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# MERCHANT AGREEMENT

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## **Section 2: Merchant Agreement General Terms and Conditions** **22**



**SECTION 1:**  
**QUICK**  
**REFERENCE**  
**GUIDE**

## 1. Introduction

This Quick Reference Guide is intended to assist you and your staff with the important components of the National Australia Bank (NAB) Merchant Agreement General Terms and Conditions.

This is to ensure you have a clear understanding of your rights and obligations as a valued NAB merchant.

The first section of the guide outlines key issues and procedures. This section will help you understand important issues and explain how we can work together to ensure your merchant facility helps meet the needs of your business.

Although there are requirements in this guide that you must comply with, it is not a replacement for your Merchant Agreement General Terms and Conditions or the supplementary conditions. It is important that you read the letter of offer and Section 2 of this booklet which sets out the Merchant Agreement General Terms and Conditions. You must also read the supplementary conditions if those provisions apply to you.

In addition you must also read:

- (a) NAB Credit Card Fraud Protection booklet; and
- (b) Payment Card Industry Data Security Standards brochures; and
- (c) Merchant User Guide for your terminal (where applicable); and
- (d) any other merchant services documentation supplied to you from time to time; and
- (e) your merchant statement.

You are required under the terms of your Merchant Agreement to comply with terms, conditions and procedures identified in the documents referred to above. We may vary or replace this booklet at any time by written notification, which may be provided by mail, email or through our website. Information on current standard fees, charges and any interest rates is available on request.

## 2. Processing transactions

You must:

- (a) accept all valid Cards and process all transactions in accordance with this document and any other practical operating instructions we provide to you; and
- (b) make every effort to verify the identity of the Cardholder, and ensure any Cardholder authorisation is not forged, obtained by fraud or deception, unauthorised or that the transaction is not otherwise invalid.

You must not:

- (a) request that the cardholder provide you with the cardholder's card and/or pin number to retain; or
- (b) undertake any transaction representing refinancing or transfer of an existing Cardholder's financial obligation to you; or

- (c) request that a customer provide card details via email for payment of the provision of goods and/or services. Should such details be provided to you, you must not use this information to provide goods and/or services, and must immediately securely destroy these details.

You may only retain the customer's card if our operator asks you to do so.

### **What is an authorisation?**

An authorisation is confirmation that:

- (a) the number on the card exists and is valid; and
- (b) the card has not been reported lost or stolen at the time of the transaction; and
- (c) sufficient funds are available at the time of the authorisation request.

Authorisation occurs when the cardholder's bank or financial institution confirms these details.

### **Authorisation is not a guarantee of payment**

Obtaining an authorisation does not guarantee payment or protect you from disputed transactions. An authorisation does not, and cannot, guarantee that:

- (a) the legitimate cardholder is using the card; and/or
- (b) the person using the card is authorised to do so by the account holder; or
- (c) that the card has not been compromised (card details improperly obtained or copied).

### **Additional security (card not present transactions)**

If the card and purchaser are not physically present at the time of purchase, there is an increased risk of liability for transactions that are disputed.

To help reduce your exposure to card fraud, we suggest you undertake additional security measures whenever you accept a Card not present transaction; some of these have been outlined in the NAB Credit Card Fraud Protection booklet.

### **Floor limit**

A floor limit is an amount allocated to merchants individually. The floor limit represents the maximum transaction in Australian dollar value that you can process without obtaining an authorisation. Floor limits are set and changed by NAB from time to time to align with the requirements of the card scheme's.

Transactions processed electronically are automatically provided with a real time authorisation. To process a transaction manually, please call NAB KeyAuth service on 13 25 15 and follow the prompts.

## Transaction splitting

Under no circumstances should a sale be 'split' by completing two or more transactions, except in the following instances:

- (a) when the cardholder bills a portion of the transaction to a card and pays the remaining balance by cash, voucher or cheque only; or
- (b) when the goods or services will be delivered or performed after the transaction date, where one voucher represents a deposit and the second voucher represents payment of the remaining balance. The second voucher is conditional upon the delivery or performance of the goods or services.

If you split a transaction to avoid having to obtain authorisation, this action may result in the transaction being charged back.

## Manual authorisations

When using online or terminal merchant services, most authorisations are obtained electronically.

You will need to obtain a manual authorisation if:

- (a) the card is faulty and will not process through your terminal; and/or
- (b) you are suspicious of the transaction for any reason.

To obtain credit card authorisation please call the NAB KeyAuth service. Dial **13 25 15** and follow the prompts.

NAB KeyAuth service is provided at no cost to EFTPOS customers.

Where applicable, authorisations for American Express or Diners cards can be obtained by contacting:

**American Express 1300 363 614**

**Diners 1800 331 112**

## 3. Fallback transactions for EFTPOS terminals

We are committed to delivering a continually high level of uninterrupted service to you. However there may be times when system issues, telecommunications faults or faulty terminals prevent us from doing so. In the event of a system outage, your terminal may function in fallback mode.



## **Fallback transactions**

Fallback transactions are transactions that are processed by an electronic terminal when the terminal is offline. Incorrect processing of a fallback transaction greatly increases the risk of the transaction being charged back. A fallback transaction may occur in the event of the terminal being unable to communicate with NAB.

You should refer to your terminal user guide for instructions on fallback transactions.

Please note that not all terminals operate in fallback mode. If in doubt, refer to your terminal user guide or revert to a manual back-up system to process transactions.

## **Processing transactions during a system outage**

If your terminal is not operating in fallback mode during a system outage, it is necessary to complete and settle the transactions manually. This is done through the Purchase service on the NAB KeyAuth (13 25 15).

If you have chosen to have a manual imprinter, you may use backup stationery to enable you to continue with your normal business transactions.

Manual vouchers are referred to in the stationery brochure as:

Credit Card Merchant Sales vouchers for credit card transactions (Item code 141-153).

Manual transactions must not be used to process transactions on faulty or damaged cards, for declined transactions or for incorrect PIN attempts.

Your terminal user guide provides instructions on when, and when not to process manual transactions.

If your electronic terminal is operating in fallback mode, it will capture cardholder information and you do not need to use the card imprinter.

## **4. Pre-authorisations**

This paragraph 4 only applies where you have been approved for pre-authorisation transactions.

Pre-authorisations are not available for cheque and savings transactions.

A pre-authorisation is used to place a hold on the cardholders' funds to the value of the transaction to be processed at a later time, for example, a hotel may reserve funds to pay the final bill upon checkout.

The pre-authorisation confirms that sufficient funds are available to cover the cost of the transaction and a hold is placed on the funds for approximately 5 to 7 days for domestically issued debit and credit cards. The matching transaction value should be processed within this time period. A pre-authorisation transaction supplies you with an authorisation number that must be recorded for processing of the final transaction.

Please ensure you advise the customer of the pre-authorisation amount.

## **5. Off-line transactions and pre-authorisation completions**

An off-line transaction or pre-authorisation completion is used to process the value transaction relating to a previously obtained pre-authorisation. Your terminal user guide provides instructions for processing off-line transactions.

You must not use the off-line function for any other purpose than as authorised by us.

## **6. Card not present transactions**

(For merchants processing card not present transactions)

**As sales activity via the internet and other remote channels is increasing, merchants need to ensure that they are familiar with the increased risks of accepting payments when the card is not physically present for verification.**

Any transaction conducted via the telephone, fax, mail or internet is known as a 'card not present' transaction and carries additional risks.

If a cardholder disputes a 'card not present' or Mail order/Telephone order (MOTO) transaction, the merchant is at risk of having that transaction charged back. The risk of all 'card not present' transactions resides with the merchant NOT the bank or the cardholder.

Once you have obtained our approval to process 'card not present' transactions, it is important to have policies and procedures in place to verify the identity of the purchaser before allowing the transaction to go ahead.

Some suggestions to assist you in verifying the cardholder's identity include:

- (a) obtaining full name, address and landline telephone number details;
- (b) conducting a white pages or Telstra check on the address and phone number provided;
- (c) confirming the order by calling the landline number provided; and
- (d) ensuring all deliveries are conducted by a reputable courier and made to verifiable residential or business addresses only.

**Note: Always be wary of large or suspicious orders.**

For further information, please read our booklet 'Credit Card Fraud Protection' carefully and follow the guidelines it contains.

## 7. Internet based merchants

For internet based merchants, you must comply with clauses 4.5 to 4.10 (inclusive) of your Merchant Agreement General Terms and Conditions to enable you to accept payments through your website.

If transactions conducted by cardholders on your website or through the HICAPS Go are processed automatically through your merchant service, you are responsible for ensuring that this is operational.

Please read our NAB Credit Card Fraud Protection booklet carefully and follow the guidelines. An additional copy of the booklet can be obtained by contacting the Merchant Fraud Team.

For further advice refer to [www.nab.com.au](http://www.nab.com.au) or contact our Merchant Fraud Team on 1300 668 046 or via email at [Merchant.Fraud@nab.com.au](mailto:Merchant.Fraud@nab.com.au)

### **NAB Transact, NAB Gateway, Medipass and HICAPS Go**

NAB Transact, NAB Gateway, Medipass and HICAPS Go are electronic payments and receivables channels. They provide you with a centralised technology interface for accessing a range of NAB Products.

In order to access NAB Transact, NAB Gateway, Medipass and HICAPS Go you need to nominate a person to be your Administrator. Your Administrator will be issued with a NAB or Medipass User ID and a PIN or password.

If you become aware that a PIN, password or User ID has been compromised or divulged, or if you believe there has been unauthorised access to NAB Transact, NAB Gateway, Medipass or HICAPS Go, please notify NAB immediately by calling 1300 138 313. You may be required to provide information about how the incident occurred.

## 8. Storage of cardholder data

If you have access to, or if you store card details in any format, or if you use a service provider who does, you are responsible for ensuring the security of your customers' payment details.

Storage of electronic card details on all systems is governed by strict guidelines that aim to protect this information from unauthorised access.

Data storage also includes physical storage and security of cardholder data. Some examples of other data storage which must be secured include an Access or Excel database and hard copy files.

Payment Card Industry Data Security Standards (PCIDSS) refers to the data security standards which have been mandated by Visa and MasterCard to facilitate protection of cardholder data from unauthorised access.

The Schemes may issue heavy penalties if your business experiences a card data compromise and you are non-compliant.

For further information on these guidelines please email [PCI@nab.com.au](mailto:PCI@nab.com.au). Storage of paper records is also regulated by your Merchant Agreement General Terms and Conditions.

You must not, under any circumstances, request that the cardholder provide you with the cardholder's card and/or pin number to retain.

## **9. Disputed transactions**

**A 'disputed transaction' can arise for a variety of reasons; the most common is when a cardholder cannot identify a transaction or claims not to have authorised a transaction on their credit or debit card.**

A cardholder can lodge a dispute and, once a transaction is disputed by the cardholder, it may be debited to your account. This process is known as a 'chargeback'. It is up to you to provide proof that the transaction is legitimate by providing evidence of the transaction as requested.

Failure to respond to requests for information/vouchers within specified timeframes may result in chargebacks.

Common types of disputed transactions include fraudulent transactions, unrecognised transactions, unauthorised transactions, duplicate processing and recurring transactions.

### **Fraudulent transactions**

You should always be aware of the potential for fraudulent transactions and have policies and procedures in place to deal with suspicious transactions. For further information, please refer to Section 12 of this guide and to NAB Credit Card Fraud Protection booklet.

### **Unrecognised transactions**

An "unrecognised transaction" occurs when a cardholder cannot reconcile the transaction appearing on their card statement with the payment to your business. To avoid this situation you must ensure that your merchant facility name is also your trading name or a name that your customers will easily recognise. Encourage your customers to retain their receipts for reconciliation.

### **Unauthorised transactions**

Unauthorised transactions occur when the cardholder denies conducting a transaction. Ensure you keep all receipts and signed card vouchers. Always check the signature on card vouchers against the signature on the card. In the case of mail order, telephone order or internet transactions, special care should be taken to establish cardholder's identity.

## **Duplicate processing**

This occurs when a transaction is charged to the cardholder's account two or more times. Should you notice this has occurred, you can avoid a chargeback of this type by crediting the cardholder through your terminal (where applicable) or contacting the Merchant Service Centre for assistance on 1300 369 852.

## **Recurring transactions**

This happens when a cardholder has cancelled a recurring transaction authority but is still being debited. You can avoid future chargebacks of this type by updating your records as soon as the cancellation/alteration request is received.

## **Where to go for help**

Should a transaction be disputed by the cardholder, you will receive a formal notification from NAB in the form of a Chargeback and/or a Retrieval Request (Refer to Section 10 of this guide for further information). It is important for you to read these notices and respond to the request within 10 calendar days. Failure to do so may result in a legitimate transaction being charged back to your settlement account.

## **Chargeback contact details**

In the event of a dispute, all documentation we request should be returned to NAB via fax on:

Freecall 1300 650 529

Further assistance with the chargeback process can be obtained from NAB's Merchant Chargeback & Retrievals team:

Telephone 1300 781 935

Email:

Responses – [RFI.Responses@nab.com.au](mailto:RFI.Responses@nab.com.au)

Chargeback Queries – [merchantchargebacks@nab.com.au](mailto:merchantchargebacks@nab.com.au)

Should a cardholder contact you directly regarding a disputed transaction and you believe the transaction to be legitimate, refer the cardholder back to their bank.

