

Tyro Payments Limited ABN 49 103 575 042 AFSL 471951

## Tyro EFTPOS Banking Terms and Conditions

Effective: 9 December 2019

Tyro EFTPOS Banking includes four components, the Tyro EFTPOS Facility, Tyro eCommerce, the Tyro Bank Account and the Tyro Business Term Deposit. You may also receive offers for Tyro lending products. If you accept any offer for Tyro lending products, this Agreement applies to those products too.

You will not be provided with a Product Disclosure Statement in relation to Tyro EFTPOS Banking. Except for Equipment Fees, there will be no initial costs in acquiring Tyro EFTPOS Banking and the ongoing costs are set out in clause 8.0 of Part A – General Terms. Please contact us if you have questions or require further information in relation to the ongoing costs of Tyro EFTPOS Banking.

### PART A – GENERAL TERMS

#### 1.0 Agreement

These terms along with the Application Form and the Privacy Statement and Consent constitute your agreement with us (“**Agreement**”). By submitting an Application Form (including electronically) and/or continuing to use the Tyro Services, you agree to be bound by this Agreement.

We may also make additional material available for download or use that may have additional terms and conditions. All additional terms and conditions are incorporated into and are a part of this Agreement.

The Agreement governs your relationship with us regarding the Tyro Services and will apply to the exclusion of any inconsistent terms issued by you.

#### 2.0 Definitions

In this Agreement:

“**Access Code**” means your four digit access code for the Tyro App.

“**Account User**” means the person(s) that the Authorised Signatory(ies) appoint to access, operate and transact on the Tyro Bank Account, view balances and obtain statements.

“**Additional Site Request Form**” means the additional site request form lodged by you with us for the Tyro EFTPOS Facility and/or eCommerce Facility (as applicable).

“**ADI**” means an authorised deposit-taking institution that is regulated by APRA under the *Banking Act 1959* (Cth).

“**Administration Authority**” means the level of authority you select to control your Tyro EFTPOS Banking.

“**AML/CTF Act**” means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).

“**Apple**” means Apple Inc.

“**Application Form**” means the application form lodged by you with us for the Tyro Bank Account, Tyro eCommerce and/or Tyro EFTPOS Facility (as applicable).

“**APRA**” means the Australian Prudential Regulation Authority.

“**ATM**” means an automated teller machine.

“**AUD**” means the lawful currency of Australia.

“**Authorisation**” means the response to you requesting our approval for a Card to be used for a Transaction, whether through the Terminal, Tyro eCommerce or otherwise.

“**Authorised Signatory**” means the person(s) who is authorised to control your Tyro EFTPOS Banking on the terms set out in this Agreement.

“**Base Interest Rate**” means the base interest rate published from time to time on <https://www.tyro.com/rates>.

“**Bonus Interest Rate**” means the bonus interest rate published from time to time on <https://www.tyro.com/rates>.

“**BPAY®**” is a registered trademark of BPAY Pty Ltd ABN 69 079 137 518.

“**BPAY Banking Day**” means a day that is not a Saturday or Sunday and which banks in the States of Victoria and New South Wales are able to effect settlement through the Reserve Bank of Australia.

“**BPAY Biller**” means an organisation that is registered to receive payments through the BPAY Scheme.

“**BPAY Payment**” means a payment to a BPAY Biller made through the BPAY Scheme.

“**BPAY Scheme**” means the electronic payments scheme through which you may ask us to make payments (BPAY Payments) on your behalf to organisations (BPAY Billers) who tell you that you can make payments to them through the BPAY Scheme.

“**Business Day**” means any day other than a Saturday, Sunday or day which is a bank holiday or public holiday in the State of New South Wales.

“**Card(s)**” means:

- a. a credit, debit, charge, purchase or other valid payment card issued by a member or affiliate of a Scheme on which the Scheme’s Marks appear;
- b. a valid payment card capable of acceptance under the eftpos Mark issued by an Australian bank or financial institution;
- c. any valid payment card issued under any loyalty program;
- d. any other valid payment card issued by another entity which the Terminal or Tyro eCommerce is enabled to accept;
- e. a barcode or QR code (displayed on a device, a Terminal or point-of-sale system) issued by a Scheme (including together with a digital wallet) which a

Terminal or point-of-sale system is enabled to accept;  
or

f. any electronic derivation of any of the above.

