



PAYRIX SUB-MERCHANT AGREEMENT
TERMS AND CONDITIONS

These terms and conditions are part of the binding Agreement between Payrix and Sub-Merchant. Capitalized terms used in this Agreement not otherwise defined herein are defined in the **Glossary** set forth below in these terms and conditions. Payrix and Sub-Merchant hereby agree as follows:

- 1. Payrix Services.** The Payrix Services are a cloud-based payment system by which Payrix, Bank and Processor serve as a processing channel with respect to Card Transactions for Sub-Merchant to receive payments on its behalf, and Payrix serves as a Third Party Sender with respect to BECS Transactions originated by a Sub-Merchant, pursuant to the terms hereof and the selections of the Sub-Merchant made through its Account. Payrix shall facilitate the processing of Sub-Merchant's Card Transactions that are originated in accordance with the Payment Network Rules, as provided herein and otherwise as Payrix, in its sole discretion, deems appropriate. As a Third Party Sender, Payrix shall transmit Sub-Merchant's BECS Transaction debit and credit entries that are originated by Sub-Merchant in accordance with applicable rules, regulations, and law, which may include the BECS Regulations and Procedures, in each case by such means as Payrix, in its sole discretion, deems appropriate.
- 2. Account.** So long as Sub-Merchant is not in breach of this Agreement, Sub-Merchant shall be granted an Account accessible through the Payrix Services. The Account shall include a record of Sub-Merchant Transactions and Fees. Payrix shall provide Sub-Merchant with credentials for access to the Account. Sub-Merchant may not disclose such codes or permit any third party to use them other than Third Party Servicers pursuant to a binding written agreement with Sub-Merchant. Sub-Merchant assumes full responsibility for the use of its Account and the access credentials thereto and shall indemnify Payrix for any and all claims, losses or other liabilities arising therefrom. Except as required to deliver or receive the Payrix Services or as otherwise required by law, Payrix shall not grant any third party access to the Account. Payrix may debit or credit the Sub-Merchant's bank account(s) associated with its Account in connection with its activities under this Agreement, and may perform such debits and/or credits through a third party designated by Payrix who is a licensed money transmitter.
- 3. Prohibited Merchants.** All of the following Persons are prohibited from using the Payrix Services: (i) Persons who appear on the U.S. Department of the Treasury, Office of Foreign Assets Control, Specially Designated Nationals List; (ii) who appear on the Australian Government Department of Foreign Affairs and Trade's Consolidated List of all persons and entities listed under Australian sanctions laws being the *Charter of the United Nations Act 1945* (Cth), *Charter of the United Nations (Dealing with Assets) Regulations 2008* (Cth), *Autonomous Sanctions Act 2011* (Cth) and *Autonomous Sanctions Regulations 2011* (Cth) (ii) Persons who are less than 18 years of age; (iii) Persons, or their Affiliates who have been previously terminated for cause by Payrix or any of its Affiliates; and (iv) Persons who are not both domiciled and resident in the United States or Australia (as the context requires).
- 4. Prohibited Activities.** It is forbidden for a Sub-Merchant to use Payrix Services to assist in any illegal activity or any Prohibited Activity. Likewise, Sub-Merchant may not use Payrix Services in or for the benefit of a country, organization, entity, or person embargoed or blocked by any government, including those on sanctions lists identified by the United States Office of Foreign Asset Control, on the Australian Government Department of Foreign Affairs and Trade's Consolidated List or any applicable foreign equivalent. Without any limitations on any other Prohibited Activity, Sub-Merchant hereby affirms that no payments whatsoever for firearms or ammunition or any parts or accessories that could modify the performance or action of any actual firearms (e.g., bump stocks) will be made through the Account. Payments for these items will be taken via alternate means only. Sub-Merchant may not itself or through any other Person: (i) except to the extent that applicable copyright laws prevent Payrix from restraining a Sub-Merchant from doing so, copy, modify, adapt, translate, reverse engineer, decompile, or disassemble, in any way, any portion of the Payrix Services and/or content made accessible by Payrix including any information, pictures, videos, text, graphics, software programs used by Payrix in connection with the Payrix Services and Content, or publicly display, reproduce, create derivative works from, perform, distribute, or otherwise use such Content, other than as permitted by Payrix in writing; (ii) make any use of the Content and/or Payrix Services on any other website or networked computer environment for any purpose, or replicate or copy the Content without Payrix's prior written consent; (iii) interfere with or violate any other services or user's right to privacy or other rights, or harvest or collect personally identifiable information about users of the Payrix Services without their express consent, including using any robot, spider, site search or retrieval application, or other manual or automatic device



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or process to retrieve, index, or data-mine; (iv) defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights of others; (v) transmit or otherwise make available in connection with the Payrix Services any virus, worm, trojan horse, time bomb, web bug, spyware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component; (vi) interfere with or disrupt the operation of the Payrix Services, or the servers or networks that host the Payrix Services or make them available, or violate any requirements, procedures, policies, or regulations of such servers or networks; (vii) sell, license, or exploit for any commercial purposes any use of or access to the Payrix Services other than permitted by Payrix; (viii) forward any data generated from the Payrix Services without the prior written consent of Payrix; (ix) sub-license any or all of the Payrix Services to any third party; or (x) transfer or assign the Account password, even temporarily, to a third party.

5. **Application.** On sign-up and throughout the term of this Agreement, Sub-Merchant shall supply, through the Application and by such other means as Payrix may require, information concerning the Sub-Merchant, its Guarantor (if required by Payrix) and principals. Sub-Merchant shall notify Payrix of any changes in such information. The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and other applicable laws require financial institutions to verify the identity of every person who seeks to open an account with a financial institution. Sub-Merchant shall provide documentary verification as requested from time to time by Payrix in a manner acceptable to Payrix. Payrix, Processor, and Bank reserve the right to verify Sub-Merchant's identity through other non-documentary methods as deemed appropriate in their sole discretion. Payrix, Processor, and Bank may retain a copy of any document it obtains to verify Sub-Merchant's identity. Sub-Merchant will elect on the Application to accept (full acceptance) or not accept (limited acceptance) Cards for payment. A full acceptance Sub-Merchant will accept all valid Cards unless Sub-Merchant provides thirty (30) days written notice to Payrix requesting limited acceptance and stating Sub-Merchant's election of Card types. Limited acceptance is in all instances subject to the Rules. Sub-Merchant will prominently display Card signage provided by Payrix in its place(s) of business and the type of signage displayed will be in accordance with the Payment Networks accepted by Sub-Merchant and if Sub-Merchant participates in full or limited acceptance. **SUB-MERCHANT ACKNOWLEDGES THAT THE APPLICATION CONTAINS REFERENCES TO OTHER DOCUMENTS, INCLUDING THE PRIVACY POLICY, THE FINANCIAL SERVICES GUIDE AND PRODUCT DISCLOSURE STATEMENT, AND THE DIRECT MERCHANT AGREEMENT, AND AGREES THAT SUCH DOCUMENTS ARE A PART OF THIS AGREEMENT.**
6. **Customers.** Payrix is not party to any Sub-Merchant relationship with its Customer that necessitates the Transaction and Payrix shall have no obligations thereunder or in respect thereof. Sub-Merchant is solely responsible for its Product and all customer service issues related thereto including pricing, order fulfillment, order cancellation by Sub-Merchant or the Customer, returns, refunds and chargebacks, adjustments, rebates, functionality and warranty, technical support and feedback concerning experiences with Sub-Merchant personnel, policies or processes. Sub-Merchant shall post its customer service telephone number on its website. Sub-Merchant shall indemnify and hold harmless Payrix, Processor, Bank and their respective shareholders, directors, officers and employees harmless from any and all claims, losses or other liabilities arising from or in relation to Sub-Merchant's relationship with its Customer or any Product, including any and all costs associated with the legal defense related to such claims. Each Transaction submitted or processed hereunder shall represent a payment by a Customer to Sub-Merchant. Payrix and Bank make no representation or guarantee with respect to Customer funds availability, that a Transaction will be authorized or processed, or that a Transaction will not later result in a chargeback, reversal Return or Reversal. If Sub-Merchant is a non-profit organization, it shall retain sole and exclusive responsibility for classifying itself and its Transactions, issuing any required reports and receipts, and making any required tax or other filings.
7. **Payrix Regulatory Status.** Payrix is not a bank, money transmitter or other money services business. Payrix Services relate solely to the facilitation of Transactions between Customers and the Sub-Merchant pursuant to this Agreement. Settlement funds are not insured by Payrix, Processor, Bank or any third party. Payrix reserves the right to monitor use of the Payrix Services by Sub-Merchant and its Customers to ensure compliance with this Agreement, the Rules and applicable laws. If Payrix determines that Sub-Merchant is not in compliance with this Agreement, the Rules or applicable law, Payrix reserves the right to take appropriate action including, but not limited to suspending or terminating this Agreement or access to the Account. Bank, not Payrix, settles Card Transaction funds to Sub-Merchant, and Payrix does not settle BECS Transaction funds to Sub-Merchant. Payrix does not at any point hold, own or control funds in connection with the Payrix Services, nor does Payrix transmit money or anything of monetary value. In connection with the Payrix



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Services, Payrix does not actually or constructively receive, take possession of, or hold any money or anything of monetary value for transmission, and does not advertise, solicit or hold itself out as receiving money for transmission. The Bank is the party with sole responsibility for conducting the settlement of funds between Customers and Sub-Merchants.