If you are not happy with the outcome of a disputed transaction you can contact NAB Merchant Service Centre on 1300 369 852 and we will do our best to resolve the situation.

## 10. The chargeback process

**Once a cardholder disputes a transaction, their bank will contact NAB on their behalf to verify the details of the transaction. NAB will then contact you to assist with this process.**

### Chargebacks

A chargeback occurs when the cardholder (or their bank/financial institution) raises a dispute in connection with a card transaction. If the dispute is resolved in favour of the cardholder, the transaction will be debited (charged back) to your account.

NAB also has the ability to raise a chargeback on a transaction should it be invalid or unacceptable. This would result in the loss of the full sale proceeds of the transaction and a chargeback fee will also be applicable.

### Retrieval requests

In some cases you will receive a request for transaction information from NAB (known as a “Retrieval Request”). This process may allow you to verify the transaction for the cardholder prior to the transaction being charged back.

Should you receive such a request, please respond within 10 calendar days. Failure to do so may result in a legitimate transaction being charged back to your settlement account.

### Information you need to supply

Your response should include all details relevant to the transaction and any verification of the cardholder.

These details may include:

- (a) a signed copy of the transaction voucher or receipt; and/or
- (b) a copy of the order or invoice; and/or
- (c) a copy of any correspondence received by you from the cardholder.

Please keep a copy of all documentation you forward to us.

### Keep your records up to date

It is important to retain all documentation relating to transactions. This will assist you in responding to ‘Retrieval Requests’ should a transaction be disputed.

### Do not re-process charged back transactions

You must not re-process a transaction that has previously been charged back. This violates card scheme regulations (and could lead to the termination of your merchant services).

Do not process a refund to a cardholder after you have received chargeback notification from NAB as this may result in you being debited twice for the transaction.

## **Card not present liability**

Visa and MasterCard rules request that a PIN or 'signature' be obtained during a transaction, except for some transactions performed by tapping a card near a contactless card reader. Therefore, for a Card Not Present transaction 'You', the merchant will always be liable for a chargeback. (Please note for electronic commerce transactions, this liability can be reduced by implementing Verified by Visa and MasterCard Secure Code.)

## **11. Refunds**

**A refund occurs when a merchant agrees to pay money back to a customer for goods that have been returned or services not received. You should establish a fair policy for the return or exchange of merchandise.**

**Refunds may only be processed to a card where there was an initial valid transaction on that card. Do not refund cash under any circumstances.**

If you have an electronic terminal supplied with an initial password, you should immediately change the refund password to a unique code for your business. This refund password should be changed on a regular basis and should only be disclosed to those who process refunds, reducing the risk of refund fraud by staff. You should change the password immediately after a staff member has left your employ.

### **Electronic refunds**

If a cardholder returns goods that have been purchased with a card, you must refund the transaction back to that card and NOT provide the refund to a different card, or in cash or cheque. If you do not follow this procedure you may be exposed to fraudulent transactions. Following correct refund procedures will also provide you with proof that the transaction has been refunded if a dispute arises.

Should your terminal allow refunds, the transaction should be refunded to the cardholder through your terminal. Please refer to your individual terminal user guide for instructions on processing refunds.

### **Manual refunds**

If your merchant service is unable to refund transactions electronically, contact the Merchant Service Centre on 1300 369 852 for assistance.

## **12. Fraudulent transactions**

**Fraud is an issue for many merchants and can have a substantial impact on your business.**

You should have policies and procedures in place to handle irregular or suspicious transactions and to detect suspicious cardholder behaviour. You should ensure that all your staff understand the built in security features of the legitimate cards and can identify these. For further information, please read the NAB Credit Card Fraud Protection booklet.

**Remember, if a sale seems too good to be true or suspicious in any way, it may be fraudulent!**

### **Use of counterfeit or stolen cards**

Always attempt to insert or swipe a card through a terminal/PIN pad or take a manual imprint of the card.

By ensuring that every transaction, where possible, is processed via your terminal and an electronic authorisation obtained, you are reducing your potential exposure to the use of stolen or counterfeit cards.

### **Card not present transactions**

There is a significantly higher risk of fraudulent transactions where a transaction is processed without the card being electronically swiped, inserted or manually imprinted by the merchant (e.g. Mail order, telephone order, internet based or manually keyed transactions).

### **Third party transactions**

You must not process transactions on behalf of any other person or business or in connection with any transaction which is not directly related to the sale of goods or services to your customer. Processing such transactions would be a serious breach of your merchant agreement and you will incur any losses (i.e. chargebacks) associated with these invalid transactions.

### **Unauthorised refunds**

You should ensure you have adequate security provisions to prevent unauthorised processing of refunds through your merchant services or terminal.

### **Reducing card fraud**

Listed below are just some of the steps you can take to help avoid card fraud for your business.

For transactions where the card is physically present at the time of the transaction:

- (a) for contactless transactions, ask the cardholder to tap the card against the contactless card reader and, if prompted, enter the PIN
- (b) always attempt to swipe or insert the card through your terminal and have the cardholder enter their PIN when prompted, or take an imprint of the card and have the purchaser sign the sales voucher; and
- (c) where prompted to obtain a signature or where using manual vouchers, check the signature and compare the purchaser's signature with the signature on the card; and



- (d) familiarise yourself with built in security features of cards such as holograms and validity dates; make sure these are checked.

For 'card not present' transactions:

- (a) obtain full name, address and landline telephone number details; and
- (b) conduct a white pages or Telstra check on the address and phone number provided; and
- (c) confirm the order by calling the landline number provided; and
- (d) ensure all deliveries are conducted by a reputable courier and are made to verifiable residential or business addresses only.

**Note: Extra care should be taken when providing goods or services to international destinations.**

We recommend caution when dealing with international orders, particularly from countries you do not normally deal with or if you do not normally trade internationally. Whilst all international orders carry an increased fraud risk, transactions originating from African or Eastern European countries have been shown to generate a disproportionate level of card fraud.

Please read our NAB Credit Card Fraud Protection booklet carefully and follow the guidelines contained. A copy of the booklet can be obtained by contacting the Merchant Fraud Team.

For further advice refer to [www.nab.com.au](http://www.nab.com.au) or contact our Merchant Fraud Team on 1300 668 046 or via email at [Merchant.Fraud@nab.com.au](mailto:Merchant.Fraud@nab.com.au)

### **13. Chip enabled EFTPOS terminals**

**A chip enabled EFTPOS terminal accepts existing magnetic stripe cards and cards carrying an embedded microchip.**

Chip cards, also known as smart cards or EMV cards (the global industry standard for chip enabled cards established by 'Europay, MasterCard & Visa') aim to protect merchants and customers from counterfeit cards and fraudulent activity.

Chip cards have the capacity to store information in a very secure way, with greater capability, applications and enhanced security.

When a cardholder makes a purchase with a chip card, the card must be inserted into the card reader on the terminal. Chip enabled terminals will prompt merchants to 'insert' the card if the card has been 'swiped' as the magnetic stripe will detect if the card is a chip card.

The chip card will then remain in the terminal throughout the transaction and send a message for authentication.

When the card supports a PIN, the terminal will prompt you for a PIN.

## **14. Hotel/motel accommodation providers**

**This Section 14 only applies to businesses that have been authorised to accept credit card transactions to guarantee hotel, motel or accommodation reservations or advance deposits.**

If you have been approved to accept pre-authorisations, the amount may be based on the customer's intended length of stay at check in, the room rate, any applicable taxes, service charge rates and other allowable charges such as meals, phone calls, etc.

For instructions on processing a pre-authorisation, please refer to your terminal user guide.

For prepaid transactions or transactions which originate via the internet your business should participate in CVV (Card Verification Value) which is an anti-fraud security feature. This will assist in verifying that the cardholder is in fact, in possession of the credit card and that the card account is legitimate.

### **Additional, delayed or amended charges**

You must obtain authorisation from the cardholder to process additional or amended charges such as the cost of food, beverages, tax or dry-cleaning amounts that were not available at the time the pre-authorisation was obtained.

Card scheme rules state that charges for damages, theft, cleaning, etc. are not considered to be legitimate delayed or amended charges, therefore you must obtain prior written consent from the cardholder to process these additional charges to their credit card or seek another form of payment (cash, cheque).

In order to reduce the risk of chargebacks you should process any additional, delayed or amended charges as a separate transaction.

## **15. Motor vehicle rental agencies**

**This Section 15 only applies to businesses that provide vehicle rental services.**

You may not process transactions which include charges representing either the vehicle insurance deductible amount or an amount to cover potential damages when the cardholder waives insurance coverage.

Charges for damages must be processed as a separate transaction. You must provide a reasonable estimate of the cost to repair the damages and obtain agreement from the cardholder.

Where you have been approved for pre-authorisation transactions the pre-authorisation amount may be based on the customer's intended length of vehicle rental, insurance and tax.

For instructions on processing a pre-authorisation, please refer to your terminal user guide.

## **Additional, delayed or amended charges**

You must obtain prior written consent from the cardholder to process additional charges to their credit card or seek another form of payment (cash, cheque).

In order to reduce the risk of chargebacks you should process any additional, delayed or amended charges as a separate transaction.

Additional charges may relate to traffic or parking infringements or damage to the vehicle.

## **16. UnionPay International (UPI)**

**Some NAB terminals also accept UnionPay International (UPI) cards.**

If you wish to process UPI transactions, you should know that special terms and conditions apply. These are set out in full in your Merchant Agreement General Terms and Conditions. You will need to read these special terms and conditions carefully and ensure you understand the special processing requirements:

- (a) UPI cards can only be accepted at EFTPOS terminals and are subject to special conditions relating to refunds and pre-authorisations;
- (b) all UPI card transactions must be authorised online and can only be processed through certain terminals;
- (c) manual or fallback processing is not permitted;
- (d) UPI cardholders must sign the transaction receipt for all UPI card types; and
- (e) a PIN must be entered for both UPI debit card transactions and UPI credit card transactions.

If you have been authorised to process UPI transactions, please refer to your Terminal User Guide for instructions on how to complete these transactions.

## **17. Contactless-enabled terminals and Merchant Choice Routing**

A contactless-enabled terminal is a NAB EFTPOS terminal which has a NAB Contactless Reader attached to, or embedded within, the terminal. Your contactless-enabled terminal accepts magnetic stripe cards, chip cards and contactless cards and can also process transactions by inserting or swiping a card, including a contactless card.

The terminal will prompt you to insert or swipe the card if the NAB Contactless Reader cannot process the contactless transaction. The transaction is then processed as a normal card transaction and a PIN may be required.

Please follow the prompts on the terminal and the reader to complete a transaction and obtain authorisation.

Transaction receipts for contactless transactions are optional however you must provide a receipt when asked by the cardholder to do so. A transaction receipt is not automatically generated and the terminal may prompt you to choose whether a transaction receipt is to be issued.

Pre-authorisations and surcharging are not available with contactless transactions.

You can choose to enable Merchant Choice Routing on your NAB EFTPOS terminal by contacting the Merchant Service Centre or your Relationship Manager.

If you choose to enable Merchant Choice Routing, then Merchant Choice Routing must be enabled across all your NAB EFTPOS terminals and cannot be limited to selected NAB EFTPOS terminals.

It is your decision to activate or deactivate Merchant Choice Routing and you must undertake the steps to activate or deactivate Merchant Choice Routing by following the instructions provided by us.

We reserve our rights to activate or deactivate the Merchant Choice Routing feature in its entirety, with no liability to you. It is your responsibility to determine whether Merchant Choice Routing is suitable for you.

## **18. Stationery**

Some Merchants have the ability to order tally rolls via their terminal. Please refer to your terminal user guide for instructions.

If you have any stationery queries, or to place an order, call our Merchant Service Centre on 1300 369 852 (select Option 5).

Current stationery listing and prices can be obtained from our 'Stationery ordering made easy' brochure, online at [www.nab.com.au](http://www.nab.com.au) or by contacting the Merchant Service Centre.

## **19. Contact us**

### **Help desk support**

For customer assistance, to report system faults or failures, how to close your facility and for general enquiries regarding NAB's Payment Solutions contact the Merchant Service Centre.

Call the Merchant Service Centre on **1300 369 852**

24 hours a day, 7 days a week or visit **[www.nab.com.au](http://www.nab.com.au)**

NAB Transact Technical Help Desk is available on **1300 369 852**, 8.00am to 8.00pm weekdays.

## Authorisations

Credit Card **13 25 15**

American Express **1300 363 614**

Diners Club **1800 331 112**

Authorisation services are available 24 hours a day, 7 days a week.

## Sales enquiries

For all enquiries or information requests on NAB's range of payment solutions for your business:

Call our sales consultants on 1300 EFTPOS (1300 338 767)  
8.00am – 6.00pm AEST/AEDT Monday to Friday.

Ask your relationship manager

Visit us at [www.nab.com.au](http://www.nab.com.au)

## Merchant fraud team

For fraud related enquiries:

call 1300 622 372 (Option 3)

email [Merchant.Fraud@nab.com.au](mailto:Merchant.Fraud@nab.com.au)

## 20. Complaints

If you have raised an issue with NAB but do not feel it has been resolved to your satisfaction, you can contact the NAB Resolve team on 1800 152 015. If your concerns still have not been resolved to your satisfaction, you can lodge a complaint with the Australian Financial Complaints Authority (AFCA):

**Website:** [afca.org.au](http://afca.org.au)

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

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

**In writing to:** Australian Financial Complaints Authority,  
GPO Box 3, Melbourne, VIC 3001

AFCA is an External Dispute Resolution (EDR) scheme to deal with complaints from consumers in the financial system. AFCA provides fair and independent financial services complaint resolution that's free to consumers.