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

**"Chargeback"** refers to a transaction value that is debited to the Settlement Account due to a Cardholder disputing a Transaction or a Transaction being an Invalid Transaction for any reason.

**"Commencement Date"** means the earlier to occur of:

- a. the date on which we issue the Tyro Bank Account to you;
- b. the date on which we process the first Transaction for you; or
- c. the date that is 7 days after shipping your Equipment.

**"Communications Service"** means a service that allows for the capture and switching of Transactions via the eftpos System by use of either a digital mobile telecommunication service, broadband internet or similar telecommunication services.

**"Consequential Damages"** means any property damage, loss of use, loss of business, economic loss, loss of data or loss of profits.

**"Customer Support"** means our customer support team which can be contacted via the methods set out on our website.

**"DCC Chargeback"** means a Chargeback resulting from a DCC Transaction.

**"DCC Rebate"** means a rebate on the AUD value of a DCC Transaction as set out in your Application Form or as notified by us.

**"DCC Recipient Created Tax Invoice"** means an invoice generated by us and issued to you in respect of the taxable supplies made by you in relation to the DCC Rebate pursuant to the GST Law.

**"DCC Refund"** means a Refund resulting from a DCC Transaction.

**"DCC Services"** means our dynamic currency conversion services.

**"DCC Transaction"** means a Transaction utilising the DCC Services.

**"Delivery Address"** means the address specified in the Application Form as the address to which Equipment to be supplied by us is to be delivered which must be an address in Australia.

**"Developer TOU"** means the eCommerce Developer Terms of Use available at <https://www.tyro.com/developer-terms-of-use>.

**"Device"** means any electronic devices from which the Tyro App can be accessed as notified by us.

**"Direct Debit Request"** means the direct debit request set out in the Application Form and Additional Site Request Form or any other relevant form (if applicable) and signed by you, as amended from time to time.

**"Direct Debit Request Service Agreement"** means the direct debit request service agreement as set out in clause 9.0 of Part A of this Agreement.

**"DXC Technology"** means iSOFT Australia Pty Ltd (trading as DXC Technology) being the third party service provider

through which we connect to health funds for allied health claiming services.

**"eCommerce Facility"** means the Tyro eCommerce facility (including access to the Tyro eCommerce platform) that is made available by us and governed pursuant to this Agreement.

**"eftpos System"** means the process where, on instructions transmitted through a Terminal or Tyro eCommerce, a Cardholder's bank account is debited and your account credited or vice versa as the case may be:

- a. in relation to goods or services supplied or cash made available by you to the Cardholder; or
- b. with the amount of any refund in respect of goods and services supplied by you to the Cardholder.

**"EPAL"** means eftpos Payments Australia Limited ABN 37 136 180 366.

**"Equipment"** means the Terminal, any related equipment and any software you are required to download in order to process Transactions.

**"Equipment Fee"** means rental fee, service fee or swap out fee payable by you to us to hire the Equipment from us (as applicable) as set out in the Application Form or as notified by us and any delivery and freight charges as reasonably determined by us.

**"Fee Account"** means the bank account(s) that will be debited for fees and other amounts payable by you in relation to the Tyro EFTPOS Facility or Tyro eCommerce as elected by you in the Application Form or as otherwise nominated by you from time to time.

**"Fingerprint Login"** means your fingerprint that is used to log into the Tyro App.

**"Google"** means Google LLC.

**"GST"** means any tax on the supply of any goods, services, real or personal property or any similar tax imposed under the GST Law.

**"GST Law"** has the same meaning as the definition of "GST Law" pursuant to section 195-1 of *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

**"Hosted Payments Page"** means a payment interface relating to Tyro eCommerce that enables the redirection of your customers from your website to the Tyro eCommerce hosted payment gateway.

**"Insolvency Event"** means any insolvency event and includes circumstances where:

- a. you are insolvent or insolvent under administration (as defined in the *Corporations Act 2001 (Cth)*);
- b. an administrator, liquidator, provisional liquidator, controller or any other insolvency official is appointed to you or any of your property;
- c. you commit an act of bankruptcy or become a bankrupt (as defined in the *Bankruptcy Act 1966 (Cth)*);
- d. you are deregistered for any reason;
- e. you conceal, remove or transfer any part of your assets, with intent to hinder, delay or defraud your creditors, or transfer of any of your assets which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or
- f. you are unable to pay your debts as and when they fall due or you threaten to cease payment to creditors.

