

eftpos Scheme Rules



Document control

Amendment history

| Version | Date | Amended | Comments |
|---------|----------|---------|--|
| 0.4.3 | 20/8/10 | | <ul style="list-style-type: none"> Final Draft – for Board approval on 24/8/10. Incorporates final changes to version 0.3.4 sent to Members and Directors on 8/8/10. |
| 0.4.4 | 23/8/10 | | <ul style="list-style-type: none"> Amendment to clause 29.1 to clarify ability to vary ePAL specified interchange fees. |
| 0.4.5 | 25/8/10 | | <ul style="list-style-type: none"> As approved by Board on 24/8/10 (with date of commencement of Pre-Authorised transaction). To be considered at class meetings on 28 September 2010. |
| 1.0 | 29/9/10 | | <ul style="list-style-type: none"> As approved by Board on 24/8/10 and Issuer/Acquirer Class Meetings on 28/9/10. |
| 1.1 | 7/12/10 | | <ul style="list-style-type: none"> Amendment to clause 29.2 approved by the Board on 7 December 2010. |
| 2.0 | 21/09/12 | | <ul style="list-style-type: none"> Amendments to clauses 1.5, 4, 12, 15, 22, 24, 25, 31, 32, 38, 41, Schedule 1 definitions of Merchant Service Fee and Reasonable Costs of Acceptance and Schedule 2. As approved at class meetings on 20 November 2012. Additional minor and technical changes have been made to clauses 6, 10, 16, 21, 29, 31.2(b) and (c), 32.2(e), 32.3, 35, 37, 38.2 preamble and (a), 38.4, 40, Schedule definitions (except Merchant Service Fee and Reasonable Costs of Acceptance) and Schedule 2 and to the style and formatting. |

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|-----|---------------|--------------------------------|--|
| 3.0 | 02/12/13 | | <ul style="list-style-type: none"> Amendments made across most Scheme Rules to incorporate the eftpos Access Code concepts, support the eftpos Chip and Contactless program, support the implementation of the eftpos Hub, support certain regulatory undertakings, as consequential changes and to remove obsolete language. New Rules were added as clauses 15, 19, 26, 27, 28, 29 and new Schedules 4 and 5 which caused consequential renumbering and cross reference changes to most rules. As a result, amendments appear in Scheme Rules 1.5, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42 and Schedules 1, 2, 3, 4 and 5. |
| 3.1 | 7 March 2015 | Robyn Sanders | <ul style="list-style-type: none"> Amendments to introduce eftpos Digital. Update amendments and consequential amendments |
| 3.2 | November 2015 | Robyn Sanders | <ul style="list-style-type: none"> Amendments to facilitate eftpos mobile, together with consequential changes arising from revocation of eftpos Access Code. |
| 3.3 | March 2016 | Kiira Sargeant | <ul style="list-style-type: none"> Amendments to definition of Reasonable Cost of Acceptance Alignment of notice for interchange fee changes to May 2016 RBA Card Payments Standards |
| 3.4 | March 2016 | Robyn Sanders | <ul style="list-style-type: none"> Amendments to incorporate settlement through the eftpos Batch Settlement Service |
| 3.4 | July 2016 | Robyn Sanders | <ul style="list-style-type: none"> Amendments following feedback from RBA, G&T and KWM |
| 3.4 | October 2016 | Robyn Sanders / Kiira Sargeant | <ul style="list-style-type: none"> Introduction of eftpos Settlement Service. |

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|-----|----------------|----------------|---|
| | | | <ul style="list-style-type: none"> • Transfer of Mobile Licence from clause 3.4.1.1 of TOSR to Scheme Rules. • Inclusion of licence for use of eftpos Disputes and Chargebacks workflow tool. • Inclusion of support for direct connections by Members and Member Service Providers as token requestors and token aggregators and for Disputed Transactions and Chargeback services. • Clarification of Member invoicing requirements following implementation of eftpos Centralised Interchange Fee calculation. |
| 3.5 | March 2017 | Kiira Sargeant | <ul style="list-style-type: none"> • Minor and technical changes relating to APCA name change. |
| 3.6 | October 2017 | Kiira Sargeant | <ul style="list-style-type: none"> • Addition of Deposit and Withdrawal as eftpos Transaction Types, and Corrective Batch as part of eSS. • Updates to definitions for Digital Acceptance Device, eftpos Digital, eftpos Digital Acceptance (formerly eftpos Online), eftpos In-App Payment. • Amendments to Direct Connector Application. |
| 3.7 | March 2018 | Kiira Sargeant | <ul style="list-style-type: none"> • Amendments to bilateral Interchange Link and bilateral Settlement provisions. |
| 3.8 | September 2018 | Brijesh Sharda | <ul style="list-style-type: none"> • Additions of definitions for supporting eDAF Merchant Initiated Transactions and some minor & technical changes. |
| 3.9 | June 2019 | Brijesh Sharda | <ul style="list-style-type: none"> • Member obligations for Service providers • Updates to few existing definitions and addition of new definitions. • Updates to cater for the Consumer Data Right regulations • Minor & technical corrections |

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| 3.10 | June 2020 | Brijesh Sharda | <ul style="list-style-type: none">• Addition of API Platform functionality |
| 3.11 | October 2020 | Brijesh Sharda | <ul style="list-style-type: none">• Additions of definitions for supporting eftpos CNP Taxonomy changes & eftpos Secure.• Changes for eSS Enhancements• some minor & technical changes. |
| 3.12 | April 2021 | Brijesh Sharda | <ul style="list-style-type: none">• Updates for API Gateway• Introduction of eftpos Cobrand Cards. |

Distribution list

| Name | Position |
|-----------------|---------------------------------------|
| Peter Gilliland | Executive Manager, Scheme Releases |
| David Ellett | Chief Commercial Officer |
| Matt Barr | Chief Product Officer |
| Ben Tabell | Chief Information Officer |
| Robyn Sanders | General Counsel and Company Secretary |
| Brijesh Sharda | Manager Rules and Compliance |

Approvals list

| Name | Position | Signature | Date approved |
|----------------|-------------------------|--------------------|---------------|
| Stephen Benton | Chief Executive Officer | Approved via Email | 15/07/2021 |

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Part A – Preliminary

1 Introduction

1.1 Background

- (a) The Scheme Rules are promulgated pursuant to Article 9.1(a) of the Constitution.
- (b) Pursuant to Article 9.1(b) of the Constitution, a Member must comply with the Scheme Rules that are applicable to that Member.

1.2 Purpose of the Scheme Rules

The purpose of these Scheme Rules is to govern eftpos Transactions including:

- (a) the clearing and settlement of eftpos Transactions;
- (b) the infrastructure used to effect an eftpos Transaction;
- (c) wholesale pricing and fees payable to the Company;
- (d) eftpos Interchange Activities;
- (e) other matters in the joint interest of participants in the eftpos payment system; and
- (f) the display of eftpos branding and Trade Marks.

1.3 Effect of the Scheme Rules

- (a) The Scheme Rules have the effect of a contract under seal between:
 - (i) the Company and each Member; and
 - (ii) the Members.
- (b) Each Member acknowledges that it is bound to:
 - (i) comply with the Scheme Rules; and
 - (ii) fulfil and perform every obligation and duty imposed on it by or pursuant to the Scheme Rules.

1.4 Inconsistencies

- (a) If a provision of the Scheme Rules is inconsistent with a provision of the Constitution, the provision of the Constitution prevails.

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- (b) If a provision of the Scheme Rules is inconsistent with a provision of the Technical, Operational and Security Rules, the provision of the Scheme Rules prevails.

1.5 Assignment and subcontracting of Obligations

A Member cannot assign obligations under the Scheme Rules, unless specifically authorised by the Scheme Rules. However, a Member may engage a Service Provider to perform some of its obligations under the Scheme Rules but the Member remains responsible for complying with the Scheme Rules and is liable for the acts or omissions of the Service Provider. The Member must:

- (a) ensure that the Service Provider complies with the Scheme Rules;
- (b) require that any Service Provider used by the Member or any of its Non-clearers is a Direct Connector for the purposes of these Scheme Rules and obtain from any Direct Connector, in favour of the Company and each Member, an application and undertaking in the form of Schedule 4 that the Direct Connector will comply with the Scheme Rules, Technical, Operational and Security Rules and any subsidiary rule or document issued under the Scheme Rules, in respect of the eftpos Hub or infrastructure or applications nominated by the Company for the purposes of the eftpos Payment System as a Direct Connector; and
- (c) take action against the Service Provider to procure compliance with the Scheme Rules, if requested to do so by the Company.

1.6 Governing Jurisdiction

Any disputes arising under the Scheme Rules are governed by the law of New South Wales.

1.7 Administration

The Company may delegate its administrative responsibilities under the Scheme Rules to a third party.

In delegating its administrative responsibilities to a third party, the Company must:

- (a) monitor compliance with the obligations delegated; and
- (b) ensure that the terms of the delegation are consistent with the Company's obligations under the Scheme Rules.

In fulfilling its role, any third party is bound to comply with any duties and obligations of the Company imposed by the Scheme Rules.

Should the Company delegate its administrative responsibilities, it remains responsible for fulfilling its obligations under the Scheme Rules.

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2 Effective Date and Transition

2.1 Commencement Date

The Scheme Rules take effect on the Commencement Date.

2.2 Treatment of Bilateral Agreements

(a) If a Bilateral Agreement contains provisions that relate to:

- (i) the Scheme Rules;
- (ii) the Technical, Operational and Security Rules;
- (iii) any subsidiary document or rule;
- (iv) the matters specified in Article 9.1(a) of the Constitution; and/or
- (v) the matters specified in clause 1.2,

each Member agrees that, subject to clause 29.2 and 33, those provisions will cease to apply to that Bilateral Agreement and the provisions of the Scheme Rules will apply.

(b) For the avoidance of doubt and subject to clauses 29.2 and 33, if there is any inconsistency between the Scheme Rules and the provisions of a Bilateral Agreement, the Scheme Rules will prevail to the extent of the inconsistency.

2.3 Transition

(a) Agreements between 2 Members to apply standards, specifications or requirements which differ from those set out in the Scheme Rules, or the Technical, Operational and Security Rules may continue notwithstanding clauses 2.2(a) and 2.2(b), pursuant to clause 29.3 and subject to clause 29.4.

(b) Members must:

- (i) review the Bilateral Agreements to which they are a party; and
- (ii) confer with the counterparty to each of those Bilateral Agreements,

to confirm whether any of its provisions will continue to apply despite these Scheme Rules and, to the extent applicable, terminate or amend their Bilateral Agreements.

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3 Amendment

3.1 Company may amend the Scheme Rules

Subject to any requirements in the Constitution, the Company may amend the Scheme Rules. The Company will consult with Members on changes to the Scheme Rules, unless the change is minor or technical.

3.2 Notice of Amendment

- (a) The Company will give Members at least:
 - (i) 90 days' notice of an amendment to the Scheme Rules that requires a technical or operational change to their systems; and
 - (ii) 30 days' notice of any other amendment to the Scheme Rules.
- (b) The Company may shorten or dispense with the notice period in paragraph (a) to preserve or enhance the integrity and/or security and/or stability of:
 - (i) eftpos Transactions;
 - (ii) eftpos Interchange Activities;
 - (iii) the settlement of eftpos Transactions or eftpos Interchange Activities; or
 - (iv) the network and its systems including the eftpos Hub.

3.3 Commencement

Any amendment to the Scheme Rules is binding on Members from the first eftpos Transaction involving that Member that occurs after the published effective date for the amendments to the Scheme Rules.

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4 Clearing Agents, Settlement Agents and Service Providers

4.1 Clearing Agents

- (a) Except where the contrary intention appears, the Scheme Rules apply between the Company and a Clearing Agent, as if the Clearing Agent:
 - (i) and each and every one of its Non-clearers were the same person;
 - (ii) is the eftpos Issuer in respect of all of the eftpos Form Factors issued by its Non-clearers; and
 - (iii) is the eftpos Acquirer in respect of all of the eftpos Transactions acquired by its Non-clearers.
- (b) Except where the contrary intention appears, the Scheme Rules apply between another Member (the Counterparty) and a Clearing Agent, as if the Clearing Agent:
 - (i) and each and every one of its Applicable Non-clearers were the same person;
 - (ii) is the eftpos Issuer in respect of all of the eftpos Form Factors issued by its Applicable Non-clearers; and
 - (iii) is the eftpos Acquirer in respect of the eftpos Transactions acquired by its Applicable Non-clearers.
- (c) In this clause 4 Applicable Non-clearers means the Non-clearers on whose behalf the Clearing Agent carries out Clearing, with the Counterparty.
- (d) Each Clearing Agent must:
 - (i) obtain from each Applicable Non-clearer, in favour of the Company and each Member, an undertaking in the form of a deed poll that the Applicable Non-clearer agrees to comply with the Scheme Rules, Technical, Operational and Security Rules and any subsidiary rule or document issued under the Scheme Rules (including Guides) as if it were a Member; or
 - (ii) in the case of Clearing Agents that operate their own sub-networks, provide to the Company an undertaking that the Clearing Agent will and a certification that appropriate arrangements are in place, whether through individual contracts or sub-network rules to:
 - A) ensure that each Applicable Non-clearer and any of its service providers complies with the Scheme Rules, Technical, Operational and Security Rules and any subsidiary rule or document issued under the Scheme Rules (including Guides), as if it were a Member; and

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- B) take such action as is required to enforce the Scheme Rules, Technical, Operational and Security Rules and any subsidiary rule or document issued under the Scheme Rules (including Guides) in respect of the Applicable Non-clearer and any of its service providers.
- (e) Nothing in sub-clause (d) impacts the operation of sub-clauses 4.1 and (b).

4.2 Settlement Agents

- (a) Except where the contrary intention appears, the Scheme Rules apply between the Company and a Settlement Agent in respect of Settlement, as if the Settlement Agent in respect of Settlement:
 - (i) and each and every one of its Indirect Settlers were the same person; and
 - (ii) is the eftpos Issuer or eftpos Acquirer (as the case may be) of all of the eftpos Transactions represented by the Settlement Agent in Settlement.

For the purposes of preparation of settlement reports, each Indirect Settler is reported as a counterparty. For the purposes of preparation of Batch Participant Reports, the position of each Indirect Settler is aggregated with the position of their Settlement Agent to provide the net Settlement obligation of the Settlement Agent.

- (b) Except where the contrary intention appears, the Scheme Rules apply between a Direct Settler and a Settlement Agent, as if the Settlement Agent in respect of Settlement:
 - (i) and each and every one of its Indirect Settlers were the same person; and
 - (ii) is the eftpos Issuer or eftpos Acquirer (as the case may be) of all of the eftpos Transactions represented by the Settlement Agent in Settlement.
- (c) Without limiting sub-clauses 4.2(a) and 4.2(b) respectively, each Settlement Agent must in respect of Settlement:
 - (i) obtain from each of its Indirect Settlers, in favour of the Company and each Member, an undertaking and warranty that the Indirect Settler agrees to fulfil its Settlement obligations in respect of eftpos Transactions initiated or accepted by it; or
 - (ii) in the case of Settlement Agents that operate their own sub-networks, provide to the Company an undertaking and warranty that the Settlement Agent will put in place and a certification that appropriate arrangements are in place, whether through individual contracts or sub-network rules to:
 - A) ensure that each Indirect Settler fulfils its Settlement obligations in respect of eftpos Transactions initiated or accepted by it; and

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- B) take such action as is required to enforce the Scheme Rules, Technical, Operational and Security Rules in respect of the Indirect Settler.

4.3 Service Providers

(a) Each Member must:

(i) notify the Company if the Member or, in the case of an Acquirer, a Merchant:

- A) uses a Service Provider to facilitate eftpos Interchange Activities, Settlement, value exchange from the Acquirer through to the Merchant or provide Direct Connections related to eftpos Transactions; or
- B) sublicences Licensed Materials or Trade Marks, in accordance with these Scheme Rules, to the Service Provider,

providing details of the Service Provider and the function they perform;

(ii) ensure that:

- A) each Service Provider meets the obligations of these Scheme Rules as they apply to the services provided by that Service Provider for or on behalf of the Member or, in the case of an Acquirer, a Merchant as they relate to eftpos Transactions; and
- B) for any Merchant Service Provider to which the Acquirer or Merchant provides a sub-licence under rules 36 and 45 of these Scheme Rules, the Merchant Service Provider complies with the sub-licence terms under these Scheme Rules;

(iii) for any such Service Providers as at 22 October 2019:

- A) undertake periodic due diligence, including for the compliance by the Service Provider with these Scheme Rules;
- B) consider compliance by the Service Provider in any compliance certification by that Member;
- C) notify to the Company any non-compliance by the Service Provider of which the Member becomes aware; and
- D) notify the Company of:

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1. any change to a Merchant Service Provider that is a Processor, Settlement Agent or Token service provider involved in facilitating eftpos Digital for a Merchant; or
2. any termination of a Merchant Service Provider that is a Processor, Settlement Agent or Token service provider involved in facilitating eftpos Digital for a Merchant; and

(iv) for any new such Service Providers from 22 October 2019:

- A) undertake initial and periodically repeated due diligence on the Service Provider to ensure the Service Provider meets the requirements of prudent risk management for the services provided, including compliance by the Service Provider with these Scheme Rules;
- B) consider compliance by the Service Provider in any compliance certification provided by the Member to the Company;
- C) notify the Company of any non-compliance by the Service Provider of which the Member becomes aware; and
- D) notify the Company of:
 1. any change to a Merchant Service Provider that is a Processor, Settlement Agent, Token service provider, a gateway or Instalment Payment provider involved in facilitating eftpos Digital for a Merchant; or
 2. any termination of a Merchant Service Provider that is a Processor, Settlement Agent, Token service provider, a gateway or Instalment Payment provider involved in facilitating eftpos Digital for a Merchant.

(b) If a Service Provider performs functions for the Member or Merchant involving Direct Connection, Interchange Activities, Settlement, provision of Tokens and use of the Trade Marks, then the Member will ensure that the Service Provider completes an application for registration with the Company in the form published by the Company from time to time.

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5 Good Faith Co-operation

(a) Each Member must:

- (i) perform its obligations under the Scheme Rules in good faith; and
- (ii) use its best endeavours to co-operate with and procure that any Service Provider engaged by the Member to provide Clearing or Settlement co-operates with each other Member and the Company with respect to the Scheme Rules, the Technical, Operational and Security Rules and any subsidiary rule or document.

(b) Each Direct Connector must:

- (i) perform its obligations under the Scheme Rules in good faith; and
- (ii) use its best endeavours to co-operate with each other Director Connector, Member, the Company and the eftpos Hub service provider with respect to the Scheme Rules, the Technical, Operational and Security Rules and any subsidiary rule or document.

Examples, without limitation, where co-operation is needed are:

- a. scoping, planning and design workshops relating to and scheduling a Direct Connection;*
- b. establishing, testing, certifying and implementing each Direct Connection; and*
- c. Clearing and Settlement activities, including without limitation, authorisation, discrepancy resolution, problem resolution, privacy enquiries, incidents involving Consumer Data or Personal Information, disputes and chargeback resolution, capacity planning and network performance, business continuity management, data incident response management and disaster recovery activities.*

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6 Regulatory Requirements

Members must comply with any applicable regulatory requirements imposed by the Reserve Bank of Australia (or any other regulator) and any Law with respect to:

- (a) eftpos Transactions;
- (b) eftpos Interchange Activities;
- (c) the settlement of eftpos Transactions or eftpos Interchange Activities;
- (d) matters related to eftpos Transactions or eftpos Interchange Activities; or
- (e) access to the eftpos Payments System.

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Part B – Members

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7 Membership Criteria

Any person who:

- (a) is a Constitutional Corporation which carries on business at or through a permanent establishment in Australia; and
- (b) is able to or who, through operation of these Scheme Rules, will be able to:
 - (i) give its customers the ability to initiate eftpos Transactions; and/or
 - (ii) acquire eftpos Transactions,

in accordance with the applicable provisions of the Scheme Rules, the Technical, Operational and Security Rules and any applicable regulatory requirements, may apply in writing to become a Member.

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8 Admission of New Members

- (a) The Company must admit an applicant as a Member if it is satisfied that:
- (i) the applicant satisfies the applicable criteria in clause 7;
 - (ii) the applicant is able to comply with applicable laws, regulatory requirements, the Scheme Rules and the Technical, Operational and Security Rules, including in relation to certification, connectivity and Settlement (see clauses 9, 26 and 28);
 - (iii) the applicant:
 - A) is an Australian ADI (as defined in the Corporations Act);
 - B) will only represent and settle eftpos Transactions on behalf of Australian ADIs; or
 - C) has sufficient financial resources to fulfil its obligations as a Member;
 - (iv) admitting the applicant as a Member will not:
 - A) adversely affect the conduct of eftpos Transactions, eftpos Interchange Activities or the settlement thereof; or
 - B) introduce a significant new risk or significantly increase an existing risk; and
 - (v) in the case of an applicant applying to become a Member and a Direct Connector to the eftpos Hub, the applicant meets the requirements of clause 26.5.
- (b) The applicant must specify if the applicant is applying for membership as any or a combination of an eftpos Issuer or eftpos Acquirer and then as a Direct Clearer, a Direct Settler, a Clearing Agent, an Indirect Settler and/or Non-clearer (in which latter case the applicant must nominate a Direct Settler). To avoid doubt, an applicant is not required to participate in Clearing or Settlement on its own behalf or for other participants and is not required to be a Direct Connector to the eftpos Hub.
- (c) Each applicant for membership must pay the membership application fee prescribed by the Company from time to time pursuant to clause 33.
- (d) An application is binding on the applicant from the date of submission to the Company but may be withdrawn by the applicant at any time before notification from the Company of acceptance of the applicant as a Member. Any membership application fee paid by the applicant to the Company is non-refundable.
- (e) When received by the Company and at any time before notification from the Company of acceptance of the applicant as a Member or notification by the applicant of withdrawal of the application, the application and these Scheme Rules create a contract under seal:
- (i) between the applicant and the Company; and
 - (ii) the applicant and each Member,

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as if the applicant were a Member, for the purposes of:

- A) in the case of an applicant which is also an Applicant Direct Connector, implementing and testing a Standard Direct Connection Service;
 - B) in the case of an applicant which is also to be a Direct Settler, implementing and testing its ability to perform eftpos Interchange Activities and Settlement;
 - C) interactions between the applicant and Members and between the applicant and the Company in connection with the eftpos Payment System; and
 - D) the participation of the applicant in the eftpos Payment System.
- (f) The Company may require an applicant to provide security for the performance of its obligations as a Member in an amount and in such form as the Company considers appropriate.
- (g) An applicant that does not satisfy the criteria specified in clause 8(a) may only be admitted as a Member by the Company if approved by a Special Resolution of the Company.
- (h) Any decision made by the Company pursuant to this clause 8 (including a decision made under clause 8(b)) must be made to preserve, in the Company's opinion, the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them.
- (i) Prior to refusing an application to become a Member, the Company must comply with the procedures in clause 38.1.
- (j) A new Member must comply with any applicable notice, testing and other requirements specified in the Technical, Operational and Security Rules before commencing operations.

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9 Certification for Prospective Members

- (a) To satisfy the Company that an applicant is able to comply with the Scheme Rules and the Technical, Operational and Security Rules pursuant to clause 8(a) (ii) and, in respect of an Applicant Direct Connector, the criteria in clause 26.5, an applicant must provide to the Company:
- (i) a Certification Checklist completed in accordance with clause 12(b); and
 - (ii) a report of an agreed upon procedures engagement (refer Standard on Related Services ASRS 4400) from an independent auditor in respect of the applicant's ability to comply with the Scheme Rules and the Technical, Operational and Security Rules.

Note: A report of an agreed upon procedures engagement in respect of an applicant's ability to comply with the Scheme Rules and the Technical, Operational and Security Rules may take approximately 3 months to complete.

- (b) The Company must approve the independent auditor and the audit procedures to be performed pursuant to clause 9(a) (ii).
- (c) An applicant may as part of its application for membership of the Company:
- (i) apply for one or more exemptions pursuant to clause 10; and/or
 - (ii) make non-compliance disclosures to the Company pursuant to clause 11.

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Part C - Compliance

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10 Exemptions

10.1 Application for an Exemption

- (a) A Member in its own right or on behalf of a Direct Connector may apply for an exemption from a requirement in:
- (i) Part F or Part H of the Scheme Rules; or
 - (ii) the Technical, Operational and Security Rules; or
 - (iii) a Guide.
- (b) An application for an exemption must be made in the form of Schedule 3 and must include the following:
- (i) the period for which the exemption is sought;
 - (ii) the date of the original exemption (if seeking an extension of an existing exemption);
 - (iii) the section(s) and requirement(s) of the Scheme Rules and/or the Technical, Operational and Security Rules or Guide from which the Member or Direct Connector seeks an exemption;
 - (iv) a statement of the reason(s) for non-compliance;
 - (v) a risk rating applicable to the non-compliance;
 - (vi) a full description of any compensating controls that are offered as justification for the exemption; and
 - (vii) details of the Member's or Direct Connector's action plan to achieve compliance, including the expected date of achieving compliance.
 - (viii) details of the Members for which it provides service that are impacted by the exemption request
- (c) Upon receipt of an application for an exemption, the Company may require the Member or Direct Connector to provide additional information or evidence before it determines the application.
- (d) A Direct Connector must specify the Members and also any Non-clearers for which it provides Clearing that are impacted by the exemption request.
- (e) A Direct Settler must specify the Members and Non-clearers for which it is a Settlement Agent that are impacted by the exemption request.

