



Merchant Terms & Conditions

BSP Pay

Contents

1. INTRODUCTION	3
1.1 Welcome	3
2. INTERPRETATION & DEFINITION	3
2.1 Interpretation	3
2.2 Definition	3
3. CONDITION	5
3.1 Conditions You Agree to;	5
3.2 Conditions We Agree to;	6
3.3 Costs, Fees and Payments	6
4. PROCESSING TRANSACTIONS	6
5. SALES REFUND TRANSACTIONS	7
6. INVALID TRANSACTION	7
7. TRANSACTION LIMITS	7
8. USING A BUREAU	7
9. SETTLEMENT AND PAYMENT OF TRANSACTIONS	8
10. YOUR RECORDS	8
11. YOUR ACCOUNT	9
12. BSP PAY MERCHANTS	10
13. TRUSTEES	12
14. VARIATIONS	12
15. NOTICES	13
16. WARRANTIES AND INDEMNITIES	14
17. CODE OF BANKING PRACTICE	15
18. ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING	15
19. OPERATION OF ACCOUNTS	16
20. BSP'S RIGHT TO CLOSE ACCOUNTS	17
21. TERMINATION	17
22. INTELLECTUAL PROPERTY AND USE OF BSP TRADEMARKS	19
23. CONFIDENTIALITY	19
24. MARKETING, MEDIA AND ADVERTISING	20
25. ONLINE GAMBLING	20
26. DEFAULT AND ENFORCEMENT EXPENSES	20
27. VARIATION AND WAIVER	20
28. YOUR RIGHTS AND OUR RIGHTS	20
29. GOVERNING RULES, LAWS AND REGULATIONS	21
30. THIRD PARTIES	21
31. YOUR INFORMATION	21
32. OUR CONSENT	21
33. SEVERABILITY	21
34. DISCLAIMER	22

1. INTRODUCTION

1.1 Welcome

Thank you for selecting BSP for your electronic banking requirements. We encourage you to take time to read these Terms and Conditions for BSP Pay Merchant Facility Services as it outlines your responsibility when accepting payments via the BSP Pay merchant facility provided by us. Should you have questions relating to this document or any of the other that form part of your Merchant Agreement, please contact on the contact details provided below:

Postal Address: PO Box 78
Port Moresby
Papua New Guinea

Email: servicebsp@bsp.com.pg

Phone: 320 1212 or 7030 1212.

2. INTERPRETATION & DEFINITION

2.1 Interpretation

- a. In this Agreement;
 - (i) 'Person' includes a firm, body corporate, unincorporated association or authority and the successors and assigns thereof.
 - (ii) Words that are singular include the plural and vice versa.
- b. The following words have the meanings described below unless the contrary intention appears.

2.2 Definition

"Account" means the account that you hold with BSP, and nominated by you for acceptance of credit and debit entries under this Agreement and for related purposes;

"Accredited Gateway Provider/Data Processor" means a gateway provider/data processor who has formal recognition of compliance with security standards and technical requirements from BSP, and has been recommended by us.

"Agreed Costs" means the fees and charges and any other fees or charges that may be imposed by us from time to time and in the manner specified by us.

"Agreement" means this Terms and Condition.

"Authorization" means an authorization message you receive from a customer's bank when you process a Transaction through BSP Pay.

"Banking Day" means a day when BSP is open for general banking nationwide.

"BSP, Bank of South Pacific, BSP Group, We/Us" means Bank of South Pacific Limited and includes its subsidiaries, branches, and related entities (or any one or more of them) operating from time to time in any jurisdiction, or successors or assignees.

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

"Chargeback" means a debit entry to your Account processed by us, and is the reversal of a credit previously made to your Account, in circumstances described in clause 6.3; this amount also includes any fees and commissions that were previously credited to your account.

"Confidential Information" means all information of either the Bank or you disclosed or communicated by one of us to the other (Recipient), or learnt or accessed by the Recipient, as a result of, or for or in connection with the transaction carried out using Merchant Facility. A list of confidential information is outlined in section 23.

“Data Breach” means any event whereby your business, or any service provider facilitating the transmission, storage or acceptance of your online payments, suspects or has knowledge of unauthorized access to confidential BSP Pay customers payment details;

“e-commerce” means a Transaction involving an order and payment for goods or services communicated using the internet.

“e-Commerce Merchant” means a merchant who conducts the sale of goods or services electronically over the Internet, and who has been authorised by us to accept payments over the Internet using an approved Payment Gateway.

“e-Commerce Merchant Facility” means any method and/or device utilized by you, or by any service provider/s on your behalf, and used to engage in the acceptance, transmission or storage of BSP Pay Customer Account payment details. This definition includes but is not limited to all software, hardware, databases, digital image and physical records used and/or maintained by the BSP merchant and/or the BSP merchant’s service provider(s);

“e-Commerce Transaction” means a transaction between you and a BSP Pay customer where the BSP Pay customer sends their BSP Pay payment data to you over the Internet;

“Fee Schedule” means a schedule outlining the rates, method of calculation and manner in which fees and commissions are payable by or to you.

“Government Agency” means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity

“Invalid Transactions” means a transaction that is listed as an “Invalid Transaction” in clause 6 of these Terms and Conditions

“Letter of Offer” means the letter of offer we give you concerning a BSP Merchant Facility.

“Manual” includes the Merchant User Guide and any other practical operating instructions we provide;

“Merchant” means the person with whom BSP has entered into a Merchant Agreement and where more than one person, “merchant” means each person separately and two or more persons jointly. It includes the Merchant’s administrators, successors and assignees.

“Merchant Agreement” means the agreement between you and BSP for the Merchant Facility made up of the Letter of Offer, the Terms and Condition (this booklet), the Merchant User Guide, and the Quick Reference Guide.

“Merchant User Guide” means the manual we provide for operating your Merchant Facility.

“Merchant Facility” means the specified facility that BSP has made available to you to enable you to perform the specified functions. Merchant Facility includes facilities that enable you to accept payments using BSP Pay Facility that enables appointed merchants to accept and facilitate specified online Transactions;

“Notice” means a notice, request, consent or other communication related to this Merchant Agreement that we give you.

“Parties” means Bank of South Pacific, BSP, Us, We, Our and the Merchant, including you and yours.

“Payment Gateway” provides a secure method for authorizing card transactions over the Internet through a system accredited by BSP;

“Person” includes a company or corporation;

“Premises” means the place of business at which the BSP Merchant Facility is located.

