

Product Disclosure Statement



StrataPay Pty Ltd

ACN: 097 607 451

AFS Licence: 247378

Product Disclosure Statement

24th April 2009

This Product Disclosure Statement (PDS) for this product is current as at the above date.

This PDS provides information about the payment system provided by StrataPay (**Payment System**) to assist you to make an informed decision about this product.

Important Information

Please read this PDS carefully. Always retain a copy of this PDS and related documents for future reference.

Financial Services Licence Holder

StrataPay Pty Ltd

ABN 52 097 607 451

AFSL # 247378

StrataPay means StrataPay Pty Ltd (ABN 52 097 607 451) or any of its officers, employees, servants, agents or contractors.

You can contact StrataPay by the following means:

- Telephone on 1300 135 610
- Facsimile on (07) 5575 7433
www.stratapay.com.au
- Writing to the address below:
 - StrataPay Pty Ltd
 - Locked Bag 9
 - Gold Coast Mail Centre
 - BUNDALL QLD 9726

Product Description

The Payment System is an electronic bill paying service. The Payment Options some of which utilise non-cash payment facilities which are available to your customers as part of the Payment System are:

- (a) Internet (via your customer's or client's credit card)
- (b) BPAY[®]
- (c) POSTbillpay[®]
- (d) EFT
- (e) Direct Debit
- (f) Mail
- (g) Phone (with your customer's credit card)
- (h) In person.

Essentially, StrataPay acts as a conduit for payments from your customers to you by utilising one of the Payment Options.

Participating Entity means you and any entity who joins StrataPay and offers a choice to their customers to use the Payment System to facilitate non-cash payments.

Terms and Conditions

The terms and conditions for the Payment System are set out in the:

- General Conditions for Visa and MasterCard Merchant Services;
- User Terms and Conditions for the Payment System;
- Direct Debit Authorisation Terms and Conditions, and;
- BPAY Sub Biller Agreement.

You are required to accept and abide by these terms and conditions and pay the relevant fees in order to utilise the Payment System.

Further, before using the payment options, your customers are required to be bound by the Payer Terms and Conditions for the Payment System which are obtained directly from the StrataPay website www.stratapay.com.au. Your invoice will be required to direct your customers to review and agree to the Payer Terms and Conditions for the StrataPay Payment System at www.stratapay.com.au website.

In circumstances where your customers choose a payment option which is not "online" (for example, payment by telephone) they are able to call StrataPay to request a copy of the Payer Terms and Conditions for the Payment System.

Where your customers choose the direct debit facility as a payment option, there are further terms and conditions contained within the Direct Debit – Service Agreement to which your customer is required to agree to be bound by prior to commencement of any direct debit transactions.

Costs

Fees are charged in accordance with the Schedule of Fees and Charges.

[®] Registered to BPAY Pty Ltd ABN 69 079 137 518

Commissions

No commissions are received by StrataPay through your use of the facilities.

Risks

The Payment System is, for some payment options, operated through the internet. Further, the Payment System utilises individual payment reference numbers for each Participating Entity. Both the respective payment reference numbers and the security of the internet site must be protected from misuse by third parties.

Access to the Payment System may be unavailable in the event that the Internet and/or the phone banking facilities experiencing technical difficulties.

All Participating Entities will be allocated an individual reference number. This unique number will enable payments to be tracked to you through the Payment System. There is a risk however that where your clients and customers incorrectly record your reference number that their payments may not automatically be directed to you. This risk is mitigated somewhat through StrataPay's internet payment system which automatically shows your business name upon the correct reference number being used. The risk of incorrect input is also significantly minimised through the use of a check digit that forms part of the reference number. However, there is still a risk of mistaken numbers being inserted using any of the payment options. There may then be a need to conduct an investigation in order for payments to be correctly allocated..

Where payments are made by your customers via their credit card, direct debit or by cheque, there is always a risk of "charge backs" occurring or the payment being dishonoured. In such a case, StrataPay may be required to deduct monies from your account to recover the amount of the charge back or other deduction (for example dishonoured cheque, direct debit refusal and/or any associated fees).

As a Participating Entity, you are entitled to log into the StrataPay website with your email address and password. It is your responsibility to keep your login details secure.

For some payment options, StrataPay relies upon third parties to operate or provide access to those payment options. Accordingly, any disruptions by these third parties to the services will impact on the ability of StrataPay to provide those services to you and your clients.

Dispute Resolution

StrataPay has an internal dispute resolution procedure which is designed to be able to completely resolve any issues raised by you or your customers. If you have a complaint, you should contact StrataPay on the contact details set out above.

If, despite our best efforts, you believe your complaint has not been satisfactorily dealt with, you may wish to contact an alternative dispute resolution scheme.

The Financial Ombudsman Service ("Ombudsman") is an impartial, independent and free alternative dispute resolution scheme for resolving disputes. Before the Ombudsman can investigate the matter, you must have first given us the opportunity to review it.

You can contact the Ombudsman by:

- Telephone on 1300 780 808
- Facsimile on (03) 9613 6399
- Website - www.fos.org.au
- Writing to Financial Ombudsman Service
GPO Box 3
MELBOURNE VIC 3001

Further Information

If you wish to discuss any information contained in this PDS or related documents, please contact us. For further information in relation to StrataPay or the Payment System generally, please access our website at www.stratapay.com.au

USER TERMS AND CONDITIONS

USER TERMS AND CONDITIONS OF PAYMENT SYSTEM

Intellectual Property Usage

1. StrataPay and all associated trademarks and images are trademarks and images of StrataPay.
2. You will not attempt to reuse, copy or reproduce in any form, whether in hard copy or electronically through any medium whatsoever, any part of the StrataPay web sites or any other materials including, without limitation, any text, images, or other data contained on the sites, without express written permission from StrataPay, other than for personal use.
3. While you may download materials from the sites for your own personal use and also have access to other StrataPay materials via any of the Payment Services, you will not and must not distribute, alter, edit, modify or tamper in any way with data downloaded from the web sites or material provided by StrataPay without the express written permission of StrataPay.
4. No documents, reports or other data printed from the web sites or obtained from StrataPay through any other Payment Service constitute official records.
5. You will not provide a link to any of the web sites or to any part of them or provide any other materials without the express written permission of StrataPay.
6. You will not provide a link to or attempt to link directly to any page of the web sites other than web site home pages .
7. Subject to StrataPay's Privacy Policy, any communication or material that you transmit to any of the web sites by electronic mail or send or communicate to StrataPay or otherwise including questions, comments, suggestions or otherwise, will be treated as non-confidential and non-proprietary information and you authorise StrataPay to use any such communication for any purpose it sees fit, except where expressly indicated otherwise.
8. Pursuant to StrataPay's licence from Australia Post to use the POSTbillpay® logo ("**Logo**"), StrataPay grants to you a sub-licence to use the Logo for the purposes of promoting your involvement with the POSTbillpay® Payment system. You must comply with any of Australia Post's Logo design usage requirements and corporate identity standards for the Logo that StrataPay makes available to you.
9. You must barcode, brand and format the printed payment instructions of your bills in accordance with the specifications of Australia Post that StrataPay will make available to you and include on your bills the required information to be used by your customers to enter details through a keypad or keyboard. In conjunction with Australia Post, you must monitor barcode readability on a regular basis or no less than quarterly. All bills issued by you which may be payable by a POSTbillpay® Payment and which contain the Logo will be subject to Australia Post's review and approval processes.

Secure Access Details

10. Other than by use in StrataPay web sites of your valid email address and password or via use of your biller code, or phone access account or any other form of secure access details provided to you ("**Secure Access Details**"), you will not attempt to gain access to any reports, documents, statements, registers or any other information contained on the web sites or via any of the Payment Services without having the express authority from StrataPay.
11. Any person who supplies StrataPay with your Secure Access Details will be allowed to access the Payment Service and StrataPay will be entitled to presume that person is you.
12. Your Secure Access Details must be kept safe. You must ensure that you and each person you authorise to use them do not tell or show those details to any other person.
13. If a record of your Secure Access Details is lost or stolen or if you are aware or suspect another person knows or has used those details without your authority, you will notify StrataPay immediately.
14. StrataPay may cancel your Secure Access Details at any time without notice for any reason.
15. You will be liable for any losses or damages (whether direct, indirect, consequential, or otherwise) resulting from any unauthorised access to your accounts if you or any authorised user contributed to the unauthorised access because:
 - i. your Secure Access Details were disclosed to another person;
 - ii. your Secure Access Details were identified by another person because a record was kept without a reasonable attempt being made to disguise it; or
 - iii. StrataPay was not notified as soon as you became aware your Secure Access Details could be used by other person.

Funds Availability and Clearance

16. Any payments received by StrataPay from your customers with valid reference numbers are subject to clearance and will be credited to your account within three (3) banking days. StrataPay will not be liable for any loss or damage whatsoever resulting from a delay in processing of any payment.
17. In the event that a dishonour of a cheque or direct debit occurs, you will be charged a fee in accordance with the amounts set out in the Schedule of Fees and Charges. The charge will be made each time a dishonour occurs. Dishonoured direct debit requests will not be repeated without authorisation from you. In the event that StrataPay is unable to make payment to you for any reason the payment will be refunded to your customer. In such a case you will be charged a Non-Payment fee in accordance with the amounts set out in the Schedule of Fees and Charges.

Nominated Cards

18. You must only accept those cards nominated by StrataPay from time to time as being acceptable cards ("**nominated cards**") as a means of payment by your customers.
19. The nominated cards are Visa, MasterCard, Diners Club. American Express and Diners Club may be available by separate agreement.

General Obligations

20. You must:
 - i. immediately notify us of any change to your financial position which may affect your ability to perform your obligations under this agreement;
 - ii. not change your business name, or substantially change the type of goods and services you sell without obtaining the prior written consent of StrataPay;
 - iii. not utilise the Payment Services on behalf of a third party;
 - iv. provide StrataPay with all information and assistance reasonably required to perform its obligations and to deal with any queries in relation to the provision of the Payment Services;
 - v. comply with all relevant laws and contractual requirements in performing your obligations under this agreement;
 - vi. accept for payment of goods and services provided by you any valid and acceptable nominated card at your normal prices;
 - vii. perform all obligations (including, without limitation, supplying all goods and/or services) to the customer in connection with a sale before informing us about the bill payment transaction;
 - viii. not sell, purchase, provide or exchange any information or document or an account number relating to a customer, a customer's nominated card number or a transaction to any person other than:
 1. us;
 2. the agents you use in your business for an approved purpose;
 3. the card issuer; and
 4. as required by law;
 - ix. when a document is no longer required to be retained, destroy it in a manner which makes the information unreadable;
 - x. take reasonable steps to ensure that any information or document or an account number relating to a customer, a customer's nominated card number or a transaction, is protected from misuse and loss and from unauthorised access, modification and disclosure;
 - xi. not make any representation in connection with any goods or services which may bind StrataPay or any card scheme organisation;
 - xii. not indicate or imply that StrataPay or a nominated card issuer endorses any goods or services or refer to a nominated card in stating eligibility for goods, services or any membership;
 - xiii. not accept a nominated card or transaction which is of a type we have previously advised you is not acceptable to us;
 - xiv. not distinguish between issuers of a nominated card in processing a transaction;
 - xv. provide notice to any customer that you are responsible for the transaction, including for any goods and services provided, any payment transaction, related service inquiries, dispute resolution and performance of the terms and conditions of the transaction;
 - xvi. notify us if you become aware of or suspect fraud on the part of a customer;
 - xvii. establish a fair policy for dealing with refunds and disputes about transactions and provide information about that policy to customers;
 - xviii. retain for at least eighteen (18) months after a transaction the original receipt or a copy of any such document where permitted by applicable law;
 - xix. provide StrataPay with evidence of the transaction, being the receipt, within seven (7) banking days if StrataPay asks for the same and StrataPay may charge a sales transaction back to you if you fail to do so to StrataPay's satisfaction and the amount cannot be collected from the customer;
 - xx. not infer from the fact that a transaction has been processed or an authorisation has been given (either by telephone or electronically), that StrataPay has guaranteed the customer's creditworthiness or identity, that the transaction is valid and acceptable or that you have complied with your obligations under this agreement.