**SECTION 2:**  
**MERCHANT**  
**AGREEMENT**  
**GENERAL**  
**TERMS AND**  
**CONDITIONS**

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## 1. Definitions

1.1. Unless the contrary intention appears, the following words have these meanings in this agreement:

**authentication** means the process whereby the identity of a cardholder is authenticated by that cardholder supplying a password in the context of an electronic commerce transaction 'Authenticate', 'authenticated' and 'authenticating' have similar meanings.

**authorisation** means, in respect of a transaction, our confirmation that at the time at which authorisation is given the card number exists and is valid, the card has not been reported lost or stolen at the time of the sales transaction and that there are sufficient funds available in the account being accessed to cover that transaction.

**banking day** means a day on which we are open for general banking business in Melbourne Australia except for Saturdays, Sundays and National Public Holidays.

**bureau** means a third party used by you to transmit information between NAB and you on your behalf, and includes any payment gateway used by you.

**card schemes** means:

- (a) for the purposes of any transaction conducted online Visa and MasterCard; or
- (b) for the remainder of this agreement, Visa, MasterCard, EPAL and China UnionPay.

**card scheme rules** means the rules and regulations which regulate participants in the card schemes.

**cardholder** means:

- (a) for the purposes of clauses 5.6 to 5.8 (inclusive) and any other clauses relating to the authentication procedures, the person in whose name the credit or scheme debit card (as defined for the same purposes), has been issued;
- (b) for the remainder of this agreement, the person in whose name the nominated card has been issued.

**certified** means that we have notified you in writing that you have the systems capability to participate in the authentication procedures.

**chargeback** means a debit entry to your account to reverse a credit previously made to your account in the circumstances described in clause 9.

**chip card** means a plastic card or other form factor eg. phone containing a computer chip that adheres to the EMV standards.

**commercial card** means a card which the card schemes recognise as being issued for predominantly business or commercial purposes.

**confidential information** means information and material we communicate to you in any form that we tell you is confidential or which we communicate to you in circumstances of confidence, in connection with this agreement. Confidential information includes any information relating to our business systems, customers, properties, assets or affairs or those of our related bodies corporate. It also includes all copies, notes and records and all related information based on, or arising out of, any disclosure by us of such information and material. Confidential information does not include information or material that is in the public domain (other than as a result of a breach of this agreement).

**contactless transaction** means a transaction using a contactless card and a contactless reader approved by us and which is accepted by us.

**credit card** means a card that:

- (a) has been designated by the issuer as a Visa or MasterCard card; and
- (b) the card schemes recognise as being a credit card.

**data breach** means any occurrence which results in the unauthorised access by a third party to confidential data relating to card transactions stored by your business or any service provider or bureau providing storage or transmission services of that data.

**data security standards** means the Payment Card Industry Data Security Standards (“PCIDSS”) mandated by the card schemes for the protection of cardholder details and transaction information, and any additional or replacement standards of which we advise you from time to time.

**electronic commerce transaction** means a transaction between you and a cardholder over the Internet and other networks using electronic equipment to initiate such a transaction.

**electronic equipment** means an electronic terminal, computer, television or telephone and includes:

- (a) Electronic Funds Transfer at Point of Sale terminals (EFTPOS terminals); and
- (b) any other authorised electronic terminal or device connected to our electronic banking system from time to time.

**EMV standards** means the industry standards for chip-enabled cards established by Europay, Mastercard and Visa, and such replacement or additional standards as advised to you.

**EPAL** means EFTPOS Payments Australia Limited which conducts the EFTPOS payments scheme.

**equipment** means either manual equipment or electronic equipment, or both as the case may be.

**fallback** means a process in which details of a transaction are read and stored by equipment but are processed later than would normally be the case due to the equipment being unable to properly communicate with us for any reason.

**GST** has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**HICAPS Go** means the digital platform, which includes the payment channel and reporting product known by that name, used for booking health appointments and initiating health insurance claims and payments.

**intellectual property rights means** all rights, titles and interests, wherever subsisting throughout the world, and whether registered or not, in and to:

- (a) copyright, author's rights, neighbouring rights, sui generis protection for the contents of databases, the protection of circuit layouts and rights of topography, designs; and
- (b) inventions, patents, utility models; and
- (c) trade secrets, know how, confidential information; and
- (d) trade marks, business names, trading styles and get up; and
- (e) any right contemplated by a treaty, convention or instrument administered by or under the auspices of the World Intellectual Property Organisation and includes the right to apply for the registration, grant or other insurance of such rights, titles and interests.

**letter of offer** means the letter of offer we give you in connection with the merchant services the subject of this agreement.

**manual equipment** means any equipment, excluding electronic equipment, which is used to record a manual transaction.

**manual transaction** means a transaction, details of which are recorded manually.

**medipass** means the online portal which facilitates HICAPS Go transactions.

**merchant choice routing** means that a NAB EFTPOS terminal will route contactless transactions using Multi Network Debit Cards through the EPAL Network.

**merchant services** means the services referred to in clause 2.

**moto transaction** means a credit card or scheme debit card transaction involving an order for goods or services received by you by mail, facsimile, telephone or email.

**NAB Credit Card Fraud Protection booklet** means the information and material relating to fraud prevention that we will provide you with following your acceptance of the letter of offer and as updated by us from time to time.

**NAB Gateway service** means our payments channel and reporting product known by that name.

**NAB Transact service** means our payments channel and reporting product known by that name.

**nominated account** means the account referred to in clause 10.1.

**nominated card** means a type of credit card or debit card as the case may be, details of which are identified as “nominated cards” in the letter of offer.

**non-standard card** means a type of card (if any) that is accepted by your equipment but is not a nominated card.

**notice** means any notice, request, consent or any other communication in connection with this agreement.

**password** means the password which we issue you with so that you can participate in the authentication procedures and includes any later password which is substituted for the original one issued by us.

**person** includes an individual, firm, body corporate, unincorporated body or association, partnership, joint venture and any government agency or authority.

**personal information** has the meaning given to that term in the privacy law.

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

**point of sale transaction** is a transaction where the card, cardholder, and you, are all physically present at the time of the transaction.

**PIN** means the personal identification number allocated by us or personally selected by the account holder.

**PPSA** means the Personal Property Securities Act 2009 (Cth) and any regulations made pursuant to it and the following words have the respective meanings given to them in the PPSA: financing statement, financing change statement and security interest.

**pre-authorisation** means that a transaction that is to be processed at a later time has been authorised up to the value of the proposed transaction.

**pre-authorisation receipt** means a document used to evidence pre-authorisation.

**privacy law** means all legislation and principles and industry codes or policies, relating to the collection, use, disclosure, storage and granting of access rights to personal information.

**purchase service** enables financial settlement of manual transactions (including real-time authorisation) via the NAB KeyAuth IVR product 13 25 15

**recurring transactions** means multiple transactions processed at predetermined intervals, not to exceed one year between transactions, representing an agreement between a cardholder and a merchant to purchase goods or services over a period of time.

**related body corporate** has the meaning given to it in the Corporations Act 2001 (Cth).

**relevant law** means any:

- (a) statute, ordinance, code or other law including regulations and other instruments under them; and

- (b) any code of practice, guidelines or standards issued by relevant regulators or industry bodies whether or not having the force of law; and
- (c) any card scheme rules applicable to the confidential information, the provision of the merchant services and any other obligations to be performed under this agreement.

**remote transaction** means a transaction where any of the card, cardholder, or you are not physically present together at the time of the transaction.

**supplementary conditions** means the supplement to this agreement containing provisions relating to specialised merchant services or services enhancing the merchant services.

**this agreement** means all the documents referred to in clause 3.1.

**trade practices legislation** means the Competition and Consumer Act 2010 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth) and equivalent State legislation.

**transaction** includes a sales transaction, refund transaction and cash transaction.

**transaction receipt** means a document used to evidence a transaction.

**UnionPay** means the card scheme known as UnionPay International.

**UnionPay card** means a debit card or credit card that is branded as a UnionPay card.

**UnionPay terminal** means an EFTPOS terminal that we have told you can be used to process UnionPay card transactions.

**user guide** means any guide, manual or instructions provided by us to you to enable you to use the merchant services.

**voucher** means a document used to evidence a manual transaction.

**we, our** and **us** refers to the National Australia Bank Limited.

**you** and **your** means the person or persons named as the addressee in the letter of offer. If there is more than one addressee, you refers to each addressee individually as well as collectively.

**your electronic equipment** means the electronic equipment controlled, provided, or approved by you to facilitate electronic commerce transactions.

- 1.2. In this agreement, unless the contrary intention appears:
- (a) a reference to:
    - (i) this agreement, another instrument or any schedule, supplementary conditions or annexure includes any variation or replacement of any of them; and
    - (ii) a statute, ordinance, code or other law includes regulations and other instruments made under it and any consolidations, amendments, re-enactments or replacements of any of them; and
    - (iii) the singular includes the plural and vice versa; and
    - (iv) one gender includes the others; and
    - (v) a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes (including persons taking by novation); and
    - (vi) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
    - (vii) any thing (including any amount) is a reference to the whole and each part of it, and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and
    - (viii) a dollar or the symbol "\$" is a reference to Australian dollars; and
  - (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally; and
  - (c) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and
  - (d) the words "including", "for example" or "such as" are not to be used as, nor interpreted as, words of limitation.
- 1.3. Headings are inserted for convenience only and do not affect the interpretation of this agreement.

## **2. Merchant services**

Subject to applicable law and this agreement, we will provide you with the merchant services described in the letter of offer, this agreement, the supplementary conditions and in any other agreement for specific merchant services that we enter into with you from time to time.

### 3. Your obligations

#### General obligations

- 3.1. You must comply with, and pay any fees that apply to you in relation to:
- (a) these general terms and conditions; and
  - (b) the letter of offer signed or accepted by you; and
  - (c) the merchant user guide and any merchant services guide, manual or instructions provided by us to you for the purposes of this agreement, whether specifically mentioned in this agreement or not; and
  - (d) the NAB Credit Card Fraud Protection booklet; and
  - (e) the terms and conditions relating to any specific merchant services whether or not contained in this or another agreement, including those in the supplementary conditions; and
  - (f) if you are a NAB Transact, NAB Gateway, Medipass or HICAPS Go merchant:
    - (i) the User Guide; and
    - (ii) the NAB Transact Terms and Conditions, NAB Gateway Terms and Conditions, HICAPS Go and Medipass Terms and Conditions (as applicable).
- 3.2. To the extent of any inconsistency between the documents or provisions referred to in clause 3.1, the following rules shall apply:
- (a) the letter of offer prevails over all other documents; and
  - (b) the terms and conditions for specific merchant services including those contained in the supplementary conditions prevail over these general terms and conditions; and
  - (c) these general terms and conditions prevail over the remaining documents.
- 3.3. This agreement must be read subject to the EPAL scheme rules.
- 3.4. You must:
- (a) promptly notify us of any change to your financial position which may affect your ability to perform your obligations under this agreement; and
  - (b) promptly notify us of any change in your place of business
  - (c) not change your business name without giving us prior notice and not substantially change the type of goods and services you sell without our prior written consent; and
  - (d) inform us of, and seek our consent prior to any change in control of your business. For the purposes of this clause “control” has the meaning given to that term in the Corporations Act; and
  - (e) only process sale transactions where you are the seller and supplier of those goods and/or services; and

- (f) not process transactions on behalf of a third party. For the avoidance of doubt, this includes not processing payments for goods or services sold on another person's website; and
- (g) allow our employees, contractors or agents or those of any card scheme reasonable access to your premises during normal business hours to check your compliance with this agreement or for the purposes of the relevant card scheme rules; and
- (h) provide us with all information and assistance we reasonably require to perform our obligations and to deal with any queries in relation to our provision of the merchant services; and
- (i) observe and implement the fraud prevention procedures set out in the NAB Credit Card Fraud Prevention booklet and any other fraud prevention material we provide you including the fraud prevention pack, fraud prevention video and fraud prevention fliers. You must also observe and implement any fraud prevention techniques demonstrated to you by us in any training sessions.

### **UnionPay card terms and conditions**

- 3.5. Consistent with clause 3.2, this clause prevails over any other inconsistent provisions of this agreement. You agree that:
- (a) UnionPay card transactions have a floor limit of zero and can only be processed and authorised electronically not manually or in fallback mode; and
  - (b) a UnionPay card can only be processed on a UnionPay terminal by swiping the card through that terminal in the presence of the UnionPay cardholder; and
  - (c) pre-authorisations on a UnionPay cards must be evidenced by the UnionPay card holder signing a pre-authorisation receipt or a transaction receipt as applicable; and.
  - (d) a UnionPay card transaction can only be refunded if:
    - (i) the transaction is refunded to the UnionPay card used in the original sales transaction and in the presence of the UnionPay cardholder; and
    - (ii) the UnionPay card holder used their PIN and signed the transaction receipt in both the original UnionPay card transaction and the refund transaction; and
    - (iii) details of the original sales transaction match the details of the refund transaction; and
    - (iv) any other requirements set out in the UnionPay User Guide have been followed; and
  - (e) a UnionPay card transaction must not be processed to give the UnionPay cardholder cash; and
  - (f) if the transaction involves the delivery of goods or services you must retain evidence of that delivery by, amongst other things, retaining a copy of the delivery invoice noting expected delivery date on the original copy; and



- (g) a UnionPay card holder must enter their PIN in connection with a debit transaction but subject to clause 3.4(d)(ii) asking for a PIN is otherwise optional.