“Quick Reference Guide” means the instructional guide that we provide for utilizing an e-Commerce platform

Relevant Law means any law of any jurisdiction enacted to enable Government Agencies of that jurisdiction to detect and deter money laundering and terrorist financing;

“Secure Socket Layer (SSL)” means the encryption technology used on a server that encrypts important data and other information when it is being stored or passed from one computer to another;

“Service Provider” means the provider of any software or hardware that the merchant utilizes to assist with the acceptance of card payment details;

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

“Tax” means any levy or tax chargeable under the tax laws applicable in Papua New Guinea;

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

“Terms and Conditions” means the Terms and Conditions for a BSP Merchant Facility as amended from time to time.

“Transaction” means a debit or credit transaction, and/or refund transaction where a BSP Pay customer account information is offered for payment and is processed using a BSP Pay Merchant’s online payment site.

“VAT” has the same meaning given in the Value Added Tax Decree 1991 (Fiji), Value Good and Services Tax Act 2003 (PNG), Value Added Goods and Services Tax Act 1992 – 1993 (Samoa), Sales Tax Act Cap 125 (Solomon Islands), Value Added Tax Act Cap 247 (Vanuatu) and Consumption Tax in the Consumption Tax Act 2003 (Tonga) as amended from time to time and any other tax of a similar nature in any relevant jurisdiction, including Goods and Services Tax.

“We”, “Us” “Bank” and “BSP” means Bank of South Pacific Limited. The liability of its members is limited. BSP branch locations in Fiji, Cook Islands and Solomon Islands. BSP is represented in Papua New Guinea, Fiji and Solomon Islands by Bank of South Pacific Limited, in Samoa by Bank South Pacific (Samoa) Limited and in Tonga by Bank of South Pacific Tonga Limited.

“Web Application” means the software that your business utilizes 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 enter into an agreement with in order to enable you to promote a business via the internet;

“You” means the owners of the business to whom the letter is addressed. If there is more than one, it includes any one or more of you. Where there is more than one of you, each of you is individually liable under the Agreement. This liability will continue, as regards the others, even where one or more of you is not liable or is no longer liable.

3. CONDITION

3.1 Conditions You Agree to;

You agree you will:

- a. accept all valid BSP Pay customer accounts without discrimination and process Transactions according to your Merchant Agreement;
- b. be bound by the Terms and Conditions of your Merchant Agreement;

- c. comply with all relevant laws, rules and regulations relating to the acceptance of Transactions for processing;
- d. act in our interests in providing and promoting our Merchant Facilities and processes so BSP Pay customers can effect Transactions with you;
 - e. be bound by the Merchant User Guide
 - f. be bound by the Quick Reference Guide;
 - g. be bound by any regulations, by-laws or rules we make under your Merchant Agreement;
- h. authorise us to obtain a copy of your credit reference at any time during this Merchant Agreement, where permitted by law;
- i. make sure all information you give us is true and correct;
- j. not apply to the transaction any Fee;
- k. immediately contact us to withdraw the application if you do not wish to accept our offer of merchant facility within 14 business days after the date of the Letter of Offer;
- l. not substantially change your line of business, or type of goods or services that you supply to your customers or clients without first notifying us and receiving our written consent otherwise your merchant facility will be terminated by us;
- m. accept that our approval of a subsequent application from you for another type of merchant facility in connection with the subject business, the terms and conditions set out here will also apply as soon as you accept our offer of the new merchant facility.

3.2 Conditions We Agree to;

We agree we will process all valid Transactions you accept under this Merchant Agreement.

3.3 Costs, Fees and Payments

We will debit to your Account the applicable Fees which you are required to pay in respect to BSP Pay service, as from time to time varied in accordance with the arrangements between you and us. You agree to pay and you agree that we can withdraw or debit without notice from your Account or any other account you have with us all the:

- a. agreed costs;
- b. outstanding amounts related to refund Transactions;
- c. credits we make in error;
- d. invalid credits we paid;
- e. amounts an audit has shown are due;
- f. other amounts you owe us under this Merchant Agreement including any indemnity;
- g. chargeback amounts;
- h. all fees, charges and costs incurred by us for recovery of outstanding debts owed by you to us;
- i. amounts of any Invalid Transactions;

We may vary existing fees or introduce new fees relating to this agreement at any time either in writing to you or by advertising in the national media.

4. PROCESSING TRANSACTIONS

4.1 You must:

- a. only process e-commerce Transactions if we have expressly agreed to this online;
- b. prominently display or make accessible to the customer upon request, a fair policy, which deals with:
 - (i) refunds and disputes;
 - (ii) disputes associated with e-commerce Transactions. Your refund policy should be displayed on your website where applicable;
- c. process all Transactions in Papua New Guinea Kina which is stated in the Letter of Offer;
- d. at all points of BSP Pay customer contact, prominently and unequivocally inform the BSP Pay customer of your identity so that the BSP Pay customer can readily distinguish you from any supplier of goods or services to you or other third parties;

- e. provide notice to the BSP Pay customer that you are responsible for the transaction, including the goods or services acquired by use of the BSP Pay service, as well as for related customer service, dispute resolution and performance of the terms and conditions of the transaction;
- f. not process transactions through an e-Commerce Merchant domain that has not received approval by us. Failure to get approval will result in your e-Commerce facility being immediately terminated.

5. SALES REFUND TRANSACTIONS

5.1 You may process sales refund transactions by transferring the amount of the refund from your Account to a BSP Pay customer account. You shall not process any refund to a BSP Pay customer account unless the original transaction between you and that BSP Pay customer was paid for by the BSP Pay customer using the relevant BSP Pay customer account.

5.2 You will establish a fair policy for the handling of orders disputed by BSP Pay customers and for the handling of disputed amounts of standing authority transactions. You will also establish a fair policy for refunds for each return of merchandise or for each order not authorised by the BSP Pay customer.

6. INVALID TRANSACTION

6.1 A transaction is invalid if the transaction it records is illegal;

6.2 An Internet transaction is invalid if the transaction is not authorized by the BSP Pay customer. You acknowledge that authorizations obtained provide no guarantee that the person making the online payment is the rightful BSP Pay Account holder

6.3 We may refuse to accept, or may chargeback, any transaction if:

- a. the transaction is invalid;
- b. the BSP Pay customer claims the transaction is invalid or disputes liability for any reason;
- c. the BSP Pay customer asserts a claim for set-off or a counterclaim. Chargebacks may be processed to your Account up to 12 months after the date of the original transaction;
- d. the Transaction is not authorised by the BSP Pay customer ;
- e. the BSP Pay customer's account is used without the BSP Pay customer's authority ;
- f. details on the BSP Pay customer's copy of the e-receipt do not match those on other copies;
- g. the e-receipt is incomplete, illegible or invalid;
- h. you charged more than your normal price for goods or services;
- i. you did not supply or do not intend to supply the goods or services;
- j. a refund Transaction does not relate to an original sale;
- k. you were notified by us not to accept payments made by the BSP Pay customer in the Transaction(s);
- l. Transaction is processed on behalf of another Merchant or person;
- m. The goods or services are not supplied from within Papua New Guinea;
- n. this Merchant Agreement was not valid on the date of the Transaction;
- o. you did not act in accordance with the Terms and Conditions of the Merchant Agreement in relation to the Transaction;

We can decide whether or not a Transaction is invalid if:

- (i) the BSP Pay customer disputes liability for the Transaction for any reason;
- (ii) there is a set-off claim or counterclaim; or
- (iii) at a later stage we identify that a Transaction is invalid.