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10.2 Determination of an Application for an Exemption

- (a) The Company will determine an application for an exemption as soon as possible and will notify the applicant, and in the case of a Direct Connector or Direct Settler, all specified impacted Members, in writing of the outcome.
- (b) The Company may grant an exemption:
 - (i) for a limited period of time; and/or
 - (ii) subject to conditions on the applying Member's or Direct Connector's activities pursuant, or related, to the Scheme Rules or the Technical, Operational and Security Rules or Guide.
- (c) If the Company grants an exemption, subject to compliance with any time period or conditions imposed pursuant to paragraph (b), the Member or Direct Connector receiving the exemption is not required to comply with the relevant section(s) and requirement(s) of the Scheme Rules and/or the Technical, Operational and Security Rules or Guide.
- (d) In determining an application for an exemption, the Company must have regard to the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them.
- (e) The Company may, at any time, withdraw an exemption if in the Company's opinion the exemption poses a risk to the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them.
- (f) Prior to making a decision to refuse an application for an exemption, to grant an exemption subject to conditions or to withdraw an exemption, the Company must comply with the procedures in clause 38.2.
- (g) Any decision of the Company in respect of an application for an exemption:
 - (i) is final and binding; and
 - (ii) may not be subject to court proceedings, dispute resolution under clause 38 of the Scheme Rules, the Review Process under clause 40 or any other form of review.

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11 Disclosure of Non-Compliance

(a) Each Member in its own right or on behalf of a Direct Connector must disclose by notice in writing to the Company:

- (i) each and every instance of non-compliance with the Scheme Rules or the Technical, Operational and Security Rules; and
- (ii) its inability to comply with any section(s) or requirement(s) of the Scheme Rules or the Technical, Operational and Security Rules,

within 7 days of the Member or Direct Connector (as the case may be) becoming aware of the non-compliance or its inability to comply.

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12 Certification

- (a) At intervals nominated by the Company, each Member in its own right or on behalf of a Direct Connector to infrastructure or applications (including eftpos TSP) provided by the Company for the purposes of the eftpos Payment System must complete (for itself and its Non-clearers and Indirect Settlers) the Company's Certification process with respect to compliance with:
- (i) the Scheme Rules and the Technical, Operational and Security Rules;
 - (ii) conditions applying to any exemptions the Member has been granted pursuant to clause 10.2; and
 - (iii) the obligation to disclose non-compliance pursuant to clause 11.
- (b) To complete the Company's Certification process a Member and each Direct Connector to infrastructure or applications provided by the Company for the purposes of the eftpos Payment System must:
- (i) complete the Certification Checklist;
 - (ii) execute the Certification Checklist and have it countersigned by the Member's internal auditors; and
 - (iii) submit to the Company the completed and executed Certification Checklist on or before the due date specified by the Company.
- (c) If required by the Company, a Member and each Direct Connector to infrastructure or applications provided by the Company for the purposes of the eftpos Payment System must:
- (i) provide additional evidence and/or information relating to its Certification Checklist on or before the date specified by the Company;
 - (ii) register and, in the case of a Member, cause each of its and its Non-clearers' Service Providers to register with the Company's Certification Body; and
 - (iii) before issuing or deploying an eftpos Form Factor or eftpos Terminal or putting into production any process or infrastructure used to process an eftpos Transaction or perform eftpos Interchange Activities, submit and, if necessary, cause its relevant Service Provider or Service Providers to submit each such eftpos Form Factor, eftpos Terminal, process or infrastructure to the Company's Certification Body for confirmation of compliance with any Standards issued by the Company from time to time relating to that eftpos Form Factor, eftpos Terminal, process or infrastructure; and
 - (iv) before engaging in Settlement in respect of eftpos Transactions, submit and, if necessary, cause its relevant Service Provider or Service Providers or Settlement Agent to submit each process or infrastructure to the Company's Certification Body for confirmation of compliance with any Standards issued by the Company from time to time relating to Settlement.

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13 Transition

- (a) Any exemption granted by the Australian Payments Network in respect of a Member's activities as an eftpos Acquirer or an eftpos Issuer in effect at the Commencement Date is deemed to have been granted by the Company and continues to have effect for the period, and subject to any conditions, which were specified by the Australian Payments Network or included in the IAC Code Set.
- (b) If any exemption referred to in paragraph (a) expires after the Commencement Date then a Member may apply to the Company to renew or continue the exemption granted by the Australian Payments Network, in respect of its activities as an eftpos Acquirer or an eftpos Issuer. The decision of the Company is final and supersedes any decision by the Australian Payments Network on the subject matter of the exemption.
- (c) Any instance of non-compliance or inability to comply which has been disclosed to the Australian Payments Network in respect of a Member's activities as an eftpos Acquirer or an eftpos Issuer, and which has not been withdrawn at the Commencement Date, is deemed to have been disclosed to the Company. Each Member authorises the Company to seek details of any such non-compliance from the Australian Payments Network.
- (d) For clarity, as and from the Commencement Date, only the Company is able to grant exemptions from any Direct Connection or Clearing or Settlement requirements.

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Part D – Suspension, Fines and Termination

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14 Suspension of Membership

14.1 Suspension of Membership

(a) The Company may suspend a Member immediately upon:

- (i) the Member (where they are a Direct Settler) or their Settlement Agent being subject to an FTS Event;
- (ii) the Member engaging in Settlement through a Settlement Agent suffering an Insolvency Event; or
- (iii) the Company receives notification from a Member under clause 14.4 (a) (i) or the Company receives notification in respect of the Member pursuant to clause 14.4 (a) (ii),

provided that if a Member becomes subject to Statutory Management, before suspending the Member, the Company will consider and monitor throughout the period of Statutory Management whether the Statutory Management enables the Member to continue to satisfy the applicable requirements of membership set out in the Scheme Rules (including being capable of settling for the obligations it incurs under the Scheme Rules on an ongoing basis and the Member has settled all outstanding obligations which it has incurred under the Scheme Rules).

(b) Suspension under this clause 14.1 will continue until:

- (i) the Member ceases to be a Member;
- (ii) the Member becomes subject to Statutory Management while the Company remains satisfied that the Member continues to and be capable of fulfilling the applicable requirements of membership set out in the Scheme Rules (including being capable of settling for the obligations it incurs under the Scheme Rules on an ongoing basis and the Member has settled all outstanding obligations which it has incurred under the Scheme Rules); or
- (iii) the Company is satisfied that:
 - A) the Member is solvent (other than where the Member is subject to Statutory Management) and capable of settling for the obligations it incurs under the Scheme Rules on an ongoing basis and the Member has settled all outstanding obligations which it has incurred under the Scheme Rules; and
 - B) if capable of rectification, the Member has rectified any breach of the Scheme Rules or the Technical, Operational and Security Rules.

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14.2 Company may Suspend the Membership of a Member

- (a) Subject to clause 14.1, the Company may suspend a Member if:
- (i) the Member fails to comply with, or is incapable of complying with:
 - A) the Scheme Rules; or
 - B) the Technical, Operational and Security Rules;
 - (ii) the Member no longer satisfies the applicable requirements for membership set out in the Scheme Rules;
 - (iii) the Member was admitted pursuant to clause 8(g) and there is in the Company's opinion a material change in the Member's circumstances and such change requires the suspension of the Member to preserve the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the Settlement resulting from them;
 - (iv) the Member or, where the Member is under Statutory Management, the ADI statutory manager (as defined in the Banking Act 2009) requests that the Member be suspended;
 - (v) the Member fails to pay any fees due to the Company or another Member pursuant to clause 33;
 - (vi) the Company receives notification in respect of the Member pursuant to clause 14.4(a)(ii);
or
 - (vii) the Company determines that suspension is necessary in order to preserve the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the Settlement resulting from them.
- (b) Prior to suspending a Member under clause 14.2(a) (other than clause 14.2(a)(iv)), the Company must comply with the procedures in clause 38.2, provided that in the case of an FTS Event or Potential FTS Event, reasonable opportunity may be limited to within the day opportunity.
- (c) Subject to clause 38.3 and 40, suspension under this Rule will continue until the Company is satisfied that the circumstance(s) that caused the suspension has been addressed by the Member.

14.3 Effect of Suspension

- (a) While suspended pursuant to either clause 14.1 or 14.2, a Member is not entitled to effect eftpos Transactions or engage in eftpos Interchange Activities or participate as an eftpos Batch Participant and must ensure that:

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- (i) it declines any and all eftpos Transactions that its customers attempt to perform at an Acceptance Device; and
 - (ii) its eftpos Terminals do not process any eftpos Transactions.
- (b) Subject to clause (a), suspension of a Member will not affect any right or liability arising under the Scheme Rules, the Technical, Operational and Security Rules or any subsidiary rule or document.
- (c) If the Company notifies an eftpos Acquirer that an eftpos Issuer has been suspended, the eftpos Acquirer must take immediate steps to update its Acceptance Devices so that Acceptance Devices do not process eftpos Transactions initiated using the BINs of the suspended eftpos Issuer.

14.4 Notice or suspicion of Insolvency Event

- (a) A Member must notify the Company immediately upon becoming aware of:
- (i) any Insolvency Event occurring in respect of itself; or
 - (ii) any reasonable grounds to suspect any Insolvency Event occurring in respect of any other Member or Non-Clearer or Indirect Settler for which the Member provides Clearing or Settlement.
- (b) Upon receiving any notification under clause 14.4(a)(i), the Company must promptly notify APRA, the RBA, and all other Members of the suspension pursuant to clause 14.1 (if there is a suspension under clause 14.1) of the Member that provided the notice.
- (c) Upon receiving any notification under clause 14.4(a)(ii) or the Company itself having any reasonable grounds of suspecting any Insolvency Event occurring in respect of any Member, Non-clearer or Indirect Settler, the Company must promptly:
- (i) notify APRA and the RBA;
 - (ii) make enquiries of the Member, and together with the Member any Non-clearer or Indirect Settler for which the Member provides Clearing or Settlement, in respect of which the Insolvency Event is suspected; and
 - (iii) if the Member, Non-clearer or Indirect Settler referred to in clause 14.4(c)(ii) is prudentially supervised, make enquiries of APRA or, if that Member, Non-clearer or Indirect Settler is not supervised by APRA, any relevant regulatory supervisor.
- (d) Any Member referred to in clause 14.4(c)(ii) must provide full and complete co-operation, information and assistance and authorise their financial auditors to provide information as required, on an urgent basis and in any event within 24 hours of request, as requested by the Company in connection with the enquiries referred to in that clause 14.4(c)(ii).

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- (e) If, upon making enquiries under clause 14.4(c), the Insolvency Event is confirmed (either through express admission by the relevant Member, Non-clearer or Indirect Settler or the information provided by the relevant Member, Non-clearer or Indirect Settler showing that an Insolvency Event has occurred or the Company being notified by a relevant regulator that the relevant Member has suffered an Insolvency Event), the Company must promptly following invocation of clause 14.1 (if there is a suspension under clause 14.1) notify all other Members of the suspension of the Member.
- (f) Any notification to or from the Company under this clause must identify the Member and the Insolvency Event(s) in respect of which it is given. Each Member authorises, and will obtain in favour of the Company the authority from each of its Non-clearers or Indirect Settlers for, the Company to make each of the enquiries and notifications referred to in this clause 14.4.

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15 Disabling of Direct Connections

15.1 Company may disable a Direct Connection

- (a) In consequence of a request under clause 28.7(c) or at any other time and in addition to clause 16, the Company may disable a Standard Direct Connection Service in respect of a Direct Connector or a Member, Direct Settler or Non-clearer for whom Clearing services are provided by a Direct Connector, or take such other action as the Company considers necessary. The Company may do this:
- (i) if the Company determines that a temporary disablement is required to address maintenance or operational issues affecting the eftpos infrastructure (including eftpos Hub, eftpos TSP or any other system or application) or to implement an eftpos Development Project;
 - (ii) if the Company determines that a temporary disablement is required to address maintenance or operational issues affecting one or more Direct Connections (for example, where eftpos Transaction response times or eftpos Transaction volume received from impacted Direct Connections are regularly and frequently exceeding published service levels);
 - (iii) where the Company considers that there is a failure to comply with the security requirements set out in the Technical, Operational or Security Rules in respect of their Direct Connection;
 - (iv) for reasons that would entitle the Company to suspend a Member's membership under clauses 14.1 or 14.2; or
 - (v) if the Company determines that a temporary or long term suspension is required to preserve the reputation, integrity, reliability, stability and security of the eftpos Hub, eftpos Transactions, eftpos Interchange Activities or the Settlement resulting from them.
- (b) A disablement under clause 15.1(a) may be temporary or of a longer duration as determined by the Company having regard to:
- (i) the impact of the disablement or not disabling on the reputation, integrity, security, reliability and/or stability of the eftpos Payment System, eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them;
 - (ii) the damage caused to the Company, the Direct Connector and/or any Members, Direct Settlers or Non-clearers by the disablement or not disabling;
 - (iii) the cause to which clause 15.1(a) applies; and
 - (iv) the number of eftpos Transactions, eftpos Terminals, eftpos enabled Acceptance Devices and eftpos Form Factors affected (if any).

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- (c) Except for disablement under clause 15.1(a) (iv), disablement may occur without prior notice.
- (d) Prior to disabling a Direct Connection in respect of a Direct Connector or Member under clause 15.1(a) (iv) (other than for a reason under clause 14.2(a) (iv)), the Company must comply with the procedures in clause 38.2 and also consider:
 - (i) the Direct Connector's or represented Member's conduct after it became aware that the circumstances giving rise to a disablement right had occurred, including:
 - A) the steps and time taken to remedy the circumstances;
 - B) preventative measures adopted to ensure the circumstances do not re-occur; and
 - C) disclosure of the circumstances to the Company;
 - (ii) the Direct Connector's or Member's history of compliance with the Scheme Rules and the Technical, Operational and Security Rules; and
 - (iii) whether any other action, such as the imposition of a fine pursuant to clause 16, is a more appropriate remedy.
- (e) Disablement under this clause 15 will continue until the Company is satisfied that the circumstance(s) that caused the disablement have been addressed by the Direct Connector or Member (as relevant). However, disablement will continue for only the duration reasonably necessary to address the cause of disablement.
- (f) In the case of disablement under clause 15.1(a) (iv), this clause is subject to clauses 38.3 and 40.

15.2 Effect of Disablement

- (a) While disabled pursuant to clause 15.1(a) (iv), a Member is not entitled to effect eftpos Transactions and must ensure that:
 - (i) it declines any and all eftpos Transactions that its customers attempt to perform at an Acceptance Device; and
 - (ii) its eftpos Terminals do not process any eftpos Transactions.
- (b) If the Company notifies an eftpos Acquirer that an eftpos Issuer has been disabled pursuant to clause 15.1(a) (iv), the eftpos Acquirer must take immediate steps to update its Acceptance Devices so that Acceptance Devices do not process eftpos Transactions initiated using the BINs of the disabled eftpos Issuer.
- (c) The Fallback procedures referred to in the Technical, Operational and Security Rules will apply if a Direct Connection to the eftpos Hub has been disabled, other than pursuant to clause 15.1(a) (iv).
- (d) The eftpos Hub will store received eftpos Transactions for the duration of the disablement to which this clause 15 applies and, other than in the case of a disablement pursuant to clause

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15.1(a)(iv), forward those eftpos Transactions to the relevant counterparties once the eftpos Hub or Direct Connection is operational.

- (e) Subject to clause 15.2(a), disablement of a Direct Connector or Member or eftpos Hub will not affect any right or liability arising under the Scheme Rules, the Technical, Operational and Security Rules or any subsidiary rule or document.

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16 Fines

16.1 The Company may Fine a Member or Direct Connector

- (a) The Company may fine a Member in its own right or a Member on behalf of a Direct Connector, if the Member or Direct Connector:
 - (i) fails to comply with, or is incapable of complying with provisions of the following as are applicable to them:
 - A) the Scheme Rules; or
 - B) the Technical, Operational and Security Rules;
 - C) any subsidiary rule or document (including Guides); or
 - (ii) fails to pay any fees due to the Company or another Member pursuant to clause 33.
- (b) Prior to fining a Member or Direct Connector, the Company must comply with the procedures in clause 38.1.

16.2 The Amount of the Fine

- (a) The amount of any fine imposed on a Member in its own right or a Member on behalf of a Direct Connector by the Company pursuant to clause 16.1(a) will be determined by the Company, having regard to:
 - (i) the Member's or Direct Connector's history of compliance with the Scheme Rules and the Technical, Operational and Security Rules;
 - (ii) the cause of the non-compliance;
 - (iii) the damage caused to the Company, eftpos' reputation and/or any other Members or Direct Connectors by the non-compliance;
 - (iv) the impact of the non-compliance on the reputation, integrity, security, reliability and/or stability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them;
 - (v) the Member's or Direct Connector's conduct after it became aware that the non-compliance had occurred, including:
 - A) the steps and time taken to remedy the non-compliance;
 - B) preventative measures adopted to ensure the non-compliance does not re-occur; and
 - C) disclosure of the non-compliance to the Company, as required under clause 11;

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- (vi) the number of eftpos Transactions, eftpos Terminals, eftpos enabled Acceptance Devices and eftpos Form Factors affected (if any);
 - (vii) any reason given by the Member or Direct Connector as to why it should not be fined, pursuant to clause 16.1(a); and
 - (viii) such other factors that are, in the Company's opinion, relevant to the assessment of the amount of the fine.
- (b) In respect of a Member, if the non-compliance has been disclosed by the Member to the Company pursuant to clause 11, the amount of any fine imposed by the Company on that Member must not exceed the higher of:
- (i) \$20,000; and
 - (ii) 1/10th of the average monthly amount of fees due to the Company by the Member for the 12-month period prior to the imposition of the fine,
- for each non-compliant event.
- (c) In respect of a Member, if the non-compliance has not been disclosed by the Member to the Company pursuant to clause 11, the amount of any fine imposed by the Company on that Member must not exceed the higher of:
- (i) \$100,000; and
 - (ii) the average monthly amount of fees due to the Company by the Member for the 12-month period prior to the imposition of the fine,
- for each non-compliant event.
- (d) In respect of a Direct Connector the amount of any fine imposed by the Company on that Direct Connector for each non-compliant event is the amount calculated as follows:

$$F = (SF \times T) \times 2$$

Where:

F means the amount of the fine;

SF means the scheme fee per eftpos Transaction published by the Company and applicable for the period during which the non-compliant event applied; and

T means the number of eftpos Transactions processed for the corresponding period in the preceding 12 month period, less the number of eftpos Transactions actually processed during the period to which the non-compliant event applies (or where that gives rise to a negative number, then the number of eftpos Transactions actually processed during the period to which the non-compliant event applies).

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- (e) Where a Direct Connector is also a Member, the fines that may be payable under the aggregate of clauses 16.2(b) or (c) and 16.2(d) will not exceed the amount payable by the Member under clause 16.2(b) or (c) as applicable.
- (f) Each Member and each Direct Connector agrees that the fines calculated pursuant to this clause 16 are a conservative and genuine pre-estimate of loss that the Company may suffer as a result of non-compliance by the Member or Direct Connector (as the case may be) with the Scheme Rules, Technical, Operational and Security Rules and any subsidiary rule or document (including Guides).
- (g) For the purposes of clause 16.2(b) and (c), a single non-compliant event occurs whenever there is a failure to comply with a single requirement of:
 - (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules; or
 - (iii) any subsidiary rule or document (including a Guide),notwithstanding that the failure to comply may affect multiple eftpos Transactions, eftpos Form Factors or Acceptance Devices.
- (h) If a Member:
 - (i) has multiple instances of the same non-compliant event; or
 - (ii) has not remedied a non-compliant event by the start of the Quarter after a fine has been imposed for that non-compliant event,

the Member is deemed to have committed an additional non-compliant event for each instance of the non-compliant event or for each Quarter in which a non-compliant event continues and the Company may impose a further fine on the Member in respect of that additional non-compliant event, subject in each instance to the applicable cap in clauses 16.2(b) and (c).

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17 Condition

17.1 The Company may Impose Conditions

- (a) The Company may:
 - (i) impose conditions on a Member's or a Direct Connector (which is not a Member, through the Member) activities; or
 - (ii) waive or vary the other Members' obligations to that Member or a Direct Connector,
 - (iii) pursuant, or related, to the Scheme Rules or the Technical, Operational and Security Rules or any subsidiary rule or document.
- (b) The conditions, waiver or variation referred to in paragraph (a) may only be applied:
 - (i) when a Member's or a Direct Connector's period of suspension or disablement ceases;
 - (ii) instead of suspending a Member or disabling a Direct Connector pursuant to clauses 14 or 15 or 28, provided that in the Company's opinion suspension or disablement is not required to preserve the integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them; or
 - (iii) instead of, or in addition to, fining a Member pursuant to clause 14.4 or requiring payments under clauses 28 and 42.

17.2 Conditions must protect eftpos

- (a) Any conditions, waiver or variation imposed by the Company pursuant to clause 17.1 must be required, in the Company's opinion, to preserve the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities, or eftpos Payment System.
- (b) Prior to imposing a condition on a Member's or a Direct Connector's activities or waiving or varying other Members' obligations to a Member or a Direct Connector, the Company must comply with the procedures in clause 38.2.

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18 Termination of Membership

18.1 By the Company

- (a) The Company may terminate a Member's membership if:
- (i) the Member is subject to any of the suspension events described in clause 14.1(a) (other than Statutory Management);
 - (ii) the Member is subject to Statutory Management which continues for more than 30 days and the Company considers that the Member no longer fulfils the requirements for membership set out in the Scheme Rules; or
 - (iii) the Member has been suspended pursuant to clause 14.2 and, in the Company's opinion, the event that caused the suspension has not been appropriately addressed by the Member after a period of 30 days.
- (b) Prior to terminating a Member's membership under clause 18.1(a), the Company must comply with the procedures in clause 38.2.

18.2 By Resignation

A Member may terminate its own membership by:

- (a) giving the Company at least 3 months written notice of the termination; and
- (b) complying with the applicable requirements in the Technical, Operational and Security Rules.

18.3 Compliance with the Scheme Rules

Any termination of the membership of a Member pursuant to this clause 18 will not affect any right or liability arising under the Scheme Rules, the Technical, Operational and Security Rules or any subsidiary rule or document prior to the date such termination takes effect or arising in respect of any act, matter or thing occurring prior to that date, including obligations to comply with any requirements relating to ceasing to be a Member.

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19 Termination of Direct Connection

19.1 By the Company

- (a) The Company may terminate a Direct Connection:
- (i) in respect of a Member if the Member is subject to any of the suspension events described in clauses 14.1 or 14.2; or
 - (ii) in respect of a Direct Connector in whole or in part in respect of one or more Members if the Direct Connector is subject to a disablement event under clause 15.1(a)(iii) to (v); and
 - (iii) in the Company's opinion, the event that caused the disablement does not arise from a Force Majeure Event and has not been appropriately addressed by the Member or Direct Connector (as relevant) after a period of 30 days.
- (b) Prior to terminating a Direct Connection under clause 19.1(a), the Company must comply with the procedures in clause 38.2.

19.2 By Member resignation

The Company may terminate the Direct Connection related to a Member that gives notice under clause 14.1(b)(i).

19.3 Compliance with the Scheme Rules

Any termination of a Direct Connection pursuant to this clause 18 will not affect any right or liability arising under the Scheme Rules, the Technical, Operational and Security Rules or any subsidiary rule or document prior to the date such termination takes effect or arising in respect of any act, matter or thing occurring prior to that date, including, in respect of a Member, obligations to comply with any requirements relating to ceasing to be a Member.

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20 Notice

20.1 Notice of Exemptions and Non-Compliance

The Company will as soon as practicable notify in writing all Members of:

- (a) the exemptions the Company grants pursuant to clause 10.2, including any applicable time period or conditions; and
- (b) non-compliances disclosed to the Company pursuant to clause 11.

20.2 Notice of Suspension or Termination

The Company will immediately notify in writing all Members of the:

- (a) suspension of a Member pursuant to clause 14; or
- (b) termination of a Member's membership pursuant to clause 18.

20.3 Notice of Suspension or Termination of Direct Connection

- (a) The Company will immediately notify all Direct Connectors to the eftpos Hub (in the case of a termination of a Standard Hub Service) and Members of any action taken pursuant to clause 15.1 or 19.
- (b) The Company will immediately notify all the Member(s) on behalf of the relevant Direct Connector(s) to the eftpos API Gateway (in the case of a termination of any eftpos Service through eftpos API Gateway).
- (c) The Company will immediately notify the Member regarding a Direct Connector, in writing of the:
 - (i) suspension of such Direct Connector pursuant to clause 15; or
 - (ii) termination of a Direct Connector pursuant to clause 19.
- (d) The Company may also notify any of the following of a suspension, including the reasons for the suspension pursuant to clause 15.1, or a termination pursuant to clause 19:
 - (i) Australian Payments Network;
 - (ii) RBA; and
 - (iii) Australian Prudential Regulation Authority.

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20.4 Notice of Imposition of Conditions and Fines

- (a) The Company will immediately notify in writing all Members of any conditions, waiver or variation imposed by the Company pursuant to clause 17.1 unless, in the Company's opinion, notification is not required having regard to the reputation, integrity, security, reliability and stability of eftpos Transactions or eftpos Interchange Activities.
- (b) The Company may, in its absolute discretion, notify in writing all Members of the fining of a Member pursuant to clause 14.4.

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21 Exemptions, Bilateral Variation and Materiality

For the avoidance of doubt, a Member shall not be subject to an exercise of the Company's powers pursuant to Part D:

- (a) when the Company has granted an exemption for the non-compliance pursuant to clause 10.2;
- (b) in respect of a bilateral variation of the standards, specifications or requirements set out in the Technical, Operational and Security Rules that complies with clause 29.2; or
- (c) in circumstances that the Company determines, in its absolute discretion, to be immaterial or de minimus.

