

BOQ EFTPOS MERCHANT FACILITY TERMS AND CONDITIONS



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INTRODUCTION

1.1 PURPOSE OF THE TERMS AND CONDITIONS

These Terms and Conditions are part of your Agreement.

Your Agreement is documented pursuant to the following Merchant Documents:

- Letter of Offer;
- Application;
- These Terms and Conditions, including:
 - Schedule A – Vehicle rental (if applicable);
 - Schedule B – Accommodation (if applicable);
 - Schedule C – Interpretations and Definitions;
- EFTPOS Merchant Facility Operating Guide; and
- EFTPOS Merchant Facility Quick Reference Operating Guide.

You should read these Terms and Conditions in full.

MERCHANT SERVICES

2.1 OUR OBLIGATIONS

We will:

- (a) provide you with the EFTPOS Merchant Facility in accordance with the Agreement and in exchange for you meeting your continual obligations under the Agreement, unless:
 - (i) We terminate your EFTPOS Merchant Facility;
 - (ii) You terminate your EFTPOS Merchant Facility; or
 - (iii) We suspend your EFTPOS Merchant Facility in accordance with the Agreement;
- (b) provide you with an EFTPOS Merchant Terminal which accepts magnetic stripe cards, EMV chip cards and Contactless Card transactions. For Contactless Cards and magnetic stripe transactions no PIN may be requested for certain transactions;
- (c) accept all Valid Card Transactions;
- (d) credit the Settlement Account with the sum of all sales prepared in accordance with the terms of the Merchant Documents and presented to us, on the basis that, subject to our rights in relation to Chargebacks under clause 4.3, our crediting of the Settlement Account has the effect of extinguishing the Cardholder's debt to you and any obligation we may have to you;
- (e) provide you with a Merchant Statement and Tax Invoice once every calendar month unless there are no transactions, nil fees and charges processed during that month;
- (f) license the use of the EFTPOS logo to you;
- (g) provide, if required by you the ability to charge reasonable surcharges and tips on your EFTPOS Terminal supplied by us;
- (h) assess your business and accounts and will determine whether we will require you to open and maintain a Bond Account in order to operate the EFTPOS Merchant Facility. We may require you to open a Bond Account where we determine an event has occurred which in our reasonable opinion means you or a particular category of Merchants are more likely to incur a higher than usual number of Chargebacks. If we require you to open a Bond Account and you do not agree to do so you are entitled to terminate this Agreement in accordance with clause 15. If we determine that you will require a Bond Account then we will provide you with the necessary account opening documentation to set up the Bond Account prior to commencing use of the EFTPOS Merchant Facility; and

- (i) review the operation of your EFTPOS Terminal and where we deem appropriate implement controls to manage our / your future dated payment risk. You may be asked to agree to us implementing these controls. If you are asked to agree and you do not agree, you are entitled to terminate this Agreement in accordance with clause 15. The controls can include all or some of the following:
 - (i) Delayed settlement whereby funds are withheld for a set period of time, which may be up to six (6) months (see clause 7.5 'Delayed Settlements') then released automatically;
 - (ii) Reserve funding whereby a defined amount or percentage of the daily settlement funds are held by us on an on-going basis for a defined period of time before being automatically released;
 - (iii) A bond of a specified amount is held by us in a Bond Account for the term of the Agreement and any amount that is still in the Bond Account when your EFTPOS Merchant Facility is terminated will be automatically released after a period of time, as specified by us when opening the Bond Account for you or at the time of annual review of your Bond Account, after the Agreement is terminated;
 - (iv) Apply a ceiling limit whereby a settlement amount over a defined limit is held by us until we release the funds; and/or
 - (v) Apply a Bank Business Day settlement whereby we withdraw the ability to obtain settlement funds paid directly into your account on a non-Bank Business Day.

YOUR OBLIGATIONS

3.1 GENERAL OBLIGATIONS

You agree to acquire the Merchant Services for a minimum term of three (3) years, beginning from the date you sign the EFTPOS Merchant Facility Application and ending on the date your EFTPOS Merchant Facility Agreement with us is terminated under clause 15 of these Terms and Conditions. You should refer to the Letter of Offer for further details.

You will comply with the requirements (including without limitation) contained in:

- (a) the Application;
- (b) these Terms and Conditions;
- (c) the EFTPOS Merchant Facility Operating Guide (includes any other manual / instructions or other material that we provide to you (whether or not in writing) for the purposes of these Terms and Conditions, whether or not specifically mentioned in these Terms and Conditions;
- (d) the EFTPOS Merchant Facility Quick Reference Operating Guide;
- (e) the conditions as specified in the Bond Account;
- (f) Schedule A (Vehicle rental) of these Terms and Conditions, if you initiate any Card Transaction that relates to vehicle rental;
- (g) Schedule B (Accommodation) of these Terms and Conditions, if you initiate any Card Transaction that relates to accommodation; and
- (h) the Hints & Tips to Minimise EFTPOS Fraud Brochure.

To the extent of any inconsistency between the documents referred to above, these Terms and Conditions prevail over the terms in any other document.

3.2 SPECIFIC OBLIGATIONS TO US

- (a) You must:
 - (i) comply with all Laws;
 - (ii) tell us immediately if your financial position changes in such a way that may affect your ability to perform your obligations under the Merchant Documents;
 - (iii) tell us immediately if your business becomes de-registered either voluntarily or in-voluntarily;
 - (iv) use only EFTPOS Terminals and Equipment authorised by us;
 - (v) accept the below Cards in accordance with the EFTPOS Merchant Facility:
 - (A) EFTPOS Cards (cheque / savings);
 - (B) Visa Debit Cards;
 - (C) MasterCard Debit Cards;
 - (D) Visa Credit Cards;

- (E) MasterCard Credit Cards; and
 - (F) American Express (AMEX), Diners or JCB Cards (if pre-approved by these schemes);
- (vi) stop accepting a specific Card immediately if requested by us;
 - (vii) only submit to us for processing Transaction Records which originate at the Premises authorised by us for you to operate the EFTPOS Terminal and Equipment;
 - (viii) provide sufficient training to your employees to ensure you meet your obligations under the Merchant Documents;
 - (ix) allow our employees, contractors or agents or those of any Card Scheme Operator to enter your premises as reasonably requested, during normal business hours, to check your compliance with the Merchant Documents;
 - (x) allow our employees, contractors or agents to enter your premises as reasonably requested during normal business hours to install, inspect, maintain and/or remove EFTPOS Terminals or Equipment;
 - (xi) provide us with all the information and assistance that we reasonably require to perform our obligations under the Merchant Documents;
 - (xii) for Recurring Transactions:
 - (A) obtain the Cardholder's written consent prior to processing;
 - (B) ensure the nominated Card is within current validity dates;
 - (C) ensure the Card Security Code is provided when processing the first Recurring Transaction against the nominated Card, all other transactions can be processed without the Card Security Code; and
 - (D) after processing the first Recurring Transaction you must destroy the Card Security Code as set out in clause 10 of these Terms and Conditions;
 - (xiii) sign any document that we reasonably request that you sign, in order to give effect to your obligations under the Merchant Documents;
 - (xiv) use reasonable care to detect forged or unauthorised signatures or the unauthorised or fraudulent use of a Card;
 - (xv) obtain prior authorisation from us:
 - (A) when completing a Card Transaction where the amount of the Card Transaction exceeds the default purchase / refund limit of the EFTPOS Terminal; or
 - (B) if you require a permanent change to your purchase / refund limit (refer to the EFTPOS Merchant Facility Operating Guide);
 - (xvi) retain for not less than eighteen (18) months from the date of a Card Transaction, the Transaction Record of that Card Transaction, and produce that Transaction Record to us upon request. This obligation survives termination of the Agreement;
 - (xvii) only complete a Card Transaction if the first six (6) digits of the embossed or printed Card number on the Card and the first six (6) digits of the Card number displayed and/or printed on the Electronic Sales Receipt or Electronic Refund Receipt are the same;

- (xviii) only complete a Card Transaction requiring signature if the signature on the Transaction Record appears to be the same as the signature appearing on the Card. If the signature does not appear to be the same, or the Card Transaction is in any other way suspicious you must:
 - (A) not complete the Card Transaction;
 - (B) take reasonable steps to sight a form of photographic identification of the purported Cardholder;
 - (C) retain the Card by reasonable means; and
 - (D) follow the procedures set out in the EFTPOS Merchant Facility Operating Guide;
- (xix) where we have provided you with an EFTPOS Terminal that accepts Chip Cards (debit and credit) and Contactless Cards, process these Cards in accordance with the EFTPOS Merchant Facility Operating Guide and the EFTPOS Merchant Facility Quick Reference Operating Guide;
- (xx) display prominently in your premises, any promotional material supplied by us to you for any Card Schemes and not use any promotional material in relation to those Card Schemes, except as authorised by us;
- (xxi) permit us to inspect and examine your books of account and records relating to any Card Transaction;
- (xxii) give us no less than fourteen (14) days prior notice in writing before changing the name under which your business trades;
- (xxiii) give us no less than seven (7) days prior notice in writing before selling or transferring ownership of your business, and include in that notice a forwarding address;
- (xxiv) only use an EFTPOS Terminal which prints Transaction Records showing your trading name as it exists at point of trading;
- (xxv) only initiate a Card Not Present (MOTO) transaction if you have been pre-approved by the Bank;
- (xxvi) check the valid date of each Card presented to you, and not initiate a Card Transaction if the valid date on the Card has expired;
- (xxvii) only process a Card Transaction where you are the seller and supplier of goods and/or services the subject of the Card Transaction;
- (xxviii) use the EFTPOS logo only as directed by us;
- (xxix) if you decide to charge a surcharge for certain types of transactions, the surcharge should be limited to the reasonable cost of acceptance. If you charge an amount that is in excess of reasonable cost of acceptance, we may terminate the Agreement and/or pass on any scheme fines imposed on us;
- (xxx) if any debit under clause 7.2 renders the Fee Account overdrawn, immediately deposit sufficient funds to place the Fee Account back in credit; and
- (xxxi) if applicable, you must maintain the Bond Account to the level of funding as advised by us to you at the time of opening the Bond Account and at the time of the annual review of the Bond Account.