7. TRANSACTION LIMITS

7.1 We set the Transaction Limits, which may change from time to time;

8. USING A BUREAU

8.1 You must notify us in writing before you commence, or change, using a Bureau.

8.2 You must give us any information that we need in relation to the Bureau.

8.3 Any Bureau you use is at your own cost and risk.

8.4 You acknowledge that if you use a Bureau, we are entitled to rely on any information or instructions we receive from that Bureau on your behalf as if they were received from you and on any information we process in reliance on the information received from the Bureau.

8.5 It is your responsibility to ensure that any Bureau which you use complies with these Terms and Conditions when conducting any Transaction on your behalf, as if it were bound by these Terms and Conditions.

9. SETTLEMENT AND PAYMENT OF TRANSACTIONS

9.1 You must hold an Account with BSP:

- a. into which we can pay the full amount of all valid, acceptable sales Transactions you have made;
- b. from which we can deduct all relevant fees, charges, and Chargeback invalid transactions;
- c. from which we pay the full amount of valid, acceptable refunds you have made.

9.2 We may refuse to accept or may Chargeback any Invalid Transactions we have processed to you, your Account or any other account you have with us.

9.3 We reserve the right, where we suspect that a Transaction is an Invalid Transaction, to:

- a. withhold payment; and
- b. place a hold on your Account or any other account you hold with us for an amount equal to the amount we believe could become owing to BSP in respect of the Transaction;

9.4 We will investigate a Transaction and either:

- a. pay the Transaction;
- b. refuse to process the Transaction and return the Transaction to you; or,
- c. where the Transaction has been processed, Chargeback the Transaction.

9.5 You agree and authorise us to monitor Transactions you process and the use of the BSP Pay service and investigate Transactions we find suspicious.

10. YOUR RECORDS

10.1 For all e-commerce Transactions using BSP Pay, keep any evidence of the BSP Pay customer's request to order the goods or services and instructions to process the Transaction for at least 12 months (e.g. order form, fax advice etc.).

10.2 You must give us evidence satisfactory to us of a Transaction within 14 days if we ask for it or upon demand in special circumstances (e.g. legal proceedings). If you cannot do this and we cannot collect the amount of the Transaction from the BSP Pay customer, we can debit your account for the Transaction amount.

10.3 You must keep records of accounts, receipts, invoices and other documents relating to your obligations under this Merchant Agreement.

10.4 You must let us examine your records relating to any Transaction. You must give us copies of these records, at your expense, if we ask for them. You agree to allow us or our agent access to your place of business during business hours, to examine your records and take copies.

10.5 You cannot provide any information about a BSP Pay customer or Transaction except:

- a. to us;
- b. to your professional advisors (e.g. your accountant, solicitor etc.), or
- c. when requested by law.

10.6 You shall keep all systems and media containing a BSP Pay customer information or transaction information in a secure manner to prevent access by or disclosure to anyone other than your authorized personnel or agent processing BSP Pay transaction. When the period for which you are required to keep records has expired, you must ensure that you destroy transaction records including receipts and vouchers.

11. YOUR ACCOUNT

- 11.1** You must maintain an Account and advise us of the details of that Account. We will credit your Account with the amount of the transactions processed. You will notify us immediately if your Account details change. In some circumstances it will be necessary for transactions to settle to a BSP account. You will be advised of this requirement at the time of application.
- 11.2** We can debit your Account with the following:
- a. all service charges and fees set by us. Information on current standard fees and charges is available on request;
 - b. the full amount of all sales refund transactions you process, less any charges we have already debited to your Account relating to the transaction;
 - c. any over credits we have made in respect of transactions due to errors or omissions;
 - d. the value of transactions which are invalid;
 - e. any other money you owe us under this Agreement;
 - f. reasonable enforcement expenses under this Agreement, including any amount reasonably incurred by the use of our staff and facilities, in the event of a breach of this Agreement.
- 11.3** If we debit the Account in which there are insufficient funds, then the payment may be reversed and you will be regarded as not having made the payment. If you ask us to cancel a request to arrange direct debit payments we will do so promptly. However you will need to establish a direct debit request with another financial institution. We will promptly process any complaint by you that a direct debit was unauthorised or otherwise irregular.
- 11.4** You will pay on demand the amount of any debt you owe us under this Agreement which remains unpaid. Should you fail to pay any debt which you owe us we may commence enforcement action and report your default to a credit-reporting agency, which may affect your credit rating and your ability to obtain finance in the future.
- 11.5** We can also debit or credit your Account with the amount of any deficiencies or charges we establish are payable following an audit or check of your Account.
- 11.6** In addition if;
- (i) we have concerns about your solvency;
 - (ii) you are involved in a disproportionately high number of charge backs or invalid transactions; or
 - (iii) we have concerns about you or your business;
- We may withhold release of the funds in the Account until further notice.
- 11.7** We may appropriate money you hold in your Account, or any other related account with us, towards any and all amounts you owe us under the Agreement. If we do this, the balance of your Account will reduce by the amount used for this purpose. We will notify you promptly after exercising our right to appropriate money in your Account.
- 11.8** We reserve the right, where we suspect that a Transaction is an Invalid Transaction, to:
- a. withhold payment; and
 - b. place a hold on your Account or any other account you hold with us for an amount equal to the amount we believe could become owing to BSP in respect of the Transaction. Transaction records including receipts/Vouchers. The documents must be destroyed in a secure manner so that any customer information including any account number is obliterated.
- 11.9** We will investigate a Transaction and either:
- a. pay the Transaction;
 - b. refuse to process the Transaction and return the Transaction to you; or
 - c. where the Transaction has been processed, Chargeback the Transaction.

11.10 You agree and authorise us to monitor Transactions you process and the use of the BSP Pay service and investigate Transactions we find suspicious.

