

---

MYOB PayDirect Online  
Terms and conditions

February 2018

myob

## General information

The Terms and Conditions in Sections 1 to 19 below and the Payment Channel Terms in Appendix A (together, the Terms) govern your use of MYOB PayDirect Online. When you activate an MYOB PayDirect Online Payment Channel you agree to be bound by the Terms (as amended from time to time).

The Glossary in Section 19 includes definitions of capitalised words used in the Terms.

The Terms are up to date as at the date stated above. We may update the Terms from time to time in accordance with Section 14 and, if we do so, we will make that updated version available on our [website](#).

## What is MYOB PayDirect Online?

MYOB PayDirect Online allows your customers to pay your invoices quickly and easily using a range of payment methods.

### PayDirect Online

- + Supports payment types such as Visa or MasterCard credit and debit cards with more payment methods to be added
- + Provides seamless integration with your accounting software for simple reconciliation of your invoice payments
- + Provides a fully integrated payment page enabling your customers to make real-time payments via our banking gateway
- + Provides a merchant facility with multiple payment acceptance options
- + Protects your transactions with sophisticated fraud monitoring detection tools
- + Gives you quick access to more channels as they are added such as BPAY or over the phone payments

Payments made by your customers using MYOB PayDirect Online will be deposited into your nominated business Account as cleared funds, usually by the next business day.

Further details on the conditions of use are set out later in the Terms.

## What are the costs?

The costs of using MYOB PayDirect Online are published on our website [here](#).

### Monthly billing process

At the beginning of each month, we will debit your nominated Fees Account for the Fees payable for the previous calendar month. We will also send you a monthly statement providing a breakdown of the Fees that have been charged.

### Fee variations

Please note that certain Fees can vary or may be waived from time to time, as a result of special offers by us, or otherwise in accordance with the Terms. Any such variations or waivers will be published on our website [here](#).

## What to do if you have a concern?

### Contacting us

You should contact us immediately if you suspect an error has occurred in a transaction or if you experience any other problems concerning the use of the MYOB PayDirect Online. You should do this by either calling the MYOB PayDirect Online support team on **1800 555 725** or emailing us at [paydirect@myob.com](mailto:paydirect@myob.com).

### What we will do

We will promptly look into your concern and decide what course of action should be taken. We will seek to resolve your concern immediately, however if that is not possible, we will aim to resolve it within five (5) business days. If this is not possible, we will keep you informed of progress and how long it is expected to take to resolve.

## The terms

### 1. Introduction

These Terms govern your application for and ongoing use of MYOB PayDirect Online. These Terms also explain relationships with 3rd Parties involved in MYOB PayDirect Online, the available Payment Channels, and our and your respective obligations to each other. These Terms are divided into the following parts:

#### + Sections 1 to 19 – General Terms

This part sets out terms and conditions that apply to all Payment Channels available with MYOB PayDirect Online.

#### + Section 19 – Glossary

This sets out definitions and principles of interpretation for these Terms.

#### + Appendix A – Payment Channel Terms

This appendix sets out the specific terms and conditions which, together with those in General Terms, apply to each Payment Channel that is activated through MYOB PayDirect Online.

### 2. Application for MYOB PayDirect Online

- a. To be eligible to use MYOB PayDirect Online and activate any of the available Payment Channels, you must at the time of your application:
  - i. be the registered user of a Complying MYOB Product;
  - ii. be approved by us to use PayDirect Online and to activate each of the available Payment Channels;
  - iii. have a valid ABN;
  - iv. nominate a Settlement Account which must be in the same name as the Business applying to use MYOB PayDirect Online; and
  - v. pay any applicable application Fees to us.

To continue to use MYOB PayDirect Online you must continue to comply with Points i. to v. above.

- b. An approval to use MYOB PayDirect Online only relates to one Business. A separate application must be made for of each Business for which you wish to use MYOB PayDirect Online.
- c. You must nominate a contact person or persons who are authorised to provide instructions to us on your behalf relating to your use of PayDirect Online and any activated Payment Channels.

You must name that person or persons and provide accurate and current phone and email details for each of them. You acknowledge that the contact person or persons nominated will be given permission to authorise Adjustments and be provided with transaction details relating to your use of PayDirect Online and any activated Payment Channels.

- d. Your application and ongoing use of PayDirect Online, and any available Payment Channels, is subject to you providing us all required application information, passing our internal checks and checks of 3rd Parties, and meeting any specific requirements of a Payment Channel (including those set out in the relevant Payment Channel Terms or in relevant application documentation that we provide to you). We will notify once your application has been fully approved.
- e. Note that some Payment Channels (for instance the Visa/MasterCard Payment Channel) may be activated through a staged process. The Payment Channel may be activated to accept payments from your customers once you have successfully completed our online application process, but prior to completion of all our internal and 3rd Party checks.
 

If this is the case, then settlement to you of any payments made by your customers will not occur until all our checks are complete and your application is fully approved.
- f. You, as user of MYOB PayDirect Online, are fully responsible for ensuring that all information provided to us to setup your use of MYOB PayDirect Online and any Payment Channel is correct. You acknowledge and agree that we are not responsible for any consequences that arise out of your provision of inaccurate information to us.
- g. You authorise, or you must ensure that the relevant person authorises, us and any 3rd Parties that we have contracted with for this purpose, to undertake all necessary credit reference and other checks. You must provide, or ensure that the relevant person provides, all information that is required (as notified to you by us) in respect of your application to use MYOB PayDirect Online and/or activate a Payment Channel.
- h. We will advise you whether your application to use MYOB PayDirect Online or to activate a Payment Channel has been approved or declined, but we do not need to give reasons why an application or activation request is declined. We may set a minimum time period before a new application or activation request may be made.
- i. If you are approved to use MYOB PayDirect Online and activate a Payment Channel, you may be given the relevant User Guide for that Payment Channel, which will form part of these Terms.
- j. If circumstances affecting you may amount to a change of control for your Business (within the meaning of Section 11.a.xvi. you must advise us immediately, and if we ask you to, you must resubmit an application to use MYOB PayDirect Online and activate the required Payment Channels in respect of your Business(es).

We will treat that resubmitted application as a new application. Your use of MYOB PayDirect Online and any activated Payment Channels will be suspended from the time you notify us of the potential change of control. If your new application is not approved, your use of all Payment Channels will be terminated in accordance with Section 11.a.xvi.

- k. To request changes to the details that you have provided to us in relation to MYOB PayDirect Online or a specific Payment Channel (e.g. account details, contact details), you must submit the appropriate documentation to us as requested, signed by the appropriate person(s) specified in that documentation.

### 3. Other users of MYOB PayDirect Online

- a. It is your responsibility to ensure that each of your users who has access to the MYOB PayDirect Online Portal protects the security of their own Password. You acknowledge and agree that the indemnity provided by you in Section 13.d. covers any Loss or Claim suffered or incurred due to the unauthorised use of a user account Password.
- b. You must ensure that all users of your Complying MYOB Product have read and agree to abide by these Terms.

### 4. Privacy and confidentiality considerations

- a. We will comply with our obligations under the Privacy Law in relation to Personal Information that we collect in connection with your MYOB PayDirect Online subscription. Full details of our privacy policy (the MYOB Group Privacy Policy) are available on our [website](#).
- b. As part of the application process for MYOB PayDirect Online, the activation process for a Payment Channel and (in certain cases) your ongoing use of any activated Payment Channels, credit or other checks may need to be undertaken by us or 3rd Parties.

You acknowledge and agree that we may need to pass information, including Personal Information relating to you or your Personnel to 3rd Parties for the purposes of such checks, and we may receive and use information, including Personal Information relating to you or your Personnel, from 3rd Parties in return.

- c. We will not assist in, and do not guarantee the success of, any such credit or other checks.

- d. You must:
  - i. comply with any Privacy Law which you are bound by, or that we notify you that you must comply with (generally because that requirement binds us or a 3rd Party and we wish to pass these obligations on); and
  - ii. not do anything that does or may cause us or a 3rd Party to breach any Privacy Law.
- e. You must not give us any Personal Information in breach of any Privacy Law. You must obtain, and you warrant that you will obtain, the express written consent of the relevant person before providing such Personal Information to us. The consent must include consent for us to pass the Personal Information on to 3rd Parties (who may themselves pass it on or otherwise deal with it) for the purposes of MYOB PayDirect Online and the use of a Payment Channel.

You also undertake to provide, and you warrant that you will provide, notifications to the relevant individual that their Personal Information may be passed to, and used by us, 3rd Parties or others for these purposes (including in connection with the checks referred to in Section 4.b.)