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Part E - eftpos Transactions, Cards and Terminals

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22 eftpos Transactions

22.1 Issuers

Issuer Members must support and be capable of processing the following transaction types, in accordance with the Technical, Operational and Security Rules:

- (a) Purchase;
- (b) Cashout;
- (c) Purchase and Cashout;
- (d) Refund, including Medicare Claim Refund;
- (e) Deposit;
- (f) Withdrawal;
- (g) Fallback;
- (h) Pre-Authorised Transactions as permitted by the Technical, Operational and Security Rules;
- (i) reversals of these transaction types; and
- (j) advices referred to in the Technical, Operational and Security Rules.

22.2 Acquirers

- (a) Acquirer Members must support and be capable of processing the following transaction types, in accordance with the Technical, Operational and Security Rules:
 - (i) Purchase;
 - (ii) Cashout;
 - (iii) Purchase and Cashout;
 - (iv) Refund;
 - (v) Fallback;
 - (vi) reversals of these transaction types; and
 - (vii) advices referred to in the Technical, Operational and Security Rules.
- (b) Acquirer Members may support the following transaction types:
 - (i) Pre-Authorised Transactions using a short duration pre-authorisation process;
 - (ii) Deposit;

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- (iii) Withdrawal;
 - (iv) Medicare Claim Refund;
 - (v) reversals of these transaction types; and
 - (vi) in respect of Acquirers authorised by the Company, Pre-authorised Transactions utilising the eftpos Digital Acceptance channel.
- (c) Acquirer Members that support any of the transaction types in clause 22.2(b) must be capable of processing them in accordance with the Technical, Operational and Security Rules.
- (d) Any Cashout component of an eftpos Transaction must be in Cash denominations and must be provided to or at the direction of the eftpos Consumer. For clarity, there is no obligation on Acquirer Members to permit or require Merchants to perform Cashout under \$5.00.

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23 eftpos Form Factors

23.1 eftpos Form Factors

- (a) An eftpos Form Factor is a card, application or method (whether or not in conjunction with equipment) for accessing an account, that is:
 - (i) issued or made available by or on behalf of an eftpos Issuer or a person fulfilling the functions of an eftpos Issuer; and
 - (ii) can be used to initiate an eftpos Transaction.
- (b) All issued eftpos Form Factors must be compliant with the Scheme Rules and Technical, Operational and Security Rules.
- (c) Members must report to the Company at such intervals and in such manner as the Company specifies, about the numbers of new and replacement eftpos Form Factors on issue and eftpos Transactions and Disputed Transactions and Chargebacks that occur in the reporting period.

23.2 Warranties with respect to eftpos Form Factors

Each eftpos Issuer warrants that:

- (a) reasonable care and diligence has been taken in investigating the integrity of the customers issued with an eftpos Form Factor by the eftpos Issuer;
- (b) all details of all current eftpos Form Factors issued by it (including lost and stolen eftpos Cards and BINs) are updated daily within the relevant computer system to enable authorisation requests to be answered promptly;
- (c) it has complied with all applicable Laws with respect to the provision of eftpos Form Factors to its customers; and
- (d) it will not impose upon a customer to whom it has issued an eftpos Form Factor any terms or conditions that conflict with the Scheme Rules.

23.3 Warranties with respect to eftpos Acquiring

Each eftpos Acquirer warrants that:

- (a) reasonable care and diligence has been taken in investigating the integrity of the Merchants that it provides with merchant acquiring services;

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- (b) it has complied with all applicable Laws with respect to the provision of merchant acquiring services to its Merchant customers; and
- (c) it will not impose upon a Merchant that it provides with merchant acquiring services any terms or conditions that conflict with the Scheme Rules.

23.4 Multi-Network Cards

- (a) eftpos Issuers may issue eftpos Cards that are Multi-Network Cards.
- (b) In addition to clause 12, eftpos Issuers will ensure that any integrated circuit (i.e. chip) card applications on a Multi-Network Debit Card which is a chip card have been certified as compliant with the EMV Specifications.
- (c) Where the Multi-Network Debit Card is issued under a BIN allocated to the Company or an eftpos Issuer, the chip application allowing processing of the transaction through the eftpos Payment System must be the primary application on the Multi-Network Debit Card. An eftpos Issuer may facilitate a change, after issuance, in the order in which any chip applications on a Multi-Network Debit Card may be read by eftpos Terminals and Digital Acceptance Devices using eftpos Mobile.
- (d) Where the eftpos Cobrand Card is issued under a BIN allocated to the Company or an eftpos Issuer, Issuer must not facilitate a change, after issuance, in the order in which any chip applications on a eftpos Cobrand Card may be read by eftpos Terminals and Digital Acceptance Devices using eftpos Mobile.
- (e) Members must report any instances when another payment system declines a Multi-Network Debit Card design where the Multi-Network Debit Card design complies with the requirements of clause 35.
- (f) Members must notify eftpos if the certification of a Multi-Network Debit Card is declined by another payment system, including providing the reason for the decline.

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24 eftpos Form Factors can transact at all Acceptance Devices

24.1 Acquirers

Acquirer Members must allow each and every holder of an eftpos Form Factor to perform eftpos Transactions at all Acceptance Devices for which it is the eftpos Acquirer, subject to the following:

- (a) an Acquirer Member must allow a holder of an eftpos Form Factor to perform:
 - (i) the transaction types described in clause 22.2(a), unless the transaction type is exempted for specific channels under the Technical, Operational and Security Rules; and
 - (ii) such of the transaction types described in clause 22.2(b) that it supports at the particular Acceptance Device;
- (b) during the normal hours of operation of the Merchant operating the particular Acceptance Device;
- (c) when applicable, the eftpos Transaction being duly authorised by the applicable eftpos Issuer in accordance with the Technical, Operational and Security Rules; and
- (d) clause 24.3 below.

24.2 Issuers

eftpos Issuers must allow each and every holder of an eftpos Form Factor that they have issued to perform eftpos Transactions at all Acceptance Devices, subject to the applicable eftpos Issuer's right to, at its absolute discretion, decline an eftpos Transaction.

24.3 Merchants

- (a) Merchants and Self Acquirers are not, and must not be, required to accept Prepaid Cards.
- (b) Acquirer Members must permit Merchants and Self Acquirers to:
 - (i) surcharge eftpos Transactions, provided that the surcharge is displayed as required by the Technical, Operational and Security Rules;
 - (ii) steer eftpos Consumers to use a particular payment method.

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24.4 If the Company limits surcharging

The Company may, by notice to Acquirer Members, limit the amount of any Merchant or Self-Acquirer surcharge or steering to reflect only the Reasonable Cost of Acceptance.

If the Company so requires, the Acquirer Member must:

- (a) ensure, within the earlier of 90 days of notification from the Company to do so, or such other minimum notice period as applies to changes under the Merchant contract, that their contractual arrangements with their Merchants and any Self-Acquirer are consistent with clause 24.3 above;
- (b) ascertain from their Merchants and Self-Acquirers having the merchant category codes specified by the Company from time to time and report to the Company, such information and at such timeframes as may be specified by the Company from time to time, including any surcharges and the method of calculation of any such surcharges applied by such Merchants and Self-Acquirers to eftpos Transactions; and
- (c) take such action as is required to enforce the provisions of clause 24.3(b) (i) with each such Merchant and Self-Acquirer.

24.5 Acquirer reporting

Members must report to the Company at such intervals as the Company specifies, about the numbers of eftpos Terminals deployed and Merchants enabled for eftpos Digital Acceptance in the reporting period.

24.6 Acceptance Device compliance

All new and deployed eftpos Terminals and enabled Digital Acceptance Devices must be compliant with the Scheme Rules and Technical, Operational and Security Rules.

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Part F – Operations

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25 Ability to Engage in eftpos Interchange Activities and Settlement of eftpos Transactions

25.1 Engagement in eftpos Interchange Activities

Each Member must be able to engage in eftpos Interchange Activities with all other Members (other than those Members that have been suspended under clauses 14 or 15) by reason of a combination of:

- (a) Direct Connections to the eftpos Hub;
- (b) until the eftpos Hub is operational, Direct Clearing Arrangements; and/or
- (c) having appointed one or more Clearing Agents or Direct Clearers to engage in eftpos Interchange Activities on its behalf.

25.2 Engagement in Settlement

Each Member must be able to settle eftpos Transactions with all other Members (other than those Members that have been suspended under clause 14) using one or more of the methods described in clause 28.2(a).

25.3 Settlement arrangements for Self-Acquirers not otherwise eligible for an ESA

Unless notified otherwise by the Company, without limiting the ability of a Self-Acquirer to approach any eftpos Batch Participant to be a Settlement Agent, if a Self-Acquirer, as a net payee, is not eligible to be an eftpos Batch Participant any existing Direct Settler having more than 15% of the total eftpos Transaction acquiring volume receiving a written request from that Self-Acquirer must:

- (a) respond in writing to the Self-Acquirer with commercially reasonable terms within 30 days of the request; and
- (b) use its best endeavours to:
 - (i) enter into an agreement for the appointment of that existing Member as the Settlement Agent for the Self-Acquirer within 2 months of the written request from the Self-

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Acquirer on commercially reasonable terms consistent with the eftpos Scheme Rules and the Technical, Operational and Security Rules; and

- (ii) put Settlement arrangements consistent with the eftpos Scheme Rules and the Technical, Operational and Security Rules into operation within 6 months of the written request from the Self Acquirer.

25.4 Consequences of a failure under clause 25.3

If an existing Direct Settler fails to meet the obligations in clause 25.3 above to put Settlement arrangements in place in accordance with these Scheme Rules and the Technical, Operational and Security Rules, then the Company may treat the failure as an undisclosed non-compliance by the existing Direct Settler and clause 16 will apply.

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26 Direct Connectors

26.1 Direct Connection arrangements

The Company may from time to time prescribe and notify Members, Direct Connectors and Applicant Direct Connectors of the following in respect of Direct Connections:

- (a) the application form for Applicant Direct Connectors, which is the form in Schedule 4;
- (b) Standard Direct Connection Process;
- (c) Standard Direct Connection Service;
- (d) Standard Direct Connection Timeframe;
- (e) Standard Direct Connection Service levels; and
- (f) Standard Direct Connection testing protocol.

26.2 Members must connect to eftpos Hub

Each Member must connect or must ensure that its Clearing Agent or Processor connects to the eftpos Hub by the date prescribed by the Company.

26.3 Members must process through the eftpos Hub

- (a) Each Member with an operational Direct Connection to the eftpos Hub or whose Clearing Agent or Processor has an operational Direct Connection to the eftpos Hub must route or must ensure that its Clearing Agent or Processor routes all of that Member's and its Non-clearers' eftpos Transactions with other Members to the eftpos Hub for Clearing and eftpos Interchange Activities.
- (b) A Member may route non-eftpos Transactions to the eftpos Hub for Clearing, subject to:
 - (i) any additional agreements required to support the routing;
 - (ii) any certification requirements for the connection between the eftpos Hub and the counterparty being completed; and
 - (iii) payment by the Member, whether directly or indirectly through the Company, of the fees and charges applicable to the connectivity project, certification, processing services and the transactions routed.

26.4 Minimum Standards

A Direct Connector must comply with:

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- (a) these Scheme Rules;
- (b) the Technical, Operational and Security Rules; and
- (c) In respect of the eftpos Hub, COIN Operating Manual or as otherwise detailed within the relevant Service Schedule where connection to the eftpos Hub is not via COIN.

26.5 Criteria for Applicant Direct Connectors

The Company must accept an Applicant Direct Connector as a Direct Connector if the Applicant Direct Connector:

- (a) is a Member applying to schedule an eftpos Development Project and provides information satisfactory to the Company that the Member has the technical and operational capability and capacity and sufficient financial resources required to be able to establish and maintain a Direct Connection following the Standard Direct Connection Process within the Standard Direct Connection Timeframe and meet the requirements of these Scheme Rules and the Technical, Operational and Security Rules;
- (b) applying also to become a Member and meets the criteria in clause 7 and 8 and this clause 26;
- (c) is not a Member and has submitted a complete and accurate application, which is in the form set out in Schedule 4, which satisfies the Company that the Applicant Direct Connector has the technical and operational capability, security protections and capacity and sufficient financial resources required to be able to establish and maintain a Direct Connection following the Standard Direct Connection Process within the Standard Direct Connection Timeframe and meet the requirements of these Scheme Rules and the Technical, Operational and Security Rules;
- (d) in respect of a Direct Connection other than to the eftpos Hub, has submitted a complete and accurate application, which is in the form set out in Schedule 4, which satisfies the Company that the Applicant Direct Connector has the technical and operational capability, security protections and capacity and sufficient financial resources required to be able to establish and maintain a Direct Connection following the Standard Direct Connection Process within the Standard Direct Connection Timeframe and meet the requirements of these Scheme Rules and the Technical, Operational and Security Rules and pays the Direct Connection Administration Fee;
- (e) in respect of a Direct Connection to the eftpos Hub, pays:
 - (i) the eftpos Hub Application Fee; and
 - (ii) one month's eftpos Hub Processing Fee;
- (f) provides written confirmation satisfactory to the Company that the Applicant Direct Connector will:

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- (i) complete the Standard Direct Connection Process;
 - (ii) do all acts required to implement the Standard Direct Connection Service and not hinder or delay steps required to implement and test the Standard Direct Connection Service with two or more Direct Connectors or the eftpos Hub service provider (as relevant), each within the Standard Direct Connection Timeframe; and
 - (iii) process eftpos Transactions using a Standard Direct Connection Service;
- (g) is not and has not been, within 2 years before the date of application, in breach of an agreement for a Direct Connection in the eftpos Payment System and in this regard the Applicant Direct Connector authorises the Company to seek references from Members; and
- (h) unless agreed otherwise by the Company in its sole discretion, which may be subject to conditions, either:
- (i) has applied and been approved for connection to the COIN and there is no impediment to that connection;
 - (ii) is in compliance with the IAC Code Set and COIN Operating Manual; or
 - (iii) is in compliance with connectivity requirements similar to (i) and (ii) and as otherwise provided in the relevant Service Schedule where connection to the eftpos Infrastructure is not via COIN

and in this regard the Applicant Direct Connector authorises the Company to seek details of any applications or non-compliance from the Australian Payments Network.

26.6 Co-operation for Direct Connections

- (a) Each Direct Connector and each Member (if not a Direct Connector) must co-operate as required for each Applicant Direct Connector to establish a Standard Direct Connection Service by doing the things listed in sub-clause (d) below and in the Standard Direct Connection Process, on request from the Company and within the timeframes specified in the Standard Direct Connection Timeframe.
- (b) This co-operation requirement applies to each Direct Connector and each Member for itself and all eftpos Issuers, eftpos Acquirers and Non-clearers for which it provides Clearing or Settlement.
- (c) This co-operation requirement applies in respect of the dealings of each Direct Connector and each Member with the Company, the eftpos Hub. and any other eftpos infrastructure service provider(s). as nominated by the Company, each Applicant Direct Connector as directed by the Company and each other Direct Connector.
- (d) Each Direct Connector and each Member involved in the implementation of a Standard Direct Connection Service must:

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- (i) provide contact details for its appropriately skilled and qualified personnel to be involved in establishing the Standard Direct Connection Service;
 - (ii) meet with any party nominated by the Company as a relevant counterparty to Clearing an eftpos Transaction in the case of a Standard Hub Direct Connection, within 3 months of notification from the Company of receipt of a Direct Connection application, to develop and agree the Standard Direct Connection Service Project Documents in respect of the Standard Direct Connection Service;
 - (iii) schedule and initiate a project to implement the Standard Direct Connection Service, in accordance with the agreed Standard Direct Connection Project Documents for each Direct Connection in which the Direct Connector or Member (as relevant) is involved. The scheduling of projects will have regard to any other current projects involving that Direct Connector or Member within the same timeframe, whether for Direct Connection of other Applicant Direct Connectors or its own participation in any eftpos Development Project;
 - (iv) comply with the Standard Direct Connection Process within the Standard Direct Connection Timeframe from the agreed project start date for the relevant Direct Connection under the Standard Direct Connection Service Project Documents;
 - (v) test, and make systems available for testing of, the Standard Direct Connection Service in accordance with the Standard Direct Connection Testing Protocol and within the agreed Testing Window specified in the Standard Direct Connection Project Documents. Testing is complete when all specified tests are successful in accordance with the criteria set out in the Standard Direct Connection Testing Protocol; and
 - (vi) participate in certification of the Standard Direct Connection Service.
- (e) Each Applicant Direct Connector must co-operate with each other Direct Connector and Member as required for the Applicant Direct Connector to establish a Standard Direct Connection Service by doing the things listed in sub-clause (f) below and in the Standard Direct Connection Process, within the timeframes specified in the Standard Direct Connection Timeframe.
- (f) Each Applicant Direct Connector and each Member, eftpos Issuer, eftpos Acquirer, Direct Settler or Non-clearer for which it may be providing Clearing services must:
- (i) provide contact details for its appropriately skilled and qualified personnel to be involved in establishing the Standard Direct Connection Service;
 - (ii) meet with the Company and any other party nominated by the Company as a relevant counterparty to Clearing an eftpos Transaction, within 3 months of confirmation from the Company of receipt of a Direct Connection application, to develop and agree the Standard Direct Connection Service Project Documents in respect of the Standard Direct Connection Service;

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- (iii) schedule and initiate a project to implement the Standard Direct Connection Service, in accordance with the agreed Standard Direct Connection Service Project Documents for each Direct Connection of the Applicant Direct Connector. This scheduling will have regard to any other current projects involving the Applicant Direct Connector and the Applicant Direct Connector's participation in any eftpos Development Project within the same timeframe;
 - (iv) comply with the Standard Direct Connection Process within the Standard Direct Connection Timeframe from the agreed project start date for the relevant Direct Connection under the Standard Direct Connection Service Project Documents;
 - (v) test, and make systems available for testing of, the Standard Direct Connection Service in accordance with the Standard Direct Connection Testing Protocol and within the agreed Testing Window specified in the Standard Direct Connection Service Project Documents. Testing is complete when all specified tests are successful in accordance with the criteria set out in the Standard Direct Connection Testing Protocol; and
 - (vi) participate in certification of the Standard Direct Connection Service.
- (g) clauses 26.6(d)(i) and 26.6(f)(i) only applies until the eftpos Hub is operational.

26.7 Effect of application

- (a) An application is binding on the Applicant Direct Connector from the date of submission to the Company.
- (b) When an application is received by the Company and at any time before notification from the Company of acceptance of the Applicant Direct Connector as a Direct Connector, in addition to clause 1.3, the application and these Scheme Rules create a contract under seal:
 - (i) between the Applicant Direct Connector as a Direct Connector and the Company; and
 - (ii) the Applicant Direct Connector as a Direct Connector and each other Direct Connector,for the purposes of:
 - A) in the case of an Applicant Direct Connector, implementing and testing a Standard Direct Connection Service, including, in respect of the Standard Hub Direct Connection, payment of any Standard Hub Direct Connection Fee; and
 - B) interactions between the Applicant Direct Connector and Members and between the Applicant Direct Connector and the Company in connection with the Direct Connections.
- (c) The application may be withdrawn by the Applicant Direct Connector at any time before notification from the Company of acceptance of the Applicant Direct Connector as a Direct Connector to the eftpos Hub. If:

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- (i) the Applicant Direct Connector is not accepted as eligible to be a Direct Connector to the eftpos Hub before the eftpos Hub Workshop is held, the Company will refund all but the Direct Connection Administration Fee;
 - (ii) the Applicant Direct Connector is not accepted as eligible to be a Direct Connector to the eftpos Hub after the eftpos Hub Workshop is held, the Company will refund the eftpos Hub Processing Fee; or
 - (iii) the Applicant Direct Connector is accepted as a Direct Connector to the eftpos Hub, the eftpos Hub Processing Fee will be applied by the Company towards the eftpos Hub Processing Fee applicable from cut over of the Standard Hub Direct Connection to production;
- (d) For clarity:
- (i) an Applicant Direct Connector that will be a Direct Settler must apply to become a Member;
 - (ii) an Applicant Direct Connector that does not participate in Settlement must nominate their Direct Settler;
 - (iii) an Applicant Direct Connector, other than a Processor, is not required to participate in Clearing for other participants;
 - (iv) a Processor must provide Clearing services but is not required to participate in Settlement; and
 - (v) An Applicant Direct Connector which is a Direct Connector on behalf of a Member, shall apply for connection to eftpos infrastructure for each Member for which it intends to provides services.

26.8 Not Used

26.9 Non-exclusive non-proprietary rights

Participation in the eftpos Payment System as a Direct Connector or Member is non-exclusive and does not confer any right, title or interest in a Direct Connector or Members across the eftpos infrastructure (including eftpos Hub) used to process eftpos Transactions over and above the contractual participation constituted by these Scheme Rules.

26.10 Additional agreements between Direct Connectors

Nothing in these Scheme Rules prevents any two Direct Connectors agreeing separately between them for additional services to the Standard Services. However, if a provision of any separate agreement is inconsistent with these Scheme Rules or the Technical, Operational and Security

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Rules, then these Scheme Rules and the Technical, Operational and Security Rules prevail for the purposes of Clearing and eftpos Interchange Activities in respect of eftpos Transactions.

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27 Certification for Direct Connectors

- (a) To satisfy the Company that an Applicant Direct Connector is able to comply with the Scheme Rules and the Technical, Operational and Security Rules and meet the criteria in clause 26.5, an Applicant Direct Connector must provide to the Company:
- (i) a Certification Checklist completed in accordance with clause 12(b); and
 - (ii) a report of an agreed upon procedures engagement (refer Standard on Related Service ASRS 4400) from an independent auditor in respect of the Applicant Direct Connector's ability to comply with the Scheme Rules, Technical, Operational and Security Rules, the IAC Code Set and (in the case of a Direct Connection to the eftpos Hub) COIN Operating Manual or such other requirements as are agreed by the Company.
- Note: A report of an agreed upon procedures engagement in respect of an Applicant Direct Connector's ability to comply with the Scheme Rules, the Technical, Operational and Security Rules, the IAC Code Set and COIN Operating Manual or such other requirements as are agreed by the Company may take approximately 3 months to complete. The eftpos Hub Workshop may run concurrently with obtaining this report.*
- (b) The Company must approve the independent auditor and the audit procedures to be performed pursuant to clause 27(a)(ii).
- (c) An Applicant Direct Connector may as part of its application to be a Direct Connector in respect of a Direct Connection to the eftpos Hub:
- (i) apply for one or more exemptions pursuant to clause 10; and/or
 - (ii) make non-compliance disclosures to the Company pursuant to clause 11.

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28 Clearing and Settlement

28.1 Clearing

Members must engage in eftpos Interchange Activities and clear eftpos Transactions in accordance with the applicable provisions of:

- (a) the Scheme Rules;
- (b) the Technical, Operational and Security Rules; and
- (c) any subsidiary rule or document (including Guides).

28.2 Settlement

- (a) Each Member must engage in Settlement of eftpos Transactions with each other Member (other than those Members that have been suspended under clause 14) by:
 - (i) using the eftpos Settlement Service for the eftpos Batch Settlement in RITS as a Direct Settler using that Member's own ESA; or
 - (ii) by appointing a Direct Settler to settle on its behalf as a Settlement Agent in the eftpos Batch Settlement in RITS using the Settlement Agent's ESA; or
 - (iii) bilaterally pursuant to bilateral Settlement agreements. If a provision of any bilateral settlement agreement is inconsistent with these Scheme Rules or the Technical, Operational and Security Rules, then these Scheme Rules and the Technical, Operational and Security Rules prevail for the purposes of settlement in respect of eftpos Transactions. This sub-clause 28.2 (a) (iii) only applies for bilateral settlement agreements between Settlement Agents and Indirect Settlers, or between Members following an FTS Event.
- (b) Each Issuer Member must pay to the applicable Acquiring Members the total net value of all eftpos Transactions:
 - (i) initiated with eftpos Form Factors it has issued; and
 - (ii) that it has duly authorised, in accordance with the Technical, Operational and Security Rules.
- (c) Settlement of amounts due between Members pursuant to the Scheme Rules will take place no later than the first RITS Business Day after the Batch Recorded Date in accordance with:
 - (i) the Technical, Operational and Security Rules; and
 - (ii) any other applicable agreement, regulation or procedure that binds the applicable Members.

For clarity, Settlement using eftpos Batch Settlement will take place on every RITS Business Day.

