



# MERCHANT AGREEMENT

Last updated: 19 June 2024

By entering into this Agreement, You agreed to be bound by this Agreement.  
You should print a copy of this Agreement for Your records.

## **1. Agreement and Appointment**

- 1.1 This Agreement is a contract between You and MuliPay Pty Ltd (ABN 670 681 213, AFSL 552726 of Level 18, 324 Queen Street, Brisbane City, QLD 4000 (we, us, our or MuliPay). If You do not accept the terms of this Agreement, You must not use the MuliPay Services.
- 1.2 In the event of any inconsistency between the terms of this Agreement and the requirements set out in the Card Scheme Rules, the Card Scheme Rules prevail to the extent of such inconsistency.
- 1.3 Before using the Services and before we create an account with Us is created for You, You must complete the Application Form. The Services will only be provided to You if You have satisfied Our internal due diligence procedures, including anti-money laundering checks and requirements. You agree to provide reasonable information and assistance to Us to facilitate the approval of the Services to You. You acknowledge and authorise Us to obtain additional information about You from other third parties as reasonably required for Us to be satisfied.
- 1.4 Our determination on whether to provide You with the Services is final. We are not obliged to (but may elect to) provide You with specific details regarding any failure to satisfy Our due diligence and anti-money laundering checks and requirements.

## **2. MuliPay Obligations**

- 2.1 We agree to provide You the Services in accordance with the terms of this Agreement from the date in which You pass Our internal due diligence procedures, including anti-money laundering checks and requirements. Our Services allow Your Customers to pay for goods or services offered by You. We may provide Our Services via Our Related Bodies Corporate.
- 2.2 MuliPay is a payment service provider, facilitating payments via Direct Debit billing, BPAY, real time payments or any other payment type or scheme we provide access to for the collection of Customer Payments (Services).
- 2.3 It is understood that:
  - (a) We will collect recurring Direct Debit payments and any fees owed by Your Customers;
  - (b) We will process real time payments as initiated by Your Customers;
  - (c) We will process BPAY payments as initiated by Your Customers;
  - (d) Direct Debit payments may only be collected from Australian bank accounts, building societies, credit unions, and Card Schemes; and
  - (e) We will credit funds processed once the funds are considered cleared funds to Your nominated account.
- 2.4 You acknowledge and agree that We may hold Customer Payments and not transfer them to Your nominated account if We, for any reason, suspect that You or Your Customer have acted in a fraudulent, illegal, unlawful, unconscionable or improper manner in relation to the Customer Payment or their collection of if We have been instructed to do so by a Government Agency.

2.5 We must notify You of:

- (a) any changes in the Data Security Standards;
- (b) any changes in Relevant Laws from time to time which We are aware would impact the Services under this Agreement; and
- (c) any other matters relating to the Services that would have a material impact on You.

### **3. Mulipay Policies**

3.1 You must comply with the Mulipay Policies as they are updated from time to time. We will notify You of any material change to the Mulipay Policies. If You do not want to continue receiving the Services as a result of any such change, You may terminate this Agreement in accordance with clause 11.2.

### **4. Your Obligations**

#### **General**

4.1 You must:

- (a) comply with this Agreement, the Mulipay Policies, Card Scheme Rules, PCI-DSS Standards (including those relating to privacy and the collection, storage and use of personal and sensitive information, data security, cyber security and electronic transactions) and all Relevant Laws;
- (b) comply with Our reasonable and lawful instructions;
- (c) provide Us with all necessary information and documents relevant to You, the Services and Your Customers to enable Us to perform the Services;
- (d) promptly notify Us of any change in its financial position which will, or is reasonably likely to, affect Our ability to perform its obligations under the Acquirer Agreement; and
- (e) promptly notify Us of all enquiries or complaints by Your Customers in respect of Customer Payments and the Services.

4.2 You may only use the Services for legitimate transactions with Your Customers and are responsible for Your relationship with them, including verification of identity, and determining Your Customers eligibility and authority to enter into and complete a transaction.

4.3 You must not:

- (a) supply goods or services outside of Australia without Our written consent;
- (b) accept payment for goods or services that have been supplied to a Customer by a third party;
- (c) knowingly submit any transaction that is illegal or that it should have known was illegal; or
- (d) without Our prior written consent:
  - (i) change Your ownership or effective control in any way;
  - (ii) change Your principal business activities and the fundamental line of business or commercial activities as notified to Us at the time of entry into this Agreement; or
  - (iii) change the types of goods or services that You supply to Your Customers as notified to Us at the time of entry into this Agreement.