8. **Platform Services and Third Party Servicers.** Payrix assists in enabling Platforms to help Sub-Merchant administer its Account with Payrix and provides services directly to Sub-Merchant or its Customers. When Sub-Merchant opens an Account through a Platform, Sub-Merchant authorizes Payrix to permit the Platform to (i) access Sub-Merchant's Account with Payrix and any data contained in such Account; (ii) assist Sub-Merchant in creating and managing Transactions with Customers; and (iii) deduct Platform fees from funds payable to Sub-Merchant. Sub-Merchant agrees to pay all Platform fees in addition to the Fees as set forth in this Agreement. Payrix does not assume any responsibility with regard to the connectivity between Sub-Merchant and any Platform or Third Party Servicer. It is ultimately Sub-Merchant's responsibility to insure that Sub-Merchant Transactions reach Payrix, Processor and the Bank in order to receive Payrix Services. Sub-Merchant shall not use any Third Party Servicer unless it has all necessary Payment Network registrations and is fully compliant with applicable law and the Rules, as determined by Payrix. Payrix is not liable for Third Party Servicers or their services even if the Site contains links to them or the Payrix Services are integrated with them. The inclusion of any link or integration to a Third Party Servicer does not imply an approval, endorsement, or recommendation by Payrix. Sub-Merchant agrees that Sub-Merchant accesses any such website at Sub-Merchant's own risk.

9. **Equipment/Third Party Services.** The following provisions apply if Sub-Merchant elects to purchase supplies or purchase, rent, or otherwise use equipment from Payrix at any time:
 - (i) **Equipment Terms of Use and Sale.** As requested by Sub-Merchant and upon Payrix's approval, Payrix may lease, rent, sell or otherwise provide Equipment to Sub-Merchant in connection with this Agreement. Sub-Merchant agrees that Payrix may substitute a comparably valued device making up the Equipment in the event the device Sub-Merchant selected is out of stock or otherwise not currently available to Payrix and/or if Payrix reasonably believes that the requested Equipment is not compatible with Sub-Merchant's software or other equipment (including any point of sale (POS) system). Except as otherwise set forth in (ii) of this section below, Sub-Merchant acknowledges that Payrix provides the Equipment to Sub-Merchant on an 'as is' basis, with no representations or warranties. To the extent permitted by law, Sub-Merchant agrees to release and hold Payrix harmless from any claims relating to any breach of manufacturer's or third party's warranties and that Payrix is not liable to Sub-Merchant for any loss, delay, error, interruptions or damage of any kind or character, whether direct, indirect or consequential, resulting from inoperable, defective or otherwise non-working Equipment. Sub-Merchant is solely responsible for complying with the Payment Network Rules and applicable laws regarding Sub-Merchant's use of the Equipment.

 - (ii) **Equipment Support.** Payrix agrees to provide limited technical support for installation and operation of the Equipment and to deliver to Sub-Merchant any available product warranties provided by the manufacturer of the Equipment or other third party. Payrix has no liability or responsibility for fulfilling the terms of the manufacturer or other third-party warranties, if any. To the extent permitted by law, Sub-Merchant's sole recourse relating to the manufacturer or other third-party warranty shall be through the manufacturer or, as applicable, the third party. Payrix or the Platform may assist Sub-Merchant in the repair or replacement of the Equipment if necessary, as determined by Payrix or Platform, and subject to additional charges and/or required documentation. If Payrix or the Platform replaces the Equipment pursuant to the above sentence, Sub-Merchant agrees to return the original Equipment, at Sub-Merchant's sole cost and expense, within ten (10) calendar days of Sub-Merchant's receipt of the replacement Equipment.

 - (iii) **Use of the Equipment.** The operating instructions will instruct Sub-Merchant in the proper use of the Equipment, and Sub-Merchant shall use and operate the Equipment only in such manner. Sub-Merchant agrees that Sub-Merchant will not acquire any title or proprietary right to any Equipment leased, rented, or otherwise provided free of charge by Payrix or Platform. Sub-Merchant will protect all such Equipment from loss, theft, damage or any legal encumbrance and will allow Payrix or Platform or other Payrix's designated representatives reasonable access to Sub-Merchant's premises for repair, removal, modification, installation and relocation of the Equipment. Sub-Merchant further agrees not to move or allow any Equipment to be moved outside Australia without the prior written consent of Payrix. Payrix's suppliers, including where applicable, Platform, are intended third-party beneficiaries of this Agreement to the extent



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any terms pertain to Payrix's suppliers' ownership rights. Payrix's suppliers have the right to rely on and directly enforce the applicable terms of this Agreement against Sub-Merchant. Except for Equipment Sub-Merchant purchases, Sub-Merchant shall not permit the Equipment to be used by any other person or entity or at any address other than Sub-Merchant's address set forth in the Sub-Merchant Application without Payrix's express written consent. With respect to any item of Equipment Payrix or Platform provides to Sub-Merchant, Sub-Merchant will not be liable for normal wear and tear, provided, however, that Sub-Merchant will be liable to Payrix in the event that an item of Equipment is lost, destroyed, stolen or rendered inoperative. Sub-Merchant agrees that Sub-Merchant's indemnification obligations under this Agreement apply to Sub-Merchant's use of the Equipment. Any unused equipment in its original packaging purchased from Payrix hereunder may be returned to Payrix at Sub-Merchant's expense within sixty (60) calendar days of receipt. Sub-Merchant shall receive a refund of any money paid, exclusive of shipping charges, in connection therewith subject to a re-stocking fee of an amount equal to twenty percent (20%) of the total purchase price for the returned equipment. No refunds shall be issued for any equipment returned after sixty (60) calendar days. Payrix may register on the Australian personal property securities register established under the *Personal Property Securities Act 2009* (Cth) (and any regulations made for this Act) as amended from time to time ("PPSA") any interest it holds in the Equipment. Sub-Merchant will do all things necessary, including executing all documents Payrix reasonably requires, to enable us to register a financing statement on the register and to have a perfected security interest in respect of the Equipment. Sub-Merchant must not grant any other security interest in the Equipment, without Payrix's prior written consent. Sub-Merchant waives its right under the PPSA to receive a copy of any statement in relation to security interests registered or to be enforced. The parties agree that, to the extent possible, the sections of the PPSA listed in section 115(1) of the PPSA will not apply on the enforcement by Payrix of any security interest created pursuant to this Agreement. Sub-Merchant further authorizes Payrix to sell or assign title to the Equipment, without further Sub-Merchant consent. Notwithstanding anything herein to the contrary, the Equipment is and will remain, personal property, and will not be deemed to be affixed to or a part of any premises of the Sub-Merchant, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to the premises of the Sub-Merchant. Upon the request of Payrix, Sub-Merchant will, at Sub-Merchant's expense, furnish a waiver of any interest in the Equipment.

- (iv) Software. Sub-Merchant acknowledges that any Equipment provided under this Agreement is embedded with proprietary technology ("Software"). Sub-Merchant shall not obtain title, copyrights or any other proprietary right to any Software. At all times, Payrix or Payrix's suppliers retain all rights to such Software, including but not limited to updates, enhancements and additions. Except to the extent that applicable copyright laws prevent Payrix from restraining a Sub-Merchant from doing so, Sub-Merchant shall not disclose such Software to any party, convey, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, and/or create any derivative work based on such Software. Sub-Merchant's use of such Software shall be limited to that expressly authorized by Payrix. In the event the Equipment requires additional Software, Sub-Merchant is obligated to cooperate with Payrix and Platform for the receipt and installation of such Software and/or to participate in a dial in or other down-load procedure.
- (v) Fees and Discontinued Use of Equipment. Sub-Merchant agrees to pay the lease, rental, and other fees and costs set forth in the Application or any order form or amendment or addendum to the Agreement, from the date on which the Equipment is provided to Sub-Merchant and continuing thereafter as provided in this Agreement. Furthermore, for any Equipment provided to Sub-Merchant not included in the Application, order form, amendment, or addendum, Sub-Merchant agrees to pay the suggested retail price or Payrix's standard list price for the Equipment as invoiced to Sub-Merchant by Payrix or Platform. If Payrix or Platform provides Sub-Merchant Equipment at no cost, or Sub-Merchant rents or leases Equipment from Payrix, within fourteen (14) calendar days from the earlier of: (i) the end of the lease or rental term; (ii) upon such time that Sub-Merchant discontinues transmitting Customer Transactions through the Equipment to Payrix for a period of thirty (30) calendar days; or (iii) Sub-Merchant has not submitted a transaction to Payrix within thirty (30) calendar days of the date Payrix provides Sub-Merchant the Equipment, Sub-Merchant agrees to, either: (a) return the Equipment to Payrix or Platform at Sub-Merchant's sole cost and expense, if so instructed by Payrix; or (b) otherwise pay the equipment non-return/non-use fee of up to \$999.00 per device unless expressly otherwise agreed in writing. In the event Sub-Merchant discontinues transmitting customer transactions through the Equipment to Payrix for a period of thirty (30) calendar days within the initial term of the lease or rental,



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Sub-Merchant agrees that the monthly lease or rental fee set forth in the Application shall apply for the remainder of such initial term which monthly lease or rental fee will be accelerated and immediately charged to Sub-Merchant.