Warranty

21. In giving StrataPay information about a transaction or otherwise, you warrant that:
 - i. all the particulars are true;
 - ii. the transaction is valid and acceptable; and
 - iii. the customer is not disputing the transaction or making a set-off or counterclaim.

Payments

22. If your customers use the online payment service available on StrataPay's web sites, these terms operate in conjunction with the terms and conditions applicable to the Secure Internet Payment Service provided by StrataPay and Australia Post Terms and Conditions ("**Online Terms**").

23. If your customers use the telephone payment service provided by StrataPay, these terms operate in conjunction with the terms and conditions applicable to the Direct Debit Request between your customers and StrataPay or Australia Post Terms and Conditions ("**Phone Terms**").
24. If your customers use the postal payment service provided by StrataPay, these terms operate in conjunction with the terms and conditions applicable to cheque accounts, return cheque fees as provided your financial institution ("**Post Terms**").
25. If your customers use the Australia Post payment service provided by StrataPay, these terms operate in conjunction with the terms and conditions applicable to the Australia Post Payment Terms and Conditions ("**POSTbillpay[®] Terms**").
26. You acknowledge that Australia Post has no obligations to you with respect to payments collected using the POSTbillpay[®] Payment system and Australia Post is under no obligation to account to you for payments collected using the POSTbillpay[®] Payment system.
27. Other terms and conditions may also apply by operation of law and the code of banking practice.
28. StrataPay is not liable for loss of funds through a breach of any of the Online Payment Terms, Phone Payment Terms, Post Terms, or POSTbillpay Terms.
29. StrataPay at no time acts as agent for your customer in any respect in relation to the Online Payment, Phone Payment, Post Payment, or POSTbillpay Payment.
30. You are responsible for maintaining the confidentiality of your customers credit card, account or other financial details. You agree that you will not hold StrataPay or any of its officers, employees, servants, agents or contractors liable, and you hereby release each of them, in respect of any misuse by any party of any such details (other than in respect of intentional misuse of those details by any of the parties released, in which case the party misusing those details is not released).
31. If your customers make an:
 - online payment ("**Online Payment**") using the web site;
 - telephone payment ("**Phone Payment**");
 - payment by post ("**Postal Payment**");
 - Payment using Australia Post ("**POSTbillpay Payment**")

unless otherwise proved for, the amount of the payment will be debited in favour of StrataPay, and you agree to pay to StrataPay, as a fee to receive the payment in accordance with these Terms and Conditions, a Transaction Fee and a Service Fee in accordance with the Schedule of Fees and Charges noted at the end of these Terms and Conditions. Alternatively, these fees will be deducted from the amount of any other payment due to you in accordance with these Terms and Conditions. In either case StrataPay will forward the net amount of the payment to you.

Payments by customers

32. Any transactions between you and a customer that will utilise the Payment Services must be offered, recorded, billed and processed in Australian dollars.
33. A payment made by a customer is not valid if:
 - i. the payment is made with a card that is a card other than a nominated card;
 - ii. the payment is connected with an illegal transaction;
 - iii. the payment is made before or after any validity period indicated on a customer's card;
 - iv. the payment is not authorised by the customer;
 - v. the price charged for the goods or services is more than your normal price for them;
 - vi. another person or entity is to provide the goods or services the subject for the payment;
 - vii. you did not actually supply the goods or services to a genuine customer or have indicated your intention not to do so;
 - viii. the transaction did not relate to the actual sale of goods or services to a genuine customer;
 - ix. this agreement was terminated before the date of the payment;
 - x. the payment is made during a period in which your rights under this agreement were suspended;
 - xi. the customer disputes liability for the payment or transaction for any reason or makes a claim for set-off or a counterclaim;
 - xii. the payment causes you to exceed any transaction or volume limits which StrataPay imposes at its discretion;
 - xiii. StrataPay decides, at its discretion, that the payment is not acceptable.
34. StrataPay may refuse to accept a payment if it is invalid or it may charge it back to you if it has already processed it.

Payments to StrataPay

35. You must pay StrataPay the fees, charges and other payments payable to StrataPay.
36. You must sign and return to StrataPay a Direct Debit Request authorising StrataPay to directly debit your account in accordance with the Direct Debit Authorisation Terms and Conditions set out in this PDS, for the purposes of paying the amounts described in paragraph 35. Direct debits are not able to be drawn on statutory trust accounts
37. You authorise StrataPay to deduct from any amount owed by StrataPay to you or withdraw from your account, without notice, the following amounts:
 - i. all fees, charges and costs in connection with StrataPay's provision of the Payment Services, including those set out in this PDS;
 - ii. any payments made to you which StrataPay has determined to charge back to you;
 - iii. all stamp duties, taxes and other government charges levied on the Payment Services and this agreement;

- iv. any amounts found to be due to StrataPay during an audit or check;
 - v. all fines, penalties or similar costs (however described) imposed on StrataPay because of your conduct in relation to the provision of the Payment Services; and
 - vi. all other amounts you owe to StrataPay under this agreement.
38. At StrataPay's discretion, we may, if you have any liability to us under this agreement set-off that liability against any liability we have to you.

Privacy

39. Our Privacy Policy as it appears from time to time is available at the StrataPay website. StrataPay will take all reasonable steps to abide by this policy and you agree to abide by its terms and conditions and to act in accordance with that policy when using the site, in addition to these Terms and Conditions.
40. By accepting these Terms and Conditions, you also consent to:
- i. the collection of a variety of personal information which is specified in greater detail in the Privacy Policy;
 - ii. use of the personal information for certain purposes specified in greater detail in the Privacy Policy;
 - iii. disclosure by StrataPay of your information in certain circumstances specified in the Privacy Policy.

Disclaimers and Limitation of Liability

41. While StrataPay has made every effort to ensure that the information both provided directly to you or obtained and available from the web sites is free from error, StrataPay does not warrant the accuracy, adequacy or completeness of that information. All information is subject to change without notice. StrataPay recommends that you seek independent advice before acting upon any material contained on the web sites including all the Payment Services.
42. StrataPay does not guarantee that the web sites will be free from viruses, or that access to the web sites will be uninterrupted. You are solely responsible for your own personal computer anti-virus and security measures.
43. In consideration for being given access to the web sites and/or access to Payment Services, you release and forever discharge StrataPay, its officers, employees, servants, agents and contractors and each of them from all and any liability to you of any nature whatsoever in respect of any losses, damages (whether direct, indirect, consequential or otherwise), liabilities, claims or expenses whatsoever arising directly or indirectly from use by you or any other person of the web sites or any of the links provided in the web sites or reliance by you or any person upon information contained in or downloaded from the web sites including all the StrataPay Payment Services.
44. Material on the web sites or provided in conjunction with the Payment Services may contain general information about StrataPay's products and services. Unless expressly stated otherwise, this information:
- i. does not constitute an offer or inducement to enter into a legally binding contract; and
 - ii. does not form part of the terms and conditions for any StrataPay products and services.
45. Liability of any of StrataPay, its employees, servants, agents or contractors for any breach of any condition or warranty implied by law or otherwise, and which cannot be excluded, is limited to the extent possible, at the option of StrataPay, to:
- i. the supply of the relevant goods and services again;
 - ii. repair of any goods; or
 - iii. payment of the cost of having the goods or services supplied again or repaired.

Indemnity

46. You will be liable for and indemnify StrataPay, its employees, officers, servants, agents and contractors and each of them jointly and severally against any loss, damage, expense or cost of any nature (including, without limitation, full solicitor and client legal costs on an indemnity basis) that any of them incurs or may incur (whether directly, indirectly, consequentially or otherwise) arising out of your use of the web sites or any of its contents or by use of the Payment Services or from any breach by you of any of these Terms and Conditions.
47. StrataPay does not need to incur any expense nor make any payment before enforcing a right of indemnity conferred by the agreement.

Third Party Web Sites

48. StrataPay does not warrant the safety or accuracy of, and does not necessarily endorse the contents of, any third party web sites to which links have been provided on the site. If you do link to any third party sites from the web sites, you agree and acknowledge that you are doing so at your own risk.

General

49. This agreement and your access to the web sites or access to any other Payment Services provided by StrataPay to you may be terminated at any time by StrataPay without notice. All restrictions, indemnities, licences granted by you and all disclaimers and limitations and limitations of liability by StrataPay will survive termination, although you will no longer be authorised to access the web sites or use any of the Payment Services. Termination of this agreement will not affect our right to charge back payments or recover accrued fees, charges or costs. When this agreement ends or otherwise at StrataPay's request, you must return all material StrataPay has supplied in connection with your use of the Payment Services.
50. StrataPay may vary a condition of this agreement or the provision of the Payment Services at any time by giving notice in writing ("Notice"). The Notice will be sent to your email address or any address supplied by you to StrataPay in connection with these Terms and Conditions or arising out of the provision of the Payment Services. Use of any StrataPay information, reporting or Payment Services after thirty (30) days from the date the Notice is sent to your email will indicate that you have accepted the variation.

51. You may not assign, transfer or otherwise deal with the obligations and liabilities imposed and the rights and benefits conferred on you under this agreement except with the prior written consent of StrataPay.
52. This agreement and your relationship with StrataPay pursuant to this agreement are governed by the laws of Queensland, Australia, and you unconditionally and irrevocably agree to submit to the non-exclusive jurisdiction of the courts of that state for the purpose of resolving any disputes to this agreement.
53. StrataPay reserves any rights not expressly granted in these Terms and Conditions.
54. If you disagree with any of these terms or do not intend to be bound by any of these terms, you must cease the use of any services provided by StrataPay including but not limited to web sites and Payment Services.
55. Should you continue to use any of the StrataPay services despite the terms referred to in paragraph 54 of these Terms and Conditions, StrataPay will consider you to be bound by this agreement.
56. You are over the age of 18 years and have power and authority to enter into this agreement at law. The person accepting these Terms and Conditions has authority to act on his or her own behalf and on your behalf to enter into and bind you to this agreement.
57. You may not assign your rights or obligations under this agreement without the written agreement of StrataPay. If any part of these terms and conditions are unenforceable, the remainder will not be affected.
58. You hereby agree not to make or authorise a press release or other public statement concerning the *payment services* without prior written consent from *StrataPay*. Any publicity or other materials containing references to anyone or anything connected with the *payment services* must not be distributed without *StrataPay's* prior written consent.