4.4 Without limiting any of Our rights under this Agreement, if You undertake any of the changes referred to in clause 4.2, You must re-apply with, and be approved by, Us to receive the Services.

- 4.5 You agree to advise Us if, during the term of this Agreement, You appoint another party to provide a similar or identical service to that provided by Us pursuant to this Agreement.

**Direct Debit**

- 4.6 You acknowledge that a DDR (whether in hard copy or electronic format (i.e. an eDDR), containing Our AusPayNet User ID number remains Our property at all times.
- 4.7 You acknowledge that no other Direct Debit service provider or other financial institution may conduct debit transactions from Your Customer accounts as a result of Your Customer completing a signed DDR under Our logo or under Our AusPayNet User ID number unless otherwise authorised by Us in writing.
- 4.8 You acknowledge that any debit transaction conducted by a company or institution without Our authorisation shall be in breach of this Agreement and not a valid transaction.
- 4.9 You acknowledge that You must store all DDRs, either in hard copy or electronic format in a safe and secure place for at least seven (7) years from the date of the last transaction.
- 4.10 You acknowledge that the DDR is a separate confidential agreement We have with Your Customer.
- 4.11 You acknowledge that if Your Customer gives Us seven (7) days written notice of termination. We will terminate the DDR immediately in accordance with the AusPayNet guidelines.
- 4.12 You agree to be bound by the regulations in relation to the use of BECS as set out by APCA in relation to the processing of Direct Debits. A copy of these regulations can be downloaded by visiting [www.apca.com.au](http://www.apca.com.au).

**5. Representations and Warranties**

- 5.1 You represent and warrant to Us that:
- (a) in receiving the Services, You have not and will not be in a material breach of any Relevant Laws (including any Privacy Laws) or any obligation owed to any Person;
  - (b) all information provided by You to Us is true and accurate;
  - (c) information about Your transactions, including Customer Payments which We transmit to the Acquirer or arrange to be transmitted to the Acquirer has been obtained and is provided in accordance with the terms of this Agreement;
  - (d) if We or Our Related Bodies Corporate or officers, employees or agents has at any time been listed on a database of terminated merchants maintained by any Card Scheme or has otherwise had services similar to the Services terminated by another acquiring bank, other acquirer or payment facilitator, You have disclosed that fact to Us.
- 5.2 Each party represents and warrants to the other party that:
- (a) it is duly authorised to enter into this Agreement and the obligations under this Agreement are valid, binding and enforceable on it in accordance with its terms;
  - (b) it validly exists under the laws of its place of incorporation and has the power and authority to carry on its business as that business is now being conducted and using any name under which that business is being conducted; and
  - (c) it holds all regulatory licences, authorisations and approvals required to lawfully comply with this Agreement.

- 5.3 The representations and warranties set out in this clause 5 are given on the date the relevant party signs this Agreement and are repeated each day after the date of this Agreement.
- 5.4 The Services are provided on an "as is" basis.
- 5.5 To the maximum extent permitted by Relevant Laws, We exclude:
- (a) all warranties of any kind relating to this Agreement and its subject matter (other than any warranties expressly set out in this Agreement), whether implied, statutory or otherwise; and
  - (b) all implied terms of any kind relating to this Agreement or its subject matter (whether statutory or otherwise) that impose or create any form of obligation or liability on Us.

## **6. Fees**

- 6.1 You agree to Us deducting any Fees, charges or amounts related to this Agreement.
- 6.2 We will deduct the Fees, charges and amounts from the amounts collected from Your Customers;
- before depositing the balance of the funds in Your nominated account; or
  - on a monthly basis within 30 days after We present You with Our invoice, in accordance with the Direct Debit Terms.
- 6.3 If We are unable to debit the amounts payable in full from Your account in accordance with the Direct Debit Terms, We may require You to pay interest on any unpaid part of the amount owing which has not been disputed, from the due date until the date on which that part is paid, to be calculated on a daily basis at the rate of 3 percentage points above the Commonwealth Bank Corporate Overdraft Rate from time to time.
- 6.4 The Fees and amounts payable under this Agreement are expressed exclusive of GST.
- 6.5 If GST is payable as a consequence of any supply made (or deemed to be made) by one party to the other in connection with this Agreement, the party receiving the supply must pay to the party making the supply an amount equal to the GST payable in respect of the supply (GST Amount), in addition to the Fees consideration (if any) required to be paid under any other provision of this Agreement.
- 6.6 We may increase the Fees by providing no less than 30 days' notice to You. If You do not agree to any such change You may discontinue use of the Services and terminate this Agreement in accordance with clause 11.2.