- f. Subject to Section 4.g. unless otherwise expressly permitted by these Terms, you must:
  - i. treat as confidential and not disclose to any person any information which comes into your possession as a result of your use of MYOB PayDirect Online or otherwise in respect of MYOB PayDirect Online or these Terms; and
  - ii. not use any of that information except for the purposes of using PayDirect Online in accordance with these Terms.

'Information' in this Section 4.f. includes (but is not limited to) Personal Information, Fees and other charges related to MYOB PayDirect Online. You must ensure your Personnel comply at all times with the same obligation of confidence.
- g. Section 4.f. does not apply to:
  - i. any information (other than Personal Information) which is in the public domain or becomes generally known to the public other than through breach of these Terms or another obligation of confidence owed by the disclosing party; or
  - ii. any information, including Personal Information, to the extent that information is required to be disclosed by the disclosing party under any law or legal process.

## 5. General obligations

- a. You must only use MYOB PayDirect Online and the applicable activated Payment Channels for the Business (or Businesses) specified in your relevant approved application(s) and in accordance with these Terms.
- b. Where a Payment Channel has been activated for your use by us, you must comply with the applicable Payment Channel Terms in Appendix 1, in addition to these General Terms, in respect of that use.
- c. You agree to use PayDirect Online, and provide your customers the ability to make Payments using any activated Payment Channels, in accordance with these Terms and any User Guides or other reasonable directions that are issued to you by us from time to time.
- d. You authorise us to give any authority, consent or instruction to a 3rd Party or other person in relation to the operation of MYOB PayDirect Online, or a specific Payment Channel, provided that authority, consent or instruction is consistent with, or envisaged by, these Terms. To the maximum extent permitted by applicable law, we are not liable to you for any action we take under this Section 5.4.d.
- e. You may give your customers the information and materials specified by us in relation to the use of a particular Payment Channel, in order to assist them to use that Payment Channel. You must not give your customers any contradictory information or materials.
- f. If requested by us, you must promptly give us copies of all information and materials you give your customers relating to the Payment Channels.
- g. We may, at our sole discretion, from time to time set limits on the amounts of transactions that you may submit and process using MYOB PayDirect Online or a Payment Channel (including in regard to a maximum amount for a single transaction or a maximum total amount of transactions within a period of time, e.g. a limit of \$25,000 per month). You must comply with any limits set by us as contemplated by this Section 5.g.
- h. We may, at our sole discretion, require you to provide a security deposit and/or bank guarantee before approving your application for use of MYOB PayDirect Online or a Payment Channel. The purposes of this deposit and/or guarantee is to provide risk coverage for us and the amount of that deposit and/or guarantee will be determined based on the nature of your use of MYOB PayDirect Online, including the level of perceived risk for that use.

## 6. Intellectual property

- a. Until we cease to provide you with use of MYOB PayDirect Online, we grant you a limited, personal, non-transferable, non-exclusive licence to:
  - i. access and use PayDirect Online and the applicable activated Payment Channels (and associated documentation that we provide to you, such as the User Guides) for the internal business purposes of the Business (or Businesses) specified in your relevant application(s), in accordance with these Terms; and
  - ii. use the MYOB PayDirect Online trademarks (as notified to you from time to time) on your MYOB PayDirect Online invoices and other documents specified by us and in any other way that we permit from time to time.
- b. These Terms do not give you any intellectual property rights in, or other rights in respect of, MYOB PayDirect Online, the Payment Channels or any of our (or our licensors):
  - i. software, documents, templates, marketing material, trade marks, business names, logos, trading styles, get-up, processes or methodologies; or
  - ii. other intellectual property,other than those rights which have been expressly licensed to you under these Terms.
- c. You must not, and you must ensure that your Personnel do not:
  - i. use, operate, copy, reproduce, modify, distribute, sell, sub-license or rent MYOB PayDirect Online, the Payment Channels or the intellectual property rights or other materials contemplated in Section 6.b. (the Materials), except as expressly provided in these Terms or another agreement with us or a related body corporate of ours or with our prior written consent;
  - ii. disassemble, decompile or reverse engineer all or any parts of MYOB PayDirect Online, the Payment Channels or the Materials;
  - iii. use MYOB PayDirect Online or a Payment Channel in a way that may damage our reputation or goodwill;
  - iv. introduce a virus, malware, spyware or other disabling or malicious device or code that may cause harm into MYOB PayDirect Online;
  - v. allow any person or entity to access or use MYOB PayDirect Online, a Payment Channel or any Materials, except as expressly provided in these Terms, except as expressly provided in these Terms or another agreement with us or a related body corporate of ours or with our prior written consent; or
  - vi. operate or sub-license MYOB PayDirect Online for the benefit of a 3rd party, including as a service bureau, time share facility, outsourcing or otherwise.

## 7. Fees and charges

- a. A schedule of our Fees from time to time is available on our website [here](#).
- b. We may:
  - i. change the amounts of any Fees or Fee schedules; or
  - ii. add to, delete from or change the items, transactions or events on which Fees are payable to us,
 at our discretion by giving you 20 days notice by either:
  - iii. publishing such changes on our [website](#); or
  - iv. notifying you directly in accordance with Section 17 of these Terms.
- c. If we make a change under Section 7.b, you have the option to terminate your use of MYOB PayDirect Online and any activated Payment Channel. See Section 10 for more details.
- d. You acknowledge that the Fees Account we will use for Fees will be the same Account you have nominated for the debiting of subscription fees related to your Complying MYOB Product, unless we agree otherwise in writing.
- e. You must pay us, or facilitate the payment to us of, all Fees related to your use of an activated Payment Channel, on the due dates. You authorise us to debit from your Fees Account all Fees payable to us or a 3rd Party in respect of your use of an activated Payment Channel and we will do so in accordance with the DDR arrangements detailed in Section 9 below.

If, despite this requirement, there are not sufficient funds in your Fees Account or we cannot draw funds from your Fees Account under the DDR, you must on demand immediately pay a sum to us in cleared funds sufficient to cover all such debits.

## 8. GST and duties

- a. The Fees published on our website are exclusive of GST. All payments due to us (e.g. Fees, reimbursement by you to us of any amounts or payments under indemnities) are to be increased by the amount of any GST liability we have in relation to supplies we make to which those payments relate.
- b. All duties (e.g. stamp duty, debits tax, other government charges or financial institution account fees) payable in relation to your use of MYOB PayDirect Online and any Payment Channels are payable by you, or where we have paid them, must be reimbursed by you on our request.

## 9. Direct debit request arrangements

### General

- a. You acknowledge that a DDR will be required in respect of your use of PayDirect Online, and any activated Payment Channels that you use, to enable the direct debit of Fees and/or Adjustments from your nominated Accounts.
- b. The Payment Channel Terms may set out further details relating to the required direct debit arrangements for those Payment Channels.
- c. This Section 9 sets out your rights, our commitment to you, your responsibilities to us and where you should go for assistance, in relation to direct debit matters.

### Your obligations

- d. You must ensure that:
  - i. your Settlement Account, and Fees Accounts, can accept direct debits (your financial institution can confirm this);
  - ii. on each direct debit date there are sufficient cleared funds in the Settlement and/or the Fees Account(s) (as applicable) to cover all debits to be processed by us in relation to your use of PayDirect Online and any activated Payment Channels (including in respect of Fees);
  - iii. we are notified if an Account is transferred, closed or otherwise becomes unsuitable or unavailable for the DDR;
  - iv. you keep the DDRs in place at all times during the period in which you use PayDirect Online, and any activated Payment Channels, and for a period of at least six (6) months after termination of your use of MYOB PayDirect Online; and
  - v. direct debit through the Bulk Electronic Clearing System is available on your Accounts (noting that the Bulk Electronic Clearing System is not available for some bank accounts).
- e. We may charge an additional Fee where a debit for Fees and/or Adjustments is processed to your nominated Account but is subsequently rejected by your financial institution (e.g. the Settlement Account or Fees Account is closed or has insufficient funds).
- f. If our direct debit on your Settlement Account and/or Fees Account is returned or dishonoured by your financial institution:
  - i. for a debit for Fees or Adjustments, we will attempt to re-debit after three (3) Business Days; and
  - ii. we may add to the amount debited any additional transaction Fees payable in respect of the dishonour and the re-debit.

- g. If you are unsure about when a drawing will be processed in relation to your Account, please enquire directly with your financial institution.

#### Our obligations

- h. We will debit your Settlement Account and/or Fees Account for all Fees and other amounts of any nature payable by you to us or to 3rd Parties in relation to your use of PayDirect Online and any activated Payment Channels.
- i. Drawings of Fees will ordinarily occur on the first Business Day of each month. We will debit from your Fees Account the Fees payable up to the last day of the previous month. Other drawings will occur as required or permitted under these Terms or our agreements with 3rd Parties (e.g. to adjust a Payment made by a customer of yours).