Approval and/or Termination

59. Your use of the Payment Services payment service is subject to approval by StrataPay. StrataPay may decline an application without providing a reason. StrataPay may terminate this Agreement and withdraw the Payment service without notice and without providing a reason.
60. StrataPay may, at its own discretion, defer or withhold settlement of a payment if it believes that a payment is for or the result of an illegal activity or the service or goods provided are of a nature which is not approved by StrataPay or it believes that the payment may be reversed or queried by the payer.
61. By using any StrataPay information, reporting or Payment Services, you acknowledge and agree to the User Terms and Conditions for StrataPay outlined above.

Schedule of Fees and Charges

The price for the *payment service* is a charge for each transaction depending on the method of payment plus, if a credit card or charge card is used a service fee will apply. **Unless otherwise agreed**, the fees and charges are as follows:

Item	Basis	Fees
Establishment Fee	Once Off	\$199
Transaction Fee Australia Post	Per Payment	\$2.75
Transaction Fee all Other Channels	Per Payment	\$2.50
Visa and MasterCard	Of Payment Amount	1.80%
Diners Club	Of Payment Amount	2.65%
Amex	Of Payment Amount	By Separate Agreement
Cards issued outside Australia	In addition to applicable service fee	2.00%
SMS confirmation messages	Per message	\$0.30
Dishonoured payment	Per Item	\$35.00
Replacement or Additional StrataPay Card	Per card	\$11.00
Payment Reversal	Per Payment	\$10.00
Non-Payment to Biller (e.g. biller's bank account closed)	Per Payment	\$35.00
Manual Intervention to Repair or Return Payment	Per Payment	\$10.00

The prices for any fees or charges may be varied without notice.

All prices are inclusive of GST.

DIRECT DEBIT AUTHORISATION TERMS AND CONDITIONS

Set out below are the terms and conditions governing the debit arrangements between you and StrataPay pursuant to the Direct Debit Request required to be signed by you prior to payments being made by your customers and clients through the Payment System.

Definitions

Account means the account held at *your financial institution* from which we are authorised to arrange for *funds* to be debited.

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

Banking day means a day on which general banking business is conducted throughout Australia except for Saturdays, Sundays and national or state public holidays.

Business day means a day other than a Saturday or a Sunday or a public holiday.

Chargeback means a *reversal* of a *payment* made in accordance with any *financial institution* card association rules existing from time to time.

Debit day means the day that *payment* by you to us is due.

Direct debit request means the *direct debit request* between us and you.

Funds means any amount held on behalf of you by *your financial institution* or any amount held by the *payer* in their financial institution from which *StrataPay* (*User Id: 056118*) may debit amounts.

Notice means a notice, request, consent and any other communication in connection with this agreement.

Payer means the person or persons who use the *payment service*.

Payment means a particular transaction where a debit is made from the *funds* or credit card account

Payment service means the provision of payment options facility through *StrataPay* via its internet sites, by telephone or mail or its agents.

Person includes a firm, body corporate, unincorporated association, or authority. It also includes their successors and assigns.

Receipt means a document used to evidence a transaction other than a manual transaction.

Reversal means the reversal of a *payment* as a result of *chargeback* or dishonour of a *direct debit payment*.

Service fee means a charge for each *payment* processed in accordance with the Schedule at clause 13 of these *terms and conditions* where a credit or charge card is used.

Subscription means the annual amount paid to *StrataPay* for use of the *payment services*. (if applicable)

Terms and conditions means these *Direct Debit Request* terms and conditions agreed by you to us.

Transaction includes a bill payment transaction.

Transaction fee means a charge for each *payment* processed in accordance with the Schedule at clause 13 of these *terms and conditions*.

Us or *we* means *StrataPay* who you have authorised to receive *payments* by signing a *direct debit request*.

You means the customer who signed the *direct debit request*.

Your financial institution is the financial institution where you hold the *account* that you have authorised us to arrange to debit.

1. Debiting your account

1.1 By signing the *direct debit request*, you have authorised us to arrange for *funds* to be debited from your *account*. You should refer to the *direct debit request* and these *terms and conditions* for the terms of the arrangement between us and you.

1.2 We will only arrange for funds to be debited from your account as authorised in the direct debit request.

1.3 If the *debit day* falls on a day that is not a *banking day*, we may direct your *financial institution* to debit your *account* on the following *banking day*.

If you are unsure about which day your *account* has or will be debited you should ask us.

1.4 *Funds* deposited into your *account* by *StrataPay* are subject to retrieval by *StrataPay* plus any costs incurred in the event of a *chargeback* or *reversal* of the *payment* by the *payer's* bank or agent. In the event that the *direct debit request* is withdrawn then you will still be liable for *funds* affected in this manner.

1.5 A *service fee* may be applied for each *payment* processed by *StrataPay*, unless paid by the *payer*.

1.6 A *transaction fee* may be applied for each *payment* processed by *StrataPay*, unless paid by the *payer*.

2. Changes by us

2.1 We will not vary any details of this agreement or a *direct debit request* without giving you at least fourteen (14) days written notice. Current *terms and conditions* may be obtained by request from *StrataPay*.

3. Changes by you

3.1 Subject to 3.2 and 3.3, you may change the arrangements under a *direct debit request* by contacting us on 1300 135 610.

3.2 If you wish to stop or defer a *debit payment* you must notify us in writing at least seven (7) days before the next *debit day*. This notice should be given to us in the first instance.

- 3.3 You may also cancel *your* authority for *us* to debit *your account* at any time by giving *us* seven (7) days notice in writing before the next *debit day*. This notice should be given to *us* in the first instance. Cancellation will not affect our right to debit *your account* for fees and *chargebacks*. A valid Direct debit request is a requirement for ongoing use of the StrataPay payment services. By cancelling your Direct debit request you are terminating your access to the StrataPay payment service. We still reserve the right to charge back payments or recover accrued fees, charges or costs in accordance with clause 49.

4. Your obligations

- 4.1 It is *your* responsibility:
- (a) to ensure the *direct debit request* is signed in terms of account signing authority (ie: joint accounts);
 - (b) to ensure StrataPay is advised if your account is transferred or closed;
 - (c) to arrange a suitable alternative payment arrangement if the *direct debit request* is cancelled;
 - (d) to ensure that there are sufficient clear funds available in *your account* to allow a *debit payment* to be made in accordance with the *direct debit request*.
- 4.2 If there are insufficient clear funds in *your account* to meet a *debit payment*:
- (a) *you* may be charged a fee and/or interest by *your financial institution*;
 - (b) *you* may also incur fees or charges imposed or incurred by *us*; and
 - (c) *you* must arrange for the *debit payment* to be made by another method or arrange for sufficient clear funds to be in *your account* by an agreed time so that *we* can process the *debit payment*.
- 4.3 You should check *your account* statement to verify that the amounts debited from *your account* are correct.
- 4.4 You warrant to StrataPay that *you* have the power to operate the *account* in accordance with these *terms and conditions* and to appoint StrataPay to provide *payment services*.
- 4.5 You also warrant that you will provide StrataPay with the *subscription* for using the *payment services*.
- 4.6 If StrataPay is liable to pay goods and services tax ("GST") on a supply made in connection with this agreement, then *you* agree to pay StrataPay on demand an amount equal to the consideration payable for the supply multiplied by the prevailing GST rate. Any stamp duty payable on these *terms and conditions* or on any *debit payment* is *your* responsibility.

5. Dispute

- 5.1 If *you* believe that there has been an error in debiting *your account*, *you* should notify *us* directly on 1300 135 610 and confirm that notice in writing with *us* as soon as possible so that *we* can resolve *your* query more quickly.
- 5.2 If *we* conclude as a result of our investigations that *your account* has been incorrectly debited *we* will respond to *your* query by passing an adjustment to *your account* (inclusive of any interest / charges accrued as a result of the incorrect amount being debited) accordingly. *We* will also notify *you* in writing of the amount by which *your account* has been adjusted.
- 5.3 If *we* conclude as a result of our investigations that *your account* has not been incorrectly debited *we* will respond to *your* query by providing *you* with reasons and any evidence for this finding in writing.
- 5.4 Any queries *you* may have about an error made in debiting *your account* should be directed to *us* in the first instance so that *we* can attempt to resolve the matter between *us* and *you*. If *we* cannot resolve the matter *you* can refer it to *your financial institution*.

6. Accounts

- 6.1 You should check:
- (a) with *your financial institution* whether direct debiting is available from *your account* as direct debiting is not available on all accounts offered by financial institutions.
 - (b) *your account* details which *you* have provided to *us* are correct by checking them against a recent *account* statement; and
 - (c) with *your financial institution* before completing the *direct debit request* if *you* have any queries about how to complete the *direct debit request*.

7. Confidentiality

- 7.1 *We* will keep any information (including *your account* details) in *your direct debit request* confidential. *We* will make reasonable efforts to keep any such information that *we* have about *you* secure and to ensure that any StrataPay employees or agents who have access to information about *you* do not make any unauthorised use, modification, reproduction or disclosure of that information.
- 7.2 *We* will only disclose information that *we* have about *you*:
- (a) to the extent specifically required by law; or
 - (b) for the purposes of this agreement (including disclosing information in connection with any query or claim).
- 7.3 *We* will collect, use and disclose any personal information in accordance with StrataPay's privacy policy which is available upon request from *you* to StrataPay.

8. Notice

- 8.1 Notice under this agreement shall be deemed to be served on a party hereto if given by mail, facsimile or email to the latest address for service as notified in writing to StrataPay Pty Ltd. It is the obligation of the parties hereto to notify a current address for service. In the case of mail service shall be deemed to be effected three business days from date of posting, in the case of facsimile service shall be deemed to be effected on the date and time as recorded in the facsimile

report and in the case of email service shall be deemed to be effected on the date and time of transmission of the message by the sender if the message is not rejected.