## **7. Payments, Refunds, and Chargebacks**

- 7.1 In the event that Your Customer has a Failed Payment, You agree that should the Customer first contact Us, we will direct the Customer to contact You or Your nominated representative directly on the nominated email or contact points.
- 7.2 If we receive a Claim in relation to a Direct Debit, we will, in the first instance, supply to the claimant's financial institution all documents as permitted and requested to be supplied according to the BECS Rules and Procedures.
- 7.3 We may request, and You agree to supply, all documents, billing accounts, contracts and all source documents that may be required by Us.

- 7.4 Should a Claim by Your Customer be successful, notification of the Claim will be included within the Rejections Report.
- 7.5 You agree to make payment to Us of all monies due and owing to Us pursuant to this clause 7 within 14 days of being notified by Us.
- 7.6 Upon receipt of a Claim notification from Your Customer's financial institution, We may apply a Claim or Chargeback Retrieval Fee for each Claim notification. This Claim or Chargeback Retrieval Fee will be deducted from Your next settlement or debited from Your nominated account.
- 7.7 We reserve the right, and You agree, to deduct the amount of any such Claim or late dishonour from monies held in the Trust Account in the first instance and You acknowledge and agree for Us to debit any nominated account for the amount.
- 7.8 At Our discretion, We may apply a successful Claim Fee to each successfully claimed transaction. This Claim Fee will be deducted from Your next settlement or debited from Your nominated account.
- 7.9 To reduce the incidence of disputes Claims and dishonours and to comply with AusPayNet regulations, We may include all or part of Your business/trading name in the debit transaction description on Your Customer's account statement. You hereby consent and authorise Us to establish, obtain and identify any Direct Debit facility by name/code which includes all or part of Your business/trading name.

## **8. Intellectual Property**

- 8.1 Except as expressly provided in this Agreement, neither party will acquire any rights in respect of the Intellectual Property of the other. Neither party may use the Intellectual Property of the other party in any way except:
- (a) with the prior written approval of the other (such approval not to be unreasonably withheld), and in accordance with the terms of any such approval; or
  - (b) as specifically authorised in this Agreement.
- 8.2 We grant You a non-exclusive, non-transferable, royalty-free licence (without any right to sublicense) for the term of this Agreement to use in Australia all software provided by Us under this Agreement solely to the extent required for the performance of Your obligations and Your receipt of the Services under this Agreement.
- 8.3 You must not copy, modify, alter or amend or use for any other purpose any such software without Our express prior written consent, and must not supply that software to any third party without Our express prior written consent.
- 8.4 On termination of this Agreement, You must permanently delete all copies of the software and any MuliPay Intellectual Property in Your possession or control.
- 8.5 You may use MuliPay's Intellectual Property, including logos, trademarks and Promotional Materials, only as specifically authorised in this Agreement or with the prior written approval of MuliPay in accordance with the terms of any such approval.

**9. Tripartite Arrangement**

- 9.1 As part of Our Services to You, You agree to enter into the Tripartite Agreement with the Acquirer and Us from the date in which the annual card transaction volume exceeds the Card Scheme threshold limits. You also agree that You have read, understood and are capable of fully complying with the terms of the Tripartite Agreement.
- 9.2 Tripartite Agreement refers to the agreement entered into by Us, the Acquirer and You as set out [here](#).

**10. Audit**

- 10.1 You acknowledge and agree that We, Acquirer and Card Scheme operators (and their respective employees or representatives) may, from time to time and without notice to You, audit and review:
- (a) Your compliance with all Relevant Laws;
  - (b) Your operations and processes that support its obligations under this Agreement;
  - (c) any transactions processed under this Agreement; or
  - (d) the funds flow from You to Us,
- provided that where such audit and review requires the provision of information by You, the attendance of Us, Acquirer or Card Scheme operator or their respective representatives at Your premises or the provision of assistance by You, then We will provide reasonable notice to You of the requirement for such information, attendance or need for assistance.
- 10.2 We may audit Your disbursement records by requesting the information directly from You or by analysing any internal records and information We hold with respect to You and the provision of the Services.

