

Bendigo Merchant.

Terms & Conditions.

1 July 2019

Bendigo and Adelaide Bank Limited
 The Bendigo Centre
 Bendigo VIC 3550
 Telephone 1300 236 344
 ABN 11 068 049 178.
 AFSL/Australian Credit Licence No 237879
 Bendigo Merchant Terms and Conditions

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Terms & Conditions

1. About these conditions

These Conditions regulate your Merchant relationship with us, Bendigo Bank, and set out the Merchant Services which we provide to you.

2. What makes up this agreement

The Agreement between you and us in relation to the provision of Merchant Facilities is made up of the following:

- the Letter of Offer issued to you if applicable; and these Conditions, including the detailed statement headed "Schedule A Merchant Agreement"; and
- the application for Mail/Telephone if applicable; and
- any annexure to this Agreement applicable to a Transaction method you may use which is signed and dated by you and us for identification; and/or
- any agreements made regarding the use of any equipment or software; and/or
- the User Guide.

3. Approved transaction methods

The Transaction methods which you may use at the date of this Agreement are described in the Schedule A Merchant Agreement and may be:

- a) Transactions processed via an Electronic Terminal, subject to clause 19; and/or
- b) Transactions processed via an Online Service, subject to clause 20, including the following:
 - Website Payment Gateway
 - Online MOTO
 - Batch Processing

4. Card acceptance

You must:

- a) only accept those Cards detailed in Clause 6;
- b) stop accepting a Card immediately if:
 - we provide Notice for you to do so; or
 - the Agreement is terminated; and
- c) stop using or displaying relevant decals and advertising material if either of the above occur.

5. Use of cards

You may:

- a) accept a Card in a credit Transaction only for the supply of goods and services or the processing of a refund in respect of goods or services supplied by you; or
- b) accept a Card in a debit Transaction for the supply of goods or services and to allow a Cardholder to debit their cheque or savings account to obtain cash from

you.

You cannot:

- c) supply cash where the Card is a Credit Card; or
- d) carry out refunds to your own Card; or
- e) use this facility as a means of funds transfer between your own accounts; or
- f) carry out a refund to any card to which an original purchase has not been processed via your facility. The refund cannot exceed the value of the original sales transaction.

6. Cards accepted

You can process Transactions using those Cards specified by us in writing at the commencement of your Agreement. These are the following Cards:

- a) all Cards displaying the Visa or Mastercard logo or the logo of their international affiliates; and
- b) all Cards issued by member financial institutions (Banks, Building Societies and Credit Unions) displaying the EFTPOS symbol (note: only Electronic Terminals used in a Card Present situation can accept these Cards); and
- c) all Charge Cards if we have programmed your facility under clause 7 to do so, by separate agreement with the issuer of those Charge Cards.

You must not:

- d) prefer one type of Card over another.

7. Charge card

We may program your terminal to accept Transactions involving a Charge Card issued under a Charge Card scheme provided you inform us in writing of your Merchant number for that Charge Card.

All we will do in relation to a Transaction involving a Charge Card is to transmit the particulars of the Transaction to the person conducting the scheme under which the Charge Card was issued. We do not make any representations and give no assurances for:

- a) the creditworthiness of any person presenting a Charge Card; or
- b) the performance of any agreement or arrangement between you and the Charge Card scheme.

8. Supply of goods and services

You undertake to:

- a) honour a Card provided by a Cardholder for the payment of goods and services to be supplied by you in accordance with this Agreement; and
- b) establish a fair policy for the exchange or return of merchandise and give credit to each such return not in cash but by issue of a credit Transaction; and
- c) establish a fair policy for the handling of orders processed in a Card Not Present situation, so as to minimise the possibility of Cardholder disputes and the unauthorised use of Cards; and

- d) discharge your obligations to Cardholders in relation to Transactions (for example, by delivering the relevant goods or rendering the relevant services).

9. Your consents

You consent to:

- us debiting your Nominated Account for the amount of any refunds and any amounts you owe us under this Agreement; and
- us conducting a merchant check at any time during the Agreement.
- us or our authorised representative conducting a review of your systems, after a suspected or known Data Breach has occurred. This review may require physical site access and access to all storage and transmission systems.

10. Your obligations

You agree to:

- a) provide us correct information relating to your facility; and
- b) ensure the validity of all Sales and Credit Receipts; and
- c) adhere to proper procedures in connection with a sale before processing a sales Transaction to us; and
- d) not make any representations regarding any goods or services which may bind us; and
- e) promote our facilities and processes so Cardholders can effect Transactions with you; and
- f) use your best endeavours to ensure that your staff are aware of, and comply with, the Agreement;
- g) comply with the PCIDSS. We will tell you the level of security required based on the volume of Transactions you process;
- h) not holding a cardholder's PIN or Pass Code as part of a Book Up Arrangement or for any other reason.

11. Recovery of service fees and surcharges

You are able to recover your Merchant Service fee or surcharges directly from those Customers who choose to pay for goods and services by initiating a Card Transaction.

If you decide to impose a surcharge for purchases made through a Card on your Merchant Facility it is your duty to ensure that:

- a) your Customers are aware of the fee or surcharge that will apply to their Transaction; and
- b) your Customers are aware of the amount of the fee (such as a surcharge expressed in \$ or as a percentage), before they enter into the Transaction; and
- c) the amount of any such fee or surcharge charged to a Cardholder will be limited to the fees incurred by you in respect of your Card Transaction: and
- d) if requested by us to validate your surcharge, you accurately complete the Cost of Acceptance Calculator. If the surcharge is determined unreasonable you must

change your surcharging practices accordingly.

12. Our obligations

We agree to:

- a) process any settlement of funds to your Nominated Account within 24 hours of you completing your settlement. Circumstances such as external settlement accounts, charge card transactions, time of settlement and system updates can extend the settlement timeframe.

13. Banking Code of Practice

- a) If you are an individual or small business (as defined by the Banking Code of Practice), we are bound by the Banking Code of Practice; and
- b) The Banking Code of Practice requires us to draw your attention to the availability of general descriptive information concerning our banking services. This includes information about account opening procedures, our obligations regarding the confidentiality of your information, complaint handling procedures, bank cheques, the advisability of you informing us promptly when you are in financial difficulty so that we may discuss your situation and the advisability of you reading the terms and applying to this banking service.
- c) You should inform us promptly if you are in financial difficulty so that we may discuss your situation.