If a due date for payment falls on a day which is not a Business Day, drawing will take place on the next Business Day following the due date.

- j. We will send you a monthly statement/tax invoice or other advice by email setting out the nature and amount of each drawing.
- k. You acknowledge and agree that we will need to provide Personal Information relating to you to our financial institution to initiate or alter drawings from your Account.

#### Changes to DDR arrangements

- l. We will give you at least 14 Business Days written notice when we change the initial terms of the DDR arrangement.
- m. If you wish to discuss any changes to DDR arrangements made by us, please contact the MYOB PayDirect Online support team on **1800 555 725** between 9.00am and 5.00pm (AEST) Monday to Friday.
- n. If you want to change the DDR arrangements, please contact the MYOB PayDirect Online support team. These changes may include, subject to these Terms:
  - i. deferring a drawing in relation to a later billing period;
  - ii. altering a schedule;
  - iii. stopping an individual debit;
  - iv. suspending the DDR; or
  - v. cancelling the DDR completely.
- o. You should direct all such enquiries to us, rather than to your financial institution. These enquiries should be made at least 3 Business Days before the end of a month.

#### Queries and disputes

- p. If you believe that a drawing has been initiated incorrectly, you should initially discuss the matter with us by contacting our MYOB PayDirect Online support team by email at **paydirect@myob.com** or on **1800 555 725** during normal business hours (AEST).

- q. If you do not receive a satisfactory response to your issue from us, you should then contact your financial institution to lodge a dispute.

- r. We may send notices electronically to your email address or by ordinary post to the address that you have given us. Please refer to the notice provisions in Section 17 for more details on how we will send you notices.

#### 10. How you can terminate your use of MYOB PayDirect Online or an activated Payment Channel

- a. You can terminate your use of MYOB PayDirect Online or an activated Payment Channel at any time by calling us on **1800 555 725**; or
- b. You will be billed any outstanding Fees in the next calendar month immediately following termination and we may continue to process Adjustments for a period of up to 6 months after termination. See Sections 9.i. and 12.a.iv. for more details.

#### 11. When we can suspend or terminate your use of MYOB PayDirect Online or a particular Payment Channel

- a. In addition to rights set out elsewhere in these Terms (including the relevant Payment Channel Terms), we may suspend or terminate, without prior notice, your use of MYOB PayDirect Online or an activated Payment Channel where:
  - i. you are no longer a registered user of a Complying MYOB Product or the subscription payment for your Complying MYOB Product is in arrears;
  - ii. your direct debit authority is cancelled or withdrawn;
  - iii. we are unable to debit your nominated Accounts for the relevant Fees, Chargebacks, or other Adjustment;
  - iv. you refuse to accept, or instruct your relevant financial institution to refuse, a debit to your Settlement Account for a Chargeback or other Adjustment; or
  - v. you go into liquidation, take, permit or suffer a step toward going into liquidation, or we reasonably suspect you may do so or we have reasonable concerns about your credit worthiness;
  - vi. a dispute (including, but not limited to, in respect of a Chargeback) is raised by one of your customers in respect of a payment made by them to you through use of a Payment Channel and we reasonably consider that dispute to have arisen due to your inappropriate business practices;
  - vii. you fail to remedy a material breach of these Terms (including non-payment of any Fees) within five (5) Business Days of notice from us;

- viii. 3rd Party arrangements necessary to facilitate a Payment Channel cease to exist or in our opinion render the ongoing operation of the Payment Channel substantially unworkable or non-functional;
  - ix. we are required to do so by an agreement with a 3rd Party in relation to a Payment Channel;
  - x. the action of a regulator in our opinion renders the ongoing operation of MYOB PayDirect Online, or a particular Payment Channel, substantially unworkable or non-functional;
  - xi. we believe this is necessary either to protect the security integrity or reputation of MYOB PayDirect Online or any of its Payment Channels, or to otherwise protect our interests;
  - xii. a change occurs in your Business, assets or financial condition which in our reasonable opinion has or may have a material adverse effect on your ability to meet your obligations under these Terms, on our rights under these Terms or on any of our agreements with 3rd Parties;
  - xiii. you have not supplied us the requested documentation as part of our internal application review process within 14 days of receiving the request;
  - xiv. you have not commenced using MYOB PayDirect Online, or a specific Payment Channel, within 3 months of being approved for MYOB PayDirect Online or the relevant Payment Channel (as applicable)
  - xv. you have stopped receiving Payments from your customers via the relevant Payment Channel for a period of 13 calendar months or have notified us that you no longer use a Payment Channel;
  - xvi. in our reasonable opinion (having regard to voting rights, rights to receive income or capital, rights to appoint directors and any other matter which we believe relates to effective control) any person or persons who between them as at the date you were first approved to use MYOB PayDirect Online:
    - 1. control you; or
    - 2. control or beneficially own more than 50% of your ordinary shares or other voting, income or capital participation rights, ceases or cease to control you or hold or control more than 50% of those ordinary shares or other rights; or
  - xvii. in circumstances set out in the applicable Payment Channel Terms.
- b. We may terminate your use of MYOB PayDirect Online or an activated Payment Channel for convenience at any time, provided that we give you at least three (3) calendar months' notice.
  - c. Following suspension or termination (other than in accordance with Section 11.b.) we will use reasonable endeavours to notify you in writing.
  - d. We can lift a suspension or reinstate suspended use in our absolute discretion by written notice to you, and this takes effect on receipt or any later time specified in the notice, subject to you meeting any conditions set out in the notice.
  - e. If you become aware that a circumstance which would permit us to suspend or terminate your use under Section 11.a has arisen or may arise, you must advise us in writing as soon as possible.
  - f. Upon suspension of your use of MYOB PayDirect Online or a particular Payment Channel:
    - i. you must immediately:
      - 1. cease to access and use PayDirect Online and the applicable Payment Channels; and
      - 2. cease to use or distribute material containing any intellectual property rights of ours or any 3rd Party granted to you in relation to MYOB PayDirect Online or the Payment Channel (as the case requires);
    - ii. you must comply with any reasonable direction given by us to facilitate that suspension in an orderly manner;
    - iii. we may place conditions upon any subsequent application by you for the use of MYOB PayDirect Online or a Payment Channel;
    - iv. no accrued rights of yours or ours are extinguished or otherwise affected; and
    - v. any other consequences set out in the applicable Payment Channel Terms apply.
  - g. You acknowledge that we may at any time and without notice withhold settlement to you of any Payments for a period reasonably determined by us in order to protect us from potential losses that we may suffer as a result of your use of MYOB PayDirect Online or any Payment Channel, including losses that may arise in connection with:
    - i. significant pre-payment risk;
    - ii. suspected fraudulent activity;
    - iii. excessive Chargebacks; or
    - iv. an inability to process Adjustments to your Account under the DDR arrangements.



## 12. Following termination

- a. On termination of your use of MYOB PayDirect Online by you or us
  - i. you must immediately:
    1. cease to access and use PayDirect Online and Payment Channels; and
    2. cease to use or distribute material containing any intellectual property rights of ours or any 3rd Party granted to you in relation to MYOB PayDirect Online or the Payment Channels;
  - ii. you must comply with any reasonable direction given by us to facilitate that termination in an orderly manner;
  - iii. we may place conditions on any subsequent application by you for participation in MYOB PayDirect Online or the Payment Channels;
  - iv. you must ensure that DDRs remain in place as required under Section 9 for a period of at least six (6) months after termination;
  - v. you remain liable for, and we may continue to process, Adjustments for a period of up to six (6) months after termination;
  - vi. each limitation of liability in favour of us set out in these Terms and Sections 4.f, 4.g, 6.c, 7.e, 8, 9.d., 9.e., 9.f., 11, 12, 13, 16, 17, 18, and 19 of these Terms together with all other provisions of these Terms that, by their nature, are intended to survive termination will continue to apply;
  - vii. your or our rights against each other which:
    1. accrued before the time of termination; or
    2. otherwise relate to or may arise at any future time from any breach of these Terms which occurred before the termination, are not extinguished or otherwise affected; and
  - viii. any other consequences set out in the applicable Payment Channel Terms apply.
- b. If your use of a particular Payment Channel is terminated by you or us in circumstances where you will continue to have use of MYOB PayDirect Online and at least one other Payment Channel:
  - i. you must immediately:
    1. cease to access and use the terminated Payment Channel; and
    2. cease to use or distribute material containing any intellectual property rights of ours or any 3rd Party granted to you in relation to that Payment Channel;

- ii. we may place conditions on any subsequent application by you for participation in PayDirect Online or the Payment Channels;
  - iii. any other consequences set out in the applicable Payment Channel Terms apply; and
  - iv. for the avoidance of doubt, these Terms will continue to apply to your ongoing use of MYOB PayDirect Online and any continuing Payment Channels.
- c. Please refer to the Payment Channel Terms in Appendix A for more details on what happens following termination of a particular Payment Channel.