- (a) You must **not**:
- (i) for Card Transactions:
- (A) split a Card Transaction into two or more Card Transaction receipts for a single purchase;
- (B) split a Card Transaction into two or more Card Transactions for a single purchase in order to avoid or circumvent authorisation limits, purchase limits or monitoring programs; or
- (C) allow a Cardholder to purchase goods and/or services charged to one or more Cards separately or suggest that the Cardholder charge part of the purchase to a Card and pay cash or cheque for the balance price;
- (ii) complete a Card Transaction involving the use of a Card account where the Card Transaction represents an alternative payment method for an obligation already owed by the Cardholder to you, including but not limited to an obligation:
- (A) previously owed to you not arising from a current purchase or cash out transaction;
- (B) arising from the dishonour of the Cardholder's personal cheque; or
- (C) representing the collection of any other pre-existing indebtedness;
- (iii) submit to us for processing a Card Transaction where you suspect the Card may be a lost, stolen or a counterfeit Card;
- (iv) submit to us for processing either directly or indirectly, any Transaction Record which was not originated as a result of a transaction between the Cardholder and you or which you know or should reasonably have known to be fraudulent or not authorised by the Cardholder;
- (v) make any warranty or representation in connection with any goods or services which may bind us or any Card Scheme Operator;
- (vi) accept a Card or a Card Transaction which is of a type we have previously advised you not to accept;
- (vii) substantially change the goods and services that you sell without our prior written consent (which we will not unreasonably withhold);
- (viii) initiate any Card Transaction through the EFTPOS Terminal using your Card account or one of your employee's Card accounts, unless you or they are purchasing goods or services from your business or obtaining a refund for goods and services purchased from your business;
- (ix) under a Book Up Arrangement with a subscriber, never hold a user's Pass Code as part of the Book Up Arrangement;
- (x) if less than the full amount of any sale is processed with any Card Transaction, obtain cash or cheque payment in full for the balance due at the time the sale is completed;
- (xi) distinguish between Issuers of a Card in processing a Card Transaction; or
- (xii) initiate a Card Transaction with any Card that is damaged, altered or in poor condition.

3.3 OBLIGATIONS IN RESPECT OF CARDHOLDERS

Subject to the other provisions of these Terms and Conditions:

- (a) You must:
- (i) disclose any fees, including any surcharge amount, by advertising the fees and surcharge amount, both of which must be reasonable, in a prominent position for all Cardholders to see, before a Card Transaction is completed, and do it in such a way that allows Cardholders to cancel the Card Transaction if they choose to do so, without incurring any cost;
 - (ii) perform all obligations (including, without limitation, supplying all goods and/or services) to the Cardholder in connection with a Card Transaction before processing the Card Transaction;
 - (iii) take reasonable steps to ensure any information or document or an account number relating to a Cardholder, a Cardholder's Card number or a Card Transaction are protected from misuse and loss and from unauthorised access, modification or disclosure;
 - (iv) inform the Cardholder of your identity at all points of Cardholder interaction (including without limitation on any relevant web site, promotional material and invoice) so that the Cardholder can readily distinguish you from any supplier of goods or services to you or any other third party;
 - (v) provide notice to any Cardholder with whom you enter into a Card Transaction that you are responsible for that Card Transaction, including for any goods and services provided, any payment transaction, related customer service, dispute resolution and performance of the Terms and Conditions of the Card Transaction;
 - (vi) provide to each Cardholder about whom you collect Data:
 - (A) such information as you are required by Privacy Laws by which you are bound to provide to persons from whom you collect Data; and
 - (B) which is disclosed by you to us, any information specified by us to you from time to time to enable us to fulfil our obligations under any Privacy Laws by which we are bound. Any Data disclosed to us must be disclosed using a method approved by us;
 - (vii) use all Data collected by you in accordance with all Privacy Laws by which you are bound;
 - (viii) comply with any authorisation response we have notified you of;
 - (ix) seek to recover or retain a Card by reasonable means when we request you to do so. You must notify us when you have recovered or retained the Card and comply with such further instructions we give you; and
 - (x) provide a means for Cardholders to change Card account details and/or method of payment when related to a Regular Payment.

- (a) You must **not**:
- (i) sell, purchase, provide or exchange any information or document or an account number relating to a Cardholder, a Cardholder's Card number or a Card Transaction to any person other than us, the Issuer or as required by Law;
 - (ii) indicate or imply to a Cardholder or any third party, that we or a Card Scheme associated with us endorse any goods or services or refer to a Card in stating eligibility for goods, services or any membership; and
 - (iii) refuse to complete a Card Transaction solely because a Cardholder refuses to provide additional identification information in circumstances where we do not require you to obtain it.
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3.4 INTELLECTUAL PROPERTY RIGHTS

You acknowledge that some of the materials which we provide to you under these Terms and Conditions are the property of or contain or embody Intellectual Property Rights owned by the Card Scheme Operators.

To the extent that we are authorised by the Card Scheme Operators to use, and to grant you a right to use, its materials, we grant you a non-exclusive right to use those materials for the purpose of performing your obligations under these Terms and Conditions. You must only use those materials in accordance with these Terms and Conditions and any other instructions we give you from time to time.

3.5 OTHER OBLIGATIONS IF YOU ARE AN AUTHORISED MAIL ORDER/ TELEPHONE ORDER (MOTO) MERCHANT

In addition to your other obligations under the Merchant Documents:

You must **not**:

- (a) where you are not an Authorised Mail Order/Telephone Order (MOTO) Merchant, accept a Card as payment for goods or services by mail order or telephone order; and/or
- (b) where you are an Authorised Mail Order/Telephone Order (MOTO) Merchant, accept a Card as payment for goods or services by mail order or telephone order if the Cardholder is present.

CARD TRANSACTION NOT VALID OR ACCEPTABLE

4.1 INVALID TRANSACTIONS GENERALLY

A Card Transaction is invalid if it is a Card Transaction in which you do not comply with the requirements set out in the Merchant Documents. Without limiting this clause 4.1, a Card Transaction is invalid if:

- (a) it is illegal;
- (b) you or your employees have failed to follow any security and Card checking procedures set out in the EFTPOS Merchant Facility Operating Guide, or otherwise notified to you from time to time;
- (c) the signature on the Transaction Record or authority for completion is forged or unauthorised;
- (d) the Card Transaction date is outside any validity period indicated on the relevant Card;
- (e) we have advised you not to accept the Card Transaction;
- (f) the Card Transaction is not authorised by the Cardholder;
- (g) the particulars on the copy of the Transaction Record given to the Cardholder are not identical with the particulars on any other copy of the Transaction Record, or are not identical to the embossed details on the Card;
- (h) another person has provided or is to provide the goods, services or cash the subject of the Card Transaction or you arranged for another person to process the Card Transaction;
- (i) the Merchant Services were terminated before the date of the Card Transaction;
- (j) it is a Card Transaction (other than a Card Transaction performed by mail order or telephone order by an Authorised Mail Order/Telephone Order (MOTO) Merchant), and the Card was not presented;
- (k) the amount of the Card Transaction or the amount of the aggregate of the Card Transactions for goods and/or services supplied on the same occasion, was in excess of any applicable Authorised Floor Limit unless prior authorisation from the Bank was obtained;
- (l) the price charged for the goods or services to which the Card Transaction relates is more than the Merchant's normal price which is charged to the Cardholder;

- (m) the Transaction Record is incomplete or illegible;
- (n) you are notified by way of the EFTPOS Terminal that the Card Transaction is not authorised or is cancelled;
- (o) it was completed before you accepted these Terms and Conditions as part of your Agreement;
- (p) where the Card Transaction relates to vehicle rental, and you do not comply with your obligations under Schedule A - Vehicle rental; or
- (q) where the Card Transaction relates to accommodation, and you do not comply with your obligations under Schedule B – Accommodation;
- (r) the EFTPOS Terminal displays ‘insert chip’ when the Card is swiped through the EFTPOS Terminal and the card in question does not have an embedded chip, (in this situation, **do not** proceed with the transaction);
- (s) the EFTPOS Terminal displays ‘insert chip’ and the chip, when inserted, cannot be read by the EFTPOS Terminal, (in this situation, do not proceed with the transaction);
- (t) the Card Transaction relates to one or more purchases made in the same Premises which have been split into two (2) or more Card Transactions in an attempt to avoid the Authorised Purchase Limit; and
- (u) the Cardholder justifiably disputes liability for the Card Transaction for any reason; or
- (v) it is a Recurring Transaction which is unauthorised.

4.2 RECOVERY OF CARD

You must use all reasonable efforts to recover any Card used in a Card Transaction that is not a Valid Card Transaction.

4.3 CHARGEBACKS

- (a) If a Cardholder disputes a Card Transaction and you do not have sufficient evidence to satisfy the relevant Issuer in accordance with the relevant Card Scheme Rules that the Cardholder authorised the Card Transaction, then you will be liable for the Chargeback. For this reason, you must ensure that your business keeps good records to enable adequate investigation of any Card Transaction dispute and to assist in reducing the risk of unnecessary Chargebacks occurring.
- (b) If we request you to supply a copy of a Transaction Record and any other required evidence of a Card Transaction, you must supply this evidence within five (5) Bank Business Days of us making a request. If you fail to do so to our satisfaction and a Chargeback occurs, we may charge the Card Transaction back to you if the amount cannot be collected from the Cardholder.
- (c) You acknowledge that despite any contract, arrangement or understanding to the contrary which you have with a Cardholder in respect to a Card Transaction processed by you, the Cardholder will be entitled to initiate a Chargeback up to the value of the Card Transaction where permitted in accordance with the relevant Card Scheme Rules.
- (d) You agree to:
 - (i) comply with these Terms and Conditions regarding the Chargeback of Card Transactions;
 - (ii) accept liability for all Chargebacks that occur in respect of Card Transactions processed by you, your employees, agents or contractors, including Chargebacks processed after your business has been sold or closed; and
 - (iii) authorise us to debit Chargebacks to your Fee Account or Bond Account, as determined by us as to be the most appropriate account to debit.