**11. Term, Termination, and Suspension****Term**

- 11.1 This Agreement commences on the Commencement Date and continues until terminated in accordance with this clause 11.

**Termination for Convenience**

- 11.2 Either party may terminate this Agreement for any reason by giving at least 30 days' prior written notice.

**Termination for Cause**

- 11.3 Either party may terminate this Agreement with immediate effect (or from such other date as it may nominate) by giving written notice if any of the following events has occurred in respect of the other party:
- (a) a material breach of any of its obligations under this Agreement which is capable of remedy and, the other party fails to remedy that breach to the reasonable satisfaction of the first party within 14 days after receipt of written notice from the notifying party;
  - (b) a material breach of any of its obligations under this Agreement and the breach is not remediable; or
  - (c) an insolvency event occurs.
- 11.4 We may terminate this Agreement with immediate effect (or from such other date as We may nominate) by giving

You written notice of terminate if:

- (a) You do not pass Our internal due diligence procedures, including anti-money laundering checks and requirements;
- (b) in the opinion of Us, the Acquirer or the relevant Card Scheme, You have utilised or attempted to utilise the Services in any unlawful, fraudulent, unconscionable or improper manner;
- (c) MuliPay is required to do so by a Card Scheme or the Acquirer under the Card Scheme Rules or the Acquirer Agreement;
- (d) the actions of You may lead to or cause MuliPay to breach the Acquirer Agreement or may lead to or cause MuliPay or Acquirer to breach their obligations under the Card Scheme Rules or any other Relevant Laws; or
- (e) You have a change of ownership or control.

### **Consequences of Termination**

- 11.5 If this Agreement is terminated or expires for any reason, then, in addition and without prejudice to any other rights or remedies available to either party:
- (a) the parties are immediately released from the obligation to continue to perform the Agreement except those obligations in the clauses specified in clause 12, 13, 14, 16 and 17 and any other obligations that, by their nature, survive termination;
  - (b) each party retains the rights and claims it has against any other party for any past breach of the Agreement;
  - (c) each party must immediately deliver to, or otherwise dispose of, as directed by the other party or its duly authorised representative, any and all materials, records, data and other property belonging or relating to that party, its clients or customers (as the case may be), including all Confidential Information of that party and all copies of that Confidential Information, then in its possession, custody or control, and must certify in writing to the other party that this has been done;
  - (d) each party's right to use the other party's Intellectual Property immediately ceases on termination of this Agreement for any reason;
  - (e) We will remit all remaining monies owed to You by Us within 15 Business Days from the date of termination or expiration;
  - (f) You must immediately pay all outstanding amounts due to Us under the Agreement.

### **Suspension**

- 11.6 We may suspend the Services if:
- (a) it is of the reasonable opinion that You are in breach of or have breached this Agreement; or
  - (b) it is otherwise reasonable for Us to do so in the circumstances, including circumstances that may lead to or cause Us to breach its obligations under the Card Scheme Rules, the Acquirer Agreement or under any
  - (c) Relevant Laws.

## **12. Confidentiality**

### **Permitted Use**

- 12.1 Except as expressly permitted or required by this Agreement, each party must not use any of the other party's Confidential Information.



**Permitted Disclosure**

- 12.2 Except as expressly permitted or required by this Agreement, each party must not disclose to any other person any of the other party's Confidential Information.
- 12.3 Each party may disclose the Confidential Information of the other party:
- (a) when required to do so by law or any regulatory authority, including any stock exchange on which it is listed; and
  - (b) to its Personnel whose duties reasonably require such disclosure, on condition that the party making such disclosure:
    - (i) ensures that each such person to whom such disclosure is made is informed of the confidentiality of the information and the obligations of confidentiality under this Agreement; and
    - (ii) ensures that each such person to whom such disclosure is made complies with those obligations as if they were bound by them.
- 12.4 Each party must not disclose the terms of this Agreement or any other arrangements between the parties to any other person, except in accordance with the provisions of clauses 12.3(a) or 12.3(b).

