



Bank of  
Melbourne

# EFTPOS Merchant Agreement.

Terms and Conditions.

Effective date: 17 June 2024

# You've got questions? We've got time to talk.



[bankofmelbourne.com.au/merchantsupport](https://bankofmelbourne.com.au/merchantsupport)



**1300 603 266**

Available 24/7



**Merchant Services**

Mailstop 32.B.7

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Sydney NSW 2001

## **Accessibility support.**

At any time, you can inform us how you would prefer to be contacted. If you are deaf and/or find it hard hearing or speaking with people who use a phone, you can reach us through the National Relay Service (NRS). To use the NRS you can register by visiting [accesshub.gov.au/about-the-nrs](https://accesshub.gov.au/about-the-nrs)

Visit [bankofmelbourne.com.au/accessibility](https://bankofmelbourne.com.au/accessibility) for further information on our accessible products and services for people with disability.

# Summary of the Key Terms of Your Merchant Facilities.

This is a summary of the key terms of your Merchant Facility. It doesn't replace the agreement formed when you enter into the Merchant Facility Agreement comprised of EFTPOS Merchant Agreement Terms and Conditions ("**Terms and Conditions**"), Your guide to merchant fees and charges ("**Fees Guide**"), Your guide to the Payment Card Industry Data Security Standard (PCI DSS) ("**PCI DSS Guide**"), Protecting business against credit card fraud ("**CC Fraud**"), Application for New Merchant Facility ("**Application**") and any other privacy notices or consents ("**Privacy Documents**") ("**Agreement**") nor does it cover all of your obligations. You still need to carefully read through the Agreement and any other documents we provide.

|   | Subject       | Key term  | Relevant section in your Terms and Conditions  |
|---|---------------|---|--|
| 1 | Our Liability | Our liability under the Agreement is limited. This includes (but is not limited to) liability for breach of obligations, processing delays, and Integrated Payment Solutions. | Section 4 "Processing Transactions", section 15 "eCommerce Merchants", section 16 "Mail Order/Telephone Order Merchants", section 38 "Our liability is limited" and section 26 "Financial Crimes Monitoring and Anti-Money Laundering" |
| 2 | Surcharging   | You must comply with our surcharging requirements.  | Section 6 "Surcharging"  |

|   | Subject                        | Key term  | Relevant section in your Terms and Conditions   |
|---|--------------------------------|---|---|
| 3 | No Bank of Melbourne Guarantee | We make no guarantee in respect of accuracy of information on online servicing, any Cardholder's creditworthiness or identity, or the POS provider. | Section 10 "Online access to statements and other information about your merchant facilities", section 20 "Creditworthiness of the Cardholder", and section 38 "Limitation of liability for Integrated Payment Solutions" |
| 4 | Refusing transactions          | We may delay, block, freeze, refuse or decline Transactions on the basis of breach of law, sanctions or fraud.                                      | Section 26 "Financial Crimes Monitoring and Anti-Money Laundering" and section 4 "Processing Transactions"  |

|   | Subject                           | Key term   | Relevant section in your Terms and Conditions  |
|---|-----------------------------------|--|--|
| 5 | Use and disclosure of information | We may use the information you provide us and disclose it to third parties in a number of ways. Additional disclosure consents apply for Integrated Payment Solutions.   | Section 24 <i>"Fraud prevention"</i> , section 27 <i>"Termination"</i> , section 28 <i>"Privacy Law and Use of Information"</i> , section 26 <i>"Financial Crimes Monitoring and Anti-Money Laundering"</i><br><br>Also see all privacy consents in the Application and any other Privacy Documents<br><br>Also see section 38 <i>"Limitation of liability for Integrated Payment Solutions"</i> |
| 6 | Variation                         | We may vary the Agreement at any time and will notify you of this.   | Section 21 <i>"Variations and Notices"</i>   |
| 7 | Equipment                         | You must take care of and follow our requirements for the Equipment. In addition, you must at your expense, prepare a site for the Equipment – so that it meets our specifications. Additional obligations apply for Terminals not supplied by us. | Section 3 <i>"Equipment"</i>   |

|    | Subject                    | Key term   | Relevant section in your Terms and Conditions  |
|----|----------------------------|--|--|
| 8  | Indemnities                | You indemnify us for a range of losses we may incur in connection with the Agreement.  | Section 23 <i>"Warranties and indemnities"</i> , section 27 <i>"Termination"</i> and section 35 <i>"Use of Trademarks"</i><br><br>Also see section 26 <i>"Financial Crimes Monitoring and Anti-Money Laundering"</i> |
| 9  | Access                     | We may enter your premises and access the Equipment and your records to handle or recover the Equipment or to ensure that you are complying with the Agreement.                                    | Section 3 <i>"Equipment"</i> , section 19 <i>"Records"</i> and section 27 <i>"Termination"</i> .   |
| 10 | Termination and suspension | We may terminate the Agreement or use of a Merchant Facility in certain circumstances. We are not obliged to accept Transactions after termination. We may also suspend a facility without notice. | Section 27 <i>"Termination"</i> and Section 34 <i>"Suspension"</i>   |
| 11 | Verification of customers  | It's your responsibility to check that the customer is the genuine cardholder.   | <i>"Why is it important to verify a customer?"</i> and <i>"How Online Authentication – 3D Secure^ can help"</i> of the CC Fraud  |

|    | Subject                  | Key term   | Relevant section in your Terms and Conditions   |
|----|--------------------------|--|---|
| 12 | Refusals and Chargebacks | We may refuse to accept or issue Chargebacks on transactions on various grounds. You'll generally be liable for Chargebacks, including Chargebacks processed after your Merchant Facility has closed.  | Section 8 <i>"Invalid Transactions"</i> , <i>"Chargebacks"</i> of the CC Fraud  |
| 13 | Merchant Choice Routing  | We may activate or deactivate Merchant Choice Routing at our discretion.   | Section 5 <i>"Merchant Choice Routing (MCR)"</i>  |
| 14 | Your Account             | We may debit your Account with amounts you owe us. We may also withhold, suspend or retain amounts. We may deduct any money in your Account or another account you hold with us against amounts you owe us and may set-off amounts we owe you. | Section 9 <i>"Your Account"</i>   |
| 15 | PCI DSS                  | You must comply with the Payment Card Industry Data Security Standards.  | Section 24 <i>"PCI DSS Compliance"</i><br>Also see the PCI DSS Guide available on <a href="https://bankofmelbourne.com.au/merchant-terms">bankofmelbourne.com.au/merchant-terms</a> |

|    | Subject              | Key term  | Relevant section in your Terms and Conditions  |
|----|----------------------|---|--|
| 16 | Special Conditions   | Special conditions apply for accommodation, express checkout, rentals, eCommerce and quasi-cash transactions. | Section 11 <i>"Hotel/motel/car rentals/advance accommodation"</i> , section 13 <i>"Express Checkout"</i> , section 14 <i>"Vehicle and equipment rental transactions"</i> , section 15 <i>"eCommerce Merchants"</i> and section 17 <i>"Quasi-Cash Transactions"</i> |
| 17 | Customer information | You must keep information up to date (including email addresses).   | Section 15 <i>"eCommerce Merchants"</i> , section 16 <i>"Mail Order/Telephone Order Merchants"</i> and section 22 <i>"Notices"</i>   |
| 18 | Split transactions   | You must not split a Transaction into two or more Transactions on the same Card.                              | Section 4 <i>"Processing Transactions"</i>   |



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# 1 Your Merchant Facility Agreement.

This booklet sets out the standard terms and conditions that apply to the acceptance of Cards under various types of Merchant Facilities provided by us.

If you accept our offer, as described below, your legally binding contract will comprise of the following information and documents, as amended from time to time, available on [bankofmelbourne.com.au/merchant-terms](http://bankofmelbourne.com.au/merchant-terms):

- this booklet;
- the brochure “Your Guide to Merchant Fees and Charges” (which sets out standard merchant fees and charges);
- the brochure “Protecting Your Business Against Credit Card Fraud”; and
- the “Your Guide to the Payment Card Industry Data Security Standard”.

Together with your offer letter or email and fee schedule, these documents and information comprise your legally binding contract with us (Agreement).

Keep in mind that we have a number of Merchant Facility products. Some of these products require you to enter into a Merchant Service Agreement (MSA Contract). If we agree to provide you with one or more of these products, your legally binding contract will consist of the MSA Contract, this booklet, and the information we give you when we make the offer. It could include any other documents we use to notify you that will govern your use of that product(s), (including – but not limited to – a product module).

Under this Agreement, you also must meet:

- the requirements set out in the Manuals, Documentation or guides we give you from time to time (we may provide such documents to you electronically); and
- the condition set out at [bankofmelbourne.com.au/preauthorisation](http://bankofmelbourne.com.au/preauthorisation)
- If you plan to add a surcharge amount to a transaction, the conditions set out at [bankofmelbourne.com.au/surcharging](http://bankofmelbourne.com.au/surcharging)
- If you use an API or SDK as part of an eCommerce Service that is provided by us, you agree to abide by any license terms and conditions that accompany the API and/or SDK.

This Agreement will become binding in any of the following ways:

- a) by starting to process Transactions through the Merchant Facility;
- b) by taking delivery, of any Equipment enabling the processing of Transactions under the Merchant Facility; or
- c) if you are an eCommerce Merchant, or by accessing and using the eCommerce Service for the first time; or

- d) if you are an eCommerce Merchant using an Accredited Gateway Provider, by obtaining a MID and Merchant Category Code.

If you accept our offer as set out above, you agree:

- i. to always fulfill your obligations set out in the Agreement and any Manuals, Documentation or guides we provide to you; and
- ii. to carry out any reasonable directions and authorities we require of you to implement any of your obligations under the Agreement.

If you do not wish to accept our offer of a Merchant Facility, you must immediately call our Merchant Helpdesk (or contact your Relationship Manager) to withdraw your application – so we can cancel your MID.

If you have not contacted us to withdraw your application within fourteen (14) Business days after the date of the offer, whether in a letter or some other way – we will consider you to have accepted our offer. This is even if you have not done any of the things set out in this section (a), (b) or (c).

If we approve a subsequent application from you for another type of Merchant Facility, the terms and conditions set out in our letter for that Merchant Facility will apply not the Agreement.

Information on current standard fees and charges is available on request.

## 2 Definitions and Interpretation.

In this booklet the following words have these meanings (unless as otherwise stated):

**“Account”** means any account nominated by you for the purposes of this Agreement (including settlement, Chargeback or billing purposes);

**“Account signatory authority”** means the Merchant Owner who has authority to make decisions and execute documents on behalf of the Merchant and/or the Merchant Facility;

**“Accredited Gateway Provider”** means a Gateway Provider who represents to Bank of Melbourne that they are compliant and will continue to be compliant with PCI DSS standards and agrees to comply with our requirements including security and technical standards and can be identified through appearing on the listing at [bankofmelbourne.com.au](http://bankofmelbourne.com.au);

**“ADC”** (being an Account Data Compromise) means any event where Bank of Melbourne or you (or any of your officers or employees), or any Service Provider facilitating the storage, transmission or processing of card payments for or on your behalf, suspect or have confirmation of unauthorised access to Card Information;

**“Agreement”** has the meaning given to it in section 1 as amended from time to time under section 20;

**“API”** means the Application Programming Interface that can be integrated into your software (including Websites and Applications) to process Card Transactions. It enables you to integrate our Card processing functions into your existing front-end systems;

**“Authorisation”** means the response to you requesting our approval for a Card to be used for a particular Transaction, whether through operation of the Terminal, eCommerce Service or by telephone if there is a service interruption, see section 4;

**“Authorised Contact”** means a person duly appointed by a Merchant Owner or Merchant Owner Nominee to be an Authorised Contact with respect to specific Merchant Facilities;

**“Bank of Melbourne”, “we”, “us” or “our”** means Bank of Melbourne – a division of Westpac Banking Corporation ABN 33 007 457 141;

**“Business day”** means any day when Bank of Melbourne is open for business in any State or Territory of Australia. If Bank of Melbourne is closed in all States and Territories then that day won’t be a Business day. If Bank of Melbourne’s offices are closed in your State or Territory but open in other States and Territories then Bank of Melbourne will still regard that day as a Business day in every other State and Territory. Saturday and Sunday are not classified as Business days even though some branches may be open for business.

**“Card”** means:

- a valid payment card issued by a member or affiliate of Mastercard® on which the Mastercard marks appear;
- a valid payment card issued by a member or affiliate of Visa® on which the Visa marks appear;
- a valid payment card issued by a member or affiliate of American Express® on which the American Express marks appear;
- a valid payment card issued by a member or affiliate of UnionPay on which the UnionPay marks appear;
- a valid payment card capable of acceptance under the eftpos mark issued by an Australian bank or financial institution;
- a Charge Card;
- any other valid payment card issued under any loyalty program; or
- any other valid payment card issued by another entity which we request you honour and you agree to honour, and includes a Virtual Card or valid Tokenised Credentials;

**“Card information”** means information about or relating to an account or credit, debit or other form of payment card of a Cardholder;

**“Card Scheme”** means the Mastercard, Visa, American Express, UnionPay, Diners Club, Discover, JCB and eftpos card schemes and

any other similar schemes provided that we are a member of or participate in that scheme;

**“Cardholder”** means a person to whom a Card has been issued;

**“Cash Out”** means a service where a Card Transaction is used by the Cardholder to get cash;

**“Chargeback”** means a debit entry to your Account processed by us, which is the reversal of a credit previously settled to you, as a result of an invalid Transaction (as described in section 8);

**“Charge Card”** means a Card issued under any one of the following Card Schemes: American Express, Diners Club, Discover or JCB;

**“Checkout Page”** means a page where a cardholder finalises a purchase on your Website and can pay for goods or services purchased from an online store;

**“Compatible Mobile Device”** means a compatible portable electronic piece of equipment, such as a smartphone or tablet, that is connected to the internet;

**“Credit Transaction”** means a transaction processed through a Card Scheme other than eftpos;

**“Debit Card Transaction Fee”** means eftpos Purchase Merchant Service Fee and eftpos Cash Out Merchant Service Fee;

**“Debit Transaction”** means a transaction processed through the eftpos Network;

**“DGR Status”** means a deductible gift recipient status as endorsed by and listed with the Australian Taxation Office;

**“Documentation”** means any manual, user guide, technical material and help webpages we provide to you;

**“eCommerce Merchant”** means a Merchant who has been authorised by us to accept Card Transactions whilst conducting the sale of goods or services online, where a Cardholder is not physically present;

**“eCommerce Service”** means any method and/or device used by you, or by any Service Provider that may be used to engage in the acceptance or transmission of Card Transactions or storage of Card payment details. This definition includes but is not limited to all software, hardware, dashboards, databases, digital image and physical records used and/or maintained by you and/or the Service Provider(s);

**“eCommerce Transaction”** means a Transaction between you and a Cardholder where the Cardholder sends Card Information to you over the internet or other network (including via a Website), regardless of how the information is transmitted from you to us;

**“eftpos”** means eftpos Payments Australia Limited;

**“EFTPOS”** means the Electronic Funds Transfer at Point of Sale system;

**“eftpos Cash Out Merchant Service Fee”** means a fee charged per:

- a) Cash Out transaction (and/or a percentage of the transaction value); or
- b) purchase with Cash Out transaction (and/or a percentage of the transaction value);

when the transaction is processed via the eftpos Network – on volume, net or gross basis;

**“eftpos Network”** refers to eftpos Payments Australia Limited which manages the domestic eftpos network through which merchant transactions can be routed;

**“eftpos Purchase Merchant Service Fee”** means a fee charged per purchase transaction (and/or a percentage of the transaction value) when the transaction is processed via the eftpos Network – on volume, net or gross basis;

**“eftpos Scheme Rules”** means the eftpos Scheme Rules published by eftpos on its website from time to time;

**“Electronic Fall Back”** (EFB), when enabled, is a capability that allows the EFTPOS terminal to continue to process transactions during a system outage or downtime. To minimise the impact of major service disruptions, the terminal will automatically switch to Electronic Fall Back mode (EFB). Any transactions processed as EFB are stored offline by the terminal, and once service has been restored, the terminal will forward the transactions to the bank for processing.