14. If you have a complaint

We consider Internal Dispute Resolution (IDR) to be an important and necessary first step in the complaint handling process as it gives us an opportunity to hear when We do not meet Our customers' expectations and address them genuinely, efficiently and effectively.

You can raise your complaint with us by;

- (a) speaking to a member of our branch staff directly;
- (b) telephoning the Customer Feedback Team on 1300 361 911 8.30am – 5.00pm (AEST / AEDT), Monday to Friday;
- (c) Faxing us on 1300 367 615;
- (d) Emailing feedback@bendigoadelaide.com.au
- (e) completing the Customer Feedback form "Talk to us we're listening" available from your nearest branch or online at www.bendigobank.com.au; or
- (f) write to the Customer Feedback Team, Bendigo and Adelaide Bank Ltd, Reply Paid 480, Bendigo 3552

If you are not satisfied with the response provided by our Customer Feedback Team, you have the option of referring the matter to the Customer Advocate who will impartially assess your complaint, keep you informed of the progress and provide you with a response:

- (a) telephone 1300 139 527 (+61 3 5485 7919) 8.30am – 5.00pm (AEST / AEDT) Monday to Friday;
- (b) email – customeradvocate@bendigoadelaide.com.au
- (c) post/letter – write to Customer Advocate PO Box 480, Bendigo, Vic, 3552

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Alternatively (or following consideration by the Customer Advocate) You may refer Your complaint directly to the appropriate External Resolution scheme.

Australian Financial Complaints Authority

We are a member of the Australian Financial Complaints Authority (AFCA). You can contact AFCA at:

GPO Box 3
Melbourne VIC 3001
Phone: 1800 931 678
Email; info@afca.org.au
Website: www.afca.org.au

15. Transaction management

You must:

- a) use only Transaction Receipts, Electronic Terminals and other equipment or software authorised by us; and
- b) record each Transaction on a single Transaction Receipt and obtain authorisation for each Transaction; and
- c) establish a fair policy for dealing with:
 - refunds and disputes about Transactions;
 - problems with Card Not Present Transactions;
 - issuing and processing Credit Receipts for the accepted return of goods or for orders accepted by you but not authorised by the Cardholder.
- d) provide customers with an easy means of informing you of changes to their card account details or their wish to cancel their payment arrangements if you process regular payments. You must action all customer requests within five business days of your receipt;
- e) obtain authorisation for all regular payment transactions;
- f) refund Transactions by means of credit and not cash; and
- g) if a Cardholder wishes to use their Card to pay for only part of the value of a Transaction, obtain the balance in cash at the time of the Transaction;
- h) use reasonable care in a Transaction to detect forged or unauthorised signatures or the unauthorised use or forgery of a Card and, in particular, you must:
 - compare the signature on the Card with the signature on the Transaction Receipt; and
 - if you are unsure about the signature provided ask for further identification;
- i) except in the case of a Card Not Present Transaction give the Cardholder their copy of the Transaction Receipt (where requested by the cardholder) immediately after completing the Transaction. The information on it should be identical with the information on any other copy. The Transaction Receipt must have:
 - the Transaction amount; and
 - the date and time; and
 - details of any cash provided; and
 - an indication of the account; and

- Truncated Card number and Cardholder details; and
- Merchant name (which must be reasonably recognisable to the Cardholder).

16. Card not present transactions

For a Card Not Present Transaction you must give the Cardholder a Transaction Receipt described in clause 15(i) above as soon as it is reasonably possible after one is requested by the Cardholder.

You must:

- a) obtain authorisation within the seven days prior to the dispatch of goods to be shipped to your Customer. The purchase Transaction should be processed on the date of shipping;
- b) contact the Customer to request permission to obtain a subsequent authorisation if more than seven days have elapsed between the date of the original authorisation and the goods being shipped;
- c) where the transaction is initiated by telephone, you must give the Cardholder the following information at the time of the transaction:
 - (i) a receipt number; and
 - (ii) the Transaction amount; and
 - (iii) the type of Transaction (eg purchase, refund, credit); and
 - (iv) the Card number; and
 - (v) Merchants trading name;
- d) provide the Bank with details of your practices to minimise fraud and chargebacks immediately on request, and comply with practices to minimise fraud and chargebacks which are acceptable to the Bank; and
- e) agree that where the Bank or any of the approved Credit or Charge Card Schemes consider it appropriate to investigate fraud or chargebacks, the Bank may defer crediting your Nominated Account with the amount of sales in accordance with Clause 12(a), pending the outcome of that investigation.

17. Informing us about transactions

You must give us information on a Transaction (including the type of information which is contained on a Transaction Receipt, as outlined in clause 15(i)):

- a) by entering the Transaction immediately if you are using an Electronic Terminal; or
- b) by entering the Transaction as soon as reasonably possible after receiving the Transaction details if you are using an Online Service;
- c) you must retain for at least 18 months after a Transaction:
 - Card Present Transaction – the original Transaction voucher; or
 - Card Not Present Transaction – any document which is evidence of the Cardholder's request to you to charge

amounts through the Card.

- you must provide us with this evidence of the Transaction within seven days if we ask for it. If you fail to do so, we may charge a sales Transaction back to you if the amount cannot be collected from the Cardholder.
- d) by providing us information or vouchers relating to a Transaction, you warrant that:
- all the information is accurate, complete and up to date; and
 - the Transaction and all related documentation is valid and acceptable; and
 - the Cardholder is not disputing any aspect of the Transaction and is not making any claim or counterclaim against you in relation to the Transaction.

You providing us information, or vouchers, on a Transaction is an irrevocable order to us to act in relation to that information or those vouchers in accordance with this Agreement.

If we do not receive Transaction information in accordance with the requirements of this clause, we may charge the Transaction back to you.

18. Transaction settlement

Unless we agree otherwise, you must have a Nominated Account with us to enable us to:

- a) pay the full amount of all valid, acceptable sales and cash Transactions you have made; and
- b) deduct the full amount of valid, acceptable refunds you have made; and
- c) supply a monthly merchant statement showing the full amount of all Transactions processed by us during the previous month on your Merchant Facility;
- d) if you request us to provide you with a replacement statement we may apply a fee for each statement we reissue to you.