ACCEPTING CARD DETAILS

5.1 POINT OF SALE TRANSACTIONS

For a Point of Sale Transaction, you must:

- (a) where a Card contains an embedded chip, insert the Card;
- (b) where a Card does not contain an embedded chip, swipe the Card;
- (c) where a signature is required, ensure the signature on the Card matches the signature on the Transaction Record;
- (d) if the signature panel on the Card is blank, in addition to obtaining authorisation for the Card Transaction, you must ask the Cardholder to produce additional identification information. If you are satisfied that the information you are given is true and correct, you must ask the Cardholder to sign the Card;
- (e) take reasonable steps to verify the identity of the person you are dealing with including implementing the recommendations in the EFTPOS Merchant Facility Operating Guide and any other manual or instructions that we provide you;
- (f) give the Cardholder a copy of the Transaction Record immediately after completing the Card Transaction;
- (g) check that the particulars on the copy of the Transaction Record are identical to the particulars given on any other copy of the Transaction Record and the embossed details on the Card;
- (h) retain by reasonable and peaceful means any Card that does not have the usual security features. Once this has been done, you are required to let us know so that we may advise you of any further instructions we have regarding the Card's collection; and
- (i) include the disclosure we require on all Transaction Records if you wish to limit your acceptance of returned goods or services or establish a policy for making price adjustments.

5.2 CARD NOT PRESENT (MOTO) TRANSACTIONS

For a Card Not Present (MOTO) transaction:

- (a) You must:
 - (i) be pre-approved by the Bank to accept these types of Card Transactions; and
 - (ii) obtain and manually key the following information into your EFTPOS Terminal :
 - (A) the Card number;
 - (B) expiry date;
 - (C) account type;
 - (D) transaction value; and
 - (E) the Card Security Code (other than for an approved Recurring Transaction).
 - (b) You must **not**:
 - (i) ask a Cardholder for their PIN or Pass Code.
-

5.3 RISKS ASSOCIATED WITH CARD NOT PRESENT (MOTO) TRANSACTIONS

There is increased risk when processing Card Not Present (MOTO) transactions.

For all of these types of transactions you agree that:

- (a) You:
 - (i) acknowledge that authorisation does not automatically mean that the Cardholder is the one who is transacting on the account;
 - (ii) acknowledge these types of Card Transactions can result in a Chargeback, (see clause 4.3 – Chargebacks of these Terms and Conditions), against your EFTPOS Merchant Facility. When a Chargeback occurs, neither the Bank nor the Card Scheme Operator will enter into the dispute resulting in the Issuer charging back the value to your Settlement Account;
 - (iii) acknowledge Card Not Present (MOTO) transactions do not include transactions received via the Internet, online or via email;
 - (iv) agree you will investigate further when the total of the purchase exceeds your average ticket value;
 - (v) agree you will not process a refund to a different Card or account other than the one used in the original purchase transaction;
 - (vi) agree to undertake to use best practices to minimise fraud and Chargebacks; and
 - (vii) agree all other clauses set out in these Terms and Conditions continue to apply.

- (b) You must **not**:
 - (c) accept Card details via email;
 - (d) accept and process a purchase across multiple Cards or multiple purchases on the one Card;
 - (e) continue with the Card Transaction if the Cardholder changes the delivery address at short notice, or requests goods to be delivered to a hotel/guest house (unless this is in the course of your normal trading activities); and
 - (f) continue with the Card Transaction if the Cardholder is asking you to ship the goods interstate or overseas (unless this is in the course of your normal trading activities).
-

5.4 RISKS ASSOCIATED WITH CARD PRESENT TRANSACTIONS

There are still risks involved when a card is present, as it may still be counterfeit. The following should be checked if you discover any of the below, and you must ask the Cardholder to pay by other means when:

- (a) a Card is damaged and will not insert if it has a chip embedded or swipe if it has a magnetic stripe;
 - (b) the Card has expired;
 - (c) it is visible or you are concerned that the Card has been altered or tampered with;
 - (d) the Cardholder is asking you to process a purchase across multiple Cards; or
 - (e) the Cardholder has previously purchased goods and asks for a refund to be processed to a different Card or account.
-

5.5 RISKS ASSOCIATED WITH PURCHASE / REFUND LIMIT INCREASE

You acknowledge that changing purchase/refund default limits can increase risks to your business in the following ways:

- (a) higher individual transactional losses;
- (b) higher risks of being targeted by fraudsters; and
- (c) higher risks of refunds being processed for higher than the original value.

5.6 FALLBACK

- (a) Subject to clauses 5.6(b) and (c), the electronic fall back (**EFB**) function is available on your EFTPOS Terminal to allow you to continue to process Card Transactions 'offline' through your EFTPOS Terminal. The 'offline' Card Transactions are stored during this time and will automatically be processed to your Settlement Account once communication has been restored to the EFTPOS Terminal.
- (b) Not all Card Transactions will be accepted in EFB mode. The Bank sets fallback mode purchase limits and if an individual Card Transaction goes above this limit the EFTPOS Terminal will decline the Card Transaction. In these cases you will need to ask your customer to pay by other means; and
- (c) Any Card Transaction containing 'cash out' will automatically decline in EFB mode.
- (d) If your EFTPOS Terminal is in EFB mode at time of settlement, any Card Transaction processed during that time will be batched and settled once your EFTPOS Terminal is out of EFB mode. This means those Card Transactions will not be able to be settled at that time however will be batched and included in your next settlement once the EFTPOS Terminal is 'online' again.

WARRANTIES

In providing us with any Transaction Record, you warrant to us that:

- (a) all particulars provided to us are true;
- (b) the Card Transaction is a Valid Card Transaction; and
- (c) the details on the Transaction Record are correct.

ACCOUNTS

7.1 YOUR FEE ACCOUNT

You must maintain a Fee Account. You must ensure that finalisation of obligations arising under the Merchant Documents occurs through the Fee Account unless you also have a Bond Account. You agree that to the extent required by this clause 7, the terms of this clause vary and form part of the Terms and Conditions of your Fee Account.

7.2 AUTHORITY TO DEAL WITH YOUR FEE ACCOUNT

You authorise us to debit the Fee Account for:

- (a) fees, costs and charges for services and use of your EFTPOS Merchant Facility as specified in the Agreement or in any other notification by us to you from time to time under clause 13.1;
- (b) any additional or duplication credits we make in respect of Card Transactions due to errors or omissions;
- (c) the amount of any Chargeback received by us;
- (d) any duties, taxes, postages, commissions, charges, exchanges, re-exchanges and expenses arising in any manner in the course of our business;
- (e) any underpayment that needs to be recovered by the Bank where the underpayment has been disclosed in an audit or other check or otherwise;
- (f) any legal, and other costs and expenses directly or indirectly incurred by us in relation to the Merchant Documents;
- (g) all fines, penalties or similar costs (however described) imposed on us by Card Scheme Operators because of your failure to comply with these Terms and Conditions or your Agreement; and
- (h) any top up of the Bond Account as may be required from time to time; and
- (i) any other amounts you owe us under the Merchant Documents.

7.3 BOND ACCOUNT AND AUTHORITY TO DEAL WITH BOND ACCOUNT

- (a) If requested by us then you agree to maintain a Bond Account to the level of funding as advised by us at the time of opening the account and then annually at the time of annual review of the Bond Account. You are able to withdraw any amount of funds that are in the account and are in excess of the amount required to be maintained in the account by BOQ.
- (b) You authorise us and you agree that we have the right to debit the Bond Account at any time for the amount of any Chargeback received by us. You agree to pay any fees and charges from the Bond Account related to the Chargeback payment.
- (c) If we debit your Bond Account we will notify you of such and you agree to immediately top up your Bond Account to the level required by us. Where we reasonably consider it necessary, we may also debit your Fee Account in order to top up the Bond Account. If we do so we will notify you.

7.4 YOUR SETTLEMENT ACCOUNT

We agree to accept and process all sales, cash transactions and refunds processed by you in accordance with the Agreement and these Terms and Conditions including where offered seven (7) days settlement.

7.5 DELAYED SETTLEMENT

We have the right to defer settlements of any Card Transaction which occurs during a period for up to six (6) months where:

- (a) we are aware or have reason to believe that a Card Transaction or invalid Card Transaction is fraudulent; or
- (b) we determine on reasonable grounds that deferred settlement is justified in order to minimise future losses to both you and us.

7.6 YOUR FEE AND/ OR SETTLEMENT ACCOUNT AT ANOTHER FINANCIAL INSTITUTION

Upon approval by the Bank, we agree to accept and process all sales, cash transactions, refunds, Chargebacks or any other Card Transaction we see fit to your Fee Account and / or Settlement Account held at another financial institution.

This fee and / or settlement may incur a delay greater than twenty four (24) hours.

7.7 AUTHORITY TO DEAL WITH YOUR SETTLEMENT ACCOUNT

You authorise us to debit the Settlement Account with the full amount presented to us for processing or refund Card Transactions electronically processed by you in accordance with these Terms and Conditions.

7.8 CALCULATION OF MERCHANT SERVICE FEES

The Bank will calculate your Merchant Service Fees using Interchange Plus pricing on all Card Transactions processed through your EFTPOS Terminals on a daily basis. This daily fee is calculated to four (4) decimal places (e.g. \$25.00 @ 0.998% = \$0.2495). At the end of each calendar month, all daily fees are added together, rounded up or down to two decimal places (depending on the nearest dollar) and shown on your Merchant Statement against the appropriate Card Scheme type.