**“Invalid Transaction”** means a Transaction:

- a. that is illegal under Australian or international laws or prohibited by Scheme rules;
- b. that relates to Prohibited Product(s);
- c. that is not authorised by the Cardholder (including a fraudulent Transaction or where a Receipt is not signed when a signature was required);
- d. that involves a Card that is not current at the time of the Transaction;
- e. that did not originate from an act between you and the Cardholder;
- f. in relation to which you do not retain Receipts and records for at least eighteen (18) months from the date of the Transaction or do not produce the Receipt and records to us within five (5) Business Days of a request by us for production of that Receipt and/or record;
- g. that is not for the supply of goods or services to a genuine customer as part of the business activities disclosed in your Application Form;
- h. that represents a transfer of funds, not the supply of goods or services (e.g. a remittance);
- i. that is a Refund:
  - where no corresponding sales Transaction exists for the Card on which the Refund is made or purported to be made or otherwise represents a transfer of funds;
  - which represents the payment of wages/salary; or
  - which represents the winnings or proceeds from any game of chance or lottery;
- j. where you failed to comply with any messages displayed on the Terminal or Tyro eCommerce in relation to the Transaction;
- k. which is a single sale split into multiple Transactions on the same Card or which has been processed at lower Transaction values in order to obtain an Authorisation;
- l. you do not comply with your obligations under this Agreement, the Merchant Operating Guide or any other direction by us in relation to the Transaction; or
- m. you are unable to demonstrate the validity of the Transaction to our reasonable satisfaction.

**“Integrated Software”** means any integrated software provided by a Software Provider that is certified by us as being integrated with Tyro EFTPOS Banking or any Tyro products.

**“Linked Account”** means a bank account with an Australian ADI (other than us) that is held by you (for the avoidance of doubt, it must be in the same name as your Tyro EFTPOS Banking), as elected by you in the Application Form or as otherwise nominated by you from time to time.

**“Linked Account Transfer”** means a payment instruction submitted to the Tyro App for payment from the Tyro Bank Account to the Linked Account.

**“Loss”** means losses, liabilities, costs (including legal costs and Scheme penalties), expenses and damages.

**“Mark(s)”** means trademarks, including registered and common law trademarks, trade names, service marks, logos, domain names and designations owned, licensed or used.

**“Maturity Date”** has the meaning given to it in Part E.

**“Medicare Easyclaim”** means the electronic process for electronic bulk billing and patient claiming.

**“Merchant Operating Guide”** means collectively the guides, manuals and documents published here: <https://www.tyro.com/guides/>.

**“Monthly Access Fee”** means the fee payable by you to us to access Tyro eCommerce as set out in the relevant Application Form or as otherwise notified by us to you.

**“MOTO”** means any card-not-present Transaction, including Transactions processed via mail order, telephone order or through your Tyro eCommerce virtual terminal.

**“Pass Code”** means the user name, password and Access Code that is required to log in to the Tyro App.

**“Pay Anyone”** means a transfer of funds from your Tyro Bank Account to an account held with another Australian ADI initiated via the “pay anyone” feature of the Tyro App.

**“Payment Direction”** means a payment or transfer instruction submitted to the Tyro App for payment or transfer from the Tyro Bank Account to an account with another Australian ADI or to a BPAY Biller that has been:

- a. uploaded as a Payment Instruction File by an Account User;
- b. initiated as a BPAY Payment by an Account User;
- c. initiated as a Linked Account Transfer;
- d. initiated as a Pay Anyone transaction;
- e. initiated by instructions from Integrated Software;
- f. initiated using any other available method for creating a payment instruction in the Tyro App, as notified by us to you from time to time.

**“Payment Instruction File”** means a payment instruction file in the form of an ABA file or such other file type as notified by Tyro to you from time to time.

**“PCI DSS Requirements”** means:

- a. the Payment Card Industry Data Security Standards (**PCI DSS**) which are developed and published by PCI SSC; and
- b. the PCI DSS requirements published by us, available at <https://www.tyro.com/pcidss-requirements/>,

in each case, as applicable to you.

