risk or our loss.

## 25. Assignment

- a. We may assign, subcontract or otherwise transfer all or any part of our rights or obligations (or Our Equipment) under this Agreement.
- b. You cannot assign any of your rights or obligations under this Agreement without our prior written consent.

## 27. Banking Code of Practice

The Banking Code of Practice (**BCOP**) is an industry code which sets standards of good banking conduct. The relevant provisions of the BCOP apply to these Merchant Services if you're an individual or a small business (as defined in the BCOP).

## 26. Waiver, Consent and Approval

- a. Any waiver, consent or approval given by us under this Agreement is only binding on us if it is given in writing and executed by us or by our authorised officer.
- b. Failure by us to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.
- c. We may give our consent for the purposes of this Agreement conditionally or unconditionally or withhold it in our absolute discretion, unless this Agreement indicates otherwise.

## 28. Complaints

- a. If you have a complaint or dispute about anything relating to your Merchant Services facility, you can contact us by:
  1. contacting your relationship manager,
  2. calling Client Support on 1300 550 415 if you do not have a relationship manager
  3. lodge it at: [macquarie.com.au/feedback-and-complaints](https://macquarie.com.au/feedback-and-complaints), or
  4. email us at: [complaints@macquarie.com](mailto:complaints@macquarie.com).
- b. Complaints that arise as a result of confusion or misunderstanding can usually be resolved promptly. Some complaints are more complicated and may involve further investigation by us. If the complaint is not able to be resolved within 30 days, we will provide you with a summary of our position and further information regarding redress.
- c. If we do not rectify a problem notified by you under this clause, you have the option to contact Australian Financial Complaints Authority (**AFCA**). AFCA offers an independent and free resolution process of disputes between consumers and financial service providers. AFCA has certain terms of reference that must be satisfied in order for it to investigate your problem. You can contact AFCA by:
  - i. writing to:  
Australian Financial Complaints Authority, GPO Box 3,  
Melbourne VIC 3001
  - ii. calling: 1800 931 678 (free call)
  - iii. emailing: [info@afca.org.au](mailto:info@afca.org.au)

### d. Macquarie Customer Advocate

The Macquarie Customer Advocate's role is to:

- listen to our customers and provide a customer-centric voice when making recommendations to improve customer experience
- minimise the risk of future problems by reviewing key customer themes
- work with Macquarie complaint teams to promote fair and reasonable customer outcomes

The Macquarie Customer Advocate is separate to Macquarie's operating, risk and support groups including its internal dispute resolution teams.

The Macquarie Customer Advocate can be contacted at:

The Customer Advocate  
Macquarie Group Limited  
GPO Box 4294  
Sydney NSW 1164

Email: [customeradvocate@macquarie.com](mailto:customeradvocate@macquarie.com)

## 29. Governing Law

This Agreement will be governed by the laws of the State of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of that State.

## 30. Invalidity

Any provision of this Agreement which is invalid or unenforceable in any jurisdiction will as to that jurisdiction only be read down or severed to the extent of that invalidity or unenforceability. The remaining provisions of this Agreement are and continue to be valid and enforceable in accordance with their terms.

## 31. GST

- a. Unless expressly stated or agreed otherwise, any consideration or amount payable under this Agreement, including any non-monetary consideration (**'Consideration'**), is exclusive of GST.
- b. If GST is or becomes payable on a supply made under or in connection with this Agreement (**'GST Liability'**), then:
  1. an additional amount is payable by the party providing Consideration for the supply (**'Recipient'**) equal to the amount of the GST Liability, which is to be calculated by the party making the supply (**'Supplier'**) in accordance with the GST Law; and
  2. the Recipient will indemnify and keep the Supplier indemnified for the full amount of the GST Liability.
- c. The amount of the GST Liability is payable at the same time and in the same manner as the Consideration for the supply, and the Supplier must provide the Recipient with a valid tax invoice before payment of the amount of the GST Liability.

## 32. Close-Out Netting Contract

This Agreement is intended to be a close-out netting contract for the purposes of the Payment Systems and Netting Act 1998 (Cth).