EFB is only available when enabled on the terminal and for certain card and transaction types. Refer to our outage guides on the Merchant Support Centre for more information on Keeping your business trading during a Service interruption.

**“End Amount”** means the value at which each Transaction that is routed through the merchant choice routing feature is capped at, as amended from time to time. As most daily limits are capped at \$1,000, the End Amount is currently capped at \$1,000 at the date of these Terms and Conditions. Please refer to [bankofmelbourne.com.au/mcr](http://bankofmelbourne.com.au/mcr) for updates to the End Amount value applicable to Merchant Choice Routing Transactions.

**“Equipment”** includes any Terminal, power cords, car adapters, docking cradles, the user guides and technical Manuals and any other materials or items supplied by us from time to time or supplied by a third party and approved by us for use as Equipment;

**“Fiserv”** means Fiserv Australia Pty Limited (previously First Data resources Australia Limited);

**“Floor Limit”** means the total transaction value which you are authorised to make to a Cardholder on any one occasion in respect of any one Card without getting an Authorisation number from us. This may apply in circumstances where your terminal cannot connect to the bank, such as in Electronic Fall Back mode. We reserve the right to periodically review and revise your authorised Floor Limit to align with the Rules, regulations, and risk-based decisions. This change may not be communicated as your EFTPOS terminal will prompt the operator to take appropriate action when you exceed your Floor Limit in Electronic Fall Back mode. Refer to our outage guides [bankofmelbourne.com.au/merchantsupport](http://bankofmelbourne.com.au/merchantsupport) for more information on how to keep your business trading during a service interruption;

**“Gross”** means that a fee is charged on the value and/or number of sale transactions. The value and/or number of refund transactions are not included in the calculation. For example:

| Card sales value | Card refunds value | Gross value | Merchant Service Fee rate | Merchant Service Fee charged |
|------------------|--------------------|-------------|---------------------------|------------------------------|
| \$20,000         | - Not applicable   | \$20,000    | 1%                        | \$200                        |

  

| Card sales volume | Card refunds volume | Gross volume | Merchant Service Fee rate | Merchant Service Fee charged |
|-------------------|---------------------|--------------|---------------------------|------------------------------|
| 1,000             | - Not applicable    | 1,000        | \$0.50                    | \$500                        |

**“GST”** has the meaning given by the GST Law;

**“GST Law”** has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth). Or, if that Act does not exist for any reason, it means any Act or regulation imposing or relating to the imposition or administration of a goods and services tax in Australia;

**“Keypad”** means PIN Pad. Refer to PIN Pad definition in this list.

**“Law”** includes any law, statute, regulation, ordinance, proclamation, by-law, statutory instrument or order, Rules or codes of conduct issued by regulatory bodies;

**“Mail Order/Telephone Order”** means a Merchant who has been authorised by us to accept Card Transactions whilst conducting the sale of goods or services where a Cardholder is not physically present and the payment is taken when the Cardholder is on the phone with the merchant, or the Cardholder has provided payment details via post;

**“Manual”** includes the Quick Reference Guide, User Guide, and any other practical operating instructions we provide;

**“Mastercard”** means Mastercard International Incorporated;

**“Merchant”** means the legal entity or business bound by the Agreement;



**“Merchant Category Code (MCC)”** is a four-digit number that is used to classify Merchants and businesses by the type of goods or services they provide;

**“Merchant Choice Routing (MCR)”** also known as ‘least cost routing’, directs eligible Multi-Network Debit Card transactions through the eftpos Network which may attract lower merchant service fees.

**“Merchant Facility”** means the Bank of Melbourne approved facility made available to you to enable you to accept payments using Cards;

**“Merchant Helpdesk”** is a 24/7 telephone support service that can help you with technical support, account servicing queries, and making changes to or closing your existing facility;

**“Merchant Owner”** means a business owner, director, partner or trustee of the Merchant or anyone with account signature authority on any account held by the Merchant;

**“Merchant Owner Nominee”** means a person who has been duly appointed as nominee of the Merchant Owner in the form known as the “Merchant Facility Nomination Form”;

**“MID”** means merchant identification number;

**“Multi Merchant”** means one of a number of merchants who have individual merchant agreements with Bank of Melbourne and transact their business through one shared Terminal;

**“Multi Merchant Facility”** provides a means whereby one of a number of merchants may process Transactions for their individual businesses through one shared Terminal;

**“Multi Network Debit Card”** means a Debit Card that displays:

- both the Visa and eftpos brands; or
- both the Mastercard and eftpos brands;

**“Net”** means that a fee is charged on the value and/or number of sale transactions, after subtracting the value and/or number of refund transactions. For example:

| Card sales value |   | Card refunds value |   | Net value |   | Merchant Service Fee rate |   | Merchant Service Fee charged |
|------------------|---|--------------------|---|-----------|---|---------------------------|---|------------------------------|
| \$20,000         | - | \$5,000            | = | \$15,000  | x | 1%                        | = | \$150                        |

  

| Card sales volume |   | Card refunds volume |   | Net volume |   | Merchant Service Fee rate |   | Merchant Service Fee charged |
|-------------------|---|---------------------|---|------------|---|---------------------------|---|------------------------------|
| 1,000             | - | 200                 | = | 800        | x | \$0.50                    | = | \$400                        |

**“Online Banking”** means the online banking service registered in the name of an organisation to manage their business banking online;

**“PAN”** means the Primary Account Number or Cardholder account number commonly located on the front of a Card;

**“Payment Gateway”** means a secure method for authorising Card Transactions over the internet through a system accredited or provided by Bank of Melbourne;

**“PCI DSS”** means Payment Card Industry Data Security Standards which are developed and updated by Payment Card Industry Security Standards Council from time to time;

**“PIN”** means personal identification number;

**“PIN Pad”** means the device designed as part of, or for attachment to, a Terminal and which contains an alpha/number function keyboard by which the user nominates an account and enters a PIN;

**“PPSA”** means the *Personal Property Securities Act 2009* (Cth);

**“Pre-Authorisation”** or **“Pre-Authorised”** refers to the initial Authorisation for an estimated amount reserved on a credit card where final billable amount is unknown at the initial point of sale.

Instead of debiting funds from the cardholder you put the amount on a temporary “hold”, locking those funds until the final billable transaction is processed. From this initial Authorisation, subsequent Authorisations may be made, which reflects the final amount agreed and acknowledged by the cardholder;

**“Prepaid Sale”** means the merchant receives payment from a Cardholder before the merchant has provided goods or services to the Cardholder;

**“Primary Merchant”** means the merchant of a Multi Merchant Facility who agrees to take full responsibility for the physical terminal as per section 3 of this booklet;

**“Privacy Laws”** means the *Privacy Act 1988* (Cth) and any other applicable privacy or data protection laws which may be amended and in force from time to time;

**“Quasi-Cash Merchant”** is a merchant who carries out a Quasi-Cash Transaction;

**“Quasi-Cash Transaction”** means a Transaction between you and a Cardholder where you sell items that are directly convertible to cash. Examples include (but are not limited to) money orders, traveller’s cheques, precious metals and foreign currency;

**“Recurring Transaction”** means when you are authorised to make regular drawings on a Card at predetermined intervals (not to exceed one year between Card Transactions) with the Cardholder’s written authority;

**“Restricted Items”** defined by the Australian Government Department of Social Services include alcohol, gambling products

and services, and items that can be used in a cash-like manner, such as digital currency, gift cards and prepaid cards;

**“Rules”** means the Card Scheme rules set by Card Schemes from time to time including the eftpos Scheme Rules;

**“SDK”** is a Software Developer Kit which is a software tool or program which enables the programming of, for example, website, mobile sites or apps;

**“Security Interest”** includes any security interest under the PPSA, mortgage, pledge, lien, charge, hypothecation, trust arrangement, title retention arrangement or other security interest or encumbrance;

**“Service Provider”** means any entity or third party that stores, processes, or transmits Card Information on your behalf, or one you utilise, to assist with the acceptance of card payments including (but not limited to) Payment Gateways and Web Hosting Providers;

**“Shopping Cart Vendor System”** means the data processing system comprising the hardware, software, and telecommunication network utilised by a shopping cart vendor to provide services, including any third-party systems connected to a shopping cart vendor’s hardware, software and telecommunications network;

**“Small Business”** has the meaning given to it in the Banking Code;

**“Software”** includes the operating system, application software and the terminal management software, and any updates issued from time to time;

**“Staff Member”** means a representative of the Merchant who, when contacting Bank of Melbourne, is able to successfully answer basic identification questions;

**“Subsequent Merchant”** means a merchant who is a member of a Multi Merchant Facility and transacts business through a shared Terminal for which the Primary Merchant has full responsibility for the physical Terminal;

**“Terminal”** means the hardware used to accept Card payments and the software that is installed on that EFTPOS hardware, and includes any replacement hardware;

**“Terminal Access Services”** means access to Bank of Melbourne’s Transaction network; services that facilitate Transactions, including the provision of the installation, maintenance, repair, training and other services, and the provision of a Terminal (including the right to use the software) of the type and configuration ordered by you;

**“Tokenised Credentials”** means the unique number created by the Card scheme under a tokenisation services arrangement you have with us, which represents the Cardholder’s Card number and may be used by you to process payments;

**“Trade Mark”** means any logo, symbol, trade mark, trade name, service mark, brand name, domain name, company or trading name, trading get up and similar right, whether registered or unregistered, belonging to Westpac Group or Card Scheme;

**“Transaction”** includes a Debit Transaction and Credit Transaction as well as sale refunds;

**“UnionPay”** means UnionPay International Co. Ltd.;

**“Virtual Card”** means a Card Scheme payment instrument validly issued under the authority of a Card Scheme, such as a ‘virtual card’ having a validly issued card number with associated expiry date with no physical card issued, or a device using ‘near field communication’ or similar technology under the authorisation of a Card Scheme to emulate a validly issued payment card;

**“Visa”** means Visa Inc.;

**“Visa and Mastercard Merchant Service Fee”** means a fee we charge when your customers use a Mastercard or Visa credit card to make a payment. The fee is calculated:

- as a percentage of the transaction value and/or a flat fee per transaction on Mastercard and Visa transactions, and;
- on gross, net or volume basis.

**“Volume”** means that a fee is charged on the value and/or number of sale transactions in addition to the value and/or number of refund transactions. For example:

| Card sales value |   | Card refunds value |   | Total value |   | Merchant Service Fee rate |   | Merchant Service Fee charged |
|------------------|---|--------------------|---|-------------|---|---------------------------|---|------------------------------|
| \$20,000         | + | \$5,000            | = | \$25,000    | x | 1%                        | = | \$250                        |

  

| Card sales volume |   | Card refunds volume |   | Total volume |   | Merchant Service Fee rate |   | Merchant Service Fee charged |
|-------------------|---|---------------------|---|--------------|---|---------------------------|---|------------------------------|
| 1,000             | + | 200                 | = | 1,200        | x | \$0.50                    | = | \$600                        |

**“Web Application”** means the software that your business utilises to advertise the sale of goods and/or services over the Internet;

**“Website”** means an interface or portal published by a merchant to facilitate an eCommerce Transaction which includes but is not limited to a web page, web portal or smart phone application;

**“Westpac Group”** means Westpac and any ‘related body corporate’ of Westpac (as defined in the *Corporations Act 2001* (Cth));

**“You”** means the person to whom the offer letter or email is addressed. If there is more than one, it includes any one or more of you and each of you is jointly and severally liable under this Agreement. This liability will continue even where one or more of you is not liable or is no longer liable.

For the purposes of this Agreement:

- a) Transaction information is presented by any form of payment acceptance method we approve;
- b) a sale includes the supply of goods or the supply of services or both;
- c) the words “include”, “including”, “for example” or “such as” are not used as, nor are they to be interpreted as words of limitation and, when introducing an example, do not limit the meaning of the words to which the example relates;
- d) the singular includes the plural and vice-versa;
- e) the failure by either party to exercise any right under this Agreement does not mean that party has waived that right;
- f) the word “**person**” includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any government agency; and
- g) a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time.

### 3 Equipment.

You must at your expense, prepare (and keep prepared) at your premises a site which meets our specifications for the installation of Terminals as outlined in this booklet, and your Terminal User Guide. This includes things such as a power supply or telephone line, if applicable, for the use of your Equipment in accordance with the Manuals and any technical documentation from the manufacturer or supplier of the Equipment.

You will allow (and where applicable ensure you have the right to always permit) our representatives to enter your premises and access the Equipment to install, move, maintain, repair, replace or remove the Equipment (or to ensure that you are complying with the Agreement), during business hours or at any other reasonable time. We may do this even if it disrupts your business activities, provided we are acting for a reasonable purpose.

Upon initial installation of a Terminal, we will provide training either face-to-face, online or via the phone, on the use of the Terminal to the individual(s) you designate. These people must be available at the time of installation. You are responsible, at your cost, to train all employees, contractors or agents who access the Terminal. You must not permit any untrained or unauthorised persons to operate or otherwise use the Terminal.