19. Invalid or unacceptable transactions

Transactions are invalid if:

- a) the Transaction is illegal; or
- b) the Transaction has not been conducted according to this Agreement; or
- c) the signature on the Transaction Receipt is forged or unauthorised; or
- d) the Card is not valid at the time of the Transaction; or
- e) we have otherwise told you not to accept the particular Card; or
- f) the Transaction is not authorised by the Cardholder or authorised Card user (including Card Not Present Transactions); or
- g) details on the Cardholder's copy of the Transaction Receipt does not match those on all other copies; or
- h) the Transaction Receipt is incomplete or illegible; or

- i) you give the Cardholder cash in a Credit Card Transaction; or
- j) you charged more than your normal price for goods and services for Transactions processed with a Card other than subject to Clause 11; or
- k) the Transaction is to collect or refinance an existing debt using a Credit Card (including dishonoured cheques); or
- l) someone other than you provided the goods or services listed; or
- m) you didn't supply or don't intend to supply the goods, services or cash listed; or
- n) the Transaction was conducted in a currency other than the Australian currency; or
- o) this Agreement was not in force on the date of the Transaction; or
- p) the Transaction was conducted prior to the facility being made available to you; or
- q) a Card Not Present Transaction is processed and we have not authorised you to accept Card Not Present Transactions; or
- r) you did not record reasonable identification details of the Cardholder or the validity dates on the Card for a Card Not Present order; or
- s) you did not record reasonable identification details of the Cardholder when you keyed details of an electronic Transaction into the Electronic Terminal; or
- t) you utilise the facility to direct funds to your own Card or account; or
- u) you have not complied with the requirements in any of the documents listed in this Agreement; or
- v) authorisation for the Transaction is declined for any reason; or
- w) the Cardholder disputes the Transaction for any reason and we have no further chargeback rights to recover the Transaction on your behalf; or
- x) the Cardholder makes a claim for a set-off or a counterclaim; or

We may refuse to accept a Transaction if it is invalid or unacceptable, or may charge it back to you if we have already processed it.

We may apply a processing charge for each chargeback received.

You undertake to effect best practices to minimise fraud and chargebacks.

20. Records

- a) You must securely, in compliance with the PCIDSS, keep records of accounts, receipts, invoices and other documents relating to your obligations in this Agreement for a period of 18 months from the date of the Transaction; and
- b) you must keep records of your Merchant statements. An additional charge will apply to statement reprint requests; and

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- c) you must allow us to examine your records relating to any Transaction; and
- d) you cannot sell, purchase, exchange or provide any information or document relating to a Cardholder, a Cardholder's number or a Transaction to any person except:
 - us; and
 - your business agents; and
 - the Card issuer; and
 - as required by law.
- e) Any documents containing a Card number must be securely stored in compliance with the PCIDSS and must, subject to any legislative requirements, be destroyed by you after a period of 18 months in a manner that makes the information unreadable; and
- f) you must ensure that you do not store any prohibited data including full magnetic stripe, Card Verification Value (three digit code normally found on the back of the card) and PIN blocks; and
- g) you must make the documents relating to your obligations under this Agreement available to us on request during the period for which you are obliged to keep them. If you do not do so, and as a result we are unable to recover an amount from a person in relation to a Transaction, we may debit your Nominated Account with the amount of that Transaction.

21. EFTPOS Merchants

If you are an approved Bendigo Bank EFTPOS Merchant the following conditions apply to your facility:

- a) The Electronic Terminal and relevant stationery must be supplied by us. The fees and charges are set out in the Letter of Offer;
- b) Electronic Terminals, all related stationery, equipment and software supplied by us remains our property.

You are responsible for any loss or damage to any of our equipment or software caused by fire, theft, explosion, flood, civil commotion or other act in or around the Premises. You must pay the full cost of replacing or repairing it. A reasonable replacement value may be determined at our sole discretion.

You must not part with possession or control of Bendigo Bank equipment or software unless we request you to do so.

- c) you must:
 - arrange a secure site at the Premises for installation of the Electronic Terminal and software.
 - ensure that this site meets our security and technical requirements.
 - bear the cost of providing a telephone line dedicated to the Electronic Terminal and pay the on-going rental of that line.

All equipment and software which you use in conjunction with the terminals must conform to specifications we give

you.

- d) you must not remove the Electronic Terminal and software owned by us to a new location or make any alterations or additions without prior written consent by us. If consent is given by us to relocate, alter or add to your terminal, you have to bear all the associated costs.
- e) you must ensure that you use the Electronic Terminal and any related equipment and software according to the instructions in this Agreement, the User Guides provided to you upon installation and any other directions we give you. You must comply with all messages we send you through the terminal. You may use the Electronic Terminal to accept Cards for:
 - sending Card Transaction information to us; and
 - crediting funds to your Nominated Account in payment of goods and services sold to Cardholders and cash supplied to them by you; and
 - debiting the Cardholder's Account.

We can debit your Nominated Account when goods already paid for via a Card are returned. All refunds should be processed electronically up to a specified value. Any refunds exceeding this limit need to be approved by Bendigo Bank.

- f) you must:
 - take proper care of an Electronic Terminal we own and follow all our directions for its maintenance and protection;
 - pay for any repairs to an Electronic Terminal we own which are necessary because of your neglect or misuse. Under normal conditions, we will maintain our Electronic Terminal at our expense;
 - arrange for electrical safety inspection and testing of each Electronic Terminal to be conducted by an appropriately qualified person and in accordance with Australian Standard AS/NZS 3760:2010 (as amended or replaced from time to time); and
 - not allow any person except our employees, contractors or agents to service or repair any Electronic Terminal we own.
- g) you acknowledge that Electronic Terminals are electrical devices which may cause injury or other loss as a result of electrical discharge if electrical safety testing is not conducted in accordance with Australian Standard AS/NZS 3760:2010 (as amended or replaced from time to time).
- h) you must inform us immediately if an Electronic Terminal is not working or is malfunctioning, or has failed an electrical safety test. You must immediately cease to use any Electronic Terminal that has failed an electrical safety test or is overdue for electrical safety testing. We must repair the malfunctioning Electronic Terminal as quickly as possible;

We are not liable to you for any loss you incur as a result of a breakdown or malfunction of an Electronic

Terminal or any related equipment.