8.3 We shall give notice to *you* of any changes in *terms and conditions* in accordance with section 8.1.

9. Contact Information

9.1 You can contact StrataPay Pty Ltd through the following channels:

Mail: Locked Bag 9, GCMC, BUNDALL QLD 9726
Email: payments@stratapay.com.au
Facsimile: 07 5575 7433
Telephone: 1300 135 610

SECTION 4: BPAY SUB BILLER AGREEMENT

Customer	Name	As per Merchant Agreement
	ACN/ARBN	As per Merchant Agreement
	Address	As per Merchant Agreement
	Address for service of notices	As per Merchant Agreement
Master Biller	Name	StrataPay Pty Ltd
	ACN/ARBN	097 607 451
	Address	“MaxSoft House” Building 1 175 Varsity Parade Varsity Lakes Qld 4226 Australia
	Address for service of notices	Locked Bag 9 Gold Coast Mail Centre Bundall Qld 9726 Australia
Institution	Name	Australian and New Zealand Banking Group Limited
	ACN	005 357 522
MB Biller Code(s)	74625, 74633, 74963, 74989, 535567, 535542, 28597, 74740, 74757, 74765, 74773, 74781, 74799, 74807, 74815, 74831, 74849, 74856, 74864, 74872, 74880, 74898, 74906, 74914, 74971, 535559, 393314	
Account	As per Merchant Agreement	
Payment Methods	Debit Only:	74625, 74963, 74989, 535567, 535542, 28597
	Debit & Credit:	74633, 74740, 74757, 74765, 74773, 74781, 74799, 74807, 74815, 74831, 74849, 74856, 74864, 74872, 74880, 74898, 74906, 74914, 74971, 535559, 393314
Date of this agreement	As per Merchant Agreement	

1 Purpose

This agreement sets out the terms and conditions under which:

- (a) the Master Biller agrees to act on behalf of the Customer to facilitate the receipt of BPAY Payments by the Customer; and
- (b) the Customer agrees to accept BPAY Payments through the MB Biller Code.

2 Authorisation

- 2.1 The Customer agrees to receive payments through **BPAY** Payments made using the Payment Methods.
- 2.2 The Customer authorises the Institution, and directs the Master Biller to authorise the Institution:
 - (a) to accept Payments for the Customer made using the Payment Methods; and
 - (b) to credit and debit to the Account all amounts contemplated under this agreement.
- 2.3 Without limiting clause 2.2 in any way, the Customer authorises the Institution to make debits and credits to the Account as and when necessary to effect Payments and Adjustments made using the Payment Methods, and whether that Payment or the original transaction to which that Adjustment relates occurred before, on or after the date of this agreement.
- 2.4 The Customer agrees to do all acts, including without limitation executing any documents and other instruments, and give any consents, necessary to give effect to the authorisations in clauses 2.2 and 2.3.
- 2.5 The Customer may not give the Institution any instruction or direction, whether concerning the operation of an Account or otherwise, which is inconsistent with any authorisation or other provision of this agreement, and the Institution is entitled to disregard any such inconsistent instruction or direction.
- 2.6 The Customer acknowledges for the benefit of the Master Biller and the Payer Customers of the Customer that a Payment or Adjustment made to the Institution in its capacity as representative of the Master Biller will be treated as having been received by the Customer on the Settlement Date for that payment, whether or not it is in fact received by the Customer on that day.
- 2.7 The Master Biller will pass on to the Customer any information about Payments or Adjustments relating to the Customer which is received by the Master Biller from the Institution within 24 hours of receipt of that information by the Master Biller.
- 2.8 This agreement does not confer any rights or obligations on any party with respect to **BPAY** View. If a Sub-biller wants to participate in **BPAY** View, it may only do so with the prior written agreement of the Master Biller on such conditions as the Master Biller and the Sub-biller may agree.

3 Obligations of the Master Biller

The Master Biller must:

- (a) comply with its obligations under BPAY Payments as a Master Biller;
- (b) perform its obligations under BPAY Payments in relation to the Customer and this agreement with reasonable skill and care; and
- (c) use reasonable efforts to ensure that the Institution complies with its obligations in respect of Payments to the Customer.

4 Obligations of the Customer

- 4.1 The Customer must:
 - (a) correctly and promptly credit or debit as the case may be the amounts of each Payment received by the Customer to the Customer's accounting record applicable to the Payer Customer, as identified in the information provided to the Customer by the Master Biller;
 - (b) promptly notify the Master Biller if it is unable to apply Payments to its Payer Customers for any reason;
 - (c) establish and maintain a fair policy for correction of errors and exchange and return of goods and services if a dispute arises in respect of a Payment;
 - (d) receive Payments for its own benefit and to its own accounts, not on behalf of third parties; and
 - (e) report to the Master Biller any fraud or suspected fraud involving the Customer or any of its Payer Customers.
- 4.2 The Customer consents, and agrees to ensure that its Payer Customers consent, to each information exchange necessary to allow:
 - (a) the Institution and other participants in the **BPAY** Scheme to accept and process Payments from the Payer Customers of the Customer;
 - (b) the information exchanges contemplated by this agreement to occur; and
 - (c) the Master Biller to comply with its obligations and exercise its rights under this agreement.
- 4.3 The Customer agrees to be bound by the adjustment rules set out in the document called "Sub-biller Operations Manual Part 1" as attached to this agreement and as varied or amended from time to time. The Customer acknowledges:
 - (a) receipt of the Sub-biller Operations Manual; and
 - (b) that the Sub-biller Operations Manual forms part of this agreement.

5 Customer acknowledgement

- 5.1 The Customer acknowledges that a delay of any duration might occur and no rights arise as a result of a delay in the processing of Payment Instructions where:
 - (a) there is a public or bank holiday on the day or on the day after a Payer gives a Payer Direction;

- (b) a Payer Direction is received either on a day which is not a Banking Business Day or after the Payment Cut-off Time on a Banking Business Day. These Payer Directions will ordinarily be processed by the Payer Institution on the next Banking Business Day;
 - (c) another financial institution participating in **BPAY** Payments does not comply with its obligations under the **BPAY** Scheme; or
 - (d) the Customer fails to comply or is suspected on reasonable grounds of failing to comply with its obligations under this agreement, or is suspected on reasonable grounds of being involved in fraud, and payments to the Customer are suspended pending resolution of the issue.
- 5.2 The Customer acknowledges and accepts that its ability to receive Payments through **BPAY** Payments may be suspended or terminated, without prior notice to the Customer, if the participation of the Master Biller or the Institution in **BPAY** Payments is suspended or terminated.
- 5.3 If for any reason beyond the Institution's or Master Biller's control a Payer Customer effects a payment to the Customer through **BPAY** Payments by which that Payer Customer's Payer Institution receives value, but an equivalent value is not received by the Institution, the Institution is not liable to the Customer for that value not being credited to its Account, or if already credited, being debited to the Account by way of an Adjustment.

6 Promotions and advertising

- 6.1 The Master Biller is entitled to sub-license use of the Marks and grants the Customer a sub-licence to use the Marks including the **BPAY** logo and name in the manner specified in this agreement and the Standards Manual for the purposes of advertising its participation in and promotion of **BPAY** Payments to Payers and for no other purpose. The sub-licence granted pursuant to this clause terminates immediately on termination or expiry of the Master Biller's right to sub-licence use of the Marks or on termination or expiry of this agreement.
- 6.2 The Customer acknowledges that **BPAY** owns the Marks and agrees:
- (a) not to contest or in any way impair any rights of **BPAY** to the Marks; and
 - (b) at any time at the request of the Master Biller or Institution to include a statement on any packaging, promotional or advertising materials used in connection with **BPAY** Payments, including any in electronic form, that the Marks are being used by the Customer under the control of and with the authorisation of **BPAY** and acknowledging ownership of **BPAY** of the Marks.
- 6.3 Any use of the Marks by the Customer which is not in compliance with the requirements of this agreement or the Standards Manual and which is not promptly discontinued following written notice from the Master Biller to discontinue such use will be regarded as adequate ground for termination of this agreement.
- 6.4 The Customer is not entitled to license or assign the right to use any of the Marks whether by sale, consolidation, merger, amalgamation, operation of law or otherwise.
- 6.5 The Customer must use the appropriate denotation or legend of trademark registration or ownership in connection with the Marks, as required or consented to by the Master Biller.
- 6.6 If the Customer desires to use a denotation or legend of trade mark registration or ownership in connection with any mark (other than the Marks), but used in association with or on the same printed matter as the Marks, it may do so provided that:
- (a) such use will not adversely affect the rights of **BPAY** in the Marks;
 - (b) the specification for such use is notified in writing to the Master Biller, and the Master Biller gives its written approval to that specification prior to such use.
- 6.7 The Customer must not use the Marks in such a way as to create an impression that the goods or services offered by the Customer are sponsored, produced, offered or sold by the owner of the Marks. The Customer must not adopt "**BPAY**" or any other Mark as any part of the name of its business or apply it to any goods or services offered for sale.
- 6.8 The Customer must immediately on becoming aware of any infringement or potential infringement of the Marks notify the Master Biller.
- 6.9 If any claim is asserted or legal proceedings commenced against the Customer for alleged infringement of any rights held by a third party by reason of the use of the Marks, then the Customer must when it becomes aware of that claim or legal proceedings:
- (a) provide prompt written notice of such claim or proceedings to the Master Biller; and
 - (b) keep the Master Biller informed of all developments in respect of the claim or proceedings.
- 6.10 The Customer undertakes to:
- (a) inform its Payer Customers, in a manner which is not misleading, how they may use **BPAY** Payments (including giving them the MB Biller Code);
 - (b) use only literature or promotional materials provided or approved by the Master Biller for the above purposes and in accordance with the Standards Manual; and
 - (c) print the **BPAY** logo and the MB Biller Code on its customer invoices,
- until such time as this agreement is terminated.
- 6.11 The Customer agrees to give the Master Biller access to the literature and materials referred to in clause 6.10 upon receiving reasonable notice from the Institution of its desire to have such access from time to time.
- 6.12 The Customer consents to the use of its name and main trading logo in lists and in promotional material by **BPAY**, the Master Biller, Payer Institutions and the Institution.

7 Customer representations and warranties

- 7.1 The Customer represents and warrants to the Master Biller and the Institution that:
- (a) it has all necessary power and authority to enter into this agreement and to perform its obligations under it;
 - (b) it will comply with all laws or industry codes applicable to the Customer in its exercise of its rights and performance of its obligations under this agreement; and
 - (c) all information provided at any time by the Customer to the Master Biller as contemplated by this agreement is true and accurate at the time it is provided. The Customer agrees to provide updated or corrected information to the Master Biller if any of the information provided by the Customer to the Master Biller at any time as contemplated by this agreement is no longer true and accurate.

8 Termination

- 8.1 This agreement terminates automatically if the Master Biller Agreement between the Master Biller and the Institution is terminated and as at that date the Master Biller has not entered into a Master Biller Agreement with another financial institution.

9 Definitions

- 9.1 The following words have these meanings in this agreement unless the contrary intention appears.

Account means the account named as such in the Details.

Adjustment means a transaction processed through BPAY Payments to reverse a previous Payment.

Banking Business Day means any day on which banks in Melbourne or Sydney are able to effect settlement through the Reserve Bank of Australia.

BPAY means BPAY Pty Limited ABN 69 079 137 518.

BPAY Payments means the electronic payments service promoted by BPAY and any other enhancement of or addition introduced by BPAY from time to time.