**“PCI SSC”** means the Payment Card Industry Security Standards Council.

**“Personal Data”** means any information relating to an identified individual who makes a payment through Tyro EFTPOS Banking or whose details you otherwise cause to be stored in the Tyro EFTPOS Banking systems (including but not limited to name, postal address, email address, telephone number, credit and debit card numbers and bank account numbers, or any other unique identifier specific to an individual that may be collected, stored or transferred in anticipation of, in connection with or incidental to making payments).

**“Privacy and Information Security Requirements”** means:

- a. all applicable laws, rules, regulations, directives and governmental requirements currently in effect and as they become effective relating in any way to the privacy, confidentiality, or security of Personal Data, including, without limitation, to the extent applicable, the *Privacy Act 1988* (Cth); laws regulating unsolicited email communications; laws regarding the use of cookies, web beacons, and similar technologies; security breach notification laws; laws imposing minimum security requirements; laws requiring the secure disposal of records containing certain Personal Data; and all other similar laws, rules, regulations, directives, and governmental requirements; and
- b. your own published policies relating to the collection, usage, sharing, and security of Personal Data.

**“Privacy Statement and Consent”** means our privacy statement and consent form.

**“Prohibited Products”** means the products or activities described at <https://www.tyro.com/prohibited-products> as updated by us from time to time.

**“Receipt”** means a receipt including the following information about a Transaction:

- a. amount;
- b. date;
- c. type of Transaction;
- d. facility or facilities being debited or credited;
- e. information to enable us to identify you and the Transaction (but no information that identifies the Cardholder’s name or address);
- f. time;
- g. location of Terminal or other identifying information of the Terminal;
- h. reference number; and
- i. such other information about the Cardholder or the Transaction required by the relevant Scheme as notified by us to you from time to time.

**“Refund”** means the refunding of a previously processed Transaction back onto the previously processed Card.

**“Replacement Cost”** means the replacement cost of the Equipment as reasonably determined by us.

**“Scheme”** means the Mastercard, Visa, American Express, UnionPay, Diners Club, Discover, JCB, EPAL and Alipay schemes and any other similar schemes provided that we are a member of or facilitate transactions in relation to that scheme.

**“Set Up Guide”** means the set up guide relating to the Equipment provided by us.

**“Settlement Account”** means the bank account(s) that will be credited for Transactions processed through the Tyro EFTPOS Facility or Tyro eCommerce and which are payable by us to you or debited for any Refunds or Chargebacks as elected by you in the Application Form or as otherwise nominated by you from time to time.

**“Shopping Cart Plugin”** means third party software plugins approved by us that enable your website to integrate with Tyro eCommerce.

**“Software”** means the software comprised in any Equipment supplied by us to you or any other software which we provide to you or permit you to access the Tyro Services.

**“Software Provider”** means the provider of any accounting, practice management, point-of-sale or other software that is integrated with Tyro EFTPOS Banking or any Tyro products.

**“Tap & Save”** means contactless debit card Transactions routed through the Scheme network that is the least cost to you.

**“Terminal(s)”** means the physical electronic terminal or terminals supplied by us through which instructions may be given for the transfer of funds using the eftpos System.

**“Third Party Site”** means any third party content and links to third party sites that are completely independent of us and not owned or controlled by us.

**“Transaction”** means any transaction by a Cardholder using a Card or information from a Card.

**“Tyro App”** means the application issued by us that is required to access, initiate and approve transactions for Tyro EFTPOS Banking.

**“Tyro Bank Account”** means the basic deposit account that is issued by us and governed pursuant to this Agreement (formerly referred to as the ‘Tyro Smart Account’).

**“Tyro Business Term Deposit”** means the term deposit issued by us and governed pursuant to this Agreement.

**“Tyro Confidential Information”** includes those portions of Tyro EFTPOS Banking that we do not make publicly available and all information that:

- a. gives us a competitive business advantage, gives us the opportunity to obtain a competitive business advantage, or the disclosure of which could be detrimental to our interests; or
- b. which is either (i) marked “Confidential,” “Restricted,” “Proprietary Information,” or other similar marking, (ii) known to be considered confidential and proprietary, (iii) received under circumstances reasonably interpreted as imposing an obligation of confidentiality,

but does not include:

- c. information that, at the time it is disclosed, is already in your rightful possession or available to you or your representatives from any other source having no obligation not to disclose it;
- d. information that is, or any time becomes, available to the public without any breach of obligation not to disclose it; or
- e. information that is developed independently by you without reliance on any of Tyro Confidential Information.