12. BSP PAY MERCHANTS

12.1 This clause applies to BSP Pay Merchants conducting e-Commerce Transactions. To the extent that there is any inconsistency between this clause and the other provisions of the Agreement, this clause will apply.

12.2 Before commencing live operations on your website, you must undertake testing and when we are satisfied that all our operational requirements have been satisfied, we will convert you to live operations.

12.3 You shall be responsible for all goods and services offered at your website, all materials used or displayed on the website, and all acts or omissions that occur at the website or in connection with your website. BSP will not be responsible or liable for any delay that might occur in the processing of payments where the facility is not available for any reason.

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

12.5 You will display the following on your website:

- a. contact information, including your trading name, trading address, telephone number, fax number, e-mail address and your country of domicile;
- b. a complete description of all goods and services you offer on your web site;
- c. a clear explanation of shipping practices and delivery policy;
- d. Refund or Return policy;
- e. transaction currency;
- f. total costs of the goods or services offered including all appropriate shipping/ handling charges and taxes. Where the total cost of the transaction cannot be ascertained in advance you must include a statement to that effect and provide a description of the method that will be used to calculate it;
- g. image of BSP Pay accepted for payment that we supply to you;
- h. customer service policies, including usual delivery timeframes, and the process if you cannot fill the order for any reason. You must advise your customers within two business days if goods are not available;
- i. export restrictions (if known);
- j. consumer data policy;
- k. security capabilities and policy for transmission of BSP Pay payment details;

12.6 You will make provision for payment and delivery of goods or services as specified at your website. BSP will provide the payment pages from our Accredited Gateway Provider/Data Processor. Each merchant domain must utilize separate payment pages.

12.7 The e-Commerce Transaction forwarded to us must be identified with the appropriate BSP Pay indicator. We will supply you with details of these requirements on request.

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

12.9 You must provide a completed copy of the transaction receipt to the BSP Pay customer at the time the purchased goods are delivered or services performed, and advise BSP Pay customer to retain the receipt as proof that payment has been made. You may deliver the transaction receipt in either of the following formats:

- a. electronic (e.g. email or fax); or
- b. paper (e.g. hand-written).

12.10 A transaction receipt must contain the following information:

- a. the merchant name most recognizable to the BSP Pay customer, such as:

- (i) merchant “doing business as” name as used on your website;
- (ii) merchant “universal resource locator” (URL) if possible;
- b. transaction type (purchase or credit);
- c. transaction amount, indicated in transaction currency;
- d. transaction date;
- e. unique transaction identification number;
- f. purchaser’s name;
- g. authorisation code;
- h. description of goods and services;
- i. return refund policy, if restricted;
- j. cancellation policies.

12.11 You must not return the BSP Pay customer’s account information to the BSP Pay customer either online or on the transaction receipt.

You must:

- a. not substantially change your goods or services or other material aspects of your website from the time it was accepted by us;
- b. keep all information on the website true, accurate, current and complete;
- c. not change your domain name without first obtaining our consent to the change of name;
- d. not significantly alter, or add to, the type of goods or services being sold on your website without first notifying us;
- e. not do anything that constitutes or encourages a violation of any applicable law or regulation in your jurisdiction or the laws of the BSP Pay customer’s jurisdiction, including but not limited to the sale of illegal goods or services or the violation of export controls, obscenity laws or gambling laws;
- f. not offer for sale goods or services, or use or display materials, that are illegal, obscene, vulgar, offensive, dangerous, or are otherwise inappropriate;
- g. not generate a significant number of complaints for failing to be reasonably accessible to customers;
- h. fulfil customer orders in a timely manner or adequately deal with customers’ warranty or service requirements.
- i. Process the transactions in accordance with the Quick Reference Guide.
- j. You must maintain a relationship with an internet service provider at your own expense to maintain the website and facilitate e-mails.
- k. You must give us 10 Banking days prior notice in writing if you wish to change your internet address, e-mail address, telephone or fax number or website name.
- l. You must provide us with reasonable access to view, monitor and audit the pages of your website.

12.12 You are responsible for:

- a. ensuring that the connection between your website and us is operational. We do not warrant that the provision of the services will be continuous, uninterrupted or without errors;
- b. ensuring that your website is secure and that BSP Pay customer information is encrypted during the exchange of BSP Pay customer information between your web site and the Payment Gateway.;

12.13 When approved to be a BSP Pay Merchant, any transactions received from BSP Pay customers relating to the internet business for which it was approved must be processed using your approved BSP Pay Merchant Facility.

12.14 If you are approved as a BSP Pay Merchant you must willingly, upon request and at pre-determined intervals, supply BSP with full details of your Web Hosting Provider, Shopping Cart Vendor System, SSL provider and expiration date of SSL certificate..

12.15 You must comply with the Data Breach procedures detailed below immediately upon suspected or known breaches of confidential cardholder payment details, whether or not the breach has occurred through your Service Provider or otherwise. You must:

- a. Identify the cause of the event and immediately notify BSP;
- b. Isolate or unplug any affected systems from all affected networks ;
- c. Cease installing or making any changes to software

- d. Tighten security controls pertaining to all affecting networks ;
- e. Implement and follow a disaster recovery plan as required by an BSP;
- f. Maintain a rigorous audit trail of all actions taken to isolate and rectify the event;
- g. Commence calculating the gross potential exposure that may arise from such event and notify BSP in writing of the results of such calculations as soon as possible, but in any event within a 24 hour period of the Data Breach.

12.16 You must ensure that any software or hardware you purchase, create or otherwise utilize for the purpose of selling goods and/or services online does not retain its original password before employing it for the acceptance of BSP Pay payments. You must also ensure that all system and/or software passwords are changed on a regular basis.

12.17 You must not add a non-approved merchant domain to your e-Commerce Merchant Facility or payment page. Failure to comply will result in immediate termination of your Merchant Facility.

13. TRUSTEES

13.1 This clause applies where you are the trustee of a trust.

13.2 You confirm the following:

- a. the trust is validly formed. Any relevant trust document is valid and complies with the law;
- b. any copy of the trust document you have given us is a true and complete copy and discloses everything about the trust;
- c. you are properly appointed as sole trustee of the trust;
- d. you have always fully complied with the terms of the trust, and your duties and powers. No one has said that you have not done so;
- e. you have a full right of indemnity from the trust assets in respect of the Agreement;
- f. you have properly signed the application form under the terms of the trust and in accordance with your duties and powers as trustee, or if there is any doubt and all beneficiaries have full legal capacity, you have obtained their consent;
- g. the Agreement and the transactions entered into under it are for proper trust purposes;
- h. you have done everything required under the trust document to enter into the Agreement and the transactions it contemplates;
- i. none of the trust assets have been resettled or set aside;
- j. the trust has not terminated nor has any event for the vesting of the assets occurred.