BPAY Scheme means

- (a) BPAY Payments;
- (b) BPAY View; and
- (c) any other enhancement of or addition to (a) or (b) above from time to time introduced by BPAY.

BPAY View means the service promoted by BPAY, which allows Payers to view Bills electronically.

Customer means the entity named as Customer in the Details.

Details means the section of this agreement headed "Details".

Institution means the financial institution named as Institution in the Details.

Marks means the trade and service marks owned by BPAY from time to time and set out in the Standards Manual.

Master Biller means the person named as Master Biller in the Details.

Payer means a person who uses BPAY Payments to make a Payment.

Payer Customer means a Payer who makes a Payment to the Customer.

Payer Direction means a direction from a Payer to their Payer Institution to effect a Payment through BPAY Payments, by or crediting an account or facility held by the Payer with that Payer Institution.

Payer Institution means a financial institution participating in the BPAY Scheme with whom a Payer has an account facility from which payments can be made and who receives a Payer Direction from that Payer.

Payment means a payment made, or to be made, by or on behalf of a Payer through BPAY Payments.

Payment Cut-off Time means, with respect to a Payer and its Payer Institution, the time on a Banking Business Day set from time to time by that Payer Institution as the time by which that Payer Institution must receive a Payer Direction for it to be processed by it on that day.

Payment Methods means the methods specified in the Details accepted by the Institution, which may be used by a Payer Customer to make a Payment through BPAY Payments.

Settlement Date means the date being in the case of a Payer Direction given by a Payer to its Payer Institution:

- (a) before its applicable Payment Cut-Off Time on a Banking Business Day, that day; or
- (b) after its applicable Payment Cut-Off Time on a Banking Business Day, or on a non-Banking Business Day, the next Banking Business Day.

Standards Manual means the BPAY Identity Standards Manual issued by BPAY prescribing the way in which the Marks may be represented, and provided to the Customer with this agreement (as may be amended from time to time).

NOTE:

The Sub-biller Operations Manual setting out adjustments and error correction rules for Sub-billers is available within the StrataPay administration console.

EXECUTION CLAUSE

Execution of the Merchant Agreement confirms acceptance of the BPAY Sub-biller Agreement Terms and Conditions as attached by both the Sub-biller and StrataPay Pty Ltd as per the Merchant Agreement

GENERAL CONDITIONS

1. These General Conditions

These General Conditions are part of the Merchant's agreement with StrataPay and the Service Provider.

The Agreement consists of

- (i) these General Conditions; and
- (ii) any special conditions agreed in writing by the Merchant and StrataPay or the Service Provider to be special conditions, as varied from time to time in accordance with these General Conditions.

It is advisable that the Merchant reads all documents comprising the terms and conditions under which the Merchant Facilities are provided by the Service Provider.

Some words and expressions have special meanings in these General Conditions. The meanings are described in Conditions 39 and 40.

2. Provision of Merchant Facilities

- (i) StrataPay and the Service Provider agree to provide the Merchant with the Merchant Facilities in accordance with the Agreement. StrataPay and the Service Provider agree to do this in exchange for the Merchant carrying out the Merchant's obligations under the Agreement.
- (ii) StrataPay and the Service Provider will provide the Merchant Facilities unless:
 - (a) the Agreement is terminated; or
 - (b) the Merchant Facilities are suspended in accordance with the Agreement; or
 - (c) there is a change in Law or to the regulations, by-laws or rules of a Nominated Card Scheme that prevents StrataPay and the Service Provider providing the Merchant Facilities.

3. Conditions Precedent

StrataPay and the Service Provider obligation to make any of the Merchant Facilities available to the Merchant is conditional upon StrataPay and the Service Provider being satisfied that:

- (i) the Merchant has accepted StrataPay and the Service Provider's offer in accordance with the method of acceptance required by StrataPay and the Service Provider;
- (ii) StrataPay or the Service Provider has received an account opening authority or a properly completed periodical direct debit authority; and
- (iii) any other conditions have been fulfilled.

4. Nominated Cards

- (i) The Merchant must:
 - (a) accept Nominated Cards in accordance with the Agreement; and
 - (b) stop accepting a Nominated Card immediately if:
 - the Service Provider gives the Merchant a notice to do so; or
 - any of the events described in Condition 2(ii) occur.

5. Honouring Nominated Cards and Permitted Uses

- (i) The Merchant must accept valid Nominated Cards.
- (ii) A Nominated Card is valid if:
 - (a) the Nominated Card has current validity dates; and
 - (b) the Nominated Card meets each of the criteria for validity set out in any notice from StrataPay or the Service Provider to the Merchant.
- (iii) The Merchant must not:
 - (a) make any representation in connection with any goods or services or any Nominated Card which may bind StrataPay or the Service Provider;
 - (b) make any representations to any Cardholder concerning StrataPay or the Service Provider's products or policies;
 - (c) pledge the credit of StrataPay or the Service Provider in any way;
 - (d) take part in the preparation of any documents purporting to provide for credit to be provided by StrataPay or the Service Provider to the Cardholder;
 - (e) engage in any conduct which is false, misleading or deceptive concerning goods or services supplied by the Merchant, StrataPay or the Service Provider's products or policies, or in any other dealings with the Cardholder;
 - (f) use a Nominated Card in a Credit Transaction to give a Cardholder cash. The Merchant may use a Nominated Card in a Debit Transaction to give a Cardholder cash provided the Merchant has prominently displayed in the Premises the Merchant's policy on cash out and partial cash out services including any applicable fees; or
 - (g) use a Nominated Card issued in the name of the Merchant in any Transaction to pay for goods or services or to provide cash where the Transaction is not a bona fide sale or where the Transaction is for the purpose of funding the working capital of the Merchant's business. Where the Merchant is a partnership, no Nominated Card issued in the name of a partner is to be used in any such

Transaction. Where the Merchant is a company, no Nominated Card issued in the name of a director or secretary is to be used in any such Transaction.

Any Cardholder making enquiries concerning the matters raised in paragraphs (b) to (d) above must be directed to contact StrataPay or the Service Provider.

6. Processing Transactions

- (i) The Merchant must ensure any goods purchased via a mail, telephone or Internet order Transaction are dispatched to the Cardholder immediately after processing that sales Transaction to the Service Provider.
- (ii) The Merchant must not process a Transaction on behalf of another person, including another merchant, or allow another person to use the Merchant Facilities, except under a bona fide agency arrangement.
- (iii) The Merchant must use reasonable care in processing a Transaction to detect the unauthorised use of a Nominated Card. In particular, the Merchant must comply with specific requirements notified by the Service Provider to the Merchant in writing.
- (iv) When the Transaction is an Internet Transaction, the Cardholder must be able to print a Transaction Voucher from the Internet and when the Transaction is telephone Transaction, the Merchant must provide the Cardholder with a receipt number for the Transaction, and the Merchant must maintain a record of that receipt number.
- (v) The Merchant must not split the value of any proposed Credit Transaction into two or more separate Credit Transactions.
- (vi) The Merchant must prominently and clearly inform the Cardholder of the identity of the Merchant so that the Cardholder can readily distinguish the Merchant from any supplier of goods or services to the Merchant or other third party. The Merchant must also provide notice to the Cardholder that the Merchant is responsible for:
 - (a) the sales Transaction, including any goods or services that are the subject of the sales Transaction;
 - (b) all customer service relating to the sales Transaction;
 - (c) dispute resolution in connection with the sales Transaction; and
 - (d) performance of the terms and conditions of the sales Transaction.
- (vii) The Merchant must ensure that the Transaction is correctly identified as a mail order, telephone order, Internet or recurring Transaction.
- (viii) The Merchant must not, without the prior written consent of the Service Provider, process Transactions for any goods or services unless delivery to the Cardholder will be completed within twelve months of the date of the Transaction.
- (ix) The Merchant must comply with all applicable Laws in carrying out its obligations in processing Transactions under the Agreement. For the avoidance of doubt, a breach of any Law, including any code of conduct specifically regulating or prohibiting the retention by merchants of Cardholders' personal identification numbers, passwords or other codes or information that can be used to access a Cardholder's account, will constitute a breach of this undertaking.
- (x) The Merchant must ensure that it processes all Transactions in accordance with the requirements of any Nominated Card Scheme rules that the Service Provider notifies to the Merchant.
- (xi) The Merchant must ensure that the Transaction is recorded in Australian dollars, except where the Service Provider has given prior written approval to the Merchant to record Transactions in other currencies.

7. Authorisation

- (i) The Merchant must seek prior authorisation from the Authorisation Centre for any Transaction where:
 - (a) the Merchant is aware that there is an unauthorised use of the Nominated Card;
 - (b) the Transaction is of a certain type or class which has been notified to the Merchant by the Service Provider as a type or class of Transaction requiring authorisation.
- (ii) The Merchant acknowledges that authorisation is not a representation or warranty to the Merchant that the purchase is made by the Cardholder.
- (iii) Authorisation of a Transaction is not a representation or warranty by the Service Provider to the Merchant that a Transaction is not an Invalid Transaction.

8. Refunds

The Merchant must:

- (i) establish a fair policy for giving Refunds and for exchanges or return of goods for sales Transactions;
- (ii) where the Merchant is authorised to process Transactions via the Internet, display the Merchant's Refund policy on its website; and
- (iii) at all times act in accordance with any instructions in writing from StrataPay and the Service Provider about processing Refunds.

9. Transaction Information

- (i) The Merchant must lodge Transactions with the Service Provider for settlement in accordance with any instructions advised in writing by StrataPay or the Service Provider
- (ii) The Merchant must retain information about a Transaction whether processed manually or electronically for a period of 30 months from the date of the Transaction or such other period required by Law or notified by the Service Provider.

- (iii) At the end of the 30 month or other period referred to in Condition 9(ii), the Merchant must destroy any information about the Transaction. The Merchant must ensure that any document containing any Cardholder account number is securely destroyed in a manner which makes that information unreadable.
- (iv) The Merchant must provide information about a Transaction which is requested by the Service Provider within 5 Business Days of receipt of the request.

10. Settlement of Transactions

- (i) The Service Provider agrees:
 - (a) to accept all sales and cash Transactions processed by the Merchant in accordance with the Agreement and, to credit the Merchant Account with the full amount of such Transactions less applicable fees and charges on the basis that the debt due by the Cardholder to the Merchant in respect of the Transaction is extinguished; and
 - (b) to accept all Refund Transactions processed by the Merchant in accordance with the Agreement and to debit the Merchant Account with the full amount of each Refund Transaction.
- (ii) Where the Service Provider is aware or has reason to believe that a Transaction or Invalid Transaction is fraudulent or a counterfeit Nominated Card has been used for that Transaction, the Service Provider reserves the right for a period of 30 days to:
 - (a) withhold payment to the Merchant Account; and
 - (b) unless it otherwise agrees in writing, prevent the debit of that part of the balance of the Merchant Account or any account held by the Merchant with the Service Provider, as is equal to the amount the Service Provider estimates may become owing to it by the Merchant in respect of that Transaction.