10. **Credit Check Consent; Financial Information.** In connection with Sub-Merchant procuring Payrix Services from Payrix, Sub-Merchant understands that one or more consumer reports may be obtained by Payrix from consumer and/or commercial reporting agencies and Sub-Merchant consents to Payrix obtaining such reports and agrees to provide Payrix with any information necessary to obtain such reports. Sub-Merchant (which term shall include its shareholders, officers and Guarantors in this consent) understands that this report may include information with respect to public record information, criminal records, motor vehicle operation history, education records, names and dates of previous employers, reason for termination of employment and work experience, and/or credit worthiness, capacity and standing, character, general reputation, personal characteristics, or mode of living, such information may be used to evaluate whether Sub-Merchant is an appropriate candidate for transacting with Payrix and this determination may be adverse to Sub-Merchant. Payrix may also share information provided by the Sub-Merchant or contained in a credit report to a person considering acting as a Guarantor or to any of the Guarantors named for the purposes of: (a) that person deciding whether to act as a Guarantor in relation to this agreement or any future agreements; (b) that person deciding whether to provide property as security; or (c) to keep that Guarantor informed about the guarantee. The Sub-Merchant agrees that Payrix may provide information to and exchange this information with credit reporting agencies for the purpose of managing the Sub-Merchant's account including collecting overdue invoices. The Sub-Merchant acknowledges that it has the right to request a credit reporting body not to use its credit reporting information for the purposes of pre-screening of direct marketing by a credit provider and the right to request a credit reporting body not to use or disclose credit reporting information if the Sub-Merchant believes on reasonable grounds that it has been or is likely to be a victim of fraud. Upon written or verbal notice at any time, Sub-Merchant agrees to furnish to Payrix its recent and/or historical financial statements and other financial information. From time to time, Payrix may request credit and other financial information concerning Sub-Merchant, its owners, Guarantors (if any) and principals, and Sub-Merchant agrees to furnish the information in a timely manner. Further, Sub-Merchant agrees to provide Payrix with prompt written notice of any adverse change in Sub-Merchant's financial condition that includes but is not limited to: any planned or anticipated liquidation; any significant change in the nature of Sub-Merchant's business; and any material judgment, writ, warrant of attachment, levy or adverse decision against Sub-Merchant affecting its financial condition. The information obtained will not be provided to any parties other than to designated authorized representatives of Payrix. Sub-Merchant further understands that a consumer reporting agency may not give out information about Sub-Merchant to Payrix without Sub-Merchants' written consent. Sub-Merchant hereby authorizes Payrix now, or at any time while it is party to an agreement with Payrix or otherwise engaged by Payrix, to obtain, either directly or through an Affiliate or other third party, a consumer and/or commercial credit report on Sub-Merchant.

This authorization does not include the release of Sub-Merchant's medical information. A copy, fax or scan of this consent shall be considered as effective and valid as the original. Sub-Merchant understands that in the event any adverse action is taken against Sub-Merchant based in whole or in part on the consumer and/or commercial credit report, Payrix may (i) provide notice to Sub-Merchant of the adverse action; (ii) disclose Sub-Merchant's credit score; (iii) provide Sub-Merchant with the name, address and telephone number of the consumer reporting agency; and/or (iv) provide notice of Sub-Merchant's rights under Part IIIA of the *Privacy Act 1988* (Part IIIA) (Cth), the *Privacy Regulation 2013* (Cth) and the *Privacy (Credit Reporting) Code 2014 (CR Code)* or other applicable law. On request, California, Minnesota and Oklahoma residents, can obtain a copy of any consumer credit report requested by Payrix. On request, New York residents can be informed if a consumer credit report has been requested on them by Payrix as well as the name of the agency providing the report. Sub-Merchant and its Guarantors have read and understand the above and authorize Payrix to perform the above investigations. Sub-Merchant must provide accurate and complete information. If Payrix cannot verify that this information is complete and accurate, Payrix may deny Sub-Merchant use of Payrix Services, or close the Sub-Merchant Account.

11. **Fees.** Sub-Merchant shall pay Fees for the Payrix Services. Payrix calculates the payment of Fees in the currency used in the locality of the Sub-Merchant location. Fees shall be paid to Payrix by offsets from Transaction fund settlements to the Sub-Merchant's bank account(s), daily BECS Transaction billing against Sub-Merchant's bank account(s), monthly BECS Transaction billing against Sub-Merchant's bank account(s), or any other billing method chosen by Payrix. If there are insufficient Card Transaction funds to cover Fees, or if any BECS Transaction billing is rejected due to insufficient funds in the Sub-Merchant's bank account(s), then Sub-Merchant shall pay the Fees immediately. Platform may also have



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provided disclosure to Sub-Merchant concerning Fees. In the event of any inconsistency between Fees disclosed to Sub-Merchant by Platform and those disclosed by Payrix, the higher of the two shall apply. If any fees are blank or identified as not applicable on the Application, then Payrix will assess Sub-Merchant Payrix's standard fees for such transaction(s) or item(s). Payrix may change or add fees and/or charges upon notice to Sub-Merchant via Payrix's Service Delivery Process, and such changes and/or additions to fees and charge shall be effective on no less than ninety (90) days' notice. Payrix has the right to round, assess, and calculate interchange and other fees and amounts and on return, chargeback and certain other transactions retain such amounts, in accordance with Payrix's *standard operating procedures*. The Payrix Service used by Payrix to provide Sub-Merchant monthly statements summarizing the transaction processing of Sub-Merchant and fees may be via Payrix's online Sub-Merchant portal.

12. **Transaction Authorizations**. Sub-Merchant shall not submit Transactions hereunder unless they are submitted in the correct manner, including the Sub-Merchant being in possession of Transaction receipts and not submitting Transactions until they are complete, (i.e. the goods or services are shipped/provided) and the Transaction is in the correct currency and within the correct time limit, as applicable. Sub-Merchant may set a minimum Card Transaction amount to accept that provides access to a credit account, under the following conditions: (i) the minimum Card Transaction amount does not differentiate between card issuers; (ii) the minimum Card Transaction amount does not differentiate between Payment Networks; and (iii) the minimum Card Transaction amount does not exceed \$10.00 (or any higher amount established by the Federal Reserve or the Reserve Bank of Australia (as the context requires) by regulation). Sub-Merchant may set a maximum Card Transaction amount to accept that provides access to a credit account, under the following conditions: (a) the Customer (i) is a department, agency, or instrumentality of the U.S. Government or the Australian Government (as the context requires); or (ii) is a corporation owned or controlled by the U.S. Government or the Australian Government (as the context requires); or (iii) is a Customer whose primary business is reflected by a permitted merchant category code (MCC) under applicable Rules (b) the maximum Card Transaction amount does not differentiate between card issuers; and (c) the maximum Card Transaction amount does not differentiate between Payment Networks. Bank shall hold, receive, disburse and settle Transaction funds on Sub-Merchant's behalf. Subject to this Agreement, Sub-Merchant also authorizes Bank to debit or credit any payment card or other payment method Payrix accepts. Sub-Merchant authorizes Payrix and/or Bank to initiate electronic debit and credit entries to Sub-Merchant's bank account(s) and to initiate adjustments for any Transactions credited or debited in error. Sub-Merchant agrees to be bound by the Rules, and Sub-Merchant agrees that all Transactions that Sub-Merchant initiates will comply with applicable rules and regulations, including the BECS Regulations and Procedures, and all applicable law. In the event of any inconsistency or conflict between any provision of this Agreement and the Rules, the Rules shall govern. Sub-Merchant's authorization will remain in full force and effect until Sub-Merchant notifies Payrix that Sub-Merchant revokes such authorization by contacting Payrix through the Account. Sub-Merchant understands that Payrix requires a reasonable time to act on Sub-Merchant revocation.
13. **Settlement**. Each Account must be linked to at least one verified Sub-Merchant bank account; meaning, the Sub-Merchant bank account(s) must match the routing number and account number provided by Sub-Merchant as well as Sub-Merchant's legal entity name or registered doing business as (DBA) or trade name. The Bank will transfer funds to the Sub-Merchant's bank account(s) according to this Agreement. If Bank cannot transfer the funds to the Sub-Merchant's bank account(s) (due to inaccurate or obsolete bank account information entered by the Sub-Merchant, or for any other reason), Payrix may refund the funds to the Customer or escheat them as provided below. None of Bank, Payrix or the Customer will have any liability to Sub-Merchant for funds so refunded. Settlements to a bank account shall be limited or delayed based on Sub-Merchant's perceived risk and history with Payrix as determined by the sole and absolute discretion of Payrix or Bank and Payrix may debit any Sub-Merchant bank account(s) for any reason permitted in this Agreement. Unless otherwise agreed in writing by Payrix, Transaction settlement shall be by BECS to the Sub-Merchant's bank account(s).
14. **Sub-Merchant Transaction Disclosure and Privacy Policy**. Sub-Merchant must not: (i) Require a Customer to complete a postcard or similar device that includes the Customer's account number, card expiration date, signature, or any other card account data in plain view when mailed; (ii) Add any tax to Transactions, unless applicable law expressly requires that Sub-Merchant be permitted to impose a tax. Any tax amount, if allowed, must be included in the Transaction amount and not collected separately; (iii) Assess a surcharge to Transactions, except as expressly permitted by, and in full compliance with the Rules and all applicable law; (iv) Request or use a card account number for any purpose other than as payment for its goods or services; (v) Disburse funds in the form of travelers cheques, if the sole purpose is to allow the Customer to make a cash purchase of Products from Sub-Merchant; (vi) Disburse funds in the form of cash, unless the Sub-Merchant is



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dispensing funds in the form of travelers cheque, TravelMoney cards, or foreign currency. In this case, the Transaction amount is limited to the value of the travelers cheques, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-Merchant; (vii) disburse funds of cash unless Sub-Merchant is participating in full compliance with a program supported by a Payment Network for such cash disbursement; (viii) Enter into interchange or otherwise originate any Transaction for a Transaction that was previously charged back to the Bank and subsequently returned to the Sub-Merchant, irrespective of Customer approval; provided, that Sub-Merchant may re-originate an BECS Transaction up to two times within 180 days if the initial BECS Transaction was returned for insufficient or uncollected funds. Sub-Merchant may pursue payment from the Customer outside the Payrix Services; (ix) Accept a Visa Consumer Credit Card or Commercial Visa Product, issued by a U.S. issuer, to collect or refinance an existing debt, or take any similar prohibited action in another jurisdiction; (x) Accept a card to collect or refinance an existing debt that has been deemed uncollectable by the merchant providing the associated goods or services; (x) Enter into interchange a Transaction that represents collection of a dishonored check; (xi) originate a BECS Transaction for a Customer if a BECS Transaction for that Customer has been returned as unauthorized, until a new Authorization is obtained from that Customer; (xii) Change any aspect of what goods or services it sells or how they are sold without prior written consent of Payrix and Bank; (xiii) Request a Card Verification Value₂ ("CVV₂") for a card present transaction nor retain or store any portion of the magnetic stripe data subsequent to the authorization of a sales transaction, nor any other data prohibited by the Rules; or (xiv) Submit a transaction that does not result from an act between the Customer and the Sub-Merchant. Sub-Merchant shall post a privacy policy that complies with the Rules and applicable law to its website and shall honor the terms thereof.