- i) To the extent permissible under the Australian Consumer Law, our liability to you for any loss you incur as a result of the breakdown or malfunction of an Electronic Terminal (where that loss does not arise out of physical injury to any person in consequence of a safety defect in an Electronic Terminal) is limited to, at our option, the repair or replacement of that Electronic Terminal or the supply of an equivalent terminal.
- j) Software
 - you must use any software we provide to you in accordance with our documentation and these Terms and Conditions, and solely for your own business requirements;
 - you may not duplicate or distribute any software or documentation we (or our service providers) provide to you, unless for the sole purpose of creating back-up copies, no more than reasonably necessary, for back-up or disaster recovery purposes;
 - you may not modify or merge with other programs any software or documentation provided to you by us or any of our service providers;
 - you may not use the software provided to you in any way that creates unreasonable or unwarranted interference with the Electronic Terminal;
 - we are not liable to you for any loss or liability you incur as a result of your misuse of the software; and
 - we are not liable to you for any losses or liability incurred as a result of your use of the software.
- k) you must allow our employees, contractors or agents to enter the Premises during normal business hours to:
 - install, inspect, maintain and remove our terminal, software, decals, stationery and any other Bendigo Bank property you have in your possession; and
 - inspect the condition and operation of the terminal owned by us.
- l) we will provide you training at our own cost together with a User Guide. You are responsible at your own cost for training your employees, contractors and any other person involved in the conduct of your business so as to ensure that those persons are familiar with your obligations under the Agreement and that Transactions which are processed through a Bendigo Bank facility are processed in accordance with your obligations under the Agreement.
- m) we recommend that you have an insurance policy which covers each of our terminals for its maximum insurable value. The policy should have Bendigo Bank's interest noted.
- n) Tipping

You may adjust a Transaction to include a tip:

 - Any adjustment to a Transaction to include a tip must be completed on the same day that the Transaction occurs and before the daily settlement for that day;

- Adjustments to a Transaction cannot be made after the daily settlement;
- Once a Transaction has been adjusted to include a tip, you cannot make any further adjustments to the Transaction;
- You acknowledge that we may impose a limit on the value of a tip relative to the value of the goods or services for that Transaction

22. Online Merchants

If you are an approved Bendigo Bank Online Merchant processing Transactions via:

- Website Payment Gateway; or
- Online MOTO; or
- Batch Processing.

the following additional conditions apply to your facility:

- a) you can only accept and process Credit Card Transactions; and
- b) you must ensure that you use the Online Service according to the instructions in this Agreement, the User Guides provided to you and any other directions we give you. You must comply with all messages we send you through the Online Service.

You may use the Online Service to accept Cards for:

 - sending Card Transaction information to us; and
 - crediting funds to your Nominated Account in payment of goods and services sold to Cardholders; and
 - debiting the Cardholder's Account. We can debit your Nominated Account when goods already paid for via a Card are returned. All refunds should be processed online.
- c) we shall provide a User Guide, training, technical assistance and support services to Merchants using any of the Online Services;
- d) you must use the Online Service we provide to you in accordance with the documentation we provide and these Terms and Conditions, solely for your own business requirements;
- e) you may not duplicate or distribute any software or documentation provided to you by us or our service providers, unless for the sole purpose of creating back-up copies, no more than reasonably necessary, for back-up or disaster recovery purposes;
- f) you may not modify or merge with other programs any software or documentation provided to you by us or any of our service providers;
- g) you may not use the software provided to you in any way that creates unreasonable or unwarranted interference with the Online Service;
- h) we are not liable to you for any loss or liability you incur as a result of your misuse of the Online Service;
- i) our software providers are not liable to you for any losses or liability incurred as a result of your use of

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the Online Service;

- j) you must be enrolled in Verified by Visa and Mastercard SecureCode (applicable to Website Payment Gateway Merchants only).

23. MPOS Merchants

If you are an approved Bendigo Bank MPOS Merchant, the following additional conditions apply to your facility:

- a) You agree to pay the fees as set out in the Merchant Facility Application form and authorise us to debit these from your nominated account;
- b) Bendigo Bank has absolute discretion as to whether or not it makes an offer of a contract to you;
- c) an offer (if made) by Bendigo Bank shall be in the form of an MPOS device being sent to you by a third party and not before; and
- d) your acceptance of that offer and agreement to be bound by the terms of this agreement shall occur when you first use the MPOS device on a transaction and not before.

24. Data Security

- a) If you are an approved Bendigo Bank Merchant you must comply with Payment Card Industry Data Security Standards (PCIDSS) and upon request, supply us with details of your PCIDSS compliance status.
- b) If you are an approved Online Merchant you must, upon request and at pre-determined intervals, supply us with full details of your Web Application, Web Hosting Provider, Shopping Cart System, Secure Socket Layer (SSL) provider and expiration date of SSL certificate. You must tell us details of all your Service Providers and their compliance with PCIDSS. You must ensure that all your Service Providers have installed Secure Socket Layer (SSL) which meets our requirements and have renewed their SSL certificate before it expires.
- c) You must ensure that you and any of your Service Providers fully comply with the PCIDSS. Upon request, you must tell us details of all your Service Providers who facilitate Transactions with us on your behalf.
- d) You must follow the Data Breach Procedures immediately a Data Breach is suspected or known to have occurred.
- e) You must ensure that any software or hardware you purchase, create or otherwise utilise for the purpose of selling goods and/or services online does not retain its Root Password before employing it for the transmission, acceptance or storage of Card payment details. You must also ensure that all passwords are changed on a regular basis.
- f) You will indemnify us on demand against all losses, expenses and damages we may suffer:
 - as a result of your failure to observe your obligations under the Agreement including any procedures set out in the Manuals;
 - as a result of Mastercard or Visa imposing fees, fines

or penalties on us in accordance with the rules of any Card Scheme of which we are a member as a direct or indirect result of your failure to observe your obligations under the Agreement including any procedures set out in the Manuals;

- as a result of any fees, fines or penalties that we are required to pay in accordance with the rules of any Card Scheme that we are a member of, as a direct or indirect result of your failure to observe any of the procedures, requirements or obligations required to be complied with by merchants under the Card Scheme.
- g) If a Data Breach is suspected or known to have occurred you must give us and our authorised representatives full access to your systems and databases to facilitate a forensic analysis to ascertain:
 - what Card data has been compromised;
 - what weakness in the system permitted the unauthorised access to the data base; and
 - whether the Card data was created, deleted, altered, copied or manipulated in any manner.