## 13. Liability, warranties, representations and indemnities

- a. We do not warrant or represent that MYOB PayDirect Online or any Payment Channel is or will remain suitable or appropriate for your Business' needs. You acknowledge that MYOB PayDirect Online is a generic service, the scope and operation of which is likely to change over time and that you are solely responsible for assessing your own Business to determine the ongoing suitability and appropriateness of MYOB PayDirect Online or any Payment Channel that you use for your Business.
- b. To the maximum extent permitted by applicable law, we are not responsible or liable to you for any:
  - i. Loss or Claim suffered or incurred by you arising in relation to any Payment, Adjustment or other transaction effected via a Payment Channel, including any fraudulent, unauthorised or mistaken transaction, Payment instruction, reversal or error correction;
  - ii. delays, however caused, in the processing of Payments made or received or to be made or received (including within our internal systems), or in other data information exchange, in relation to any Payment Channel;
  - iii. act or omission of ours that results in any direct or indirect loss (including loss of profits), damage, injury or inconvenience you suffer because of any service failure, including any unavailability of the service, any delays or any errors. Under no circumstances will be liable to you for any lost sales, revenue or profit or loss of custom due to any service failure which results in you being unable to promptly accept payments from your customers; or
  - iv. 3rd Party actions or inaction or the actions or inaction of other persons (including negligent or unauthorised actions or inaction) relating to MYOB PayDirect Online, including those relating to internet connections, or dealings with any money held.

- c. To the maximum extent permitted by applicable law, we are not liable to you for any Loss or Claim, and we are not in default under these Terms, for a failure to comply with these Terms for any cause which could not reasonably be controlled or prevented by us.

Such causes include strikes, lockouts, labour disputes, acts of God, acts of nature, acts of governments or their agencies, fire, flood, storm, riots, power shortages or power failure, war, acts of terrorism or hostility, sabotage, system failure or disruption, inability to obtain sufficient labour, raw materials, fuel or utilities, lack of telecommunications equipment or facilities or failure of information technology or telecommunications equipment or facilities or suspension or termination of 3rd Party agreements or services.

- d. You indemnify us and our Personnel against any Loss or Claim suffered or incurred by us or any of our Personnel arising from:
- i. your or your Personnel's negligence misrepresentation, fraud, breach of law or breach of these Terms; or
  - ii. any Claim made against us by your customers other than to the extent the Claim relates to a dispute, complaint or query directly related to the processing of a transaction by us through a Payment Channel.
- e. We hold the benefit of the promises in Section 13.d. on behalf of our Personnel.
- f. You acknowledge that we will be relying on and using information provided by 3rd Parties and other persons in reporting and other matters, and to the full extent permitted by law, we will not be liable to you where a 3rd Party or other person provides incomplete, untrue or misleading or deceptive information and we use that information in good faith.
- g. We expressly disclaim all conditions and warranties, express or implied, relating to the provision of MYOB PayDirect Online, including any Payment Channel, by us under these Terms. If any condition or warranty is implied into these Terms under any legislation (including the Australian Consumer Law) and the legislation avoids or prohibits provisions in a contract excluding or modifying the application of, exercise of, or liability under such a condition or warranty, the condition or warranty will be deemed to be included in these Terms.
- However, our liability for breach of the condition or warranty is, if the legislation so permits, limited in our sole discretion to:
- i. the resupply of MYOB PayDirect Online or the particular Payment Channel (as the case requires); or

- ii. the cost of resupply of MYOB PayDirect Online or the particular Payment Channel (as the case requires), in respect of which the breach occurred, and otherwise will be limited to the maximum extent permitted by law.

- h. You represent and warrant to us that:

- i. you have all necessary power and authority to agree to these Terms, to use MYOB PayDirect Online and any Payment Channel activated by you, and to perform your obligations under these Terms;
- ii. you will comply with all laws or industry codes applicable to you in the exercise of your rights and the performance of your obligations under these Terms; and
- iii. all information provided at any time by you or on your behalf to us or to any other person involved with MYOB PayDirect Online including 3rd Parties (including material provided in relation to any application for use of a Payment Channel or additional Payment Channels), will be true and accurate at the time it is provided.

If you discover that any part of it is or may become materially false or misleading, you will advise us as soon as possible and provide updated or correct information.

- i. The limitations and exclusions of liability set out in this Section 13 apply regardless of the basis on which the relevant liability arises, whether in contract, tort (including negligence), statute, equity, indemnity or otherwise.

#### 14. Amendment of documents

- a. We can add to, delete or amend any of these Terms, the User Guides, templates or other forms, reports or other documents relevant to MYOB PayDirect Online as and when we see fit (including when 3rd Parties require, or relationships or changed relationships with 3rd Parties require) by publishing such changes on our [website](#) or otherwise providing the relevant documents to you.
- b. If we make a change under this Section 14:
  - i. we will use reasonable endeavours to notify you within ten (10) Business Days of before any change that is likely to materially affect the way that you use MYOB PayDirect Online takes effect. However, if we need to restore or maintain the security of MYOB PayDirect Online, we may change your use and access to MYOB PayDirect Online without advance notice; and
  - ii. you have the option to terminate your use of MYOB PayDirect Online under Section 10.

## 15. Co-operation

- a. You must do all things and provide all information as and when reasonably required by us to:
  - i. fulfil our obligations to 3rd Parties from time to time in respect of MYOB PayDirect Online or a Payment Channel under agreements or otherwise; or
  - ii. otherwise administer MYOB PayDirect Online or a particular Payment Channel.
- b. You must comply, at your own cost with all reasonable conditions, procedural requirements and directions notified to you by us in connection with your (and your customers') use of MYOB PayDirect Online, or a specific Payment Channel, including in relation to:
  - i. initiating, processing or effecting of transactions, including Payments or Adjustments, through a Payment Channel;
  - ii. the format of materials issued by you in relation to a Payment Channel;
  - iii. dealings with confidential information of ours or a 3rd Party; or
  - iv. consents to the collection, use and/or disclosure of Personal Information under Privacy Law, as and when reasonably required by us.
- c. You acknowledge and agree that the agreements and obligations we have with 3rd Parties relating to MYOB PayDirect Online and each Payment Channel may change from time to time, that we may not be able to control those changes, and that the changes may require:
  - i. us to do certain things, including imposing additional or increased Fees or other obligations under these Terms; or
  - ii. you to do certain things, including alter printed materials, cease distributing pre-printed materials or pay additional amounts.
- d. You acknowledge and agree that the agreements and obligations we have with 3rd Parties relating to MYOB PayDirect Online and each Payment Channel may from time to time require us or you to act, or not act, in a manner otherwise inconsistent with these Terms, and that if this occurs, we may act, or not act, in the manner required without any liability to you, and you must act, or not act, in the manner required (as directed by us) without any liability to us. Any such requirement, action or inaction does not have the effect of changing these Terms.
- e. If we or a 3rd party identify any activity or circumstance relating to your use of MYOB PayDirect Online (including any Payment Channel) that we consider inappropriate or that otherwise requires investigation, you must provide a reasonably detailed written response to us within two (2) Business Days (or such longer period as we may reasonably request) of our request for an explanation.

## 16. Other documents and precedence

- a. Your application for each Payment Channel and the User Guides that we make available to you form part of these Terms as if repeated in them.
- b. It is intended that the Payment Channel Terms operate collectively with, and not detract from, the General Terms. However, to the extent of any conflict or inconsistency, the Payment Channel Terms take precedence over these General Terms.

## 17. Notices and other communications

- a. Notices or other communications relevant to MYOB PayDirect Online or a specific Payment Channel may be given:
  - i. to us by email to [paydirect@myob.com](mailto:paydirect@myob.com), or to any other postal address or email address notified by us to you from time to time; and
  - ii. to you:
    1. by prepaid post to your nominated postal address from time to time; or
    2. by email to your nominated email address from time to time, or to another postal address or email address notified by you to us from time to time.
- b. A notice or other communication given under Section 17.a. is taken to be received:
  - i. if sent by prepaid post, on the 3rd Business Day after posting; or
  - ii. if sent by email, 1 hour after sending unless the recipient or the sender's machine notifies the sender in writing within 1 hour from sending that the email has not been received or not been delivered.

## 18. Miscellaneous

### a. Reliance

We can rely on the authority of persons who are, or who appear to us to be, authorised to act on your behalf.

### b. Governing law and jurisdiction

These Terms are governed by the laws of Victoria. You irrevocably submit to the non-exclusive jurisdiction of the courts of Victoria and courts that may hear appeals from those courts.