During that 30 day period, the Service Provider will investigate the Transaction to determine whether the Service Provider:

- (c) will either:
 - (i) refuse to process the Transaction and return the Transaction to the Merchant; or
 - (ii) if the Transaction has been processed, charge that Transaction back to the Merchant, and
- (d) will set-off amounts owing to it by the Merchant in respect of that Transaction against funds standing to the credit of the Merchant Account or any account held by the Merchant with the Service Provider.
- (iii) Where:
 - (a) the Service Provider is aware or has reason to believe that a Transaction or Invalid Transaction is fraudulent;
 - (b) the Service Provider assesses the Merchant as a high credit or fraud risk;
 - (c) the Merchant has breached the Agreement; or
 - (d) the Service Provider otherwise determines on reasonable grounds that deferred settlement is justified in order to prevent loss to the Merchant or the Service Provider,

the Service Provider may defer settlements of any Transaction which occurs during a period of up to three months following the occurrence of the circumstance set out in (a) to (d) above (**the deferred period**). Such settlement may be deferred for up to 2 Business Days. Immediately prior to the end of any deferred period, the Service Provider will review the relevant circumstance set out in (a) to (d) above, to determine whether deferred settlements should continue and what period that deferral should be. The Service Provider will advise the Merchant in writing of its decision upon completing the review.

11. Invalid Transactions

The Transaction is invalid if:

- (i) the Transaction is illegal, including, without limitation, because it is in breach of any Law governing, for example, the sale of prescription medicines, controlled substances or other regulated products;
- (ii) the date of the Transaction is a date after the Agreement was suspended or the Merchant Account frozen in accordance with Condition 25 or terminated in accordance with Condition 26;
- (iii) the Merchant processed the Transaction knowing (or in circumstances where the Merchant would reasonably be expected to know) that the Nominated Card is used without the authority of the Cardholder or the Transaction is not authorised by the Cardholder;
- (iv) the Merchant was notified by the Service Provider not to accept the Nominated Card used in the Transaction;
- (v) the Transaction is recorded in a currency other than Australian dollars, except where the Service Provider has given prior written approval to the Merchant to record Transactions in other currencies;
- (vi) the price charged for the goods or services to which the Transaction relates is more than the Merchant's normal price which is charged to the general public, except where the additional amount represents the amount of any credit card surcharge properly incurred or charged by the Merchant;
- (vii) in the Service Provider's reasonable opinion the Transaction relates to one or more purchases made in the same Merchant establishment which have been split into 2 or more Transactions in an attempt to avoid the Authorised Floor Limit;
- (viii) the Merchant has arranged without the Service Provider's consent for a person other than the Merchant to supply goods, services or cash;

- (ix) the Merchant processed the Transaction knowing (or in circumstances where the Merchant should have known) that the Transaction is fraudulent;
- (x) the Cardholder has not received the goods or service as required by the terms of the Transaction (and, in the case where the Merchant is not the provider of the goods or services and acts as agent for the provider of the goods or services, the goods or services have not been provided by the principal) and the Merchant has failed to provide the Service Provider with proof of receipt of, and satisfaction with, the goods or services by the Cardholder within 5 Business Days of the Service Provider's request to do so;
- (xi) the goods or services to which the Transaction relates were supplied from outside Australia without the Service Provider's consent;
- (xii) in the case of a Transaction being a mail, telephone or Internet order authorised by the Service Provider, the Merchant did not record Reasonable Identification Details of the Cardholder and the expiry date of the Nominated Card;
- (xiii) the Merchant has not otherwise complied with the Agreement in connection with the Transaction and the Service Provider is of the reasonable opinion that such non-compliance may result in either the Service Provider or the Merchant suffering a loss;
- (xiv) the Transaction is processed by the Merchant on behalf of another person, or has allowed another person to use the Merchant Facilities in connection with the Transaction, except under a bona fide agency arrangement;
- (xv) the Merchant bills the amount of the Transaction direct to the Cardholder or receives payment through the use of another card or by any other means;
- (xvi) the Merchant fails to lodge Transactions with the Service Provider for settlement in accordance with Condition 9(i);
- (xvii) the same Transaction is processed by the Merchant more than once;
- (xviii) the Merchant key-enters the Transaction otherwise than in accordance with any instruction in writing from StrataPay or the Service Provider;
- (xix) if, in the Service Provider's reasonable opinion, the Cardholder justifiably disputes liability for the Transaction for any reason;
- (xx) if the Cardholder makes a claim for set off or counter claim in respect of the Transaction against StrataPay or the Service Provider;
- (xxi) the Transaction was processed in breach of the requirements of any Nominated Card Scheme rules notified by the Service Provider to the Merchant under Condition 6(xiii); or
- (xxii) the Transaction is not authorised by the Service Provider or the authorisation request is declined for any reason.

12. Chargeback

- (i) If a Transaction is an Invalid Transaction, the Service Provider may, at its sole discretion (and without a request or demand from a Cardholder):
 - (a) refuse to accept the Transaction; or
 - (b) if the Transaction has been processed, at any time within two years of the date of the Transaction, charge that Transaction back to the Merchant by debiting the Merchant Account or otherwise exercising its rights under the Agreement.
- (ii) If the Service Provider receives a payment from a Cardholder relating to an Invalid Transaction that has been charged back to the Merchant, the Service Provider will pay an amount equal to that payment to the Merchant less any amount which the Service Provider is entitled to withhold or set-off under the Agreement.
- (iii) Despite any contract, arrangement or understanding to the contrary, in respect of all Transactions processed by the Merchant, the Cardholder will be entitled to initiate a charge back of the Transaction to the Merchant where permitted in accordance with the rules of the relevant Nominated Card Schemes.

13. Merchant's Account

- (i) The Merchant must maintain a Merchant Account for the term of the Agreement.
- (ii) The Merchant authorises the Service Provider to debit and credit the Merchant Account for the purposes of the Agreement.

14. Information Collection, Storage and Disclosure

14.1 General

- (i) The Merchant must not sell, purchase, provide or exchange any information or document relating to a Cardholder, a Cardholder's account number or a Transaction to any person other than the Service Provider, the Nominated Card issuer or as required by Law. The Merchant may disclose such information or document to the Merchant's employees, contractors or agents in the course of conducting the Merchant's business.
- (ii) The Merchant must ensure that information relating to any Cardholder accessed by the Merchant in connection with a Transaction is maintained in a secure environment with restricted access.
- (iii) The Merchant must not record any information relating to a Nominated Card or Cardholder unless the information is required to process a Transaction being made at that time.
- (iv) If permitted to record any information under Condition 14(iii) in respect of the Nominated Card, the Merchant may only record the card account number, expiration date and name of the Cardholder.

- (v) Except with the Service Provider's prior written consent, the Merchant must not request or retain a Cardholder's personal identification number, password or other code or information that can be used to access a Cardholder's account. Consent will only be given by the Service Provider in exceptional circumstances and conditions may apply. This Condition 14(v) is a material obligation of the Merchant under the Agreement.

14.2 Privacy and confidentiality

- (i) This Condition 14.2 sets out when and how the Service Provider may collect and share your information.
- (ii) If you are a corporation, you agree to obtain the consent of your directors and shareholders for the Service Provider to use and disclose their personal information as provided in this Condition 14.2.

Collection of information

- (iii) The Service Provider may collect your information to provide information about a product or service; to consider your request for a product or service; to provide you with a product or service; to assist in arrangements with other organisations in relation to the promotion and provision of a product or service; to perform administrative and operational tasks (including, for the Service Provider's Group Risk management, debt collection, systems development and testing, credit scoring, staff training, and market or customer satisfaction research); to prevent or investigate any fraud or crime (or a suspected fraud or crime); and as required by relevant Laws, and external payment systems.

Absence of relevant information

- (iv) If you do not provide some or all of the information requested, StrataPay and the Service Provider may be unable to provide you with a product or service.

Providing your information to others

- (v) The Service Provider may provide your information to StrataPay; another member of the Service Provider's Group; any outsourced service provider to the Service Provider (for example mailing houses or debt collection agencies); credit reporting agencies; regulatory bodies, government agencies, law enforcement bodies and courts; other parties the Service Provider is authorised or required by Law to disclose information to; participants in the payments system (including Nominated Card Schemes, payment organisations and merchants) and other financial institutions (such as Nominated Card issuers); insurers and reinsurers; any person who introduces you to the Service Provider; your referee(s) or your representative (for example your lawyer, administrator, attorney or executor).

Accessing your personal information held by the Service Provider

- (vi) Subject to the provisions of the Privacy Act, you may access any personal information at any time by calling StrataPay or the Service Provider's Merchant Services. StrataPay and the Service Provider may charge you a reasonable fee for access. If you can show that information about you is not accurate, complete and up to date, StrataPay or the Service Provider (as the case may be) must take reasonable steps to ensure it is accurate, complete and up to date.

Collecting your sensitive information

- (vii) The Service Provider will not collect sensitive information about you, such as health information, without your consent.

Where you supply the Service Provider with information about someone else

- (viii) If you give the Service Provider information about someone else, please show them a copy of this Condition 14.2 so that they may understand the manner in which their information may be used or shared by the Service Provider Group.

15. Audit

In the event of any dispute involving a Transaction or the Service Provider suspects that fraud is involved, the Merchant authorises the Service Provider, or its agent, to enter the Merchant's Premises during the Merchant's normal business hours to examine and take copies of the Merchant's books of account and records.

16. Fees, Charges, other Payments and GST

- (i) The Merchant must pay to StrataPay and/or the Service Provider the fees and charges described in the Agreement at the times and in the manner set out in the Agreement as varied under Condition 16(iv) from time to time.
- (ii) The Merchant authorises the Service Provider to debit the Merchant Account, without notice for:
 - (a) all fees, charges and costs owing to StrataPay and the Service Provider by the Merchant pursuant to the Agreement;
 - (b) all over credits paid by the Service Provider in respect of Transactions due to errors and omissions;
 - (c) all credits paid by the Service Provider in respect of Transactions which are Invalid Transactions;
 - (d) the full amount of any Refund Transaction less any amounts in respect of such Transaction already debited to the Merchant Account;
 - (e) all Taxes incurred or payable by the Service Provider in connection with the Agreement, the Merchant Facilities, any transaction contemplated by the Agreement or the Merchant Account;
 - (f) all fines, penalties and other charges incurred by the Service Provider as a result of any act or omission of the Merchant; and

- (g) all other amounts owing to StrataPay and the Service Provider by the Merchant pursuant to the Agreement.

If StrataPay or the Service Provider debits the Merchant Account, StrataPay or the Service Provider (as the case may be) will give the Merchant written notice that StrataPay or the Service Provider has done this.