You must ensure that your Service Providers give us and our authorised representatives full access to outsourced components of your system such as databases and web hosting systems.

- h) You must reimburse us for all costs of a forensic analysis where a Data Breach is suspected or known to have occurred.
- i) If a Data Breach is suspected or known to have occurred we may require you to undergo, at your expense, a full PCIDSS accreditation in order to continue processing Transactions.
- j) If you are a Third Party Processor or Data Storage Entity an additional registration with the Card Schemes may apply. The cost of any such registrations will be passed onto you, the merchant.

25. Costs, fees and payments

You authorise us to withdraw from any account you have with us, including the Nominated Account or a nominated account held with another financial institution:

- a) fees, costs and charges for services and any use of your Merchant Facility as specified in the Letter of Offer or in any other document comprising the Agreement which in the case of MPOS Merchants will be the Merchant Facility Application form; and
- b) outstanding amounts related to Transaction refunds; and
- c) 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 are not valid under this Agreement; and
- e) all Taxes levied on the services we supply; and
- f) any future Taxes levied on the services we supply; and

- g) other amounts owed to us under this Agreement; and You must pay on demand from us any debt that remains unpaid under this Agreement. We may use amounts we receive for credit to your account to pay debts you owe us under this Agreement in any order we see fit; and
- h) disputed transactions which have resulted in a chargeback being received by us without prior notice to you.

Information about current standard fees and charges is available on request. You can obtain this information at any time by calling into one of our branches, phoning 1300 236 344 or by visiting our website www.bendigobank.com.au

26. GST

All fees, costs and charges for services and any use of a Merchant Facility are GST exclusive.

We will:

- a) add GST at the time of billing at the government regulated rate; and
- b) at all times comply with the GST legislation in performing this Agreement; and
- c) provide you tax invoices in proper form.

27. Advertising

We will supply you with signs, decals and other advertising material.

You must:

- a) display prominently the Card decal supplied to you by us; and
- b) use advertising material in relation to the facility supplied by us and in a way we direct; and
- c) cease using all material supplied by us if we ask you to do so or if this Agreement or the relevant part of it terminates.

28. Indemnity

You indemnify us for all losses and liabilities we incur due to:

- a) the breach by you of your obligations under the Agreement; or
- b) a dishonest or illegal act committed by you, your employees, agents, contractors or invitees; or
- c) any dispute or proceedings between you and a Customer in respect of the supply, use, quality or fitness for purpose of goods or services supplied by you to the Customer; or
- d) the way you, your employees, agents, contractors or invitees used a Merchant Facility; or
- e) any representation, warranty or statement made by you or your employees, agents or contractors to a Customer; or
- f) any error, negligence or fraud on your part or on the part of your employees, agents or contractors; or
- g) our discretion to exercise our rights under this Agreement. We agree to indemnify you for any amounts processed in accordance with this Agreement, processed

properly on a Merchant Facility, and accepted as valid by our Merchant banking system but not paid into your Nominated Account. We are not liable for any losses or inconvenience you or a Cardholder suffer due to an Electronic Terminal or telephone line, internet connection error, or other fault.

You agree:

- h) that this indemnity continues after this Agreement ends and covers the forwarding of sales vouchers to other banks; and
- i) that the amounts payable under this indemnity are payable on demand; and
- j) to reimburse us any value resulting in a chargeback which has resulted after your contract was terminated.

You authorise us to debit your Nominated Account for the amount of any loss we suffer which is covered by an indemnity under this clause without reference to you.

29. Legal expenses

You agree to pay all legal fees (on solicitor and client basis) and liabilities incurred by us in connection with any default by you under this Agreement, or enforcement of this Agreement by us.

30. Variation and waiver

We may vary any part of this Agreement, User Guides, the Schedule, the Mail / Telephone procedures or an annexure at any time.

You agree that we can give notice of changes to these terms and conditions, any material change to, or any significant event that affects any of the matters specified in this document in writing, (including changes to fees and charges), by an advertisement in a major daily newspaper or in any other way permitted by law.

The changes can take effect from the day we notify you or on a date we choose in the future.

31. Commencement

This agreement commences on the date of your signing the schedule A Merchant Agreement.

In the case of MPOS Merchants only, this Agreement commences on the date you first use the MPOS device on a transaction.

32. Termination

We may terminate this Agreement at any time by providing written Notice to you. Termination will be effective immediately. The Notice does not have to state a reason for termination. You may terminate this Agreement at any time by giving us 30 days written Notice.

We may suspend this agreement at any time. Suspension will be effective immediately and will remain in force for a period no greater than 45 days. We may retain all monies already received from you or held in your account until our investigation has been concluded. You will be advised of any such suspension.

Bendigo Merchant

A termination fee may be charged for any terminations effected within three years of signing the schedule A Merchant Agreement (this is described in your Schedule A Merchant Agreement and is specific to each offer).

Without limiting the rights which Bendigo Bank may otherwise have arising from a breach of the Agreement, we may immediately terminate the Agreement by Notice to you if:

- a) you are found to be in breach of the Agreement; or
- b) an application or petition for winding up of your business is presented; or
- c) you cannot pay your debts within the meaning of the Corporations Act 2001 (Cth); or
- d) any judgment made against you in court is not satisfied; or
- e) you are declared bankrupt or there are bankruptcy proceedings issued against you; or
- f) you make a substantially incorrect, misleading or untrue statement in connection with this Agreement or a Transaction; or
- g) Bendigo Bank reasonably determines that the continued provision of the Merchant Facility to you may damage the reputation of Bendigo Bank; or
- h) you represent, permit or allow any other person to use your Merchant Facility in the operation of their business; or
- i) the merchant has received an excessive number of disputed transactions and/or chargebacks OR a higher than acceptable chargeback to sales ratio has been reached over a certain trading period.