13.3 You promise the following:

- a. you will comply with the terms of the trust and your duties as trustee of the trust;
- b. you will use all equipment and carry out all transactions in accordance with the Agreement exclusively for proper trust purposes;
- c. you will not do anything which may result in the loss of your right of indemnity from the trust assets or the termination of the trust;
- d. you will remain sole trustee of the trust (with anyone else who signs the application form as trustee);
- e. if, despite the above, you are replaced or joined as trustee, you will make sure the new trustee becomes bound to our satisfaction by the Agreement or a document and arrangement of identical effect;
- f. you will not re-settle, set aside or distribute any of the assets of the trust without our consent unless compelled to do so by the current terms of the trust document.

14. VARIATIONS

14.1 We may change the terms and conditions that apply to your Merchant Facility (ies) at any time and will notify you of any changes.

14.2 You agree that we may notify you of changes as set out in the table below. Use of your merchant facility after notification of changes to the terms and conditions will constitute acceptance of those changes.

Type of Change	Time Frame	Method of Notification
New fee or charge (other than a government charge)	30 days in advance	In writing, electronically or through an advertisement in a major newspaper
A new or varied government charge that directly or indirectly affects you	In advance of the change, or as soon as practicable afterwards, unless the change has been publicised by a government agency, government or representative body.	In writing, electronically or through an advertisement in a major newspaper
Any other term or condition (including a variation of fees and charges)	In advance of the date of the change	In writing, electronically or through an advertisement in a major newspaper

14.3 Advanced notice may not be given in some circumstances, for example, when a change is necessitated by an immediate need to restore or maintain the security of our systems or where you cannot be reasonably located.

14.4 By “electronically”, we mean: electronic communication to your nominated electronic address; or making particulars of changes available at our website.

14.5 Notwithstanding clauses 14.1-14.4 above, BSP reserves the right to vary, or amend the Terms and Conditions of this Agreement. BSP may alter these Terms and Conditions at any time by giving not less than 7 days’ notice to you, either by:

- a. direct communication with you (e.g. by letter, by email, by fax or by telephone); or
- b. by an advertisement in a major newspaper.

14.6 Where these Terms and Conditions are set out on our website, the change will also be noted there. You are deemed to have accepted any changes to the Terms and Conditions through your continued use of your Merchant Facility.

14.7 In the event that you do not agree to any change to the Terms and Conditions, you must contact and advise the Bank immediately in writing. The Bank may then elect to terminate this Agreement in the event you do not agree to any changes to the Terms and Conditions.

15. NOTICES

15.1 We will be flexible about how notices are given to you. They might be provided in writing including by statement of account, or by newspaper advertisement depending on the nature of the notice.

15.2 You agree to receive this Agreement and any and all disclosures or notices required by Applicable Law and all other communications, electronically to the email address you designate in your profile. You also agree that we may respond to any communication you send to us with an electronic communication, regardless of whether your original communication to us was an electronic communication.

15.3 Any electronic communication we send to you will be considered received within three (3) calendar days of the date sent by us to the email address you designate in your profile. To the extent permissible under Applicable Law, any electronic communication you send to us will not be effective until we receive and have had a reasonable opportunity to act on such email message. You should not rely on email if you need to communicate with us on an immediate basis. We, therefore, strongly suggest that you report all matters requiring immediate attention (for example, reports of alleged unauthorized transfers or errors, or requests for stop payments) to us by calling the BSP Call Center anytime at +675 320 1212 or +675 7030 1212. We may, however, require you to provide us with written confirmation of any verbal or electronic stop payment request or notice of alleged error.

15.4 When you enroll in BSP Pay, you will have access to our Support Team Merchant Portal, You must designate a primary email address during enrollment which will be used for receiving communications. Sensitive

information such as account numbers will be only partially shown (masked). We strongly suggest that you do not send to us, any confidential information about your deposit and credit accounts via the public Internet as it is not necessarily secure..

15.5 We will not send you email requesting confidential information such as account numbers, PINs, or passwords. If you receive such an email purportedly from us, do not respond to the email and notify us by calling +675 320 1212 or +675 7030 1212, or forwarding (including header information) the email to servicebsp@bsp.com.pg.

15.6 By using the BSP Pay or authorising others to use BSP Pay, you acknowledge that you have received and understand the terms of this Agreement and agree to be bound by all of the provisions of this Agreement and by all of the agreements incorporated herein by reference that also govern your account with us. These Agreements may be amended from time to time and we will provide notice of such changes to you as may be required by Applicable Law

16. WARRANTIES AND INDEMNITIES

16.1 You must not make any warranty or representation whatsoever in relation to any of your goods or services which may bind us.

16.2 The processing of any transaction by you or your presentation to us of any voucher shall constitute warranties to us that;

- a. all particulars are true;
- b. the transaction and any voucher is valid; and
- c. the sale is not subject to any dispute, setoff or counterclaim.

16.3 You will indemnify us on demand against all losses, expenses and damages we may suffer:

- a. as a result of your failure to observe your obligations under the Agreement including any procedures set out in the Manuals;
- b. arising out of any dispute between you and a BSP Pay customer;
- c. as a result of any error, negligence or fraud relating to a transaction by you, your agents, employees or contractors;
- d. as a result of your or your employees' failure to keep BSP Pay customer's banking information, and Confidential Information, where supplied to you, confidential;

16.4 With the exception of any conditions, rights or warranties that are implied by law in this Agreement and may not legally be excluded, we give no warranty or representation in respect of any transaction or terminals and all other terms, conditions or warranties whether expressed or implied are expressly excluded.

16.5 You acknowledge that our liability for breach of any condition, right or warranty that cannot be excluded from this Agreement by law is limited to the replacement or the repair of the terminals.

16.6 Any payments made by you under this clause shall be automatically increased by the amount of any goods and services tax liability incurred by us in respect of those payments.

16.7 If your company has suffered a Data Breach, you must give BSP and its agents full access to your systems and databases to facilitate a forensic analysis to ascertain:

- a. what BSP Pay customer data has been compromised;
- b. what weaknesses in the system permitted the unauthorised access to the database; and
- c. whether BSP Pay customer data was created, deleted, altered, copied or manipulated in any manner.
- d. If you use the services of an external Service Provider, you must ensure that BSP and its agents are given full access to necessary outsourced components such as but not limited to databases, web hosting systems, etc.
- e. You must pay all costs in connection with analysing and resolving the Data Breach.