If a Terminal malfunctions, or for any reason is not able to process Transactions, you can try out the basic troubleshooting steps on our website [bankofmelbourne.com.au/eftposhelp](http://bankofmelbourne.com.au/eftposhelp) and if the problem is not resolved, then, you should report it immediately to us. We will try to fix the problem and may arrange for the Terminal to be repaired or replaced at our discretion. You must not

carry out a Transaction using a malfunctioning Terminal. It is your responsibility to ensure that other means are available, at short notice, to enable you to continue to process Transactions. This may include letting your customers know the location of the closest automatic teller machine.

If you use Terminals supplied by someone other than us, you must:

- a) only use Terminals which we have approved as technically compatible with the systems, Equipment and software used by us for the purposes of our Card Transaction facilities, and in using any such Terminals you will comply with any conditions as to its use which we specify in our approval. We may charge you a reasonable fee for testing and assessing the suitability of Terminals supplied by persons other than us;
- b) pay all costs and expenses relating to the installation of those Terminals;
- c) pay all costs and expenses where development is required by us to support the Terminals, where we agree to undertake this work;
- d) pay all costs and expenses relating to the maintenance of compliance for the Terminals;
- e) inform us prior to your dispossession of any of the Terminals;
- f) comply with the terms of any agreement in relation to the Terminals; and
- g) upgrade the Terminals in the event of an industry or security standard change. We will notify you when this is required.
- h) we may supply you with Equipment, Manuals, and promotional material from time to time. You agree to display prominently all signs, advertising, and promotional material we supply to you at each of your premises. You must not use any advertising or promotional material concerning the Cards, except as authorised by us.

For the duration of the Agreement, you must:

- a) use and operate the Equipment with reasonable care only in accordance with the user and technical Manuals and any other instructions provided to you by us (and allow only your fully trained staff to operate the Equipment);
- b) allow only us (or our representatives) to maintain, replace (including any upgrades performed by us from time to time) or remove the Equipment;
- c) allow us to upgrade the Equipment as required including when industry or security standards change. If you use a Terminal provided by someone else, you must upgrade it when we tell you;
- d) keep the Equipment secure and under your control, and (unless it is a mobile Terminal) at the premises at which it was installed (or at such other location as is agreed by us);
- e) insure the Equipment against theft, loss, damage, vandalism, fire, flood, earthquake, misuse or neglect, for its full replacement value;

- f) take proper care of the Equipment. You are responsible for any costs incurred in the replacement or repair of the Equipment due to theft, loss or damage (reasonable wear and tear excepted);
- g) not process a Card Transaction without presentation of a Card, or payment enabled device (e.g. phone, smart watch, or wearable device) unless we have given you authority to accept mail and telephone orders from Cardholders or you are an eCommerce Merchant;
- h) not process a Transaction by manually keying details into the Terminal (unless previously agreed by us);
- i) use reasonable care to detect forged or unauthorised signatures or the unauthorised use of a Card;
- j) immediately alert us and your Service Provider, if the Equipment has been damaged, stolen or misplaced or if you suspect that the Equipment has been tampered with;
- k) not modify the Equipment in any way;
- l) ensure your Terminal receives all software updates on time by leaving your Terminal powered on and connected overnight at least once every 30 days.

You acknowledge and agree that ownership of the Equipment, Manuals, Card decals and promotional material we provide you always remains with us or our suppliers, and is not transferred to you. You must not sell, assign or encumber them, nor provide them to any third party. You must not remove any plates, stickers or markers which are used to identify the Equipment and/or the owner of the Equipment. We may, without your consent, give a third party any form of interest in, or security over, the Equipment.

We may at any time replace any Equipment with new Equipment. If we replace any Equipment, we will provide you at least 30 days' notice of any additional amounts payable by you to us. When requested, you must discontinue use of any Equipment that has been replaced. You must also follow our reasonable directions regarding the return or disposal of any Equipment which has been replaced.

The Terminal is supplied strictly to enable you to process Card Transactions (including via a payment enabled device) under the Agreement, and any other kinds of Transactions which may subsequently be regulated by the Agreement.

Your rights in the Equipment do not extend beyond a non-transferable non-exclusive licence to use the Equipment solely for your lawful Transactions in Australia.

## 4 Processing Transactions.

You must process all Transactions and handle all Card Information in accordance with all applicable Laws, any obligations in the Agreement and any direction of Bank of Melbourne in carrying out activities related to your Merchant Facility.

You must process all Transactions in Australian dollars.

Where you have requested, and we have agreed, to process offline Transactions for EFTPOS terminals without real-time Authorisation from the Card issuer, for instance, in Electronic Fall Back Mode (EFB):

- a) you must get prior Authorisation for the total amount of the sale if it exceeds the applicable Floor Limit and when prompted by the terminal;
- b) for all telephone, fax or online Transactions processed through a Terminal, you must get prior Authorisation;
- c) you must not bypass the Authorisation prompt on the terminal or enter the incorrect Authorisation number;
- d) you are responsible for verifying the identity of the Cardholder (for example by ensuring that the signature or any other Cardholder Authorisation is not forged, acquired by fraud or deception, or unauthorised) and that the Transaction is not otherwise invalid (refer to section 8);
- e) you must get additional Authorisation if the final amount exceeds the total Authorised amount. You must also cancel any Authorisations previously obtained that are no longer required.

Please refer to [bankofmelbourne.com.au/preauthorisation](https://bankofmelbourne.com.au/preauthorisation) or your Terminal User Guide for further information about any Pre-Authorisation features for your specific facility. When processing transactions offline (for EFTPOS terminals only), such as in Electronic Fall Back Mode (EFB) and without real-time authorisation from the Card issuer, you will be held responsible for any resulting fraudulent Transactions or chargebacks.

You must not split a Transaction into two or more Transactions on the same Card to avoid having to get an Authorisation. You will not be in breach of this section by splitting a Transaction in the following instances:

- a) when the Cardholder bills a portion of the Transaction to a Card and pays the remaining balance by cash or cheque only; or
- b) when the goods or services will be delivered or performed after the Transaction date. For example, the first transaction represents a deposit, and the second transaction represents payment of the remaining balance, where this transaction is conditional upon the delivery or performance of the goods or services.

We engage Fiserv to provide Authorisation services for Credit Transactions. If a Debit Transaction using a valid Transaction Card capable of acceptance under eftpos is declined by the issuing



Australian bank or financial institution, then we will be unable to recover the value of the Debit Transaction for you and we will have no responsibility towards you or any third party in respect of that Debit Transaction.

Throughout Cardholder contact, you must prominently and clearly inform the Cardholder of your identity so that the Cardholder can readily distinguish you from any supplier of goods or services to you or other third parties. You must also provide notice to the Cardholder that you are responsible for the Transaction, including the goods or services acquired by use of the Card, as well as for related customer service, dispute resolution and performance of the terms and conditions of the Transaction.

You are responsible for ensuring that a Transaction is approved or declined before providing a Cardholder with goods and/or services. We take no responsibility and will not provide compensation where goods or services (including Cash Out Transactions, where permitted) are provided for declined Transactions.

You must only process Transactions in circumstances where you have actually supplied the relevant goods or services to a Cardholder for which the Card was used for payment, unless we have specifically agreed that you may process pre-payment Transactions and the Cardholder has specifically authorised the Transaction being processed earlier.

You will not undertake any Transaction:

- a) representing a refinance or transfer of an existing Cardholder's financial obligation to you (whether or not you consider that the obligation is not collectable); or
- b) as an alternate way of accepting payment due to the dishonour of a Cardholder's personal cheque.

We will send you monthly statements. These may be in electronic format.

Under no circumstances should you request or allow any Cardholder to disclose or store their personal identification number (PIN), CVV, password or other code or information that can be used to access a customer's account, for you to retain. You should only retain a Card if we ask you to do so. Without limiting your other obligations in this section, you will not disclose, buy, sell or exchange a Cardholder's name or Card details to any person.

If there is a genuine business need to do so, you may store the following Card Information:

- a) PANs which have been rendered unreadable in compliance with the PCI DSS;
- b) Cardholder name;
- c) Card expiry date;
- d) extended service code (used for Smart Card processing).

If the genuine business need no longer exists, the relevant Card Information must be deleted or destroyed as per the PCI DSS. You must store Card Information securely such that the information cannot be reasonably compromised.

All Card Information elements not listed are considered to be sensitive authentication data, and you must not store sensitive authentication data after Authorisation. Sensitive authentication data includes any full magnetic stripe, PIN verification or code otherwise known as CAV, CVC, CVC2, CVV, CVV2, PVV, PIN and PIN Block data.

Under no circumstances should you request or use Credit Card details provided via email for payment of the provision of goods or services. If provided, you must not use them for any purpose and must immediately securely destroy these details.

You must not process or encourage Transactions through the Merchant Facility that relate to, or are in connection with, the sale of goods or services that are in contravention of the laws of Australia, the laws of your jurisdiction or the laws of the Cardholder's jurisdiction (including but not limited to the violation of export controls, obscenity laws or gambling laws).

You must never request or store a Cardholder's personal identification numbers, CVV, passwords or other codes or information that can be used to access a Cardholder's account.

We will not be responsible or liable for:

- a) any delay that might occur in the processing of payments or any lost Transactions that might occur where the Merchant Facility is not available for any reason. This includes instances where Cash Out Transactions are not available.
- b) any loss which you may suffer resulting from our failure to credit an Account due to technical or administrative difficulties relating to the banking system used for the transfer of funds. This also includes instances where your Merchant Facility is unable to settle for any reason.

This does not apply where the Merchant Facility is not available or the loss was due to our wilful misconduct, fraud or gross negligence, or the unavailability was caused by our persistent and significant failure to provide the Merchant Facility or perform the Terminal Access Service with due care and skill after you have notified us of the failure in reasonable detail.

We will notify you if you have excessive Chargebacks and/or fraudulent Transactions (or are at risk of exceeding the relevant threshold). You must take immediate action to resolve the issue. Failure to resolve the cause of the problem in accordance with our instructions may result in Chargebacks or non-compliance fines from Card Schemes and the Australian Payment Network (AusPayNet) – which may be passed on to you.

If we reasonably determine that your conduct in processing Transactions may cause loss to you or Bank of Melbourne, we may withdraw or impose further conditions on any authorisation we have given for 'Card Not Present' Transactions. You must follow any such conditions.

If we consider that fraudulent Transactions are occurring through your Merchant Facility, we may take such action as we consider appropriate to minimise any risk to you or Bank of Melbourne, including (but not limited to) taking steps to decline fraudulent Transactions or disabling the Merchant Facility. We may take such action without providing you notice.

You are required to get and hold Cardholder authorisation for all Recurring Transactions and ensure the nominated card is always within current validity periods.

We may authorise you in writing to offer Cash Out Transactions on any reasonable conditions we specify. You must not offer Cash Out Transactions unless we have authorised you to do so, but you need not offer them even if we have given that authorisation.

If we have authorised you to offer Cash Out Transactions, then unless we agree otherwise in writing:

- a) you must offer them only in Australian dollars;
- b) you must offer them only in the case of a Transaction where the Cardholder and Card are present;
- c) you may not offer them in relation to a Credit Transaction;
- d) you must process Cash Out Transactions only using the Cash Out menu or facility on your Equipment;
- e) you must provide the whole of the Cash Out Transaction amount to the Cardholder in legal tender (that is, valid banknotes and coins), and must not withhold any of the value of the Cash Out transaction, other than a surcharge permitted under section 6.

You must provide a Cardholder with a receipt for a Transaction at the completion of a Transaction, except where you have offered the Cardholder a receipt and they have declined to receive it, or the Cardholder has elected to receive the receipt by email or other electronic means.

You may apply to use tokenisation services offered by Card Schemes or via applicable eCommerce Services for eligible card types.

Tokenisation allows you to store Tokenised Credentials instead of the Cardholder's PAN. You can provide us with the Cardholder's Tokenised Credentials instead of the Card Information to process a Transaction.

## 5 Merchant Choice Routing (MCR).

This section only applies to EFTPOS terminals which offer a Merchant Choice Routing feature.

The Merchant Choice Routing feature enables an EFTPOS terminal to route eligible Transactions using Multi Network Debit Cards issued in Australia through the eftpos Network.

Different fees apply to transactions depending on how they are processed (routed):

- a) Transactions routed through the eftpos Network are assessed against the Debit Card Transaction Fee;
- b) Transactions routed through Visa and Mastercard are assessed against the Credit Card Merchant Service Fee.

However, where we charge you a flat rate for contactless Transactions the same fees will apply to the Transactions regardless of how they are routed.

To activate or deactivate Merchant Choice Routing, contact your Relationship Manager or our Merchant Helpdesk.

We reserve our rights to activate or deactivate the Merchant Choice Routing feature in its entirety, with no liability to you. Where practicable, we will provide reasonable notice of activation or deactivation.

Merchant Choice Routing Transactions are capped at the End Amount.

Bank of Melbourne does not at any time guarantee that routing Transactions through the Merchant Choice Routing feature will result in merchant fee cost savings.

## 6 Surcharging.

You agree to:

- a) charge a Cardholder a price for goods and services comparable to the price you charge for cash for those goods and services; and
- b) honour a Card tendered by a Cardholder for the payment of goods or services to be supplied by you to the Cardholder as per the Agreement.

If you charge a fee for Transactions, you must clearly disclose any surcharges that might apply before processing the Transaction. Any surcharge must be included in the relevant transaction and not processed as a separate transaction. (For example, where a surcharge applies to a purchase Transaction, the surcharge must be added to the amount of the purchase Transaction and must not be processed as a separate Cash Out Transaction.)

When you are providing a sales refund on a Transaction that included a surcharge, the sales refund for that Transaction must include the full or prorated surcharge amount.

You must limit the amount of any surcharge to the permitted amount for that Transaction, as required by the Reserve Bank of Australia.

Before a Transaction is completed, you must allow the Transaction to be cancelled, without the Cardholder incurring any cost after advising the Cardholder of the total Transaction amount.

You acknowledge that Card issuers may, from time to time, change the classification of a Card (i.e. standard or premium) and, as a result, when applying a surcharge rate to a Cardholder, it cannot be guaranteed that the classification of the Card on which you have based the surcharge will be the same as the classification on which you are charged your Credit Card Merchant Service Fee in relation to the same Transaction.

You will pay any fines associated with your non-compliance with Card Scheme surcharging rules.

## 7 Sale Refunds.

You must establish a fair policy for the exchange or return of goods, re-performance of services, or for the handling of refunds and disputed amounts, which complies with all applicable Laws including the Australian Consumer Law. Subject to the conditions mentioned in this section, you agree to give credit to Cardholders for any refunds for goods and services or disputed amounts (as applicable) using a sales refund Transaction (sale refund) as set out in the Manuals, Documentation and guides (and not use cash or cheque).