**“Tyro eCommerce”** means the multi-channel payment platform provided by us which allows you to:

- a. generate API keys for use in the integration options of a Hosted Payments Page, a Shopping Cart Plugin or a direct API connection;
- b. store customer details, including Card details, in order to provide card-on-file functionality;
- c. acceptance of a Transaction from a device wherever there is internet access;
- d. produce plans that facilitate the processing of Transactions from customers on a recurring basis; and



- e. generate and deliver invoices and receipts to customers via email.

“**Tyro eCommerce Portal**” means the Tyro eCommerce account management dashboard, that we make available to you in connection with your eCommerce Facility.

“**Tyro EFTPOS Banking**” means the Tyro EFTPOS Facility, Tyro eCommerce, the Tyro Bank Account and the Tyro Business Term Deposit.

“**Tyro EFTPOS Facility**” means the facility under which we provide you with merchant acquiring and transaction processing services but excludes the eCommerce Facility.

“**Tyro Portal**” means the online portal that we provide to you to access Tyro EFTPOS Facility.

“**Tyro Services**” means the services to be provided to you by us under this Agreement, including the Tyro EFTPOS Facility, Tyro eCommerce, the Tyro Bank Account and the Tyro Business Term Deposit (as applicable).

“**Voice Authorisation Process**” means the process of obtaining voice authorisation for a Transaction via Customer Support.

“**Website Requirements**” means the requirements and recommendations for the development and operation of your website that integrates with Tyro eCommerce, available at <https://www.tyro.com/tyro-website-requirements/>.

“**we**”, “**us**”, “**our**” and “**Tyro**” means Tyro Payments Limited ACN 103 575 042 AFSL 471951 who is the issuer of Tyro EFTPOS Banking.

“**you**” and “**your**” means the person or persons in whose name the account is held and includes your successors and assigns.

### 3.0 Interpretation

Unless qualified by or inconsistent with the context:

- a. a reference to a person includes an incorporated body or other association of persons or a governmental agency and vice versa;
- b. the singular includes the plural and vice versa;
- c. where a party comprises more than one person, this Agreement applies to all of them together and each of them separately;
- d. a reference to costs includes reasonable legal costs on a full indemnity basis;
- e. the approval or consent of a party means that party's prior written approval or consent which is not to be unreasonably withheld or delayed. Similar expressions have corresponding meanings;
- f. wherever “include” or “for example” or any form of those words are used, they must be construed as if they were followed by “(without being limited to)”; and
- g. if the day on or which a person must do something under this Agreement is not a Business Day, the person must do it on or by the next Business Day.

### 4.0 Authorised Signatories

The Authorised Signatories are the people authorised to control your Tyro EFTPOS Banking and are authorised to perform all functions on your Tyro EFTPOS Banking. The initial Authorised Signatories are the people that sign the Application Form. You can add or remove an Authorised Signatory by completing documentation which we request.

You must ensure that all Authorised Signatories act in accordance with this Agreement. You are responsible for any breach of this Agreement by an Authorised Signatory.

We will cancel the authority of an Authorised Signatory if we receive notice that the Authorised Signatory is deceased or does not have the capacity to act as an Authorised Signatory.

You agree to us giving information about your Tyro EFTPOS Banking to an Authorised Signatory.

### 5.0 Account Users

You can appoint a person as an Account User under this Agreement to access, operate and transact on the Tyro Bank Account, view balances and obtain statements.

Despite the Administration Authority, two Authorised Signatories (where applicable) are required to appoint an Account User by completing documentation we request. You can remove Account Users in accordance with your Administration Authority.

You are responsible for all transactions conducted by an Account User.

### 6.0 Administration Authority

Your Administration Authority is the level of authority required for:

- Authorised Signatories to authorise changes and generally control your Tyro EFTPOS Banking;
- Authorised Signatories to open a Tyro Business Term Deposit;
- Authorised Signatories to apply for or accept new products or services offered by us;
- Authorised Signatories and/or Account Users to initiate and approve payments on the Tyro App; and
- Authorised Signatories to accept loan offers from us.