Interchange Plus pricing is the method used by us to calculate the relevant scheme (eg. Visa and MasterCard) interchange fees plus the service fee charged by BOQ. This means that your Merchant Service Fee will be composed of two elements:

- (a) Transaction categories & applicable fees (BOQ service fee); and
- (b) Card interchange billed (eg. Visa and MasterCard fees) (also known as scheme interchange fees).

You can see a further breakdown of these fees (BOQ's service fee as against the fees mandated by the card schemes) on your Merchant Statement.

7.9 SCHEME INTERCHANGE FEES

By way of background, scheme interchange fees are set and mandated by the card schemes, such as Visa and MasterCard, and are ordinarily charged by the card schemes against each credit card transaction processed through your Merchant Facility. Scheme interchange fees are payable by BOQ (as an acquiring bank) directly to your customer's cardholder bank (called issuing bank). The below links advise the current scheme interchange fees charged to acquiring banks:

<http://www.visa.com.au/aboutvisa/interchange/interchange.shtml>

<https://www.mastercard.com.au/en-au/about-mastercard/what-wedo/interchange.html>

7.10 RIGHT TO WITHHOLD

- (a) If we have identified an unusually high level of Chargebacks, we may decide to investigate these claimed Chargebacks and/or the validity or acceptability of any Card Transactions you process. During our investigation we have the right to withhold an amount equal to the amount we have identified for investigation until we have concluded our investigations.
- (b) We have the right to withhold or suspend any payment under clause 7.10(a) for up to eighteen (18) months even if you are bankrupt, insolvent, an externally administered body corporate or insolvent under administration (as these terms are defined in the Corporations Act 2001 (Cth));
- (c) Without limiting clause 7.10(a), we have the right to withhold or suspend any payment if:
 - (i) we have requested documentation from you in association with an investigation around any fraudulent, counterfeit, disputed or Chargeback transaction and you fail within the time prescribed in the request to supply the requested documentation; or
 - (ii) you deliberately impede a Card Transaction investigation.

7.11 RIGHT TO WITHDRAW FUNDS FROM YOUR FEE ACCOUNT

We have the right to withdraw funds from your Fee Account if:

- (a) we have made a payment to you and any part or all of that payment is subsequently subject to a Chargeback, in which case we may withdraw the Chargeback amount;
- (b) the Bank, acting reasonably, has any doubt about the validity or acceptability of any Card Transaction included in a payment, in which case we may withdraw the amount of the relevant Card Transaction;
- (c) we have requested documentation from you in association with an investigation around any fraudulent, counterfeit, disputed or Chargeback transaction and you fail to supply the requested documentation within the time requested by us, in which case we may withdraw the amount of the relevant Card Transaction;
- (d) you deliberately impede a Card Transaction investigation, in which case we may withdraw the amount of the relevant Card Transaction; or
- (e) we have been penalised by a Card Scheme Operator which is the result of an action attributed to you, in which case we may withdraw the amount of the penalty imposed by the Card Scheme Operator.

7.12 CLOSURE OF FEE ACCOUNT OR BOND ACCOUNT

All fees, charges and costs associated with your EFTPOS Merchant Facility will be processed to your Fee Account or your Bond Account if deemed by us to be appropriate. If you close your Fee Account or Bond Account at any time, the Bank has the right to re-open the Fee Account or Bond Account to enable these fees, charges and costs to be processed as set out in these Terms and Conditions:

(a) **Merchant Service Fees**

In the case where your Fee Account or Bond Account has been closed and there are outstanding fees and charges as shown on your monthly Merchant Statement, the Bank has the right to re-open your closed Fee Account or Bond Account and process these fees and charges within forty-five (45) days commencing from the date the Bank receives your request to close your Fee Account or Bond Account.

(b) **EFTPOS Terminal and Equipment costs**

In the case where your Fee Account or Bond Account has been closed and the Bank has not received all or part of your associated EFTPOS Terminal and / or Equipment, the Bank has the right to re-open your Fee Account or Bond Account and process these charges within forty-five (45) days commencing from the date the Bank receives your request to close your Fee Account or Bond Account.

(c) **Chargebacks**

In the case where your Fee Account or Bond Account has been closed and the Bank receives notification from an Issuer of a Chargeback, the Bank has the right to re-open your Fee Account or Bond Account, if deemed appropriate, and debit this Chargeback from your Fee Account or Bond Account within eighteen (18) months from the date that your Agreement was terminated.

7.13 GST

If we are liable to pay GST on a supply made under or in connection with the Merchant Documents then you agree to pay us an additional amount equal to that GST at the same time that the consideration for that supply is payable.

DISPUTES AND REFUNDS

- (a) You must:
 - (i) establish a fair refund and dispute resolution policy for the exchange or return of merchandise, for the handling of mail orders and telephone orders disputed by Cardholders, or the processing of a refund transaction as prescribed in the EFTPOS Merchant Facility Operating Guide, in respect of each accepted return of merchandise, or each order accepted by you, but not authorised by the Cardholder;
 - (ii) only process a Card Transaction as a refund if it is a genuine refund in respect of a Valid Card Transaction;
 - (iii) process all refunds in accordance with the EFTPOS Merchant Facility Operating Guide; and
 - (iv) without limiting clause 8(c), you must give refunds by means of a refund transaction to the same Card used in the original purchase Card Transaction (as set out in the EFTPOS Merchant Facility Operating Guide) and not in cash or cheque or to any other Card.
- (b) You must **not**:
 - (i) Process a refund transaction for higher than the original purchase / service value.

EFTPOS TERMINALS

9.1 PROVISION OF EFTPOS TERMINALS

You must use an EFTPOS Terminal that we provide to you. You will pay all costs and expenses involved in respect of the installation, use, relocation or removal of the EFTPOS Terminal.

9.2 INSTALLATION OF EFTPOS TERMINAL

- (a) For the EFTPOS Terminal we provide you, you must prepare, where necessary and at your cost, a site at your Premises which meets our specifications for the installation of the EFTPOS Terminal. Where a power point is required, you must ensure that the power point is located in a suitable area.
- (b) Where a telephone line is required, you must ensure you have installed a telephone line separate to your main fax, photocopier or telephone line where voice mail is recorded.

9.3 WHERE YOU HAVE BEEN PROVIDED WITH A EFTPOS TERMINAL

- (a) Where you have an EFTPOS Terminal approved by us, you must ensure all Cards are either tapped (Contactless Cards), inserted (Chip Cards) or swiped (magnetic stripe Cards) via the EFTPOS Terminal to initiate all Card Transactions. Where a Chip Card is presented for payment it must be inserted, it is only if the Chip is faulty that the EFTPOS Terminal will prompt you to use the magnetic stripe.
- (b) If use of the magnetic stripe fails, you will need to ask your customer to pay by another means. If you are an approved Card Not Present (MOTO) Merchant, you must not enter the Card details manually. This action will also apply to transactions using non-Chip, magnetic stripe Cards.
- (c) If you are an Authorised Mail Order/Telephone Order (MOTO) Merchant you must ensure all manually keyed transactions via your EFTPOS Terminal are processed in accordance with these Terms and Conditions.

9.4 OWNERSHIP OF EFTPOS TERMINALS

If we provide an EFTPOS Terminal to you, then:

- (a) the EFTPOS Terminal will remain our property (or, if we lease the EFTPOS Terminal from a third party, it will remain the property of the third party) even if it is attached to other property, whether or not that other property belongs to us (or to any third party); and
- (b) you must not allow a third party to take a lien or any other encumbrance over any EFTPOS Terminal.

9.5 SAFEGUARDING YOUR EFTPOS TERMINAL AGAINST SKIMMING

The EFTPOS Terminal contains a number of in-built security features designed to protect the Cardholder's information. You must implement the recommended best practices shown below, to assist in protecting your business, Cardholders and your reputation from Card fraud or misuse.

EFTPOS skimming occurs when Card and/or PIN data is illegally copied with the intent to create counterfeit Cards or use compromised Card data to conduct unauthorised transactions.

Criminals will look to either compromise your EFTPOS Terminal or replace your EFTPOS Terminal with a similar looking terminal they have already compromised.

- (a) You must adopt the following recommended best practices to protect against skimming:
 - (i) Ensure your Merchant ID (MID), Terminal ID (TID) and trading name on the receipt have not changed;
 - (ii) Make note of the make, model and serial number of the EFTPOS Terminal and perform random checks to ensure no changes have occurred;
 - (iii) Always ensure the EFTPOS Terminal is secure, in sight during your trading hours and it has not been moved;
 - (iv) Confirm the condition of the EFTPOS Terminal has not changed e.g.:
 - (A) EFTPOS Terminal is not damaged, or appears to have been tampered with;
 - (B) cables are not missing or additional cables added; and
 - (C) increase or decrease in number of stickers on the EFTPOS Terminal or the colour of the EFTPOS Terminal is slightly different;
 - (v) Ensure authorised employees have access to the EFTPOS Terminal and are fully trained in all aspects of processing transactions;
 - (vi) Only allow the EFTPOS Terminal to be swapped, upgraded or removed by approved Bank personnel;
 - (vii) Always ensure any approved Bank personnel show ID and have made a previous appointment; and
 - (viii) Ensure areas surrounding both the EFTPOS Terminal and the PIN pad are clear to reduce the ability to hide cameras.
- (b) You **must** contact the BOQ helpdesk immediately if any of the following occurs:
 - (i) Your EFTPOS Terminal is missing;
 - (ii) Your EFTPOS Terminal is damaged;
 - (iii) You or any member of your business is approached to perform maintenance, swap out or remove your EFTPOS Terminal without prior notification from the Bank and the individual did not provide security ID;

- (iv) The EFTPOS Terminal serial number is different;
- (v) EFTPOS Terminal stickers have been broken or removed and it appears the EFTPOS Terminal has been tampered with; or
- (vi) Changes appear on your EFTPOS Terminal receipts, e.g. different trading name, addresses etc.