15. **Reserves.** Where deemed necessary or appropriate by Bank or Payrix, Bank shall create a Reserve in order to protect Bank or Payrix from actual or potential liabilities hereunder. The Reserve will be in an amount determined by Payrix in its sole and absolute discretion to cover anticipated chargebacks, returns, unshipped Product and/or unfulfilled services, Reversals, Returns, or other amounts owing by Sub-Merchant hereunder, or credit risk based on Sub-Merchant processing history. The Reserve may be raised, reduced or removed at any time by Bank or Payrix. Where the Reserve is not adequately funded, Sub-Merchant shall pay all amounts requested by Payrix for the Reserve within one (1) business day of a request for such amounts and Bank and Payrix may build the Reserve by off-sets from Transaction settlements or by debiting any bank account of the Sub-Merchant, including by DDR or BECS. Sub-Merchant grants Payrix a security interest in and lien on any and all funds held in any Reserve, and also authorizes Payrix to make any withdrawals or debits from the Reserve, without prior notice to Sub-Merchant, to collect amounts that Sub-Merchant owes Payrix under this Agreement, including without limitation, for any Reversals or other reversals of deposits or transfers. Sub-Merchant will execute any additional documentation required for Payrix to perfect Payrix's security interest in any funds in the Reserve. This security interest survives for as long as Payrix holds funds in Reserve; however, it does not apply to any funds for which the grant of a security interest would be prohibited by law. Sub-Merchant irrevocably assigns to Payrix all rights and legal interests to any interest or other earnings that accrue or are attributable to the Reserve.
16. **Customer Data Security and Compliance.** If Sub-Merchant collects, stores, uses or discloses any Customer Data, Sub-Merchant shall, and shall cause its Third Party Servicers to, comply with PCI DSS and all other applicable laws and the Rules relating thereto, and shall certify such compliance when requested by Payrix. Without limiting the foregoing, Sub-Merchant shall comply to the extent applicable with BECS Regulations and Procedures requiring certain large BECS Transaction originators to render account numbers unreadable when stored at rest electronically. Sub-Merchant shall use only PCI DSS compliant Third Party Servicers in connection with the storage, processing, or transmission of Customer Data and shall be exclusively liable for any security breaches of its systems or any other PCI DSS violations or violations of other applicable laws or the Rules. Sub-Merchant has exclusive responsibility for security of Customer Data and other information on Sub-Merchant systems or those under its control. Sub-Merchant is aware of and shall comply with all applicable laws, Rules, and regulations in connection with Sub-Merchant collection, security and dissemination of any personal, financial, or transaction information. Without limitation, Sub-Merchant shall maintain policies and procedures to reduce the risk of loss from transactions that may pose significant fraud, regulatory, or legal risk, or may cause reputational damage to Payrix or any third party. Sub-Merchant shall maintain adequate security so as to prevent a breach of Customer Data. In the event of any actual or suspected breach of data in possession or control of Sub-Merchant or one of its Third Party Servicers, Sub-Merchant shall immediately notify Payrix thereof and also comply with all applicable laws and Rules concerning the breach. Sub-Merchant shall obtain from each Customer all consents required under the Rules and applicable law for the collection, use, storage and disclosure of any and all information provided by Customers or obtained by Sub-Merchant or its agents or Third Party Servicers under Sub-Merchant's relationship with its Customer or



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otherwise for use by Payrix, Processor, Bank and all third parties as set forth in this Agreement and that assist in the delivery of the Payrix Services. Sub-Merchant shall indemnify and hold Payrix and Bank harmless from and against any liability arising on account of or in relation to the failure by Sub-Merchant to obtain consents from Customers related to their information or cards. Sub-Merchant expressly consents for Payrix, Processor, Bank and its/their all third parties to collect, use, store and disclose (i) any information obtained by or through Payrix, Processor, Bank, and/or their third parties, including information derived from the Application, (ii) any information concerning Customers, Transactions, and the business of the Sub-Merchant, including any of the foregoing collected in order to supply the Payrix Services, generate reports, to reduce fraud, provide customer support, create and share aggregated and/or anonymized data concerning Sub-Merchant Customers and Customer Data, and (iii) any information arising in connection with the Payrix Services and/or derived in furtherance of assessing the risk associated with Sub-Merchant. Payment Networks shall have the right to use Sub-Merchant name, address, and internet addresses and Sub-Merchant authorizes Payrix to provide any such Payment Networks with any of Sub-Merchant's information requested by the Payment Network. Payrix reserves the right, at its sole but reasonable discretion, without prior consent of Sub-Merchant, to make reasonable changes to the Payrix Services or implement other risk management controls deemed necessary by Payrix or its suppliers to manage risk. Sub-Merchant shall comply with all such changes. Sub-Merchant acknowledges and agrees that Platform may support and facilitate, through its relationship with Payrix, the use of payment tokens ("Tokens") that may be shared among, as well as accepted by, a group or groups ("Token Grouping Services") of merchants and/or sub-merchants that are (i) similarly branded, (ii) part of a chain of independently owned stores, and/or (iii) commonly connected by or through a brand, website, club, affiliation, or some other commonality, including their relationship to Platform (each, a "Merchant Group"). Sub-Merchant participates in a Merchant Group when it shares Tokens with, accepts tokens from, or otherwise permits the sharing of Tokens with and the acceptance of Tokens from, one or more merchants or sub-merchants, and thereby consents to the receipt of Token Grouping Services. Sub-Merchant acknowledges and agrees that the merchant and sub-merchant composition of a Merchant Group may change from time to time. In using the Token Grouping Services, Sub-Merchant shall at all times comply with the Rules, including any provisions related to card absent transactions, recurring billing, and customer consent and authorization for Token Grouping Services.

17. **Taxes.** Sub-Merchant has the exclusive responsibility to calculate, charge, collect, and remit applicable GST and VAT (value-added tax) and other taxes applicable to Product sales for which Sub-Merchant is legally responsible to do so. Payrix may have specific tax reporting responsibilities in connection with the Payrix Services, which will be provided to the relevant tax authorities as required by local law.
- 17A. **Other Tax Terms.** All fees and other sums payable by Sub-Merchant under this Agreement are exclusive of GST and VAT and any other applicable taxes that may apply hereto under any law. The Sub-Merchant will pay such tax upon receipt of an invoice that complies with local tax laws. If the Sub-Merchant is required by law to make a deduction or withholding from any payment due under this Agreement, it shall pay such additional amounts as are required to ensure that the net amount received and retained by Payrix equals the full amount that would have been received and retained by it had no such deduction or withholding been made and/or no such liability to tax been incurred. In the event that Payrix and the Sub-Merchant are jointly liable to a tax authority for any tax, such sums will be payable by the Sub-Merchant. Payrix may, in its sole discretion and without obligation, pay any such tax to the relevant tax authority. In the event Payrix pays any tax owed by the Sub-Merchant under this Agreement, the sub-merchant agrees to immediately indemnify Payrix against, and reimburse Payrix for, such sums. In addition to any other rights of Payrix in this Agreement, Payrix may, in its sole discretion, deduct such sums from any remittance, outward payment, or other sums held by Payrix and owed to Sub-Merchant. In the event that a tax authority requires information from Payrix in relation to the Sub-Merchant and/or transactions processed under this Agreement, then Sub-Merchant hereby agrees that Payrix may provide such information. Sub-Merchant agrees to provide Payrix with its tax identification details upon request.
18. **Refunds and Returns.** Sub-Merchant agrees to process returns of, and provide refunds and adjustments for Products in accordance with this Agreement and the Rules. The Rules require that Sub-Merchant will: (i) maintain a fair return, cancellation or adjustment policy; (ii) disclose Sub-Merchant return or cancellation policy to Customers at the time of purchase; (iii) not give cash refunds to a Customer in connection with a payment card sale, unless required by law; and (iv) not accept cash or any other item of value for preparing a payment card sale refund. Sub-Merchant's refund policies must be the same for all payment methods, and should specifically include a requirement for prompt payment of refunds in order to limit chargeback risk.