### c. Our consent

Where anything in these Terms requires our consent, then unless expressly provided otherwise, to be effective, that consent must be in writing signed by an authorised officer of ours.

### d. Waiver

Any waiver of a right or power of ours under these Terms may only be given in writing signed by an authorised officer of ours. We may waive all or part of these Terms, on such terms as we see fit.

**e. Assignment**

You cannot assign or otherwise deal with your rights under these Terms without our prior written consent. We can at any time assign our rights and obligations under these Terms. If we do so, you must execute any documents required to give effect to that assignment.

**f. Severability**

If the whole or any part of these Terms is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of these Terms have full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This Section 17.f. has no effect if the severance alters the basic nature of these Terms or is contrary to public policy.

**g. Whole agreement**

These Terms and the documents incorporated by reference in them contain the whole of the agreement between us and you in relation to MYOB PayDirect Online. Any representations or warranties made by our Personnel before you are accepted for participation in MYOB PayDirect Online have no force or effect unless expressly set out in these Terms.

**h. Further action**

Both you and we agree to do all things and execute all documents necessary or desirable to give full effect to these Terms and the transactions contemplated by them.

**i. Remedies cumulative**

The rights, powers and remedies provided to you and us in these Terms are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

**j. Non-business days**

If the day on or by which any thing is to be done under these Terms is not a Business Day, that thing must be done on or by the next Business Day.

**19. Glossary – definitions****In these Terms:**

**Account** means an account with a financial institution you nominate for the relevant purpose, including a Fees Account;

**Adjustment** means an amount paid or payable by you, or on your behalf, in relation to a Payment, including a Chargeback, reversal, a refund and an error correction;

**Bulk electronic clearing system** means the payments clearing system managed by the Australian Payments Clearing Association Limited also known as BECS or CS2;

**Business** means a separate business enterprise of yours – you may register a number of business enterprises for MYOB PayDirect Online;

**Business day** means:

- a. in respect of notices, a day on which banks are open for business in the city where the notice or other communication is received, excluding a Saturday, Sunday or public holiday; or
- b. for all other purposes, a day on which banks in Melbourne or Sydney are able to effect settlement through the Reserve Bank of Australia;

**Chargeback** means the reversal of a card transaction that has been initiated by the card issuing bank on behalf of the card-holder as a result of a dispute or suspected fraud;

**Complying MYOB product** means a current version of our software specified for operation with MYOB PayDirect Online;

**DDR** means direct debit request;

**Fees** means fees and charges payable by you in relation to your use of MYOB PayDirect Online and a particular Payment Channel, as published on our [website](#) or notified to you by us either:

- a. during the application process contemplated in Section 2 (including at the time that we notify you that your application has been approved); or
- b. pursuant to Section 7.b.iv.

Where we have notified you of certain fees and charges as contemplated in paragraphs a. and b. above, those fees and charges will apply to your use of MYOB PayDirect Online instead of the fees and charges published on our website;.

**Fees Account** means the Account that will be used for the purpose of having Fees debited by us for your use of MYOB PayDirect Online;

**General terms** means Sections 1 to 19 of these Terms;

**Loss or claim** means any loss, liability, action, proceeding, damage, cost or expense (including all reasonable legal costs and expenses), including liability in tort and consequential and economic losses;

**Password** means the unique code selected by a user as their password to enable access to MYOB PayDirect Online portal;

**Payment** means an amount received by you, or allocated for receipt by you or on your behalf, from a customer of yours via a particular Payment Channel in MYOB PayDirect Online, including an amount received by you whether or not it should have been paid to you;

**Payment Channel** means a particular electronic payment service offered as part of MYOB PayDirect Online, for example the Visa/MasterCard Payment Channel. Terms and conditions and other information specific to particular Payment Channels is set out in the Payment Channel Terms in Appendix A;

**Payment Channel Terms** means the terms and conditions set out in Appendix A to these Terms that apply each Payment Channel;

**Personal Information** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion, which is received from any source as a consequence of the exercise of rights or performance of obligations under these Terms or otherwise in relation to MYOB PayDirect Online;

**Personnel** in relation to a person means that person and that person's officers, employees, agents and contractors (but, for the purposes of a party, the other party is not included in the first party's Personnel);

**Privacy Law** means the Privacy Act 1988 (Cth), including the Australian Privacy Principles, as updated, replaced or amended from time to time and all other applicable legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to any Personal Information;

**Settlement Account** means an Account nominated by you that will be used by us to settle Payments

**Terms** means these terms and conditions governing MYOB PayDirect Online, including the Payment Channel Terms;

**User Guide** means any user guide that we supply to users of MYOB PayDirect Online, as updated by us from time to time; and

**3rd Party** means any person with whom we have contracted in relation to MYOB PayDirect Online. This includes all service providers engaged by us for the delivery of MYOB PayDirect Online and the specific Payment Channels.

## Interpretation

In these Terms, headings and bold type are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- a. the singular includes the plural and vice versa;
- b. other parts of speech and grammatical forms of a word or phrase defined in these Terms have a corresponding meaning;
- c. a reference to a person includes an individual and a company, partnership, joint venture, association, corporation or other body corporate and a government agency;
- d. a reference to any thing (including any right) includes a part of that thing, but nothing in this Sub-section d. implies that performance of part of an obligation constitutes performance of the obligation;
- e. a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- f. a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- g. a reference to a party to a document includes that party's successors and permitted assigns;
- h. no provision of these Terms may be construed adversely to us on the ground that we were responsible for the preparation of these Terms or that provision;
- i. a reference to an agreement other than these Terms includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing;
- j. a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- k. a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- l. a reference to a body, other than us or you (including an institute, association or authority), whether statutory or not:
  - i. which ceases to exist; or
  - ii. whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- m. examples are descriptive only and not restrictive or exhaustive; and
- n. 'we', 'us', 'our' and equivalent terms refer to MYOB Australia Pty Ltd (and where relevant, our Personnel) and 'you', 'your' and equivalent terms refer to an applicant for, or participant in, MYOB PayDirect Online (and where relevant, your Personnel).

Where an individual applies for access to MYOB PayDirect Online in respect of a Business, 'you', 'your' and equivalent terms include the person, corporation or other entity that operates that Business (for instance, the company that employs that individual and runs that Business) and their Personnel (where relevant).

## Appendix A – Payment Channel Terms

### Visa/MasterCard Payment Channel Terms

These Visa/MasterCard Payment Channel Terms apply to all users of MYOB PayDirect Online who have been approved to accept Visa and MasterCard transactions. NAB is the 3rd Party financial institution that acquires the transactions that you submit and are processed through the Visa/MasterCard Payment Channel, and these Visa/MasterCard Payment Channel Terms govern the legal relationship between you, MYOB and NAB in respect of the Visa/MasterCard Payment Channel. These Visa/MasterCard Payment Channel Terms take effect as a tripartite agreement between:

- + you, the merchant;
- + National Australia Bank Limited (NAB); and
- + MYOB.

#### 1. Definitions

Unless the contrary intention appears, the following words have these meanings in these Visa/MasterCard Payment Channel Terms. Any capitalised terms used in these Visa/MasterCard Payment Channel Terms that are not defined in this Clause 1 have the meanings given in the Glossary in Section 19 of the General Terms.

**Banking Day** means a day on which banks are open for general banking business in Melbourne Australia except for Saturdays, Sundays and National Public Holidays in Australia.

**Card** means a card that has been designated by the issuer as a Visa or MasterCard card or a card issued by any other card scheme which You have agreed to accept and We have agreed to process.

**Card Schemes** means, unless otherwise agreed by the parties, Visa and MasterCard.

**Card Scheme Rules** means the rules and regulations which regulate participants in the Card Schemes.

**Cardholder** means the Person in whose name the Card has been issued.

**Chargeback** is the reversal of a card transaction that has been initiated by the card issuing bank (on behalf of the card-holder as a result of a dispute or suspected fraud).

**Data Breach** means any occurrence which results in the unauthorised access by a 3rd party to confidential data relating to card transactions stored by Your business or any entity engaged by You to provide storage or transmission services in respect of that data.

**Data Security Standards** means the Payment Card Industry Data Security Standards ("PCIDSS") mandated by the Card Schemes for the protection of Cardholder details and transaction information, and any additional or replacement standards of which You are advised from time to time.

**MYOB** refers to MYOB Australia Pty Ltd, ABN 13 086 760 198.

**NAB** refers to the National Australia Bank Limited, ABN 12 004 044 937.

**Person** includes an individual, firm, body corporate, unincorporated body or association, partnership, joint venture and any government agency or authority.

**PIN** means the personal identification number allocated by NAB, a card issuer or personally selected by the account holder.