Subject to the conditions mentioned in this section, you may process sale refunds by transferring the amount of the refund from your Account to a Card account. Sale refunds may only be processed to a Card where there was an initial valid Transaction on that Card. A sale refund must not be provided to a different Card, in cash or by cheque. If your Terminal or eCommerce Service allows sale refunds, the sale refund should be refunded to the Cardholder through your Terminal or eCommerce Service.

The provisions given below do not apply where the Terminal or eCommerce Service has been supplied by somebody other than Bank of Melbourne. You should refer to the agreement with whoever supplies the Terminal or eCommerce Service to you for their requirements (if any).

To process sale refunds via a Terminal or eCommerce Service:

- a) you must initiate a password; or
- b) for some products, we will provide you with a password which you must change immediately on receipt by calling our Merchant Helpdesk.

You may not process a sale refund unless you enter the password prior to each Transaction on the terminal or prior to accessing the eCommerce Service with a password.

Where we have issued you with a password or eCommerce Service that allows sales refunds, we will not be responsible for any unauthorised sale refunds processed except to the extent:

- a) the processing occurs after you have notified us that the security of the password has been breached, or
- b) the processing was caused by the wilful misconduct, fraud or gross negligence of us (including through our officers, employees, contractors or agents).

You will control and be responsible for access to the Terminal sale refunds password or managing user access to the eCommerce Service. You should change your password if for any reason you think it has become known to persons other than those who you have authorised to complete sale refunds.

We are not responsible for any unauthorised sale refunds processed through your Terminal, even if those sale refunds may cause your Account to be debited by the amount of the Transaction.

If we do not supply electronic Terminals to you, we will not be responsible for any unauthorised sale refunds processed through your Terminal.

## 8 Invalid Transactions.

A Transaction is invalid if:

- a) the underlying supply of goods and/or services is illegal, or you do not have a valid regulatory licence or authorisation to process that supply.

This includes transactions outlined by Australian Government departments such as the Department of Social Services as Restricted Items where a Cashless Debit Card is being presented.

Transactions with Restricted Items flagged by participating merchants and POS providers will be declined by the Integrated Payment Solution, if;

- b) it was processed by you after your Merchant Facility, or the Agreement was terminated (in accordance with section 27) or whilst it was suspended as per section 34;
- c) the Transaction is split into two or more Transactions on the same Card or over two or more cards to avoid having to get an authorisation for the total amount of the sale (each Transaction will be invalid);
- d) the signature on the receipt (if required) or any other Cardholder authorisation on the receipt is forged, acquired by fraud or deception, unauthorised or otherwise invalid;

- e) the Card relating to the Transaction is not valid at the time of the Transaction;
- f) the receipt presented to us is incomplete or illegible;
- g) the Card was used without the Cardholder's authority;
- h) the Transaction did not originate from an act between you and the Cardholder;
- i) you have not retained your copy of the receipt (including any copy signed by the Cardholder) for 18 months from the date of the Transaction, or if you do not give us the tally roll receipt within 5 Business days of a request by us for production of that receipt;
- j) it is a Credit Transaction and:
  - i. it is not for the supply of goods or services to a genuine customer; or
  - ii. it relates to a transfer of funds, not supply of goods or services;
- k) it was submitted as a Transaction authorised by us, where an authorisation was never obtained from or given by us;
- l) it is a sales refund and:
  - i. no corresponding sales Transaction exists for the Card on which the sale refund is made or appears to be made;
  - ii. it represents the payment of wages/salary;
  - iii. it represents the transfer of funds; or
  - iv. insufficient funds are available in the Account to cover the refund amount;
- m) you fail to comply with all messages displayed on the Terminal in relation to the Transaction;
- n) you are unable to demonstrate the validity of the Transaction to our reasonable satisfaction;
- o) you do not meet your obligations under the Agreement in relation to the Transaction; or
- p) you do not respond to our reasonable request for supporting information, within the timeframes specified by the applicable Rules.

A telephone, internet or mail order Transaction is also invalid if the Transaction is not authorised by the Cardholder, or in the case of a standing authority, the authority has expired or was cancelled prior to the Transaction. You acknowledge that authorisations you have acquired provide no guarantee that the person providing the Card details is the Cardholder.

We may refuse to accept, or may Chargeback, any Transaction if:

- a) the Transaction is invalid or we consider it to be invalid;
- b) the Cardholder claims the Transaction is invalid or disputes liability for any reason;
- c) you process a cancelled Recurring Transaction;

- d) the Cardholder asserts a claim for set-off or a counterclaim;
- e) the sale amount exceeds the Authorised amount;
- f) the sale relates to an expired Authorisation.

You acknowledge that Chargebacks may be processed to your Account up to 18 months after the date of the original Transaction. You will remain liable for Transactions processed prior to any closure of your Merchant Facility. If there is a Chargeback after your Merchant Facility has closed, we may issue a demand for payment by sending it to the email or postal address, as provided by you, during the term of this Agreement. By doing so, this will be deemed sufficient notice.

You undertake to abide by industry best practices to minimise fraud and chargebacks as set out in the Manuals, Documentation and guides from time to time.

## 9 Your Account.

If you request and we agree, you may use one account for settling transactions you process and one for paying your fees and other amounts you owe us (for example Chargebacks). You must advise us of the details of the Account.

We will credit your Account with the amount of the Transactions processed. You must notify us immediately if your Account details change and provide us with a new Direct Debit Authority. In some circumstances (e.g. eCommerce Merchant Facilities) it will be necessary for Transactions to settle to a Bank of Melbourne account. You will be advised of this requirement at the time of application.

You authorise us, from time to time, to debit your Account in respect of:

- a) all service charges, fees and other charges set by us, and which are notified to you from time to time in accordance with section 21;
- b) all government charges, duties and taxes (including GST) that apply in relation to the Agreement;
- c) the full amount of all Sales Refunds you process, minus any charges we have already debited to your Account relating to the relevant Transaction;
- d) any overpayments or credits we have made in respect of Transactions due to errors or omissions;
- e) any Chargeback;
- f) any money paid by us to you for Card Transactions where we are investigating the validity of the Transaction or a suspected Chargeback;
- g) any fees, fines or penalties that we are required to pay to Card Schemes under the Rules as a direct or indirect result of



your failure to observe your obligations under the Agreement including any procedures set out in the Manuals, Documentation and guides;

- h) a Card Transaction not being a valid Transaction or being charged back to us;
- i) our maintenance of the facilities we supply you under the Agreement;
- j) any deficiency in a payment made by you following an audit or a check by us of your Merchant Facility or Account;
- k) all penalties and costs incurred by us as a result of an ADC or your non-compliance to the PCI DSS (including your Service Providers) including but not limited to the cost of all forensic investigations as required by us or the Card Schemes;
- l) any other money you owe us under the Agreement; and
- m) reasonable enforcement expenses under the Agreement, including any amount reasonably incurred by the use of our staff and facilities, in the event of a breach of the Agreement.

If we debit the Account and the Account contains insufficient funds, then the payment may be reversed, and you will be regarded as not having made the payment. If this occurs, you must make the payment to us as soon as possible once we notify you that the payment is required. Although, such notification does not prevent us from attempting the debit again (under this section).

You will pay on demand the amount of any debt you owe us under the Agreement which remains unpaid. Should you fail to pay any debt you owe us, we may commence enforcement action and report your default to a credit-reporting agency, which may affect your credit rating and your ability to obtain commercial finance in the future. We may also set-off any amount due for payment by you to us against any amount due for payment by us to you.

We can also debit or credit your Account with the amount of any deficiencies or charges we establish are payable following an audit or check of your Account.

We may withhold release of the funds in the Account, or withhold or suspend payment of any money that would otherwise be owing to you under the Agreement until further notice, If:

- a) we have reasonable concerns about your solvency (including your ability to pay off your debts or meet your financial obligations);
- b) you are involved in an unusual number of Chargebacks or invalid transactions as determined by us; or
- c) we have commenced but not yet concluded reasonable investigations into any claimed Chargebacks or into the validity of any transactions processed by you.

In instances such as insufficient funds in your Account, we may establish an account in your name for the purpose of exercising our rights, like retaining funds for processing Transactions,

Chargebacks, and recovering debts. Please note that other than making repayments of debts due to us, you cannot use this account for your business or personal operating needs including making deposits and withdrawing funds from the account. This account will be closed once it is no longer being used to repay debts due to us.

We may appropriate money you hold in your Account (or any other account you hold with us), towards any and all amounts you owe us under the Agreement. If we do this, the balance of your Account will reduce by the amount used for this purpose. We will notify you promptly after exercising our right to appropriate money in your Account.

You are responsible for reconciling your sales and settlements for all Transactions. If you have any concerns, you must notify us in a reasonable time.

You must reconcile the statements that we send you under the Agreement to ensure that payments to and from your Account have occurred as per the Agreement.

It is your obligation to check the accuracy of all entries on the statements or Account. You must notify us within a reasonable time of any apparent or possible error such as an incorrect fee or amount debited from your Account, or a payment that should have been made to you.

## **10 Online Access to Information About Your Merchant Facilities.**

You agree that if we grant you a logon/s to any online service for the purposes of, but not limited to, accessing electronic copies of statements, transaction listings and submitting service requests to Bank of Melbourne in relation to your Merchant Facilities, that you are responsible for administering and managing access to that service.

We make no guarantee that information available on any online service relating to the Merchant Facility is accurate or correct at the time of viewing. Online services are subject to system maintenance and availability and to subsequent adjustment of information to reflect the true legal position. That is why users should independently download or record information for their own record-keeping purposes. Merchants can download these reports from their terminal or eCommerce Service (if the feature is available) or contact the Merchant Helpdesk if required.

# 11 Hotel/Motel Reservation/ Car Rental Guarantee and Advance Deposit.

This section only applies where you have been authorised to accept Credit Transactions to guarantee hotel/motel/car rental reservations and/or advance accommodation deposits.

Mastercard, Visa and UnionPay have each arranged for their members a program that permits their Cardholders to guarantee reservations of hotel, motel accommodation or car rental by telephone (and they can make deposits in advance towards reservations or rental arrangements by using their nominated Mastercard, Visa or UnionPay card).

You agree to:

- a) handle the reservations in accordance with the Rules;
- b) provide details of the charges upfront (e.g. room or rental rate including tax);
- c) honour these reservations in all circumstances;
- d) cancel the reservation and, where necessary, issue a sale refund to the Cardholder if the Cardholder cancels the reservation.

If there is a dispute, you agree to accept a Chargeback where the Cardholder claims they cancelled the guaranteed reservation.

When you process Transactions to guarantee hotel/motel or car rental reservation:

- a) You agree to provide a confirmation code and (if applicable) a cancellation code, and advise the Cardholder to retain these in the case of a dispute;
- b) You must:
  - i. accept all cancellations prior to the specified time;
  - ii. not require cancellation notification more than 72 hours prior to the scheduled arrival or pick-up date;
  - iii. if the Cardholder makes the reservation within 72 hours prior to the scheduled arrival or pick-up date, ensure that the cancellation deadline is no earlier than 6.00pm merchant outlet time on the arrival or pick-up date;
  - iv. if you require that a Cardholder cancel before 6.00pm (merchant outlet time) on the date guaranteed, mail or email the cancellation policy, including the date and time that cancellation privileges expire, to the Cardholder;
  - v. if the Cardholder has not claimed or cancelled the hotel/motel or car rental reservation by the specified time, you must hold the room or car available according to the reservation until check-out time the following day (or in

the case of car rental, 24 hours). You may then complete a Transaction receipt that must contain the following:

- Amount of one night's lodging or one day's car rental plus applicable tax;
- Cardholder's name, account number and expiration date; and
- The words "No Show" on the signature line of the Transaction receipt.

You are not required to continue to hold the room or car for subsequent periods where the Cardholder has failed to show by the check-out time the following day (or in the case of car rental, after 24 hours).

You must provide, at no charge, a comparable room or car of at least equal quality. If the cardholder has to change the hotel/motel or pick-up location, you must provide transportation to the alternate establishment and a 3-minute local or long distance telephone call.

## 12 Pre-Authorisations: Top-Up Using a Visa or Mastercard.

For hotels/motels, motor vehicle rental agencies, cruise lines, hospitality, rental businesses, transportation, passenger railways and bus lines, you may get top-up Pre-Authorisations for additional amounts above any amount already authorised after the check-in or rental pick-up date and prior to checkout or rental return date. You must get prior approval from your customers before any authorisation is made.

An approved top-up Pre-Authorisation does not change the validity period of the original Pre-Authorisation nor the top-up.

For hotels, motels, and cruise lines – the Pre-Authorisation amount can be based on the customer's intended length of stay at check-in time, and the room rate, including applicable tax(es).

For top-up Pre-Authorisation for motor vehicle rental agencies, refer to section 14.

## 13 Express Checkout.

This section only applies where you have been authorised to accept Credit Transactions to permit express check out from hotels or motels.

Mastercard and Visa have each arranged for their members a program that permits their Cardholders to check out of your establishment at the end of their stay without conducting the usual "checkout" process in person.

You agree to handle the express checkout Transactions outlined in the Rules. You must retain and make the itemised hotel/motel bill available to us. All disputes will be resolved appropriately, as per the Rules.

## 14 Vehicle and Equipment Rental Transactions.

This section only applies to merchants that provide rental for vehicles and other equipment including (but not limited to) cars, boats, tractors, trucks, ride-on mowers and planes.

Vehicle and equipment rental merchants may not include charges in the rental Transaction that represent any of the following:

- a) the vehicle/equipment insurance deductible amount; or
- b) an amount to cover:
  - i. potential or actual damages when the Cardholder waives insurance coverage at the time of the rental;
  - ii. additional costs, which include (but are not limited to) parking tickets, traffic violations or vehicle/equipment repairs.

A charge for loss, theft or damage must be processed as a separate transaction from the underlying rental Transaction. The Cardholder must authorise the charge after being informed of the loss, theft, or damage.

A charge for additional costs must be processed as a separate Transaction from the underlying rental Transaction. For additional costs relating to parking tickets or traffic violations you must support the charge with documentation from the appropriate authority including the licence number of the rental vehicle, date, time, and location of the statute violated, and amount of the penalty.

For additional costs relating to vehicle/equipment repairs, you must provide the Cardholder with written confirmation of the damage once the vehicle/equipment is returned. For vehicles/equipment returned using an express drop-off facility, a written confirmation receipt must be sent within 5 Business days. You must provide a reasonable estimate of the cost of repairs and obtain agreement from the Cardholder prior to processing the Transaction. We recommend that it be a 'Card Present' Transaction and that you verify the identity of the cardholder to minimise the likelihood of Chargebacks. The transaction receipt must include a statement indicating that the estimated amount charged for repairs will be adjusted upon completion of the repairs and submission of the invoice for such repairs.