- (iii) The Merchant must pay on demand by StrataPay or the Service Provider any amount referred to in Condition 16(ii) which remains unpaid by the Merchant because there are insufficient funds in the Merchant Account to satisfy the payment of that amount in full.
- (iv) StrataPay and the Service Provider reserves the right to vary the fees and charges in accordance with Condition 28.
- (v) Terms used in this Condition 16 have the same meaning as those defined in the A New Tax System (Goods and Services Tax) Act 1999 ("GST Act") unless provided otherwise.
- (vi) The parties each have an ABN and are registered for GST.
- (vii) Subject to Condition 16(ix), any fees payable under the Agreement are inclusive of all Australian state, federal, sales, excise, personal property, and other taxes, stamp duty, customs and other duties or levies.
- (viii) Any reference in this Agreement to fee, price, value, sales, revenue, or similar amount ("Revenue") shall be a reference to that Revenue exclusive of GST, unless and to the extent that the Revenue is expressly agreed to be GST inclusive.
- (ix) If any supply made under or in connection with this Agreement is subject to GST, the supplier may increase the consideration otherwise provided for by the amount of that GST and recover such additional amount from the party liable for payment of the consideration. This clause does not apply to the extent that the consideration is expressly agreed to be GST inclusive.
- (x) If the recipient is required to reimburse the supplier for any costs, the amount must be reduced to the extent that the supplier is entitled to claim an input tax credit in respect of those costs. A party will be assumed to have an entitlement to claim a full input tax credit unless it demonstrates otherwise prior to the date on which the consideration must be provided.
- (xi) No payment of any amount in respect of GST is required until the supplier has provided a tax invoice or adjustment note, as the case may be, to the recipient. The supplier must provide a tax invoice or adjustment note to the recipient as required by the GST Act.

17. Merchant Websites

- (i) In addition to information notified by StrataPay or the Service Provider from time to time, the Merchant's website must contain all of the following information -
- a complete description of the good or services offered;
 - a returned merchandise and refund policy;
 - a customer service contact, including electronic address and/or telephone number and the physical address of the Merchant's Premises;
 - any export or legal restrictions (if known);
 - a delivery policy (including the delivery cost, if any);
 - a privacy policy (including the Merchant's policy on dealing with Cardholder information); and
 - security capabilities and the Merchant's policy for transmission of Cardholder's details.
- (ii) except with the Service Provider's prior written consent, the transaction currency on the Merchant's website must be in Australian dollars only;
- (iii) the country of domicile of the Merchant must be Australia; and
- (iv) the Merchant must, at the Merchant's cost, arrange for the Merchant's website to be prepared and maintained in accordance with StrataPay or the Service Provider's reasonable requirements, including those requirements applicable to Internet security standards as notified by StrataPay or the Service Provider in writing from time to time.

18. Training

The Merchant is responsible at the Merchant's cost for training the Merchant's employees, contractors or agents who are to process Transactions so that those employees, contractors and agents are familiar with the Merchant's obligations under the Agreement and Transactions are processed in accordance with the Agreement.

19. Indemnity

The Merchant indemnifies StrataPay and the Service Provider against all claims, damages, actions, losses and liabilities (including, without limitation, all fines, penalties and other charges incurred by StrataPay and the Service Provider as a result of any act or omission of the Merchant) which StrataPay and the Service Provider or any of its employees, contractors or agents suffers or incurs arising directly or indirectly from:

- (i) the negligence or fraud of the Merchant or an employee, contractor or agent of the Merchant;
- (ii) the failure of the Merchant, or an employee, contractor or agent of the Merchant, to observe any of the Merchant's obligations under the Agreement;
- (iii) any dispute arising between the Merchant and the Cardholder in respect of the supply, use, quality or fitness for purpose of goods or services or the provision of cash;
- (iv) any representation, warranty or statement made by the Merchant or its employees, contractors or agents to the Cardholder; or

- (v) any misrepresentation, breach of contract or failure of consideration relating to any contract for the supply of goods or services by the Merchant to a Cardholder,

except that the Merchant is not obliged to indemnify StrataPay and the Service Provider or its employees, contractors or agents against any claims, damages, actions, losses or liabilities which are solely the result of the fraud, willful default or gross negligence of StrataPay and the Service Provider or its employees, contractors or agents.

20. StrataPay and Service Provider Liability

- (i) To the extent permitted by Law, StrataPay and the Service Provider will not be responsible for any loss or damage (including consequential loss or damage) suffered by the Merchant pursuant to the Agreement including, but not limited to, loss or damage suffered because any telephone line or other communications device or service is malfunctioning or not operating, except loss or damage attributable to the negligence or willful default of StrataPay or the Service Provider.

To remove any doubt and without limiting the generality of this provision, the StrataPay and Service Provider services and Merchant Facilities are dependent on messaging, communications, processing and other systems which are subject to interruption or breakdown for a variety of reasons. StrataPay and the Service Provider will take all commercially reasonable steps to reduce the duration should such interruption or breakdown occur but will not otherwise have any liability for any failure, delay or other matter resulting from it.

- (ii) StrataPay and the Service Provider are not liable for any loss, liability or damage which a Merchant may suffer or incur resulting from StrataPay or the Service Provider's failure to credit the Merchant Account due to technical or administrative difficulties relating to the banking system used for the transfer of funds to the Merchant Account.

21. Third Party Bureau Services

StrataPay and the Service Provider are not responsible for the acts or omissions of any third party which provides services, including without limitation, processing services, to the Merchant in connection with the Merchant Facilities. For the avoidance of doubt, StrataPay and the Service Provider are not liable for any losses, claims, damages, costs, terms or expenses suffered by the Merchant (including consequential loss) arising from or in connection with any act or failure to act by such third party in connection with a Transaction.

22. Appointment of Agent, Subcontractor or Other Party

- (i) The Merchant must not appoint any agent or subcontractor or a person in any other capacity ("an Appointee") to carry out the performance of any of the Merchant's obligations under the Agreement without the specific written agreement of the Service Provider.
- (ii) In the event that the Service Provider agrees to the appointment of an Appointee the Merchant will be responsible for any act or omission of that Appointee as if the Merchant had performed such act or omission.

23. Promotional Material

- (i) The Merchant must not use any promotional material in relation to the Service Provider or any Nominated Card Scheme except as authorised by the Service Provider. The Merchant cannot use the name, logo, any trademarks, brand names, business names or copyright belonging to the Service Provider or any Nominated Card Scheme without the prior written approval of the Service Provider.
- (ii) The Merchant must only advertise goods and services which can be purchased with a Nominated Card in Australian currency or any other currency authorised in writing by the Service Provider.

24. Representations and Warranties

- (i) When the Merchant supplies Transaction details to the Service Provider the Merchant represents and warrants to the Service Provider that:
- (a) all Transaction details are true and correct;
 - (b) the Merchant has complied with the requirements of the Agreement applicable to processing of Transactions;
 - (c) the Merchant is not aware of any fact which would cause the Transaction to be an Invalid Transaction;
 - (d) the Merchant has complied with all applicable Laws in carrying out its obligations in connection with the Transaction under the Agreement; and
 - (e) the information the Merchant has provided StrataPay or the Service Provider in the Application remains true and correct and not misleading in any material respect.
- (ii) The Merchant represents and warrants to StrataPay and the Service Provider that the Merchant has power to enter into and perform its obligations under the Agreement and that the Agreement is valid, binding and enforceable against the Merchant.
- (iii) The Merchant represents and warrants to StrataPay and the Service Provider that the information the Merchant has provided the Service Provider in the Application is true and correct and not misleading in any material respect.
- (iii) The Merchant acknowledges that the issue of a Nominated Card to a Cardholder is not a representation or warranty by the Service Provider or the Nominated Card issuer as to the Cardholder's credit worthiness or identity.

25. Suspension of Merchant Facility or Freezing of Merchant Account

- (i) The Service Provider reserves the right to suspend the Merchant Facilities and refuse to allow withdrawals of funds from the Merchant Account, or suspend the Merchant Facilities immediately upon notice to the Merchant if any of the events listed in Condition 26(ii) occurs.
When exercising this right the Service Provider is not required to notify the Merchant of the date upon which the suspension will end.
- (ii) When the Service Provider suspends the Merchant Facilities:
 - (a) the Merchant must not accept any Nominated Cards as payment for goods or services; and
 - (b) The Service Provider is not obliged to accept any Transactions processed by the Merchant after notification of suspension.
- (iii) The Service Provider may during the period of suspension terminate the Merchant Facilities pursuant to Condition 26.

26. Termination

- (i) Either the Merchant, StrataPay or the Service Provider may at any time terminate the Agreement by giving the other notice in writing. The notice does not need to include any reason and will take effect 30 days after the date on which it is given.
- (ii) The Service Provider and StrataPay may terminate the Agreement immediately by notice to the Merchant should any of the following occur:
 - (a) an Insolvency Event occurs in relation to the Merchant;
 - (b) the Merchant breaches any of its material obligations under the Agreement;
 - (c) the Merchant does not process any Transactions with the Service Provider for a continuous period of six months;
 - (d) if, in the Service Provider's reasonable opinion, the Merchant is involved in an unacceptably high number of chargebacks, Refund requests or retrieval requests, without justification acceptable to the Service Provider;
 - (e) it becomes illegal or impossible in practice for the Service Provider to continue to provide the Merchant Facilities to the Merchant;
 - (f) the Agreement becomes wholly or partly void, voidable or unenforceable or a claim is made to that effect;
 - (g) the Merchant processes a Transaction that the Merchant knew, or ought to have known, was fraudulent or illegal;
 - (h) The Service Provider or StrataPay reasonably determines that the continued provision of the Merchant Facilities to the Merchant may damage the reputation of the Service Provider or StrataPay or otherwise reasonably considers that the Service Provider or StrataPay or the Merchant may suffer loss if it continues to provide the Merchant Facilities to the Merchant;
 - (i) any of the information provided by the Merchant in the Application or otherwise is or becomes incorrect, or false or misleading in a material respect;
 - (j) the Merchant's details and other information disclosed in the Application materially changes, including, but not limited to, a change to the nature and type of business conducted by the Merchant; or
 - (k) the Cardholder has not received the goods or services as required by the terms of the Transaction (and, in the case where the Merchant is not the provider of the goods or services and acts as agent for the provider of the goods or services, the goods or services have not been provided by the principal) and the Merchant has failed to provide the Service Provider with proof of receipt of, and satisfaction with, the goods or services by the Cardholder within 5 Business Days of the Service Provider's request to do so.
- (iii) Termination of the Agreement or any part of it does not affect any rights or obligations of the Merchant or StrataPay the Service Provider that arose prior to termination. In particular, any obligation the Merchant has under the Agreement to indemnify the Service Provider or StrataPay or to pay the Service Provider or StrataPay any amounts (including costs), is a continuing and independent obligation and survives even if the Agreement is terminated. All Transactions made prior to termination are subject to the terms of the Agreement.
 - (iv) Upon termination of the Agreement, the Merchant must immediately return to the Service Provider or StrataPay all promotional material and equipment supplied in connection with the Agreement.
 - (v) The Merchant authorises the Service Provider to:
 - (a) disclose to any person the fact that all or part of the Agreement has been terminated;
 - (b) disclose information concerning the termination and reasons for termination of all or part of the Agreement to any credit provider or Nominated Card Scheme;
 - (c) give a banker's opinion to other financial institutions with whom the Merchant may make application for other merchant facilities.