### **Data security standards**

3.6. You acknowledge and agree:

- (a) you must protect stored cardholder data, regardless of the method used to store such data. Data storage also includes physical storage and security of cardholder data. Some examples of other data storage which must be secured include an access or excel database and hard copy files. Storage should be kept to the minimum required for business, legal, and/or regulatory purposes; and
- (b) you must not store the personal identification number (PIN) or sensitive authentication data after authorization (even if encrypted); and
- (c) if you use a service provider who stores or transmits cardholder data, you are responsible for ensuring the security of that data; and
- (d) if we tell you that you must comply with the Payment Card Industry Data Security Standards, you must, at your cost, successfully complete the protocols for PCIDSS within the time frame stipulated by us or the card schemes. You acknowledge and agree that if you fail to do so:
  - (i) we may terminate the merchant services; and
  - (ii) you are liable for any fine imposed upon us by the card schemes as a result of your failure to comply; and
  - (iii) you are liable for any penalties which the card schemes levy in the event that you suffer a card data compromise incident, and have not complied with the PCIDSS Accreditation program; and
- (e) you agree to comply with the 12 key requirements of PCIDSS as detailed in the NAB PCIDSS brochure; and
- (f) you agree that any software or hardware you purchase, create or otherwise utilise for the purpose of selling goods or services online does not retain its original password before installing a system on your network which is used for the acceptance of card payments or other security parameters. You agree that all passwords are changed on a regular basis; and
- (g) you grant enduring right for NAB to contact any Service Providers that enable you to acquire credit card transactions. This clause is limited to the purpose of determining the extent of a data breach, assessing remedies for that data breach and assessing the level of compliance with PCIDSS; and
- (h) NAB is obliged to report all data breach events to card schemes, law enforcement agencies and/or Australian regulators. You grant irrevocable and enduring consent for NAB to release details of any such data breach to the aforementioned bodies; and
- (i) if you have suffered a data breach:

- (i) you must give NAB and its agents full access to your systems and databases to facilitate a forensic analysis to ascertain:
  - (A) what card data has been compromised; and
  - (B) what weaknesses in the system permitted the unauthorised access to the data base; and
  - (C) whether card data was created, deleted, altered, copied or manipulated in any manner; and
- (ii) if you use the services of any external Service Provider, you give NAB and its agents full access to necessary outsourced components such as data bases and web hosting systems; and
- (iii) all costs of the forensic analysis must be paid by you; and
- (iv) in order to continue processing card transactions, you must undergo a full Payment Card Industry Data Security Standard (“PCIDSS”) accreditation. All costs of this accreditation exercise must be paid by you.

### **Your duties to cardholders**

- 3.7. Subject to the other provisions of this agreement, you:
- (a) must accept any valid and acceptable nominated card in a transaction; and
  - (b) must disclose to a cardholder before a transaction is completed any fee that you will charge for completing the transaction and do it in such a way that allows the transaction to be cancelled, without incurring any cost; and
  - (c) must only send us a sales transaction if the cardholder has received the goods and services from you, unless the cardholder has agreed to receive them later; and
  - (d) must not accept a nominated card in a credit card transaction for the purpose of giving a cardholder cash; and
  - (e) may accept any valid and acceptable nominated card in a debit card transaction for giving a cardholder cash but you must not charge a fee for this; and
  - (f) must not sell, purchase, provide or exchange any information or document relating to a cardholder’s account number, or nominated card number, or a transaction, to any person other than:
    - (i) us; and
    - (ii) the agents you use in your business for an approved purpose; and
    - (iii) the card issuer; and
    - (iv) any other person as required by law; and
  - (g) must, if you do sell, purchase, provide or exchange any such information referred to in clause 3.7(f), do so in compliance with all relevant law including privacy law; and

- (h) must destroy any document that is no longer required to be retained, in a manner which makes the information unreadable; and
- (i) must take reasonable steps to ensure that the information and documents mentioned in clause 3.7(f) are protected from misuse and loss and from unauthorised access, modification or disclosure; and
- (j) must not indicate or imply that we or any card scheme endorse any goods or services or refer to a nominated card in stating eligibility for goods, services or any membership; and
- (k) must not accept a nominated card or a transaction which is of a type we have (acting reasonably) previously advised you is not acceptable to us; and
- (l) must provide sufficient training to your employees to ensure you meet your obligations under this agreement; and
- (m) must prominently and unequivocally inform the cardholder of your identity at all points of cardholder interaction (including on any relevant web site, promotional material and invoice) so that the cardholder can readily distinguish you from any supplier of goods or services to you or any other third party; and
- (n) must provide notice to any cardholder with whom you enter into a transaction that you are responsible for that transaction, including for any goods and services provided, any payment transaction, related service inquiries, dispute resolution and performance of the terms and conditions of the transaction; and
- (o) must not unfairly distinguish between issuers of a nominated card when processing a transaction; and
- (p) must not refuse to complete a transaction solely because a cardholder refuses to provide additional identification information in circumstances where you do not legitimately require that information and we do not require you to obtain it; and
- (q) must, if we have notified you that you can offer cardholders an instalment option:
  - (i) disclose to them in writing whether the instalment terms limit the goods or services that the cardholder may purchase. The disclosure must also include the shipping and handling charges and any applicable tax; and
  - (ii) inform a cardholder not billed in the transaction currency that each instalment amount may vary due to currency conversion rate fluctuations; and
  - (iii) ensure that the sum of the instalment transaction does not exceed the total price of the goods or services; and
  - (iv) obtain authorisation for all transactions; and
  - (v) not add any finance charges to the instalment transaction.

## Surcharging

- 3.8. In respect of surcharging:
- (a) you must disclose to a cardholder before a transaction is completed any fee that you will charge for completing the transaction and do it in such a way that allows the transaction to be cancelled, without the cardholder incurring any cost; and
  - (b) for each card type, the surcharge must not exceed your cost of acceptance for that card type; and
  - (c) when refunding a transaction, you must refund any surcharge charged on the transaction amount. For partial refunds, the surcharge must be pro-rated.

## 4. Accepting nominated cards

- 4.1. You must:
- (a) use reasonable care to detect forged or unauthorised signatures or the unauthorised use or forgery of a nominated card; and
  - (b) notify us if you become aware of or suspect fraud on the part of a cardholder; and
  - (c) not deliberately reduce the value of any one transaction by:
    - (i) splitting a transaction into two or more transactions; or
    - (ii) allowing a cardholder to purchase items separately; and
  - (d) establish a fair policy for dealing with refunds and disputes about transactions and include information about that policy on transaction receipts as required by us; and
  - (e) only process a transaction as a refund to a cardholder if it is a genuine refund of a previous sale transaction. If you process a refund transaction, the refund must be processed to the same card that was used in the original sales transaction, for the original sale amount, and must not be given in cash or by cheque; and
  - (f) not state or set a minimum or maximum amount for a nominated card transaction without our prior written consent; and
  - (g) not ask a cardholder to reveal their Personal Identification Number (PIN) or any other secret identifier (other than by discretely entering it on the terminal when prompted to do so); and
  - (h) contact us for instructions if the identification of a cardholder or the validity of the nominated card is uncertain; and
  - (i) process a quasi-cash transaction (a purchase of goods easily converted into cash such as gaming chips, money orders or foreign cash) as a purchase transaction not a cash out transaction.

## **Point of sale transactions**

4.2. For a point of sale transaction, you must:

- (a) always:
  - (i) insert a chip card into your terminal if it can read chip cards; and
  - (ii) enable a contactless card to be read by the electronic equipment if you have it, otherwise swipe or insert it following any prompts including those indicating the need for a Personal Identification Number (PIN) and/or a signature; and
- (b) where prompted or required to obtain a signature, verify that the signature (if any) on a nominated card matches the signature on the transaction receipt; and
- (c) verify that the cardholder resembles the person in any photograph intended for identification on the nominated card; and
- (d) give the cardholder a copy of the transaction receipt immediately after completing the transaction; and
- (e) if the equipment displays an encoded account number that does not match with the account number embossed on the cardholder's nominated card do not complete the transaction; and
- (f) if we ask you to, but without endangering you or your personnel, retain by reasonable, peaceful means any nominated card that does not have the usual card security features; and
- (g) include the disclosure we require on all transaction receipts if you wish to limit your acceptance of returned goods or services or establish a policy for making price adjustment.

Clauses 4.2(b), (c), (e) and (f) above do not apply to a contactless transaction unless the electronic equipment prompts you to obtain a pin or signature.

## **Manual transactions**

4.3. For manual transactions you must have the manual equipment that we require, and you must:

- (a) only use vouchers and manual equipment which we supply to you or which we approve; and
- (b) if the manual equipment is not working, legibly record on the document intended to be the voucher the information required by clause 6.2 or otherwise submit the details in accordance with processes approved by us.

## **Equipment**

4.4. For transactions using equipment:

- (a) you must:
  - (i) comply with the relevant equipment user guide; and

- (ii) only use equipment approved by us; and
- (iii) ensure that you use equipment only as permitted by your agreement with us or the supplier; and
- (iv) without limiting any other clause of this agreement, allow our employees, contractors or agents to enter your premises as reasonable during normal business hours to:
  - (A) install, inspect, maintain and remove equipment we own; and
  - (B) inspect the condition and operation of equipment owned by others; and
- (v) process all transactions by reading card data with the equipment except where the equipment cannot read the nominated card in which case the relevant transaction must be processed as a manual transaction; and
- (b) you must not:
  - (i) process a transaction by manually keying details into the equipment unless the transaction is a MOTO transaction or an electronic commerce transaction; or
  - (ii) deliberately engineer a situation in which a transaction must be processed through fallback whether by interfering with the equipment or otherwise.

### **Web site requirements**

- 4.5. Where you wish to accept payments through your website, you must notify us of the URL and your website must clearly display the following information:
- (a) your business name (and Australian Business Number as applicable) and with our approval the name that best identifies you for the purposes of the website; and
  - (b) the address of your approved place of business; and
  - (c) your business contact details, including telephone and facsimile numbers and an email address; and
  - (d) a complete description of the goods and services available for purchase on your web site with the price advertised in dollars or the price advertised in a foreign currency we have authorised you to process transactions in; and
  - (e) a clear statement that your business is an Australian business and that all transactions will be billed in dollars or in the foreign currency we have authorised; and
  - (f) details of your return and refund policy, including how a transaction can be cancelled by a cardholder; and
  - (g) details of your delivery times for goods and services. Delivery times are to be appropriate for your type of business. If the delivery is to be delayed, the cardholder must be notified of the delay and an option provided to them to obtain a refund; and
  - (h) details of any Australian export restrictions (if applicable); and
  - (i) details of your privacy policy and how you intend to deal with, or share, personal information obtained from and about the cardholder; and

- (j) a description of the measures you have to maintain the security of:
  - (i) cardholders' account data; and
  - (ii) any other information which, by notice, we require you to display from time to time.
- 4.6. You must ensure the name of your web-site either corresponds with or otherwise connects with the name appearing on cardholder statements enabling your customers to identify you without confusion.
- 4.7. If you wish to undertake substantial changes to the payment pages of your web site including any changes which affect authentication, you must give us at least 10 banking days' prior notice. This will enable us to use a test mode while changes are being undertaken. We will not commence the live operation of the merchant services until we have completed acceptance tests of your website and are satisfied that it is compatible with the merchant services.
- 4.8. You must provide us reasonable access to view, monitor and audit the pages of your website and you must notify us of any change in your website URL.
- 4.9. Prior to commencing live operation of the merchant services on your web site, you must undertake your own testing in the test mode to ensure:
  - (a) transactions are accessible by you through the Internet payments merchant reporting module; and
  - (b) any reporting requirements you have are working to your satisfaction, and when we are satisfied all of our operational requirements are met, we will approve you for live operation.
- 4.10. Your web site payments page must be protected by Secure Sockets Layer or any other form of security method approved by us.

### **Recurring transactions**

- 4.11. You may only process a transaction as a recurring transaction if:
  - (a) you have obtained cardholder permission (either electronically or in hardcopy) to periodically charge for a recurring service; and
  - (b) you retain this permission for the duration of the recurring services and make it available to us on request; and
  - (c) you provide a simple and accessible online cancellation procedure, if the cardholder request for the goods or services was initially accepted online.
- 4.12. You must not:
  - (a) include partial payment for goods or services purchased in a single transaction; or
  - (b) add any additional finance charges on a recurring transaction; or

- (c) complete a recurring transaction if you receive a decline response or a cancellation notice from the cardholder.