The final amount of the Transaction relating to the repairs may not exceed the Merchant's Pre-Authorised amount. If the actual cost of repairs is higher than the estimated amount, you must

perform a top-up Pre-Authorisation amount. You must also cancel any Pre-Authorisation(s) previously obtained that are no longer required, including if the actual cost of repairs is less than the estimated amount.

**For top-up Pre-Authorisations for motor vehicle rental**

**agencies:** the Pre-Authorisation can be based on the cardholder's intended car rental period, the rental rate, distance rates and any applicable tax(es).

The estimated transaction amount should not include charges that cover potential vehicle damages or the insurance deductible amount.

**Additional instructions for delayed or amended charges by car rental agencies.**

You may process delayed or amended charges if the Cardholder has agreed to cover these. For any delayed or amended charges, you should process as a 'Card Not Present' transaction and forward documentation to the Cardholder.

Where a delayed or amended charge is disputed by the Cardholder, you must provide us with all the required supporting documentation, within our required timeframe, as specified on the chargeback notice.

**Traffic violation/parking charges:** If the charge is for a parking ticket or traffic violation, please process the transaction to the Cardholder's account within 80 days of the violation or 3 Business days after your payment of the penalty, whichever occurs earlier. You need to hold a copy of the documentation issued by the relevant authority (e.g. police, council).

**Rental vehicle damage charges:** Process the transaction to the cardholder's account within 80 days of when the damage occurred, or 3 Business days after your payment of repairs, whichever occurs earlier.

Transactions may be successfully disputed if you do not have adequate records (e.g. receipts) of the damage.

You need to hold all the relevant documents including:

- copy of the rental agreement;
- estimated cost of the damages from an authorised repair company. (The final amount of the transaction relating to the repairs may not exceed the Merchant's Pre-Authorised amount. If the actual cost of repairs is higher than the estimated amount, you must perform a top-up Pre-Authorisation amount);
- police accident report, where applicable;
- documentation showing the Cardholder's consent to pay for damages with the Card;
- copy of your insurance policy if you require the Cardholder to pay an insurance deductible in case of damages.

## 15 eCommerce Merchants.

This section applies to eCommerce Merchants conducting eCommerce Transactions.

### **Your Website.**

You are required to comply with our Website Requirements.

You must provide us and our third parties with reasonable access to view, monitor and audit the pages of your Website (where that Website accepts Card payments).

You agree to be responsible for all goods and services offered through your Website, all materials used or displayed at the Website, and all acts or omissions that occur at your Website or in connection with your Website.

The URL of your Website must be substantially similar to your trading name and your Website must be designed in such a way that a reasonable Cardholder is able to readily identify it as your Website without any confusion.

You must not change your domain name without first obtaining our consent to the change of name.

At all times, if you accept Card payments, you are required to safeguard your customers' sensitive payment information and comply with the PCI DSS. If Bank of Melbourne has advised that 3D Secure is a requirement or you choose to enable 3D Secure as a fraud prevention tool, please contact your Accredited Gateway Provider or your Bank of Melbourne sales representative. If 3D Secure is required by Bank of Melbourne as a requirement of approval of your Merchant Facility, ensure all card payments for your products/services are entered through an operational 3D Secure Merchant Plug-In.

You must display the following on your Website:

- a) contact information, including your trading name, Australian Business Number (where required), trading address, telephone number, mail address and your country of domicile (where you are based permanently);
- b) a complete description of all goods and services you offer on your Website;
- c) a clear explanation of shipping practices and delivery policy.
- d) Transaction currency (Bank of Melbourne merchants can process and settle in AUD amounts only);
- e) total costs of the goods or services offered including all appropriate shipping/handling charges and taxes (such as GST). Where the total cost of the Transaction cannot be determined in advance, you must include a statement to that effect and provide a description of the method that will be used to calculate it;

- f) customer service policies, including usual delivery timeframes (and the process if you cannot fulfil the order for any reason). You must inform your customers within 2 Business days if the goods are not available;
- g) wherever you present payment options, display images of Card Scheme logos that we supply you (only approved Mastercard, Visa, American Express, JCB, Diners and UnionPay logos should be used in your Websites. Call our Merchant Helpdesk for logo specification guides);
- h) export restrictions (if known) – including countries you do not ship to;
- i) a clear refund/return policy;
- j) consumer data privacy policy (providing details on what you plan to do with information collected from your customers);
- k) privacy policy (which must be compliant with Privacy Laws);
- l) security capabilities and a policy for transmission of payment Card details (all transactions must be processed using a secure PCI compliant encryption);
- m) if you provide a currency converter, a disclaimer providing advice to cardholders that the converter provides an approximation of the currency only.

You must do the following:

- a) not substantially change your goods or services being sold on your Website or other material aspects of your Website from the time it was accepted by us;
- b) keep all information on the Website true, accurate, current and complete;
- c) not change your domain name without first obtaining our consent to the change of name (and each merchant domain name must utilise separate payment pages); and
- d) fulfil customer orders in a timely manner and adequately deal with a customer's warranty or service requirements.

When approved for an eCommerce Service, any Transactions received from Cardholders relating to the business for which it was approved must be processed using your approved eCommerce Service.

## **Your Goods and Services.**

You will meet the payment and delivery of goods or services as specified on your Website. Each merchant domain must utilise separate payment pages.

You will respond promptly to all customer enquiries, including cancellations and order changes.

You must not substantially change the goods and services being sold on your Website or other material aspects of your Website from the time it was accepted by us.



## Customer Receipts.

You must provide a completed copy of the Transaction receipt or tax invoice to the Cardholder at the time the purchased goods are delivered, or services are performed and advise the Cardholder to retain the receipt as proof that payment has been made.

You may use an eCommerce Service to send receipts and/or tax invoices to your customers, for example, via email or SMS. You are responsible for ensuring any information contained on any receipt or tax invoice is accurate (including GST) and in the form that we require, and for using your customer's correct email address and/or mobile phone number.

You acknowledge that your customer's email address and phone number are part of your customer's personal information. You agree to comply with all Privacy Laws in relation to your customer's personal information.

A Transaction receipt must contain the following information:

- a) the merchant name most recognisable to the Cardholder, such as:
  - i. merchant "doing business as" name as used on your Website;
  - ii. merchant "universal resource locator" (URL) if possible.
- b) Transaction type (purchase or credit);
- c) Transaction amount, indicated in Transaction currency;
- d) Transaction date;
- e) unique Transaction identification number;
- f) purchaser's/Cardholder's name;
- g) authorisation code;
- h) description of goods and services;
- i) return/refund policy, if restricted;
- j) cancellation policies.

You must not return the Cardholder's Card number to the Cardholder either online or display it on the Transaction receipt.

You may send a tax invoice using an eCommerce Service if you indicate that you are registered for GST. It is your responsibility to ensure that the tax invoice issued meets any legal and regulatory requirements. You are responsible for ensuring that you meet your obligations in relation to GST.

## Payment Gateways.

This section applies to eCommerce Merchants who are using a Payment Gateway to accept payments online and have a Bank of Melbourne Merchant Facility.

### Your Responsibilities.

You are responsible for:

- a) ensuring you follow the Card Scheme Rules at all times;
- b) ensuring that the connection between your Website and us is operational. We do not warrant that the provision of the services will be continuous, uninterrupted or without errors;
- c) ensuring that your Website is secure as required by the PCI DSS during the exchange of Card Information between your Website and your Payment Gateway;
- d) ensuring that any Payment Gateway you engage to participate in the payment process is provided by Bank of Melbourne or is an Accredited Gateway Provider; and
- e) any message that is stored outside of the eCommerce Service is secure, including communications received from your customers.

You must present all eCommerce Transactions to us with an eCommerce indicator using a Bank of Melbourne-hosted or an Accredited Gateway Provider.

For transactions initiated via stored card information you must indicate that these are "Credential-on-file".

## Third Party Payment Gateway.

This section applies if you use a Payment Gateway solution provided by a third party, other than a Bank of Melbourne-hosted solution:

- a) we are not responsible for the functioning of the Payment Gateway;
- b) you will observe the conditions of any agreement in relation to the Payment Gateway and any related eCommerce Service;
- c) you must use an Accredited Payment Gateway Provider. Failure to do so will result in termination of your Merchant Service;
- d) you must advise us if you wish to switch to another Accredited Gateway Provider. You will be required to terminate your current merchant facility and apply for a new merchant facility for the Accredited Gateway Provider that you intend to switch to;
- e) you must advise your Accredited Gateway Provider and/or Service Providers of the termination of your Merchant Service.

Details of Accredited Gateway Providers are available on request or at [bankofmelbourne.com.au](http://bankofmelbourne.com.au)

The inclusion of a Payment Gateway as accredited is not a representation or warranty by Bank of Melbourne that the particular Gateway Provider is compliant with PCI DSS requirements and does not limit your obligations under section 24. Payment pages will be accredited by us, or a Bank of Melbourne Accredited Gateway Provider, and must meet our security requirements.

## Bank of Melbourne Payment Gateway.

This section applies to eCommerce Merchants who have a Bank of Melbourne Payment Gateway and an eCommerce Service provided by us. If there is any inconsistency between this section and the other provisions of the Agreement, this section will apply, except where the relevant provision of the Documentation specifically mentions this section.

### General Requirements.

Merchants applying for or who have a Bank of Melbourne Payment Gateway and eCommerce Service must agree at all times:

1. to access and use the Bank of Melbourne Payment Gateway and eCommerce Service in strict accordance with the operating instructions contained in the Documentation and solely for the performance of the specific business functions designated in the Documentation;
2. to follow any technical or other requirements outlined in the Documentation as mandatory or a requirement;
3. on request, to supply us with full details of your Service Providers, including (but not limited to) web hosting provider, shopping cart vendor system; and
4. any Transactions received from Cardholders relating to the business for which it was approved must be processed using your approved Bank of Melbourne Payment Gateway and eCommerce Service.

You may have access to fraud management features such as blocking rules or via the use of a third-party provider, to enable real-time decisioning and intelligence that is intended to reduce fraud. You are responsible for reviewing any fraud management features and assessing whether they will impact your business processes. We are not responsible to you in relation to their effectiveness in reducing fraud or the impact to your business processes.

### Acceptable Use.

You are responsible for:

1. all eCommerce Service users who access and/or use your eCommerce Service and the Bank of Melbourne Payment Gateway, such as via a portal or API;

2. establishing and maintaining your user access roles, permissions and passwords and of those that you or your delegate have also established;
3. any activity that occurs through your eCommerce Service, Bank of Melbourne Payment Gateway, portal or API, including refund transactions (including activity that is not authorised by you or the user in circumstances where you have not protected your password); and
4. your use of the Documentation, eCommerce Service, Bank of Melbourne Payment Gateway, portal or API.

You and/or the user must:

- a) use and operate the eCommerce Service, Bank of Melbourne Payment Gateway, portal or API in accordance with any Documentation notified by us to you from time to time, or an operating platform's terms of use;
- b) only use the eCommerce Service, Bank of Melbourne Payment Gateway, portal or API for legitimate business purposes;
- c) ensure any password or API Key is kept secure at all times and that you do not disclose it to anyone. When you suspect that your password may have been compromised you must change it immediately; and
- d) keep a separate copy of all records and information you require that is stored in the eCommerce Service, portal or API including receipts, tax invoices or your product and service information.

You must not:

- a) knowingly use the eCommerce Service, portal or API in any manner that adversely impacts the continued operation, access or availability of the eCommerce Service, portal or API;
- b) breach any specific Documentation issued by us from time to time in relation to your eCommerce Service; and
- c) knowingly introduce a virus, worm, trojan, spider, web bot, trapdoor, drop dead device, malware or, malicious code or any other similar software or code into the eCommerce Service, portal or API.

## **API and SDK.**

If you use an API or SDK as part of an eCommerce Service that is provided by us or Bank of Melbourne Payment Gateway, you agree that you:

- a) are responsible for any integration and ongoing connectivity between your Website, the API and us;
- b) are responsible for having the technical skills to implement and ensure the required implementation and ongoing connectivity; and
- c) to abide by any license terms and conditions that accompany the API and/or SDK.

## **Your Business Logo.**

Your eCommerce Service may allow you to upload an appropriate image to be included on receipts, tax invoices and/or checkout pages.

You must ensure that you have all necessary rights and permissions to use the image, and any text or symbols contained in it, in the manner contemplated. When you upload an image, and each time you use your eCommerce Service to produce a checkout page, receipt or tax invoice containing the image, you represent and warrant that you have all the necessary rights and permissions and that your use does not infringe on any other person's rights.

Acting reasonably, Bank of Melbourne may delete or direct you to delete any image uploaded by you to the eCommerce Service and reserves the right to terminate your Merchant Facility if an inappropriate image is uploaded in breach of this section.

## **Security.**

You are solely responsible for ensuring your Website is secure and for the physical and electronic security of any devices, servers or Service Facility, Bank of Melbourne Payment Gateway or portal authorised to access your Merchant Account or to configure your Website.

You must use reasonable endeavours to prevent any unauthorised access to, or leave unattended (unless appropriately secured), your compatible mobile device, desktop or laptop that provides access to the eCommerce Service, portal or API or from any device through which you access the eCommerce Service, portal or API. If access to your device can be secured, you must enable this to prevent unauthorised use. You must sign out of the eCommerce Service dashboard whenever it is not in use and ensure your API keys are kept secure.

You must immediately notify us if there has been any unauthorised use of your eCommerce Service or any other breaches of security including to your Website. You must immediately notify us of any actual or suspected breach of your obligations under this section and where directed by us, immediately cease use of the Bank of Melbourne Payment Gateway and eCommerce Service provided by us.

## **Responsibility for Costs Associated with your Facility.**

You are solely responsible for all costs associated with using the eCommerce Service and the Bank of Melbourne Payment Gateway including data charges, technical support required to interface your Website with the eCommerce Service and Payment Gateway and costs of accessing the eCommerce Facility and maintaining or supporting your Website.

# 16 Mail Order/Telephone Order Merchants.

This section applies to Mail Order/Telephone Order (MOTO) merchants and the requirements they need to meet.

## Mail Order Advertisements and Promotions Checklist.

You must include the following information on the customer order form (and authority):

### Card details:

- cards accepted (Mastercard, Visa, American Express, JCB, Diners and UnionPay);
- card account number (16 digits);
- card valid from (where applicable) and expiry date.

### Cardholder details:

- full name of Cardholder, exactly as it appears on the card;
- Cardholder's address and telephone number;
- signed statement from the Cardholder, authorising the merchant to charge the purchase, or service, to the cardholder's Account.