## 33. Definitions and Interpretation

### 33.1 Definitions

Unless the contrary intention appears, the following words have these meanings in this Agreement:

**Agreement** means these general terms and conditions and all of the documents referred to in clause 3.1(a).

**Authorisation** has the meaning given in clause 5.1.

**Authorised Phone User** and **Authorised Signatory** have the meanings given in clause 16.

**Bureau** means a third party used by you to transmit information between us and you on your behalf.

**Business Day** means every weekday except for Australian national public holidays.

**Card Not Present Transaction** means a Transaction where any of the card, Cardholder, or you are not physically present together at the time of the Transaction. This includes all MOTO Transactions, E-Commerce Transactions, Internet Merchant Services Transactions and any relevant EFT Transactions.

**Card Schemes** means Visa, MasterCard, American Express and/or JCB (as applicable).

**Card Scheme Rules** means the relevant rules and regulations which regulate participants in the respective Card Schemes, as amended or varied from time to time.

**Cardholder** means the Person in whose name the Credit Card or Nominated Card has been issued.

**CECS Regulations** means those regulations described by the regulations for Consumer Electronic Clearing System as published by the Australian Payments Network Limited.

**Chargeback** means the reversal of a Transaction back to you (i.e. which you are liable for) because it has been disputed by a Cardholder or Issuer and determined against you in accordance with the applicable Card Scheme Rules.

**Charge Card** means a sub-category of a Credit Card that has been designated by the relevant Issuer as a charge card.

**Chip Card** means a plastic card containing a computer chip that adheres to the 'Chip Security Standards' as mandated by the relevant Card Schemes.

**Commencement Date** means the date we commence to provide you with the Merchant Services facility (i.e. the date that installation or set-up of your Terminals or the Internet Merchant Services is complete).

**Competition and Consumer Legislation** means the Competition and Consumer Act 2010 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth) and equivalent State legislation, as varied and amended from time to time.

**Confidential Information** means all information and material (whether disclosed orally, in writing or in any other form) that is designated as confidential or is imparted to a party in circumstances of confidence, under or in connection with this Agreement. Confidential Information includes any information relating to our business systems, operations, customers, properties, assets or affairs of us or those of our Related Bodies Corporate. It also includes all copies, notes and records and all related information based on, or arising out of, any disclosure of such information and material.

Confidential Information does not include information or material that is:

- a. in the public domain (other than as a result of a breach of this Agreement); or
- b. independently developed, discovered or known by a party.

**Credit Card** means:

- a. a card that has been designated by the Issuer as a card belonging to one of the Card Schemes and which the Card Schemes recognise as being a credit card; or
- b. a Charge Card.

**Data Security Standards** means the data security standards mandated by the Card Schemes for the protection of Cardholder details and Transaction information (including PCI-DSS), issued by the Security Standards Council, as amended and/or notified to you from time to time).

**Debit Card** means a debit card issued by a bank (or designated as a debit card by one of the Card Schemes) which is linked to a bank account that may be used to withdraw cash from an ATM or to pay for goods or services via an EFT Transaction and which is compatible with the Equipment. It does not include Credit Cards or Charge Cards.

**Direct Debit Request** means the direct debit request form given to you with the Letter of Offer, which authorises us to debit fees, charges and any amounts payable by you from your Nominated Account(s), or such other account as specified on the form and agreed by us.

**E-Commerce Transaction** means a Transaction between you and a Cardholder which has been ordered over the internet or by email, for which you use the Equipment to process the Transaction (only where we have previously notified you that we agree to facilitate such transactions). This excludes Transactions processed by Internet Merchant Services.

**EFT Transaction (electronic funds transfer Transaction)**

means a funds transfer to or from a Cardholder's bank account that is initiated through the Equipment in order for the Cardholder to:

- a. purchase goods or services from you by using a Debit Card and PIN at a Terminal; or
- b. purchase goods and services from you by providing relevant account or Debit Card details to you for processing as a Card Not Present Transaction, either directly or indirectly, or via a third party, or over the phone, or via mail, facsimile or e-mail, or your website.

**Equipment** means all Terminals, computers, telephones or other hardware or software which is used to connect to our electronic banking system from your premises, which includes Our Equipment and any of Your Equipment.