**13. Liability**

- 13.1 Certain legislation, including the Australian Competition and Consumer Act 2010 (Cth) may imply warranties or conditions or impose obligations which cannot be excluded, restricted or modified except to a limited extent. This Agreement must be read subject to those statutory provisions. If those statutory provisions apply, notwithstanding any other provision of this Agreement, to the extent to which We are entitled to do so, We limit Our liability in respect of any claim to:
- (a) in the case of goods, at Our option:
    - (i) the replacement of the goods or the supply of equivalent goods;
    - (ii) the repair of the goods;
    - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - (iv) the payment of having the goods repaired, and
  - (b) in the case of services, at Our option:
    - (i) the supply of the services again; or
    - (ii) the payment of the cost of having the services supplied again.
- 13.2 You agree that other than where caused or contributed to by an act or omission of Us, You shall release, indemnify and hold Us harmless from and against all liability, claims, damages, actions or losses suffered or incurred by Us (including Customer claims) or arising in any way from Our collection of Customer payments, including:
- (a) Any fraud in relation to the eDDR and/or DDR;
  - (b) Any error, technological or otherwise in relation to the eDDR;
  - (c) Any failure by You to pay Fees or any other amount owing under this Agreement;
  - (d) Any matter affecting the payment of a Customer payment;
  - (e) Any failure by You or Your Customer to provide correct information to Us;
  - (f) Any bank fee or charges incurred in respect of a Customer Payment;
  - (g) Any dispute between You and a Customer;
  - (h) Any failure by You to comply with the Data Security Standards or Relevant Laws;

- (i) Any breach by You of Your obligations under or in connection with this Agreement; and
- (j) Any Customer Payments that failed, including Failed Transactions.

13.3 To the full extent permitted by Relevant Law, no party will be liable to the other party for:

- (a) anticipated or actual profit;
- (b) anticipated or actual revenue;
- (c) loss of data;
- (d) loss arising from interruption to business;
- (e) failure to realise anticipated savings;
- (f) loss of goodwill or business;
- (g) loss of contracts or interest; or
- (h) consequential, indirect, special, punitive or incidental damages.

13.4 To the full extent permitted by Relevant Law, We limit Our liability to You for all claim made by You under this Agreement to the Fees paid and payable by You to Us.

13.5 Nothing in this Agreement operates to exclude or restrict:

- (a) A party's liability for death or personal injury resulting from negligence;
- (b) A party's liability for fraud; or
- (c) A party's liability which cannot be limited or excluded by Relevant Laws.

## **14. Data Protection**

- 14.1 Both parties must comply with the Privacy Laws to the extent in connection with the provisions of the Services and performance of its obligations under this Agreement.
- 14.2 Both parties will take all reasonable steps to ensure that such Personal Information collected, used or disclosed in connection with this Agreement is protected against misuse, interference and loss, and from unauthorised access, modification or disclosure, including by taking reasonable security measures.
- 14.3 You warrant that You have obtained any consents and provided all notices required under the Privacy Laws for any Personal Information You disclose to Us under or in connection with this Agreement for use by Us of the Personal Information in accordance with this Agreement.

## **15. Force Majeure**

- 15.1 If a party is wholly or partially prevented or hindered from complying with its obligations under this Agreement by a Force Majeure Event affecting that party, then that party's obligation to perform such obligations in accordance with this Agreement will be suspended to the extent it is prevented or hindered from doing so by the Force Majeure Event.
- 15.2 As soon as possible after a Force Majeure Event arises, the party affected by it must notify the other party of the Force Majeure Event and the extent to which the notifying party is unable to perform its obligations under this Agreement, as far as it is able to ascertain at that time.

**16. Notices**

- 16.1 All notices must be in writing and in English and addressed to the recipients at the contact details supplied on the Application Form (or as updated by either party via written notice).
- 16.2 All notices must be sent to the recipient by hand, prepaid post (airmail if to or from a place outside Australia) or email. If a notice is sent by hand or prepaid post, a copy of the notice must also be sent by email.
- 16.3 Without limiting any other means by which a Party may prove that a notice has been received, a notice is deemed to be received:
- (a) if sent by hand, when left at the address of the recipient;
  - (b) if sent by prepaid post, 5 Business Days (if posted within one country to an address in the same country) or 7 Business Days (if posted from one country to another) after the day of posting; or
  - (c) if sent by email:
    - (i) at the time the email was delivered to the recipient's email server or the recipient read the email, as stated in an automated message received by the sender; or
    - (ii) one hour after the email was sent (as recorded on the device from which it was sent), unless within 24 hours of sending the email the sender receives an automated message that it was not delivered,

whichever is earlier, but if a notice would otherwise be deemed to be received by a party on a day which is not a Business Day, or after 5.00 pm (local time at the receiving party's address) on a Business Day, the notice is deemed to be received by the party at 9.00 am (local time at its address) on the first Business Day after that day.