### **Quasi-cash transactions**

- 4.13. Clauses 4.14 to 4.17 (inclusive) apply to merchants conducting quasi-cash transactions (a transaction involving the purchase of goods easily converted into cash such as gaming chips, money orders or foreign cash). To the extent that there is any inconsistency between this clause and the other provisions of the agreement, clauses 4.14 to 4.17 (inclusive) will prevail.
- 4.14. 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 indicate the type of identification sighted, including any serial number, on the transaction receipt; 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.
- 4.15. You must verify the following:
  - (a) the signature on the card matches the signature on the transaction receipt and, where clause 4.18(a) applies, on the identification presented; and
  - (b) where clause 4.18(b) applies, the Cardholder resembles the person depicted in any photograph intended to be used as identification on the card.
- 4.16. You must do the following before completing the transaction:
  - (a) compare the first four digits of the embossed card account number to the first four digits printed below the card account number (if the numbers do not match, do not proceed with the transaction); and
  - (b) record the printed first four digits on the front of the transaction receipt.
- 4.17. You must clearly disclose to the cardholder any commission you charge for accepting a quasi-cash transaction and include in the total transaction amount, before completing the transaction.

## **5. Authorisation and authentication**

### **Authorisation**

- 5.1. You must:
  - (a) without limiting the remainder of this clause, comply with any authorisation procedures of which we advise you, including those relating to electronic commerce transactions and MOTO transactions; and



- (b) obtain authorisation from us prior to the relevant transaction:
    - (i) if the transaction is an instalment payment for goods or services; or
    - (ii) as instructed by us through the equipment or otherwise; and
  - (c) for a manual transaction, record on a single voucher all items purchased in a single transaction or obtain a separate authorisation on the transaction date for each separate voucher; and
  - (d) for a point of sale transaction, obtain prior authorisation for any transaction on the transaction date where:
    - (i) you would process the transaction using manual equipment but your manual equipment is not working; or
    - (ii) you suspect that a signature is unauthorised or there is an unauthorised use or forgery of the nominated card; or
    - (iii) the nominated card signature panel (if any) is blank, and  
seek to retain the nominated card by reasonable, peaceful means until that authorisation is given.
  - (e) for an electronic commerce transaction, submit the expiration date of the nominated card to us, identify the transaction as an electronic commerce transaction and seek authorisation using the applicable equipment.
- 5.2. For a MOTO transaction or an electronic commerce transaction requiring goods to be shipped, you may obtain authorisation from us up to seven calendar days before the date on which the goods are actually shipped.
- 5.3. Transactions on contactless cards are subject to a contactless limit and an accumulated contactless limit allowing a number of low value transactions to be authorised off-line before the accumulated limit is reached. If either of these limits is reached transactions on contactless card transactions must be authorised electronically and you may be prompted to swipe or insert the card and obtain a signature or pin. You will not be able to override either of these limits.
- 5.4. You must seek to recover or retain a nominated card by reasonable, peaceful means when we request you to do so. You must notify us when you have recovered or retained a nominated card and comply with such further instructions we give you.
- 5.5. You acknowledge and agree that obtaining authorisation for a transaction is not a guarantee of payment arising from that transaction. An authorisation only confirms that at the time the authorisation was obtained that the card number exists and is valid and the card has not been listed as lost or stolen at the time of the transaction and that the card has sufficient funds to cover the transaction. For example, it does not guarantee that the person using the card is the genuine cardholder or that the card has not been compromised (ie card details improperly obtained or copied).

- 5.6. If you have received pre-authorisation, you may cancel it up to thirty days from the time you obtained the pre-authorisation but only if:
- (a) the transaction has not yet been processed; and
  - (b) at the time of cancellation, both the cardholder and the card are present at the time of cancellation; and
  - (c) the card to be used for the cancellation is the same card that was used in the pre-authorisation.

**Online authentication – 3D Secure:**

- 5.7. In respect of online authentication – 3D Secure:
- (a) the term “3D Secure” refers to the technology platform through which this authentication service is offered. The Visa service is known as “Verified by Visa” and the MasterCard service is known as “MasterCard Secure Code”; and
  - (b) you acknowledge and agree that to participate in the authentication procedures you must:
    - (i) currently be receiving Internet merchant services from us; and
    - (ii) comply with all manuals, guides or directions we or the card schemes give you from time to time regarding the authentication procedures; and
    - (iii) unless we agree otherwise, send us an authentication request each time a cardholder wishes to purchase goods or services from you on your website using their credit card; and
    - (iv) carry out any additional authorisation procedures which arise out of authenticated transactions and of which we advise you in writing; and
  - (c) you must not change your payment processing systems, equipment or any bureau you use for the purposes of the authentication procedures unless we have first certified the proposed change to any of them; and
  - (d) if you send us an authentication transaction, or a transaction (other than a commercial card transaction) that you attempted to authenticate but couldn’t (because either the card issuer or cardholder wasn’t a registered participant in authentication), which we then authorise and process, we will not charge it back to you on the basis that the cardholder claims that they were not the person who purchased goods and services from you on your website; and
  - (e) the procedures relating to authentication have been established by the card schemes and may be varied by them from time to time. You agree to comply promptly with any new or different requirements of which we notify you; and
  - (f) we may decide to terminate or suspend your participation in authentication at any time. We will endeavour to give you reasonable notice of this decision. Upon receipt of that notice you must immediately return to us the password and any other guides and materials we have given you in connection with authentication; and

- (g) after termination or during any period of suspension of authentication we will process your transactions as if you had never been a participant in authentication and the usual chargebacks will apply.

## **6. Transaction receipt**

- 6.1. You must prepare a transaction receipt for each transaction (except a contactless transaction or a recurring transaction where the cardholder has elected not to receive a receipt) in accordance with clause 6.2, but you must not charge a fee for doing so.
- 6.2. The information contained on the transaction receipt must be identical with any other copy and must legibly include:
- (a) the amount, date and time of the transaction; and
  - (b) a brief description of the goods or services; and
  - (c) details of any cash provided; and
  - (d) the currency symbol if it is in a foreign currency; and
  - (e) for electronic commerce transactions:
    - (i) the merchant's name most recognisable to the cardholder; and
    - (ii) contact information for service enquiries; and
    - (iii) terms and conditions of sale, if restricted; and
    - (iv) exact date free trial ends, if offered; and
    - (v) cancellation policy; and
    - (vi) web site address; and
  - (f) any other information we advise you is required.
- 6.3. You must give the cardholder a copy of the transaction receipt:
- (a) immediately after completing the transaction but in the case of a contactless transaction only if the cardholder has elected to receive one; and
  - (b) for a remote transaction as soon as possible following their request unless it is generated automatically.
- 6.4. You must not require a cardholder to sign a transaction receipt or voucher until the final transaction amount is entered on the transaction receipt or voucher.
- 6.5. For at least 18 months after a transaction, you must retain:
- (a) for a point of sale transaction, the original transaction receipt; or
  - (b) for a remote transaction the transaction receipt and any document that is evidence of the cardholder's request to you to charge amounts through the nominated card.

- 6.6. You must provide us with the transaction receipt and any other required evidence of the transaction within seven days if we ask for it. If you fail to do so to our satisfaction, we may charge a sales transaction back to you if the amount cannot be collected from the cardholder.
- 6.7. You agree to allow us to examine your books of account or records relating to any transaction.

## **7. Processing transactions**

- 7.1. We have no liability for any information given to us until we are satisfied it has been received in accordance with this agreement.
- 7.2. You must give us information about a transaction:
  - (a) by entering the transaction immediately if you are using live equipment;
  - (b) within the time frames we specify from time to time in relation to other transaction methods.
- 7.3. In giving us information on a transaction or otherwise for the purposes of this agreement, you must ensure that:
  - (a) all the particulars are true; and
  - (b) the transaction is valid and acceptable; and
  - (c) the cardholder is not disputing the transaction or making a set-off or counterclaim.
- 7.4. In giving us the information on a transaction you give us an irrevocable order to act in relation to that information in accordance with this agreement.
- 7.5. You must give us information about a transaction only in the form and using a method approved by us for your use.
- 7.6. In addition to any other information you are required to give us about a transaction, you must separately and uniquely identify any transaction that we have previously advised you is a high-risk transaction.

## **8. Using a bureau**

- 8.1. If you choose to use a bureau in connection with the transmission of information including any information in connection with authentication to us, you must:
  - (a) notify us in writing before you commence using, or change your bureau; and
  - (b) give us such information as we may reasonably require in relation to that bureau; and
  - (c) only use a bureau that we have approved; and
  - (d) ensure that any bureau you use has and maintains a bureau certification agreement or any other agreement we require with us; and

- (e) only use a bureau where that bureau is registered as a third party processor with the card schemes.
- 8.2. Any bureau you use is at your cost and risk.
- 8.3. You acknowledge and agree that we are not responsible for any losses, claims, damages, costs, terms or expenses suffered by you (including consequential loss) arising from or in connection with any act or failure to act by your bureau in connection with a transaction or the merchant services.
- 8.4. If you use a bureau to inform us about transactions, we may rely on any information or instruction that we receive as if that information or instruction was received from you.
- 8.5. This also applies to any information we process in reliance on the information received from the bureau on your behalf.
- 8.6. Should a bureau cease operating or cease to be registered or cease to be approved by us we will no longer accept transactions sent by that bureau. Further, we will not be responsible for any ongoing costs, including migration which will be your responsibility.

## **9. Invalid or unacceptable transactions**

- 9.1. A transaction is not valid if:
  - (a) the transaction is illegal; or
  - (b) the signature on the voucher, transaction receipt or authority is forged or unauthorised; or
  - (c) the transaction is before or after any validity period indicated on the nominated card; or
  - (d) we have told you not to accept the nominated card; or
  - (e) the transaction is not authorised by the cardholder; or
  - (f) the particulars on the copy of the voucher or transaction receipt given to the cardholder are not identical with the particulars on any other copy; or
  - (g) you did not actually supply the goods, services or cash to a genuine customer as required by the terms of the transaction, or have indicated your intention not to do so; or
  - (h) the transaction did not relate to the actual sale of goods or services to a genuine customer; or
  - (i) the goods, services or cash were supplied outside Australia without our consent; or
  - (j) the transaction is offered, recorded or billed in a currency we have not authorised you to accept; or

- (k) this agreement was terminated before the date of the transaction; or
- (l) you have not complied with your obligations in clause 3.7; or
- (m) the details are keyed into electronic equipment and you did not legibly record on a transaction receipt the information required by clause 6.2; or
- (n) it is a point of sale transaction in which the nominated card was not presented; or
- (o) it is a remote transaction and you did not record the required details for the transaction; or
- (p) it is a debit card transaction in which you charged a cardholder a fee for the provision of cash; or
- (q) it is a credit card transaction in which:
  - (i) the amount of the transaction or transactions on the same occasion is more than your applicable floor limit unless you obtained authorisation from us; or
  - (ii) you collected or refinanced an existing debt including, without limitation, the collection of a dishonoured cheque or payment for previous card charges; or
- (r) it is an off-line debit transaction in which the amount of the transaction or transactions on the same occasion is more than your applicable floor limit for an off-line debit transaction, unless you obtained authorisation from us; or
- (s) it occurs during a period in which your rights under this agreement were suspended under clause 22.3 or after this agreement was terminated; or
- (t) you cannot give a transaction receipt as required by clause 6.1.

9.2. At our election, a transaction for a sale, refund or provision of cash is not acceptable if:

- (a) the cardholder disputes liability for the transaction for any reason or makes a claim for set-off or a counterclaim; or
- (b) it is of a class which we, acting reasonably, have previously notified you is not acceptable.

9.3. You acknowledge and agree that we may:

- (a) refuse to accept a transaction if it is invalid or unacceptable, or may charge it back to you if we have already processed it even if we have given you an authorisation (either electronically or by telephone); and
- (b) reverse a sales transaction as a chargeback for any of the reasons in clauses 9.1 or 9.2 or any other reason we notify you of from time to time; and
- (c) without limiting the above, delay, block, freeze or refuse to accept any transaction where we have reasonable grounds to believe that the transaction breaches Australian law or sanctions or the laws or sanctions of any other country.

## **10. Settlement of transactions and your nominated account**

- 10.1. You must have at least one account with us for recording transactions in dollars unless we agree otherwise.
- 10.2. If we have agreed with you to process transactions in foreign currency you must have an account for recording foreign currency transactions.
- 10.3. The terms of this clause 10 vary the terms that would otherwise govern your nominated account.
- 10.4. Under normal conditions we will pay to your nominated account the amount of all valid and acceptable sales and cash transactions processed by you and settled by us in the agreed currency or dollars as applicable within 5 banking days.
- 10.5. We will also debit your nominated account with the amount of all valid and acceptable refund transactions and chargebacks in the agreed currency or dollars as applicable.
- 10.6. Each month we will make available details of the amount of all transactions processed in the previous month. You must promptly review your statement and should raise any query within 3 months of the date of payment or the due date for payment. We may charge an investigation fee.
- 10.7. If you process a transaction, including a refund or chargeback in a foreign currency, other than one in respect of which we have an agreement with you, we will process it in dollars at a conversion rate determined by us.
- 10.8. You must use your nominated account primarily for business purposes.

### **Nominated accounts subject to fixed balance security**

- 10.9. We may, having regard to our assessment of the risk to us in providing the merchant services to you, at any time decide that a nominated account is subject to or no longer subject to a minimum non-withdrawable balance (fixed balance) and the amount of that fixed balance. The fixed balance may represent the whole or any part of the funds in your nominated account.
- 10.10. A decision made under clause 10.9 will take immediate effect without notice to you. You will be notified in writing of our decision as soon as practicable after it being made.
- 10.11. Once a fixed balance has been imposed you cannot, without our written consent, substitute another account for the nominated account.
- 10.12. Once we have imposed a fixed limit on your nominated account you will be unable to withdraw funds other than any amounts which exceed that balance until we notify you in writing that we have determined that the fixed balance no longer applies.
- 10.13. We may reset the fixed balance by increasing or decreasing it at any time as many times as we determine to be necessary.