**Float** means the non-withdrawable minimum balance for the Float Amount which must at all times be set as non-withdrawable funds on your Float Account.

**Float Account** has the meaning given in clause 10.3.

**Float Amount** means a minimum non-withdrawable amount which must be held in your Float Account (if we so require) which is reasonably determined (and subject to change) by us in accordance with clause 10.3.

**Floor Limit** means the maximum amount that you are permitted to process for each Cardholder in any Transaction or series of Transactions, which is \$50,000.00 (unless otherwise agreed in writing).

**Force Majeure Event** means anything outside a party's reasonable control including, without limitation, fire, flood, drought, storm, lightning, acts of God, earthquakes, peril of sea or air, malicious damage, revolution, explosion, sabotage, accident, embargo, labour dispute or shortage, any computer or other technology malfunction, civil commotion, act of war and war, terrorism and any natural disasters.

**Fraud Protection Guide** means the user guide titled 'Fraud Protection Guide' provided to you upon installation of the Equipment.

**Future Dated Payments** means the payments you receive in advance from the Cardholder before you deliver the goods or services.

**Future Dated Risk** means our reasonable assessment of the credit risk arising from the Merchant Services we provide to you taking into account the risk of Chargebacks in respect of Future Dated Payments.

**GST** means any tax imposed under GST Law and includes 'GST' within the meaning of the GST Act.

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time.

**GST Law** means 'GST Law' as defined in the GST Act and includes any Act of the Parliament of Australia that imposes or deals with GST.

**Intellectual Property Rights** means any patents, trade marks, service marks, designs, copyright, business names, trade secrets, know how and other intellectual property rights and interests (in each case whether or not registered under any Relevant Law).

**Internet Merchant Services** means the internet-based Merchant Services payment gateway product known as 'Macquarie Navigator' that we offer and agree to process in conjunction with an approved Payment Gateway Provider.

**Issuer** means the company that has issued a Credit Card to the Cardholder in accordance with the Card Schemes, or the company that has issued the relevant Nominated Card or Non-Standard Card.

**Letter of Offer** means the letter of offer we give you in connection with the Merchant Services the subject of this Agreement, which includes the Pricing Offer in relation to each Product.

**Losses** means losses, claims, demands, penalties, actions, causes of action, suits, obligations, liabilities, damages, delays, costs and expenses, including reasonable attorney's fees.

**Materials** means any writing (including all Terminal User Guides and instruction manuals), drawing, model, photographic product, computer program, table, compilation, literary work, artistic work, or any electronic, magnetic, electro-magnetic or optical form of storage.

**Merchant Services** means the merchant services facility offered by us to you, which enables you to accept payment for your goods and services via Nominated Cards through the Equipment and/or your Payment Gateway Provider, as detailed in this Agreement. Your merchant services facility may comprise a number of different Product types, which will each have its own respective Pricing Offer.

**Multi-Merchant Facility** means the shared Terminal which is provided by us to you and your Co-Merchants for your respective Merchant Services facilities. Internet Merchant Services cannot be included in this facility type.

**Multi-Settlement Accounts Facility** means the Terminal provided pursuant to your Merchant Services facility, which has been configured for multiple Nominated Account processing. Internet Merchant Services cannot be included in this facility type and may only be set up for an individual Nominated Account.

**MOTO Transaction** means a Credit Card Transaction involving an order for goods or services received by you by mail, facsimile, telephone or email.

**Nominated Account** means the account(s) referred to in clause 10.1(a).

**Nominated Card** means a type of Credit Card or Debit Card as the case may be, details of which are identified as 'Nominated Cards' in the Letter of Offer.

# General Terms and Conditions

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**Non-Standard Card** means a type of card (if any), details of which are identified as 'Non-Standard Cards' in the Letter of Offer or as agreed between the parties from time to time.

**Offline Transaction** means the process in which details of a Transaction are read and stored by the Equipment but are processed later than normal due to malfunction of the Equipment or any network downtime.

**Our Equipment** means all Equipment provided by us to you including the Terminals (if applicable).

**Payment Gateway Provider** means a third-party provider of software and internet technology that enables Transactions to be made securely over the internet.