If the Agreement is terminated, we may, in conjunction with any additional or alternative resolutions provided by law:

- j) enter upon the Premises to repossess from you any software, equipment, transaction records, documents or promotional material supplied by us or any of our contractors; and
- k) retain all monies already received from you or held in your account until our investigation has been concluded; and
- l) if you are an individual, provide your information to a credit provider; and
- m) authorise the Bank to disclose to any Card Scheme advice of the Merchant Agreement and the reasons for termination of the Merchant Agreement.

If the Agreement is terminated you must:

- n) immediately stop using all logos and any promotional material supplied by Bendigo Bank; and
- o) immediately return to us all equipment, software, documents or promotional material supplied by Bendigo Bank or any of its contractors or copies of this material made or held by you; and
- p) immediately stop using or attempting to use our Merchant Facility; and
- q) within 30 days of termination pay to Bendigo Bank any

fees which are due to us under the Agreement and remain unpaid; and

- r) acknowledge that the information concerning termination of the Merchant Agreement then becomes available to any member of the Card Scheme(s). This information, available to any member of the Card Scheme(s), may be used in assessing subsequent applications for Merchant Facilities.

33. Collection and use of your information

You authorise us to collect personal information about you for the purposes of assessing your application for, and providing you with, a Merchant Facility and related services. We are committed to ensuring your privacy is protected and understand your concerns regarding the confidentiality and security of personal information you provide to us. How we collect, manage, use and disclose your personal information is governed by our Privacy Policy. Our Privacy Policy is available upon request at any of our branches or on the Bendigo Bank website at www.bendigobank.com.au.

34. Privacy and data security for the Merchant

If you have not taken appropriate steps to protect your customer's Card details and a Data Breach occurs, you risk financial penalties and having your Merchant facility cancelled.

If you have been assessed as meeting the criteria to comply with PCIDSS and you have not complied with PCIDSS, the Card Schemes may issue a 'Non-Compliance Fine'. These fines can range from USD \$10,000 for Level 3 Merchants to USD \$200,000 for Level 1 Merchants. We will tell you which level you are based on the volume of Transactions you process and will advise you if your merchant level changes.

You must use your best endeavours to ensure that information which you collect, use or disclose in connection with Cardholders or Transactions is protected from unauthorised access. This may include:

- a) encrypting information which you or a Customer transmits over the Internet; and
- b) protecting electronically stored information through the use of well managed password access; and
- c) allowing and encouraging your Customers to take measures to protect information which they send to you.

You should also ensure that the customer information is:

- d) relevant to the purpose of Cardholder Transaction and is up to date and complete; and
- e) protected by such security safeguards as it is reasonable in circumstances to take, against loss, unauthorised access, use, modification or disclosure, and against other misuse; and
- f) not for any other purpose than to process Cardholder Transactions.

You agree to comply with any Privacy Law by which you are bound and any other privacy requirement notified by us.

Unless authorised by us in writing or required by law to

do so, you must not disclose a Cardholder's name or any details about their Card to any third party.

35. Notice of change

You must immediately notify us if there are any changes to:

- a) the details contained in the Merchant application form; or
- b) the ownership or control of your business including any delegation by way of power of attorney; or
- c) the nature of your business or business domicile; or
- d) your trading name, address or telephone number; or
- e) your ability to meet liabilities as and when they fall due; or
- f) change of Service Provider

36. Notice

A Notice must be:

- a) issued in writing; and
- b) delivered in person to the addressee (in our case includes one of our officers at the address last advised); or
- c) left at the address last advised; or
- d) sent by prepaid post to the address last advised; or
- e) sent by facsimile to the facsimile number last advised:
 - unless we tell you otherwise in writing, Notices are to be delivered to the last address given; and
 - if a Notice is sent by post, it is taken to be received on the third day after posting; and
 - if a Notice is sent by facsimile, it is taken to be received on production of a transmission report by the transmitting machine which indicates that the whole facsimile was sent; and
 - a Notice takes effect from the time it is delivered unless a later time is specified in it.

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 or service permitted by law.

The addressee, address and facsimile number of Bendigo Bank is:

Attention: Merchant Services Department Address:
PO Box 480, Bendigo Victoria 3552
Fax Number: 03 5485 7613

37. Your rights and our rights

You cannot transfer your rights in this Agreement to anyone else.

We can:

- a) enter this Agreement as a principal or agent; or
- b) transfer our interests in this Agreement or in a terminal owned by us; or
- c) give another person an interest in form of security

over either of them without getting your consent.

The rights in this Agreement are in addition to any rights provided independently by law, and all these rights can be used by you and by us. If a right in this Agreement is breached or not enforced, you or we have the right to take action over that breach or any later breach.

38. Force majeure

- a) we shall not be liable for any delay or failure to perform our obligations pursuant to the Agreement if such delay is due to Force Majeure;
- b) if a delay or failure by us to fulfil our obligations is caused or anticipated due to Force Majeure, the performance of Bendigo Bank's obligations will be suspended;
- c) if a delay or failure by us to fulfil our obligations due to Force Majeure exceeds sixty (60) days, you may terminate the Agreement on providing Notice to us.

39. Governing law

This Agreement is governed by the law of Victoria. You and we are subject to the courts of law and appeal of that place.

We can:

- a) at any time by giving you reasonable Notice impose or create rules and regulations.

You agree:

- b) to pay the fees, costs and charges set out in the fees clause in the manner and at the times specified in that clause or if not specified as determined by us; and
- c) to pay any other fees or charges that may from time to time be imposed by us at the time and in the manner specified by us; and
- d) that we can at any time vary any fees or charges that are payable under the fees clause of the Agreement, by giving you reasonable Notice of such change; and
- e) to comply with all applicable laws, whether made by a parliament of the Commonwealth, State or Territory, including any Acts, rules and regulations, as well as any requirement, direction or guidance provided by a relevant regulator, industry association or industry body.

40. Security to be held in Security Account

40.1 If we give you notice requiring you to do so prior to our providing the Merchant Services, you agree to do the following:

- a) open a Bendigo Bank term deposit account in your name (the "Security Account");
- b) deposit the sum of monies which we have notified you of as required by us; and
- c) notify us so that we can place stops on your account.