- 10.14. Without limiting our discretion in any respect, the amount of the fixed balance from time to time may be determined having regard to the following:
- (a) the volume or value of transactions processed; and
  - (b) the nature of your business or of the industry in which your business operates including rates of chargebacks typical of that industry; and
  - (c) your history of chargebacks, refunds and other transactions including disputed transactions; and
  - (d) the future dated risk (payment received some time before goods or services delivered), associated with the goods and services you provide; and
  - (e) the imposition of or potential for imposition of fines levied on us by card schemes because of your conduct or omission and the amount of those fines; and
  - (f) the fees, charges and other payments you owe or may come to owe us under clause 13.2.
- 10.15. We will not lift the fixed balance from your nominated account until your entire liability to us whether actual or contingent has been satisfied in full. We are under no obligation to provide alternative financial accommodation in the interim.
- 10.16. You agree that the nominated account is not intended to be a ‘circulating asset’ for the purpose of the PPSA.
- 10.17. Nothing in this clause 10:
- (a) affects our ability to exercise any rights of set-off arising by law, this agreement or the terms of the nominated account; or
  - (b) is intended to create a charge.
- 10.18. Whether or not we have imposed a fixed balance if, due to increased transaction volumes, chargebacks, a change in the ownership of your business or in the nature of your business or the types of transactions you process, the risk we assume in providing the merchant services increases we may as a condition of continuing to provide the merchant services to you, require a guarantee and indemnity and or security over property of a type and value to be reasonably determined by us.
- 10.19. If your nominated account is held with another financial institution you irrevocably appoint any one of our employees whose title includes the words “head of” or “manager” as attorney and or agent to:
- (a) do any of the things you are obliged to do under this agreement with respect to your nominated account; and
  - (b) request that the financial institution at which your nominated account is held to immediately advise us of:
    - (i) the balance of the nominated account; and



- (ii) any steps you take to close the nominated account, subject it to any form of security; and
  - (iii) any action taken by any creditors with respect to its value; and
- (c) exercise any of these rights and entitlements pursuant to any direct debit request you have signed in our favour.

## **11. Non-standard cards**

- 11.1. We agree to facilitate the transmission of non-standard card transaction information between you and certain non-standard card issuers provided that:
- (a) we are satisfied that you and the relevant non-standard card issuer can receive and participate properly in such transmission; and
  - (b) you have given us your current merchant numbers for each of the relevant non-standard card issuers.
- 11.2. To accept non-standard cards, you must contact and establish a separate agreement with the card issuer.
- 11.3. We accept no responsibility for your acceptance of any non-standard cards, whether you do so with equipment supplied by us or otherwise.

## **12. Afterpay Acceptance**

If your merchant terminal allows access to the Afterpay payment solution for your customers and you have entered into a separate agreement with Afterpay to enable you to use this feature, you accept that we are not liable for any loss you may incur as part of participating in the Afterpay payment solution or allowing your customers to use this solution. In providing you access to the Afterpay feature on your terminal we merely facilitate the transaction as agreed between you, Afterpay and your customer. It does not in any way represent an endorsement or certification by NAB of Afterpay or the Afterpay payment solution. We do not settle any funds under this arrangement.

If we cease to provide access to the Afterpay feature on our terminals we will provide notice at least 30 days before this change takes effect.

## **13. Promotional material and advertising**

- 13.1. You agree that we may publish or advertise your acceptance of and the manner in which you can accept nominated cards to current and potential cardholders.
- 13.2. You must:
- (a) display promotional material we supply you prominently at the point of sale at each of your business premises and on any web site you maintain to indicate you accept nominated cards for transactions except where we agree otherwise; and
  - (b) use advertising and promotional material for the nominated cards or which show a card scheme logo or mark only with our consent and in the manner we approve.

## **14. Costs, fees and other payments**

- 14.1. You must pay us the amounts listed in clause 14.2.
- 14.2. You authorise us to withdraw, without notice, the following amounts from any account you have with us (including your nominated account):
- (a) all fees, charges and costs in connection with the merchant services and any use of equipment as set out in the letter of offer; and
  - (b) any amount you owe us for a refund transaction which was paid to you, but which was not a valid or acceptable transaction; and
  - (c) all over-credits paid by us on sales and cash transactions due to errors or omissions; and
  - (d) all credits paid by us on sales and cash transactions which we have determined to chargeback under clause 9.3; and
  - (e) all stamp duties, taxes, and other government charges levied on the merchant services, equipment we supply, your accounts with us and this agreement; and
  - (f) any amounts found to be due to us during an audit or check by us; and
  - (g) all fees, charges and costs agreed to be paid to us for the processing of information in connection with a loyalty program; and
  - (h) all fines, penalties or similar costs (however described) imposed on us under card scheme rules because of your conduct in relation to the merchant services including where your conduct results in an unacceptable rate of chargebacks or because you failed to comply with the Data Security Standards. An unacceptable rate of chargebacks includes one which is declared unacceptable under card scheme rules or relevant law; and
  - (i) all costs, charges and expenses of any description incurred by us or any person referred to in clause 3.4(g) in connection with this agreement including our administration costs and the amount of any charges and disbursements for legal advice and assistance to us on a full indemnity basis or solicitor and client basis, whichever is the higher; and
  - (j) all other amounts you owe us under this agreement.
- 14.3. You must pay on demand from us any balance that remains unpaid because there are insufficient funds in your nominated account to pay the amounts due under clause 14.2.
- 14.4. We may vary existing fees or introduce new fees relating to this agreement at any time either in writing or by advertising in the national or local press.
- 14.5. If we require it, you must provide us with an authority and request in a form, and subject to terms and conditions we require, to direct debit your nominated account at another institution with the amounts referred to in this clause.
- 14.6. Unless otherwise specified, all fees payable under or in connection with this agreement are inclusive of GST.

- 14.7. If GST is imposed on the merchant services supplied by us under or in connection with this agreement, where any amount or consideration (“consideration”) payable or to be provided by or on behalf of you under or in connection with this agreement in relation to the merchant services is exclusive of GST (“GST-exclusive consideration”), we may in addition to that GST-exclusive consideration, recover from you, or from a person acting on your behalf, an additional amount on account of GST.
- 14.8. The additional amount described in clause 14.7 is to be calculated by multiplying the GST-exclusive consideration for the relevant supply, by the GST rate prevailing at the time of the supply.
- 14.9. Any additional amount on account of GST recoverable from you under clause 14.7 shall be calculated without any deduction or set-off of any other amount.

## **15. Using our equipment**

- 15.1. You must have the equipment that we require from time to time. You may obtain equipment from us or from others if we advise you the equipment is approved by us.

### **Installation of equipment**

- 15.2. You must prepare a site at your business premises which meets our specifications for the installation of any equipment we supply you, including (if required) a power supply. You will bear the cost of this preparation.
- 15.3. The installation site:
- (a) must allow the cardholder to enter transaction information without being observed; and
  - (b) must not be in the vicinity of security cameras or any reflective surface that might allow the information being entered by the customer to be observed or recorded.
- 15.4. If necessary a telephone line to facilitate the use of the equipment can be installed either by us or by you using a supplier we approve at your cost. Ongoing maintenance of the line will be your responsibility and at your cost.

### **Relocation and alteration of equipment**

- 15.5. You must notify us if you move any equipment we own to a new location. You must not make any alterations or additions to any equipment we own without our written consent. Any relocation or alteration of equipment will be at your cost.

### **Maintenance of equipment**

- 15.6. You must take proper care of any equipment we own and follow all our directions for its maintenance and protection. You must also properly maintain equipment you have obtained from others.
- 15.7. You are responsible for any loss or damage to equipment we own resulting from fire, theft, explosion, flood, civil commotion or other act in or around your premises. This includes losses arising from the fraudulent use of equipment such as fraudulent refunds and use of fraudulent nominated cards.

- 15.8. If you neglect, misuse, lose or damage our equipment you must pay us the full cost of any necessary repairs or replacements. We may choose whether equipment should be repaired or replaced. We may reasonably determine the replacement value.
- 15.9. You must not allow any person except our employees, contractors or agents to service or repair any equipment we own.
- 15.10. We must maintain equipment we own at our own expense in all other circumstances of normal use.

### **Ownership of equipment**

- 15.11. Equipment we own always remains our property even if it is attached to any other property. If the equipment is attached to any other property, at our request you must obtain from the owner of that property an acknowledgment that we own the equipment and that the owner has no interest in it.
- 15.12. You must not part with possession or control of equipment we own unless we ask you to.

### **Insurance of equipment**

- 15.13. The insurance policy on your premises must cover equipment we own for its maximum insurable value

### **Breakdown, malfunction and theft of equipment**

- 15.14. You must tell us immediately when you become aware that any part of the merchant services is not operating normally or fully, whether we are, or someone else is, responsible for its operation. This could include the breakdown or malfunction of equipment or a telephone or communication line or web site. If we are responsible for the operation of that part of the merchant services, we must repair it as quickly as possible.
- 15.15. You must not, by any act or omission, cause a situation where equipment cannot operate normally unless we tell you to do so because we suspect fraudulent activity.
- 15.16. You must tell us immediately if any equipment is stolen, damaged or otherwise interfered with, whether we are, or someone else is, responsible for its operation.
- 15.17. You are responsible for any losses arising from the fraudulent use of the equipment regardless of who owns the equipment.

### **Software**

- 15.18. You must comply with any reasonable additional terms and conditions we prescribe from time to time in relation to software that we supply to you.

### **Equipment security and prevention of unauthorised access**

- 15.19. You must take all reasonable steps to ensure that your terminal is protected against loss, theft, unauthorised access or use, modification or other misuse. Such steps include regularly changing your refund password in accordance with the relevant user guide and not disclosing your refund password to anyone other than your authorised personnel.

## 16. NAB Transact and NAB Gateway

16.1. If we have agreed to provide you with the NAB Transact or NAB Gateway service this clause 15 applies to your merchant services.

16.2. The following terms have these meanings in this clause,

**batch file** means a computer file containing details of transactions for processing by us in accordance with this agreement. For the purposes of the Batch Payment Service, these details include (in relation to each individual transaction) whether the card is a credit card or a charge card and the number and expiry date of that card, the cardholder's name, the transaction reference, your merchant number, the transaction type and the authorisation identification number.

**batch payments report** means a computer file containing a report of all transactions processed during a given period as a result of your use of the batch payments service.

**batch payments service** means the service that enables you to send us one or more transactions for processing at the same time.

**logon id** means the combination of your password and User ID; or any other device, we issue to you so you can access certain merchant services through NAB Transact or NAB Gateway. The terms on which a logon id is issued to you are set out in the NAB Transact or NAB Gateway terms and conditions as applicable.

**virtual terminal service** means the service that enables you to request authorisation of credit card transactions and non-standard card transactions online.

### Batch payments

16.3. In respect of batch payments:

- (a) the batch payments service can only be used if you have been issued with a logon ID as part of that service; and
- (b) you will be taken to have requested authorisation and processing of all transactions in a batch file once the file enters our computer systems; and
- (c) the internet is an inherently insecure network and you assume the risk that we may not receive a batch file that you have sent us over this network using the batch payments service; and
- (d) we are not obliged to advise you each time we receive a batch file for processing; and
- (e) we are entitled to assume that each batch payments file that has been sent from your computer system has been sent by you or with your authority and we are not obliged to and will not check if the batch file has been sent by you or with your authority.

## Virtual terminal service

- 16.4. If you use or intend to use the virtual terminal service to obtain online authorisation of MOTO transactions you acknowledge and agree that:
- (a) the virtual terminal service can only be used if you are a NAB Transact or NAB Gateway customer and have been issued with a logon id as part of that Service; and
  - (b) if the virtual terminal service is unavailable for any reason whatsoever, you must obtain authorisation of transactions by using another means permitted by us as set out in the User Guide; and
  - (c) you are responsible for obtaining all the information we tell you must be obtained from your cardholders in order to obtain authorisation of transactions using the virtual terminal service.

## 17. Intellectual property

### Ownership of intellectual property

- 17.1. Subject to the remainder of this clause, you acknowledge that all intellectual property rights subsisting in the materials provided by us or developed by or for us in relation to this agreement, vests in us and is our property including:
- (a) cardholder detail lists (whether personalised or not) and the promotional material we supply you; and
  - (b) any trade mark, business name, trading style or get up; and
  - (c) any computer program; and
  - (d) any report, file, script, inventory, database, record or information required to be created, maintained or provided by you pursuant to, this agreement.
- 17.2. At our reasonable request, you undertake to swear all oaths, make all declarations, execute all documents and do all other things necessary to vest in us any intellectual property rights in which we have right, title and interest.
- 17.3. Without limiting the generality of the remainder of this agreement, you must not, without our consent:
- (a) use or alter our trade marks, business names, trading styles or get ups whether as part of your corporate or business name or on or in relation to any goods or services; or
  - (b) reproduce or modify any of our computer programs; or
  - (c) merge any report, file, script, inventory, database, record or information referred to in clause 16.1(d) in or with any other information that is held by you and that is not obtained or generated by you.