16.8 Consent to share information:

- a. BSP may be required to report Data Breaches to law enforcement agencies and/or regulators in your jurisdiction. You agree to grant an irrevocable and enduring consent to BSP to disclose details of any such Data Breach (including information about you or your customers) to the aforementioned bodies.
- b. You agree to irrevocably confer upon BSP the enduring right to contact any Services Providers that enable you to acquire credit card transactions. This clause 16.8(b) is limited to the purpose of determining the extent of a Data Breach, assessing remedies for that Data Breach.

16.9 We may disclose your personal information to:

- a. other organizations to help us to assess financial risk or to recover debt;
- b. credit reference agencies;
- c. other members of the BSP Group including BSP advisers, consultants or service providers, any of the banks subsidiaries, branches, head office or representatives;
- d. any authority, regulator or government agency as the Bank may in its absolute discretion consider appropriate, necessary or advisable;
- e. other organisations to assist us in compliance obligations in respect of sanctions, anti- moneys laundering, counter-terrorism financing and proceeds of crime; and
- f. the United State Internal Revenue Service to assist us in compliance with our obligations under our arrangements regarding the Foreign Account Tax Compliance Act ("FATCA").

17. CODE OF BANKING PRACTICE

17.1 This clause applies to you if there is a relevant Code of Banking Practice or equivalent code or law in the country in which your business operates that applies to you at the date we issue the notice to you.

17.2 Each relevant provision of any existing Code of Banking Practice or equivalent code or law will apply to your Merchant Facility from the date we adopt that provision.

18. ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING

18.1 Operation and effect

This clause 18:

- a. is in addition to any of our other rights, powers and remedies and any of your obligations, warranties and commitments under this Agreement or at law;
- b. will apply despite any provision of the Agreement which is contrary to, or inconsistent with, this clause 18.

18.2 Acknowledgements and undertakings

- a. You acknowledge that:
 - (i) we are committed to complying with Relevant Laws; and
 - (ii) the ability of the BSP Group to comply with Relevant Laws is directly linked to your conduct
- b. You undertake and agree:
 - (i) to comply with all Relevant Laws and to conduct your business in a manner which will result in the BSP Group being in breach of any Relevant Laws;
 - (ii) to notify us promptly (unless prohibited by law from doing so) if you become aware of any claim, action, investigation or proceeding brought against you or your subsidiaries or related entities in respect of any breach of a Relevant Law;
 - (iii) that, at the time you give us any instruction to make any payment or transaction will breach any Relevant Law; and
 - (iv) to provide to us within a reasonable time (and in any case no later than 30 days) any information (including proper accounts and records) we may reasonably require from time to time to manage the risks of money laundering and terrorist financing to comply with Relevant Laws and to allow us to discharge our duties, obligations and responsibilities under the Relevant Laws.

18.3 Our rights – Unlawful conduct or failure to provide information

- a. If we suspect that any payment or other transaction made or undertaken by you may breach (or has breached) a Relevant Law or may involve (directly or indirectly) other unlawful conduct or if we believe, in

our sole determination, you have not provided us, as requested with sufficient information to discharge our obligations and functions under or in respect of a Relevant Law, we may, without any liability”

- (i) Terminate this Agreement;
 - (ii) Delay, block or refuse to process any payment or other transaction;
 - (iii) Stop providing a product or service to you; and
 - (iv) Refuse to use, deal with or facilitate any of your assets held by us.
- b. We may do all acts, matter and things necessary to comply with our obligations under the Relevant Laws, including (without limitation) to complete and submit suspicious matters report to the relevant Government Agency.

18.4 Consent to use information

You consent and agree that we may (without liability) collect, use and disclose all information concerning you and the Agreement to any BSP Group member, Government Agency, or other law enforcement agency or court as required by any Relevant Law or if we consider, in our sole discretion, that such disclosure is necessary for us or for you to comply with the Relevant Laws.

18.5 Termination

- a. the Agreement may be terminated (in addition to any other rights of termination) under clause 18.3(a)(i);
- b. we may terminate the Agreement immediately in the following circumstances:
 - (i) a breach by you of any undertaking or obligation under this clause 18;
 - (ii) a breach by you of any Relevant Law;
 - (iii) a failure by you to do anything (as requested by us) to allow us to comply with any obligations under the Relevant Laws; and
- c. we may terminate the Agreement immediately on notice if we are required to do so or to otherwise terminate the customer relationship as required under any Relevant Law

19. OPERATION OF ACCOUNTS

19.1 Persons authorised to operate accounts

- a. Your accounts with us may only be operated by persons (“**Authorised Persons**”) authorised by you and provided we have received and accepted notice of such authority in a manner required by us;
- b. You agree that:
 - (i) you are responsible for the appointment, administration and conduct of your Authorised Persons and must ensure they have been given the appropriate authorisation you require and they act within that authority;
 - (ii) we may contact your Authorised Persons to carry out our “know your customer” activities. We will notify you if we cannot accept such person due to our policies or any applicable law;
 - (iii) you will notify us immediately of any changes to your Authorised Persons and agree that such changes will not be effective until processed by us. If we cannot process the change, we will notify you as soon as reasonably practicable. You will remain responsible for all transactions that are processed while your change request is being processed;
 - (iv) you are bound by and remain liable for all acts and transactions of an Authorised Person; and
 - (v) despite any claims, complaints or requests by you or anyone else about the validity of the appointment or authority of any Authorised Person, we are entitled to rely on the signatures and instructions of the current Authorised Persons who have been accepted by us until such time as such Authorised Persons are changed by processes accepted by us.

19.2 Scope of authority

An Authorised Person will be deemed to have the authority to give instructions, sign any document and perform any act on your behalf in respect of the accounts to which their authority relates.

19.3 Our authority to undertake account activities

You authorise us to accept deposits, make credits and attend to collection of proceeds.

19.4 Joint account and additional signatories

You or one of the persons you have notified to us as being authorised to make amendments to your account authorisations may authorise us to open joint accounts and approve the addition of any authorised third party;

19.5 Circumstances where we may elect to not follow instructions

We may elect not to follow your instructions (or the instructions of anyone acting on your behalf) in relation to the operation of your account or performance of any transaction if:

- a. we are not satisfied (at our sole determination) that the person giving the instruction has authority (for example, if we are not satisfied that the signature on the instruction matches the specimen signature held);
- b. in our opinion, the instructions are not clear;
- c. we cannot authenticate or validate any information or documents relating to the account or service, a person who is authorised to transact on it, or the transaction; or
- d. without limiting clause 19.1(b)(v), we are notified of a dispute between joint account holders, partners or directors. In such a case we may require all joint account holders, partners or directors to sign an authority (in a form required by us) to operate the account.