**Related Body Corporate** has the meaning given to it in the Corporations Act, 2001 (Cth).

**Relevant Law** means any:

- a. statute, ordinance, code or other law including regulations and other instruments under them that are relevant to the obligations and rights of these Visa/MasterCard Payment Channel Terms; and
- b. any code of practice, guidelines or standards issued by relevant regulators or industry bodies, including any card scheme rules relevant to these Visa/MasterCard Payment Channel Terms.

**Transaction Receipt** means a document used to evidence a transaction.

**We, Us and Our** means, collectively, NAB and MYOB.

**You and Your** means the Person to whom the Visa/MasterCard Payment Channel is provided by Us.

#### 2. Approval to use the Visa/MasterCard Payment Channel

2.1. You acknowledge that:

- a. the operation of these Visa/MasterCard Payment Channel Terms is conditional on NAB approving an application for MYOB to provide the Visa/MasterCard Payment Channel to You;
- b. in relation to information provided by You to MYOB in connection with Your application:
  - i. MYOB may provide that information to NAB;
  - ii. We may rely on such information as being complete, accurate and not misleading or deceptive; and
  - iii. NAB is not obliged to verify the completeness or accuracy of the information it receives from MYOB;

- c. We may obtain from any Card Scheme or a person who is involved in any Card Scheme, any credit reporting agency or any other person, information about Your merchant history or Personal Information about You, a Related Body Corporate, Your officers, employees or agents for any purpose relating to the operation of those Card Schemes and We can use any such information to assess an application under Clause 2.1.a.;
  - d. We can disclose information about Your merchant history, a data breach and relevant Personal Information in the following circumstances:
    - i. to any Card Scheme or to any person who is involved in any Card Scheme, information about You for any purpose related to the operation of those schemes, card fraud detection agencies (including information about termination of merchant solutions and reason(s) for termination of NAB merchant solutions;
    - ii. where the law requires or permits Us to do so; and
    - iii. where We have reasonable grounds to believe that either You are involved in dishonest or criminal activity, are a victim of such activity, may have information relevant to an inquiry into such activity or have experienced a data breach, to any state or federal law enforcement or regulatory agency whether or not We have been requested by that agency to provide such information;
  - e. We can disclose Your information to any related entities of Ours and to any outsourced service providers engaged by Us (for example, mail houses, debt collection agencies (where necessary) or data analytics providers);
  - f. the decision whether to approve Your application is at NAB's sole discretion and the reason for any decision which is made may not be given to You;
  - g. an approval by NAB is specific to MYOB providing payment services to You and does not in any way constitute a representation by NAB that You will be able to use the services of another payment service provider or of NAB directly should You cease using MYOB's payment services for any reason;
  - h. any information obtained by NAB during its assessment of an application under Clause 2.1.a. is and remains confidential to NAB and will not be shared with You. NAB is bound by Card Scheme Rules and all correspondence and discussions between Card Schemes and NAB are confidential as between NAB and the Card Schemes; and
  - i. as part of Your ongoing use of the Visa/MasterCard Payment Channel, We will receive Card details of Your customers.
- 2.2.** You represent and warrant that:
- a. any information You provide to MYOB in connection with an application for MYOB to provide the Services is complete, accurate and not misleading or deceptive; and
  - b. if You have disclosed Personal Information to MYOB in connection with the application under Clause 2.1.a., You have obtained the relevant individual's prior consent to the disclosure and otherwise complied with Your obligations under Privacy Law; and
  - c. You are able to satisfy Your obligations and responsibilities under these Visa/MasterCard Payment Channel Terms.
- 2.3.** You acknowledge and agree that:
- a. MYOB and NAB are authorised to obtain from 3rd parties financial and credit information relating to You in connection with Our decision to approve Your application and in respect of Our continuing evaluation of Your financial and credit worthiness; and
  - b. any information collected by MYOB may be disclosed by MYOB to NAB.
- 2.4.** The Parties agree that no Party is or will be bound by these Visa/MasterCard Payment Channel Terms unless and until NAB has confirmed its approval for MYOB to provide the Visa/MasterCard Payment Channel to You.
- 3. Your obligations**
- 3.1.** You:
- a. must immediately notify MYOB of any change to Your financial position which may affect Your ability to perform Your obligations under these Visa/MasterCard Payment Channel Terms; and
  - b. must provide MYOB with prior written notice of any change in Your place of business and not carry on business in a place which has not been approved by MYOB and must not move Your place of business without Our prior written consent; and
  - c. must not change Your business name or ownership of Your business without giving MYOB prior notice and not substantially change the type of goods and services You sell without Our prior written consent; and
  - d. only submit a sales transaction where You are the supplier of the goods and/or services; and

- e. not submit transactions on behalf of a 3rd party. For the avoidance of doubt, this includes submitting transactions for goods or services sold on another Person's website; and
  - f. must allow the employees, contractors or agents of NAB or those of any Card Scheme reasonable access to Your premises during normal business hours to check Your compliance with these Visa/MasterCard Payment Channel Terms, the Data Security Standards or for the purposes of the relevant Card Scheme Rules; and
  - g. must provide MYOB and NAB with all information, assistance, authorities and consents (including obtaining information, assistance, authorities and consents from Your customers, as applicable) reasonably required to perform their obligations and to deal with any queries in relation to the Visa/MasterCard Payment Channel; and
  - h. must comply with all applicable Card Scheme Rules and Relevant Laws and contractual requirements in accepting card payments and performing Your obligations under these Visa/MasterCard Payment Channel Terms; and
  - i. will observe and implement the fraud prevention procedures set out in the manuals, guides or directions provided to You, unless otherwise mutually agreed to by the parties.
- i. MYOB or NAB may terminate the provision of the Visa/MasterCard Payment Channel to You; and
  - ii. You are liable for any fine imposed upon NAB by the Card Schemes as a result of Your failure to comply; and
  - iii. You are liable for any fines which the Card Schemes levy in the event that You suffer a card data compromise incident, and have not complied with the PCIDSS Accreditation program; and
- d. NAB is obliged to report all Data Breach events to Card Schemes, law enforcement agencies and/or Australian regulators. You grant irrevocable and enduring consent for NAB to release details of any such Data Breach to the aforementioned bodies; and
  - e. if You have suffered a Data Breach:
    - i. You must give NAB and its agents full access to Your systems and databases to facilitate a forensic analysis to ascertain:
      1. what card data has been compromised; and
      2. what weaknesses in the system permitted the unauthorised access to the data base; and
      3. whether card data was created, deleted, altered, copied or manipulated in any manner; and
    - ii. all costs of the forensic analysis must be paid by You; and
    - iii. in order to continue processing card transactions, You must undergo a full PCIDSS accreditation. All costs of this accreditation exercise must be paid by You

### Data Security Standards

- 3.2. This clause applies to You if collect payment data directly from a Cardholder or store any Cardholder data. In addition to the other provisions of these Visa/MasterCard Payment Channel Terms, You acknowledge and agree:
- a. You must protect stored Cardholder data, regardless of the method used to store such data. Data storage also includes physical storage and security of Cardholder data. Some examples of other data storage which must be secured include an access or excel database and hard copy files. Storage should be kept to the minimum required for business, legal, and/or regulatory purposes; and
  - b. You must not store the personal identification number (PIN) or sensitive authentication data after authorization (even if encrypted); and
  - c. if MYOB or NAB tell You that you must comply with the Payment Card Industry Data Security Standards, you must, at Your cost, successfully complete the protocols for PCIDSS within the time frame stipulated by MYOB or the Card Schemes. You acknowledge and agree that if You fail to do so:
- i. MYOB or NAB may terminate the provision of the Visa/MasterCard Payment Channel to You; and
  - ii. You are liable for any fine imposed upon NAB by the Card Schemes as a result of Your failure to comply; and
  - iii. You are liable for any fines which the Card Schemes levy in the event that You suffer a card data compromise incident, and have not complied with the PCIDSS Accreditation program; and
- d. NAB is obliged to report all Data Breach events to Card Schemes, law enforcement agencies and/or Australian regulators. You grant irrevocable and enduring consent for NAB to release details of any such Data Breach to the aforementioned bodies; and
  - e. if You have suffered a Data Breach:
    - i. You must give NAB and its agents full access to Your systems and databases to facilitate a forensic analysis to ascertain:
      1. what card data has been compromised; and
      2. what weaknesses in the system permitted the unauthorised access to the data base; and
      3. whether card data was created, deleted, altered, copied or manipulated in any manner; and
    - ii. all costs of the forensic analysis must be paid by You; and
    - iii. in order to continue processing card transactions, You must undergo a full PCIDSS accreditation. All costs of this accreditation exercise must be paid by You