For further information around safeguarding your EFTPOS Terminal please refer to the Hints & Tips to Minimise EFTPOS Fraud Brochure.

9.6 INSURANCE

The insurance policy on your Premises must cover any EFTPOS Terminals and Equipment we provide to you for their maximum insurable value and must have the Bank's interest noted on the policy. This could assist you in avoiding incurring future losses to your business if the unforeseen occur as defined in Clause 9.7.

9.7 USE AND MAINTENANCE OF EFTPOS TERMINALS AND EQUIPMENT PROVIDED BY US

If we provide you with an EFTPOS Terminal and/or Equipment:

- (a) You must:
 - (i) take all reasonable care of the EFTPOS Terminal and Equipment (and follow all of our directions for its maintenance and protection as contained in the EFTPOS Merchant Facility Operating Guide or as otherwise notified to you);
 - (ii) pay for any repairs to, or replacement of, our EFTPOS Terminals and Equipment or any Third Party Terminals, which are necessary because you neglect, misuse, lose or damage the EFTPOS Terminals and Equipment or Third Party Terminals;
 - (iii) provide us and our agents or contractors all reasonable access to your Premises to install, inspect, repair, maintain or remove the EFTPOS Terminal and Equipment;
 - (iv) be responsible for, and will indemnify us in respect of, any loss of, or damage to the EFTPOS Terminal and Equipment (other than any loss or damage arising as a result of an inherent defect in the EFTPOS Terminal and Equipment or through fair wear and tear); and
 - (v) at all times use the EFTPOS Terminal and Equipment in the manner set out in the EFTPOS Merchant Facility Operating Guide; and
- (b) You must **not**:
 - (i) permit any untrained or unauthorised person to operate or otherwise use the EFTPOS Terminal and Equipment associated with your EFTPOS Merchant Facility; or
 - (ii) move the EFTPOS Terminal or Equipment to premises other than the Premises authorised by us or make any additions or modifications or repairs to the EFTPOS Terminal or the Equipment without our prior written consent. Where we give our consent to the moving, modification or addition or repair to the EFTPOS Terminal or Equipment, you agree that it will be done at your cost and may be subject to certain conditions.

9.8 REPLACEMENT OF EFTPOS TERMINALS OR EQUIPMENT

We may, on giving you not less than twenty (20) Bank Business Days written notice, remove and replace (at our cost) any EFTPOS Terminal or Equipment we have previously provided to you.

9.9 CLOSURE OF EFTPOS TERMINALS OR EQUIPMENT

Any EFTPOS Terminal or Equipment provided by us to you must be returned to us or, as directed by us, in the condition in which it was provided to you, fair wear and tear permitted, when the Merchant Services are terminated.

9.10 BREAKDOWN, MALFUNCTION AND OFF-LINE PROCESSING

You must tell us immediately when you become aware of any loss, malfunction of, or damage to the EFTPOS Terminal or Equipment, which has been provided to you by us.

If an EFTPOS Terminal (which has been provided by us) or Equipment is malfunctioning, we will provide you with a replacement EFTPOS Terminal or relevant piece of Equipment as soon as is practicably possible, subject to availability.

9.11 SOFTWARE

When using the EFTPOS Terminal software:

- (a) You must:
 - (i) take all necessary precautions to prevent the unauthorised copying or use of the software by any unauthorised person.
- (b) You must **not**:
 - (i) transfer, sell, assign, sub-licence, part with the possession of or make copies of the software;
 - (ii) decompile, disassemble, reverse engineer, modify, enhance or improve the whole or part of the software; or
 - (iii) install any other software on the EFTPOS Terminal, without our prior written consent.

9.12 THIRD PARTY TERMINALS

Where you have been provided with an approved Third Party Terminal you will be responsible for:

- (a) sourcing, installation, maintenance and costs associated with any approved Third Party Terminal agreement; and
- (b) all communication costs associated with the use of an approved Third Party Terminal.

PROTECTING CARDHOLDER INFORMATION

You MUST comply with the following guidelines to assist in minimising the risk of Cardholder Data being compromised, as well as assisting to protect your business against potential liability and costs associated with investigations:

- (a) always store all Cardholder information in a secure environment only accessible by authorised employees/personnel;
- (b) after the required timeframe destroy all Cardholder information in one of the following manners:
 - (i) Shred, incinerate or pulp hardcopy materials so that Cardholder Data cannot be reconstructed; and
 - (ii) Render Cardholder Data on electronic media unrecoverable so that Cardholder Data cannot be reconstructed.
- (c) never accept or store any Cardholder information via email;
- (d) never swipe a Card through any device other than your EFTPOS Terminal, which has been approved and installed by us;
- (e) never sell, buy or exchange any Cardholder information other than to us or when legally requested; and
- (f) never ask for or retain under any circumstance any Cardholder PIN Data.

CARDHOLDER'S CREDITWORTHINESS

11.1 NO REPRESENTATIONS

You cannot infer from the fact that a Cardholder has been issued with a Card, or that a Card Transaction has been processed or that authorisation has been given by us that we have guaranteed the following:

- (a) the Cardholder's creditworthiness;
- (b) the correct identity of the Cardholder;
- (c) that the Card Transaction is a Valid Card Transaction; or
- (d) that you have complied with your obligations under the Merchant Documents, as the Bank makes no guarantee in respect of the above matters.

YOUR INDEMNITY

You will indemnify us, our employees, agents and contractors against all losses, expenses and damages which we, our employees, agents and contractors may suffer or incur as a result of:

- (a) your failure to observe any provision of the Merchant Documents;
- (b) any warranty that you made under the Merchant Documents being untrue;
- (c) any infringement by you, your agents or your employees of another person's Intellectual Property Rights;
- (d) any dispute that may arise at any time between you and a Cardholder, or any other person authorised by a Cardholder to use a Card, where the dispute arises in respect of a Card Transaction or any incidental or ancillary matter; or
- (e) any claim of whatsoever nature by any person which results from unauthorised access to Card Transaction information or the negligent or fraudulent use or misuse of the EFTPOS Terminal or Equipment by you, your agents or your employees.

We will take steps to recover any loss suffered or incurred under this clause. We must do this in the interests of our other customers and shareholders.

This indemnity survives termination of the Agreement.

VARIATION AND WAIVER

13.1 VARIATION

- (a) We may vary or amend these Terms and Conditions (including without limitation to the fees and charges) or the Merchant Documents or any other material provided to you by us for the purposes of these Terms and Conditions. We will advise in writing to you any such variation or amendment and the variation or amendment commencement date which will not be less than 30 days from the date we provide you notice of the variation or amendment.
- (b) In addition to advising you in writing, any such variation or amendment shall be made immediately available on our website which can be accessed at www.boq.com.au. If you require a hard copy of the updated documents then you can request these via your local BOQ branch or by calling the Merchant Helpdesk. You agree to be bound by any variation or amendment to these Terms and Conditions or the Merchant Documents or any other material provided to you by for the purposes of these Terms and Conditions.
- (c) For the avoidance of doubt the BOQ current Terms and Conditions, the Merchant Documents and any related documentation as available from the local branch or at our website www.boq.com.au will be the terms that govern your relationship with us from the date that they are published on our website.

13.2 WAIVER

You or we may only waive a right created by these Terms and Conditions by giving the other at least 30 days' notice in writing.

SPECIFIC AUTHORISED TRANSACTIONS

Without limiting clause 13, if you are authorised to conduct any specific authorised transactions as indicated in the Application, in addition (or should we require, as an alternative) to your obligations under the Merchant Documents, you are bound by any further terms and conditions that we notify to you by way of schedule to these Terms and Conditions.

In the event of any inconsistency between the terms and conditions set out in a schedule to the Terms and Conditions, and the Merchant Documents, then the terms and conditions set out in the schedule will prevail in respect of the specific authorised transactions.

You are bound by such of the provisions of these EFTPOS Merchant Facility Terms and Conditions as apply to mail orders/telephone orders from the time you receive written notice from us that you are an Authorised Mail Order/Telephone Order (MOTO) Merchant.

TERMINATION

15.1 NOTICE

- (a) You or we may at any time terminate these Terms and Conditions by providing the other with notice in writing. This notice will not need to include any reason and will take effect on the earliest of:
 - (i) the date on which the EFTPOS Terminal and all Equipment is returned by you and / or recovered by the Bank; or
 - (ii) the date that is thirty (30) days from the date which the notice was provided.
- (b) We may terminate the Agreement immediately by notice to you if any of the following occur:
 - (i) you become insolvent or bankrupt;
 - (ii) you breach any of your obligations under the Agreement;
 - (iii) you do not process any Card Transactions with us for a continuous period of six (6) months;
 - (iv) in our opinion you are involved in an unacceptable high number of Chargebacks, refund requests or retrieval requests without acceptable explanation to us;
 - (v) it becomes illegal for us to provide you with your EFTPOS Merchant Facility;
 - (vi) the Agreement becomes partly void or unenforceable or a claim is made to that effect;
 - (vii) if you process a Card Transaction where you were aware or should have been aware it was fraudulent or illegal;
 - (viii) we determine that you continuing to process through your EFTPOS Merchant Facility damages our reputation or we may suffer future dated loss;
 - (ix) if it become apparent that any information you provided in your Application is incorrect or false or misleading;
 - (x) you change your type of business which, in our opinion, results in you being involved in a high risk type of industry;
 - (xi) if you act as an agent or allow another merchant other than the Merchant who signed the Application to process Card Transactions through your EFTPOS Merchant Facility;
 - (xii) if you continue to process suspicious, fraudulent or counterfeit Card Transactions once we have advised you to cease;

- (xiii) if you continue to process Card Transactions through your EFTPOS Merchant Facility after your business has been sold or ceases to operate from the designated Premises for that EFTPOS Merchant Facility; or
- (xiv) if you are required to hold a Bond Account and you close that Bond Account or the Bond Account is not maintained to the level of funding as advised by us to you at the time you open the Bond Account or at the time that we advise you of the amount required as a result of an annual review.