19.6 Freezing accounts

You agree that we are not required to put a hold on, freeze or otherwise restrict any of your accounts with us without your consent to do so (in a form required by us), unless we are required to do so by a statutory direction or court order.

19.7 Persons authorised to operate accounts

Nothing in this clause 19 extinguishes, replaces, varies, limits or in any way affects any of our rights to close or terminate your accounts under the Agreement or at law.

19.8 Release and indemnity

You agree to:

- a. release us from all claims, actions, suits and proceedings ("**Claims**"); and
- b. indemnify us from and against any loss, damages, costs, expenses or liability we may suffer or incur due to a Claim

arising from the proper operation by us of your accounts in accordance with this clause 19 or as otherwise agreed in writing with you by us

20. BSP'S RIGHT TO CLOSE ACCOUNTS

Notwithstanding clause 13, we may close any of your accounts with us at any time at our discretion. We will give you 30 days' notice before closing your account, unless the account has a zero balance or is overdrawn at the time of closure. Where your account has a credit balance, before it is closed, we will either take reasonable steps to return the balance to you or, where the relevant statutory requirements have been met, we may transfer the balance to the relevant Government Agency as unclaimed money.

21. TERMINATION

21.1 You may terminate this Agreement by giving us a 30 day written notice.

21.2 We may terminate this Agreement at any time and for any reason. The grounds on which we may do so include, but are not limited to, the following:

- a. You apply a transaction fee to any BSP Pay customer;
- b. we consider your ratio of chargebacks to sales, whether by number or currency value of chargebacks, to be excessive;
- c. you have substantially changed your line of business, or the types of goods or services that you supply to your customers or clients without first notifying us and obtaining our consent;
- d. we have concerns about your solvency, or the solvency of your business;
- e. we have concerns about your ability to meet or repay the amounts of any chargebacks that have been received, or that are likely to be received in the future conduct of your business;
- f. you have a significant adverse credit event recorded against you;

- g. we have reasonable grounds to suspect that you have fraudulently processed transactions, or have knowingly allowed fraudulent transactions to be processed through your merchant facility;
 - h. you or any service provider that you use has suffered a data breach;
 - i. without our prior approval, you cease to operate the Merchant Facilities, or abandon the Merchant Facilities or the business premises, or otherwise lose the right to occupy the business premises, or fail to relocate to alternative premises notified by us as being acceptable to carry out the specified Merchant Facilities;
 - j. if you assign the benefit of this agreement without consent of the Bank or in any other way purport to transfer, charge, encumber or alienate your interest in the agreement;
 - k. if you are a corporation and there is a change in the direct or indirect principal shareholders of the corporation, a change of directors or a reduction in the issued or authorized capital of the corporation;
 - l. if we must comply with a court order;
 - m. if you have acted unlawfully;
 - n. if you do not agree to any changes we make to the Terms and Conditions; or
 - o. if your Merchant Facility is used, or attempted to be used, for an improper purpose.
- 21.3** Where this Agreement is terminated pursuant to clause 21.2 above by the Bank in these circumstances is not considered to be a breach of the Terms and Conditions or any other contract that exists between you and the Bank. The Bank will not be liable for any consequential loss or damage you suffer as a result either directly or indirectly from the termination.
- 21.4** We will endeavour to give you verbal or written notice before we terminate this Agreement. If we are unsuccessful in contacting you, we can choose to continue to terminate the facility. However, we will give you subsequent written confirmation that the facility has been terminated.
- 21.5** We may terminate this Agreement on the grounds that you have not processed transactions through your merchant facility for a period of 120 days. Under these circumstances we will advise you, in writing, of our intention to terminate and will allow you a period of 14 days from the date of our letter in which to contact us. After that time, we may terminate the facility without further notice.
- 21.6** Termination will be effective immediately. You must cease to conduct your Merchant Facility (ies) immediately, and cease to use the Bank's trademarks and intellectual property immediately. The Bank is not obliged to accept any transactions you process after the Agreement is terminated.
- 21.7** A combined terminated merchant file is a list containing the business name and the names and identification of principals of merchants that have been terminated by acquiring financial institutions. You shall indemnify us against all claims, actions, suits, losses, defaults, damages and liabilities resulting from the inclusion of you or your principals on this file.
- 21.8** A terminated Internet merchant file is a file containing the merchant name, trading name and address, names and identifications of principals, owners, managers and key employees of merchants, account details, listing reason and Uniform Resource Locator (URL) of Internet merchants terminated for poor card acceptance practices. You consent to us providing this information for addition to this file if this Agreement is terminated for cause. If this Agreement is terminated due to poor BSP Pay acceptance practices, you shall indemnify us against all claims, actions, suits, losses, defaults, damages and liabilities resulting from the inclusion of this information on this file. Any payments made by you under this clause shall be automatically increased by the amount of any goods and services tax liability incurred by us in respect of those payments.
- 21.9** Irrespective of the reason for terminating this Agreement or the party seeking the termination, our rights and authorisations under this Agreement, including, but not limited to, our right to directly charge your Account for outstanding fees and charges, sales refunds, invalid transactions – including chargebacks, or any other amounts owed to us, remain in full force and effect after termination.
- 21.10** When this Merchant Agreement ends, you must return all stationery, decals, equipment, guides and other material we gave you.

21.11 If the Merchant Agreement ends you agree we can tell any person that the Merchant Agreement has ended.

22. INTELLECTUAL PROPERTY AND USE OF BSP TRADEMARKS

22.1 You must not register or apply to register the business name 'BSP' or any other trade name or business name belonging to or associated with BSP or the BSP Group.

22.2 You must not use the word 'BSP' or any one or more of the Bank's trade marks in your trading name and you must not register or apply to register any part or all of the Bank's trademarks or any words, logos, insignia or characters similar to or likely to be confused with the Bank's trademarks.

22.3 Where you are permitted to use our trademarks in connection with the Merchant Facility, you must always follow our instructions and guidelines regarding the correct use of our trademarks.

22.4 You will not acquire any right, title or interest (except for the non- exclusive license to use our trade marks in the conduct of the Merchant Facilities) in:

- a. the Bank's trademarks;
- b. the confidential information of the Bank;
- c. the Bank's intellectual property;
- d. any Bank methods.

22.5 Whether developed by us, by you and us jointly or by you alone during the conduct of the Merchant Facilities. You will not acquire any right, title or interest in any goodwill associated with and attaching to any of the foregoing whether developed by us, by you and us jointly or by you alone during the conduct of the Merchant Facilities.