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- (d) Following 30 days' notice from the Company, Settlement of amounts due by the Members to the Company pursuant to the Scheme Rules will take place every week on the first RITS Business Day after Tuesday, i.e. Wednesday morning except for public holidays, in accordance with:
- (i) the Technical, Operational and Security Rules; and
 - (ii) any other applicable agreement, regulation or procedure that binds the applicable Members.
 - (iii) For clarity, Settlement for the Scheme Fee using eftpos Batch Settlement will take place on every Wednesday or the next RITS Business Day of the week. The Settlement for the monthly Scheme Fee will take place on the first RITS Business Day after the first Tuesday of the month, and shall include any other Fees owed to the Company at that time.
- (e) The eftpos Hub will produce:
- (i) settlement reports for and provided to each Issuer Member and Acquirer Member each calendar day;
 - (ii) a netted Batch Participant Report provided to each eftpos Batch Participant, each RITS Business Day;
 - (iii) a Batch Agency Report netted for each Direct Settler and Indirect Settler pairing, provided to each of the Direct Settler and the Indirect Settler, each RITS Business Day;
 - (iv) RITS Instructions for provision to RITS on behalf of each Batch Participant, each RITS Business Day.
 - (v) a Scheme Fee Report for and provided to each Member for the week preceding the settlement of Scheme fee and monthly fees settled on the Wednesday or the next RITS Business Day of the week.
- (f) For the purposes of Part 3 of the Payment Systems and Netting Act 1998 (Cth) ("Act") as it applies to the multilateral netting arrangements contemplated by these Scheme Rules, all Direct Settlers appoint the Company as co-ordinator of the arrangements. Each Direct Settler also appoints the Company as Batch Administrator for the purposes of the eftpos Batch Settlement in RITS.
- (g) The Company will and each eftpos Batch Participant authorises the Company to:
- (i) calculate, each RITS Business Day, the net Settlement obligations of that eftpos Batch Participant against each other eftpos Batch Participant for themselves and for each Indirect Settler that they represent in RITS, for the purposes of the eftpos Payment System for that RITS Business Day;
 - (ii) transmit a multilaterally netted settlement batch RITS Instruction to RITS on behalf of that eftpos Batch Participant on each RITS Business Day. On the first RITS Business Day immediately following a Tuesday, the RITS Instruction will include the amount of the eftpos Scheme Fees payable by the eftpos Batch Participant to the Company on that day;

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- (iii) request the RBA to assign a priority status to the Direct Settler's eftpos Batch Settlement obligation. Direct Settlers must not override that priority status; and
 - (iv) Settlement of any monies owed by the Members to the Company, or by the Company to the Members in any other manner, for any specified period, as communicated to the Members.
- (h) Direct Settlers must:
- (i) participate in Settlement in respect of eftpos Transactions using the reports specified in Rule 28.2(f) produced by the eftpos Hub;
 - (ii) settle on a netted basis between those Direct Settlers where the Direct Settlers settle bilaterally following an FTS Event; and
 - (iii) have sufficient funds in their respective ESA each RITS Business Day to fulfil the Settlement obligations, of that Member and each Indirect Settler or Non-clearer on behalf of whom it settles, in accordance with the requirements of the Technical, Operational and Security Rules, irrespective of any disputes or discrepancies.
- (i) For clarification:
- (i) if a Member is suspended pursuant to clause 14 or terminated pursuant to clause 18, the suspension or termination does not relieve that Member from fulfilling its obligations to pay any Settlement Items incurred prior to such suspension or termination in accordance with this clause 28;
 - (ii) the obligation to pay Settlement Items continues until all of a suspended or terminated Member's outstanding liability for Settlement Items that occurred before their suspension or termination is extinguished;
 - (iii) if a Settlement Agent suffers an FTS Event, as between the Settlement Agent and each Indirect Settler on behalf of whom it Settles, the Settlement Agent must:
 - A) ensure that all Indirect Settlers using that Settlement Agent for Settlement invoke their respective contingency Settlement arrangements for the payment of amounts in discharge of future Settlement obligations;
 - B) immediately release any amounts received by the Settlement Agent on behalf of an Indirect Settler as payee and otherwise ensure that each Indirect Settler invokes their respective contingency Settlement arrangements for the receipt of amounts in discharge of future Settlement obligations; and
 - (iv) if an Indirect Settler suffers an Insolvency Event, as between the Settlement Agent and each Indirect Settler on behalf of whom it Settles, that does not relieve the Settlement Agent from the obligation to participate in Settlement for the Settlement Items of the relevant Indirect Settler, whether as payer or payee and the Settlement Agent must:
 - A) discharge any Settlement obligations on behalf of the Indirect Settler as a payer; and

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- B) immediately release any amounts received by the Settlement Agent on behalf of an Indirect Settler as payee.

28.3 eftpos Hub processing

Subject to the Technical, Operational and Security Rules, the eftpos Hub will process, route or direct all eftpos Transaction and eftpos Interchange Activity messages routed to the eftpos Hub between Direct Connectors to the eftpos Hub and Members (for themselves and each eftpos Issuer, eftpos Acquirer, Direct Settler and Non-clearer for which they provide Clearing services and/or Settlement services). The Technical, Operational and Security Rules and relevant subordinate documents describe the acquirer eftpos Hub services and issuer eftpos Hub services.

28.4 Service levels

- (a) Each Member and each Direct Connector must meet the service levels and operational requirements as set out in the:
- (i) Technical, Operational and Security Rules, including the service schedule applicable to the infrastructure to which the Direct Connector has a Direct Connection;
 - (ii) RITS regulations if they are an eftpos Batch Participant; and
 - (iii) for Direct Connections to the eftpos Hub, COIN Operating Manual, as if they are a member of COIN.
- (b) The service levels and operational requirements for the eftpos Hub are set out in the:
- (i) Technical, Operational and Security Rules; and
 - (ii) COIN Operating Manual.

28.5 Service level failures reporting

- (a) At intervals specified by the Company, the Company will provide to each Member a report for the immediately preceding calendar month indicating whether or not the eftpos Hub met relevant service levels.
- (b) At intervals specified by the Company, each Direct Connector to the eftpos Hub must for itself and for each Member, eftpos Issuer, eftpos Acquirer, Direct Settler and Non-clearer for which it provides Clearing services provide, to the Company a report for the immediately preceding period indicating whether or not the Direct Connector to the eftpos Hub met the service levels for its Standard Direct Connection Service.
- (c) Subject to Rules 1.5 and 4.3, at intervals specified by the Company (no more frequently than monthly), each Direct Connector to infrastructure and applications other than the eftpos Hub must for itself (and for each Member, eftpos Issuer, eftpos Acquirer, Direct Settler and Non-clearer for which it provides services) provide, to the Company a report for the immediately

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preceding period indicating whether or not the Direct Connector met the service levels for its Direct Connection.

28.6 Fault rectification and escalation

- (a) Members, Direct Connectors and the Company will follow the fault rectification and service restoration requirements and escalation process in the Technical, Operational and Security Rules. The Standard Hub Service Schedule and other named service schedules referenced in the Technical, Operational and Security Rules set out the recovery time objective for faults impacting delivery of Transactions, messages and advices relevant to the services referenced in those service schedules.

28.7 Service disablement by Member or Direct Connector

- (a) A Direct Connector to the eftpos Hub may request that the Company temporarily disable a Standard Hub Direct Connection in respect of another Direct Connector to the eftpos Hub as permitted by the Technical, Operational and Security Rules.

28.8 Direct Connector may temporarily disable its own Direct Connection

A Direct Connector:

- (a) to the eftpos Hub may temporarily disable one link within its own Direct Connection to the eftpos Hub;
- (b) To infrastructure or applications other than the eftpos Hub,

as permitted by the Technical, Operational and Security Rules provided that full processing of eftpos Transactions through the Direct Connection to the eftpos Hub is restored within the required Restoration Period.

28.9 Company may temporarily disable a Direct Connection to eftpos Hub

In addition to clause 15, the Company may temporarily disable one or more links within a Direct Connection as permitted by the Technical, Operational and Security Rules. Disablement under this clause 28 will continue until the Company is satisfied that the circumstance(s) that caused the disablement has been addressed by the Direct Connector or Member (as relevant) but only for the duration reasonably necessary to address the event that caused the disablement.

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28.10 Effect of disablement

- (a) While disabled pursuant to clause 28, the Fallback procedures referred to in the Technical, Operational and Security Rules will apply. The eftpos Hub will store received eftpos Transactions for the duration of the disablement to which this clause 28 applies and forward those eftpos Transactions to the relevant counterparties once the eftpos Hub or Direct Connection is operational.
- (b) Disablement of a Direct Connector to the eftpos Hub or Member or the eftpos Hub or other infrastructure of the Company under this clause 28 will not affect any right or liability arising under the Scheme Rules, the Technical, Operational and Security Rules or any subsidiary rule or document.
- (c) Each Direct Connector or Member must comply with the requirements of the Technical, Operational and Security Rules for faults impacting the processing of eftpos Transactions, delivery of Settlement reports, Batch Participant Reports, Batch Agency Reports or RITS Instructions.

28.11 Not Used

28.12 Force Majeure

- (a) The Company, a Member or any Direct Connector will not be liable for any failure or delay in the performance or discharge of its obligations in respect of a Direct Connection to the extent that such failure or delay is caused by a Force Majeure Event. This clause does not apply:
 - (i) to an FTS Event or delay in Settlement caused by the Member or Direct Connector; or
 - (ii) if the failure or delay could have been prevented by reasonable precautions and could have reasonably been circumvented by means of alternate sources, workarounds or by using its best endeavours.
- (b) A Force Majeure Event cannot be claimed if caused by a breach of the Scheme Rules or Technical, Operational and Security Rules by the party claiming it.
- (c) If a Member, Direct Connector or the Company is impacted by a Force Majeure Event, the impacted party must follow the process set out in the Technical, Operational and Security Rules.

28.13 Business continuity and disaster recovery

- (a) The Company maintains and tests a business continuity and disaster recovery plan for the eftpos Hub which incorporates the COIN Operating Manual requirements. If the Company invokes its disaster recovery plan related to the eftpos Hub or eftpos TSP, it will immediately

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notify all Direct Connectors to the eftpos Hub or eftpos TSP as appropriate to the circumstances that the plan is invoked.

- (b) Each Direct Connector must maintain and test a business continuity and disaster recovery plan for its Direct Connection. The plan must demonstrate its ability to continue to meet requirements for the Direct Connection to be Available in the event of a Disabling Event, business interruption or a disaster being declared under the Direct Connector's business continuity and disaster recovery plan. If a Direct Connector invokes its disaster recovery plan, it must immediately notify the Company that the plan is invoked.
- (c) Each Member must maintain and test a business continuity and disaster recovery plan which meets the requirements of the business continuity standards for RITS members as published by the RBA from time to time for its Settlement arrangements. The plan must demonstrate its ability to continue to meet its obligations under these Scheme Rules in respect of Settlement, in the event of a Disabling Event, business interruption or a disaster being declared under the Member's, the Company's or the RBA's business continuity and disaster recovery plan as it pertains to Settlement. If a Member invokes its disaster recovery plan, it must immediately notify the Company that the plan is invoked.
- (d) If requested by the Company, each Direct Connector must co-operate with and participate in end to end scenario testing in respect of their Direct Connection to the eftpos Hub, eftpos TSP and other eftpos infrastructure. Any such testing will involve no more than two Direct Connectors in any one year. The Company will not request the same Direct Connectors to be involved each year.
- (e) If requested by the Company, each Member must co-operate with and participate in annual end to end scenario testing in respect of their Settlement arrangements.
- (f) If requested by the Direct Connector, the Company will, at the Direct Connector's cost and only during a Testing Window once in any two calendar year period, co-operate with and participate in end to end scenario testing in respect of the Direct Connector's Direct Connection.

28.14 Audit

- (a) On request from a Member certifying that the request is in exercise of an obligation at Law, or a request of a regulator, the Company must facilitate an Auditor to audit, inspect or obtain information relating to:
 - (i) the premises used by the Company in connection with the eftpos Hub;
 - (ii) any agreements, arrangements or undertakings relating to the eftpos Hub, provided the Company will not be required to disclose any commercially sensitive information; and
 - (iii) any practices or procedures of the Company or the eftpos Hub service provider relating to the eftpos Hub or eftpos TSP, including those related to business continuity management, security, confidentiality of information and location of premises;

for the purposes referred to in clause (c).

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- (b) The Company may request a Member and if so requested the Member must permit and/or facilitate an Auditor to audit, inspect or obtain information relating to:
- (i) the premises used by the Member in connection with its Direct Connection;
 - (ii) any agreements, arrangements or undertakings relating to its Direct Connection, provided the Member will not be required to disclose any commercially sensitive information; and
 - (iii) any practices or procedures of the Member or its Service Provider relating to its Direct Connection, including those related to business continuity management, security, confidentiality of information and location of premises;

for the purposes referred to in clause (c).

The Company, through its separate agreement with the Service Provider, may also audit the Service Provider.

- (c) The purpose of an audit, inspection or request for information is to verify whether the eftpos Hub or Direct Connection (as the case may be) is operated in accordance with applicable Laws, the Scheme Rules and Technical, Operational and Security Rules or to perform a root cause analysis to determine causation for any Notifiable Incident.
- (d) If a Member requests an audit under clause (a), the Member consents to the results of the audit being provided to all Members and the Company.
- (e) No more than one audit relating to the eftpos Hub can be requested by all Members in aggregate in each calendar year.
- (f) An audit does not relieve compliance with these Scheme Rules or Technical, Operational and Security Rules.
- (g) The requesting party will bear the costs of the audit.

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29 Technical, Operational and Security Rules

29.1 Company may Prescribe Technical, Operational and Security Rules

- (a) The Company may from time to time prescribe (and amend) Technical, Operational and Security Rules applicable to the technical, operational and security aspects of:
 - (i) eftpos Transactions;
 - (ii) Acceptance Devices;
 - (iii) eftpos Interchange Activities and Settlement;
 - (iv) any other matter covered by the Scheme Rules;
 - (v) any matter referred to in Article 9.1(a) of the Constitution; and/or
 - (vi) any other matter related or incidental to these matters.
- (b) Each Member must comply with the Technical, Operational and Security Rules prescribed by the Company as if they were part of the Scheme Rules.
- (c) To avoid doubt, the Technical, Operational and Security Rules include the following documents adopted or prescribed (or amended) by the Company from time to time:
 - (i) Standards;
 - (ii) Specifications; and
 - (iii) notifications about the timing requirements related to each.
- (d) To aid in interpretation of, supplement or provide processes for implementation of matters contained in these Scheme Rules or the Technical, Operational and Security Rules, the Company may from time to time issue (and amend) Guides. Members must comply with Guides and ensure that their Service Providers do so.

29.2 Bilateral Variation

Two Members (each a Relevant Member) may agree for the limited purpose of their particular bilateral eftpos Interchange Activities to apply standards, specifications or requirements which augment those set out in the Technical, Operational and Security Rules, subject to clauses 26.2, 26.3 and 28.2, until the Relevant Member's Standard Hub Direct Connection is operational, provided that:

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- (a) Each of the Relevant Members provides to the Company, within 90 days of request by the Company, a certificate addressed to the Company given by the internal auditor of that Relevant Member (or other appropriate person approved by the Company) to the effect that the bilateral adoption of the proposed standards, specifications or requirements by those Relevant Members (as disclosed in the certificate) will not lessen in any material way the integrity, security or efficiency of the eftpos Payments System taken as a whole;
- (b) each Relevant Member must make such systems changes as are required to the systems used for their particular bilateral eftpos Interchange Activities to comply with the Technical, Operational and Security Rules and enable provision of the information required to be provided to the Company in accordance with the Technical, Operational and Security Rules; and
- (c) No other Member or Non-Member will be required, as a condition of engaging in eftpos Interchange Activities with any Relevant Member, to apply standards, specifications or requirements in connection with those Interchange Activities other than as set out in the Technical, Operational and Security Rules.

29.3 Transition of Existing Bilateral Variations

If two Members are party to an agreement to apply standards, specifications or requirements which differ from those set out in the IAC Code Set, that:

- (a) applies as at the Commencement Date; and
- (b) complies with the IAC Regulations

then subject to its terms, that agreement continues to apply and there is no obligation to comply with clause 29.2(a), in respect of the standard, specifications or requirements in effect as at the Commencement Date. However, clause 29.2(a) will apply to any changes to those standards, specifications or requirements since the Commencement Date and to any differences or augmentation to the standards, specifications or requirements in connection with a Standard Bilateral Direct Connection.

29.4 Cessation of transition arrangements

Clauses 29.2 and 29.3 cease to apply to:

- (a) Clearing and eftpos Interchange Activities of a Member's eftpos Transactions when all Clearing and Interchange Activities for that Member in respect of eftpos Transactions with other Members is performed through the eftpos Hub; and
- (b) Settlement of a Member's eftpos Transactions from the date that the Company notifies Members that the eftpos Settlement Service through the eftpos Batch Settlement in RITS will become available.

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30 Testing

- (a) The Company may from time to time require one or more Members and Direct Connectors to test their ability to comply with:
 - (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules; and
 - (iii) any forthcoming amendment to either of the Scheme Rules and/or the Technical, Operational and Security Rules.
- (b) Members in their own right and on behalf of any of their Direct Connectors must:
 - (i) Comply, or ensure compliance with, the Company's requirements pursuant to clause (a); and
 - (ii) co-operate, or ensure compliance with, each other Member and Direct Connector involved.
- (c) Whenever practicable in the circumstances the Company will:
 - (i) consult with the affected Member, whether in their own right on behalf of their Direct Connector as to the scheduling of any testing requirement pursuant to clause (a), which must occur within a Testing Window in respect of any Direct Connection; and/or
 - (ii) give the affected Member and Direct Connector reasonable notice of any testing requirement pursuant to clause (a).

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31 Fraud Prevention and Investigation

- (a) Members and Direct Connectors must use their best endeavours to co-operate with the Company and each other Member and Direct Connector to:
 - (i) prevent fraudulent eftpos Transactions occurring;
 - (ii) implement real time or near real time, detection strategies to identify fraudulent eftpos Transactions;
 - (iii) investigate any fraudulent eftpos Transactions that have occurred; and
 - (iv) assist law enforcement agencies to investigate and prosecute persons responsible for fraudulent eftpos Transactions.

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32 Protection of Consumer Data and Privacy

32.1 Consumer Data

A Member that receives Consumer Data or Personal Information in respect of a customer of another Member while participating in an eftpos Transaction must:

- (a) subject to any Law requiring disclosure of Personal Information or Consumer Data, only use that Consumer Data to comply with its obligations under the Scheme Rules and/or the Technical, Operational and Security Rules;
- (b) subject to clause (a), treat that Consumer Data or Personal Information as Confidential Information;
- (c) take all reasonable measures to ensure that Consumer Data or Personal Information is protected against loss and unauthorised:
 - (i) access;
 - (ii) use;
 - (iii) disclosure; or
 - (iv) modification; and
- (d) ensure that any person who is given access to the Consumer Data or Personal Information is made aware of, and undertakes to comply with, the obligations in this clause 32.1.

32.2 Privacy Law

All Members and Direct Connectors and the Company must comply with the applicable provisions of the Privacy Law with respect to Personal Information and Consumer Data.

32.3 Notifiable Incident

- (a) In addition to the processes set out in the COIN Operating Manual:
 - (i) the Company will immediately where possible or where not possible promptly without undue delay notify each impacted Member if the Company becomes aware or suspects that a Notifiable Incident has been or is likely to be caused by the eftpos Hub; and
 - (ii) each Member and each Direct Connector will immediately where possible or where not possible promptly without undue delay notify the Company when the Member becomes aware or suspects that a Notifiable Incident has been or is likely to be caused by the Member's or Direct Connector's (as the case may be) Direct Connection

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(each an Initial Notice).

- (b) In the event of a Notifiable Incident, the party giving the Initial Notice will follow the process set out in the Technical, Operational and Security Rules.
- (c) The Company is solely responsible to communicate with or respond to enquiries from the media and regulators in connection with any Notifiable Incident caused or contributed to by infrastructure or applications nominated by the Company for the purposes of the eftpos Payment System. Members must refer enquiries from media and regulators relating to Notifiable Incidents caused or contributed to by infrastructure or applications nominated by the Company for the purposes of the eftpos Payment System.

The Company will ensure that the relevant service provider to the Company takes such steps required to regain compliance with Laws and Technical, Operational and Security Rules. Any amount recovered by the Company will be applied to administrative costs and to protect and promote the eftpos Payment System.

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Part G – Fees

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33 Fees

33.1 Company may Specify Fees

- (a) The Company may, in accordance with any subsidiary rule, procedure or protocol adopted by the Company, specify (and may from time to time amend):
 - (i) the fees (and/or formula for their calculation) that are payable to the Company; and/or
 - (ii) the interchange fees (and/or formula for their calculation) that are payable between Members.
- (b) At any time after the Interchange Fee Commencement Date, two or more Members (each a Relevant Member) may agree to pay/receive interchange fees that vary from those specified by the Company pursuant to (a) (ii) above by agreement in writing. For the avoidance of doubt, no other Member will be required, as a condition of engaging in eftpos Interchange Activities with any Relevant Member to pay/receive interchange fees that vary from those specified by the Company pursuant to (a) (ii) above.

33.2 Transition Arrangements for Existing Bilateral Interchange Fee Provisions

Unless both parties to a Bilateral Agreement opted into the interchange fees as published by the Company by the Interchange Fee Commencement Date, any provisions with respect to the payment and/or receiving of interchange fees for eftpos Transactions in any Bilateral Agreement will continue until:

- (a) expiry of the term of the Bilateral Agreement;
- (b) termination in accordance with the terms of the Bilateral Agreement; or
- (c) both Members agree that they cease to apply.

For clarity, if both parties to an eftpos Transaction opted into the interchange fees as published by the Company by the Interchange Fee Commencement Date or one party opted into the interchange fees as published by the Company by the Interchange Fee Commencement Date and the other party became a Member after Interchange Fee Commencement Date, then no other interchange fees are payable between those parties for eftpos Transactions.

33.3 Notice of Bilateral Pricing Variations

If necessary to comply with a regulatory requirement, the Company may specify procedural or other requirements, including notice to the Company, that must be complied with by Members that:

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- (a) are party to a Bilateral Agreement whose provisions relating to payment and/or receiving of interchange fees continued to apply on the Interchange Fee Commencement Date pursuant to clause 33.2; or
- (b) are party to any agreement that commenced on or after the Interchange Fee Commencement Date to vary any interchange fees specified by the Company pursuant to clause 33.1(a)(ii).

33.4 Members must Pay Fees Specified

Each Member must pay the fees specified by the Company:

- (a) under clause 33.1(a)(i); and
- (b) under clause 33.1(a)(ii), subject to any agreed bilateral pricing variations, coming into effect after the interchange fees as published by the Company from time to time.

33.5 Direct Connectors must Pay Fees Specified

Each Direct Connector must pay the applicable fees specified by the Company under clause 33.1(a)(i).

33.6 Interest on late payments

The Company may charge interest on late payment of fees payable to the Company, at the Late Payment Rate on any amounts due to the Company or another Member for the preceding calendar month for the period of the delay.

33.7 Fees are Payable by Direct Clearers and Direct Settlers

- (a) Unless specified to the contrary, when one Member acts as a Clearing Agent for another Member or Non-clearer, the first Member:
 - (i) is liable to pay the fees specified by the Company under clause 33.1(a)(i) as payable, in respect of the eftpos Transactions for which it is the Clearing Agent; and
 - (ii) is liable to pay and/or entitled to receive the fees specified by the Company under clause 33.1(a)(ii), subject to any agreed bilateral pricing variations, in respect of the eftpos Transactions for which it is the Clearing Agent.

33.8 Notice of Fees

The Company will notify Members and Direct Connectors of the fees payable pursuant to clause 33.1(a) (and any amendment to them) at least 60 days before the fees take effect, except if the change is needed to ensure the Company remains compliant with the standards published from

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time to time by the RBA regulating fees payable pursuant to clause 33.1 in which case the Company will provide to Members and Direct Connectors lesser notice but as much notice of fee changes as is possible in the circumstances while still complying with such standards.

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34 Reporting and Payment

34.1 eftpos Transaction Report

- (a) At the end of each day, until specified otherwise by the Company, each Member must submit a Member Batch File to the Company containing, whether in their own right or on behalf of a Direct Connector,
 - (i) such information as required by the Technical, Operational and Security Rules and such other information that the Company may reasonably require from time to time.
- (b) The Company may specify (and amend) the format and method of submitting Member Batch File that Members must use.
- (c) After the end of each calendar month, the Company will provide to each Member an eftpos Transaction Report, which forms part of a fees invoice issued by the Company, containing the following information for the relevant Member and all eftpos Issuers, eftpos Acquirers, Direct Settlers and Non-clearers represented by that Member, :
 - (i) the number of each off-us eftpos Transaction type acquired by that Member during the calendar month with each Issuer Member with whom it directly settles;
 - (ii) the number of each off-us eftpos Transaction type performed by customers of that Member during the calendar month with each Acquirer Member with whom it directly settles; and
 - (iii) the number of On-Us Transactions for the Member by each eftpos Transaction type.
- (d) Unless disputed by the Member within 2 Business Days of receipt of the eftpos Transaction Report, each Member accepts that the eftpos Transaction Report is accurate and complete and will use the eftpos Transaction Report for the purposes of clause 34.3.
- (e) If a Member does not submit Member Batch File at the end of each day to the Company or Interchange billing information to an Interchange counterparty, the Company may require that Member to pay interest at the Late Payment Rate on any amounts due to the Company or another Member for the preceding calendar month for the period of the delay.
- (f) In addition to sub-clause (e) above, if the Member does not submit or submits some but not all of the required categories of eftpos Transaction volume information to the Company, the Company may estimate the volume of the missing category of transaction information for the purposes of the billing of payments to the Company. The estimation will be calculated by grossing up the missing category of transaction information by the Member's proportion (based on the last month of transactions reported by the Member) of the reported categories across all Members and applying the Member's proportion to that total.

For example:

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Assuming the Member has 10% of the total monthly eftpos Transaction volume in all other categories, and all other Members have reported a total for the relevant category of 9,000,000 (representing an implied 90% of the total reported categories), then the category is grossed up by 10% for the relevant category to give 10,000,000 and the Member's share of the grossed up category would be 1,000,000 (i.e. 10% x 10,000,000).