15.2 OBLIGATIONS

You must stop accepting a Card immediately if:

- (a) we give you written or verbal notice to do so; or
- (b) the Agreement is terminated.

15.3 RIGHTS AND OBLIGATIONS

The expiration or termination of the Agreement does not affect any of your or our rights and obligations which arose before the Agreement ended including, without limitation, in relation to our right to Chargeback Card Transactions and our right to recover accrued fees, charges and costs. Upon termination of all of your rights that would have otherwise arisen, but for this purpose, are terminated.

15.4 OBLIGATIONS AFTER TERMINATION

- (a) Upon termination of the Agreement, or otherwise at our request, you must return to us all of your EFTPOS Terminals and Equipment we supplied in connection with the Merchant Services within forty-five (45) days of the date of termination or the date of our request (as applicable). You must remove any Card Scheme Operator logo or any materials we have provided you with from any of your Premises.
- (b) If all EFTPOS Terminals and Equipment are not returned in accordance with clause 15.4(a) above and / or any associated EFTPOS Terminals and Equipment that have been returned are deemed by us to be damaged, you agree that fees may be charged by us to your Fee Account or Bond Account to cover the reasonable cost of replacing or repairing the EFTPOS Terminals and Equipment as required by us in our sole and absolute discretion.

15.5 PAYMENT FOR MATERIALS

Until we have received closure notification from you and all materials referred to in clause 15.4, have been returned to us as required by that clause, you must continue to pay any fees, charges and costs due to us in relation to that material as if the Merchant Services had not terminated.

15.6 DISCLOSURE OF DATA ABOUT YOU

If we terminate the Merchant Facilities:

- (a) you consent to us disclosing Data about you and/or any director to a Card Scheme Operator, including, but not limited to, your name, ABN, address, phone number, the reason the Agreement was terminated, contact details of any director and any other information reasonably required by a Card Scheme Operator; and
 - (b) must obtain each director's consent to the disclosure of information about them to a Card Scheme Operator.
-

15.7 AFTER TERMINATION

This clause 15 survives termination of the Agreement.

DISCLAIMER

16.1 EXCLUSION

As far as the Law permits, our liability for loss or damage caused by our breach of any term, condition or warranty implied by Law is excluded.

16.2 LIMITED LIABILITY

Our liability for breach of the conditions and warranties implied under any Law in connection with the Merchant Services we provide under these Terms and Conditions that are not of a kind ordinarily acquired for personal, domestic or household consumption, is limited, as far as the Law permits, and at our option, to re-supplying the Merchant Services (or paying for its re-supply).

CONFIDENTIALITY

17.1 GENERAL OBLIGATION OF CONFIDENCE

- (a) You must:
- (i) keep all Confidential Information confidential and secure at all times;
 - (ii) use Confidential Information only for the purpose for which it has been provided;
 - (iii) implement security practices against any unauthorised copying, use, disclosure (whether that disclosure is oral, in writing or in any other form), access and damage or destruction of Confidential Information;
 - (iv) immediately notify us if you suspect or become aware of any unauthorised copying, use, disclosure, access, damage or destruction of Confidential Information in any form and to any extent; and
 - (v) comply with any of our reasonable directions in relation to the Confidential Information.
- (b) You must **not**:
- (i) copy any Confidential Information or any part of it other than as strictly necessary for the purposes of these Terms and Conditions and must mark if required by us any such copy “Confidential – Bank of Queensland Limited”; or
 - (ii) use or disclose Confidential Information to any person other than us (except your employees, agents and contractors and then only to such extent as required to enable that party to comply with the provisions of the Agreement and who have agreed to keep the Confidential Information confidential in accordance with these Terms and Conditions).

17.2 EXCLUSIONS

You may disclose Confidential Information:

- (a) to the extent required by Law; or
- (b) if required in connection with legal proceedings relating to the Merchant Services, but in each case, subject to giving us thirty (30) days’ notice of any proposed disclosure.

17.3 SURVIVAL OF OBLIGATIONS

Your obligations under this clause continue indefinitely in relation to Confidential Information, even if that Confidential Information has been destroyed, or these Terms and Conditions expire, or the Agreement is terminated.

YOUR AND OUR RIGHTS

18.1 DEALING WITH RIGHTS

- (a) You must not assign or charge your rights under the Merchant Documents.
 - (b) We may assign, charge or novate (or deal in any other way with) our rights and/or obligations or subcontract any of our obligations under the Merchant Documents.
-

18.2 RIGHTS UNDER LAW

The rights, powers and remedies which you and we have under these Terms and Conditions are in addition to the ones provided independently by Law. You and we may exercise the rights, powers and remedies under Law as well as any of those provided by these Terms and Conditions to the extent that they are not validly excluded or waived by these Terms and Conditions.

18.3 NO OTHER LEGAL RELATIONSHIP

Nothing contained or implied in these Terms and Conditions makes you the partner, agent, or legal representative of us for any purpose or creates any partnership, agency or trust, and you have no authority to bind us in any way.

NOTICES

19.1 FORMS

A notice, approval, amendment, consent or other communication in connection with these Terms and Conditions:

- (a) may be signed by:
 - (i) in your case, you (if you are an individual), or any of your directors, or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy appointed to you; and
 - (ii) in our case, any authorised person representing the Bank;
 - (b) must be in writing;
 - (c) sent by mail, facsimile or email; or
 - (d) in our case, where permitted by Law, be given by advertising a notice in a national newspaper or newspapers circulating in a State or Territory in which you ordinarily reside or in any other way permitted by Law.
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19.2 TIME

Unless a later time is specified in it, a notice, approval, consent or other communication takes effect from the time it is received.

19.3 RECEIPT

A notice, approval, consent or other communication is taken to be received:

- (a) in the case of a posted letter, by the fifth (5th) day after posting;
 - (b) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purpose of this clause; and
 - (c) in the case of a newspaper advertisement, the date it is first published.
-

19.4 CHANGE OF ADDRESS

When you change your trading and/or postal address you will need to:

- (a) download a 'change of address' form from our website – www.boq.com.au/;
- (b) call at your local BOQ branch and hand in the completed change of address form; or
- (c) contact the Merchant Helpdesk for assistance.

CODE OF BANKING PRACTICE

20.1 ADOPTION OF CODE

We have adopted the Code of Banking Practice (Code). Relevant provisions of the Code apply to the Merchant Services if you are an individual or a small business customer of ours (as defined by the Code).

For further information please refer to their website – www.bankers.asn.au

USE OF THIRD PARTY WEBSITES FOR PCI DSS PURPOSES

We do not endorse, and do not authorise any particular statements or advertising contained in, any third party websites used by you for PCI DSS purposes. Any third party websites, and any advice or advertising contained therein, are prepared by, and are the sole responsibility of, the owner of the website. The rights, if any, which you may have in connection with any product advertised and purchased through the website are solely against the third party supplier of the product. We do not accept any liability whatsoever (including negligence) with respect to:

- (a) products supplied;
- (b) any death or injury or consequential loss or damage arising from the supply of the product; or
- (c) the loss, theft or destruction of a product.

DISPUTES AND GENERAL INFORMATION

22.1 OUR PROCEDURES

We will provide you, upon request, with general information on our procedures for handling disputes, the timeframe within which disputes will normally be dealt with and indicating that disputes will be dealt with by staff with appropriate powers to resolve disputes.

For information about resolving disputes, contact BOQ on 1300 55 72 72 Monday to Saturday from 7:00 am to 7:00 pm (AEST), and Sunday 9:00 am to 5:00 pm (AEST) or contact or call at one of our BOQ branches during normal business hours for assistance.

Or alternatively, you can log a request via the BOQ website, by clicking on the following links:

[BOQ Contact Details](#)

[BOQ Contact Us Form](#)

http://www.boq.com.au/compliments_complaints.htm

22.2 FINANCIAL OMBUDSMAN SERVICE

If you have raised a complaint with us but remain dissatisfied with the outcome and would like an independent review of the complaint and the result, you can refer your complaint to the Financial Ombudsman Service (FOS).

You can contact the Financial Ombudsman Service on 1800 367 287 or email info@fos.org.au or write to FOS, GPO Box 3, Melbourne Victoria 3001 or visit www.fos.org.au.

22.3 EPAYMENTS CODE

The ePayments Code plays an important role in the regulation of electronic payment facilities in Australia.

It complements other regulatory requirements, including financial services and consumer credit licensing, advice, training and disclosure obligations under the Corporations Act 2001 and the National Consumer Credit Protection Act 2009.

Consumers can complain about a breach of this code to the Bank. If a consumer is not happy with the outcome, they can complain to an external dispute resolution scheme, such as the Financial Ombudsman. Refer to section 22.2 of these Terms and Conditions for further details.

For more information about this code, see:

<http://www.asic.gov.au/>

22.4 BOQ PRIVACY POLICY

Our privacy policy is located at <http://www.boq.com.au/privacy.htm>

MISCELLANEOUS

23.1 SUPERVENING LEGISLATION

Any present or future legislation which operates to vary your obligations in connection with the Merchant Documents with the result that our rights, powers or remedies are adversely affected (including, without limitation, by way of delay or postponement) is excluded except to the extent that such exclusion is prohibited.

23.2 SEVERABILITY

If the whole or any part of a provision of these Terms and Conditions is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of these Terms and Conditions have full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of these Terms and Conditions or is contrary to public policy.

GOVERNING LAW AND JURISDICTION

24.1 GOVERNING LAW

These Terms and Conditions and the transactions contemplated by it are governed by ASIC and the Laws in force in Queensland.

24.2 SUBMISSION TO JURISDICTION

Each party irrevocably and unconditionally submits to the jurisdiction of the courts of Queensland and courts of appeal from them for determining any dispute concerning these Terms and Conditions or the transactions contemplated by these Terms and Conditions. Each party waives any right it has to object to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction.