We will not provide any Merchant Services unless you do this. The provisions of this clause 40 only apply if we notify you.

Bendigo Merchant

- 40.2 As security for your obligations under this agreement, you grant us a security interest in the Security Account and any proceeds or interest earned. The monies which have been deposited into the Security Account will be held by us as security until we notify you otherwise. During this period you will not be able to access or operate the Security Account. You have discretion to select the term of the Security Account, provided that it is renewed appropriately while this Agreement continues. If you do not select a term, you give us authority to rollover the term deposit for any period we choose (up to a maximum of five years).
- 40.3 You must not, without our express written consent, access or operate the Security Account, or attempt to do so.
- 40.4 You must not to claim, cause or permit to exist, any right of set-off, deduction, counterclaim or other right (other than any right in our favour) with respect to the Security Account.
- 40.5 We are under no obligation whatsoever to provide our express written consent for you to access or operate the Security Account prior to our ceasing to provide the Merchant Services. You must not claim (or attempt to claim) that we have provided consent unless the consent is in writing and express. Our consent under clause 40.3 cannot be provided orally or by conduct.
- 40.6 No sooner than 60 days and no later than 90 days after we have ceased to provide the Merchant Services, and provided there are no amounts owing to us, we will notify you, remove any stops on the Security Account and release our security interest in the Security Account.
- 40.7 We may carry out periodic reviews of the Security Account. If in our reasonable opinion the value of security needs increasing, then we will write to you and require you to increase the security held. You must do this within 28 days of our request. For example, we may reasonably require the amount of security to be increased where the volume and/ or value of transactions increases. If the balance of the Security Account falls below the amount notified to you from time to time as what we require for any reason whatsoever (other than our fraud or negligence), then you must immediately restore the balance to the required amount.
- 40.8 You must not create, attempt to create, grant or permit to exist, any encumbrance, mortgage, charge, lease, lien or other form of security over the Security Account without our express written consent.
- 40.9 You irrevocably and unconditionally grant us the right and power to immediately take possession of, and pay out, the monies held in the Security Account to us where:
- a) you breach the terms of this Agreement;
- and
- b) this breach causes us to suffer loss or incur any claim, liability, cost, charge or expense of any nature (at any time or contingently).
- This includes, for example, any failure by you to pay the fees and charges or any other liability we incur in respect of a disputed payment, a mistaken payment or a chargeback.
- 40.10 Our rights will not be affected by any failure to take, perfect or realise any security, the variation or release of any security, any loss of capacity or insolvency, or any failure to exercise or delay in exercising any of its rights under this Agreement or otherwise.
- 40.11 Nothing in this clause 40 creates (or is intended to create) a trust between us.
- 40.12 You make the following warranties and repeat them throughout the continuance of the Agreement for the purposes of this clause 40:
- a) You are not involved in, or aware of, any litigation or proceedings which may threaten the Security Account.
 - b) If you are the trustee of a trust:
 - you have the power to sign this Agreement and perform the obligations under it;
 - you are validly appointed as trustee of the trust;
 - you are personally liable to us for the full extent of your obligations under this Agreement;
 - you are entitled to be fully indemnified from the assets of the trust;
 - this Agreement is in the best interest of the beneficiaries of the trust; and
 - you will not cease to be the trustee of the trust without our prior written consent.
- 40.13 If any provision of this clause 40 is held or found to be void, invalid or otherwise unenforceable, then that provision must be read down to the extent necessary to be valid. If it cannot be read down to that extent, it must be severed so that the remainder of this Agreement remains in full force and effect.
- 40.14 In the event of a conflict between the terms of this clause 40 and the "Bendigo Term Deposit Accounts and Facilities Terms & Conditions" which apply in respect of the Security Account, then the terms of this clause 40 will prevail.
- 40.15 You must do everything which we ask in order to give full effect to this clause 40.

Glossary

Agreement The Agreement between you and Bendigo Bank in relation to the provision of Merchant Facilities, made up of the documents in clause 2 of these Conditions.

Australian Consumer Law means the Australian Consumer Law as contained in Schedule 2 of the Competition and Consumer Act 2010 (Cth).

Banking day means on a day on which we are open for general banking business in the place where you normally conduct your general banking business.

Bendigo Bank means Bendigo and Adelaide Bank Limited A.B.N. 11 068 049 178 AFSL/Australian Credit Licence No 237879 which includes its successors and assigns.

Book up arrangement means credit offered by you for the purchase of goods or services commonly used by Indigenous communities in remote and regional areas of Australia. It has been common for merchants to hold a cardholder's debit card and/or Pass Code as part of a Book Up Arrangement.

Card means a Debit Card, Credit Card or Charge Card (or a card combining two or of more of these) providing access to a Cardholder's Account authorised by the Bank for use and issued to a Cardholder for the purpose of initiating a Transaction.

Card not present transaction means a Card used for payment is unable to be swiped, inserted or tapped in/on an Electronic Terminal. Payment is processed using an approved method of processing such transactions.

Card present transaction means a Card used for payment is able to be swiped, inserted or tapped in/ on an Electronic Terminal.

Card Scheme means an organisation or payment system which manages and controls the operation and clearing of transactions. i.e. AMEX, Mastercard, Visa, Diners Club, JCB.

Cardholder means a person to whom a Card has been issued.

Cardholder's account means an account which has been approved by the Cardholder for access using the relevant Card pursuant to an agreement between the Cardholder and the Bank or any other financial institution.

Chargeback Visa and Mastercard have a dispute resolution process that is contained in the operating rule of the card scheme. This process sets out the specific circumstances and timeframes in which a member of the scheme (e.g. a bank) can claim a refund in connection with a disputed transaction on a cardholder's behalf. This is referred to as a 'chargeback right'.

Charge card means a Charge Card issued under any one of the American Express, Diners Club or JCB charge card schemes.

Credit card means a Visa or Mastercard Card.

Conditions means the Terms and Conditions set out in this document.

Cost of Acceptance Calculator is the method used to measure reasonable cost of acceptance for card surcharging practices.

Customer means a person/s who purchases goods or services from you.

Data Breach means any event whereby you or any of your Service Providers suspects or has knowledge of unauthorised access to confidential Card payment details.

Disputed Transaction When a cardholder (or their Bank) queries a transaction which has been processed to their card number.