**PCI-DSS** means the Payment Card Industry Data Security Standards.

**Person** means an individual, firm, body corporate, unincorporated body or association, partnership, joint venture or any government agency or authority.

**Personal Information** has the meaning set out in the Privacy Act 1988 (Cth).

**Personnel** means your employees, agents, advisers, auditors, consultants or contractors.

**PIN** means the personal identification number allocated by us or the relevant Issuer, or personally selected by the Cardholder.

**Point of Sale Transaction** means a Transaction where the card, Cardholder, and you, are all physically present at the time of the Transaction.

**PPSA** means the Personal Property Securities Act 2009 (Cth).

**Pre-Authorisation** has the meaning given in clause 5.2.

**Pricing Offer** means the 'Pricing Offer' set out in the schedule to the Letter of Offer, which specifies the fees and charges payable by you in relation to each particular Product, as amended from time to time in accordance with this Agreement.

**Privacy Law** means all legislation, principles and industry codes or policies relating to the collection, use, disclosure, storage and granting of access rights to Personal Information as well as data protection, surveillance, security, direct marketing and other related matters (as amended and varied from time to time).

**Product** means any (or a combination of) the following product types being provided to you as part of your Merchant Services facility, as identified on the Pricing Offer (or any additional product types that we may offer to you from time to time):

- a. 'Macquarie Explorer' wireless Terminal;
- b. 'Macquarie Base' counter-top Terminal; or
- c. 'Macquarie Navigator', being the Internet Merchant Services.

For the avoidance of doubt, each Product may have a separate Pricing Offer applicable to it, and this Agreement will govern the use of all Products collectively.

**Refund Password** means the password you must enter into the Terminal before processing a refund Transaction. We will initially provide you a generic password which you can later change to a password of your choice.

**Related Body Corporate** has the meaning given to it in the Corporations Act 2001 (Cth).

**Relevant Law** means any:

- a. statute, ordinance, code or other law including regulations and other instruments under them, including all Privacy Laws and CECS Regulations; and
- b. applicable Card Scheme Rules.

**Representatives** means our agents, suppliers, contractors, sub-contractors and permitted assigns.

**Security Interest** means any:

- a. security interest under the PPSA or security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust or title retention or flawed deposit arrangement;
- b. right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off;
- c. right that a person (other than the owner) has to remove something from land, easement, public right of way, restrictive or positive covenant, lease or licence to use or occupy; or
- d. third party right or interest, or any right arising as a consequence of the enforcement of a judgement, or any agreement to create any of them or to allow them to exist.

**SSL** means secure socket layer.

**Supplier Agreements** means the various agreements entered into by us in order to facilitate the acquiring, processing and settlement of transactions initiated through Terminals or Internet Merchant Services, including any agreements relating to the Card Schemes and any maintenance agreements.

**Terminal** means the EFTPOS terminals which we supply to you, or those which you have supplied and that we have approved for use (in our absolute discretion, having regard to connectivity and security considerations).

**Terminal User Guide** means, collectively, all user guide information and materials provided to you upon installation of the Equipment.

**Transaction** includes a sales transaction (and any tip), refund transaction and cash-out transaction involving all Nominated Cards (Credit Card or Debit Card as the case may be) howsoever processed.

**Transaction Receipt** means a document used to evidence a Transaction.

**We, our** and **us** means the Business Banking Division of Macquarie Bank Limited ABN 46 008 583 542.

**You** and **your** means the Person or Persons named as the addressee in the Letter of Offer and listed as a party in this Agreement. If there is more than one addressee, 'you' refers to each addressee individually as well as collectively.

**Your Equipment** means those parts of the Equipment which you have elected to supply yourself and which must be approved by us under clause 4.5(a)(1).