### Order details:

- details of goods/services ordered;
- cost of goods/services (including GST, if applicable).

## Telephone Orders (For Credit Card Payments) Checklist.

Keep a record of the following:

### Card details:

- type of card (Mastercard, Visa, American Express, JCB, Diners and UnionPay);
- card account number (16 digits);
- card valid from (where applicable) and expiry date;
- for merchants transmitting CVV values, the CVV may be captured for transmission but **under no circumstances should the CVV be stored after transmission.**

### Cardholder details:

- full name of Cardholder, exactly as it appears on the card;
- Cardholder's address and telephone number.

### Order details:

- details of goods/services ordered;
- cost of goods/services (including GST, if applicable);
- the transaction date.

## 17 Quasi-Cash Transactions.

This section applies to Quasi-Cash Merchants conducting Quasi-Cash Transactions. If there is any inconsistency between this section and the other provisions of the Agreement, this section will apply, except where the relevant provision of a Manual specifically mentions this section.

You must identify the Cardholder as follows:

- a) where the Card does not bear a photograph of the Cardholder, you must sight positive identification of the Cardholder, and note on the transaction receipt the type of identification sighted (including any serial number); or
- b) where the Card bears a photograph of the Cardholder, you must note on the Transaction receipt that you verified the Cardholder's identity by the photograph on the Card.

Where applicable, you must verify the following:

- a) the signature on the Card matches the signature on the Transaction receipt and, where the Card does not bear a photograph of the Cardholder, on the identification presented; and
- b) where the Card bears a photograph of the Cardholder, the Cardholder resembles the person depicted in the photograph.

You must record the printed first 4 digits of the embossed Card account number on the front of the Transaction receipt.

You must clearly disclose to the Cardholder any commission you charge for accepting a Quasi-Cash Transaction and include this in the total Transaction amount, before completing the Transaction.

## 18 Trustees.

This section applies where you enter into this Agreement in the capacity as trustee of a trust.

You confirm that each of the following statements is correct:

- a) the trust is validly formed. Any relevant trust document is valid and complies with the law;
- b) any copy of the trust document you have given us is a true and complete copy and discloses everything about the trust;
- c) you are properly appointed as sole trustee of the trust (and if more than one person has signed the application form as trustee, each of you have been properly appointed as trustees of the trust and there are no other trustees);
- d) you have always fully complied with the terms of the trust, and your duties and powers;
- e) you have a full right of indemnity from the trust assets in respect of the Agreement;

- f) you have correctly signed the application form under the terms of the trust as per your duties and powers as trustee, or if there is any doubt, and all beneficiaries have full legal capacity, you have received their consent;
- g) the Agreement and the Transactions entered into under it are for proper trust purposes;
- h) you have done everything required under the trust document to enter into the Agreement and perform the Transactions;
- i) none of the trust assets have been resettled or set aside;
- j) the trust has not terminated nor has any event for the vesting of the assets occurred.

You must:

- a) comply with the terms of the trust and your duties as trustee of the trust;
- b) use all equipment and carry out all Transactions as per the Agreement exclusively for proper trust purposes;
- c) not do anything which may result in the loss of your right of indemnity from the trust assets or the termination of the trust;
- d) remain sole trustee of the trust (and if more than one person has signed the application form as trustee, each of you will remain as trustees of the trust and you will collectively continue as all of the trustees of the trust);
- e) if, despite the above, you are replaced or joined as trustee, you will make sure the new trustee agrees to the terms of the Agreement;
- f) you will not re-settle, set aside or distribute any of the assets of the trust without our consent unless compelled to do so by the current terms of the trust document.

## 19 Records.

You must:

- a) maintain and keep in your possession (while meeting all security requirements that apply) your books of account and records. This includes all Transaction information, tally rolls, and other information this Agreement requires you to retain for a Transaction—for at least 18 months after the Transaction;
- b) allow us to inspect and examine the books of account and records referred to in paragraph (a);
- c) not disclose, give (other than to us or unless required by law), buy, sell, or exchange a Cardholder's name or Card details to any person (including in the form of imprinted sales vouchers, copies of imprinted sales vouchers, mailing lists, tapes, computer data or any other media obtained by reason of a Card Transaction.) This section does not prohibit you from providing Card number information to your agent solely to allow your agent to process Card Transactions to us on your behalf;



- d) keep all systems and media containing a Card number, Cardholder or Transaction information in a secure manner to prevent access by or disclosure to anyone other than your authorised personnel or agent processing Card Transactions. If the item needs to be discarded, you must destroy it in a manner which makes the information unreadable;
- e) provide us with all clear and legible documentation relating to a Transaction when requested. Otherwise we may Chargeback the Transaction to your Account; and
- f) when requested, provide us with all financial information in relation to your business, including (but not limited to), annual balance sheets and trading results, end of quarter results and 12-month cash flow projections, in a form acceptable to us.

You must also keep appropriate records about your compliance with this Agreement, including records about when you implemented a variation that we notify under section 21, your PCI DSS compliance, and the staff training that is required under section 3. You must retain these records for at least 6 years and provide us with reasonable access to the records when we request it. Your obligations under section 19 remain even if the Agreement is terminated for any reason.

## 20 Creditworthiness of the Cardholder.

You acknowledge that we do not guarantee any Cardholder's creditworthiness or their identity (e.g. even if we issued a Card to the Cardholder or processed a Transaction), and waive any right you may have against us in this regard.

## 21 Variations and Notices.

We may vary this Agreement at any time and will notify you of any changes (as set out in the table below). When we make changes, we will always act in a fair, reasonable and ethical manner. Using your Merchant Facility (after we have notified you of the changes to the terms and conditions) will constitute acceptance of those changes.

Notifying you electronically means electronic communication to your nominated email address or mobile phone number (which may direct you to visit our website [bankofmelbourne.com.au](https://bankofmelbourne.com.au) for more information).

Notifying you by statements means via your merchant statement which may direct you to visit our website [bankofmelbourne.com.au/merchant-terms](https://bankofmelbourne.com.au/merchant-terms) for more information.

| Type of Change  | Time Frame   | Method of Notification  |
|---|--|---|
| <b>New fee or charge</b><br>(other than a government charge).                     | 30 days in advance.  | In writing or electronically.   |
| <b>A new or varied government charge that directly or indirectly affects you.</b> | We will notify you reasonably promptly after the government notifies us of the introduction or change (but, we do not have to tell you about the change if the government publicises the introduction or change).              | In writing, electronically, through an advertisement in a major newspaper or through the merchant statements we send to you.  |
| <b>Any other term or condition (including a variation of fees and charges).</b>   | We will notify you in the media, in writing or electronically as soon as reasonably possible (which may be before or after the change takes effect) or, if the change is unfavourable, by giving you at least 30 days' notice. | In writing, electronically, through an advertisement in a major newspaper or through the merchant statements we send to you.<br><br>For changes to the standard terms and conditions that form your Merchant Facility Agreement, a notice of the changes will be available on <a href="https://bankofmelbourne.com.au/merchant-terms">bankofmelbourne.com.au/merchant-terms</a> |

From time to time, we may vary or supplement any Manuals and Documentation that we provide to you, including specifying new procedure documents, Manuals or Documentation (in this section described as **‘changes’**).

We may notify you of a change electronically. If we specify a date on which a change commences, you must follow the varied or supplemented Manuals, Documentation or procedures from that date. You must comply with any other changes promptly.

Despite everything mentioned in this section, advance notice of a change or variation may not be given in some circumstances. For example, when a change is necessitated by an immediate need to restore or maintain the security of our systems or where you cannot be reasonably located. We may also give you a shorter notice period (or no notice) of an unfavourable change where it's reasonable for us to manage a material and immediate risk.

## 22 Notices.

- a) All communications in either electronic and/or paper form from us to you will be considered "in writing".
- b) You consent to Bank of Melbourne communicating electronically with you about your Merchant Facility. By doing so, you nominate and authorise Bank of Melbourne to act on instructions it has received electronically. This consent and authority will apply to all communications permitted to take place electronically by law including (but not limited) to statements, notices and other documents we send you about your Merchant Facility, variations to the contract including terms and conditions relating to your Merchant Facility, and other notices we send you.
- c) We will rely on this consent to communicate with you through electronic mail (email) to the email address that you have provided to us, making a notice available for you to access on our website at [bankofmelbourne.com.au](http://bankofmelbourne.com.au), through an advertisement in a major newspaper, through the merchant statements we send to you (either by ordinary mail or electronically, as set out in section 10) and/or ordinary mail to your postal address on our records.
- d) By providing this consent, we are no longer required to send you notices or other documents in paper form in relation to your Merchant Facility.
- e) You can give us a notice by phone or by post to the address in this booklet (using a prepaid envelope), or by any other method we specify (e.g. by completing a form in Business Banking Online).

We reserve the right to seek confirmation from you before acting on any message or other communication received, although you agree that we have no obligation to do so.

You agree that at all times during the term of this Agreement, you will maintain a valid:

- a) email address able to receive messages with a file size up to 8 megabytes including attachments and capability to download files from [bankofmelbourne.com.au](http://bankofmelbourne.com.au);
- b) mobile phone number capable of receiving phone calls and SMS messages;
- c) postal address.

You must give us at least 4 Business days' notice if any of the above addresses or numbers will be changed for any reason.

It is your responsibility to ensure that your emails, mobile phones and postal addresses are checked regularly.

Notices sent by us will be considered to have reached you:

- a) either when it is left at the relevant address using standard post or 5 Business days after being deposited in the post (whichever happens earlier);
- b) if by registered post, when recorded as being delivered; or
- c) if by SMS, when it is received by you or 3 hours after it has been sent by us (whichever happens earlier); or
- d) if by email (including where an email specifies an external address for accessing information) when the email enters the email server associated with your email address.

However, where it is received after 5.00pm or on a day that is not a Business day, it will be considered received 10.00am on the following Business day.

Unless otherwise required by Law, you agree that where we provide notifications or documents to you electronically, we will no longer be required to provide those notifications or documents in paper form.

## 23 Warranties and Indemnities.

You must not make any warranty or representation of any kind in relation to any of your goods or services which may create the impression that we are in any way bound by the warranty or representation.

You acknowledge that by processing a Transaction, or by giving us any audit log(s), you promise that:

- a) all particulars relating to the Transaction are true and correct;
- b) the Transaction and any audit log(s) are valid; and
- c) the sale is not subject to any dispute, set off or counterclaim.

You indemnify and keep us indemnified against, and must pay us on demand against all claims, actions, suits, losses, defaults, liabilities, expenses, costs (including legal costs) and damages we may incur or bear arising out of or in connection with:

- a) your failure to meet any of your obligations under this Agreement (including any procedures set out in a Manual or Documentation) – whether caused by you or any of your officers, employees, agents or contractors;
- b) any failure to pay any charges or fees payable by you under the Agreement;
- c) any dispute between you and a Cardholder;
- d) any liability arising from a Prepaid Sale and/or Chargeback;
- e) any error, negligence or fraud relating to a Transaction by you, your officers, employees, agents or contractors;

- f) any damage to, or loss of the Terminals due to neglect or misuse by you, or any of your officers, employees, servants, agents, or contractors; or
- g) any fees, fines, or penalties (including but not limited to Card Scheme fines) that we are required to pay as a direct or indirect result of your failure to observe any of the procedures, requirements or obligations you were required to follow under the Agreement.

However, this indemnity does not apply to the extent that the indemnified amount arises because of:

- i. the gross negligence, wilful misconduct or fraud of; or
- ii. a breach of a Banking Code obligation or mandatory statutory obligation to act fairly and or reasonably by; us (including through our officers, employees, contractors or agents).

Each indemnity given by you under the Agreement is a continuing obligation and continues after the Agreement ends. It is not necessary for us to bear any expense or make a payment before applying the relevant indemnity.

Any payments due or made by you under this section will be automatically increased by the amount of any GST liability incurred by us in respect of those payments, and you must also pay us that amount when we ask.

## 24 Fraud Prevention.

### **PCI DSS Compliance.**

- a) You must ensure your business and any Service Provider acting on your behalf is always compliant to the PCI DSS.
- b) Your merchant classification according to the PCI DSS will be determined at the discretion of Bank of Melbourne.
- c) All costs in relation to complying with this section will be borne by you.
- d) If your business suffers or is suspected to have suffered an ADC (Account Data Compromise), we may pass any penalties charged by the Card Schemes on to you and reserve the right to pass on any charges that relate to the investigation of an ADC.

### **PCI DSS Validation.**

- a) If you are a level 1, 2, or 3 merchant under the PCI DSS, you must validate your compliance with the PCI DSS on an ongoing basis and supply your compliance documents to us upon request.
- b) Validation of compliance to the PCI DSS must be completed within 3 months of us notifying you.

For more information on the PCI DSS refer to the 'Your guide to the Payment Card Industry Data Security Standard' available on [bankofmelbourne.com.au/merchant-terms](http://bankofmelbourne.com.au/merchant-terms)

You must ensure that:

- a) any software or hardware you purchase, create, or utilise for the purpose of selling goods or services does not retain its original password before using it for the acceptance of Transactions;
- b) all system and/or software passwords are changed on a regular basis; and
- c) digital devices (such as computers) that allow a choice of 'administrator' and limited user system privileges are not used with 'administrator' system privileges except during system maintenance that requires 'administrator' system privileges.

## **Account Data Compromise (ADC) Events.**

As soon as you become aware that an actual or suspected ADC or breach of confidential Card Information has occurred (whether through your Service provider or otherwise) you must comply with the ADC procedures set out in this section and detailed in the "Your Guide to the Payment Card Industry Data Security Standard" available on [bankofmelbourne.com.au/merchant-terms](http://bankofmelbourne.com.au/merchant-terms)

If there is an actual or suspected ADC or if there has been any actual or suspected Terminal manipulation:

- a) You must give us and our agents full access to your systems and databases to facilitate a forensic analysis to determine:
  - i. what Card Information has been compromised;
  - ii. what weaknesses in the system allowed the ADC or Terminal manipulation to occur; and
  - iii. whether Card Information was created, deleted, altered, copied, or manipulated in any manner.
- b) If you use the services of an external Service Provider, you must ensure that Bank of Melbourne and its agents are given full access to necessary outsourced components such as databases, web hosting systems, etc.
- c) You must pay all costs in connection with our analysis, investigation and resolution of the ADC or Terminal manipulation, and must also pay any fines imposed by a Card Scheme under section 9.
- d) To continue processing Transactions, you will need to confirm (and validate to our satisfaction) that you are fully compliant with the PCI DSS as a Level 1 Merchant. This confirmation must be given within 3 months of the ADC or the event(s) that resulted in the Terminal manipulation.