- 17.4. If we allow you to use one of our trade marks, business names, trading styles or get ups, we grant you a royalty-free, non-exclusive licence during the term of this agreement or for any shorter period that we specify. This licence will allow you to use that trade mark, business name, trading style or get up (as the case may be) in the manner and form which we notify you from time to time solely for the purposes of this agreement.
- 17.5. On termination of this agreement and at our request and cost, you will assign to us or our nominee all intellectual property rights in and to:
- (a) all software designed specifically for; and
  - (b) all modifications, enhancements and application development undertaken by you to software specifically for the purposes of, the merchant services.
- 17.6. You acknowledge and agree that:
- (a) the card scheme logos, names and holograms and all intellectual property rights subsisting in those logos, names and holograms belongs to, and is or will be, vested in the card scheme; and
  - (b) the EFTPOS logos, branding and, trademarks and all intellectual property and goodwill in them are vested in EPAL; and
  - (c) all rights, titles and interests in our trade marks and any intellectual property subsisting in them belongs to and is or will be vested in us and our related bodies corporate; and
  - (d) all goodwill arising from the use of our trade marks, business names, trading styles or get ups pursuant to this agreement is for the benefit of us and is and will remain vested in us and our related bodies corporate.

### **EPAL branding and trademarks**

- 17.7. You are granted a sub licence to use EPAL's trademarks, branding and marketing messages (trademarks), for the purposes we specify from time to time, during the term of this agreement only, on the following terms and conditions:
- (a) You must not use EPAL's trademarks in a manner that is inconsistent with or detracts from those trademarks; and
  - (b) you must comply with any EPAL style guide relating to use of the trademarks which we provide to you; and
  - (c) upon termination of this agreement you must immediately cease using the trademarks and destroy all materials and paraphernalia that include the trademarks; and
  - (d) you agree that this sub licence does not grant you a proprietary interest in the trademarks.

## **18. Indemnity and set-off**

- 18.1. You agree to indemnify us for all losses and liabilities we incur because:
- (a) you breach an obligation that you have under this agreement; or
  - (b) of any dispute between you and a cardholder over a transaction; or
  - (c) of any wilful default, negligence, fraud, act or omission by you or any of your agents or representatives relating to this agreement; or
  - (d) of any infringement by you or your agents or representatives of another person's intellectual property rights; or
  - (e) we process or effect any part of or step relating to a transaction in a foreign currency, except to the extent that we have contributed to the loss or liability through our own negligence, breach or misconduct.
- 18.2. Subject to the other provisions of this agreement, we agree to indemnify you for any amounts processed in accordance with this agreement, keyed in properly into electronic equipment (where appropriate) and accepted as valid by our electronic banking system, but not paid into your nominated account.
- 18.3. We need not incur any expense nor make any payment before enforcing a right of indemnity conferred by this agreement.
- 18.4. This indemnity survives termination of this agreement.
- 18.5. If you have any liability to us under this clause or any other part of this agreement, we may set off that liability against any liability we have to you.

## **19. Limitation of liability**

- 19.1. We try to maintain your facility, including all equipment and systems in good working order and with as little downtime as possible. However, there may be times where, due to technology issues or scheduled maintenance, you are unable to process transactions or experience slower transaction response times than usual. We recommend you have a backup payment method in place for when this occurs.
- 19.2. Except where due to our wilful breach or wilful misconduct, we are not liable for any loss you incur if any part of the merchant services or any equipment we or others supply is not working properly or you can't process transactions for any reason.
- 19.3. If the equipment that we have supplied you is defective, our liability under any applicable consumer guarantees or implied warranties will be limited to the cost of repairing or replacing the equipment.
- 19.4. Neither party will be liable to the other for any consequential or indirect loss however caused.



## 20. Confidential information and privacy

20.1. You:

- (a) must keep any confidential information confidential; and
- (b) may use the confidential information but only in relation to this agreement; and
- (c) may disclose the confidential information to enable you to perform your obligations under this agreement but only to your permitted personnel to the extent that they have a need to know; and
- (d) must not copy the confidential information or any part of it other than as strictly necessary for the purposes of this agreement and must mark if required by us any such copy “Confidential – NAB”.

20.2. On termination or expiry of this agreement, or earlier on reasonable request by us, you must promptly return to us or destroy any or all copies of confidential information, in which case any right to use, copy and disclose that confidential information ceases.

20.3. Your obligations under this clause continue indefinitely in relation to confidential information, even if that confidential information is returned to us or destroyed, or this agreement expires or is terminated.

20.4. This clause 19 does not apply to the extent that you are obliged by law to disclose the confidential information. If you are so obliged to disclose any confidential information, you must before doing so at our reasonable cost notify us (if permitted by law) of the impending disclosure and inform the person to whom the disclosure is to be made that the information is confidential.

20.5. When you collect personal information about a cardholder you must treat that information in accordance with privacy law and any other relevant law of which we notify you from time to time.

20.6. You acknowledge and agree that:

- (a) we may obtain from any card scheme or a person who is involved in any card scheme; information about your merchant history or personal information about you, a related body corporate or your personnel for any purpose relating to the operation of those card schemes. This could include, for example, information relating to previous services that are similar to the merchant services; and
- (b) we can use information about your merchant history and your personal information and information about your personnel or a related body corporate, including information about you collected from third parties to assess and process your merchant application; and

- (c) we can disclose information about your merchant history, a data breach or relevant personal information in the following circumstances:
  - (i) to any card scheme or to any person who is involved in any card scheme, information about you for any purpose related to the operation of those schemes, card fraud detection agencies (including information about termination of merchant services and reason(s) for termination of merchant services); and
  - (ii) where the law or any card scheme requires us to do so; and
  - (iii) where we have reasonable grounds to believe that either you are involved in dishonest or criminal activity, are a victim of such activity, may have information relevant to an inquiry into such activity or have experienced a data breach, to any state or federal law enforcement or regulatory agency whether or not we have been requested by that agency to provide such information; and
- (d) in addition to possible disclosure to the countries specified in NAB's Privacy Policy, your personal information may be transmitted to backup servers located in France; and
- (e) we can disclose your information to any related entities of ours and to any outsourced service providers engaged by us (for example, terminal suppliers, mail houses, debt collection agencies (where necessary) or data analytics providers); and
- (f) we are bound by card scheme rules which make all correspondence and discussions between card schemes and us private and confidential and you are not entitled to participate in or otherwise request a copy of such correspondence.

20.7. You must ensure that your personnel comply with the provisions of this clause.

20.8. This clause survives termination of this agreement.

## **21. Variation**

21.1. Except where expressly provided otherwise in this agreement, we may vary a condition of this agreement or any merchant services guide or manual provided by us to you for the purposes of this agreement or any schedule, the supplementary conditions or annexure to this agreement at any time, by giving you notice. If we believe a change is unfavourable to you, we usually give the notice specified under "Time Frame" below, but can give less or no notice if this is in accordance with law and industry codes. For example, this may happen if it is reasonable for us to give shorter notice to manage an immediate and material risk.

## 21.2. How NAB may notify you of changes

Type of change	Method of notification	Time frame
Introduction of a fee or charge	In writing or electronically	At least 30 days before the change takes effect
Changes to fees and charges	In writing, electronically or by media advertisement	At least 30 days before the change takes effect
Changes to interest rates	In writing, electronically or by media advertisement	No later than the day the change takes effect, except where the interest rate is not set by NAB (such as a money market rate) in which case notice will be given in writing or by media advertisement within a reasonable period of the change being made, unless another entity has publicised the change
Changes to government fees and charges	In writing, electronically or by media advertisement. However, we may not have to tell you about the change if the government publishes it.	At least 30 days before the change takes effect, or a shorter period if we give notice with reasonable promptness after we are notified by the government.
Any other changes to the terms and conditions	In writing or electronically	At least 30 days before the change takes effect or as required under applicable laws and industry codes

21.3. Where any variation made by us has, or would have, an adverse impact on you, you may terminate this agreement without paying any early termination fee.

21.4. You or we may only waive a right created by this agreement by giving the other notice in writing.

## 22. Representations and warranties

22.1. You represent and warrant to us that:

- (a) you are duly authorised to enter into this agreement and the obligations under this agreement are valid, binding and enforceable in accordance with its terms; and
- (b) if you are an incorporated body, you validly exist under the laws of your place of incorporation and have the power and authority to carry on your business as that business is now being conducted and using any name under which that business is being conducted; and
- (c) if you, a related body corporate or any officer, employee or agent of you or a related body corporate has at any time been listed on a database of terminated merchants maintained by any card scheme or have otherwise had merchant services terminated by another acquiring bank, you have disclosed that fact to us.

- 22.2. The representations and warranties set out in this clause 21 will be deemed to be repeated each day after the date you enter into this agreement.
- 22.3. If you have entered this agreement in your capacity as a trustee of any trust you confirm the following in relation to that trust:
- (a) the trust is validly formed and relevant documents comply with the relevant law; and
  - (b) any copy of the trust document you have given us is a true and complete copy and discloses everything about the trust; and
  - (c) you are and will remain properly appointed as the only trustee of the trust; and
  - (d) there is currently no breach of the terms of the trust; and
  - (e) you have and will do nothing to put at risk a full right of indemnity from the trust assets in respect of liability that has arisen or might arise under this agreement; and
  - (f) this agreement and the transactions entered into under it are for proper trust purposes; and
  - (g) you have done everything required under the trust document to enter into this agreement and the transactions it contemplates; and
  - (h) none of the trust assets has or will be resettled or set aside; and
  - (i) the trust has not terminated nor has any event for the vesting of the assets occurred.

### **23. Term, termination and suspension**

- 23.1. This agreement commences on the date you accept our letter of offer and continues until terminated.
- 23.2. Either party may terminate this agreement for convenience at any time, upon 60 days' written notice to the other party.
- 23.3. You must stop accepting a nominated card immediately if:
- (a) we give you notice to do so; or
  - (b) this agreement terminates.
- 23.4. We may suspend or terminate or suspend then terminate this agreement in whole or part at any time upon notice to you if:
- (a) you commit a material breach of this agreement which is incapable of being cured; or
  - (b) you commit a material breach which is capable of remedy, but you fail to remedy the breach within 7 days of notice from requiring you to do so;
  - (c) you are engaged in activity which exposes us or has exposed us to potential fines or penalties imposed under relevant law; or
  - (d) you have in our reasonable opinion engaged in or are engaging in dishonest activity in connection with the merchant services; or

- (e) we suspect that your equipment or facility is being targeted by persons engaged in fraudulent or dishonest activity whether with or without your knowledge; or
- (f) your merchant services are the subject of a direction made under relevant law that your merchant services be suspended or terminated; or
- (g) you have experienced a material adverse change in financial circumstances; or
- (h) we have material concerns about your solvency or if you become bankrupt or insolvent or are subject to any form of insolvency administration or a resolution is passed or an order is made for winding up; or
- (i) you have a significant adverse credit event recorded against you; or
- (j) you or any service provider that you use in connection with your merchant services has suffered a data breach; or
- (k) you are in breach of any other agreement that you have with us and (if applicable) have not remedied the breach within any grace period allowed; or
- (l) you do not process any transactions for a continuous period of 6 months and you do not advise us that you still require the merchant services; or
- (m) for any other reason, in our reasonable opinion continuing to provide you with the merchant services would put us at risk.

The notice does not have to state a reason. The period of notice given will be determined by the risk that continuing to provide merchant services to you presents to us (and termination may be made effective immediately) but will, in any event, be no longer than 30 days. If we are unsuccessful in contacting you, we can still choose to terminate the facility, however, we will give you subsequent written confirmation that the facility has been terminated.

23.5. Where required by card schemes, you authorise us to disclose to any card scheme advice of termination of the merchant agreement and the reasons for the termination. You acknowledge that the information concerning termination of the merchant agreement then becomes available to any member of the card schemes. This information may be used in assessing subsequent applications for merchant facilities.

23.6. The ending (including by expiration of the term of this agreement or by termination by us) or suspension of this agreement or any part of it, does not affect any of your or our rights and obligations which arose before it ended or was suspended. This includes our right to chargeback transactions and our right to recover accrued fees, charges and costs.

23.7. When this agreement ends for any reason you must:

- (a) not process any further transactions;
- (b) pay any outstanding fees, charges or costs due to us under this agreement;

- (c) continue to reimburse us for any chargebacks or other losses we incur;
- (d) maintain an account for 180 days so that we can continue to charge fees and process chargebacks to your account;
- (e) return to us within 14 days all equipment supplied by us and any other material that we supplied and specify requires returning; and
- (f) continue to pay rental fees (if applicable) for any equipment supplied by us until you return that equipment to us.

23.8. If a part of this agreement that requires us to supply equipment is ended by you, then you must pay us:

- (a) any fees, charges and costs we have prepaid for services in connection with the equipment; and
- (b) an amount to pay our costs of installation as determined by us if the part ends within 3 years of the equipment being installed.

23.9. You agree that we may disclose to any person the fact that all or part of this agreement or the merchant services has been terminated. You authorise us to disclose information concerning the termination to any credit provider for the purpose of notifying that credit provider of that termination and the reason for it occurring. Termination and subsequent listing of the termination may affect your ability to obtain merchant facilities with another acquirer.

23.10. This clause 22 survives termination of this agreement.

## **24. Our consent and discretion**

Any discretion conferred on us under this agreement will be exercised reasonably and in accordance with our legitimate business interests.