### Your duties to cardholders

- 3.3. Subject to the other provisions of these Visa/MasterCard Payment Channel Terms, You:
- a. must accept any valid and acceptable Card in a transaction; and
  - b. must only send an invoice with the Visa/MasterCard Payment Channel available to Your customer when You have committed to provide the goods and services to the customer; and
  - c. must not accept a Card in a credit card transaction for the purpose of giving a Cardholder cash; and
  - d. must perform all obligations (including supplying all goods and/or services) to the Cardholder in connection with the sale; and



- e. must not sell, purchase, provide or exchange any information or document relating to a Cardholder's account number, or Card number, or a transaction, to any Person other than:
  - i. MYOB;
  - ii. NAB; and
  - iii. the card issuer; or
  - iv. as required by law; and
- f. must destroy any document that is no longer required to be retained by applicable law or card scheme rules, in a manner which makes the information unreadable; and
- g. must take reasonable steps to ensure that the information and documents mentioned in 3.3.e. are protected from misuse and loss and from unauthorised access, modification or disclosure; and
- h. must not make any representation in connection with any goods or services which may bind MYOB, NAB or any Card Scheme; and
- i. must not indicate or imply that We, NAB or any Card Scheme endorse any goods or services or refer to a nominated Card in stating eligibility for goods, services, or any membership; and
- j. must not accept a Card or a transaction which is of a type You have been previously advised is not acceptable; and
- k. must prominently and unequivocally inform the Cardholder of Your identity at all points of Cardholder interaction (including on any relevant website, promotional material and invoice) so that the Cardholder can readily distinguish You from MYOB, any supplier of goods or services to You, or any other 3rd party; and
- l. must provide notice to any Cardholder with whom You enter into a transaction that You are responsible for that transaction, including for any goods or services provided, any payment transaction, related service enquiries, dispute resolution, and performance of the terms and conditions of the transaction; and
- m. must not unfairly distinguish between issuers of a Card when accepting a transaction; and
- n. must not refuse to complete a transaction solely because a Cardholder refuses to provide additional identification information in circumstances where We do not require You to obtain it; and
- o. if You collect or store Cardholder information, You must comply with any Data Security Standards notified to You; and

- p. You may must not transfer or attempt to transfer financial liability under these Visa/MasterCard Payment Channel Terms by asking or requiring a Cardholder to waive his or her dispute rights.

#### Recurring transactions

- 3.4. You must not process a transaction as a recurring transaction unless You obtain Our prior written approval.

#### Indemnity

- 3.5. You agree to indemnify and hold MYOB and NAB harmless from and against any fines imposed on MYOB or NAB (as applicable) by a Card Scheme because of Your conduct in relation to the Visa/MasterCard Payment Channel, including any fines imposed as a result of an unacceptable rate of Chargebacks.

### 4. Card acceptance requirements

- 4.1. You must:
  - a. use reasonable care to detect the unauthorised use or forgery of a Card; and
  - b. notify MYOB if You become aware of or suspect fraud on the part of a Cardholder; and
  - c. not deliberately reduce the value of any one transaction by:
    - i. splitting a transaction into two or more transactions; or
    - ii. allowing a Cardholder to purchase items separately; and
  - d. establish a fair policy for dealing with refunds and disputes about transactions and include information about that policy on Transaction Receipts as required by MYOB; and
  - e. only submit a transaction as a refund to a Cardholder if it is a genuine refund of a previous sale transaction. The refund must be processed to the same card that was used in the original sales transaction and be for the original sale amount; and
  - f. give refunds for transactions by means of credit and not in cash or cheque; and
  - g. not process a refund transaction as a way of transferring funds between Your accounts; and
  - h. if a transaction for a sale does not cover the full amount of the sale:
    - i. in the situation in which the Card is used to make a deposit or pay an instalment You may accept the Card in payment of all or part of the outstanding balance; and
    - ii. in any other circumstance You must obtain the balance due at the time the sale is completed in cash; and

- i. not state or set a minimum or maximum amount for a Card transaction without Our prior written consent; and
  - j. not ask a Cardholder to reveal their PIN or any other secret identifier; and
  - k. contact MYOB for instructions if the identification of a Cardholder or the validity of the Card is uncertain; and
  - l. not knowingly submit for processing any transaction that is illegal or that You should have known is illegal.
- 4.2. For remote transactions, You must:
- a. take reasonable steps to verify the identity of the Person You are dealing with, in order to confirm that they are the genuine Cardholder; and
  - b. record reasonable identification details of the Person You are dealing with.

## 5. Surcharging

### Amount of surcharge

- 5.1. Where You elect to charge a Cardholder a surcharge in respect of a transaction, You must not impose a surcharge in excess of the reasonable cost of card acceptance.
- 5.2. Upon request by Us or any Card Schemes, You must produce supporting information to substantiate Your costs of card acceptance. Where the card scheme dictates the format of the required substantiation, e.g. through use of a "reasonable cost of acceptance calculator", You must provide details of Your costs in the required format.
- 5.3. Where required by a Card Scheme, You must submit, at Your cost, to an audit of Your costs of card acceptance by an independent auditor approved by the Card Scheme requiring the audit. The audit must be completed and results reported back to the relevant Card Scheme within the time-frame specified by the Card Scheme.
- 5.4. Where, following an investigation into Your surcharging and cost of card acceptance, We or a Card Scheme determine that the amount that You are surcharging exceeds the reasonable costs of card acceptance, We may by 30 days notice to You require You to reduce your surcharge level to an amount that does not exceed the reasonable costs of card acceptance.
- 5.5. Without limiting any other rights that We may have under these Visa/MasterCard Payment Channel Terms, We may, by notice to You, terminate these Visa/MasterCard Payment Channel Terms if, following receipt of notice under Clause 6.4. You fail to reduce Your surcharge level to an amount that does not exceed the reasonable costs of card acceptance.
- 5.6. You acknowledge that excessive surcharging by You could expose NAB to fines from Card Schemes. You agree to indemnify NAB against any fines imposed by Card Schemes in relation to Your surcharging practices.
- 5.7. You acknowledge that card issuers may from time to time change the classification of a credit card (i.e. standard or premium) and, as a result, when applying a surcharge rate to a Cardholder, it cannot be guaranteed that the classification of the card (i.e. standard or premium) on which You have based the surcharge will be same as the classification on which You are charged Your merchant service fee in relation to the same transaction.

### Disclosure of surcharge

- 5.8. You must clearly disclose to the Cardholder before the transaction is completed any surcharge that You will charge for completing the transaction, and do it in such a way that allows the transaction to be cancelled without the Cardholder occurring any cost.
- 5.9. You must not represent or otherwise imply that the surcharge is levied by a card scheme or by Us or any other financial institution.
- 5.10. Definitions (In this Clause 6)
- + **Surcharge** means any fee charged by a merchant to a Cardholder that is added to a transaction for the acceptance of a card.
  - + **Costs** that form Your "reasonable costs of card acceptance" will be determined having regard to the Reserve Bank of Australia's Guidance Note: Interpretation of Surcharging Standards, as amended or replaced from time to time

## 6. Transaction receipt

- 6.1. Unless We have agreed that We will provide the transaction receipt to the Cardholder, You must give the Cardholder a copy of the Transaction Receipt for each transaction, but You must not charge a fee for doing so.
- 6.2. If You are notified that You must prepare the Transaction Receipt, You must ensure the information contained in the Transaction Receipt:
- a. is identical with the information on any other copy; and
  - b. legibly includes the information notified to You.
- 6.3. You must provide MYOB with the Transaction Receipt and any other required evidence of the transaction within seven (7) days if You are asked by MYOB to provide it.

- 6.4. If You wish to change Your Internet or email address, or telephone number appearing on the Transaction Receipt, You must notify MYOB in writing at least 15 Banking Days prior to the change taking effect.

## 7. Invalid or unacceptable transactions

### 7.1. A transaction is not valid if:

- a. the transaction is illegal as per applicable laws; or
- b. if applicable, the signature on the voucher, Transaction Receipt or authority is forged or unauthorised; or
- c. the transaction is before or after any validity period indicated on the relevant Card; or
- d. You have been told not to accept the Card; or
- e. the transaction is not authorised by the Cardholder; or
- f. the particulars on the copy of the voucher or Transaction Receipt given to the Cardholder are not identical with the particulars on any other copy; or
- g. the price charged for the goods or services is inflated to include an undisclosed surcharge for card payments; or
- h. another person has provided or is to provide the goods or services the subject of the transaction to a Cardholder; or
- i. You did not actually supply the goods or services to a genuine Cardholder as required by the terms of the transaction, or have indicated Your intention not to do so; or
- j. the transaction did not relate to the actual sale of goods or services to a genuine Cardholder; or
- k. the transaction is offered, recorded or billed in a currency We have not authorised You to accept; or
- l. these Visa/MasterCard Payment Channel Terms were terminated before the date of the transaction; or
- m. You have not complied with Your obligations in Clause 3.3.; or
- n. if applicable, the details are keyed into Equipment and You did not legibly record on a Transaction Receipt the information required by Clause 7; or
- o. it is a credit transaction in which:
  - i. the amount of the transaction or transactions on the same occasion is more than any applicable limit notified to You; or
  - ii. You collected or refinanced an existing debt including, without limitation, the collection of a dishonoured cheque or payment for previous card charges; or
  - iii. You provide a Cardholder with cash; or

- p. it occurs during a period in which Your rights under these Visa/MasterCard Payment Channel Terms were suspended; or
- q. You cannot give a Transaction Receipt as required by Clause 7 provided for herein; or
- r. for any other reason, the Cardholder is entitled under the Card Scheme Rules to a Chargeback of the transaction.