SCHEDULE A - VEHICLE RENTAL (CLAUSE 3.1(F))

APPLICATION OF SCHEDULE

The terms of this schedule apply to any Card Transaction that relates to vehicle rental or any third-party booking agent.

YOUR OBLIGATIONS

You must:

- (a) be an Authorised Mail Order/Telephone Order (MOTO) Merchant and process a pre-authorisation or process a hand key transaction; and
- (b) create a Transaction Record for the Card Transaction (Electronic Sales Receipt) that includes the words 'signature on file', and send a copy to the Cardholder at the address shown on the rental contract or folio.

DELAYED OR AMENDED CHARGES

Cardholder consent

- (a) You may process valid Card Transactions relating to vehicle rental within six (6) months of the first Card Transaction where the car rental agreement states that a final audit will be used to identify any additional charges and the Cardholder has consented on the rental agreement to be liable for delayed or amended charges for vehicle rental. The delayed or amended charges may include taxes, fuel, insurance, rental fees, damage to rental vehicles as allowed by these Terms and Conditions, calculation errors, parking tickets, toll road expenses and other traffic violations or fines.
- (b) Where you seek to include amounts for toll road expenses, parking tickets or traffic violations or fines in the delayed or amended charges, you must retain and provide to us on request documentation from the appropriate civil authority, including the licence number of the rental vehicle, time and location of the violation, statute or Law violated, and amount of the penalty.
- (c) Where you seek to include amounts for vehicle damage in the delayed or amended charges as allowed by these Terms and Conditions, you must retain and provide to us on request all of the following:
 - (i) copy of the rental agreement;
 - (ii) estimate of the cost of damages from an organisation that can legally provide repairs;

- (iii) civil authority's accident report (if applicable);
 - (iv) documentation showing the Cardholder's consent to pay for damages with the Cardholder's Card (this does not include the rental agreement);
 - (v) any other pertinent documentation available to demonstrate Cardholder liability for the damage; and
 - (vi) a copy of your insurance policy, if you require that the Cardholder pay an insurance deductible for vehicle damage. Alternatively, you may provide a copy of the vehicle rental agreement showing the Cardholder's consent to be responsible for the insurance deductible. The consent must be indicated by the Cardholder's signature or initials. The Cardholder's signature on the vehicle rental agreement must be in proximity to the disclosure that the Cardholder pay an insurance deductible for vehicle damage.
- (d) Delayed or amended charges permitted under clause 3 of this schedule must be processed by:
- (i) manually entering the details into your EFTPOS Terminal in accordance with clause 5.2 of the Terms and Conditions;
 - (ii) writing on the receipt for the delayed charges 'signature on file' on the signature line; and
 - (iii) attaching the receipt to the Cardholders records.
- (e) If delayed or amended charges are processed under clause 3.1(d) of this schedule, you must mail / e-mail the additional charge information to the Cardholder once it has been processed, which should include:
- (i) the sales transaction receipt with the words 'signature on file'; and
 - (ii) a copy of the sales draft with a detailed explanation of the additional charges.
- (f) Vehicle rental agencies or any third party booking agent may **not** process delayed or amended charges relating to:
- (i) administration fees;
 - (ii) car loss;
 - (iii) theft; and / or
 - (iv) damages,

unless the Cardholder has been informed of the charges and agrees in writing to be billed for them.

SCHEDULE B – ACCOMMODATION (CLAUSE 3.1(G))

APPLICATION OF SCHEDULE

The terms of this schedule apply to any Card Transaction that relates to accommodation or any third-party booking agent.

ADVANCE DEPOSITS

- 2.1 **When you accept an advance deposit to reserve accommodation over the telephone, you must:**
- (a) explain to the Cardholder:
 - (i) the terms of the reservation; and
 - (ii) the cancellation and refund policy procedure;
 - (b) record the Cardholder's:
 - (i) account number;
 - (ii) Card expiration date; and
 - (iii) name and address;
 - (c) confirm with the Cardholder the room rate and room location;
 - (d) allocate and advise a confirmation code to the Cardholder; and
 - (e) subsequently provide the Cardholder with written confirmation of the information in paragraphs (a) to (d) above and include any other provisions relating to the Cardholder's obligations.
- 2.2 You must confirm the status of the Card through Authorisation and make the necessary security checks.
- 2.3 If you have an EFTPOS Terminal and are an Authorised Mail Order/ Telephone Order (MOTO) Merchant you can process a pre-authorisation or process a hand keyed Card Transaction in accordance with clause 5.2 of the Terms and Conditions.
- 2.4 You must note any special conditions regarding your refund policy, in the case of clause 2.3 of this schedule on the Electronic Sales Receipt.
- 2.5 You must sight the Cardholder's Card and obtain a swipe upon check-in to validate the Card Transaction.

CANCELLATIONS

- 3.1 A Cardholder may cancel his or her reservation either through you or a third party booking agent acting on your behalf.
- 3.2 When a Cardholder cancels his or her reservation, no less than 72 hours outside of his or her scheduled arrival time, you must advise the Cardholder:
- (a) of their cancellation code; and
 - (b) to retain their cancellation code in the event of a dispute.
- You must then process a refund to the Cardholder's Card and mail a copy of the Electronic Refund Receipt or credit voucher to the Cardholder.
- 3.3 When a Cardholder cancels his or her reservation within 72 hours of their scheduled arrival time, the Cardholder should be permitted to cancel the reservation up to 6.00pm (your outlet time) on the reserved arrival date.
- The refund must be processed as set out in clause 3.2 of this schedule above.
- 3.4 If you require a Cardholder to cancel before 6.00pm (your outlet time) on the reserved arrival date in order to obtain a refund of any deposit paid, you must advise the Cardholder both verbally and in writing at the time the Cardholder places an advance deposit or makes a booking.
-

UNCLAIMED ACCOMMODATIONS ("NO SHOW")

- 4.1 When the Cardholder does not cancel his or her reservation and does not stay at your hotel, motel or resort, you may charge the Cardholder for a maximum of one night's room rate plus applicable tax, provided you have complied with clause 2.1 of this schedule and provided that the charge is consistent with the cancellation policy notified to the Cardholder.
- 4.2 The same procedure as for "advance deposit" is to be followed but with the following exceptions:
- (a) write the date of the no show and the assigned room number on the Electronic Sales Receipt; and
 - (b) write "guaranteed reservation/no show" on the Cardholder signature line.
- 4.3 You must not process a no show transaction when the Cardholder cancelled his or her reservation according to the third party booking agent's cancellation policy and the Cardholder has a cancellation code.

DELAYED OR AMENDED CHARGES

Accommodation Industry or any third-party booking agent

- (a) When a guest checks out you must total the charges, and process the final amount to their nominated account.
- (b) If you are an Authorised Mail Order/Telephone Order (MOTO) Merchant and the Cardholder has signed an agreement to pay for delayed or amended charges, such as:
 - (i) room service;
 - (ii) phone calls; and / or
 - (iii) mini-bar charges,you may process these delayed or amended charges within six (6) months of the first Card Transaction by:
 - (iv) manually entering the details into your EFTPOS Terminal in accordance with clause 5.2 of the Terms and Conditions;
 - (v) write on the receipt for the delayed charges 'signature on file' on the signature line; and
 - (vi) attach the receipt to the guest record.
- (c) If delayed or amended charges are processed under clause 5.1(b) of this schedule, you must mail / e-mail the additional charge information to the Cardholder once it has been processed, which should include:
 - (i) the sales transaction receipt with the words 'signature on file'; and
 - (ii) a copy of the sales draft with a detailed explanation of the additional charges.
- (d) Accommodation Industries or any third-party booking agent may not process delayed or amended charges relating to:
 - (i) loss;
 - (ii) theft; and / or
 - (iii) room damage,unless the Cardholder has been informed of the charges and agrees in writing to be billed for them.

SCHEDULE C - INTERPRETATIONS AND DEFINITIONS

INTERPRETATIONS

In these Terms and Conditions unless the contrary intention appears:

- (a) a reference to these Terms and Conditions or another instrument includes any variation, amendment or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word "person" includes a firm, body corporate, an unincorporated association or an authority;
- (e) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and individually;
- (f) an agreement, representation or warranty on the part of two or more persons binds them jointly and individually;
- (g) a reference to an accounting term is to be interpreted in accordance with accounting standards under the Corporations Act 2001 (Cth) and, if not inconsistent with those accounting standards, generally accepted principles and practices in Australia consistently applied by a body corporate or as between bodies corporate and over time;
- (h) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of, and a party, annexure, exhibit and schedule to these Terms and Conditions and a reference to these Terms and Conditions includes any annexure, exhibit and schedule as amended and updated from time to time; and
- (i) headings are inserted for convenience and do not affect the interpretation of these Terms and Conditions.

DEFINITIONS

Agreement means your EFTPOS merchant facility agreement with BQ, such agreement incorporates these Terms and Conditions and each Merchant Document which together govern the provision of the Merchant Facility.

Application means the application form completed by the Merchant and submitted to us for the EFTPOS Merchant Facility.

ASIC means the Australian Securities & Investments Commission.

Australian Business Number (ABN) is a single eleven (11) digit identifier for all business dealings with the Australian Tax Office (ATO) and other government agencies.

Authentication means the process that validates the identity of a Cardholder using the Authentication Procedures.

Authentication Procedures means the procedures for authenticating the identity of a Cardholder who wishes to use their Card to purchase goods or services from you over the Internet.

Authorised Floor Limit means the maximum value of a sale which you are authorised to make to a Cardholder on any one occasion with a Card without seeking further transaction authorisation.

Authorised Mail Order/Telephone Order (MOTO) Merchant means you, if you have been authorised by us to conduct Card Transactions by mail or telephone.

Bank or BOQ means Bank of Queensland Limited ABN 32 009 656 740.

Bank Business Day means any day on which we are open for business to the public in Brisbane but does not include Saturdays, Sundays or any other Australia public holidays.