34.2 Calculation of Fees Payable to Company and Tax Invoices

The Company will:

- (a) calculate the fees payable by each Member to the Company for the week preceding the settlement of Scheme fee and monthly fees settled on the Wednesday or the next RITS Business Day of the week;
- (b) calculate any fees payable by each Member and each Direct Connector; and
- (c) issue to each Member and each Direct Connector a monthly report on the 3rd calendar day of each month consisting of scheme fees, infrastructure fees, ATM processing fee and Dispute & Arbitration fee for the previous month.

34.3 Payments between Members

Within 10 Business Days of the end of each calendar month, each Member (Invoicing Member) must, extract from the reports, which are provided by the Company to the Member known as the Counterparty Invoicing Report and Invoice Reconciliation Report, on the basis of the aggregation for the relevant calendar month of the data obtained from the eftpos Hub and data submitted by the Member as part of that Member's Member Batch File:

- (a) the gross fees payable by it to each other Member for the preceding calendar month;
- (b) the gross fees owing to it by each other Member for the preceding calendar month; and

issue or cause to be issued a Tax Invoice to each other Member in respect of any fees that Member owes to the Invoicing Member as calculated under clause (a).

34.4 Set off

An Invoicing Member may set off the amount payable to it by a Member under clause 34.3(b) against the amount the Invoicing Member owes to that Member under clause 34.3(a).

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34.5 Payment and Interest on Overdue amounts

- (a) Each Member must within 10 Business Days of receipt of a Tax Invoice pay the fees specified on that invoice, or the undisputed portion of such fees, to the Company or any other Member as appropriate.
- (b) Interest at the Late Payment Rate is payable on any fees that have not been paid within 20 Business Days, unless a discrepancy has been notified under clause 34.6.

34.6 Discrepancies between Members

- (a) If there is a discrepancy between two Members as to the amounts due to or from each other, they must use their best endeavours to resolve the discrepancy within 10 Business Days after receipt of the Tax Invoices issued under clause 34.3. The Members will verify and exchange the relevant eftpos Transaction data required to calculate net discrepancies as part of this process.
- (b) Within 10 Business Days of resolution of a discrepancy under clause (a) each Member must pay any amount which is owing to the Invoicing Member.

34.7 Review of eftpos Transaction Report

- (a) A Member may dispute its eftpos Transaction Report or the Scheme Fee Report by notifying the Company of a dispute within 2 Business Days of receipt of the relevant report. If a Member disputes an eftpos Transaction Report or the Scheme Fee Report, the Company and Member will meet within 5 Business Days to resolve the dispute, with each providing such additional information as is necessary to resolve the dispute. If a dispute is not resolved within 5 Business Days of the date of the relevant report, the Company will appoint an auditor in accordance with clause 34.7(c) to audit the disputed report.
- (b) If requested to do so by the Company, a Member must promptly provide the Company with additional information to substantiate the dispute.
- (c) The Company may appoint an appropriately qualified accountant to audit an eftpos Transaction Report, in which case:
 - (i) the Member concerned will, during normal business hours:
 - A) co-operate with the person so appointed; and
 - B) provide them with access to all of the books and records they reasonably require.
 - the costs and expenses incurred in conducting the audit of:
 - (ii) eftpos Transaction Reports will be borne by the Company; and

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- (iii) Member Batch Files will be borne by the Company unless the audit determines that one or more Member Batch Files submitted by the Member concerned were incorrect in a material particular, in which case the costs and expenses will be borne by the Member concerned.

34.8 Record retention

The Company may retain, for as long as is required for legitimate business purposes of the Company, any Member and any Direct Connector for their participation in the eftpos Payment System, information about eftpos Transactions of that Member, its Direct Settler or any of its Non-clearers despite any termination of the membership of a Member or a Direct Connection.

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Part H - Branding and Trade Marks

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35 Branding and Display of Trade Marks

35.1 The Company may Specify Branding and Trade Mark Requirements

- (a) The Company may specify (and may from time to time amend):
 - (i) requirements as to the branding, use of Trade Marks, associated marketing messages and/or the display thereof on:
 - A) eftpos Form Factors; and
 - B) all associated signage, advertising and acceptance materials or paraphernalia;
 - (ii) a style guide as to the manner in which branding, Trade Marks and/or associated marketing messages must be displayed; and
 - (iii) requirements and process for the approval of the use of the Company's branding, Trade Marks and/or associated marketing messages by a Member or Branding Third Party.
- (b) Members must comply with any requirements, process and/or style guide prescribed by the Company pursuant to clause 35.1(a).

35.2 Members must use Branding and Trade Marks to Promote eftpos

- (a) Members must use the Company's branding and/or Trade Marks in connection with the operation and promotion of eftpos Transactions, eftpos Form Factors, eftpos Terminals and accounts and/or other services associated with them, subject to:
 - (i) the terms of clause 36;
 - (ii) compliance with any style guide prescribed by the Company pursuant to clause 35.1(a)(ii);
 - (iii) compliance with any requirements or process for approval thereof prescribed by the Company pursuant to clause 35.1(a)(iii); and
 - (iv) such use not being inconsistent with or detracting from any branding, Trade Mark requirements or marketing messages specified by the Company pursuant to clause 35.1(a)(i).
- (b) Each Member indemnifies the Company for all Claims and Demands made against or suffered or incurred by the Company arising directly or indirectly out of any use of the Company's branding

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and/or Trade Marks by the Member or pursuant to any sub-licence granted by the Member (including to Non-Clearers), where such use is in breach of the Scheme Rules.

- (c) The Company may at any time, in its absolute discretion and without giving reasons, direct a Member to cease using the Company's branding and/or one or more Trade Marks where such use is in breach of the Scheme Rules.

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36 Licence and Sub-licence of Trade Marks

36.1 Licence to Use Trade Marks

- (a) The Company grants to each Member a non-transferable, non-exclusive, royalty-free licence to Use the Trade Marks in the Territory in accordance with clauses 35.1 and 35.2 (Trade Mark Licence) while the Scheme Rules are in force, unless the Trade Mark Licence is terminated earlier in accordance with the Scheme Rules, including clause 35.2(c).
- (b) The Trade Mark Licence:
 - (i) in respect of a Member, terminates upon that Member ceasing to be a Member; and
 - (ii) does not confer any proprietary or other interest in the Trade Marks, whether during or after the term of the Trade Mark Licence. For the avoidance of doubt, the Trade Mark Licence is not consent to any Member or any other person to register trade marks, business names, company names or domain names that include, incorporate, are deceptively similar to or imply permission to use the Trade Marks beyond the Trade Mark Licence or imply an affiliation between that person and the Company.
- (c) Each Member agrees that the Company owns the Trade Marks and the goodwill associated with, and generated through the Use of, the Trade Marks which are referred to in sub-clause (a) of the definition of Trade Marks.

36.2 Sub-licence of Trade Marks to Branding Third Parties

- (a) Members may sub-licence the Use of the Trade Marks to:
 - (i) the Merchants for which they are an eftpos Acquirer; or
 - (ii) the Non-clearers for which they are a Clearing Agent; or
 - (iii) Service Providers engaged by the Member or any of its Non-clearers,

(Branding Third Parties) in accordance with the terms of this clause 36.2.
- (b) Members must use reasonable endeavours to:
 - (i) procure that all Branding Third Parties enter into sub-licences incorporating the terms specified in Schedule 2 by either:
 - A) amending an existing agreement; or
 - B) entering into a separate sub-licence agreement; and

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- (ii) include the terms specified in Schedule 2 in any agreements with Branding Third Parties that provide for acquiring, Clearing and/or Settlement of eftpos Transactions or services related to them.
- (c) Each Member must:
 - (i) keep records of:
 - A) all sub-licences that it has granted;
 - B) the Branding Third Parties to whom they have been granted; and
 - C) any breaches of sub-licences of which the Member is aware, (together, Sub-licence Records);
 - (ii) allow the Company to inspect the Sub-licence Records on 7 days' notice; and
 - (iii) notify the Company of a breach of a Sub-licence within 14 days of the Acquirer Member becoming aware of the breach.
- (d) Members must terminate any sub-licence to a Branding Third Party if:
 - (i) the Member ceases to be a Member;
 - (ii) the Member's licence to Use the Trade Marks is terminated in accordance with the Scheme Rules; or
 - (iii) as otherwise provided in Schedule 2.
- (e) For the avoidance of doubt, where a Non-clearer appoints a Member as a Clearing Agent or any Member or Non-clearer engages a Service Provider, the Member:
 - (i) must use reasonable endeavours to ensure that the Non-clearer and/or Service Provider complies with the obligations in this clause 36 to the same extent as if the Non-clearer and/or Service Provider had been the Member;
 - (ii) may sub-licence the Trade Marks to the Non-clearer and/or Service Provider on the terms specified in Schedule 2 and on the condition that the Non-clearer enters into sub-licence agreements with the Merchants for which it is an eftpos Acquirer incorporating the terms specified in Schedule 2,
 - (iii) must use reasonable endeavours to ensure that the Non-clearer and/or Service Provider supplies Sub-licence Records to the Member in relation to sub-licences of the Trade Marks from the Non-clearer and/or Service Provider.
- (f) Where a Non-clearer appoints a Member as a Clearing Agent or any Member or Non-clearer engages a Service Provider, the Member must, if the Company notifies the Member, procure that the Non-Clearer or Service Provider enters a licence agreement with the Company in respect of the Trade Marks, on terms consistent with Schedule 2.

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36.3 Effect of Termination of Licence

- (a) Upon termination of a Member's Trade Mark Licence, the Member must immediately:
- (i) cease Use of the Trade Marks and assign and use its best endeavours to cause assignment to the Company any trade marks, business names, company names or domain names that include, incorporate, are deceptively similar to or imply permission to use the Trade Marks;
 - (ii) terminate any sub-licences to Branding Third Parties;
 - (iii) use its best endeavours to ensure that each Branding Third Party sub-licensing the Trade Marks from the Member ceases to Use the Trade Marks within a period of not more than 3 months from the termination of the Member's Trade Mark Licence; and
 - (iv) use its best endeavours to ensure that each Non-clearer which has sub-licensed the Trade Marks to Merchants and/or other Non-clearers in accordance with clause 36.2(e) ensures that each Merchant and other Non-clearer sub-licensing the Trade Marks from the Non-clearer ceases Use of the Trade Marks within a period of not more than 3 months from the termination of the Member's Trade Mark Licence.

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37 Enforcement of Trade Marks and Other Rights

37.1 Enforcement of Rights in the Trade Marks

Except as otherwise provided in clause 37.2, the Members will provide the Company with all assistance the Company reasonably requests in relation to enforcement of the Company's rights in the Trade Marks.

37.2 Enforcement of a Sub-licence and Other Rights in Relation to Branding Third Parties

- (a) Members must use reasonable endeavours to ensure that Branding Third Parties:
 - (i) comply with any requirements, process and/or style guide prescribed by the Company pursuant to clause 35.1(a); and
 - (ii) do not use the Trade Marks in a manner that is inconsistent with or detracts from any branding, Trade Mark requirements or marketing messages of the Company.
- (b) If a Member becomes aware that a Branding Third Party:
 - (i) is not complying (or has not complied) with any requirements, process and/or style guide prescribed by the Company pursuant to clause 35.1(a); or
 - (ii) is using the Trade Marks in a manner that is inconsistent with or detracts from any branding, Trade Mark requirements or marketing messages of the Company,then the applicable Member must notify the Company in writing and use its best endeavours to ensure that the Branding Third Party remedies its use of the Trade Marks within 30 days.
- (c) If the Branding Third Party has not remedied its use of the Trade Mark within 30 days then the Company may direct the applicable Member to terminate the applicable sub-licence in accordance with its terms.

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Part I – Administration

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38 Procedural Fairness

38.1 Procedural Fairness – clauses 8, 16 and 26

- (a) Prior to making a decision to refuse an application to become a Member under clause 8 or fine a Member or Direct Connector under clause 16, or refuse an application for a Direct Connection under clause 26.5, the Company must:
- (i) notify the applicant or Member or Direct Connector;
 - (ii) give the applicant or Member or Direct Connector a reasonable opportunity to address:
 - A) the criteria on which the Company is proposing to refuse to admit the applicant as a Member;
 - B) the criteria on which the Company is proposing to refuse to admit the applicant as a Direct Connector; or
 - C) the event(s) that gave rise to the Company's right to fine the Member or Direct Connector;(as the case may be); and
 - (iii) give due consideration to any reasons given by the applicant or Member or Direct Connector:
 - A) as to why its application should not be refused; or
 - B) as to why it should not be fined;(as the case may be).
- (b) As soon as practicable after making its decision, the Company must give the applicant or Member or Direct Connector notice in writing of the Company's decision and an outline of the reasons for the decision (Notice of Decision).

38.2 Procedural Fairness – clauses 10, 14, 15, 17, 18 and 19

- (a) Prior to making a decision to:
- (i) refuse an application for an exemption, to grant an exemption subject to conditions or to withdraw an exemption under clause 10; or
 - (ii) suspend a Member under clause 14.2(a) (other than clause 14.2(a) (iv)) or disable a Direct Connector under clause 15.1(a) (iv) (other than for a reason under clause 14.2(a) (iv)); or

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- (iii) impose a condition on a Member's or Direct Connector's activities or waive or vary other Members' or Direct Connector's obligations to a Member under clause 17.1; or
- (iv) terminate a Member's membership under clause 18.1(a) or terminate a Direct Connection under clause 19.1(a),

(as the case may be) the Company must:
 - (v) notify the affected Member or Members, Direct Connector or Direct Connectors of the proposed decision;
 - (vi) give the affected Member or Members, Direct Connector or Direct Connectors a reasonable opportunity to address:
 - A) the issues relating to the application or the conditions; or
 - B) the event(s) that gave rise to the Company's right to suspend the Member or Direct Connector; or
 - C) the event(s) that gave rise to the Company's right to impose a condition or waive or vary obligations; or
 - D) the event(s) that gave rise to the Company's right to terminate the Member's membership, or the Direct Connector's Direct Connection (as the case may be), provided that in the Company's opinion the provision of such opportunity is not likely to have a detrimental effect on the reputation, integrity, security, reliability and stability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them; and
 - (vii) give due consideration to any reasons given by the Member or Members, Direct Connector or Direct Connectors as to why:
 - A) the application should be granted or the conditions should not be imposed; or
 - B) the Member or Direct Connector should not be suspended; or
 - C) the condition should not be imposed or the obligations waived or varied; or
 - D) its membership should not be terminated,
(as the case may be).
- (b) As soon as practicable after making its decision, the Company must give the Member or Members, Direct Connector or Direct Connectors a Notice of Decision.

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38.3 Grant of a Stay of Decision to Suspend or Terminate a Member

- (a) In the Notice of Decision to be provided to a Member pursuant to clause 38.2(b), the Company may notify the Member that it has granted a stay of the Company's decision to suspend or terminate that Member under clause 38.2(a) (as the case may be), the period of such stay to be determined by the Company.
- (b) A decision of the Company under clause (a) may be varied by a Review Panel under clause 40.4.
- (c) In considering:
 - (i) whether the Company should grant a stay of a decision to suspend or terminate a Member under clause (a); and
 - (ii) the period of such a stay,
the Company must have regard to:
 - (iii) the reputation, integrity, security and reliability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them; and
 - (iv) the adverse consequences that a Member may suffer as a result of such suspension or termination.

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39 Dispute Resolution

39.1 Application of this clause

This clause applies to a dispute between:

- (a) Members;
- (b) a Member and the Company; or
- (c) a Member on behalf of a Direct Connector and the Company

in connection with the Scheme Rules, the Technical, Operational and Security Rules or any other matter related to them (Dispute), other than a dispute relating to a decision of the Company under clauses 8, 10, 12, 14, 14.4, 17, 18, 19, 26 or 28.

Disputes relating to eftpos Transactions must be conducted in accordance with the Technical, Operational and Security Rules. If the relevant Members cannot resolve a Dispute relating to an eftpos Transaction in accordance with the Technical, Operational and Security Rules, either Member may refer the Dispute to the Company for arbitration in accordance with this clause 39, excluding clause 39.5(b).

39.2 Court Proceedings

A Member, a Direct Connector or the Company must not start court proceedings (except proceedings seeking interlocutory relief) in relation to a Dispute unless it has followed the procedure set out in this clause 39.

39.3 Panel of Arbitrators and Experts

The Company may:

- (a) maintain a register of persons who are, in the Company's reasonable opinion, suitably qualified to act as arbitrators or, in respect of a review under clause 40, experts, for Disputes (Panel of Arbitrators and Experts); and
- (b) from time to time appoint persons to the Panel of Arbitrators and Experts.

39.4 Notification of a Dispute

- (a) The Company or any Member in their own right or on behalf of a Direct Connector can notify a Dispute by issuing a notice to the other party to the Dispute (Dispute Notice).
- (b) A Dispute Notice in respect of a Dispute between Members, Direct Connectors or Members and Direct Connectors must be provided to the Company at the same time it is issued to the other party to the Dispute.

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39.5 Good Faith Discussions

- (a) Within ten (10) Business Days of the receipt of a Dispute Notice the parties to the Dispute must meet and use reasonable endeavours acting in good faith to resolve the Dispute by joint discussions.
- (b) If the parties to the Dispute are unable to resolve the Dispute within fifteen (15) Business Days of commencing discussions under clause (a), the CEO of each party to the Dispute or a senior representative of each party suitably authorised to make decisions in relation to the Dispute must meet and use reasonable endeavours acting in good faith to resolve the Dispute by joint discussions.
- (c) If the parties to the Dispute are unable to resolve the Dispute within fifteen (15) Business Days of commencing discussion under clause (b), the parties to the Dispute may refer the Dispute to arbitration pursuant to clause 39.8, by issuing a notice to the other party to the Dispute stating that it is referring the Dispute to arbitration (Arbitration Notice).
- (d) An Arbitration Notice in respect of a Dispute between Members, Direct Connectors or Members and Direct Connectors must be provided to the Company at the same time it is issued to the other party to the Dispute.

39.6 Withdrawal of Dispute Notice

The party to a Dispute that issued the Dispute Notice may withdraw the Dispute Notice at any time before the Arbitrator makes a decision in relation to the Dispute.

39.7 Appointment of Arbitrator

- (a) The parties to the Dispute may agree to appoint:
 - (i) an arbitrator from the Panel of Arbitrators and Experts; or
 - (ii) an arbitrator from outside the Panel of Arbitrators and Experts,
(Arbitrator) to resolve their Dispute.
- (b) If the parties to the Dispute fail to agree to appoint an Arbitrator within ten (10) Business Days of a referral of the Dispute to arbitration, then the Arbitrator will be appointed by the ACICA.
- (c) In making the appointment, the ACICA will have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator.

39.8 Arbitration

- (a) The decision of the Arbitrator is final and binding on the parties. The Arbitrator's decision must include reasons and may include directions requiring a party to:
 - (i) pay an amount of money to another party;

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- (ii) pay interest for a specified period at a specified rate;
 - (iii) pay each other parties' costs of bringing or responding to the Dispute; and
 - (iv) do such acts or things or refrain from doing such acts or things considered by the Arbitrator as desirable to resolve the Dispute.
- (b) In undertaking arbitration of a Dispute, the Arbitrator must have regard to all matters considered relevant, including:
- (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules;
 - (iii) the desirability of Disputes being resolved in a timely manner;
 - (iv) the legitimate business interests of the parties to the Dispute; and
 - (v) the security, operational and technical requirements necessary for the safe and reliable processing of eftpos Transactions.
- (c) The Arbitrator must terminate the arbitration without making a final decision if it thinks that:
- (i) the Dispute Notice was vexatious;
 - (ii) the subject matter of the Dispute is trivial, misconceived or lacking in substance; or
 - (iii) the party who initiated or continues to press the Dispute has not engaged in negotiations in good faith.

39.9 Arbitration Details

- (a) Arbitration pursuant to this clause 39 will be conducted in accordance with the ACICA Arbitration Rules, except to the extent that those rules are inconsistent with this clause 39.
- (b) The seat of the arbitration must be Sydney, Australia unless the parties to the Dispute agree to another location.
- (c) The language of the arbitration will be English.

39.10 Costs

The Arbitrator must determine the costs payable by each party to the Dispute including the costs of the Arbitrator.

39.11 Security

- (a) If an Arbitrator is appointed pursuant to clause 39.7, either party to the Dispute may request a reasonable form of security to secure payment of any amounts payable, or likely to be payable, to that party upon resolution of the Dispute.

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- (b) The Arbitrator:
 - (i) will consider any request for security pursuant to clause 39.11(a); and
 - (ii) may, in its absolute discretion, request the party from whom security is sought to provide such security.
- (c) The security referred to in clause 39.11(b) (ii) will be:
 - (i) held by the Arbitrator or as the Arbitrator directs until the Dispute has been resolved; and
 - (ii) returned or paid to the relevant party following determination of the Dispute in the manner determined by the Arbitrator.

39.12 The Company's Rights in Disputes between Members

If a Dispute between Members arises, the Company may in its absolute discretion and at its own cost:

- (a) participate in any joint discussions held pursuant to clause 39.5;
- (b) attend any arbitration hearings and:
 - (i) adduce evidence; and/or
 - (ii) make submissions;
- (c) require the parties to the Dispute to provide it with copies of all evidence, pleadings, submissions, the Arbitrator's decision and any like document.

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40 Review Process

40.1 Application of this clause

This clause applies to a decision of the Company under clauses 8, 14, 15, 18, 19 or 26.5 (**Reviewable Decision**).

40.2 Notification of Reviewable Decision

- (a) An applicant or Member who wishes to request a review of a Reviewable Decision must issue a notice in writing to the Company to that effect (Reviewable Decision Notice).
- (b) The Reviewable Decision Notice must be provided to the Company within 10 Business Days of receipt by the applicant or Member of notification of a decision of the Company under clauses 8, 14, 15, 18, 19 or 26.5.

40.3 Appointment of Review Panel

- (a) Within 10 Business Days after receipt of the Reviewable Decision Notice under clause 40.2, the Company will appoint:
 - (i) 1 expert from the Panel of Arbitrators and Experts; and
 - (ii) 2 independent directors of the Company,**(Review Panel)** to review the Reviewable Decision.
- (b) On appointment of the Review Panel, the Company will notify the applicant or the Member (as the case may be) of the appointment of the Review Panel and the names of the members of the Review Panel.

40.4 Stay Order

- (a) A Member who requests a review of a Reviewable Decision under clauses 14, 15, 18 or 19 may request that the Review Panel stay the operation of the Company's decision until the Review Panel reaches a determination under this clause 40 (Stay Order).
- (b) In considering whether it should make a Stay Order, the Review Panel must have regard to:
 - (i) the reputation, integrity, security and reliability of eftpos Transactions, eftpos Interchange Activities and/or the settlement resulting from them; and
 - (ii) the adverse consequences that a Member or Direct Connector may suffer as a result of such suspension or termination.

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40.5 Information to be provided to the Review Panel

- (a) The parties to the Reviewable Decision must provide to the Review Panel all information requested by the Review Panel, including:
 - (i) in the case of an applicant who has been refused membership under clause 8 or clause 26, all information provided by the applicant to the Company in support of the applicant's request to become a Member or a Direct Connector (as the case may be);
 - (ii) the notification of the refusal of admission, suspension or termination (as the case may be) given by the Company to the applicant or Member or a Direct Connector (as the case may be) under clauses 8, 14, 15, 18, 19 or 26.5 (as applicable);
 - (iii) the applicant or affected Member's or Direct Connector's response to any notification given by the Company under clauses 8, 14, 15, 18, 19 or 26;
 - (iv) any documents in connection with the Company's consideration of the reasons given by the applicant or Member or Direct Connector as to why it should not be refused admission, suspended or terminated (as the case may be); and
 - (v) the written notice provided by the Company to the applicant or Member or Direct Connector notifying the Company's decision and the outline of the reasons for the decision.
- (b) The parties must provide any information requested under clause (a) within the time period specified by the Review Panel.
- (c) The parties may provide written submissions or any other documents relevant to the Reviewable Decision to the Review Panel before the Review Panel makes its decision.

40.6 Actions after Reviewing Reviewable Decision

- (a) In reviewing the Reviewable Decision, the Review Panel must have regard to all matters considered relevant, including:
 - (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules;
 - (iii) the desirability of Reviewable Decisions being reviewed in a timely manner;
 - (iv) the legitimate business interests of the parties to the Reviewable Decision;
 - (v) the security, operational and technical requirements necessary for the safe and reliable processing of eftpos Transactions; and
 - (vi) the information provided under clause 40.5.

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- (b) The Review Panel may:
 - (i) confirm the decision reviewed; or
 - (ii) vary the decision reviewed; or
 - (iii) set aside the decision reviewed; or
 - (iv) set aside the decision reviewed and substitute a new decision.
- (c) The decision of the Review Panel is final and binding on the parties.
- (d) The Review Panel must terminate the review process without making a final decision if it thinks that:
 - (i) the Reviewable Decision Notice was vexatious; or
 - (ii) the basis for seeking a review of the Reviewable Decision is trivial, misconceived or lacking in substance.

40.7 Losses of Members and Direct Connectors

If the Review Panel varies or sets aside a decision that is the subject of the Reviewable Decision, the Company will not be liable for any loss or damage to any applicant or Member or Direct Connector, whether such loss or damage is direct or consequential (including economic loss and loss of profits).

40.8 Costs

If the Review Panel:

- (a) confirms the Reviewable Decision, the applicant or Member or Direct Connector (as the case may be) must pay all costs reasonably incurred by the Company, the applicant or the Member or Direct Connector and the Review Panel (including any fees payable to the members of the Review Panel), in connection with the Review Process (Review Costs).
- (b) varies or sets aside the Reviewable Decision, the Review Panel must determine which party or parties will be responsible for paying some or all of the Review Costs.