EFTPOS means Electronic Funds Transfer at Point Of Sale.

Electronic terminal means an electronic device other than a telephone belonging to the Bank that credits and debits funds through the Bank's electronic banking system.

Force majeure means:

- a) any act of God; or
- b) war, revolution, or any other unlawful act against public order or authority; or
- c) an industrial dispute; or
- d) a government restraint; or
- e) any other event or cause which is not within the reasonable control of Bendigo Bank Limited.

Letter of offer means a letter provided to the Merchant detailing the facility and associated operational costs.

Mastercard SecureCode refers to an additional level of online card data security via password authentication. Website Payment Gateway merchants are automatically enrolled in this service.

Merchant means the person named as Merchant in this Agreement.

Merchant facility Refer to Merchant Services.

Merchant operating guide means the current Merchant Operating Guide provided by us to you.

Merchant services means the services which we will provide to you under this Agreement.

Mail or telephone order (MOTO) means an order for goods or services received by mail, telephone, facsimile or internet.

MPOS (Mobile Point of Sale) means an EFTPOS merchant facility where the card reader device communicates securely to an application held on a Smartphone or Tablet to allow the fulfilment of sales orders.

Nominated account A business account held by you with Bendigo Bank or other financial institution which you have nominated to be debited or credited for the purposes of this Agreement.

Bendigo Merchant

Notice A notice, request, consent or other communication related to this Agreement.

Online service means any Merchant Facility that allows Transaction authorisation to be obtained online through the Bendigo Payment Gateway. Facilities include:

- Website Payment Gateway; and
- Online MOTO; and
- Batch Processing.

Pass code means a password or code that the cardholder must keep secret that may be required to authenticate a transaction or cardholder. A Pass Code may consist of numbers, letters, a combination of both, or a phrase.

PCIDSS means the Payment Card Industry Data Security Standards mandated by Mastercard and Visa to facilitate protection of cardholder payment data from unauthorised access, which apply to any merchant who stores or transmits Card data regardless of that storage or transmittal device.

Premises means each of the premises at which you conduct your business.

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

Root Password means a password that comes from the distributor of any software or hardware that you utilise in the acceptance of Transactions.

Schedule A Merchant Agreement Schedule read in conjunction with the Terms and Conditions that upon execution binds the Merchant and the Bank into the Merchant Agreement.

Secure Socket Layer (SSL) means the encryption protocol developed by NetScape that enables sensitive information such as Card details to be passed securely between computers.

Service Provider means the provider of any software or hardware that you operate to assist with the transmission, acceptance or storage of Card payment details.

Shopping Cart means any software system supplied and used by you for the purpose of registering customer details, creating orders, providing merchant reporting or other merchant value added information, and which generally links into an online payment page that you utilise to accept Card payment details.

Taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them.

Terms and Conditions means this copy of Terms and Conditions provided to you.

Transaction means a Transaction between a Cardholder and the Merchant related to the supply of goods or services or the provision of cash by the Merchant to the Cardholder, or the processing of a refund, using a Card.

Transaction Receipt Transaction Receipts include:

- Credit receipt means a receipt prepared to refund a cardholder's transaction.
- Sales receipt means a receipt that services as a proof of purchase in a transaction. This also records the cardholder's details.

User guide means the current User Guide provided by us to you.

Verified by Visa refers to an additional level of online card data security via password authentication. Website Payment Gateway merchants are automatically enrolled in this service.

Web Application means the software that you utilise to advertise the sale of goods and/or services over the Internet.

Web Hosting Provider means the provider of any software or hardware that you operate to assist with the transmission, acceptance or storage of Card payment details.

Website Payment Gateway means a secure method for authorising Transactions over the Internet through a system accredited by us.

We / us means Bendigo and Adelaide Bank Limited, and its successors and assigns.

You means the Merchant. If there are more than one, you means each of them separately and every two or more of them jointly. You includes your successors or assigns.

Fraud prevention for Merchants

We're committed to safeguarding you and your customers against fraud.

Important: When in doubt, call us on 1300 713 212.

If you have any suspicions about the card, the presenter or the circumstances surrounding the transaction, please call Bendigo Bank Card and Merchant Fraud on 1300 713 212, 24 hours a day, 7 days a week.

The following information will help you understand ways to protect yourself and your customers against possible fraud

Face-to face

- Never process transactions through your terminal on behalf of another business
- Be wary of customers who make indiscriminate purchases without regard to size, quantity or price or who indulge in distraction tactics
- Be cautious when a card number is supplied, i.e. written down, without the physical card being present
- Always check that the card number on the terminal receipt matches the number on the card
- Ensure your terminal is kept secure overnight and keep settlement and refund passwords secure
- Do not let anyone service or remove the terminal without first sighting proper identification

Non face-to-face

- Non face-to-face transactions will result in chargeback if the card details are stolen or fraudulent. As a merchant, obtain as much information as possible of the purchaser
- If suspicious, confirm an order with the customer by calling them on the phone number provided, the day after the order was received
- Authorisation of payment is not a guarantee that the card number has not been stolen or fraudulently used
- Never process transactions through your terminal on behalf of another business
- Never process payment for courier or freight services to service providers via Western Union
- Be cautious of large orders from new customers when delivery is overseas to places such as Nigeria, Ghana, Malaysia, Indonesia, Eastern Europe

It is your responsibility to ensure that the person placing an order is the authorised owner of the plastic card (refer clause 10(b), clause 15(c) third bullet point, clause 16, clause 19(f), and clause 19(x) of the Merchant Terms and Conditions). In the event of a dispute the onus is on you to prove the goods or services were provided to the rightful owner. Failure to prove this will result in the full value of the transaction being debited from your account, plus any dispute fee. The examples provided are not a complete list of measures to minimise fraudulent behaviour or risks associated with merchant facilities. Bendigo Bank is not liable for any loss or damage suffered by you in reliance on this list of examples.

Contact us

In person	At your nearest Bendigo Bank branch
On the phone	Call 1300 236 344
Online	At bendigobank.com.au
By mail	The Bendigo Centre PO Box 480 Bendigo VIC 3552

Bendigo Bank is a division of Bendigo and Adelaide Bank Limited ABN 11 068 049 178 Australian Credit Licence 237879.

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