Bond Account means a BOQ account held in your name and earning interest which is payable to you and from which BOQ may debit any Chargebacks in accordance with clause 7.3.

Book Up Arrangement means credit offered by merchants for the purchase of goods or services commonly used by people residing in remote and regional areas of Australia who may not have access to such technology. It is common for merchants to hold a consumer's debit card and/or Pass Code as part of a book up arrangement.

Card means a credit or debit card (and either or both as the context requires and/or permits) that we authorise you to accept for Card Transactions, and does not include any credit or debit card which we have subsequently notified you as having ceased to be authorised.

Cardholder means a person who is authorised to use a Card account or to whom a Card has been issued.

Card Not Present (MOTO) means a Card Transaction processed manually by you, without the Card or Cardholder being physically present, using Card details provided to you by the Cardholder either via fax, mail order or telephone. This does not mean Card details received electronically via the Internet or email.

Card Present means a Card Transaction where the Card, Cardholder, and you, are all physically present at the time of the transaction and the Card is swiped via the EFTPOS terminal.

Card Scheme includes Visa International Service Association, MasterCard International Incorporated and EPAL (EFTPOS Payments Australia Limited) and PCI DSS (Payment Card Industry Data Security Standard) and any other scheme nominated by us from time to time, as amended from time to time, and to the extent that they apply in Australia.

Card Scheme Operator includes the operator of any payment scheme designated under the Payment Systems (Regulation) Act 1998 (Cth) or operator of any scheme designed to promote the use of Cards as nominated by us from time to time.

Card Scheme Rules means the rules and regulations governing a Card Scheme as published by the Card Scheme Operator from time to time.

Card Security Code means the three (3) digit number printed on the back of the card (also known as CVV2 – card verification value).

Card Transaction means any sales transaction or refund transaction between you and a Cardholder in relation to the supply of goods and/or services to the Cardholder using a Card account or any cash out transaction between you and a Cardholder using a Card.

Chargeback means the reversing of a Card Transaction and reimbursement of an Issuer/Cardholder in accordance with the relevant Card Scheme Rules.

Chip Card also known as 'smart' card or 'EMV' card has an embedded microchip in the card. The microchip contains information to assist with protecting merchants and customers from counterfeit cards and fraudulent activity.

Code refers to the Code of Banking Practice which requires us to make available to You general information on a range of our banking matters including Merchant Facilities.

Confidential Information means:

- (a) these Terms and Conditions and all other Merchant Documents;
- (b) any Data obtained during the course of the Agreement, including any information obtained about Cardholders or a Card Transaction;
- (c) any information relating to the business or affairs of the Bank;
- (d) any software or other material in which the Bank or a Card Scheme Operator owns Intellectual Property Rights; and
- (e) any other information disclosed to you by the Bank for the purposes of the Agreement,

other than information or material that is:

- (f) in the public domain (other than as a result of a breach of these Terms and Conditions); or
- (g) independently developed, discovered or known by you.

Contactless Card a card which enables a 'tap and go' transaction, such as PayWave and PayPass.

CVV or **CVV2** means Card Verification Value, being the 3 digit number positioned on the back of a nominated Card.

Data includes information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, which is received by you or us from any source as a consequence of the performance of rights or obligations under these Terms and Conditions.

Debit Transaction means a Card Transaction where payment is made by debiting funds from an account which is authorised for access by the Cardholder's Card (cheque / savings).

EFTPOS means Electronic Funds Transfer at the Point of Sale Transaction.

EFTPOS Merchant Facility means the services and facilities we make available to the Merchant under the Application.

EFTPOS Merchant Facility Operating Guide means the document titled 'EFTPOS Merchant Facility Operating Guide' available on our corporate website at http://www.boq.com.au/business_merchant.htm, as amended in accordance with clause 13.

EFTPOS Merchant Facility Quick Reference Guide means the document titled 'EFTPOS Merchant Facility Quick Reference Guide' provided to you upon installation of your EFTPOS merchant facility and subsequently available on our corporate website at http://www.boq.com.au/business_merchant.htm, as amended in accordance with clause 13.

EFTPOS Terminal means any electronic device which we have agreed or may subsequently agree to supply to you or have authorised you to use to enable you to obtain authorisation and conduct Card Transactions electronically.

Electronic Refund Receipt means the receipt produced by the EFTPOS Terminal, either printed or electronically via SMS or email, when a refund transaction is processed through an EFTPOS Terminal.

Electronic Receipt means the receipt produced by the EFTPOS Terminal, either printed or electronically via SMS or email, when a sales transaction or refund transaction is processed through an EFTPOS Terminal.

Electronic Sales Receipt means the receipt produced by the EFTPOS Terminal, either printed or electronically via SMS or email, when a Card Transaction is processed through an EFTPOS Terminal.

ePayments Code is the ePayments Code published by ASIC.

Equipment means any stationery used for the printing of Transaction Records, and other stationery, guides, decals (and any other promotional material) and any other items that we may supply to you under or in connection with these Terms and Conditions.

Failed Authentication Transaction means a Card Transaction which has not been authenticated because the Issuer of that Card has notified you that the attempt to have the transaction authenticated using Authentication Procedures was unsuccessful.

Fee Account means your nominated account held in your name and to which amounts payable by us or you under the Merchant Documents may be credited or debited.

Fee Schedule refers to any list or notice of fees provide to you by us.

GST means a goods and services or similar tax imposed under the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

GST Law has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Incomplete Authentication Transaction means a Card Transaction which you have tried to have authenticated, but were unable to do so because the system was unavailable at the time you sought Authentication.

Intellectual Property Rights means all current and future registered and unregistered rights in respect of copyright, designs, trademarks, confidential information and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organization 1967.

Interchange Fee is a term used in the payment card industry to describe a fee set by the Card Schemes and paid between us and the Cardholder's bank (being the Issuer).

Internet means an electronic communications network that connects computer networks and organisational computer facilities around the world.

Issuer means the member whose name appears on the Card as the Issuer (or, for Cards that do not identify the Issuer, the member that enters into the contractual relationship with the Cardholder).

Hints & Tips to Minimise EFTPOS Fraud Brochure means the document titled 'How to Minimise Disputes, Chargebacks and Fraudulent Transactions' provided to you upon installation of your EFTPOS merchant facility.

Law means any law or regulation (including any policy, directive, or guidelines) whether or not having the force of law, but compliance with which is in accordance with the practice of responsible merchant acquirers.

Letter of Offer means the letter in which the Bank made the offer of an EFTPOS Merchant Facility to the Merchant, explaining the product and all associated fees and charges.

Manual Imprinter means a device used to capture an imprint of a Card on an approved voucher.

Manual Merchant refers to Merchants who accept cardholder's payments via the manual imprinter and voucher process. Debit Cards Transactions where cheque or savings is selected are not allowed.

Merchant means the person named on the EFTPOS Merchant Letter of Offer, and in other Merchant Documents.

Merchant Documents include the Letter of Offer, Application, Terms and Conditions, EFTPOS Merchant Quick Reference Operating Guide and EFTPOS Merchant Operating Guide.

Merchant Helpdesk is available to merchants 24 x 7. Please refer to the Merchant Operating Guide located on our website – www.boq.com.au for the current contact number.

Merchant Service Fee means the fees charged by the Bank to the Merchant as shown in the Letter of Offer.

Merchant Services means the services we agree to provide you with which are also referred to in clause 2.

Merchant Software means the software which either we or a Card Scheme Operator have told you is required if you wish to participate in the Authentication Procedures.

Merchant Statement means a statement we provide to you showing the amount of all Card Transactions entered into by you with a Cardholder using a Card along with the details of related fees and charges.

Nominated Provider refers to a third party provider nominated by the Bank to conduct functions connected to the EFTPOS Merchant Facility as requested by the Bank.

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

- (a) Personal Identification Number (PIN);
- (b) internet banking password;
- (c) telephone banking password; and
- (d) code generated by a security token.

A pass code does not include a number printed on a device (e.g. a security number printed on a Card).

PCI DSS means Payment Card Industry Data Security Standards.

PIN means Personal Identification Number. Reference 'Pass Code' definition.

Point of Sale Transaction means a transaction where the Card, Cardholder, and you, are all physically present at the time of the transaction.

Premises mean any / all locations where the Merchant performs business and is authorised by the Bank to accept Cards.

Privacy Laws means all legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access to Data.

Regular Payment means an application between you and the Cardholder whereby the Cardholder authorises you to debit their Visa, MasterCard or EFTPOS Card based account at predetermined intervals or at intervals otherwise agreed by the Cardholder. The amount of each Regular Payment may differ or be the same for each debit.

Recurring Transaction is a transaction that occurs when a Merchant has an ongoing signed authority from the Cardholder to process transactions against the Cardholder's Card.

Settlement Account means your nominated account held in your name and to which amounts payable by us or you under the Merchant Documents may be credited or debited.

Split Transaction means a Card Transaction which has been split into two or more Card Transactions.

Tax Invoice has the meaning given to that term in the GST Law.

Terminal Rental Fee means the specified fee shown in the Letter of Offer as the EFTPOS Terminal rental fee. This fee is payable for the provision of an EFTPOS Terminal or any other Equipment provided by the Bank or any Nominated Provider.

Terms and Conditions means these EFTPOS merchant facility terms and conditions which form part of the Agreement.

Third Party Terminals means equipment and software, certified and approved by the Bank, provided by a party other than the Bank.

Transaction Record refers to a sales transaction, refund transaction or cash transaction in which a Card or Card number is used and processed by the Merchant.

Valid Card Transaction means any Card Transaction other than those described in clause 4.1 as being invalid.

We, our and us refers to Bank of Queensland Limited ABN 32 009 656 740 and our successors and assigns.

You and your means the person or persons named as the proprietor or director in the Application. If there is more than one proprietor or director, you refers to each proprietor or director individually as well as collectively. You also includes your successors and assigns (subject to your rights under clause 18.1).

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