40.9 Procedures

The Company may specify additional procedures for the conduct of reviews under this clause 40.

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41 Confidentiality

- (a) Each Member and Direct Connector must ensure that any Confidential Information it receives (including the Scheme Rules and Technical, Operational and Security Rules or any subsidiary rule or document and any information relating to or generated by the eftpos Hub) is:
- (i) kept confidential;
 - (ii) only provided to its employees, legal advisers, auditors and any other of its contractors, prospective contractors, consultants or prospective consultants, who have a need to know the information to carry out their roles; and
 - (iii) not used or copied except for the purposes of:
 - A) the Scheme Rules;
 - B) the Technical, Operational and Security Rules;
 - C) any subsidiary rule or document; or
 - D) in the case of Consumer Data and Personal Information, as permitted in accordance with clause 32.
- (b) The Company will treat each Member's Member Batch File as Confidential Information and will not disclose them to any person or use them except as permitted by the Scheme Rules or for the purposes of:
- (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules; or
 - (iii) any subsidiary rule or document.
- (c) The Company, in respect of Confidential Information it receives and specifically the Member Batch File and each Member, in respect of any Confidential Information it receives, must ensure that that information is not disclosed to any other person except:
- (i) with the prior written consent of the party which first disclosed the information (Disclosing Party) which, in relation to the Scheme Rules, Technical, Operational and Security Rules and any subsidiary rule or document and any information generated by the eftpos Hub is the Company;
 - (ii) if required to be disclosed by Law or required by any stock exchange or supervisory authority which is responsible for the prudential supervision of the recipient;
 - (iii) in accordance with the provisions of:
 - A) the Scheme Rules;
 - B) the Technical, Operational and Security Rules; or

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- C) any subsidiary rule or document;
 - (iv) in connection with legal proceedings or disputes to which the Company or the Member or the Direct Connector is a party;
 - (v) if the information is generally and publicly available through no fault of the Member concerned;
 - (vi) its legal advisers and auditors; or
 - (vii) a Related Body Corporate.
- (d) A Member, a Direct Connector or the Company that intends to disclose Confidential Information (excluding Consumer Data and Personal Information disclosed as permitted under clause 32) to another person pursuant to clauses 41(c)(ii), 41(c)(iii), 41(c)(iv) or 41(c)(vii) must, except to the extent that it would contravene a Law or stock exchange listing requirement:
- (i) notify the Disclosing Party in writing; and
 - (ii) where possible, obtain an undertaking (enforceable by the Disclosing Party) from that person to maintain the confidentiality of the relevant information on the terms described in clause 41(a).
- (e) The Company may:
- (i) publicly disclose:
 - A) aggregated data with respect to the volume and value of eftpos Transactions or any particular eftpos Transaction in a manner that does not disclose data attributable to any Member;
 - B) data with respect to the fees payable to it pursuant to clause 34, to the extent required by any applicable regulatory or financial reporting requirement;
 - (ii) without limiting the Members' obligations under clause 34.6, disclose counterparty data to assist two Members to resolve a discrepancy; for example, to enable the resolution of discrepancies, including Disputed Transactions, the Company may provide Member A and Member B with information from each other's Interchange Billing Reports or from the eftpos Hub to facilitate Settlement reconciliation;
 - (iii) disclose counterparty data to assist the Company to complete processing of Scheme Fee;
 - (iv) make disclosures to regulators to comply with Law or a regulatory requirement;
 - (v) provide the Scheme Rules, Technical, Operational and Security Rules and eftpos Transaction, eftpos Interchange Activity and other Confidential Information required for the Member or Direct Connector's connection to the eftpos Hub to the eftpos Hub service provider; and

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- (vi) provide the Scheme Rules and Technical, Operational and Security Rules to bona fide membership applicants or Applicant Direct Connectors on the condition that they agree to maintain the confidentiality of the Scheme Rules and Technical, Operational and Security Rules and any subsidiary rule or document (as the case may be).
- (f) The provider of the Confidential Information may request at any time that the Confidential Information (excluding Consumer Data and Personal Information used or disclosed as permitted under clause 32) be returned, destroyed or deleted. In such a case, the recipient(s) of the Confidential Information will comply with the request without unreasonably delay.
- (g) Each Member and Direct Connector acknowledges that a breach of this clause 41 may cause another party irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, a party may seek injunctive relief against such a breach or threatened breach of this clause 41.

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42 Warranties and Liability

42.1 Member Warranties

At all times each Member, and to the extent relevant when on behalf of a Direct Connector, represents and warrants to each other Member and the Company that:

- (a) it has the power to observe its obligations under:
 - (i) the Scheme Rules; and
 - (ii) the Technical, Operational and Security Rules;
- (b) it performs its obligations under:
 - (i) the Scheme Rules; and
 - (ii) the Technical, Operational and Security Rules,
in good faith;
- (c) except as contained in the Scheme Rules, it has not relied on any representation made by any other Member or the Company to induce it to become a Member or otherwise act in accordance with:
 - (i) the Scheme Rules; and/or
 - (ii) the Technical, Operational and Security Rules;
- (d) it has made (without reliance on any other Member or the Company) its own independent assessment of:
 - (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules; and
 - (iii) the financial condition of any Applicant Direct Connector with which it has entered an agreement relating to eftpos Transactions,
as being appropriate for its needs and requirements;
- (e) its obligations under the Scheme Rules and the Technical, Operational and Security Rules are valid and binding on it; and
- (f) it will not seek to prevent any other Member, a Direct Connector or the Company from obtaining specific performance of its obligations in respect of a Direct Connection.

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42.2 Direct Connector warranties

At all times each Direct Connector represents and warrants to each Member and the Company that:

- (a) it has the power to observe the obligations of Direct Connectors under:
 - (i) the Scheme Rules; and
 - (ii) the Technical, Operational and Security Rules;
- (b) it performs the obligations of Direct Connectors under:
 - (i) the Scheme Rules; and
 - (ii) the Technical, Operational and Security Rules,in good faith;
- (c) except as contained in the Scheme Rules, it has not relied on any representation made by any Member or the Company to induce it to become a Direct Connector or otherwise act in accordance with:
 - (i) the Scheme Rules; and/or
 - (ii) the Technical, Operational and Security Rules;
- (d) it has made (without reliance on any Member or the Company) its own independent assessment of:
 - (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules; and
 - (iii) the financial condition of any Member with which it has entered an agreement relating to eftpos Transactions,as being appropriate for its needs and requirements;
- (e) its obligations under the Scheme Rules and the Technical, Operational and Security Rules are valid and binding on it and
- (f) it will not seek to prevent any other Member, a Direct Connector or the Company from obtaining specific performance of its obligations in respect of a Direct Connection.

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42.3 No liability for indirect and consequential loss from a Direct Connection

- (a) Subject to clauses 14 to 19 inclusive, to the maximum extent permitted by law none of the Company, a Member or a Direct Connector is liable in respect of the eftpos Hub or a Direct Connection (as the case may be) for, and no measure of damages including a party's liability under clause 42.5 will under any circumstances include:
- (i) special, indirect, incidental, consequential or punitive damages; or
 - (ii) loss of profits or loss of any of the following – revenue or clients, goodwill, bargain, anticipated savings, use of products or equipment, software, data or management time; or
 - (iii) in the case of the Company, any other loss (direct or indirect) that is not caused by the negligence of the Company,
- whether the relevant claim is made for breach of contract, in tort (including negligence), under product liability legislation, under any other statute, under an indemnity or otherwise and whether or not the party was aware or should have been aware of the possibility of such loss or damage.
- (b) To the maximum extent permitted by law, but subject to clause 42.3(c), the Company, each Member and each Direct Connector expressly disclaims all conditions and warranties, express or implied, in respect of the provision of the eftpos Hub, Direct Connection or the eftpos Settlement Service (as the case may be) that are not expressly set out in these Scheme Rules or the Technical, Operational and Security Rules.
- (c) If any guarantee, term, condition or warranty is implied or imposed in these Scheme Rules or the Technical, Operational or Security Rules, pursuant to any legislation (including, without limitation, the Competition and Consumer Act 2010 C'th) and the legislation avoids or prohibits provisions in a contract excluding or modifying the application of, exercise of such guarantee, term, condition or warranty and the Company, a Member or Direct Connector (as applicable) is able to limit its liability, the guarantee, term, condition or warranty is deemed to be included in this agreement provided that, the liability of the Company, Member or Direct Connector (as the case may be) for breach of such guarantee, term, condition or warranty, if the legislation so permits, is limited to one or more of the following at the option of the Company, Member or Direct Connector (as applicable):
- (i) resupply of the service; or
 - (ii) cost of resupply of the service.

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42.4 Project delays for Standard Direct Connection Services

- (a) The sole remedy available to either the Company or a Direct Connector that made its systems available for testing to implement a Standard Direct Connection Service at the time agreed in a Standard Direct Connection Project Document (**Available Party**) when a counterparty to the Standard Direct Connection Service did not (**Delaying Party**) will be the Liquidated Damages.
- (b) Each Delaying Party agrees that the Liquidated Damages are a conservative and genuine pre-estimate of loss that each Available Party may suffer as a result of a delay in testing a Standard Direct Connection Service.

42.5 Indemnities

- (a) Subject to clauses 42.3 and 42.9, each Direct Connector agrees to indemnify, and pay on demand, each other Direct Connector and the Company against any and all liability, losses, claims, demands, actions, suits or proceedings (including all costs) which it suffers or incurs as a result of:
 - (i) in respect of any Service Provider to that Direct Connector, any failure or malfunction of and any Notifiable Incident to the extent caused or contributed to by its respective Service Providers following a root cause analysis; or
 - (ii) in respect of a Direct Connection to the eftpos Hub, any Notifiable Incident to the extent caused or contributed to by its respective Direct Connection following a root cause analysis.
- (b) Subject to clauses 42.3, 42.6, 42.8 and 42.9, the Company agrees to indemnify, and pay on demand, each Member against any and all liability, losses, claims, demands, actions, suits or proceedings (including all costs) which it suffers or incurs as a result of any Notifiable Incident to the extent caused or contributed to by the eftpos Hub as a result of the Company's negligence following a root cause analysis, calculated by reference to each Member's proportionate losses when compared to the aggregate losses incurred by all Members arising from the Notifiable Incident caused or contributed to by the eftpos Hub.
- (c) For the purposes of this clause 42.5, a root cause analysis is an investigation (which may include a forensic investigation), initiated by the Company, of the conditions existing in respect of the premises, equipment, software and processes at each Direct Connector and the eftpos Hub involved in connection with a Notifiable Incident and may include an audit pursuant to clause 28.14. Each Direct Connector and the Company will co-operate to perform a root cause analysis.

42.6 Company not Liable

Subject to clause 42.3, to the maximum extent permitted by Law, the Company will not be liable for any loss to any persons or damage to persons or property, whether such loss or damage is direct or

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consequential (including economic loss, loss of profits, loss of data, loss of potential savings or loss of business opportunity), howsoever arising out of the performance of the Company's obligations under the Scheme Rules (apart from clause 41) or the Technical, Operational and Security Rules or any Guide or other notification issued by the Company, including:

- (a) any decision made by the Company in connection with its rights or obligations under the Scheme Rules or the Technical, Operational and Security Rules or any subsidiary rule or document;
- (b) any act or omission by any Member or Direct Connector or any person other than the Company, its officers, employees or agents (including any errors or delays, any breach of warranty or undertaking or representation, any breach of the Scheme Rules or the Technical, Operational and Security Rules or the terms of any other document relating to the Scheme Rules or the Technical, Operational and Security Rules or any fraud or any forgery);
- (c) any act or omission by, or any refusal to do any act by, the Company, its officers, employees or agents in good faith and without negligence or in reliance on any act, conduct or consent of any other person or on any instructions, information or document provided by any other person;
- (d) the failure of the Company, its officers, employees or agents to receive instructions, information or documents from any other person, unless the failure has resulted from a negligent act or omission of the Company;
- (e) the terms of any instructions, information or document given to the Company, other than an error or omission resulting from a negligent act or omission of the Company;
- (f) any error or omission in any document issued by the Company, other than an error or omission resulting from a negligent act or omission of the Company;
- (g) any technological failure of any sort (including without limitation any telephone computer or electrical failure);
- (h) any contractual arrangements between any Member and any other person;
- (i) any change in the status, financial condition, affairs or creditworthiness of a Member or another person, including in its capacity as a Direct Connector, Direct Clearer or Clearing Agent; or
- (j) any claim by a third party that the Company or a Member has breached the Intellectual Property Rights of that third party (**Claim**) in respect of Licensed Materials under clause 45.1(d).

42.7 Response to Claim

Upon receipt of notification of a potential Claim, the Company, at its sole discretion will use its reasonable endeavours to:

- (a) procure for the Company and each Member and their Service Providers certified under clause 12, the right to continue using such Licensed Materials; or

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- (b) replace or modify the infringing item(s) to make their use non-infringing, providing that any such replacement or modification will be at least functionally equivalent and without the Intellectual Property Right infringement causing the Claim, and that such replacement or modification will be carried out as soon as reasonably practical so as to avoid or reduce so far as possible any interruption in the Company's and each Member's operations.

42.8 Limitation of Liability

If, notwithstanding clause 42.2, any liability is incurred by the Company in relation to the Scheme Rules or the Technical, Operational and Security Rules or any subsidiary rule or document, to the maximum extent permitted by Law, the aggregate amount of that liability in respect of all claims made by Members (and any of their Non-clearers or Service Providers) or Direct Connectors (and any entity for which they provide Clearing or Settlement services) in respect of, or arising out of, any one event will not exceed the aggregate amount of fees paid to the Company by those Members or those Direct Connectors during the twelve (12) months preceding the month in which the liability is incurred.

42.9 Contribution and limitation of claims period

Any amounts payable by the Company, a Member or a Direct Connector under this clause 42 is reduced in respect of each Member or Direct Connector or each other Member or Direct Connector (as the case may be) proportionately to the extent that the liability was caused or contributed to by that other party. No claims can be made under this clause more than 12 months after the event giving rise to the liability first occurred.

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43 Notices

- (a) A notice, consent or other communication under the Scheme Rules and/or the Technical, Operational and Security Rules is only effective if it is:
- (i) in writing and in legible English, signed by or on behalf of the person giving it;
 - (ii) addressed to the person to whom it is to be given; and
 - (iii) either:
 - A) sent by pre-paid mail (by airmail, if the addressee is overseas) or delivered to that person's address;
 - B) sent by fax to that person's fax number; or
 - C) sent by electronic mail to that person's electronic mail address.
- (b) Subject to paragraph (a), a notice, consent or other communication under the Scheme Rules and/or the Technical, Operational and Security Rules is, in the absence of earlier receipt, regarded as given and received:
- (i) if it is delivered, on delivery at the address of the relevant person;
 - (ii) if it is sent by fax at the time and on the day it was successfully sent;
 - (iii) if it is sent by mail, on the third Business Day after the day of posting, or if to or from a place outside Australia, on the seventh Business Day after the day of posting; or
 - (iv) if it is sent by electronic mail at the time and on the day it was successfully sent.
- (c) If a notice, consent or other communication under the Scheme Rules and/or the Technical, Operational and Security Rules is given and received on a day that is not a Business Day or after 5.00 pm (local time in the place of receipt) on a Business Day, it is regarded as being given and received at 9.00 am on the next Business Day.
- (d) For the purposes of this clause, a person's address and fax number and electronic mail address are:
- (i) if the addressee is the Company, the registered office of the Company; and
 - (ii) if the addressee is a Member, an address shown for that person in the register of Members maintained by the Company; and
 - (iii) in all other cases, the address and fax number or electronic mail address (if any) supplied by that person to the sender of the notice.

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44 GST

- (a) Any consideration or amount payable under the Scheme Rules and/or the Technical, Operational and Security Rules and/or a Guide, including any non-monetary consideration (as reduced in accordance with clause (e) if required) (Consideration) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with the Scheme Rules and/or the Technical, Operational and Security Rules and/or a Guide, an additional amount (Additional Amount) is payable by the party providing the Consideration for the Supply (Recipient) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (Supplier) in accordance with the GST Law.
- (c) The Additional Amount payable under clause (b) is payable at the same time and in the same manner as the Consideration for the Supply but is only payable on receipt of a valid Tax Invoice (if required under the GST Law).
- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause (b):
 - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
 - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
 - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note (if required by the GST Law) within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Notwithstanding any other provision in the Scheme Rules and/or the Technical, Operational and Security Rules and/or a Guide, if an amount payable under or in connection with Scheme Rules and/or the Technical, Operational and Security Rules and/or a Guide (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (Amount Incurred), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes, without limitation, an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a Member is entitled.

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45 Intellectual Property

45.1 Acknowledgment of the Company's Rights

- (a) Each Member and Direct Connector acknowledges that the right, title and interest in and to all Intellectual Property Rights in:
- (i) the Scheme Rules;
 - (ii) the Technical, Operational and Security Rules;
 - (iii) any trade mark, business name, company name, trading style or get up referred to in clause 35 or any subsidiary document or specification,
- are and remain the property of the Company.
- (b) From time to time, the Company may make materials, including software and Standards, available to Members for use in connection with eftpos Transactions (Licensed Materials). The Company will, in such instances, attribute ownership or copyright in Licensed Materials on the face of the Licensed Materials or through notification by the Company to the Member.
- (c) Except as expressly set out in these Scheme Rules, no right, title or interest in the Intellectual Property Rights in the Licensed Materials is created or vests in any Member and nothing in these Scheme Rules operates to assign or transfer any title in, or ownership of, any Intellectual Property Rights in the Licensed Materials to any person.
- (d) Where copyright is attributed in Licensed Materials or other software to the Company:
- (i) the Licensed Materials or other software are the Confidential Information of the Company and clause 41 applies to those Licensed Materials or other software;
 - (ii) if required by the Company, the Member will track Use and disclosure by the Member and will cause any of its Service Providers to track Use and disclosure by that Service Provider, of the Licensed Materials or other software;
 - (iii) unless otherwise stated in Schedule 2 for the relevant software, the Company grants to each Member and any Service Provider of the Member that is certified pursuant to clause 12 and who enters a deed poll with the Company in respect of this clause 45.1, a non-exclusive, non-transferable, non-sublicensable, royalty-free licence (subject to clause 18 and 36) on the terms set out in Schedule 2 of all of the Company's Intellectual Property Rights that are incorporated, embedded in or otherwise associated with the Licensed Materials, for Use (excluding Development) of the Licensed Materials by the relevant Member and their Service Provider, solely in connection with eftpos Transactions;
 - (iv) where stated in Schedule 2 for the relevant software, the Company authorises each Member and any Service Provider of the Member that is certified pursuant to clause 12 and who enters a deed poll with the Company in respect of this clause 45.1, rights to use

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- software, on terms set out in the deed poll, clause 41 and Schedule 2 for the relevant software; and
- (v) the Licensed Materials or other software are delivered by the Company to the Member and any of its Service Providers on an “as is” basis and without representation or warranty, except to the extent that a representation or warranty cannot be excluded by law in which case the Company’s liability is limited to resupply of the goods or the cost of resupply of the goods or re-performance of the services or the cost of re-performance of the services.
- (e) Where copyright is attributed in Licensed Materials or other software to a third party, the Member acknowledges that:
- (i) the Licensed Materials or other software are the Confidential Information of the nominated third party and that, as between the Company and the Member, clause 41 applies to those Licensed Materials or other software;
 - (ii) if required by the Company, the Member will track Use and disclosure by the Member and will cause any of its Service Providers to track Use and disclosure by that Service Provider, of the Licensed Materials or other software;
 - (iii) the Company may have limited rights to grant sub-licences for the Member or any of its Service Providers to use the Licensed Materials or other software;
 - (iv) unless otherwise stated in Schedule 2 for the relevant software, a separate licence, which will have terms substantially similar to those set out in Schedule 2 (as applicable), is required to be entered into between the Company and either or both of the Member and, any of its Service Providers (to the extent the Company is permitted to do so) in respect of the use of the Licensed Materials;
 - (v) where stated in Schedule 2 for the relevant software, the Company authorises each Member and any Service Provider of the Member that is certified pursuant to clause 12 and who enters a deed poll with the Company in respect of this clause 45.1, rights to use software, on terms set out in the deed poll, clause 41 and Schedule 2 for the relevant software; and
 - (vi) the Licensed Materials or other software are delivered by the Company to the Member and any of its Service Providers on an “as is” basis and without representation or warranty, except to the extent that a representation or warranty cannot be excluded by law in which case the Company’s liability is limited to resupply of the goods or the cost of resupply of the goods or re-performance of the services or the cost of re-performance of the services.
- (f) Each Member agrees to immediately cease using and return to the Company and cause all of its Services Providers to immediately cease using and return to the Company the Licensed Materials or other software if the Member ceases to be a Member or on request from the Company.
- (g) The Member must not:

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- (i) create or assert any lien, charge, mortgage, encumbrance or other right against the Licensed Materials or other software; or
- (ii) transfer, licence, assign or otherwise deal in the Licensed Materials or other software.

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Schedule 1 - Definitions and Interpretation

1.1 Definitions

- (a) Terms used in the Scheme Rules not defined in this clause have the meaning given to them in:
- (i) the Constitution; or
 - (ii) if also not defined in the Constitution, in the Technical, Operational and Security Rules.
- (b) The following words have these meanings in the Scheme Rules unless the contrary intention appears.

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| Acceptance Device | means a Digital Acceptance Device or an eftpos Terminal as the case maybe. |
| ACICA | means the Australian Centre for International Commercial Arbitration. |
| Acquirer Member | means a Member which acquires eftpos Transactions. |
| Active BIN | means a BIN that is designated as active in the BIN Database. |
| Adjustment Event | has the meaning given to that term in the GST Law. |
| Adjustment Note | has the meaning given to that term in the GST Law. |
| AIN | means a unique 6-9 digit numeric institutional identifier specified or adopted by the Company to identify eftpos Acquirers. |
| API Platform | means the application programming interface used to transmit and receive information in a form which can be |

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| | read and used by the eftpos infrastructure to facilitate eftpos services and functionality. |
| Applicable Non-clearer | has the meaning in clause 4(c) |
| Applicant Direct Connector | means any person: <ul style="list-style-type: none"> (a) who is a current Member and applies to become a Direct Connector; or (b) applying to the Company for membership and participation as a Direct Connector; or (c) a Processor or Service Provider that applies to the Company to be a non-member Direct Connector. |
| APRA | means the Australian Prudential Regulation Authority. |
| Arbitrator | has the meaning in clause 39.7(a). |
| Auditor | Means auditors, inspectors or other representatives, which operate internationally or are specialists in the field of the particular audit and have not been engaged by the entity being audited in respect of matters to which the audit relates. |
| Australian Payments Network | Means the Australian Payments Network Limited (formerly known as APCA). |
| Authorised eftpos Digital Merchant | means a Merchant authorised by an eftpos Acquirer to accept eftpos Transactions in accordance with the Technical, Operational and Security Rules. |
| Available | means that the Direct Connection is capable of exchanging messages in respect of eftpos Transactions in accordance with the Standard Direct Connection Service Levels. |
| Available Party | has the meaning in clause 42.4. |
| Batch Administrator | means operator of the eftpos Batch Settlement Service with the authority to enter into RITS the net Batch Participant positions to be settled simultaneously in the eftpos Batch Settlement. |

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| Batch Agency Report | means a report for each Direct Settler and Indirect Settler pairing for their netted position. |
| Batch Participant Report | means a report of the netted position of a eftpos Batch Participant (including any Indirect Settler on whose behalf they Settle) against each other eftpos Batch Participant (including any Indirect Settler on whose behalf they Settle). |
| Batch Recorded Date | means: (a) the Transaction Settlement Date if that date is the same as a RITS Business Day; or (b) the next RITS Business Day if the Transaction Settlement Date is not a RITS Business Day. |
| Bilateral Agreement | means an existing agreement between two (2) Members with respect to eftpos Transactions and/or eftpos Interchange Activities. |
| BIN | means a bank identification number, a unique 6-9 digit numeric institutional identifier for eftpos Issuers (also known as Issuer Identification Number (IIN)). BIN can include card BINs and/or token BINs. |
| BIN Database | means the AIN-BIN database or any token BIN database maintained by the Australian Payments Network or such other administrator of the database from time to time and adopted by the Company for use to identify eftpos Issuers. |
| Board | means the board of directors of the Company. |
| Branding Third Parties | has the meaning in clause 36.2 |
| Business Day | means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in New South Wales. |
| Cashout | means a transaction that is used by an Acquirer Member (on behalf of a Merchant) to obtain authorisation from an Issuer Member to complete an eftpos Consumer initiated cashout request at an eftpos Terminal. |

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| Cardholder Initiated Transactions | Any transaction where the Cardholder is present and provides their payment credential. This can be through an Acceptance Device. A Cardholder-Initiated Transaction contains verification that a Cardholder was involved in the transaction. |
| Card-Not-Present (CNP) | means card not present, which in the case of a Transaction means where a Cardholder's credentials are used without the Cardholder being physically present. For the purposes of the eftpos Payment System, this does not include mail order, telephone order transactions. |
| Certification | means the process set out at clause 12 under which a Member demonstrates to the Company that it complies with: <ul style="list-style-type: none">(a) the Scheme Rules and the Technical, Operational and Security Rules; and(b) if applicable, conditions applying to exemptions it has been granted in respect of the Scheme Rules and the Technical, Operational and Security Rules. |
| Certification Body | means a subsidiary or a division of the Company established to certify whether eftpos Form Factors, eftpos Terminals and any process or infrastructure utilised to process eftpos Transactions complies with the Standards and Specifications issued by the Company from time to time. |
| Certification Checklist | means the checklist specified by the Company from time to time for the purposes of clause 12. |
| Chargebacks | has the meaning in the Technical, Operational and Security Rules. |
| Claims and Demands | means claims, demands, damages, losses, costs, charges, expenses, actions, proceedings and liabilities whether at law, in equity or otherwise. |
| Clearing | means the process of transmission and/or authorization and, in the case of bilateral Settlement reconciliation of |

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payment instructions, between eftpos Issuers and eftpos Acquirers, arising out of eftpos Transactions.