You agree:

- a) that we may report all ADC events to Card Schemes and their members and may be required to report ADC events to law enforcement agencies and/or Australian regulators. You grant an irrevocable and enduring consent to us to disclose details of any such ADC (including information about you and your customers) to any such persons, agencies, or regulators.

- b) to irrevocably grant us the enduring right to contact any Service Providers that enable you to acquire Credit Transactions, Debit Transactions and Transactions relating to Charge Cards. This is for the purposes of determining the extent of any actual or suspected ADC, assessing remedies for that ADC and assessing your level of compliance with the PCI DSS.

## 25 The Banking Code of Practice.

The relevant provisions of the Australian Banking Association's banking code of practice (Banking Code) apply to the banking services referred to in the Agreement. This means that we will comply with the Banking Code, where it applies to the banking services provided to you. You can view a copy of the Banking Code on our website or ask us for a hard copy in branch or over the phone.

This section applies to you if you are an individual (who isn't a business) or a Small Business.

## 26 Financial Crimes Monitoring and Anti-Money Laundering.

To meet our regulatory and compliance obligations (including those relating to anti-money laundering and counter-terrorism financing) or to manage associated risk, we may:

- a) delay, block, freeze or refuse Transactions where we have reasonable grounds to believe that they breach Australian law or sanctions (or the laws or sanctions of any other country). Where Transactions are delayed, blocked, frozen or refused, we and our accredited processors are not liable for any loss suffered by you (including consequential and indirect loss);
- b) we may from time to time require additional information from you to assist us to comply with our regulatory and compliance obligations or to manage associated risks.

This information may include "personal information" as defined by the *Privacy Act 1988* (Cth). If we request such information, you must provide us with the information immediately, or at least within 24 hours of such a request; where legally obliged to do so or to assist in preventing unlawful activities, we may disclose the information gathered to regulatory and/or law enforcement agencies, other banks, other members of the Westpac Group, service providers who do things on our behalf or to other third parties; and

- c) where we have reasonable grounds to believe that a suspicious matter has arisen in relation to the Merchant Facility, we are obliged to complete and provide a report to the Federal Government (AUSTRAC). A suspicious matter includes any Transaction that we believe may be of relevance to the

investigation or prosecution of any breach or attempted breach of an Australian law (including laws related to money laundering, tax evasion, financing of terrorism or the proceeds of crime).

You provide us with the following undertakings and indemnify us against any potential losses arising from any breach by you of such undertakings:

- a) you will not initiate, engage in, or effect a Transaction that may be in breach of Australian law or sanctions (or the law or sanctions of any other country); and
- b) the underlying activity/product for which the Service is being provided does not breach any Australian law or sanctions (or the law or sanctions of any other country).

## 27 Termination.

The Agreement commences when you accept our offer in accordance with section 1 and will continue until such time as it is terminated in accordance with this section.

You may terminate this Agreement or use of an underlying Merchant Facility by calling us on the phone number in this booklet. Unless such notice is provided, your Agreement (including fees and charges) will continue to apply, even though you may have returned Equipment to us or securely discontinued its use.

It is your obligation to reconcile your Account after termination of this Agreement and notify us within a reasonable time of any discrepancies.

We may also terminate the Agreement or use of an underlying Merchant Facility for the following reasons:

- a) a Merchant Facility does not comply with the Rules resulting in a material breach of the Rules;
- b) we reasonably consider your ratio of Chargebacks to sales, whether by number or dollar value of Chargebacks, to be substantially unusual or excessive;
- c) you have substantially changed your line of business, or the types of goods or services that you supply to your customers or clients—without first notifying us and receiving consent;
- d) we have reasonable grounds for concerns about your solvency, or the solvency of your business;
- e) we have reasonable grounds for concerns about your ability to meet or repay the amounts of any Chargebacks that have been received, or that are likely to be received, in the future conduct of your business;
- f) you have a significant adverse credit event recorded against you, such as (but not limited to) when your credit rating is materially impacted due to registering a default, going into external administration, or facing court actions likely to have material adverse effects on your business;



- g) we have reasonable grounds to suspect that you have fraudulently processed Transactions, or have knowingly allowed fraudulent Transactions to be processed through your Merchant Facility;
- h) you or any of your Services Providers are not compliant with the PCI DSS resulting in a material breach of the PCI DSS;
- i) you or any Service Provider that you use has suffered an ADC which we reasonably consider to be significant;
- j) you have, or we suspect on reasonable grounds that you have, breached a material term of the Agreement;
- k) if the merchant is a corporate entity, the company has been deregistered, or we suspect on reasonable grounds that the company is in the process of being deregistered.

We do not have to give you verbal or written notice before we terminate the Agreement or facility on the basis of the reasons listed in (a) to (k) above. However, we will use reasonable endeavours to give you prompt subsequent written confirmation that the Agreement or Merchant Facility has been terminated.

We may terminate the Agreement on the grounds that you have not processed Transactions through your Merchant Facility for a period of three (3) months. Under these circumstances we will advise you, in writing, of our intention to terminate and will allow you a period of 14 days, from the date of our letter, in which to contact us. After that time, we may terminate the Agreement or Merchant Facility without further notice.

Termination will be effective immediately, and we are not obliged to accept any Transactions you process after the Agreement or facility is terminated.

You agree to stop using the Terminal Access Services immediately if this Agreement is terminated. We will be entitled to terminate the availability of the Terminal Access Services to you if that occurs.

To be clear, termination of a Merchant Facility or the Agreement does not affect any obligations incurred prior to termination. Sections 7, 8, 9, 19, 23, 27, 28, 32, 35 and 37 survive termination.

On termination of the Merchant Facility or the Agreement you will immediately return all relevant Equipment, and continue to pay fees and charges (incurred) until the Equipment is returned to us. If the Equipment is not returned to us immediately, as per this section, you authorise us to enter the premises where the Equipment is kept and take possession of the Equipment without notice to you.

On termination of an eCommerce Service where this is the only Merchant Product, you will not have access to the eCommerce Service dashboard, portal or API. You are responsible to ensure you have downloaded all records that you require from the dashboard or API, prior to termination. We will not be responsible for information from the dashboard or API that you cannot access due to termination.

Where a Merchant has another Product attached to the eCommerce Service Dashboard then access to this Product will continue after the closure of the eCommerce Product.

You acknowledge that a “combined terminated merchant file” is a list containing the business name and the names and identification of principals of merchants that have been terminated by acquiring financial institutions. You consent to us providing information about you (and any persons named in your application for a Merchant Facility) to Mastercard, Visa or any other Card Scheme for addition to the file if the Agreement is terminated (this may include sending information overseas). You acknowledge that this information will be available to any member of the Card Scheme(s) and may be used to assess subsequent applications for Merchant Facilities. You indemnify us against all claims, actions, suits, losses, defaults, damages, and liabilities resulting from the inclusion of you or your principals on this file.

## 28 Privacy Law and Use of Information.

You agree to comply with:

- a) any Privacy Laws by which you are bound; and
- b) any other privacy or confidentiality requirements we have notified you of.

You acknowledge that you do not rely on any information or representation supplied by us as advice regarding compliance with the Privacy Laws.

You agree that we may collect information from Card issuers or any Card Scheme about (or relating to) you, the Merchant Facility and/or facilities you acquired or are acquiring from other suppliers – (which together constitutes “your history”). We will collect this information for any purpose we reasonably consider necessary in relation to your Merchant Facility. You authorise us to collect such information.

We may collect, store, use and disclose information about (or relating to) you. This includes information from your application, your history or how you use the facilities, your geographical location (including Terminal geographical location) or transaction information processed using facilities we supply to you under the Agreement. We do this to:

- a) help us run our businesses, including to help assess or improve the performance of business functions, products and activities of any members of the Westpac Group;
- b) help support the development, provision, promotion, enhancement or improvement of goods or services by members of the Westpac Group;

- c) enable other parties to provide goods or services to the Westpac Group, and also assist us in running our business, including supporting the development, provision, promotion, enhancement or improvement of goods or services by (or on behalf of) the Westpac Group;
- d) process Transactions;
- e) conduct data analytics activities, including to assist the Westpac Group and/or other parties; or
- f) enable the development, provision, promotion, enhancement or improvement of goods or services (including data products) offered by other parties.

In addition, you consent to our use and disclosure of your confidential information and personal information for the purposes stated in paragraphs (e) and (f) above. We will not disclose your confidential information or personal information to other parties referred to in paragraphs (e) and (f) for their own use without making sure the disclosure (including outputs of analytics) has undergone a de-identification process or unless the disclosure is otherwise allowed based on our terms with you or applicable Law, or you have consented to it.

A de-identification process is a process designed to remove any of your confidential information or personal information that is reasonably identifiable within the output data or disclosed information.

We may also collect information about (or relating to) you from other parties for purposes described in this section.

You also acknowledge that transaction information of Cardholders is processed using your facilities and you consent to our use and disclosure of that transaction information subject only to our terms with relevant Cardholders. Consequently, we are not restricted by the terms of the Agreement in our use and disclosure of that information or any information derived from that information. This may include uses and disclosures which identify you as the relevant merchant for transactions or include information about businesses or brands (including yours) with whom the Cardholder or a type of Cardholder transacts or is likely to transact. For example, this could be in relation to their affinity with such businesses or brands or the proportion of Westpac Group Cardholders that transact with them. It also includes disclosures and uses in connection with use of products and services used or obtained by that Cardholder.

The other parties to whom information may be disclosed as contemplated under this section may be located overseas and include:

- a) our agents, contractors and external service providers, mailing houses and data analytics providers;
- b) any person who is a card issuer, Card Scheme operator or involved in any Card Scheme or payment network, or payment ecosystem (for example, Visa, Mastercard, UnionPay, eftpos and

card fraud detection agencies). This information may include information about terminating a Merchant Facility and the reasons for that termination;

- c) another service provider who may use this information (amongst other things) to determine whether or not to make facilities available to the merchant;
- d) persons you inform us about that supply services related to your Merchant Facility (including Ingenico, Verifone, American Express or Diners Club);
- e) persons who the Cardholder informs us about that supplies services related to their transactions and/or account;
- f) other companies within the Westpac Group;
- g) our customers or any organisations with whom the Westpac Group do business (including in relation to sharing data analytics or insights); and/or
- h) other parties as permitted by Law, the Agreement or our Privacy statement which is available at [bankofmelbourne.com.au/privacy/privacy-statement](http://bankofmelbourne.com.au/privacy/privacy-statement)

Where any information about (or relating to) you – such as your application information, history or conduct of the facilities, or transaction information (processed using facilities we supply you under the Agreement) – consists of information about any franchise or franchisee related to your business or their officers, shareholders, directors, then you consent and confirm that each of the persons mentioned above consent to our use and disclosure of that information in accordance with these terms. This is in addition to any other uses or disclosures covered by our privacy statement which is available at [bankofmelbourne.com.au/privacy/privacy-statement](http://bankofmelbourne.com.au/privacy/privacy-statement) or any other associated privacy notice.

In addition, you acknowledge that information referred to in this section may include personal information, and where the term ‘personal information’ is used in the Agreement, that term is as defined by the *Privacy Act 1988* (Cth).

Nothing in this section restricts us from using or disclosing information about (or relating to) you that is not confidential information or personal information.

Our rights under this section continue after the Agreement is terminated.

## Marketing Communications.

We may use or disclose your information to contact you and send you information about products and services offered by the Westpac Group or its preferred suppliers. Additionally, we will use your personal information to send you offers for products and services we believe may be of interest and value to you (including by email, SMS or other means) unless you have previously told

us that you do not want to receive marketing offers from us. The products and services offered may be provided by us or one of our third-party partners. If you do not want to receive direct marketing offers from us, you can manage your marketing preferences in your online banking profile, let us know using the contact details in our [Privacy Statement](#) or follow the opt-out instructions in the message.

## 29 Merchant Representatives.

When contacting Bank of Melbourne to get information or provide instructions in relation to the Merchant Facility, the following authority levels will apply:

- a) A Staff Member can call us in relation to the following under a specific Merchant Facility:
  - i. make accounting requests for missing transactions, reversals and settlements (but cannot request refunds);
  - ii. activate terminals;
  - iii. order paper rolls and stationery; and
  - iv. request technical support.
- b) An Authorised Contact can call us to request everything that a Staff Member can under a specific Merchant Facility, plus:
  - i. action chargebacks;
  - ii. add store numbers;
  - iii. ask for additional statements;
  - iv. change settlement times (except settlement times for eCommerce Merchant Facilities which may not be changed);
  - v. report lost, stolen or damaged terminals;
  - vi. request a change of phone number;
  - vii. request a Merchant Service Fee (MSF) refund;
  - viii. request cardholder refunds and set up temporary refunds;
  - ix. reset passwords and online access;
  - x. set up or change a terminal's Cash Out, surcharging and tipping functions; and
  - xi. change the way your terminal connects to your POS.
- c) Merchant Owners and Merchant Owner Nominees have full authority to make changes to all Merchant Facilities (including everything a Staff Member or Authorised Contact can request), including:
  - i. changing Authorised Contact and Merchant Owners;
  - ii. changing business trading name, bank account, mailing address, phone number or email address;
  - iii. changing pre-payment exposure (PPE) limits;
  - iv. changing refund limits;

- v. closing the merchant facility;
  - vi. discussing merchant facility fees including requesting a rate review;
  - vii. requesting copies of transaction and settlement history;
  - viii. opening of a new product (new site or additional product);
  - ix. opting-out of account signatory authorities acting as Merchant Owners;
  - x. ordering terminal accessories;
  - xi. removing the address on terminal receipts;
  - xii. requesting a warrant (refund when cardholder is not present); and
  - xiii. set up or change:
    - a) American Express or Diners card acceptance;
    - b) statement preferences;
    - c) Mail Order/Telephone Order (MOTO);
    - d) Merchant Choice Routing;
    - e) Multi-Merchant for Primary/Subsequent merchants;
    - f) Pre-Authorisation; and
    - g) Pre-Payment Exposure.
- d) Anyone with account signature authority on any account held by the Merchant (including settlement, billing, or chargeback account), will also be treated as Merchant Owners. If you do not want account signatories to be treated as Merchant Owners, please contact us, and update your preferences.

## 30 Notifying Us of Changes.

You must:

- notify us within 14 days of any changes in your company, trading name, address and/or DGR Status. You can do this by calling us on the phone number in this booklet or writing to us at the address in this booklet.
- notify us within 4 Business days of any changes to your address (email or postal) or phone number(s).
- continue to notify us of any changes for a period of 12 months after the Agreement is terminated for any reason. We will not be responsible for any errors or losses where we have not received adequate prior notice.

You must not substantially change your line of business, or the types of goods or services that you supply to your customers or clients, without first notifying us and receiving our written consent.