## 33.2 Interpretation

In this Agreement, unless the contrary intention appears:

- a. a reference to any party includes a reference to their successors and permitted assigns (including Persons taking by novation);
- b. a reference to this Agreement or any other document includes that document as amended, novated, supplemented, ratified or replaced from time to time;
- c. a reference to a law, ordinance, code or other law includes regulations and other instruments as amended, consolidated, supplemented or replaced;
- d. any term used in this Agreement which is defined in the Corporations Act 2001 (Cth) has the meaning given to that term in the Corporations Act 2001 (Cth);
- e. words importing the singular include the plural and vice versa;
- f. words importing any gender include all other genders;
- g. headings are used for convenience only and do not affect the interpretation of this Agreement;
- h. if something is to be done on a day which is not a Business Day then that thing must be done on the next or following Business Day;
- i. any thing (including any amount) is a reference to the whole and each part of it, and a reference to a group of Persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- j. "including", "for example" or "such as" and similar expressions are not words of limitation;
- k. an agreement, representation or warranty in favour of two or more Persons is for the benefit of them jointly and severally;
- l. money amounts or the symbol "\$" is a reference to Australian currency unless otherwise specified; and
- m. a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed ('**defunct body**'), means the agency or body which performs most closely the functions of the defunct body.

## 33.3 Inconsistency

To the extent of any inconsistency between the documents referred to in clause 3.1(a), the following rules will apply:

- a. the Letter of Offer prevails over all other documents;
- b. the terms and conditions for specific Card Schemes prevail over these general terms and conditions; and
- c. these general terms and conditions prevail over the remaining documents.

# Schedule 1

## Multi-Merchant Facilities

The terms and conditions in this Schedule only apply where you have indicated to us that you require your Merchant Services facility to be part of a Multi-Merchant Facility. This may be in conjunction with a Multi-Settlement Accounts Facility.

### 1. Definitions

In this Schedule, the following words have these meanings:

**Co-Merchants** means all of the merchants comprising the Multi-Merchant Facility.

**Merchant ID** means the unique identification number that we have assigned to you in order for you to login to the shared Terminal (along with your Password) and process Transactions to your Nominated Account. The Merchant ID will appear as your entity name (or an abbreviated version of it) on the Terminal for ease of login.

**Password** means the password selected by you, to be used in conjunction with the Merchant ID for you to login and process Transactions on the shared Terminal.

### 2. Multi-Merchant Facility Generally

- a. In respect of the Multi-Merchant Facilities this Agreement is only between you and us. Any Co-Merchants referred to in this Agreement procure their services from us under separate agreements.
- b. You and your Co-Merchants must appoint one merchant to be known as the **'Primary Merchant'**, while all other Co-Merchants will be referred to as **'Supplementary Merchants'**. The appointment of the Primary Merchant should be made with your application for a Multi-Merchant Facility.
- c. You and your Co-Merchants will receive individual Merchant IDs and Passwords to use on the Terminal, in order to process Transactions to your respective Nominated Accounts.
- d. You must ensure that you correctly select your Merchant ID and enter your Password to validly process a Transaction to your Nominated Account.

### 3. Responsibilities of Primary Merchant and Supplementary Merchants

- a. The Primary Merchant will be the central point of contact between all Co-Merchants and us for all enquiries in relation to the Equipment and the Multi-Merchant Facility generally. If you are a Supplementary Merchant you authorise and appoint the Primary Merchant as your agent to instruct us on your behalf in relation to the Equipment and the Multi-Merchant Facility generally.
- b. In accordance with clause 14, you are responsible for all liability in relation to the Equipment, regardless of whether such liability results from an act or omission of the Primary Merchant or a Co-Merchant.

- c. The Primary Merchant is responsible for the payment of all fees in relation to the Equipment (namely, the **'Monthly Terminal Rental Fee'**).
- d. All Transaction-related fees are paid by respective Co-Merchants which process relevant Transactions assessed on each Co-Merchant's individual Merchant Services facility (as well as any other fees as identified on the Letter of Offer).
- e. If the Primary Merchant wishes to end their Merchant Facility or their association with the Multi-Merchant Facility, the Supplementary Merchants (or the Primary Merchant) must appoint (by notifying us in writing) a new Primary Merchant to take over the Primary Merchant responsibilities if they wish the Multi-Merchant Facility to continue. Failure to do so may result in suspension or termination of the Merchant Services or Multi-Merchant Facility.