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| Clearing Agent | means a Member that carries out Clearing, directly or indirectly, on behalf of one or more Non-clearers. |
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| COIN | means the Community of Interest Network, administered by the Australian Payments Network, used to transmit eftpos Transaction and Settlement information for the purposes of approved payment systems, including the eftpos Payment System. For clarity, this is not the same as the eftpos Hub. |
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| COIN Operating Manual | means the operating manual maintained and administered by the Australian Payments Network for the purposes of the COIN. |
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| Commencement Date | means 1 January 2011. |
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| Company | means eftpos Payments Australia Limited ABN 37 136 180 366. |
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| Confidential Information | <p>of a party means all information of that party or any of its Related Bodies Corporate (regardless of form) which:</p> <ul style="list-style-type: none">(a) is regarded by the party as confidential to it or can reasonably be inferred to be confidential from the circumstances in which it is disclosed;(b) is disclosed to or observed by another person; and(c) is not in or has not come into the public domain otherwise than by disclosure in breach of an obligation of confidence owed to the party, and all notes, compilations, analyses, extracts, summaries and other records prepared by or for the benefit of the person receiving information or any of its Related Bodies Corporate based on or incorporating that information, but does not include:<ul style="list-style-type: none">(d) information which is generally and publicly available; or |
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- (e) information on an aggregated basis which is required by the Company for reporting requirements, but which does not identify the provider of the information.

Constitution means the Company's constitution as amended from time to time, and a reference to a particular Part or a particular Article has a corresponding meaning.

Consumer Data means any information that is stored on, or appears on, an eftpos Form Factor.

Corporations Act means *Corporations Act 2001 (C'th)*.

Corrective Batch Means:

- (a) the Batch Participant Report for the eftpos Batch Settlement netting only the adjusted Settlement obligations of each Direct Settler against each other Direct Settler following incorrect values being submitted to RITS in the Primary Batch after the Primary Batch has settled; and
- (b) the RITS Instruction for the eftpos Batch Settlement that is submitted to RITS to adjust incorrect values being sent to RITS for settlement in the Primary Batch after the Primary Batch has settled.

Counterparty has the meaning given to that term in clause 4(b)

Creditable Acquisition has the meaning given to that term in the GST Law.

Means a single transaction which the cardholder has granted the merchant permission to perform, but which is processed by the merchant sometime after the consent has been granted. For clarity, the amount the merchant eventually charges may be less than (but never more than) the amount to which the cardholder has consented.

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| Delaying Party | has the meaning in clause 42.4. |
| Deposit | means a transaction to credit funds to the account of an eftpos Consumer, other than in the process of returning goods or services. |
| Develop | Develop in connection with the licence in clause 45.1(d) includes create, add, modify, enhance, reduce, adapt or prepare derivative works based on that thing, and Development has a corresponding meaning |
| Digital Acceptance Device | means a website, mobile application, tablet application and any other acceptance equipment or application used through a payment channel where a physical eftpos Terminal is not present, as prescribed by the Company from time to time, operated by or on behalf of an Authorised eftpos Digital Merchant. |
| Direct Clearer | means: <ul style="list-style-type: none">(a) an Acquirer Member that carries out Clearing of eftpos Transactions directly with an Issuer Member; or(b) an Issuer Member that carries out Clearing of eftpos Transactions directly with an Acquirer Member. |
| Direct Clearing Arrangement | means an arrangement between two indirectly connected Members for the purposes of Clearing with each other directly. |
| Direct Connection | means: <ul style="list-style-type: none">(a) a direct communications link to the eftpos Hub for the purposes of:<ul style="list-style-type: none">(i) exchanging payment instructions and related messages in respect of Member activities as an Issuer Member or Acquirer Member; and/or(ii) exchanging payment instructions and related messages on behalf of eftpos Issuers or eftpos Acquirers, one or more Direct Settlers or Non-Clearers who also have Direct Settler |

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- arrangements, to facilitate the Clearing and Settlement of eftpos Transactions; or
- (b) a direct interface to the eftpos TSP or any infrastructure or applications nominated by the Company from time to time and operated by or behalf of the Company for the purposes of the eftpos Payment System.

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| Direct Connection Administration Fee | means the fee published by the Company from time to time as the fee for evaluation of applications for Direct Connection. |
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| Direct Connector | means: <ul style="list-style-type: none">(a) a Member that:<ul style="list-style-type: none">(i) exchanges eftpos payment instructions and related messages using:<ul style="list-style-type: none">A. before the eftpos Hub is operational, two or more Direct Connections; orB. once the eftpos Hub is operational, a Direct Connection to the eftpos Hub;C. infrastructure or applications nominated by the Company from time to time and operated by or behalf of the Company for the purposes of the eftpos Payment System; and(ii) carries out Clearing of eftpos Transactions;(b) a Processor with a Direct Connection to the eftpos Hub, which carries out Clearing of eftpos Transactions for Members or persons represented in Clearing by Members; or(c) a Service Provider, with a Direct Connection providing services to a Member in accordance with the Technical, Operational and Security Rules; or(d) a Merchant or Merchant Service Provider with a Direct Connection. |
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| Direct Settler | means: |
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- (a) an Acquirer Member that settles with an Issuer Member, or with a Settlement Agent on behalf of that Issuer Member, for the value of payment obligations arising from eftpos Interchange Activities between it and the Issuer Member; or
- (b) an Issuer Member that settles with an Acquirer Member, or with a Settlement Agent on behalf of that Acquirer Member, for the value of payment obligations arising from eftpos Interchange Activities between it and the Acquirer Member; and
- (c) in either case, is a body corporate that has an ESA and participates in RITS for eftpos Batch Settlement.

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| Disabling Event | means any: <ul style="list-style-type: none"> (a) processing, communications or other failure of a technical nature; (b) inaccessibility (total or partial) of facilities by means of which exchanges are conducted; or (c) manifestation of industrial action, which affects or may affect the ability of a Member to participate to the normal and usual extent in Clearing or Settlement. |
| Disclosing Party | has the meaning in clause 41(c)(i). |
| Dispute | has the meaning in clause 39.1. |
| Dispute Notice | has the meaning in clause 39.4(a). |
| Disputed Transactions | Has the meaning in the Technical, Operational and Security Rules. |
| DSEP | means in relation to an FTS Event, a Direct Settler excluded from the Primary Batch which, prior to becoming a DSEP: <ul style="list-style-type: none"> (a) fails to discharge Settlement obligations incurred by it (or any Indirect Settler or Non-clearer on behalf of whom it Settles) under or in accordance with the eftpos Scheme Rules and/or the Technical, Operational and Security Rules. This includes a failure to have sufficient funds in their ESA to settle |

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- their net Settlement obligation by 12 noon on the relevant RITS Business Day; or
- (b) suffered an Insolvency Event, other than Statutory Management, in respect of itself; or
 - (c) is otherwise suspended or terminated pursuant to clause 14 or 18 of the eftpos Scheme Rules.

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| DSEP Batch | means: <ul style="list-style-type: none">(a) the Batch Participant Report for the eftpos Batch Settlement netting only the Settlement obligations of each Survivor against a DSEP; and(b) the RITS Instruction netting only the Settlement obligations of all Survivors against a DSEP, where an FTS Event, not being an Insolvency Event, has occurred. |
| eftpos Access Code | means the access code published by eftpos Access Australia Limited ABN 99 119 811 344 and effective until 30 November 2015. |
| eftpos Account Types | means the eftpos Account Types specified in the Primary BIN Record for an Active BIN. |
| eftpos Acquirer | means a Member which, in connection with an eftpos Transaction: <ul style="list-style-type: none">(a) on behalf of an eftpos Issuer, discharges the obligations owed by that eftpos Issuer to the relevant eftpos Consumer; and(b) engages as a result in eftpos Interchange Activities with that eftpos Issuer. |
| eftpos API Specifications | means the document entitled eftpos API Specification published by the Company from time to time. |
| eftpos Batch Participant | means a Direct Settler that participates in eftpos Batch Settlement. |

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| eftpos Batch Settlement | means the settlement batch within RITS known as the eftpos Batch using a RITS Instruction provided by the Company, whether through: (a) the Primary Batch; or (b) the Secondary Batch; or (c) DSEP Batch; or (d) Corrective Batch. |
| eftpos Card | is a card which meets the requirements of clause 23.1(a). |
| eftpos Card-Not-Present (CNP) Standard | means the document of that name as published by the Company from time to time. Formerly known as eftpos Digital Acceptance Framework (eDAF) Acceptance Criteria Standard. |
| eftpos Card-Not- Present (CNP) Solution Assessment Criteria | defines the criteria by which an eftpos Member and all parties involved in the usage and handling of Card-Not-Present Transactions and the eftpos Member can prove compliance with the eftpos Card-Not-Present Standard. Formerly known as eftpos Digital Acceptance Framework (eDAF) Solution Assessment Criteria and includes reference to the eftpos Digital Acceptance Framework Assessor Guide. |
| eftpos Consumer | means a customer of an eftpos Issuer who is issued with an eftpos Form Factor and a PIN or other authentication method or process prescribed by the Company from time to time for use with that form factor. |
| eftpos Development Project | means either: (a) a project for a Direct Connector to connect to the eftpos Hub; or (b) any other project involving a Direct Connector which is initiated between a relevant Member and the Company and through which the Member implements a Company prescribed or optional development. |

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| eftpos Digital | means eftpos Digital Acceptance and eftpos In-App Payment and any other payment channel notified by the Company from time to time. |
| eftpos Digital Acceptance | means functionality which enables: <ul style="list-style-type: none">(a) a Registered eftpos Consumer to initiate eftpos Transactions with an Authorised eftpos Digital Merchant, using a Digital Acceptance Device;(b) an Authorised eftpos Digital Merchant to initiate eftpos Transaction where the eftpos Card is stored; or(c) an Authorised eftpos Digital Merchant to initiate a Deposit to an eftpos Consumer account using eftpos Digital. |
| eftpos Digital Acceptance Solution | means a solution that performs eftpos Digital Acceptance functionality. |
| eftpos Digital Acceptance Framework Acceptance Criteria Standard | Same as eftpos Card-Not-Present (CNP) Standard. |
| eftpos Digital Acceptance Framework Assessor Guide | Same as eftpos Card-Not-Present (CNP) Solution Assessment Criteria. |
| eftpos Form Factor | means an eftpos Card and any other form factors as prescribed by the Company from time to time, which meet the requirements of clause 23.1(a). |
| eftpos Hub | means the centralised connectivity, message transmission, transaction storage and reporting infrastructure, operated by or for the Company, for the Clearing of eftpos Transactions between eftpos Issuers and eftpos Acquirers and for related eftpos Interchange Activities. For clarity, this includes tokenisation and de-tokenisation of messages where the Company is a token service provider. |

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| eftpos Hub Application Fee | means the aggregate of the Direct Connection Administration Fee, Standard Hub Direct Connection Fee and eftpos Hub Workshop Fee. |
| eftpos Hub Processing Fee | means the infrastructure fee, published by the Company from time to time as periodically payable by a Direct Connector for use of the eftpos Hub and in connection with the Standard Hub Direct Connection services. |
| eftpos Hub Workshop | means a workshop in respect of an implementation project for a Standard Hub Direct Connection. |
| eftpos Hub Workshop Fee | means the fee published by the Company from time to time for eftpos Hub Workshop attendance. |
| eftpos In-App Payment | means a Transaction within a Merchant's Acceptance Device, using an OEM solution which includes eftpos. |
| eftpos Interchange Activities | means the exchange of payment instructions and related messages between Members, usually by electronic means, in relation to eftpos Transactions. |
| eftpos Issuer | means a Member which issues an eftpos Form Factor and, in connection with any eftpos Transaction effected using that eftpos Form Factor: <ul style="list-style-type: none">(a) assumes obligations to the relevant eftpos Consumer, which obligations are in the first instance discharged on its behalf by an eftpos Acquirer; and(b) engages as a result in eftpos Interchange Activities with that eftpos Acquirer. |
| eftpos Hub Link Specification | means the document entitled eftpos Hub Link Specification (eLS) published by the Company from time to time. |
| eftpos Logo | means the following trade mark: |



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And any other trade mark notified by the Company to Members from time to time pursuant to clause 35.1.

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| eftpos Mobile | means functionality which enables an eftpos Consumer, using an eftpos Form Factor, embodied as a Mobile Device, to initiate eftpos Transactions to purchase goods or services from a Merchant. |
| eftpos Mobile Service | means the services, as defined in the Standard Mobile Service Schedule, provided by the Company in support of eftpos Mobile. |
| eftpos Payment System | means the payment system governed by these Scheme Rules. |
| eftpos Payment Token service | means the service provided by eftpos for the issuance of Payment Tokens and detokenisation of tokenised Transactions. |
| eftpos Cobrand Card | means a Multi-Network Debit Card issued by an eftpos Issuer where one of the eftpos (ACe) applications is the primary application on the chip. |
| eftpos Prop Card | means an eftpos Card which is issued using: (a) an eftpos BIN; (b) eftpos Member owned BIN; or (c) eftpos Payment Token and displays the eftpos Trade Mark on the front of the card. |
| eftpos Secure | means the functionality which enables Members, Direct Connectors and Service Providers to utilise a Risk Based Analysis, a Strong Customer Authentication method or any other method as communicated by the Company from time to time. |
| eftpos Settlement Service | means the Settlement service provided by the Company to Members, using eftpos Batch Settlement. |

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| eftpos Terminal | means a device or method (whether or not in conjunction with equipment) used by an eftpos Acquirer to put into effect an eftpos Transaction and includes each hardware and software component of it. |
| eftpos TSP | means the applications operated by the Company for provision of the eftpos Mobile Service and issuance of eftpos Payment Token service. |
| eftpos Transaction | means an electronic funds transfer that: (a) involves an eftpos Issuer and an eftpos Acquirer; and (b) is processed via: (i) an Interchange Link; and/or (ii) processing infrastructure owned or operated by, or on behalf of, the Company; and (c) is one of the transaction types described in clause 22.1 of the Scheme Rules. |
| eftpos Transaction Report | means the report referred to in clause 34.1, which is an aggregation for the relevant calendar month of the relevant Member's Member Batch File. |
| EMV Specifications | means the EMVCo LLC Integrated Circuit Card Specifications for Payment Systems as in force from time to time. |
| Exchange Settlement Account or ESA | means an exchange settlement account maintained with the RBA, which can be used for Settlement. |
| Fallback | has the meaning in the Technical, Operational and Security Rules. |
| Fixed Frequency Payment | means where an eftpos Consumer and a merchant entered a Payment Arrangement where the frequency of transactions is fixed, e.g. memberships, subscriptions. The amount of each transaction may vary, e.g. utility bills. |

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Force Majeure Event means:

- (a) fire, flood, earthquake, or acts of God; or
- (b) acts of war, terrorism (excluding acts or omissions of the Company's or Direct Connector's personnel), riots, civil disorders or rebellions or revolutions impacting Australia and/or the relevant Direct Connector's premises and/or the eftpos Hub or other eftpos infrastructure or applications to which a Direct Connection applies (as the case may be).

Foundation Member means the Members that were Members of the eftpos Payment System as at 2010.

FTS Event occurs in respect of a Direct Settler, where that Direct Settler:

- (a) fails to discharge the Settlement obligations incurred by it (as payer) under the eftpos Scheme Rules and the Technical, Operational and Security Rules. This includes a failure to have sufficient funds in their ESA to settle their net Settlement obligation by 12 noon on the relevant RITS Business Day;
- (b) suffers an Insolvency Event in respect of itself; or
- (c) is otherwise suspended or terminated under clauses 14 or 18.

GST means the goods and services tax as imposed by the GST Law together with any related interest, penalties, fines or other charges.

GST Amount means, in relation to a Payment, an amount arrived at by multiplying the Payment (or the relevant part of the Payment if only part of a Payment is consideration for a Taxable Supply) by the appropriate rate of GST.

GST Group has the meaning given to that term in the GST Law.

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| GST Law | has the meaning given to that term in <i>A New Tax System (Goods and Services Tax) Act 1999 (Act)</i> , or, if that Act is not valid or does not exist for any reason, means any act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that act. |
| Guide | means any document produced by the Company to aid Member interpretation of Standards or Specifications or which sets out processes and includes manuals, forms and process flow documents. |
| IAC | means the Issuer and Acquirer Community Framework, as amended from time to time. |
| IAC Code Set | means the code set administered by the Australian Payments Network for the Issuers and Acquirers Community as amended from time to time. |
| IAC Regulations | means the regulations administered by the Australian Payments Network for the Issuers and Acquirers Community as amended from time to time. |
| Indirect Settler | means a Member or Non-clearer that has appointed a Direct Settler to settle on its behalf. |
| Input Tax Credit | has the meaning given to that term in the GST Law. |
| Insolvency Event | means the occurrence of any one of more of the following events in relation to a Member: <ul style="list-style-type: none">(a) an application is made to a court for an order or an order is made or an effective resolution is passed for winding up or dissolution without winding up (other than for the purposes of solvent reconstruction or amalgamation) of that Member or the Member gives notice of intention to do so;(b) an application is made to a court for an order to appoint, or a provisional liquidator, liquidator, or like |

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- official is appointed over the whole or substantial part of the undertaking and property of that Member, whether or not under an order;
- (c) it enters into (or resolves to enter into) an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors;
 - (d) the Member is or states that it is unable to pay its debts when they fall due;
 - (e) it is insolvent as disclosed in its accounts, or otherwise states that it is insolvent, or it is presumed to be insolvent under an applicable law;
 - (f) it becomes an insolvent under administration under the Corporations Act or action is taken which could result in that event;
 - (g) it is taken to have failed to comply with a statutory demand as a result of s 459F(1) of the Corporations Act 2001 (Cth);
 - (h) a notice is issued under ss 601AA or 601AB of the Corporations Act 2001 (Cth);
 - (i) the Member is, or makes a statement from which it may be reasonably deduced that the Member is, the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act 2001 (Cth);
 - (j) the Member takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation;
 - (k) Statutory Management;
 - (l) to the extent not otherwise provided for above, the Member goes into external administration within the meaning of the *Payment Systems and Netting Act 1998 (Cth)*;
 - (m) it ceases to carry on business or threatens to do so; or

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- (n) anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the above clauses of this definition; or
- (o) the Member is a Direct Settler and suspended by the RBA in RITS.

Instalment Payment

Means one of a series of purchase transactions, initiated by a Merchant, using card details previously provided by a cardholder to the merchant, acting under authority granted to that Merchant by the cardholder, where the number of such transactions, the amount of each transaction, and the frequency of transactions being initiated have each been agreed between cardholder and merchant prior to the first such transaction being initiated.

Intellectual Property Rights

means all intellectual property rights including:

- (a) patents, copyrights, rights in circuit layouts, designs, trade or service marks, trade, business or company names, indication of source or appellation of origin, domain names, keywords, and any right to have confidential information kept confidential, whether registered or unregistered;
- (b) any application or right to apply for registration of, or assert or waive, any of the rights referred to in (a); and
- (c) moral rights.

Interchange Fee Commencement Date

means the date upon which the interchange fees (and/or formula for their calculation) first specified by the Company pursuant to clause 33.1(a)(ii) take effect.

Interchange Settlement Report

has the meaning given to it in the document called eftpos Hub Files and Reports.

Issuer Member

means a Member which gives its customers the ability to initiate eftpos Transactions.

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| Late Payment Rate | means the greater of: (a) 6% per annum; or (b) the cash rate published by the Reserve Bank of Australia plus 4% per annum, compounded monthly. |
| Law | means any statute, regulation, semi-legislative instrument, quasi-regulation, compulsory code or voluntary code by which a Member or the Company is bound. |
| Licensed Materials | has the meaning set out in clause 45.1(b) |
| Liquidated Damages | means the amount which is the lesser of: (a) the sum of Wages, Materials and Outsourced Testing Expenses; and (b) Liquidated Damages Cap. |
| Liquidated Damages Cap | (a) means 75% of the Standard Hub Direct Connection Fee. |
| Materials | means the amount paid and which cannot be recouped by the Available Party for consumables purchased in anticipation of testing, which did not occur. |
| Medicare Claim Refund | means the payment of a Medicare benefit from Medicare Australia to a patient. |
| Member | means, other than for the purposes of clause 44 (f), a person that has been admitted as a Member of the Company. For the purposes of clause 44 (f), "Member" has the meaning given to that term in the GST Law. |
| Member Batch File | is the file of that name specified in section 9 of the Technical, Operational and Security Rules. |
| Merchant | means a person which provides goods or services to an eftpos Consumer and which, in the normal course, is |

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reimbursed directly or indirectly by the eftpos Acquirer to which it electronically transmits that eftpos Transaction, from the Acceptance Device that it operates. Note that a Staged Digital Wallet Operator is a sub-set of Merchant.

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| Merchant Initiated Transaction | means an authorisation request that: (a) relates to a previous Cardholder-Initiated Transaction; or (b) relates to a Payment Arrangement, but conducted without the Cardholder present, and without any Cardholder validation performed. |
| Merchant Service Fee | means the transaction based fee charged by the eftpos Acquirer to a Merchant for acquiring eftpos Transactions from that Merchant, whether collected on an ad valorem or flat fee basis or charged as a blended rate across all eftpos Transaction types or on the basis of a margin added to an interchange rate or any other basis. |
| Merchant Service Provider | means, without limitation, entities that stand between a Merchant and an Acquirer, with or without a Direct Connection, for example gateways, token requestors, Instalment Payment service provider, third party processors, website service providers, aggregators, or who otherwise provide services to the Merchant for purposes of facilitating eftpos Transactions. |
| Multi-Network Card | means either a Multi-Network Debit Card or a Multi-Network Credit Card. |
| Multi-Network Credit Card | means a credit card issued by an eftpos Issuer that can be used to initiate either: (a) an eftpos Transaction; or (b) a transaction that is processed by another payment system, not being one connected to the eftpos Hub, accessing a credit account and/or a combined deposit and credit account, irrespective of form factor. |

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| Multi-Network Debit Card | means a debit card issued by an eftpos Issuer that can be used to initiate either: (a) an eftpos Transaction; or (b) a transaction that is processed by another payment system, not being one connected to the eftpos Hub. accessing a deposit account, irrespective of form factor. |
| Non-clearer | means an issuer of eftpos Form Factors and/or an acquirer of eftpos Transactions that has appointed a Clearing Agent to carry out Clearing, directly or indirectly, on its behalf. |
| Notice of Decision | has the meaning in clause 38.1(b). |
| Notifiable Incident | means any actual or suspected breach, accidental, unlawful or unauthorised destruction, loss, alteration, access to, disclosure of or any breach of security relating to Personal Information. |
| On-Us Transaction | means a transaction that is: (a) initiated by a customer of a Member; and (b) acquired by that same Member. |
| Outsourced Testing Expense | means the costs paid and which cannot be recouped by the Available Party to a third party provider to undertake or assist in testing, which did not occur. |
| Panel of Arbitrators and Experts | has the meaning in clause 39.3. |
| Pay As You Go Payment (PAYG) | means a Payment Arrangement where the eftpos Consumer or their behaviour has triggered an eftpos Transaction to occur. This could either be: a) Ad-hoc transaction, e.g. order ahead apps b) Transaction with variable frequency and fixed amount, e.g. auto-top up |

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| Payment | means a fee or an amount of any monetary consideration (other than a GST Amount). |
| Payment Arrangement | means where the eftpos Consumer and the Merchant entered an arrangement and the eftpos Consumer granted authority for to process eftpos Transaction(s) to occur for specific terms, a) Fixed Frequency Payment b) Instalment Payment c) Post Payment Adjustment Payment d) Deferred Payment e) Pay As You Go Payment |
| 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. |
| PIN | means a personal identification number which is either issued by an eftpos Issuer, or selected by an eftpos Consumer for the purpose of authenticating the eftpos Consumer by the eftpos Issuer of the eftpos Form Factor. |
| Potential FTS Event | means any act, matter or thing which with the lapse of time or the fulfilment of any condition would, or would reasonably be likely to, result in an FTS Event. |
| Post-Payment Adjustment | Means a single transaction arising when cardholder action subsequent to a previously authorised payment has resulted in additional charges being owed to the merchant, which the merchant has initiated using the card details provided during the original payment. |

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| Pre-Authorised | a transaction that is used by an Acquirer Member (on behalf of a Merchant) to obtain authorisation from an Issuer Member of a purchase transaction up to a certain amount prior to the purchase amount being calculated. |
| Primary Batch | means: <ul style="list-style-type: none">(a) the Batch Participant Report for the eftpos Batch Settlement netting the Settlement obligations of each Direct Settler against each other Direct Settler; and(b) the first RITS Instruction for the eftpos Batch Settlement that is submitted to RITS on a RITS Business Day. |
| Primary BIN Record | means a record for a BIN by that name in the BIN Database. |
| Privacy Law | means the <i>Privacy Act 1988</i> (Cth), the <i>Spam Act 2003</i> (Cth) and any other applicable legislation, principles, industry codes and policies relating to the handling of Personal Information. |
| Processor | means a person which is not a Member and: <ul style="list-style-type: none">(a) is nominated by a Member to be a Direct Connector for the purposes of eftpos Interchange Activities on behalf of that Member or any Non-clearer for which that Member is a Direct Settler or Clearing Agent; and/or(b) facilitates Clearing for Settlement on behalf of a Member or a person represented by a Member as Clearing Agent or Direct Settler, using a Direct Connection to the eftpos Hub. |
| Purchase | a transaction that is used by an Acquirer Member (on behalf of a Merchant) to obtain authorisation from an Issuer Member to complete an eftpos Consumer initiated purchase transaction with a Merchant or service provider. For the purposes of eftpos Open Loop Transit, a Deferred Card Present Purchase transaction is considered a Purchase transaction. |

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| Purchase and Cashout | a transaction that is used by an Acquirer Member (on behalf of a Merchant) to obtain authorisation from an Issuer Member to complete an eftpos Consumer initiated: a) purchase transaction with a Merchant or service provider; and b) cashout request at an eftpos Terminal. |
| Quarter | means a 3 month period commencing on 1 January, 1 April, 1 July or 1 October. |
| RBA | means the Reserve Bank of Australia |
| Reasonable Cost of Acceptance | means the Cost of Acceptance in Standard 3 of 2016 "Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions" published by the RBA on 26 May 2016. |
| Recurring Payment | Means one of a series of purchase transactions, initiated by a Merchant, using card details previously provided by a cardholder to the merchant, acting under authority granted to that Merchant by the cardholder, where there may or may not be a pre-agreed limit to the number of such transactions that the merchant may initiate. For clarity, the amount of each transaction, and the frequency of each transaction, may be fixed or variable. Differentiated into following Payment Arrangements as part of eftpos CNP Standard: a) Fixed Frequency Payment Arrangement b) Pay As You Go (PAYG) Payment Arrangement |
| Refund | a transaction that is initiated by an Acquirer Member (on behalf of a Merchant) when a Merchant or service provider has a need to return funds to an eftpos Consumer in respect of a prior purchase; for example, if the eftpos Consumer has returned unwanted goods. |

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| Registered eftpos Consumer | means an eftpos Consumer holding an eftpos Form Factor and registered to use eftpos Digital in accordance with the Technical, Operational and Security Rules. |
| Related Body Corporate | has the meaning given to that term in the Corporations Act. |
| Representative Member | has the meaning given to that term in the GST Law. |
| Restoration Period | means the time period specified by the Technical Operating and Security Rules for restoration to Availability of a Direct Connection which is not Available for any reason. |
| Review Costs | has the meaning in clause 40.8. |
| Review Panel | has the meaning in clause 40.3. |
| Reviewable Decision | has the meaning in clause 40.1. |
| Reviewable Decision Notice | has the meaning in clause 40.2. |
| Risk Based Analysis | means a method of authentication approved by the Company which is proportional to the risk profile of the resource the Cardholder is trying to access and/or action it is seeking to execute. |
| RITS | means the RBA Information and Transfer System. |
| RITS Business Day | means a day RITS is open and able to effect settlement, which is every weekday except for weekdays which are declared public holidays for both Sydney and Melbourne. |
| RITS Instruction | means a file in the format prescribed by the RBA and complying with the specifications for the RITS Batch Feeder. |

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Scheme Fee means all the fee owed by the Member to the Company at any time, including but not limited to the scheme fee, Infrastructure fee, ATM processing fee, Dispute & Arbitration fee.