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19. **Chargeback Liability.** The amount of a Card Transaction may be charged back to Sub-Merchant for a variety of reasons under the Payment Network Rules. The amount of a BECS Transaction may be subject to Reversal for wrong dollar amount, wrong account number, duplicate transaction or other reasons under the BECS Regulations and Procedures and all applicable law. Sub-Merchant is responsible for all chargebacks and Reversals, whether or not the chargeback or Reversal complies with the Rules or other applicable law. Sub-Merchant shall immediately pay Payrix the amount of all chargeback and related Fees, fines, or penalties assessed by the Bank, Processor, the Payment Networks or any other third party. If Sub-Merchant does not have sufficient funds in its bank account(s) to pay such amounts, Payrix can offset the amounts thereof from other Transaction amounts owing to Sub-Merchant hereunder, debit the amount by BECS Transaction from the Sub-Merchant's bank account(s) or oblige Sub-Merchant to make immediate payment thereof. If Payrix determines that Sub-Merchant is incurring an excessive amount of chargebacks, Returns or Reversals, Payrix or the Bank may establish controls or conditions governing Sub-Merchant's Account, including without limitation, by: (i) assessing additional Fees; (ii) creating a Reserve in an amount reasonably determined by Payrix; (iii) delaying payment; and (iv) terminating or suspending the Payrix Services or closing the Account. Sub-Merchant shall assist in the investigation of any and all chargebacks, Returns, Reversals and other actual or potential Transaction disputes and shall timely provide such information to Payrix as Payrix may request.
20. **Recoupment of Funds Owning to Payrix.** Where amounts are owing from Sub-Merchant to Payrix hereunder, Payrix shall have the right to immediately, without prior consent or notice, offset or debit such amounts from funds: (i) deposited by Sub-Merchant; (ii) due to Sub-Merchant under this Agreement; (iii) held in the Reserve; or (iv) available in Sub-Merchant bank account(s), or other payment instrument registered with the Bank. Sub-Merchant's failure to pay in full amounts that Sub-Merchant owes Payrix on demand will be a breach of this Agreement. Sub-Merchant will be liable for Payrix costs associated with collection in addition to the amount owed, including without limitation attorneys' fees and expenses, collection agency fees, and interest at the lesser of one-and-one-half percent (1.5%) per month or the highest rate permitted by applicable law. In its discretion, Payrix may make appropriate reports to credit reporting agencies and law enforcement authorities, and cooperate with them in any resulting investigation or prosecution. Sub-Merchant hereby expressly agrees that all communication in relation to delinquent Accounts will be made as permitted under this Agreement. Such communication may be made by Payrix or by anyone on its behalf, including but not limited to a third party collection agent.
21. **Escheatment.** If there is no activity in an Account for the period of time set forth in the applicable unclaimed property laws, and Sub-Merchant has a credit, Payrix may notify Sub-Merchant by sending an email to Sub-Merchant's registered email address. Payrix may also notify Sub-Merchant by U.S. mail or Australian mail (as the context requires). Payrix will give Sub-Merchant the option of keeping the Account open, withdrawing the funds, or requesting a check. If Sub-Merchant does not respond to Payrix notice within the time period specified in the notice, Payrix may close the Account and Sub-Merchant funds may escheat in accordance with applicable law.
22. **Recordkeeping.** Sub-Merchant shall have exclusive responsibility for: (i) compiling and retaining permanent records of all Transactions and other data, and (ii) reconciling all Transaction information that is associated with Sub-Merchant's Account. If Sub-Merchant believes that there is an error associated with Sub-Merchant's Account, Sub-Merchant must notify Payrix in writing within 60 days after the suspected error occurred. Sub-Merchant's failure to notify Payrix within such time period will result in Payrix not being responsible for investigating or effecting any requested adjustments as a result of any error. Upon five (5) business days' notice or immediately upon the direction of a Payment Network, a Payment Network, or Payrix at the direction of a Payment Network, may conduct an on-site audit of Sub-Merchant, and Sub-Merchant agrees to cooperate with such audit.
23. **Term and Termination.** The Agreement shall become effective when it is accepted by both parties hereto and shall terminate as set forth herein. Payrix and Bank have the right to terminate this Agreement at any time for any reason or for no reason. On any termination hereof, Sub-Merchant shall immediately cease using the Payrix Services and the Account. Payrix shall have the right to delete all Account information on any termination hereof, but it also has the right to retain copies thereof for up to five (5) years. Payrix and Bank shall not have any liability to Sub-Merchant resulting from a termination hereof. This Agreement shall terminate immediately if a Payment Network requires Payrix to terminate this Agreement. Sub-Merchant may terminate this Agreement by closing Sub-Merchant's Account at any time. When Sub-





Merchant closes the Account, any pending Transactions will be cancelled. Any funds that the Bank is holding in custody for Sub-Merchant at the time of closure, less any applicable Fees and other liabilities of Sub-Merchant, will be paid out to Sub-Merchant according to Sub-Merchant's payment schedule. Bank may also withhold such funds pending investigation of Sub-Merchant Transactions or potential liabilities hereunder. On any termination hereof, Sub-Merchant shall remain liable hereunder for any and all Fees or costs accrued prior to or following termination and any other amounts owed by Sub-Merchant to Payrix, Bank or a Payment Network.

24. **Marks/IP.** Sub-Merchant may use the trademarks and service marks of Payrix and the Payment Networks (the "Marks") as provided by the Rules and subject to the sole discretion and approval of Payrix. Upon termination of this Agreement, Sub-Merchant agrees that it shall no longer use the Marks or anything similar thereto. Payrix reserves all rights not expressly granted to Sub-Merchant in this Agreement and except to the extent expressly granted to the Sub-Merchant in this Agreement, the powers conferred on authorised users of the Marks by section 26 of the Australian *Trade Marks Act 1995* (Cth) are expressly excluded from the rights granted to the Sub-Merchant under this clause. Payrix owns the title, copyright and other worldwide intellectual property rights in the Payrix Services and all copies of the Payrix Services. This Agreement does not grant Sub-Merchant any rights to Payrix's trademarks or service marks, nor may Sub-Merchant remove, obscure, or alter any of Payrix's trademarks or service marks included in the Payrix Services. All comments and suggestions concerning the Payrix Services provided to Payrix shall be the property of Payrix and Sub-Merchant shall not have any rights therein.
25. **Indemnification.** Sub-Merchant shall indemnify, defend and hold Payrix, its Processor, Bank, Payment Networks and all third parties that assist in providing the Payrix Services, as well as Customers and their respective employees, directors, and agents harmless from and against any and all claims, costs, losses, damages, judgments, tax assessments, penalties, interest, and expenses (including without limitation reasonable attorneys' fees) arising out of any claim, action, audit, investigation, inquiry, or other proceeding instituted by a third party person or entity that arises out of or relates to: (i) any actual or alleged breach of Sub-Merchant representations, warranties, or obligations set forth in this Agreement, including without limitation any violation of Payrix policies or the Rules; (ii) Sub-Merchant's wrongful or improper use of the Payrix Services; (iii) any Transaction submitted by Sub-Merchant through the Payrix Services (including without limitation the accuracy of any Product information that Sub-Merchant provides or any claim or dispute arising out of Products offered or sold by Sub-Merchant); (iv) Sub-Merchant's violation of any third-party right, including without limitation any right of privacy, publicity rights or intellectual property rights; (v) Sub-Merchant's violation of any applicable law; or (vi) any other party's access and/or use of the Payrix Services with Sub-Merchant's access credentials.
26. **Sub-Merchant Representations.** Sub-Merchant represents to Payrix and Bank that: (i) Sub-Merchant is eligible to register and use the Payrix Services and has the authority and capacity to enter into and perform under this Agreement; (ii) the name identified by Sub-Merchant when Sub-Merchant registered is Sub-Merchant name or business name under which Sub-Merchant sells goods and services; (iii) each Transaction submitted or originated by Sub-Merchant shall represent a bona fide sale by Sub-Merchant; (iv) any Transactions submitted by Sub-Merchant will accurately describe the Product sold and delivered to a Customer; (v) each Transaction originated by Sub-Merchant is in accordance with a valid Authorization that complies with all applicable law and has not been revoked or terminated, the original or a copy of which is held by Sub-Merchant and can be produced upon request; (vi) Sub-Merchant shall fulfill all of Sub-Merchant's obligations to each Customer for which Sub-Merchant submits a Transaction and will resolve any consumer dispute or complaint directly with the Customer; (vii) Sub-Merchant and all Transactions initiated by Sub-Merchant shall comply with all applicable laws and the Rules; (viii) except in the ordinary course of business, no Transaction submitted by Sub-Merchant through the Payrix Services will represent a sale to any principal, partner, proprietor, or owner of Sub-Merchant entity; and (ix) Sub-Merchant will not use the Payrix Services, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Payrix Services.
27. **No Warranties.** THE PAYRIX SERVICES ARE PROVIDED ON AN AS IS AND AS AVAILABLE BASIS. USE OF THE PAYRIX SERVICES IS AT SUB-MERCHANT'S OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PAYRIX SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, EXCEPT FOR ANY IMPLIED CONDITION, GUARANTEE OR WARRANTY THE EXCLUSION OF WHICH WOULD CONTRAVENE ANY STATUTE OR CAUSE THIS CLAUSE TO BE VOID.