### 4. Password undertakings

You agree and undertake to comply with the following:

- a. You must keep the Password confidential (including from Co-Merchants) and you must not record or log the Password onto any medium.
- b. You must immediately notify us upon becoming aware or suspecting:
  1. that any unauthorised Person knows the Password;
  2. any loss, theft or misuse of the Password; or
  3. any other breach of security.
- c. Upon the occurrence of a breach of security pursuant to subclause (b) above, you must discontinue use of the Password until we issue you with a new Password.
- d. You acknowledge and agree that we are entitled to assume that any access and operation of your Merchant Services facility via the Multi-Merchant Facility using the Merchant ID and Password allocated to you has been made by you, or a Person authorised by you, regardless of the true identity of the Person accessing and operating your Merchant Services facility.
- e. You acknowledge that we are not liable for, and you release us from, any Loss you incur as a result of any erroneous or incorrect use of the Multi-Merchant Facility by you or your Co-Merchants, including any incorrect use of the Merchant ID, Password or the Multi-Merchant Facility in processing Transactions to your Nominated Account or the nominated account of a Co-Merchant. We are not responsible if you process a Transaction to a Co-Merchant's nominated account.



# Schedule 2

## Multi-Settlement Account Facilities

The terms and conditions in this Schedule only apply where you have indicated to us that you require your Merchant Services facility to be a Multi-Settlement Accounts Facility. This may be in conjunction with a Multi-Merchant Facility.

### 1. Definitions

In this Schedule, the following words have these meanings:

**Accounts** means the Primary Account and all of the Supplementary Settlement Accounts you have indicated on the Multi-Settlement Accounts Addendum form to be comprised as Nominated Accounts for your Multi-Settlement Accounts Facility. Each account will be allocated an individual Merchant ID and Password for use on the Terminal in order to process particular Transactions to each of your respective accounts. Each account must be held with us in your entity name.

**Merchant ID** means the unique identification number that we have allocated to each Account that you have requested in order for you to login to the Terminal (with the associated Password) and process Transactions to your chosen Account. The Merchant ID will be linked to each Account and will appear as your chosen Account name on the Terminal for ease of login.

**Password** means the password selected by you for each Account, to be used in conjunction with the respective Merchant ID for you to login and process Transactions on the Terminal to your desired Account.

### 2. Primary Account and Supplementary Settlement Accounts – your responsibilities

- a. You must nominate one Account to be known as the **'Primary Account'**, while all other Accounts will be referred to as **'Supplementary Settlement Accounts'**. The appointment of the Primary Account should be made with your application for Merchant Services, while all Supplementary Settlement Accounts should be detailed on the Multi-Settlement Accounts Addendum form.
- b. You must ensure that you select the correct Merchant ID and enter the corresponding Password in order to validly process a Transaction to your desired Account.

- c. If you wish to change the status of your Primary Account or to remove or add any Supplementary Settlement Accounts you must notify us in writing in the form required by us.
- d. You acknowledge and agree that the payment of all fixed fees in relation to the Merchant Services facility and the Equipment (for example, the Monthly Terminal Rental Fee) will be deducted from the Primary Account (or any separate fees and charges account that you have indicated). All Transaction-related fees and any fees directly linked to a Supplementary Settlement Account will be deducted from the fees and charges account that you have indicated is to be linked to that Supplementary Settlement Account (if applicable).

### 3. Password and Indemnity

- a. You must keep all Passwords confidential and you must not record or log the Passwords onto any medium.
- b. You must immediately notify us upon becoming aware or suspecting:
  1. that any unauthorised Person knows a Password;
  2. any loss, theft or misuse of a Password; or
  3. any other breach of security.
- c. Upon the occurrence of a breach of security pursuant to subclause (b) above, you must discontinue use of the relevant Password until we issue you with a new Password.
- d. You acknowledge and agree that we are entitled to assume that any access and operation of your Multi-Settlement Accounts Facility has been made by you, or a Person authorised by you, regardless of the true identity of the Person accessing and operating your Multi-Settlement Accounts Facility.
- e. You acknowledge that we are not liable for, and you release us from, any Loss you incur as a result of any erroneous or incorrect use of the Multi-Settlement Accounts Facility by you. We are not responsible if you erroneously process a Transaction to an Account that you intended to process to a different Account

**macquarie.com.au**

For more information about Merchant Services speak to your relationship manager or call us on **1800 183 879**.

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Macquarie Bank Limited ABN 46 008 583 542.