Scheme Fee Report has the meaning given to it in the document called eftpos Hub Files and Reports.

Scheme Rules means:

- (a) these rules, which have been adopted by the Company in accordance with Article 9 of the Constitution and any amendments to them; and
- (b) any schedule, document, or rule published by the Company pursuant their terms;

but, for approval purposes only, does not include any documents issued pursuant to decisions made by the Company which are authorised by these rules, including decisions made under Rule 33 and Guides issued by the Company.

Secondary Batch means:

- (a) the Batch Participant Report for the eftpos Batch Settlement netting only the Settlement obligations of each Survivor against each other Survivor, excluding a DSEP; and
- (b) the second RITS Instruction for the eftpos Batch Settlement that is submitted to RITS on a RITS Business Day, netting only the Settlement obligations of all Survivors against each other Survivor, excluding a DSEP,

where an FTS Event, not being an Insolvency Event, has occurred.

Self Acquirer means a Merchant that

- (a) is a Member;
- (b) electronically transmits or receives payment instructions for value to or from one or more eftpos

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- Issuers (excluding any eftpos Acquirer that receives payment instructions from that Merchant in the capacity of an eftpos Issuer) as a result of eftpos Transactions which are initiated at Acceptance Devices operated by that Merchant or any of the Merchant's Related Bodies Corporate; and
- (c) bears risk as principal in relation to the payment obligations of each such Issuer arising out of such exchanges, and to that extent only.

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| Service Provider | means: (a) a person engaged by a Member or a Non-clearer to provide services in connection with eftpos Transactions for the Member or Non-clearer, including without limitation, a third party Processor, a card personalisation entity or a terminal manufacturer; or (b) Merchant Service Providers. |
| Settlement | means the process of exchanging value to discharge payment obligations between Issuer Members & Acquirer Members, and between Members and the Company, arising from eftpos Interchange Activity or eftpos Transactions. |
| Settlement Agent | means a Direct Settler that has been appointed by a Member to settle on its behalf. |
| Settlement Items | means the payment obligations (whether as a payer or payee) between Issuer Members and Acquirer Members, arising from eftpos Transactions and between the Members and the Company for Scheme Fees. |
| Single Payment | Means where the eftpos Consumer provided their card credentials to a Merchant for the purpose of a once-off transaction. The card credentials are not stored on file but the eftpos Consumer may elect post transaction to have their card credentials stored. Single Payment includes transactions at guest checkout. |

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| Specification | means any document, by whatever name called, that sets out principles for and timing required and methods suggested by the Company for implementation of Standards. |
| Standard | means the technical and business requirements prescribed by the Company for the implementation of revised or new eftpos functionality or infrastructure enhancements related to eftpos Transactions, Acceptance Devices, eftpos Interchange Activities and any matter covered by the Scheme Rules. |
| Standard Direct Connection Process | means the process to be followed by Applicant Direct Connectors, including an application form, process, timeline, project framework, change management process, testing process and protocols, certification process, communications protocols and such other explanation and information, which: (a) for a Standard Hub Service is as provided by the Company from time to time to Applicant Direct Connectors; and (b) for any connection to infrastructure or applications nominated by the Company for the purposes of the eftpos Payment System, is as provided by the Company from time to time to Applicant Direct Connectors. |
| Standard Direct Connection Service | Means: (a) for Clearing, eftpos Interchange Activities of Settlement, the Standard Hub Service; (b) for the eftpos Mobile Service, a Direct Connection to the eftpos Hub or, where permitted by the Company, to the eftpos TSP; and (c) for any other services made available by the Company to Members for the purposes of the eftpos |

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Payment System, a connection service nominated by the Company to the relevant infrastructure or applications.

Standard Direct Connection Service Levels means the service levels referred to in clause 28.4.

Standard Direct Connection Project Documents means the documents and project artefacts as they apply to a Standard Direct Connection Service set out in the document entitled Direct Connector On-Boarding Pack.

Standard Direct Connection Testing Protocol means the testing protocol prescribed by the Company to test the Standard Direct Connection Service.

Standard Direct Connection Timeframe subject always to such delays as are necessary to ensure the integrity, reliability, stability and security of the eftpos Payments Systems,

- (a) in respect of the eftpos Hub, means the period of up to 9 months from the date of acknowledgement of receipt by the Company of the application for membership, plus periods of commensurate duration as any extended testing or certification period or project delay caused by the relevant Direct Connector; and
- (b) in respect of any other Direct Connection, the period specified by the Company in the Direct Connector On-Boarding Pack.

Standard Hub Direct Connection means a Direct Connection using a Standard Hub Service.

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| Standard Hub Direct Connection Fee | means the amount charged periodically by the Company to each Direct Connector on a per Direct Connection basis as published by the Company from time to time. |
| Standard Hub Service | means the service described in the Standard Hub Service Schedule as published by the Company from time to time for connection through the eftpos Hub. |
| Standard Hub Service Schedule | means the document of that name published by the Company from time to time. |
| Standard Mobile Service Schedule | means the document of that name published by the Company from time to time. |
| Standard Service | means the Direct Connection services and the activities associated with those Direct Connection services as set out in the Direct Connection service catalogue published by the Company from time to time, including without limitation: <ul style="list-style-type: none">(a) the Standard Hub Service;(b) the eftpos Mobile Service;(c) the eftpos TSP Service Schedule;(d) the eftpos API Platform Service Schedule; and(e) administration services related to Disputed Transactions and Chargebacks. |
| Statutory Management | means an ADI statutory manager as defined in the Banking Act 2009 is appointed to a Direct Settler. |
| Stay Order | has the meaning in clause 40.4. |
| Sub-licence Records | has the meaning in clause 36.2(c). |
| Supply | has the meaning given to that term in the GST Law. |
| Tax Invoice | has the meaning given to that term in the GST Law. |

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| Taxable Supply | has the meaning given to that term in the GST Law. |
| Technical, Operational and Security Rules | has the meaning given in clause 29.1. |
| Testing Window | means any of the periods prescribed by the Company in the change calendar issued by the Company for the relevant calendar year. |
| Third Party Costs | means fees and costs payable to third parties in connection with an enforcement action (for example, legal fees). |
| Territory | means the Commonwealth of Australia. |
| Trade Mark Licence | has the meaning given in clause 36.1(a). |
| Trade Mark | means jointly and severally as the context requires: (a) all registrations for the eftpos Logo registered pursuant to the Trade Marks Act 1995 in respect of which the Company is the registered owner (as those terms are defined in the Trade Marks Act 1995), or any other trade mark (whether registered or unregistered) developed by or for the Company or acquired by the Company, and notified to the Members in accordance with clause 35.1; and all other trade marks licensed to the Company by a third party, not being a Member. |
| Transaction Settlement Date | means the date that the eftpos Hub assigns to the eftpos Transaction, derived from field 15 of an eftpos Transaction message. |
| Use | (a) in respect of clauses 35 and 36 means copy, reproduce, distribute and display but excludes registration of any trade marks, business names, company names or domain names that include, |

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incorporate, are deceptively similar to or imply an affiliation between that person and the Company,

- (b) in respect of clause 45.1(d) means install, use, copy, access, execute, reproduce, distribute, transmit, perform and display, and execute all other acts of copyright (other than Develop) now known or hereinafter devised; and
- (c) in respect of clause 45.1(e) means such activities as are permitted in the relevant licence.

Wages

means the wages paid to the personnel of the Available Party for time spent or set aside in anticipation of testing, which did not occur, but only for the period until the personnel resumed other duties.

Withdrawal

a transaction that results in a debit to an eftpos Consumers' account, other than in the process of performing a Cashout, Purchase or Purchase and Cashout.

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Interpretation

- (a) In the Scheme Rules:
- (i) words importing any gender include the other genders;
 - (ii) the word person includes a firm, a body corporate, an unincorporated association or an authority;
 - (iii) the singular includes the plural and vice versa; and
 - (iv) a reference to a statute, code or the Corporations Act (or to a provision of a statute, code or the Corporations Act) means the statute, the code, the Corporations Act or the provision as modified or amended and in operation for the time being, or any statute, code or provision enacted in lieu thereof and includes any regulation or rule for the time being in force under the statute, the code, the Corporations Act or the provision.
- (b) Words defined in the Corporations Act have, unless the contrary intention appears, the same meaning in the Scheme Rules.
- (c) An expression used in a particular part or division of the Corporations Act that is given by that part or division a special meaning for the purposes of that part or division has, in any part of the Scheme Rules that deals with the matter dealt with by that part or division, unless the contrary intention appears, the same meaning as in that part or division.
- (d) Headings are inserted for convenience and do not affect the interpretation of the Scheme Rules.

The words "including", "such as", "for example" and similar expressions are not used as nor are intended to be interpreted as words of limitation.

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Schedule 2 - Sub-licence

2.1 Trade Mark Licence

A sub-licence to Use the Trade Marks must:

- (a) be granted by an eftpos Issuer to a Service Provider engaged by that eftpos Issuer to produce eftpos Form Factors;
- (b) be granted by an Acquirer Member to a Merchant that accepts eftpos Form Factors, by a Clearing Agent to a Non-clearer, or by a Non-clearer to a Merchant that accepts eftpos Form Factors;
- (c) be limited to the purpose(s) prescribed by the Company pursuant to clause 35.1(a);
- (d) require the sub-licensee to:
 - (i) comply with any requirements, process and/or style guide prescribed by the Company pursuant to clause 35.1(a); and
 - (ii) not to use the Trade Marks in a manner that is inconsistent with or detracts from any branding, Trade Mark requirements or marketing messages of the Company.
- (e) terminate upon:
 - (i) termination of the contract between the eftpos Issuer and the Service Provider;
 - (ii) termination of the contract between the Acquirer Member and Merchant;
 - (iii) the eftpos Issuer ceasing to be an eftpos Issuer;
 - (iv) the Acquirer Member ceasing to be a Member; or
 - (v) breach of the sub-licence not remedied within a set period, being no longer than 30 days after written notice to remedy is given (or such other period agreed in writing by the Company and the applicable Member);
- (f) require the Service Provider to immediately cease using the Trade Marks and destroy all materials and paraphernalia that include the Trade Marks upon termination and assign to the Company any trade marks, business names, company names or domain names that include, incorporate, are deceptively similar to or imply permission to use the Trade Marks;
- (g) require the Merchant to immediately cease using the Trade Marks and destroy all materials and paraphernalia that include the Trade Marks upon termination and assign to the Company any trade marks, business names, company names or domain names that include, incorporate, are deceptively similar to or imply permission to use the Trade Marks;

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- (h) provide that the Service Provider's or Merchant's right to use the Trade Marks (as the case may be) does not confer any proprietary or other interest in the Trade Marks, whether during or after the term;
- (i) acknowledge that the Company is the owner or licensee of the Trade Marks; and
- (j) exclude any liability of the Company, to the Service Provider or Merchant, to the maximum extent permitted by law.

2.2 Tokenisation service software licence (third party copyright)

Pursuant to rule 45 of the eftpos Scheme Rules, as a separate and stand alone licence on registration by the Member with the Company for use of the Tokenisation service, the Company grants to each Member revocable, non-transferable, non-sublicensable, royalty free licence for the purposes of the eftpos Payment System to the Tokenisation service software hosted at the eftpos Hub to:

- a) use or receive the benefit of the Company's Tokenisation service; and/or
- b) use or receive the benefit of any eftpos applet embedded in an OEM Solution,

solely for the purposes of providing eftpos Mobile services to that Member's eftpos Consumers for the eftpos Consumer to initiate and complete valid eftpos Transactions using enabled Mobile Devices, provided that a Member will not and will through their customer terms not permit their eftpos Consumers to:

- (i) grant any sublicenses to the Company's Tokenisation software and/or eftpos applet (as the case may be);
- (ii) copy, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Company's Tokenisation Service and/or eftpos applet (as the case may be), in whole or in part; or
- (iii) attempt to gain unauthorised access to any infrastructure or software used by the Company to provide the Company's Tokenisation software and/or eftpos applet (as the case may be) through any means.

In the case of use of the Company's Tokenisation service, Members may only distribute any plug-in (SDK) provided by the Company to the Member for use in relation to payments transmission and

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payments processing and subject to the terms of this Tokenisation services licence. For clarity, Members may modify a plug-in to enable required connectivity.

This licence may be terminated by the Company immediately if the Member does not comply with the limitations of the licence set out in this clause.

Clauses 41 and 45 of the eftpos Scheme Rules apply to this licence.

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2.3 Disputed Transactions and Chargebacks service software (third party copyright) Acceptable Use Terms

Authorisation: Members and their Service Providers that meet the requirements of clause 45 of these rules are authorised to use the Disputed Transactions and Chargebacks service software (for the purposes of this Schedule 2, the “D&C Service”) on the following acceptable use terms (AUT). First use of the D&C Service binds the Member or their Service Provider (as the case may be) to these AUT. Each Member is responsible for and will ensure that each of its registered users of the D&C Service adheres to these AUT.

Termination: If a Member or its Service Provider uses the D&C Service in a manner inconsistent with the AUT, the Company may terminate that use.

Permitted Use: The Member and each user may use the D&C Service in accordance with the AUT for Member’s own internal business operations, through users registered by that Member (“Users”). Users are individuals, not business entities, authorised by the Member, solely to the extent they are acting for the benefit of the Member. Use of the D&C Service is subject to clause 41 of these eftpos Scheme Rules. Any collection, use, disclosure, access or storage of Personal Information must be in accordance with the Privacy Law.

Restrictions: The Member and User may not: (i) use its access to the D&C Service to develop a solution that could function as a replacement, similar, or competing solution to the D&C Service; (ii) permit any other business entity or individual to have access to or use of the D&C Service, use the D&C Service to review transactions on behalf of any third party without the Company’s knowledge and prior written consent, or (iii) re-sell, loan, rent, lease, pledge, assign, license, sub-license or otherwise transfer any rights to use of the D&C Service or granted under these AUT.

Workstation and hardware: The Member is responsible for providing, maintaining and operating the workstations, software, internet access and hardware at User’s locations that send data to and receive data from the D&C Service. Failures of the internet, Users’ workstations, related hardware or software, internet access or Users’ equipment, or security measures within Users’ use locations are not D&C Service faults.

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Access and security: The Member is responsible for keeping a register of authorised Users, administering and maintaining password, login, access and use protocols to ensure the secure access and use by each of the Member's Users of the D&C Service. User is responsible for maintaining the confidentiality of all logins and passwords. User must not share logins or passwords. The Member is responsible for all actions and conduct, including the actions and conduct of their Users (whether employees, contractors or Service Provider employees and contractors), occurring under User's logins to the D&C Service. The Member must perform a monthly review and update of their authorised Users and add, change or delete Users to ensure accuracy.

Proprietary rights in the D&C Services and intellectual property rights: Nothing in these AUT or the Scheme Rules gives any Member any rights in the D&C Services except as expressly set out in this AUT. Each Member acknowledges for itself and each User that: i) the D&C Service is proprietary to the stated copyright owner and shall remain the exclusive property of the stated copyright owner; (ii) copyrights, trademarks, product or service names, brand names, company names, and logos appearing in the D&C Service are the property of their respective owners; and (iii) each Member and each User has, and shall acquire in connection with this AUT, no rights in the D&C Service other than as expressly set out in this AUT. Each Member and each User agrees to prevent the unauthorised access, duplication, distribution, modification, or other use of the D&C Service. Use of any third party software that the Member and each User elects to use with the D&C Service shall be governed by such third party's license and not by this AUT.

Modification: The D&C Service may from time to time be changed. The Member will receive notice prior to a change being made.

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Schedule 3 - Exemption Application Form



Member/Direct Connector:

Date of Request:

Date of Original Request:

Ref Number:

| Section & clause number of requirement | Requirement for which Member/Direct Connector is not in compliance | Situation (reason for non-compliance) | Risk | Rank | Compensating Controls | Residual Risk | Action to be taken and timeframe |
|---|---|--|--|---|---|---------------------|---|
| The section/clause from the Scheme Rules or the Technical, Operational and Security Rules | Type in the actual wording of the Requirement with which the Member/Direct Connector is not complying | Describe the situation, including when and why out-of-compliance occurred. | Describe the risks the out-of-compliance situation poses | High, Medium or Low (see weighting chart below) | List the compensating controls that reduce the risk | High, Medium or Low | List what you are doing to correct the non-compliance |
| | | | | | | | For extension request Indicate the reason for seeking an extension Promised date of correction Indicate the date for correction of the non-compliance. |

Risk Weighting

| HIGH | MEDIUM | LOW |
|---|--|---|
| <ul style="list-style-type: none"> potential loss of integrity of Direct Connection/PINs potential material losses to the Company, Members, Direct Connectors, Merchants or eftpos Consumers potential mass fraud potential loss of public confidence/damage to the reputation of the Company or Members or Direct Connectors | <ul style="list-style-type: none"> potential reduced integrity of PINS potential changes to financial content of transaction potential monetary losses to Members, Direct Connectors, Merchants or eftpos Consumers could be significant. | <ul style="list-style-type: none"> minimal effect on the integrity of Direct Connection/PINs potential monetary losses to Members/Direct Connectors would not be significant. |

Disclosure (where applicable) I authorise eftpos to provide the Australian Payments Network with a copy of this exemption request.

Name: _____ Position: _____ Signature: _____

Schedule 4 – Direct Connector Application and Undertaking

To: eftpos Payments Australia Limited
Level 11, 45 Clarence St
Sydney, NSW 2000

This Application and Undertaking is dated [insert date] and made by [insert full company name] ([Australian Business Number or company registered number for a foreign registered entity]) of [insert registered office or primary trading street address] (**Applicant**).

1. The Applicant has:
 - (a) entered into a confidentiality agreement with eftpos Payments Australia Limited (ABN 37 136 180 366) (**eftpos**); and
 - (b) received a copy of the eftpos Scheme Rules, Technical, Operational and Security Rules, eftpos Hub Link Specification and, in respect of Direct Connections to the eftpos Hub, also receive the Standard Hub Service Schedule, and in respect of Direct Connections to the eftpos TSP, the Mobile Service Schedule and the Issuer Web Service API and/or Token Requestor API (as applicable to the Applicant Direct Connector) and, in respect of any other eftpos Infrastructure the relevant documentation that may be applicable and relevant to such a connection as published by eftpos (together with the **Direct Connection Documents**).
2. Terms used in this Application and Undertaking have the same meanings as the Direct Connection Documents.
3. Direct Connections to the eftpos Hub
 - (a) This Application and Undertaking is effective and binding on the Applicant from the date it is signed and is not intended nor required to be signed by eftpos to be valid and effective.
 - (b) The Applicant applies to be a Direct Connector to the eftpos Hub and agrees that:
 - (i) it provides Clearing services for the Members, Direct Settlers or Non-clearers named in Schedule 1 to this Application and Undertaking;
 - (ii) it is bound, through this Application and Undertaking, to the Direct Connection Documents as a Direct Connector;
 - (iii) it is not and is not applying to become a Member and will not through any outcome from this Application and Undertaking be admitted as a Member of the eftpos Payment System;
 - (iv) its contact personnel for the purposes of Direct Connector activities under the Direct Connection Documents are set out in Schedule 1 to this Application and Undertaking; and
 - (v) eftpos is not required to take action or make demand against any Member, Direct Settler or Non-clearer for whom the Direct Connector provides Clearing services before taking such action or making such demand to the Direct

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Connector in respect of the acts and omissions of the Processor in respect of the Direct Connector Documents.

4. Other Direct Connections

- (a) This Application and Undertaking is effective and binding on the Applicant from the date it is signed and is not intended nor required to be signed by eftpos to be valid and effective.
- (b) The Applicant applies to be a Direct Connector to infrastructure or applications operated by or on behalf of the Company (other than the eftpos Hub as indicated in this form) and agrees that:
 - (i) it provides services for the Members (and where relevant their Non-Clearers) or it is a Merchant or it provides processing (including but not limited to tokenisation and detokenisation) services to Merchants or Service Providers through the Acquirer(s) or the Member(s) named in Schedule 1 to this Application and Undertaking;
 - (ii) it is bound, through this Application and Undertaking, to the Direct Connection Documents as a Direct Connector;
 - (iii) it will not through any outcome from this Application and Undertaking be admitted as a Member of the eftpos Payment System;
 - (iv) its contact personnel for the purposes of Direct Connector activities under the Direct Connection Documents are set out in Schedule 1 to this Application and Undertaking; and
 - (vi) eftpos is not required to take action or make demand against any Member for whom the Direct Connector provides services before taking such action or making such demand to the Direct Connector in respect of the acts and omissions of the Direct Connector in respect of the Direct Connection Documents.

Signed, sealed and delivered by _____)

[insert full name of entity] ([insert company)

registered number]) by _____) Director

.....

Witness

Director/Company Secretary

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Schedule 1 to Direct Connector Application and Undertaking

For Direct Connections to the eftpos Hub

Names of Members (and their Non-clearers) for whom the Applicant provides Clearing services:

| Name and ABN of Member or Non-clearer entity | Specify if Member or Non-clearer |
|--|----------------------------------|
| | |
| | |
| | |
| | |

For Direct Connections (other than to the eftpos Hub)

Names of Members (and their Non-clearers where relevant) for whom or Acquirer(s) for whom the Applicant provides services:

| Name and ABN of Member (or their Non-clearers) entity/Acquirer(s) | Specify if Member (or Non-clearer) | Member Service Provider |
|---|------------------------------------|-------------------------|
| | | |
| | | |
| | | |
| | | |

Contact details for Applicant's personnel

These details (including any Personal Information provided by the applicant hereunder) will only to be used by and shared between the Company, eftpos Hub service provider or other eftpos infrastructure and application service provider (which may be located in any of the locations specified in the Company's privacy policy (available at www.eftposaustralia.com.au) and other Direct Connectors for the purposes of workshopping, implementing and operating (including incident management) a Direct Connection. The applicant confirms it is authorised to provide the below information and must keep the relevant information up to date and complete. The applicant must notify the named individuals that their contact information has been provided to the

Company, the uses and disclosures to be made of it as set out in this application and that they can seek to update or access their personal information by contacting privacy@eftposaustralia.com.au. The Direct Connector will provide a copy of the Company's Privacy Policy available at www.eftposaustralia.com.au to the individuals named below:

| Name of personnel | Title | Contact phone numbers (both landline and mobile) | Address | Role | Escalation point |
|-------------------|-------|--|---------|------|------------------|
| | | | | | |
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