The Merchant acknowledges that the disclosure of this information may affect the Merchant's ability to successfully apply for merchant facilities in the future.
- (iv) The obligations contained in Conditions 12, 13, 14, 16, 19, 20, 24, 26 and 27 survive termination of the Agreement.

27. Set off

- (i) StrataPay and the Service Provider may at any time without notice to the Merchant set off any Liability owed by StrataPay and the Service Provider to the Merchant on any account against any Liability owed by the Merchant to StrataPay or the Service Provider (as the case may be) under or in connection with this Agreement. For the purpose of this condition, "Liability" means any debt or monetary liability, irrespective of whether the debt or monetary liability is future or present, actual or contingent.
- (ii) If StrataPay or the Service Provider exercises its right of set off under Condition 27(i) in respect of a contingent debt or monetary liability owed by the Merchant and the actual liability proves to be less than the amount set off, StrataPay or the Service Provider (as the case may be) must pay the Merchant the amount of the difference.
- (iii) Where the Merchant is a partnership, unincorporated joint venture or sole trader and the Merchant Account is in the name of one or more, but not all partners or joint venturers, or is a joint account in the names of the sole trader and one or more other persons, the Merchant must procure that an "Irrevocable Authority to Debit" in a form approved by StrataPay and the Service Provider is completed and signed.

28. Variation

- (i) The Service Provider may vary all or any of the provisions of the Agreement at any time by giving the Merchant notice in writing. Where the Service Provider changes or introduces fees and charges the variation is effective 30 days after such notification. Any other variation is effective upon such notification.

29. Notice

- (i) The Merchant acknowledges that the Service Provider or StrataPay may deliver notices to it in any of the ways listed in Condition 29(ii) and consents to notices being delivered in any of these ways.
- (ii) A notice must be in writing and is taken to be received:
 - (a) if delivered personally, at the time of delivery;
 - (b) if sent by pre-paid post, on the third day after the posting;
 - (c) if sent by facsimile transmission, on the date the transmitting machine records transmission of the complete document;
 - (d) when the party sending the notice is the Service Provider, if sent by email, at the time when the email enters the Merchant's information system.
- (iii) The address, facsimile number or email address to be used for notices is the last address, facsimile number or email address advised by a party. The Merchant must inform the Service Provider immediately of any change of the Merchant's address, facsimile number or email address.

30. Relationship of the Parties

Nothing in the Agreement creates a relationship of joint venture, partnership or principal and agent between the Service Provider and the Merchant. The Merchant must not act as if, or represent or attempt to represent to any person that, any such relationship exists.

31. Assignment

This Agreement is binding upon the parties, their executors, administrators, successors and permitted assigns. The Merchant must not transfer any of the Merchant's rights or obligations under the Agreement unless the Service Provider and StrataPay consent in writing. The Service Provider may transfer any of its rights or obligations under the Agreement upon giving 14 days prior notice to the Merchant. To remove any doubt the Service Provider may at any time arrange with a third party to provide any of the services the Service Provider is obliged to provide to the Merchant pursuant to the Agreement.

32. Severability

If in any jurisdiction, a provision of the Agreement is illegal or unenforceable, the Agreement is to be interpreted for the purposes of that jurisdiction only, as if it had never included the provision so far as the provision is illegal or unenforceable.

33. Waiver

The rights the Service Provider has under the Agreement cannot be waived except by the Service Provider giving the Merchant written notice waiving the particular rights. In particular, the Service Provider does not waive any right that the Service Provider has in connection with the Agreement merely because the Service Provider does not exercise it or does not exercise it as soon as the Service Provider can.

34. Merchant's Continuous Obligations

The Merchant must notify the Service Provider:

- (a) in the event that circumstances arise which may have a material adverse effect on the Merchant's business, assets or financial condition or the Merchant's ability to perform the Merchant's obligations under the Agreement. It is advisable that the Merchant informs the Service Provider promptly when it is in financial difficulty; or
- (b) if the Merchant sells, leases or transfers its business or any of the Premises; or
- (c) if a Merchant changes the address where it carries on business or otherwise changes its contact details (eg, telephone number, facsimile number or email address) or starts carrying on business at any other place; or
- (d) if the Merchant changes the nature or type of its business.

35. Security

At any time, the Service Provider may request that the Merchant provide the Service Provider with Security of a type, and to secure an amount, specified by the Service Provider.

36. Governing Law

This Agreement is governed by the Law in force in Queensland. The Service Provider and the Merchant agree to submit to the non exclusive jurisdiction of the courts of Queensland in relation to any proceedings about or in connection with the Agreement.

37. Application of the Code of Banking Practice

The Code of Banking Practice applies to the provision of the Merchant Facility if the Merchant is an individual or Small Business.

38. Dispute Resolution Procedures

- (i) Where the Merchant has a complaint in relation to the provision of the Merchant Facilities, it should speak with StrataPay in the first instance. If the complaint cannot be resolved promptly, a supervisor within the Service Provider's Merchant Services will take responsibility for resolution of the complaint. StrataPay and the Service Provider's aim is to resolve any complaint within ten Business Days. If this is not possible, StrataPay or the Service Provider will advise the time StrataPay or the Service Provider expects it will take to resolve the complaint.
- (ii) If the Merchant is an individual or a Small Business and is not satisfied with the steps taken by the Service Provider to resolve the complaint, or with the result of the Service Provider's investigation, the Merchant may wish to contact an alternative dispute resolution scheme, such as:
- Financial Ombudsman Service
GPO Box 3
Melbourne Vic 3001
Tel: 1300 780 808
Fax: 61 3 9613 6399
Web: www.fos.org.au

39. Meanings of Words and Expressions

In the Agreement:

"Agreement" means the agreement constituted by the Merchant's acceptance of StrataPay and the Service Provider's offer on the terms and conditions set out in the documents referred to in Condition 1, as varied from time to time.

"Australian Business Number (ABN)" has the same meaning as in *A New Tax System (Australian Business Number) Act 1999 (Cth)*.

"Application" means the application form (or other mode of application permitted by StrataPay or the Service Provider from time to time) completed, and submitted to StrataPay or the Service Provider, by the Merchant for the Merchant Facilities and, for the avoidance of doubt, includes all supporting documentation provided to StrataPay and the Service Provider in connection with the Merchant's application.

"Authorisation Centre" means the authorisation centre approved by the Service Provider for the purposes of the Agreement and the details of which are notified to the Merchant by the Service Provider.

"Business Day" means a week day on which the Service Provider is open for general banking business in at least one of its branch locations in Australia.

"Cardholder" means a person issued with a Nominated Card or authorised to use a Nominated Card.

"Chargeback" means a Transaction that the Service Provider charges back to the Merchant in accordance with Condition 12(i)(b);

"Credit Transaction" means a Transaction where payment is made by the Service Provider or another card issuer of a Nominated Card (being a credit card) on behalf of the Cardholder pursuant to a credit card contract between the Service Provider and the Cardholder or the Cardholder and the other Nominated Card issuer (as the case may be) in discharge of the Cardholder's debt for goods or services supplied by the Merchant to the Cardholder.

"Debit Transaction" means a Transaction where payment is made by debiting funds in an account which is authorised for access by the Cardholder's Nominated Card.

"Insolvency Event" means any of the following:

- (a) the Merchant has a receiver, receiver and manager, mortgagee in possession or voluntary administrator appointed to the Merchant or any of the Merchant's assets; or
- (b) the Merchant becomes subject to any other form of external administration; or
- (c) a resolution is passed for winding up of the Merchant or an order is made for winding up of the Merchant;
- (d) an application for winding up of the Merchant is presented, which relates to an amount of money owed by the Merchant which is not bona fide in dispute;
- (e) a credit provider, credit reporting agency or other financial institution reports that, in their opinion, the Merchant is insolvent and unable to meet its financial commitments as they fall due;
- (f) if the Merchant is a partnership, the partnership is dissolved or the Merchant resolves to dissolve the partnership; or
- (g) if the Merchant is an individual, the Merchant becomes, or is declared, bankrupt or dies.

"Internet" means the public on-line computer network of that name or any successor of it.

“Invalid Transaction” means a transaction that is invalid under Condition 11.

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

“Merchant” means the person named as Merchant in the Agreement.

“Merchant Account” means the bank account or accounts nominated by StrataPay for the purposes of the Agreement.

“Merchant Facilities” means the services and facilities StrataPay and the Service Provider makes available to the Merchant under the Agreement.

“Nominated Card” means each card being a Nominated Card Scheme debit card, gift card or credit card and any other card authorised by the Service Provider for the purposes of the Agreement and notified to the Merchant in writing.

“Nominated Card Scheme” means Visa International Service Association Inc and MasterCard International Inc.

“Premises” means the various locations or location where the Merchant conducts business and is authorised by the Service Provider to accept Nominated Cards.

“Reasonable Identification Details” means:

- (a) the Cardholder’s name (as it appears on the card);
- (b) the Cardholder’s home address (not a PO Box);
- (c) delivery address (if not same as home address);
- (d) the Cardholder’s signature (unless the order is made by telephone or via the Internet); and
- (e) the Cardholder’s contact telephone number.

“Refund” means, in respect of a sales Transaction, the reversal of that sales Transaction.

“Security” means any guarantee or guarantee and indemnity or bill of sale, mortgage charge or other security interest or any authority to appropriate and set-off deposits the Service Provider may request the Merchant to provide under Condition 27.

“Service Provider” means Australia and New Zealand Banking Group Limited ABN 11 005 357 522.

“Small Business” means a business having:

- (a) less than 100 full time (or equivalent) people if the business is or includes the manufacture of goods; or
- (b) in any other case, less than 20 full time (or equivalent) people.

“Taxes” means all taxes, levies, imposts, duties and charges, including, but not limited to, stamp duty, financial institutions duty, goods and services tax, consumption tax, value added tax or similar tax.

“Transaction” includes a sales transaction (being the supply of goods or services or both), Refund transaction or cash transaction in which a Nominated Card or a Card number of a Nominated Card is used and which is processed by the Merchant.

40. Interpretation

- (i) If the Merchant consists of more than one person, the liability of those persons under the Agreement is joint and several.
- (ii) If there is an inconsistency between the documents forming the Agreement the following order prevails:
 - (a) Special Conditions; and
 - (b) General Conditions.
 In the event there is an inconsistency between the General Conditions or the Special Conditions, the General Conditions prevail.
- (iii) A reference to an individual or person includes a reference to a company and any other entity the Law recognises.
- (iv) The singular includes the plural and vice versa.
- (v) A reference to the Agreement or any document forming part of the Agreement, or any Law is a reference to the Agreement, document or Law as amended, notated, supplemented, replaced or re-enacted.
- (vi) A reference to “you” is a reference to the Merchant and in Condition 14.2, if you are a corporation, includes your directors and shareholders.
- (vii) A reference to “mail” includes information sent or received by facsimile or email.