**17. General**

- 17.1 We may amend this Agreement by giving You no less than 30 days' written notice prior to the effective date of that change. If You do not want to continue receiving the Services as a result of any such change You may terminate this Agreement in accordance with clause 11.2.
- 17.2 Nothing in this Agreement is intended to, or shall be deemed to constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 17.3 A party must not assign or otherwise transfer, create any charge, trust or other interest in this Agreement, or otherwise deal in any other way with any of its rights under this Agreement without the prior written consent of the other party.
- 17.4 This Agreement and any other documents referred to in this Agreement or executed in connection with this Agreement is the entire agreement of the parties about the subject matter of this Agreement and supersedes all other agreements, representations, negotiations, arrangements, understandings and communications. No party has entered into this Agreement relying on any representations made by or on behalf of the other party, other than those expressly made in this Agreement.
- 17.5 This Agreement may be signed in counterparts and all counterparts taken together constitute one document, irrespective of the signatures appearing on different counterparts.

- 17.6 This Agreement is governed by the laws of Queensland, Australia.
- 17.7 The parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts in and of Queensland, Australia.
- 17.8 A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.
- 17.9 You must, at Your own expense, whenever requested by MuliPay, promptly do or arrange for others to do, everything reasonably necessary or desirable to give full effect to this Agreement and the transactions contemplated by this Agreement.
- 17.10 If a provision of this Agreement is invalid or unenforceable in a jurisdiction:
- it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
  - that fact does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

## **18. Definitions and Interpretations**

### **Definitions**

- 18.1 Terms which are capitalised in this Agreement and are not otherwise defined have the following meanings:

**Acquirer** means Global Payments Australia 1 Pty Ltd.

**Acquirer Agreement** means the agreement entered into by Us and the Acquirer providing PayFac Payment Services.

**Application Form** means the application form completed and submitted to Us by You for the Services, including all supporting documents provided to Us in connection with the application.

**BECS Rules and Procedures** means the Bulk Electronic Clearing System rules and procedures issued by the Australian Payments Network to the extent they apply to the Services provided by Us.

**BPAY** is an electronic bill payment system in Australia which enables payments to be made through a financial institution's online, mobile or telephone banking facilities to organisations which are registered as BPAY billers.

**Business Day** means any day other than a Saturday, Sunday or a public holiday in Queensland, Australia.

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

**Card Schemes** means Visa, Mastercard, Maestro, EFTPOS, American Express, JCB, Discover, Unionpay, and any other card scheme providers as agreed to by the Acquirer from time to time.

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

**Chargeback Retrieval Fee** means the fee further described in the Application Form.

**Claim** refers to where the account holder, or issuing bank, raises a dispute for the return of funds in connection with a Customer Payment.

**Claim Fee** means the fee further described in the Application Form.

**Commencement Date** means the earlier of:

- (a) the date the Merchant submits their application to use our services; or
- (b) the date the Merchant first processes a transaction or otherwise uses our services.

**Confidential Information** means, in relation to each party (for the purposes of this definition, the Discloser):

- (a) all information relating to or used by the Discloser, including know-how, trade secrets, ideas, marketing strategies and operational information;
- (b) all information concerning the business affairs (including products, services, customers and suppliers) or property of the Discloser, including any business, property or transaction in which the Discloser may be or may have been concerned or interested; and
- (c) any other information disclosed by or on behalf of the Discloser which, by its nature or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential, including any such information made available to the Discloser by any third party, but excluding any information:
  - (i) which is publicly known;
  - (ii) which is disclosed to the other party without restriction by a third party and without any breach of confidentiality by the third party; or
  - (iii) which is developed independently by the other party without reliance on any of the Discloser's Confidential Information.

**Customer** refers to a customer of Yours.

**Customer Payment** means the amounts payable to You from the Customer by Direct Debit, BPAY or card.

**Data Security Standards** means the data security standards mandated by the Card Schemes for the protection of Customer details and Transaction information (including the Payment Card Industry Data Security Standards (PCI-DSS) and the Payment Application Data Security Standard (PA-DSS)), issued by the Payment Card Industry Security Standards Council, as amended from time to time), and any additional standards of which We advise You of from time to time.