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28. **Limitation of Liability.** PAYRIX, ITS PROCESSOR AND BANK SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF SALES, GOODWILL, PROFITS OR REVENUES. PAYRIX'S, ITS PROCESSOR'S AND BANK'S LIABILITY UNDER THIS AGREEMENT FOR ANY CLAIM SHALL NOT EXCEED \$10,000. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PAYRIX, ITS PROCESSOR AND BANK SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED DIRECTLY OR INDIRECTLY BY: (I) AN ACT OR OMISSION OF SUB-MERCHANT OR ITS AFFILIATES OR ANY CUSTOMER; (II) SUB-MERCHANT USE OF OR SUB-MERCHANT INABILITY TO USE THE PAYRIX SERVICES; (III) DELAYS OR DISRUPTIONS IN THE PAYRIX SERVICES, (IV) VIRUSES OR OTHER MALICIOUS SOFTWARE OBTAINED BY ACCESSING THE PAYRIX SERVICES; (V) BUGS, ERRORS, OR INACCURACIES OF ANY KIND IN THE PAYRIX SERVICES; (VI) ACT OR OMISSIONS OF THIRD PARTIES; (VII) A SUSPENSION OR OTHER ACTION TAKEN IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT WITH RESPECT TO SUB-MERCHANT ACCOUNTS; (VIII) PAYRIX'S NEED TO MODIFY PRACTICES, CONTENT, OR BEHAVIOR, OR SUB-MERCHANT'S DIMINISHED ABILITY TO DO BUSINESS AS A RESULT OF CHANGES TO THIS AGREEMENT OR PAYRIX'S POLICIES OR PAYRIX SERVICES MADE IN ACCORDANCE WITH THIS AGREEMENT OR APPLICABLE LAW; (IX) BREACHES BY SUB-MERCHANT OF THIS AGREEMENT; (X) INCORRECT OR INCOMPLETE TRANSACTION INFORMATION; (XI) ACTS OR OMISSIONS OF THIRD PARTY SERVICERS, INCLUDING BUT NOT LIMITED TO THE PLATFORM; OR (XII) BANK, PAYRIX OR ONE OF PAYRIX'S SUPPLIERS ELECTING TO SUSPEND PROVIDING PAYRIX SERVICES IN RESPECT OF SUB-MERCHANT OR A CUSTOMER ON THE BASIS OF ITS LEGAL, COMPLIANCE, OR RISK POLICIES.
29. **Direct Merchant Status.** Certain Payment Networks may require that Sub-Merchant enter into a direct contractual relationship with the Bank if certain criteria are met. These criteria are met if the Sub-Merchant processes more than \$1,000,000 in payment transactions through Visa or MasterCard in a twelve-month period. If this happens, Sub-Merchant will immediately become bound by Processor's then current direct merchant agreement, the current version of which is included in the Application (the "Direct Merchant Agreement") whereby in such Direct Merchant Agreement, Sub-Merchant may be referred to as Merchant and be party to the Direct Merchant Agreement along with the Processor and the Member Bank(s) listed in the Direct Merchant Agreement. If Sub-Merchant becomes bound by the Direct Merchant Agreement, the Member Bank providing Transaction settlement funds into Sub-Merchant's bank account(s) will be the acquirer with regard to those Transactions. Full contact information for each Member Bank is set out in the Direct Merchant Agreement. Additionally, in the event Sub-Merchant has Charge Volume in excess of (1) \$1,000,000 in a rolling twelve month period, or (2) [\$100,000] in any three consecutive months ("High CV Merchant"), American Express may convert Sub-Merchant to a direct Card acceptance relationship. Upon conversion, Sub-Merchant will be bound by American Express' then-current Card Acceptance Agreement and corresponding pricing and fees. Sub-Merchant shall comply with the Rules, including those posted at the following sites and are incorporated herein by reference: usa.visa.com, www.mastercard.com, www.americanexpress.com and www.discover.com (if applicable) and any Rules included in websites in any jurisdiction Sub-Merchant processes in in connection with this Agreement. In the event of any inconsistency or conflict between any provision of this Agreement and the Rules, the Rules shall govern. Sub-Merchant agrees to comply with the specific requirements set forth in the **American Express Program** requirements set forth below in these terms and conditions, regardless of the amount of American Express charge volume.
30. **Sub-Merchant Obligations with Respect to BECS Transactions.** Sub-Merchant shall be primarily liable to Payrix for any credit entries originated and for any debit entries returned or reversed. In addition to its other obligations hereunder with respect to Transactions, Sub-Merchant agrees as follows with respect to BECS Transactions:
- (i) Sub-Merchant shall prepare and submit all electronic entries to Payrix in accordance with the terms, conditions and specifications set forth herein and as Payrix may specify from time to time. Sub-Merchant shall not cancel or amend any entry after its submission to Payrix other than as permitted by Payrix in Payrix's sole discretion.
 - (ii) Sub-Merchant shall comply at all times with all data security rules promulgated by NPNL and all applicable law. Without limiting the foregoing, Sub-Merchant shall transmit all entries via a secured electronic network or via a commercially reasonable security technology acceptable to Payrix and compliant with the BECS Regulations and Procedures and all applicable law. Sub-Merchant shall (a) establish, maintain and update commercially reasonable security measures to maintain the confidentiality of Customers' account numbers, routing numbers, non-public personally identifiable information, and sales information and (b) maintain processes and procedures to protect against unauthorized transactions and network infections and to verify the identity of routing numbers and receivers.



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- (iii) Sub-Merchant shall ensure the correctness, both as to content and form, of all entries and information submitted to Payrix. If any information is not readable, out of balance, or un-processable, Sub-Merchant shall correct and resubmit the information to Payrix. Payrix is not responsible for detecting any errors in the transmission or content of any entries, including duplicate entries. Payrix may reject any entry submitted by Sub-Merchant. In the event that an entry is rejected for any reason, Sub-Merchant shall remake such entry.
- (iv) Sub-Merchant shall not originate a BECS Transaction with respect to any Customer until Sub-Merchant has obtained from such Customer an authorization (an "Authorization"), as required by the BECS Regulations and Procedures and all applicable law and reasonably acceptable to Payrix, to make prearranged debits from the Customer's bank account(s). Such Authorization may be in the form of either (a) a signed written agreement from the Customer, with a copy thereof given to the Customer, or (b) an electronic record compliant with the requirements of the BECS Regulations and Procedures and legally binding in the same manner as are hard copy documents executed by hand signatures, with the electronic record capable of retention by print or otherwise. Sub-Merchant shall retain the original or a copy of the Authorization as prescribed in the BECS Regulations and Procedures and all applicable law and, upon Payrix's request, shall promptly furnish to Payrix an original or a copy of the Authorization. Should Sub-Merchant wish to change the amount or date of billing of an BECS Transaction in respect of any Customer, it shall first obtain a new Authorization.
- (v) Sub-Merchant shall at all times comply with the BECS Regulations and Procedures and all applicable law with respect to each BECS Transaction and agrees to assume the responsibilities, of an "Originator" under the BECS Regulations and Procedures and all applicable law. Without limiting the foregoing, Sub-Merchant shall comply with BECS Regulations and Procedures and all applicable law that requires all merchants and Sub-Merchants who accept BECS to have "commercially reasonable" processes in place that validate routing numbers and verify that its Customer's bank account is in good standing. In the event that the operating rules of a local or regional clearing house, or the arrangements between Payrix and a depository institution, are more restrictive than the BECS Regulations and Procedures, Sub-Merchant shall comply with such rules.
- (vi) Sub-Merchant shall not originate any entries that violate the laws of the United States or Australia (as the context requires). Without limiting the foregoing, Sub-Merchant shall confirm, with respect to each Customer, that in-country companies are not restricted from doing business with such Customer under applicable rules and regulations (including those of the Office of Foreign Assets Control (OFAC) or the Australian Government's Department of Foreign Affairs and Trade); and Sub-Merchant shall not originate any Transactions for Customers with respect to which the in-country companies are so restricted.

31. Confidentiality. Unless otherwise required by law, Sub-Merchant shall, and shall cause its Affiliates to, hold in strict confidence at all times following the date hereof all Payrix, Bank and Processor Confidential Information, and neither Sub-Merchant nor any of its Affiliates shall use such Confidential Information for any purpose other than for the performance of Sub-Merchant's duties and obligations hereunder. If Sub-Merchant breaches, or threatens to breach, any of the provisions of this section, in addition to any other rights Payrix may have, including a claim for damages, Payrix shall have the right to have the provisions of this section specifically enforced, and Sub-Merchant's breach or threatened breach enjoined, by any court of competent jurisdiction, without presentment of a bond (such requirement being expressly waived by Sub-Merchant), it being agreed that any breach or threatened breach of this section would cause irreparable harm to Payrix in that money damages would not provide an adequate remedy.

32. Arbitration. Payrix and Sub-Merchant shall settle all disputes relating in any way to this Agreement or arising from or in respect of this Agreement, including the breach, termination or invalidity thereof, exclusively by binding arbitration with a single arbitrator administered by the Australian Disputes Centre (or, if that organization ceases to exist, a similar organization nominated by the party referring the dispute to arbitration), according to this provision and the ADC Rules for Domestic Arbitration (or, if the Australian Disputes Centre ceases to exist, the guidelines for arbitration of any similar organization nominated by the party referring the dispute to arbitration). The arbitrator's award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. Arbitration shall take place in Brisbane, Queensland before a single arbitrator who is a lawyer practicing commercial law. In the event that Sub-Merchant or Payrix are not able to resolve a Dispute with American Express, or a claim against Payrix or any other entity that American Express has a right to join, the **American Express Program** requirements set forth below in these terms and conditions will apply.