In addition, you must notify us immediately if the ownership or control of your business (including any delegation by way of power of attorney) or your ability to meet liabilities as and when they fall due changes. The new owner will need to apply for a new Merchant Facility with us if they wish to continue using our merchant services.

## 31 Charge Cards.

We may program the Terminals to accept Transactions by a Charge Card issued under a Charge Card Scheme in which you participate. You must inform us in writing of your merchant number for that Charge Card Scheme.

Our only obligation to you in relation to any Charge Card Transaction conducted through a Merchant Facility is to transmit the details of the Transaction to the person, body corporate or association conducting the Scheme under which the Charge Card was issued.

We make no representations and give no assurances in relation to:

- a) the creditworthiness of any person presenting a Charge Card;
- b) the performance of any agreement or arrangement between you and any person, body corporate or association conducting a Charge Card Scheme; or
- c) settling the funds in relation to those Charge Cards to your account.

## 32 Third Parties.

You will not process any Transaction on behalf of any third party without our prior approval.

We may pay a fee or commission to a third party who introduces you to us, including in connection with an agreement, or renewal, extension, or variation to an existing agreement.

## 33 GST.

We may increase the amount ("original amount") of any fee or other consideration payable by you under the Agreement which has not been specified to include GST. This will ensure that the total amount payable by you is equal to the original amount plus the amount of any GST payable by us on the total amount.

You must pay us, as instructed, any amount which we decide to be necessary to reimburse us for any direct or indirect increase resulting from any GST cost to us.

## 34 Suspension.

We may suspend the facilities we supply to you under the Agreement without notice to you if we:

- a) consider that we could suffer a loss as a result of your Merchant Facility continuing to operate;
- b) think we could be subject to fraud if we continue to supply the facilities;

- c) become aware of an event listed in section 27 that gives us the right to terminate the Agreement or use of an underlying Merchant Facility;
- d) after a reasonable number of attempts to reach you we are unable to contact you to discuss a matter relating to the use of your Merchant Facility.

We will inform you as soon as possible after we suspend your facilities under this section.

While the facilities are suspended, we will not process any Card Transactions you submit.

## 35 Use of Trade Marks.

You agree:

- a) to get our prior written consent before using Westpac Group's Trade Mark;
- b) to comply with our Trade Mark use guidelines or directions provided to you from time to time;
- c) not to take any action which will adversely affect the value of the goodwill attached to the Trade Marks and/or our business.

As you are approved to accept Card Transactions:

- a) we grant you revocable non-exclusive, non-transferable sub-licences to use the respective Card Scheme Trade Marks in connection with the operation and promotion of Card transactions and accounts and/or other services associated with them (based on your compliance with the terms of the Agreement, Manuals, Documentation and guides);
- b) you acknowledge that the respective Card Schemes own the Trade Marks and your right to use the Trade Marks does not confer any proprietary or other interest in the Trade Marks during or after the termination of the Agreement;
- c) you agree to comply with any Trade Mark requirements set out in the Manuals, Documentation or guides from time to time. You must not use the Trade Marks in a manner that is inconsistent with or detracts from any branding, Trade Mark requirements or marketing messages of the respective Card Schemes.

This sub-licence to use Card Schemes Trade Marks:

- a) will be cancelled immediately on termination of your Agreement with us; or
- b) may be cancelled immediately by us with a written notice to you. Once you receive this notice, you agree to immediately stop using all Trade Marks and destroy all materials and items that include the Trade Marks.

You indemnify us for claims and demands made against us (or have been borne by us) arising directly or indirectly out of your use of branding and/or the Trade Marks where such use is in breach of the Card Scheme Rules.



## 36 Personal Property Securities Act (PPSA).

If we determine that this Agreement (or a Transaction in connection with it) is, contains or creates a Security Interest for the purposes of the PPSA, you agree to do anything (such as obtaining consents, signing and producing documents, arranging for documents to be completed and signed and supplying information) which we ask and consider reasonably necessary to:

- a) perfect any such Security Interest or to provide more effective security over the Equipment or any other personal property over which we have a Security Interest;
- b) to ensure that a Security Interest created under or connected with this Agreement is enforceable, perfected (including, where possible, by control in addition to registration) and otherwise effective;
- c) to enable us to apply for any registration, or give any notification, in connection with any Security Interest created under or connected with this Agreement, so that the Security Interest has the priority we require;
- d) to enable us to exercise our rights in connection with any Equipment or any other personal property over which we have a Security Interest;
- e) to bind you and any other person intended to be bound under this Agreement; or
- f) demonstrate your compliance with this Agreement.

You agree:

- a) that we may complete any document on your behalf relating to this Agreement (such as Corporations Act forms, *financing statements* or *financing change statements*);
- b) that we may, at your expense, apply for any registration, or give any notification, in connection with any Security Interest created under or connected with this Agreement and for whatever class of collateral we think fit. You consent to any registration or notification by us, and agree not to make an *amendment demand*;
- c) not to register a *financing change statement* in respect of a Security Interest created under or connected with this Agreement without our prior written consent;
- d) not to register, or permit to be registered, a *financing statement* or a *financing change statement* in relation to any Equipment in favour of a third party without our prior written consent;
- e) that we need not comply with sections 95, 118, 121(4), 125, 130, 132(3) (d) and 132(4) of the PPSA, or any other provision of the PPSA we have notified you of, after the date of this Agreement;
- f) that you may not exercise any rights under sections 142 and 143 (reinstatement of security) of the PPSA;

- g) that neither we nor any receiver (or receiver and manager) appointed by us needs to give any notice required under the PPSA (including a notice of a *verification statement*); and
- h) that you will not disclose or allow any party to disclose any information of the kind referred to in section 275(1) of the PPSA unless section 275(7) (b) or (e) of the PPSA applies.

In this section, terms in italics have the meaning given to them in the PPSA.

## 37 Assignment.

This Agreement is binding on the parties, their executors, administrators, successors, and assignees.

Where you are two or more persons, your Obligations under this Agreement will be joint and several.

You may not assign this Agreement to any other person without our written consent, which will not be unreasonably withheld. We may at any time, by giving you no less than 30 days' prior notice, assign our rights or novate our rights and obligations under the Agreement.

We may also transfer our interest in the Agreement or give another person an interest or security in the Agreement without getting your consent. You appoint us and any person authorised by us to be your attorney to sign any document or do anything necessary to effect the assignment, novation, or transfer mentioned in this section.

## 38 Our Liability is Limited.

Any Terminal provided by us under this Agreement will be of acceptable quality. Otherwise, and except for any guarantees, conditions, rights, or warranties that are implied or imposed by law in relation to the Agreement (and which may not legally be excluded – for example, under the Australian Consumer Law where it applies), we give no guarantee, warranty, or representation in respect of any particular Transaction, or Terminals, and all other terms, conditions, or warranties (whether expressed or implied) are excluded.

Additionally, for eCommerce Services, we make no representation or warranty in connection with:

- a) any connection or capacity to successfully connect to any telecommunications system with your telecommunications provider;
- b) the interoperability between the eCommerce Service and your Website(s), systems or telecommunications system; or
- c) any features, functionality, characteristics or capability of your eCommerce merchant dashboard, portal or API or its availability, nor that access will be continuous or uninterrupted. We will use reasonable endeavours to overcome any fault in the services we provide to you quickly.

## General liability limitation.

You acknowledge that our liability for breach of any condition, right or warranty (for example, the mandatory consumer guarantees under the Australian Consumer Law where it applies) that cannot be excluded from the Agreement by law is limited at our discretion to the replacement or the repair of the Terminals, or the re-performance of the Terminal Access Service.

This limitation only applies to the extent permitted by law and regardless of whether we or any of our officers, employees, contractors or agents may be aware of the likelihood of such loss or damage, we will not be liable whether in contract, tort (including negligence) or otherwise to you or persons making a claim through you for:

- a) special, consequential or indirect or incidental loss or damage of any kind (including exemplary or punitive damages);
- b) loss of business, profits or income whether actual or anticipated;
- c) any disruption caused by:
  - a malfunction of a Merchant Facility; or
  - any period when the Merchant Facility is unavailable, or you are waiting for a replacement Terminal;
- d) payments of amounts owed by an invoiced recipient to you (including, for example, where you do not receive the full amount required to be paid under an invoice, or where the payment is delayed);
- e) any dispute between you and your customers and/or invoice recipients (including without limitation any dispute arising from inaccurate or inappropriate information you have included in an invoice);
- f) any unauthorised access to your eCommerce Service;
- g) any delay by us in crediting your Account;
- h) our failure to credit your Account due to technical or administrative difficulties relating to the banking system used for the transfer of funds; or
- i) termination of the Terminal Access Services in accordance with this Agreement.

However, this limitation does not apply to loss or damage:

- j) caused by wilful misconduct, fraud, gross negligence, or breach of a Banking Code obligation to act fairly and or reasonably, by us (including through our officers, employees, contractors or agents);
- k) to the extent it is caused by a persistent and significant failure by us to provide the Merchant Facility or perform the Terminal Access Service with due care and skill, after you have notified us of the failure in reasonable detail.

This section applies whether or not we or any of our employees, contractors or agents are aware of the likelihood of such loss or damage.

## Limitation of liability for Integrated Payment Solutions.

If you hold an Integrated Payment Solution, this section applies:

- a) The implementation of an Integrated Payment Solution may affect either party's technology or systems **(IT)**. To the extent permitted by Law, neither party will have any liability to the other (or any persons claiming through the other) whether in tort, contract, statute or otherwise (including as a result of the negligence of the party its employees, agents and subcontractors) arising out of, or in connection with any loss or damage caused by one party to the other party's IT or any lost or improperly processed data.
- b) You acknowledge and agree that as an Integrated Payment Solution involves connection between the Integrated Payment Solution and a third-party point of sale solution **(POS)**, we are not responsible for ensuring, and we do not guarantee that such connection will be uninterrupted, operate without delay or be error-free.
- c) To the extent permitted by Law, we will not be liable whether in contract, tort (including negligence) or otherwise to you or persons claiming through you arising out of or in connection with:
  - i. any malfunction or unavailability of the connection between an Integrated Payment Solution and the POS, or of the POS itself; and
  - ii. any errors or inaccuracies associated with data communicated between the POS and an Integrated Payment Solution including any processing of such data as part of a transaction.

However, this does not apply where this was caused by our wilful misconduct, fraud or gross negligence.

- d) You are responsible for ensuring that the connection between the Integrated Payment Solution and your POS is operational and properly functioning at all relevant times.
- e) Through your use of the connected POS, you will be initiating and permitting transfers of data between your POS and the Integrated Payment Solution. Despite section 28, in addition to permitting us to receive, send and use this information, we may also disclose and obtain information about or relating to you (and that is relevant to the services provided under this Agreement) directly to and from the POS provider.
- f) We are not responsible for the data once it leaves the Integrated Payment Solution.
- g) We do not guarantee or endorse the products and services of the POS provider.

## 39 Governing Law.

The Agreement will be governed by and interpreted in accordance with the laws of New South Wales.

## 40 Reasonableness.

We will act fairly and reasonably in line with our legitimate business interests in exercising our rights and discretions under the Agreement.

## 41 Feedback and Complaints.

### **Delivering on our service promise.**

We're constantly striving to provide the best possible service, and we'll do our best to resolve any concern you have quickly and fairly.

### **Our commitment to you.**

If you're ever unhappy about something we've done – or perhaps not done – please give us the opportunity to put things right.

Our aim is to resolve your complaint within 5 working days, however, where possible we will resolve your complaint on the spot. If we need some additional time to get back to you, we will let you know. Should we be unable to resolve your concern at your first point of contact, we will refer the complaint to our dedicated Customer Solutions team.

Our Customer Managers are here to find a solution for you and will ensure that you're regularly updated about the progress we are making to resolve your complaint.

Your complaint will be reviewed in line with our FAIRGO principles.

Find out more at

[bankofmelbourne.com.au/contact-us/customer-complaints/fairgo](https://bankofmelbourne.com.au/contact-us/customer-complaints/fairgo)

We will apply our Legal Dispute Resolution Guidelines where there are legal proceedings. These Guidelines are based on model litigant principles.

The Westpac Group also has a Customer Advocate whose role is to advise and guide our complaints team on how best to resolve a complaint and also to listen to customers and recommend changes be made to bank policies, procedures and processes.

# You've got questions? We've got time to talk.

## Over the phone:

Please call us from anywhere in Australia on 13 22 66

If you are overseas, please call +61 3 8536 7870

## Over the internet:

Using the secure feedback form at [eforms.bankofmelbourne.com.au/olfmu/eforms/ConsumerFeedback/#/welcome](https://eforms.bankofmelbourne.com.au/olfmu/eforms/ConsumerFeedback/#/welcome)

## If you prefer to mail:

Bank of Melbourne Customer Solutions

Level 5, 150 Collins Street

Melbourne VIC 3000

## If you are in a branch:

You can tell us in person.

Find a branch at [bankofmelbourne.com.au/locator](https://bankofmelbourne.com.au/locator)

If you are a Business Bank, Institutional Bank, Premium Banking or Private Banking customer, please contact your Relationship Manager, Private Banker or our Merchant Helpdesk on 1300 603 266.

If you are not satisfied with our response or handling of your complaint, you can contact the external dispute resolution scheme, the Australian Financial Complaints Authority (AFCA).

## Australian Financial Complaints Authority.

AFCA provides a free and independent service to resolve complaints by consumers and small businesses about financial firms (e.g. banks), where that complaint falls within AFCA's terms of reference.

The contact details for AFCA are set out below.

**Online:** [www.afca.org.au](https://www.afca.org.au)

**Email:** [info@afca.org.au](mailto:info@afca.org.au)

**Phone:** 1800 931 678 (free call)

**Post:** Australian Financial Complaints Authority  
GPO Box 3, Melbourne VIC 3001

## Other alternatives.

Other options may be available to you. You may wish to get legal advice from your community legal centre or Legal Aid. You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at [www.asic.gov.au](https://www.asic.gov.au).



Bank of  
Melbourne

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*Bank of Melbourne acknowledges the Traditional Owners as the custodians of this land, recognising their connection to land, waters and community. We pay our respects to Australia's First Peoples, and to their Elders, past and present.*

**Things you should know:** This information is current as at June 2024 and is subject to change. Mastercard® is a registered trademark of Mastercard International Incorporated. Visa® is a registered trademark of Visa International Service Association. American Express® is a trademark of American Express. UnionPay is a trademark of UnionPay International Co. Ltd. © Bank of Melbourne – A Division of Westpac Banking Corporation ABN 33 007 457 141 AFSL and Australian credit licence 233714. WBCBOMDB1084 0624