**Direct Debit** means the debiting of Customer payments from Your Customer's account at Your direction and authorised by Your Customer.

**Direct Debit Terms** means the direct debit request given by You to Us, authorising Us to debit from Your nominated account as specified on the form, fees, charges and any amounts payable by You under this Agreement.

**DDR** means a Direct Debit Request in Our required or approved format.

**eDDR** means an electronic Direct Debit Request in Our required or approved format.

**Fees** refers to the charges and rates payable by You to Us as described in this Agreement, including as set out in the Application Form.

**Force Majeure Event** means, an event or circumstance that prevents, hinders or delays a party's performance of any of its obligations under this Agreement (other than an obligation to make a payment) and may include a strike, lockout or labour dispute (other than strikes, lockouts or labour disputes involving the affected party or its

personnel), act of God, disease, declared epidemic or pandemic, or quarantine by order of Government Agency, war, riot, terrorist attack, civil commotion, malicious damage, accident, breakdown, lack of or shortage of electrical power, fire, flood, storm or other adverse weather condition and difficulty or increased cost in obtaining workers, goods or transport.

**Government Agency** means any government or governmental, semi-governmental, judicial, quasi-judicial or administrative entity, agency or authority having jurisdiction over any part of, or in connection with, the Services.

**GST** means goods and services tax as defined in section 195-1 of the GST Act.

**GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Intellectual Property** means all rights in or to any patent, copyright, database rights, registered design or other design right, utility model, moral right, trade mark (whether registered or not and including any rights in get up or trade dress), brand name, service mark, trade name, eligible layout right, chip topography right and any other rights of a proprietary nature in or to the results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether registrable or not and wherever existing in the world, including all renewals, extensions and revivals of, and all rights to apply for, any of the foregoing rights.

**Mulipay Policies** means Our policies contained [here](#) as updated from time to time.

**PayFac Services** means the payment facilities services provided by the Acquirer to Us.

**Personal Information** has the meaning given to it under the Privacy Act 1988 (Cth).

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

**Personnel** means in relation to a Person, its employees, directors, officers, agents, advisers and contractors and the Personnel of any such advisers or contractors (if any) or any of its Related Bodies Corporate (but, in the case of one party, excludes the other party's Personnel).

**Related Body Corporate** has the meaning given to it in the Corporations Act 2001 (Cth). Related Bodies Corporate shall have a corresponding meaning.

**Relevant Law** means any:

- (a) statute, ordinance, code or other law including regulations and other instruments under them;
- (b) code of practice, guidelines or standards issued by relevant regulators or industry bodies, whether or not having the force of law; and
- (c) Card Scheme Rules (including the CECS Regulations),

applicable to the Confidential Information, the provision of the Services and any other obligations to be performed by either party under this Agreement.

**TriPartite Agreement** refers to the agreement entered into by Us, the Acquirer and You as further described in clause 9.

## Interpretations

18.2 In this Agreement:

- (a) unless the context otherwise requires, a reference to:
  - (i) the singular includes the plural and vice versa;

- (ii) a gender includes all genders;
- (iii) a document (including this Agreement) is a reference to that document (including any Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
- (iv) a party means a party to this Agreement;
- (v) an item, recital, clause, schedule or annexure is to an item, recital, clause, schedule or annexure of or to this Agreement;
- (vi) a person (including a party) includes an individual, company, other body corporate, association, partnership, firm, joint venture, trust and Government Agency and the person's successors, permitted assigns, substitutes, executors and administrators;
- (vii) a law includes any legislation, judgment, rule of common law or equity or rule of any applicable stock exchange, and is a reference to that law as amended, consolidated, supplemented or replaced and includes a reference to any regulation, by-law or other subordinate legislation;
- (viii) proceedings includes litigation, arbitration and investigation;
- (ix) time is to Brisbane, Queensland time;
- (x) day is to a day in Brisbane, Queensland;
- (xi) the words "including" and "includes" mean "including, but not limited to", and "includes, without limitation" respectively;
- (b) headings are for convenience only and do not affect interpretation of this Agreement; and
- (c) if a period must be calculated from, after or before a day or the day of an act or event, it must be calculated excluding that day.