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33. **Governing Law.** The validity, construction and performance of this Agreement shall be governed and construed in accordance with the laws of Queensland, Australia. The courts of Queensland, Australia shall have sole and exclusive jurisdiction over any disputes arising under the terms of this Agreement."
34. **Limitation on Time to Initiate a Dispute.** Unless otherwise required by law, an action or proceeding by Sub-Merchant relating to any dispute or claim by Sub-Merchant hereunder must commence within one year after the cause of action accrues failing which Sub-Merchant foregoes any rights in respect thereof.
35. **Amendment of Agreement.** Payrix reserves the right to modify the Payrix Services or change or add to the terms of this Agreement or any exhibit, attachment or document linked or referenced hereto (including but not limited to the Payrix FSG/PDS, Payrix Privacy Policy and Payrix Direct Merchant Agreement) at any time with electronic notice to Sub-Merchant through the Account, by posting on the Payrix Australia webpage, <https://www.payrix.com/au/useful-documents>, or by such other means as it may select, in a manner and at such time as Payrix deems reasonable. Such changes and additions may be to any of the terms hereof, including but not limited to Fees. If Sub-Merchant continues to process Transactions after actual or constructive notice of change(s) and/or addition(s) by Payrix, Sub-Merchant will be deemed to have accepted the change(s) and/or addition(s). This Agreement may also be amended by written agreement between the parties hereto.
36. **Independent Contractors.** The relationships of the parties to this Agreement shall be solely that of independent contractors, and nothing contained in this Agreement shall be construed otherwise. Nothing in this Agreement or in the business or dealings between the parties shall be construed to make them joint ventures or partners with each other. Neither party shall do anything to suggest to third parties that the relationship between the parties is anything other than that of independent contractors. Sub-Merchant is responsible for ensuring compliance of its employees and agents with the terms of this Agreement. Further, Sub-Merchant is responsible for the actions of its employees and agents. The Sub-Merchant will not at any time represent that it is an authorised representative of Payrix under its Australian financial services licence.
37. **Guarantee.** If an individual executes this Agreement on behalf of Sub-Merchant as a guarantor following a request by Payrix, then such individual personally guarantees performance by the Sub-Merchant hereunder, shall be deemed to be a Guarantor for all purposes, and shall be joint and severally liable with Sub-Merchant for all liabilities of the Sub-Merchant hereunder.
38. **Assignment.** The Sub-Merchant may not assign or otherwise transfer any or all of its rights or obligations under this Agreement without Payrix's prior written consent, and any assignment without such prior written consent will be null and void. Payrix and Bank may assign any of its rights or obligations hereunder to a third party on electronic notice to Sub-Merchant through the Account.
39. **Electronic Signatures, Notices and Electronic Communication.** When provided to Sub-Merchant for execution in electronic form, this Agreement and all related electronic documents, shall be governed by the provisions of the *Electronic Transactions Act 1999* (Cth), the *Electronic Transactions Act 2000* (NSW), the BECS Regulations and Procedures or other applicable law. By pressing Submit, Accept or I Agree, Sub-Merchant agrees (i) that the Agreement and related documents (e.g., Privacy Policy, Direct Merchant Agreement, the Financial Services Guide and Public Disclosure Statement) shall be effective by electronic means, (ii) to be bound by the terms and conditions of this Agreement and related documents, (iii) that Sub-Merchant has the ability to print or otherwise store the Agreement and related documents, and (iv) to authorize Payrix to conduct an investigation of Sub-Merchant's credit history and that of its principals with various credit reporting and credit bureau agencies for the sole purpose of determining acceptance of this Agreement and ongoing performance hereunder as described in Sections 5 and 10 of these terms and conditions to the Agreement. Sub-Merchant agrees to receive all communication under this Agreement by electronic means (which may also be by phone, and may be made by Payrix or by anyone on its behalf), including but not limited to communications regarding agreements and policies, such as this Agreement and Payrix's privacy policy. Sub-Merchant shall make sure that its primary email address is up to date in the Account and it shall check that email periodically and not less than once per week. In the event that any email from Payrix or other communication is blocked by a spam filter or other issue outside of the control of Payrix, Sub-Merchant shall be deemed to have received the communication all the same. All notices and other communications required or





permitted hereunder to be given to a party to this Agreement shall be in writing and shall be sent by electronic mail to the following addresses, if to Payrix, admin@payrix.com.au, and if to Sub-Merchant, to the e-mail address indicated on the Account. Any notice sent in accordance with this section shall be effective upon transmission and electronic confirmation of receipt, or if transmitted and received on a non-business day, on the first business day following transmission and electronic confirmation of receipt. Any notice of default of Payrix sent to Payrix shall also be sent by courier to the address of Payrix appearing on the Site with proof of delivery. Without limiting any other rights of Payrix, Sub-Merchant acknowledges and agrees that Payrix may provide and/or issue invoices and notices related to the Agreement through Platform.

40. **Whole Agreement; No Waiver; Severability.** This Agreement and any other documents referred to in this Agreement or executed in connection with this Agreement is the entire Agreement of the parties about the subject matter of this Agreement and supersedes all other agreements, representations, negotiations, arrangements, understandings and communications. No failure, delay of forbearance of either party in exercising any power or right hereunder will in any way restrict or diminish such party's rights and powers under this Agreement, or operate as a waiver of any breach or nonperformance by either party of any terms of conditions hereof. In the event that any provision of this Agreement is held invalid or unenforceable in any circumstances by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and the unenforceable provision shall be enforced to the maximum extent permissible under law. Nothing in this Agreement shall be construed or be deemed to create any rights or remedies in or for the benefit of any third party.
41. **Survival.** Any provision that is reasonably necessary to accomplish or enforce the purpose of this Agreement shall survive and remain in effect in accordance with its terms upon the termination of this Agreement. For greater certainty but without limitation, the indemnification, limitation of liability and confidentiality clauses shall survive termination hereof.
42. **Special Association Considerations.** There are a few special rules regarding your participation in the Discover and American Express Card programs.
 - A. **Discover.** Payrix has no liability for not processing or settling a retained Discover merchant's Discover Cards (as defined by Discover).
 - B. **American Express.** The following terms apply only to Sub-Merchant's American Express Program (see the American Express Merchant Operating Guide which can be located at: <http://www.americanexpress.com/merchantopguide> for capitalized terms).
 - i. **Exchange of Information.** Sub-Merchant authorizes Payrix to exchange transaction and settlement information with American Express on Sub-Merchant's behalf.
 - ii. **American Express Program Terms.** Sub-Merchant agrees to comply with the American Express Program terms provided in the Rules Summary, and the American Express Merchant Operating Guide which can be located at <http://www.americanexpress.com/merchantopguide>.
 - iii. **Disclosure and Use of Information.** Payrix may disclose Transaction Data, Sub-Merchant Data, and other information about Sub-Merchant to American Express. American Express may use the disclosed information for any lawful business purpose.
 - iv. **Direct Card Acceptance.** In the event Sub-Merchant Charge Volume exceeds (1) \$1,000,000 in a rolling twelve month period, or (2) \$100,000 in any three consecutive months ("High CV Merchant"), American Express may convert Sub-Merchant to a direct Card acceptance relationship. Upon conversion, Sub-Merchant will be bound by American Express' then-current Card Acceptance Agreement and corresponding pricing and fees.
 - v. **Bona Fide Sales, Encumbrances, Assignment.** Sub-Merchant shall only sell *bona fide* goods and services at its establishment(s). Sub-Merchant Card transactions shall be free of liens, claims, and encumbrances, other than ordinary Card tax. Additionally, Sub-Merchant shall not assign any payments it is due under the Agreement to a third party. However, Sub-Merchant may sell and assign future transaction receivables to Payrix or Payrix's affiliated entities and/or any other cash advance funding source Payrix (or its affiliates) partner with.
 - vi. **Third Party Beneficiary.** This Agreement confers third party beneficiary rights in American Express for enforcing terms against Sub-Merchant. It imposes no obligations on American Express.
 - vii. **Opting Out.** Sub-Merchant may opt out of accepting American Express Cards in writing without affecting Sub-Merchant's rights to accept other payment products.



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- viii. **Termination.** Payrix may terminate Sub-Merchant’s right to accept American Express Cards if: (i) Sub-Merchant breaches the Agreement; (ii) American Express instructs Payrix to do so; or (iii) Sub-Merchant engages in fraudulent or any other activity justifying termination.
- ix. **Right to Bill and Collect Chargebacks.** Sub-Merchant may not bill or collect from any American Express cardholder for any purchase or payment on the Card unless chargeback has been exercised, Sub-Merchant has fully paid for the charge, and Sub-Merchant otherwise has the right to do so.
- x. **Removal of Licensed Marks.** Sub-Merchant agrees to remove any American Express Licensed Marks from its website or any other location when its participation in the Program ends.
- xi. **Refund Policies.** Sub-Merchant agrees that its refund policies for purchases on the Card must be at least as favorable as its refund policy for purchase on any other payment product and the refund policy be disclosed to Card Members at the time of purchase and in compliance with applicable laws.
- xii. **Participation under American Express Program or EA Program.** If Sub-Merchant does not participate in the American Express Program or EA Program, Payrix will have no liability for not processing or settling Sub-Merchant’s American Express transactions. Further, American Express cards will not be included in the definition of Cards.

43. **Glossary.**

"Account" means a unique and private account (sometimes generally known as a merchant account or MID) provided by Payrix to Sub-Merchant accessible through the Payrix Services and in all instances subject to the terms and conditions of the Agreement.

"Affiliate" means, with respect to any party, any corporation, company, partnership or other entity which is directly or indirectly controlled by such party or is directly or indirectly controlled by a person or entity that is the same as that which controls the party. For the purposes of this definition, control shall mean ownership of half or more of the voting interests in an entity.

"Agreement" means this Payrix Sub-Merchant Agreement between Payrix and Sub-Merchant, as the same may hereafter be amended, concerning the delivery and receipt of Payrix Services.

"American Express" means American Express Travel Related Services Company Inc. or the applicable American Express entity in the local jurisdiction.

"Application" or **"Sign-Up Form"** means an electronic or paper form completed with input from the Sub-Merchant in relation to entering into the Agreement and procuring the Payrix Services and which includes a Fee Schedule setting forth the Fees, which shall form a part of the Agreement and constitutes representations by the Sub-Merchant hereunder.

"APNL" means the Australian Payments Network Limited.

"Bank" means a member of a Payment Network that has sponsored Payrix as a payment services provider, payment facilitator or otherwise to supply the Payrix Services and that acquires Transaction funds through Payment Networks.

"BECS" means the Bulk Electronic Clearing System.

"BECS Regulations and Procedures" means the regulations, procedures and guidelines promulgated by APNL and governing BECS Transactions or the related activities of parties involved in BECS Transactions, as amended or modified from time to time. Means operating rules and guidelines promulgated by NACHA and governing ACH Transactions or the related activities of parties involved in ACH Transactions, as amended or modified from time to time.

"BECS Transaction" means any BECS transaction originated by or on behalf of Sub-Merchant, conducted pursuant to the BECS Regulations and Procedures and all applicable law and utilizing Payrix Services.

"Card" means a payment card or any form factor that can be used to initiate a payment transaction as specified on the Application.

"Card Transaction" means any transaction, other than a BECS Transaction, originated by or on behalf of Sub-Merchant, that is processed through a Payment Network and conducted utilizing Payrix Services.