## **25. Cardholder's creditworthiness**

You cannot infer from the fact that a cardholder has been issued with a nominated card, or that a transaction has been processed or an authorisation has been given, that we have guaranteed:

- (a) the cardholder's creditworthiness; or
- (b) the correct identity of the cardholder; or
- (c) that the transaction is valid and acceptable and will not be subsequently charged back or reversed

## **26. Rights of each party**

26.1. You must not assign or charge your rights under this agreement without our consent.

26.2. We may enter this agreement as principal or agent.

- 26.3. We may assign or otherwise deal with our rights under this agreement or in equipment we own in any way we consider appropriate. We may not give you notice where we reasonably believe the assignment causes no detriment to you. You will have the same rights against an assignee as you do against us. We may disclose any information or document we consider desirable to help us exercise this right at any time to a person to whom we assign or propose to assign our rights.
- 26.4. We may, without your consent subcontract any of our obligations under this agreement and if we do you must allow access to our subcontractors to your business premises for the purpose of installing equipment or auditing your compliance with this agreement. You will have the same rights against us for any acts performed by a subcontractor on our behalf.
- 26.5. The rights, powers and remedies which you and we have under this agreement are in addition to the ones provided independently by law (including, without limitation, any rights conferred under trade practices legislation). You and we may exercise the rights, powers and remedies under the law and in equity as well as any of those provided by this agreement
- 26.6. If you or we do not insist upon or enforce a right arising from a breach of this agreement, that does not mean that you or we have given up or waived that right or any other right arising from that breach or any later breach.
- 26.7. Nothing contained or implied in this agreement constitutes you as the partner, agent, or legal representative of us for any purpose or creates any partnership, agency or trust, and you have no authority to bind us in any way.

## **27. Notices**

- 27.1. You agree that we may communicate with you in the following ways and a notice given to you by us is duly given if it is:
- (a) in writing; and
  - (b) given personally to the addressee (which, in our case, includes one of our officers at the address last advised); or
  - (c) sent by prepaid post to the address last advised (and until advised otherwise, the address last advised shall be the address for you and us as indicated in the letter of offer); or
  - (d) sent by facsimile to the facsimile number last advised; or
  - (e) sent by email to the email address last advised; or
  - (f) by being made available at NAB's website in which case NAB will promptly notify you by way of statement message or electronic mail to your nominated electronic address that the information is available for retrieval and provide you with the ability to readily retrieve the information (eg. by providing you with a link to NAB's website).

- 27.2. A notice given by you to us is duly given if it is in writing signed by you and left at our address or sent by prepaid post to our address or sent by facsimile to our facsimile number.
- 27.3. Any legal process or notice of legal process (for example, a summons) may be served on you or us by delivering or leaving it at your or our last advised address or by any other method of service permitted by law.
- 27.4. A notice takes effect from the time it is deemed to be received unless a later time is specified in it.
- 27.5. You must immediately advise us of any change in your address or contact details and we shall endeavour to do likewise.

### **When notices are taken to be received**

- 27.6. A notice is taken to be received:
- (a) for notices sent by post, on the 8th banking day after posting; and
  - (b) for notices sent by facsimile, on production of a transmission report by the transmitting machine that indicates that the whole facsimile was sent; and
  - (c) for notices sent by email, at the time that the communication enters your designated information system or is capable of being viewed from your computer, even if no person is aware of its receipt; and
  - (d) for notices made available on our website, at the time that you are taken to receive the email or statement message that we send to you to advise you that the notice is available for retrieval.

## **28. Further assurances**

- 28.1. You agree, at your own expense, to:
- (a) execute and do everything else reasonably necessary or appropriate to bind you under this agreement; and
  - (b) use your best endeavours to cause relevant third parties to do likewise.
- 28.2. If we determine that this agreement (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, you agree to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which we ask and consider necessary for the purposes of:
- (a) ensuring that the security interest is enforceable, perfected and otherwise effective; or
  - (b) enabling us to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by us; or



- (c) enabling us to exercise rights in connection with the security interest.

Everything you are required to do under this clause 27.2 is at your expense (in particular, but not limited to, preparing, registering and maintaining any financing statement or financing change statement as required under the PPSA). You agree to pay or reimburse our reasonable costs, charges and expenses in connection with anything you are required to do under this clause 27.2.

## 29. Disputes and general information

- 29.1. We will provide you upon request with general information dealing with our procedures for handling disputes, the time within which disputes will normally be dealt with and indicating that disputes will be dealt by staff with appropriate powers to resolve disputes.
- 29.2. If you have raised an issue with NAB but do not feel it has been resolved to your satisfaction, you can contact the NAB Resolve team on 1800 152 015.
- 29.3. If your concerns have not been resolved to your satisfaction, you can lodge a complaint with the Australian Financial Complaints Authority (AFCA):

**Website:** [afca.org.au](http://afca.org.au)

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

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

**In writing to:** Australian Financial Complaints Authority, GPO Box 3, Melbourne, VIC 3001

AFCA is an External Dispute Resolution (EDR) scheme to deal with complaints from consumers in the financial system. AFCA provides fair and independent financial services complaint resolution that's free to consumers.

## 30. Publicity

- 30.1. You agree not to make any press or other announcements or releases relating to this agreement and the transactions, the subject of this agreement, without our prior approval.
- 30.2. The approval required under clause 29.1 shall include the manner in which the announcement or release is to be made and its form and its content, unless and only to the extent that the announcement or release is required by law.

## 31. Governing law

This agreement is governed by the law in force in the Australian State or Territory where your address (detailed on the Letter of Offer) is located. If this address is not located in Australia, this agreement is governed by the law of Victoria. Any court cases involving this agreement can be held in the courts of any State or Territory of Australia. You and we submit to the non-exclusive jurisdiction of those courts.

## **32. Taxation**

- 32.1. We may be required to disclose information about your merchant services (eg. total turnover processed through the merchant services) to the Australian Taxation Office.
- 32.2. We may be required by taxation laws to remit amounts to the Australian Taxation Office if you do not provide your tax file number to us.

## **33. Banking Code of Practice**

- 33.1. We have adopted the Banking Code of Practice (“Code”). Relevant provisions of the Code apply to these merchant services if you are an individual or a small business customer of ours (as defined by the Code).
- 33.2. You can obtain a copy of the Code from us upon request.

## **34. Commissions**

We may pay a referral fee to any person that introduces your business to us.

## **35. Hotel/motel reservation guarantee and advance accommodation deposit**

- 35.1. This clause 34 only applies where you have been authorised to accept card transactions to guarantee hotel/motel reservations or for advance accommodation deposits.
- 35.2. Where you have accepted a card transaction to guarantee a hotel/motel reservation or to accept a deposit in advance towards an accommodation reservation, you agree to:
  - (a) handle the reservations in accordance with the card scheme rules; and
  - (b) honour these reservations in all circumstances; and
  - (c) cancel the reservation and, where necessary, issue a refund to the cardholder if the cardholder cancels the reservation in accordance with card scheme rules.
- 35.3. In relation to a guaranteed reservation, You must:
  - (a) accept all cancellations prior to the specified time; and
  - (b) not require cancellation notification more than 72 hours prior to scheduled arrival date; and
  - (c) if the cardholder makes the reservation within 72 hours prior to the scheduled arrival date, ensure that the cancellation deadline is no earlier than 6.00pm merchant outlet time on the arrival date or date guaranteed; and
  - (d) if required that a cardholder cancel before 6.00pm merchant outlet time on the date guaranteed, a written copy of the cancellation policy, including the date and time that cancellation privileges expire, must be provided to the cardholder; and

- (e) if the cardholder has not claimed or cancelled the hotel reservation service accommodation by the specified time, you must hold the rooms available according to the reservation until check-out time the following day. You may then complete a transaction receipt that must contain the following:
- (i) amount of one night's lodging plus applicable tax; and
  - (ii) cardholder's name, account number in an truncated format, and expiration date; and
  - (iii) the words "No Show" on the signature line of the transaction receipt.
- 35.4. You shall have the guaranteed room available for the arrival of the cardholder. If for any reason you are unable to provide the room, you shall provide at no charge a comparable room for one night at some other establishment and a three minute local or long distance telephone call. You shall not have to hold accommodation available for subsequent nights if the cardholder has failed to appear for their reservation guarantee by checkout time following the first night of the guaranteed reservation.
- 35.5. If there is a dispute, you shall accept a chargeback where the cardholder claims that they cancelled the guaranteed reservation.
- 35.6. If there is a dispute in relation to a guaranteed reservation or an advance accommodation deposit, you shall accept a chargeback where the cardholder claims that they cancelled the reservation.

## **36. Express checkout**

- 36.1. This clause 35 only applies where you have been authorised to accept card transactions to permit express check out from hotels or motels.
- 36.2. You agree to handle the express checkout transactions as outlined in the card scheme rules. You shall, retain and make available to us the itemised hotel/motel bill. All disputes shall be resolved in accordance with the rules of the relevant card scheme.

## **37. Bank deposit**

- 37.1. If, in your letter of offer or by some other document you agreed to give us a bank deposit or when we notify you that a bank deposit is required this clause applies to this agreement.
- 37.2. The following words have these meanings in this clause:

**bank deposit** means the deposit held pursuant to clause 36.3.

**bank deposit account** means the account in which the bank deposit is held.

**bank deposit limit** means, subject to clauses 36.3(f), (g) and (h), the amount described in your letter of offer under the heading 'Deposit Schedule' or otherwise notified in writing to you by us.

**NAB cash management account** means NAB's cash management account, the terms of which are governed by the terms and conditions for NAB Products as amended from time to time or a similar product replacing the cash management account from time to time.

**transfer amount** means the amount in dollars to be transferred whenever proceeds are credited to the settlement account, by debiting the settlement account and crediting the bank deposit account pursuant to clauses 36.3(f), (g) and (h).

### **Bank deposit**

36.3. Terms of the bank deposit account:

- (a) Unless we otherwise agree, you must have a bank deposit of the bank deposit limit held in an account with us for the purposes of this clause recorded in dollars.
- (b) Unless we otherwise agree, the bank deposit account must be a NAB Cash Management Account.
- (c) We may at any time determine that a bank deposit is required or is no longer required.
- (d) Unless otherwise agreed by us, you cannot alter the status of the bank deposit account.
- (e) You agree that to the extent required by this clause, the terms of this clause vary and form part of the terms and conditions of your bank deposit account.

### **Bank deposit limit**

- (f) We may at any time increase or decrease the amount of the bank deposit limit and will notify you in writing if we do so.
- (g) In our discretion, we may determine that:
  - (i) you must immediately cause there to be a bank deposit of any amount up to the bank deposit limit; or
  - (ii) the balance of the bank deposit may be less than the bank deposit limit provided that the balance is being increased by regular deposits of transfer amounts.
- (h) All transfer amounts, initial deposits and all other deposits into the account shall be counted towards the bank deposit limit.

### **Transactions in respect of the bank deposit account**

- (i) You agree and authorise us or, where your nominated account is held with another financial institution, to direct such financial institution to debit your nominated account with the transfer amount every time there are transactions processed to your nominated account pursuant to clause 10.
- (j) While the balance of the bank deposit amount is equal to or greater than the bank deposit limit, no amount shall be transferred under clause 36.3(g)(ii).

- (k) Unless otherwise determined by us and notified in writing, the transfer amount shall be 5% of the aggregate of the transaction amounts processed on the day in question. The transfer amount may be increased or decreased at any time in our absolute discretion.
- (l) The transfer amount once received by us shall be credited to the bank deposit account.
- (m) You may at any time deposit funds into the bank deposit account, provided you notify us and we agree prior to the deposit being made. Such deposit will be counted towards the bank deposit limit.
- (n) We may at any time, in our discretion and without notice to you, apply any part or all of the bank deposit against the full amount of all valid and acceptable refund transactions processed by you in the applicable currency or any other liabilities arising under this agreement.
- (o) We must give you information each month showing the full amount of all transactions processed by us during the previous month to the bank deposit account. You must raise any issue that you have concerning an amount paid, or not paid to or from the bank deposit account within 3 months of the date of payment or of the date the payment was due. We may charge you a fee for investigating any such issue.
- (p) We will not release the amount of the bank deposit up to the bank deposit limit to you or at your direction, unless and until your entire liabilities whether actual or contingent under this agreement have been satisfied in full. We are under no obligation to provide or make available banking facilities to you including withdrawal by any means in respect of the bank deposit, except as provided for in clause 36.3(r).
- (q) For the avoidance of doubt, you agree that no liability shall arise for us not permitting withdrawals from the bank deposit account provided that we have acted reasonably having regard to our legitimate commercial interests
- (r) Should the balance of the bank deposit exceed the bank deposit limit at any time and for any reason the amount exceeding the bank deposit limit shall be repayable upon demand in accordance with banking practice for such an account.
- (s) You agree to do any reasonable act or execute any document including the direct debit documentation to provide for or facilitate the transfer of funds from the nominated account to the bank deposit account.
- (t) You must not create any encumbrance over or affecting or otherwise dealing with the bank deposit.
- (u) For the avoidance of doubt, any fees and charges in connection with or related to the implementation of this clause, including the use of direct debit, shall be borne by you and recoverable where applicable by us including by set-off against the bank deposit account.
- (v) Nothing in this clause affects our ability to exercise rights of set-off arising by law or under the merchant agreement.

- (w) Nothing in this clause 36 is intended to create a charge.
- (x) This agreement is intended to be a close-out netting contract for the purposes of the Payment Systems and Netting Act 1998 (Cth).