23. CONFIDENTIALITY

23.1 As an operator of Merchant Facilities, you and your staff may come across Confidential Information. Confidential Information includes, but is not limited to, the following:

- a. Personal Information' as defined by any privacy legislation or common law in your jurisdiction;
- b. information about customers of the Bank, including the fact that they are customers of the Bank of which you become aware as a consequence of providing Merchant Facilities;
- c. information and material concerning the training methods, systems and manuals of the Bank;
- d. the Manuals provided to you by us.

23.2 You acknowledge and agree that you will:

- a. use or reproduce Confidential Information only for purposes under this Agreement;
 - (i) take all reasonable steps to maintain the confidentiality of the Confidential Information and to secure Confidential Information against theft, loss unauthorized use, modification, disclosure or other misuse;
 - (ii) not disclose the Confidential Information to any person except where there is consent from the party of which the Confidential Information relates to, or where you are compelled by law;
 - (iii) immediately notify us in the event that you become aware of any unauthorized access to, use, modification, disclosure or other act in relation to any Confidential Information which is not permitted;
 - (iv) deliver to the disclosing party or party of which the Confidential Information relates to all documents and other materials in your possession or under your power or control which contain or refer to any Confidential Information of the disclosing party or party of which the Confidential Information relates to on the earlier of:
 - a. Demand by the disclosing party or party of which the Confidential Information relates to; or
 - b. The time the documents and other materials are no longer required for the purposes of this Agreement.

23.3 We will not be responsible for any errors or losses where we have not received adequate prior notice.

24. MARKETING, MEDIA AND ADVERTISING

- 24.1** BSP and its related bodies corporate would like to be able to contact you, or send you information, regarding other products and services. If you do not wish to receive this information please:
- call us on the telephone number provided;
 - write to us at the address provided;
 - call in at any BSP branch.
- 24.2** You do not need to do this if you have already told us you do not wish to receive information of this sort.
- 24.3** We will supply you with the signs decals and other advertising material relating to the Transactions you can accept under this Merchant Agreement. You must:
- Display BSP Pay logo/trademark on your website;
 - only use advertising material supplied by us and in a way we agree to, and;
 - stop using this material if we ask you or if this Merchant Agreement ends.
- 24.4** You will exhibit and keep exhibited at the premises signs or notices which the Bank considers necessary for the purpose of identifying the premises as a provider of Merchant Facility and shall keep displayed all material, notices, prospectuses, product disclosure statements or other printed matter which the Bank reasonably requires.
- 24.5** You shall not advertise or allow to be advertised the business or services of the Bank in any manner whatsoever without the written consent of the Bank and shall not publish or broadcast any announcement in any way relating to the business or services of the Bank unless the same shall have been first submitted to and approved in writing by the Bank.
- 24.6** You will not advertise the services of other financial institutions at its premises or allow anyone else to do so without the prior consent of the Bank.
- 24.7** You authorise us to publish your name, address, telephone and fax number, and email address and to use your logo/s in any of our correspondence, bulletins or publications.

25. ONLINE GAMBLING

You must not commence offering online gambling without first obtaining our prior written consent.

26. DEFAULT AND ENFORCEMENT EXPENSES

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

27. VARIATION AND WAIVER

- 27.1** We can change the Terms and Conditions of your Merchant Agreement or make addition to your Merchant Agreement if we tell you in writing. The variation begins on the date of notice or a later date specified on it.
- 27.2** A failure or delay by us to enforce any term or condition in this Merchant Agreement does not affect any of our rights under this Merchant Agreement.
- 27.3** You or we may only waive a right created by this Agreement by giving the other party notice in writing.

28. YOUR RIGHTS AND OUR RIGHTS

- 28.1** You cannot transfer your rights in this Merchant Agreement to anyone else. We can act as a principal or agent in this Merchant Agreement. We can transfer our interest in this Merchant Agreement or give someone else

an interest or form of security in them or subcontract any of our obligations. We do not need to obtain your consent to do this.

- 28.2** The rights in this Merchant Agreement are in addition to any other legal rights the parties have and all these rights can be used by both parties.

29. GOVERNING RULES, LAWS AND REGULATIONS

- 29.1** The Merchant Agreement is governed by the law in force in the country, state or territory.

- 29.2** We can at any time, by giving you reasonable notice, impose or create rules and regulations.

- 29.3** Good and Services Tax, all fees, costs, charges, considerations, prices and other amounts payable under this Merchant Agreement are quoted excluding GST.

- 29.4** Where any party (the supplier) makes a taxable supply under this Merchant Agreement to the other party (the receiving party), the receiving party shall pay to the supplier the GST payable on the taxable supply.

- 29.5** The supplier will provide a tax invoice where required by law.

30. THIRD PARTIES

You use any third party processing or bureau services at your own risk. We are not liable for any omissions, losses, claims, damages, costs including any consequential loss resulting from the acts or omissions of any third party.

31. YOUR INFORMATION

- 31.1** As well as our duties under any Privacy legislation, we are also bound by a duty to keep many details of your Merchant Agreement confidential. In some circumstances, we can release details of your Merchant Agreement when:

- a. you agree;
- b. the law requires or permits us to do so;
- c. it protects our interest to do this;
- d. there is a public duty to do this.

- 31.2** When you apply for a Merchant Facility, the application form you complete contains information on how we use the information you give us and who we can give it to, as well as information relating to privacy issues. Please read the application form carefully.

- 31.3** We can disclose information about termination of a Merchant Agreement under clause 21 of this Terms and Conditions.

32. OUR CONSENT

We may give our consent conditionally or unconditionally or withhold it in our absolute discretion unless this agreement expressly indicates differently.

33. SEVERABILITY

If any provision of this agreement is held to be unenforceable, or invalid, for any reason, then:

- a. that provision is deemed to be modified to the extent required to remedy the unenforceability or invalidity; or
- b. if it is not possible to remedy the unenforceability or invalidity, that provision is to be severed from this agreement, and the agreement will otherwise remain in full force.

34. DISCLAIMER

- 34.1** If our liability to you for the breach of any term, condition or warranty implied by law is capable of exclusion, it is excluded.
- 34.2** We make no warranties in relation to the services, including warranties as to the description, merchantability or fitness for purpose. We are not liable for any losses or inconvenience you suffer because any part of the Merchant Facility or any equipment we or others supply is not capable of normal operation, fail or slowly processes information.
- 34.3** We, our officers, agents, sub-contractors and contractors shall not be liable for any direct or indirect loss (including without limitation loss of profits), damage, injury arising from the supply or use of the Merchant Facility or any equipment we or others supply, or any act or omission (including negligence) of us. This clause is subject to any terms which are not capable of exclusion or limitation.