### 7.2. A transaction for a sale or refund is not acceptable if:

- a. the Cardholder disputes liability for the transaction for any reason or makes a claim for set-off or a counterclaim; or
- b. it is of a class which NAB or MYOB decide, in their (reasonable) discretion, is not acceptable.

### 7.3. You acknowledge and agree that NAB or MYOB may:

- a. refuse to accept a transaction if it is invalid or unacceptable, or may charge it back to You if it has already been processed, even if We have given you an authorisation; and
- b. reverse a sales transaction as a Chargeback, and debit Your account for the amount of the Chargeback, for any of the reasons in Clauses 7.1. and 7.2. and any other reason We notify You of from time to time; and
- c. without limiting the above, delay, block, freeze or refuse to accept any transaction where NAB or MYOB has reasonable grounds to believe that the transaction breaches Australian law or sanctions or the laws or sanctions of any other country

## 8. Settlement of transactions

- 8.1. NAB will provide settlement to MYOB on each business day for the gross amount of all funds received from the Card Schemes in respect of transactions processed under these Visa/MasterCard Payment Channel Terms, less any Chargebacks or refunds.
- 8.2. MYOB is responsible for disbursing to You, in accordance with Your funding, reserve and payment arrangements with MYOB, any settlement amounts received from NAB in respect of transactions processed under these Visa/MasterCard Payment Channel Terms.
- 8.3. You agree to direct any queries regarding settlement to MYOB.
- 8.4. You appoint MYOB as Your agent and trustee for the purposes of receiving settlement amounts received from NAB and managing payment of those funds to You in respect of transactions processed under these Visa/MasterCard Payment Channel Terms.

## 9. Use of card scheme logos and trade marks

- 9.1. You acknowledge and agree that:
- the Card Scheme logos, names and holograms ("the Marks") are owned solely and exclusively by the relevant Card Scheme; and
  - You will not contest the ownership of the Marks for any reason; and
  - the Card Schemes may at any time, immediately and without notice, prohibit You from using any of the Marks for any reason; and
  - You may only use advertising and promotional material for the cards or which show a Card Scheme mark in the manner NAB approves, unless You have received authorisation from the card schemes through other means.

## 10. Representations and warranties by you

- 10.1. You represent and warrant that:
- by entering into these Visa/MasterCard Payment Channel Terms You are not currently and will not be in breach of any Relevant Law or any obligation owed to any Person; and
  - where applicable, You are duly authorised to enter into these Visa/MasterCard Payment Channel Terms and the obligations under these Visa/MasterCard Payment Channel Terms are valid, binding and enforceable in accordance with its terms; and
  - if You are an incorporated body, You validly exist under the laws of Your place of incorporation and have the power and authority to carry on Your business as that business is now being conducted and using any name under which that business is being conducted; and
  - if You, a Related Body Corporate or any officer, employee or agent of You or a Related Body Corporate has at any time been listed on a database of terminated merchants maintained by any Card Scheme or have otherwise had merchant services terminated by another acquiring bank, You have disclosed that fact to MYOB.
- 10.2. The representations and warranties set out in this clause will be deemed to be repeated each day after the date You enter into these Visa/MasterCard Payment Channel Terms

## 11. No warranties by us

Neither MYOB nor NAB make any warranties in respect of any of the services to be provided under these Visa/MasterCard Payment Channel Terms. To the maximum extent permitted by law, any and all implied warranties and guarantees are excluded.

In respect of any warranty or guarantee which is unable to be excluded under any relevant law, Our liability in respect of a breach of that warranty or guarantee is limited to the re-supply of the goods or services or the payment of the cost of having the goods or services supplied again.

## 12. Exclusion of liability

To the maximum extent permitted by applicable law We are not liable to You or to any person for any act or omission (including negligence) of Ours that results in any direct or indirect loss (including loss of profits), damage, injury or inconvenience You suffer because of any service failure (including any unavailability of the service) any delays or any errors.

Under no circumstances will We be liable to You for any lost sales, revenue or profit or loss of custom due to any service failure which results in You being unable to promptly accept payments from Your customers.

## 13. Termination and suspension

- 13.1. NAB or MYOB may suspend or terminate these Visa/MasterCard Payment Channel Terms, or suspend then terminate these Visa/MasterCard Payment Channel Terms, or any part of them at any time if:
- You are in breach of Your obligations under or arising out of these Visa/MasterCard Payment Channel Terms;
  - if in MYOB's or NAB's reasonable opinion, the processing of Your transactions exposes MYOB or NAB to an unacceptable level of risk;
  - You are or have engaged in conduct which exposes MYOB or NAB to potential fines or penalties imposed under Relevant Law;
  - Your business or equipment is or has been targeted by a person engaged in fraudulent or dishonest activity whether with or without Your knowledge;
  - You or any service provider (other than MYOB or NAB) that You use in connection with Your merchant services has suffered a data breach;
  - a direction is made by a Card Scheme or under Relevant Law that the Visa/MasterCard Payment Channel be suspended or terminated;
  - You have experienced an adverse change in financial circumstances;
  - We have concerns about Your solvency or if You become insolvent or are subject to any form of insolvency administration or a resolution is passed or an order is made for winding up; or
  - You have a significant adverse credit event recorded against You.

- 13.2. These Visa/MasterCard Payment Channel Terms will terminate automatically and immediately if:
- a. MYOB's registration as a member service provider or independent sales organisation with any Card Scheme is cancelled;
  - b. MYOB's agreement with NAB for the provision of merchant services is terminated for any reason; or
  - c. any other agreement that You have with MYOB in respect of MYOB's payment processing services is terminated for any reason.

13.3. You authorise NAB to disclose to any Card Scheme advice of termination of these Visa/MasterCard Payment Channel Terms and the reasons for the termination. You acknowledge that the information concerning termination of these Visa/MasterCard Payment Channel Terms then becomes available to any member of the Card Schemes.

This information, available to any member of the Card Schemes, may be used in assessing subsequent applications for merchant facilities.

13.4. This Clause 14 survives termination of these Visa/MasterCard Payment Channel Terms.

#### 14. Assignment

You may not assign or charge Your rights under these Visa/MasterCard Payment Channel Terms without Our prior written consent.

#### 15. Australian domicile requirements

You acknowledge that We may only provide services to You under these Visa/MasterCard Payment Channel Terms where You:

- a. have a permanent establishment in Australia through which transactions are completed;
- b. are registered to do business in Australia;
- c. have a local address in Australia for correspondence and acceptance of judicial process, other than a post-office box or mail-forwarding address; and
- d. pay taxes in Australia (where required) in relation to the sales activity; and
- e. satisfy any other domesticity requirements imposed by the Card Schemes from time to time.

In addition to any other right to terminate or suspend the services, We may immediately cease to accept transactions under these Visa/MasterCard Payment Channel Terms where You fail to satisfy the above requirements.

#### 16. Governing law

These Visa/MasterCard Payment Channel Terms is governed by the laws of the State of Victoria. Each party submits to the jurisdiction of the courts of that State and any courts of appeal from them.

#### 17. Amendment

In addition to MYOB's rights to vary the Terms in accordance with Section 14 of the General Terms, NAB may vary these Visa/MasterCard Payment Channel Terms on 30 days' written notice to You.

#### 18. Notices

You acknowledge that NAB or MYOB may deliver notices to You in respect of these Visa/MasterCard Payment Channel Terms in any of the ways listed in Section 17 of the Terms.

#### 19. Set-off

MYOB and NAB may at any time without notice to You set off any Liability owed by MYOB or and NAB (as the case may be), to You on any account against any Liability owed by You to MYOB or NAB (as the case may be) under or in connection with these Visa/MasterCard Payment Channel Terms.

For the purpose of this clause, "Liability" means any debt or monetary liability, irrespective of whether the debt or monetary liability is future or present, actual or contingent.