"Confidential Information" means all non-public, proprietary data or information of any party hereto which is valuable to the operation of such party’s business and is treated by such party as confidential, but excludes any information which is disclosed to the other party without restriction by a third party and without any breach of confidentiality by the third party, or which is developed independently by the other party without reliance on any of the disclosing party’s Confidential Information. Confidential Information of a party MAY NOT include the identity of any vendor, client, customer, supplier or business contact of the other party, the fact that the other party has, or is trying to enter into, a business relationship with such third party, or the nature of the business relationship with such third party.

"Content" means any material and/or data obtained by Sub-Merchant from or through the Payrix Services.





"Customer" means a client, customer or donor of Sub-Merchant.

"Customer Data" means information associated with a payment card, such as account number, expiration date, track-2 data, and CVV2; information associated with a Customer's bank account(s), including, without limitation, account numbers and bank routing numbers; and other information associated with a Customer's Transactions.

"Equipment" means equipment provided to Sub-Merchant by Payrix or its suppliers, including Platform, and includes imprinters, authorization terminals and other similar devices, printers, software, and credit card authenticators.

"Fees" means the fees of Payrix for which Sub-Merchant is liable in exchange for the Payrix Services, including, but not limited to, any rental, purchase, or license of terminals, equipment, software, supplies, or other services or products provided by Payrix. Fees are set out in the Application and are exclusive of any applicable taxes. Fees may be amended in accordance with this Agreement. Fees may also change, in accordance with this Agreement, if Payment Networks or other third parties impose additional fees on Payrix for the supply of the Payrix Services or on amendments to applicable law that require Payrix to amend the Fees.

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

"GST Amount" means the amount calculated by multiplying the monetary consideration payable by the recipient (excluding the amount payable as GST) for the relevant taxable supply by the prevailing GST rate.

"Guarantor" means any Person guaranteeing the Payrix obligations, either as indicated on the Application or otherwise.

"Mastercard" means Mastercard International Incorporated or the applicable Mastercard entity in the local jurisdiction.

"Payment Network" means Visa, Mastercard, American Express, BECS and such other payment networks as Payrix indicates are compatible with the Payrix Services.

"Payment Network Rules" means, collectively, the by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the PCI DSS, the VISA Cardholder Information Security Program, the Mastercard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by any Payment Network or other private or public association or organization, applicable to the Payrix Services and Card Transactions or the related activities of parties involved in Card Transactions, as amended or modified from time to time. Payment Network Rules do not include the BECS Regulations and Procedures.

"Payrix" means Payrix Australia Pty Ltd ACN 135 196 397 and its successors and assigns.

"Payrix Services" means the payment processing services of Payrix and its Processor and acquiring Bank, the Site, any software, programs, services, documentation, tools, hardware, internet-based services, and components thereto provided directly or indirectly to Sub-Merchant by Payrix.

"PCI DSS" means the Payment Card Industry Data Security Standards, as they may be amended or modified from time to time.

"Person" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity.

"Platform" means any third-party utilized by Payrix to administer and service the Account of Sub-Merchant.

"Platform Fees" are those fees occurring in connection with Sub-Merchant's use of a Platform.

"Processor" means a payment processor designated by Payrix to assist Payrix in delivering the Payrix Services, which may include FIS, who has an address of 8500 Governors Hill Drive, Mail Drop 1GH1Y1, Symmes Township, OH 45249-1384 and Wells Fargo Merchant Services with an address of PO Box 6079, Concord, CA 94524.

"Product" means any product or service offered for sale or sold by Sub-Merchant.

"Prohibited Activity" means any activity deemed to be prohibited by Payrix, the Processor or the Bank, as communicated to Sub-Merchant from time to time. For the current list of Prohibited Activities, see attached Prohibited Activity Schedule.

"Reserve" means a reserve account established and maintained to protect by Bank or Payrix from actual or potential liabilities under the Agreement.

"Return" means the return of a Transaction entry, unpaid, for various reasons including non-sufficient funds, uncollected funds, stop payment, account closed, or unauthorized.

"Reversal" means the reversal of an erroneous BECS Transaction entry for various reasons including incorrect account number or type, incorrect amount, or duplicate transaction.

"Rules" means the Payment Network Rules and the BECS Regulations and Procedures.

"Service Delivery Process" means Payrix's then standard methods of communication, service and support, including but not limited to communication via an online Sub-Merchant portal, email communication, statement notices, other written communications, etc.

"Site" means www.payrix.com.



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"Sub-Merchant" means the Person accepting the Agreement and receiving Payrix Services thereunder.

"Third Party Sender" means a third party payment service provider that acts as an intermediary in transmitting BECS Transaction entries between an originator (in this case, Sub-Merchant) and a financial institution, acting on behalf of the originator.

"Third Party Servicer" means a third party that provides a product or service that Sub-Merchant wishes to procure which product or service may or may not be compatible or integrated with the Payrix Services.

"Transaction" means a BECS Transaction or a Card Transaction originated by or on behalf of Sub-Merchant conducted utilizing any of the Payrix Services.

"Visa" means Visa U.S.A., Inc., Visa International or the applicable Visa entity in the local jurisdiction.

"\$" means Australian dollars.



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PROHIBITED ACTIVITY SCHEDULE

“Prohibited Activity” means any adult content; airlines, including charter airlines; alimony, child support, or other court-ordered payments; bidding fee auctions, including penny auctions; brand or reputation damaging, potential or otherwise, including bestiality, child pornography, escort services, mail order brides, and occult; buyers’ clubs, discount clubs or membership clubs; check cashing, or payment for a dishonored check or for an item deemed uncollectible by another merchant; computer repair or maintenance services; commodity trading or security trading; cruise lines; credit counseling or credit repair agencies; credit protection or identity theft protection services; counterfeit or possibly counterfeit goods, or products that infringe on the intellectual property rights of others; debt collection, consolidation, or reduction services; deceptive, unfair, predatory products, services or activities, or prohibited by the card payment networks; digital currency; discount medical or dental plans including discount insurance; discount coupon merchants or online sites; distressed property sales and marketing; door to door sales; drugs, alcohol, or drug paraphernalia, pseudo-pharmaceuticals, substances designed to mimic illegal drugs, or items that may represent them; factoring, liquidators, bailiffs, bail bondsmen; financial services or instruments, such as cash advances, bill payment, loans or loan payments, money orders, money transfers, prepaid cards, wire transfers, or sales of money orders or foreign currency; gambling or betting, including lottery tickets, casino gaming chips, off-track betting, sports forecasting or odds making, fantasy football, memberships on gambling-related internet sites and wagers at races, contests, sweepstakes, and offering prizes as an inducement to purchase goods or services; hate, violence, racial intolerance, or the financial exploitation of a crime; high interest rate non-bank consumer lending including payday lending and title loans; infomercial merchants; internet pharmacies or pharmacy referral sites; inbound or outbound telemarketing businesses including lead generation businesses; investment or “get rich quick” merchants, businesses or programs; licensed or franchised goods or services, such as apple products; marijuana dispensaries and related products or services; marketing activities involving “pay only for shipping” and/or “free trial” periods; medical equipment; multi-level marketing businesses, pyramid or ponzi schemes; merchants offering special incentives; negative option, renewal, or continuity subscription practices; obscene or pornographic items; pawn shops; pharmaceuticals, including medical marijuana; prepaid phone cards or phone services; prostitution, escort services, massage parlors, and other potentially sexually related services; real estate or motor vehicle sales; rebate or upsell programs; scrip-dispensing terminal; selling of mobile minutes; selling or sales of social media activity; stored value or quasi-cash; timeshares, timeshare resales and related marketing; tobacco, cigarettes, or e-cigarettes; unlawful activities or items, or activities or items that encourage, promote, facilitate or instruct others regarding the same; violent acts towards self or others, or activities or items that encourage, promote, facilitate or instruct others regarding the same; virtual currency or credits that can be monetized, re-sold or converted to physical or digital goods or services or otherwise exist in the virtual world; weapons, including replicas and collectible items, or ammunition or other accessories; weight loss programs; if merchant falls within the following exclusions, merchant will not accept the American Express card; equities (including stocks, bonds, or any other ownership position in a corporation); goods or services to be delivered more than two (2) months in the future, with an intention of gaining return on investment; internet auctions; political parties; telecommunications (including wireless, cable and internet); travel industry (including car rental, lodging, and other travel tour operators); in addition, merchant may not use the service for; impersonating any person or entity or falsely claiming an affiliation with any person or entity; collecting, or attempting to collect, personal information about merchants or third parties without their consent, or using such information except as necessary to use the service; sending unsolicited offers, advertisements, proposals, or junk mail or spam to others. this includes, but is not limited to, unsolicited advertising, promotional materials, or other solicitation materials, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signature; accepting payments for goods or services provided by someone other than merchant; providing merchant itself or others with a cash advance from a credit card; any illegal purpose, or violating any local, state, national, or international law, statute, or regulation, including, without limitation, laws governing intellectual property, taxation, and data collection and privacy; defaming, harassing, abusing, threatening, or defrauding others; posting, transmitting, or distributing content that is false, misleading, unlawful, obscene, indecent, lewd, pornographic, hateful, abusive, inflammatory, or that violates the rights of others (including rights of publicity or privacy); damaging, disabling, overburdening, or impairing Company, including without limitation, using the service in an automated manner; interfering with another merchant’s enjoyment of the service, by any means, including by uploading or otherwise disseminating viruses, adware, spyware, worms or other malicious code; competing with Company or Company’s business partners; sending or receiving what Company considers to be funds for something that may have resulted from fraud or other illegal behavior; abusing the payment card system or violating the rules, in the reasonable opinion of the card payment networks or Company; operating outside the united states; acting as a money services business or money transmitter; transferring funds between bank accounts held in the same name; creating an account that is linked to another account that has engaged in any of the foregoing activities. Company may use evidence other than merchant account information to determine whether merchant control an account in someone else’s name, including but not limited to internet protocol addresses, common business names, phone numbers, and mailing addresses; or any activity deemed by Company to be unauthorized, illegal, or criminal.



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