Subject to the terms of this Agreement, if your Administration Authority is:

- “any to sign”:
  - any one Authorised Signatory can exercise your rights as the Tyro EFTPOS Banking account holder (apart from specific functions refer table below);
  - any one Authorised Signatory can apply for or accept new products or services offered by us;
  - any one Authorised Signatory can accept loan offers from us on your behalf via the Tyro App. The terms and conditions of loan products will be provided to the Authorised Signatory(ies) at the time of an offer. If an Authorised Signatory accepts any lending offer within the Tyro App you agree to be bound by the terms and conditions of the relevant loan product and agree to repay us any amount advanced and any fees and charges that apply to the relevant loan;
  - any one Authorised Signatory or Account User can initiate and approve payments on the Tyro App;
  - any one Authorised Signatory can open and give us instructions in relation to a Tyro Business Term Deposit.
- “any two to sign”:

- two Authorised Signatories must jointly exercise all of your rights as the Tyro EFTPOS Banking account holder (except as otherwise set out below).

However, even if your Administration Authority is “any two to sign”, for the purposes of a Tyro Business Term Deposit, any Authorised Signatory may open and give us instructions in relation to a Tyro Business Term Deposit.

If you do not select an Administration Authority, the default Administration Authority is ‘any to sign’. Any one Authorised Signatory can change the Administration Authority to ‘two to sign’ at any time by contacting Customer Support.

Whether the Administration Authority is “any to sign” or “any two to sign”, where you have more than one Authorised Signatory, the following number of Authorised Signatories will be required to perform the functions listed below:

Level of authority required to perform certain functions		
Function	Authorised Signatory	Account User
Add or remove an Authorised Signatory	2	N/A
Add an Account User	2	N/A
Change an Account (Linked Account, Settlement Account or Fee Account)	2	N/A
Remove an account freeze that has been initiated by an Authorised Signatory	2	N/A
Change the Administration Authority to ‘any to sign’	2	N/A
Change the Administration Authority to ‘any two to sign’	1	N/A
Decrease a daily limit	1	N/A
Request your Tyro Bank Account be frozen	1	N/A
Give us instructions in relation to a Tyro Business Term Deposit	1	N/A
Authorise transfers to the Linked Account	1	1

## 7.0 Linked Account

You must maintain a Linked Account during the whole time the Tyro Bank Account, Tyro eCommerce and/or Tyro EFTPOS Facility is open. You may change the Linked Account by contacting us using the contact details on our website and completing any form we require.

If, by reason of holding the Tyro Bank Account, you are entitled to any payment under the financial claims scheme, you authorise us to make or use our best endeavours to ensure that such payment is made, to your Linked Account.

## 8.0 Fees and charges

### General

Unless otherwise expressly stated, all amounts specified in this Agreement are GST exclusive amounts. If GST is imposed on any supply made by one party (“**GST Supplier**”) to the other party under this Agreement, the recipient of the supply (“**Recipient**”) must pay, in addition to any consideration payable under this Agreement for the supply, an additional amount for the supply calculated by multiplying the prevailing GST rate by the consideration for the relevant supply provided always that the GST Supplier issues a valid tax invoice to the Recipient after the occurrence of any event that causes the GST liability of the GST Supplier on any taxable supply to the Recipient to be attributed to a particular tax period.

You authorise us to debit your Tyro Bank Account, Linked Account or Fee Account with any government charges, duties, levies or taxes that are imposed on or which are payable in relation to Tyro EFTPOS Banking (including credits or debits to any of your accounts (including accounts with other financial institutions) or the Cardholder’s account). Where debited from your Tyro Bank Account, items will appear on your statement of account for the relevant period. We will endeavour to provide you with prior notice of any government charges, duties, levies or taxes which are imposed on or which are payable in relation to Tyro EFTPOS Banking. However, we may not always be able to give you prior notice of these changes as they are externally controlled and determined.

You agree to pay us in full without set-off or counterclaim and without any deduction in respect of taxes unless prohibited by law:

- any amount due to us under this Agreement;
- on demand, an amount equal to any fees, costs or expenses that we must pay to an entity conducting a Scheme or another participant in the Scheme under the relevant Scheme rules due to a Transaction being an Invalid Transaction or being charged back to us, or otherwise in respect of a Transaction or as a result of an action by you; and
- the reasonable costs we reasonably incur in the recovery of any amount that you owe to us under this Agreement.

We can debit these amounts from your Tyro Bank Account, your Linked Account or any other account you have provided a direct debit authorisation for.

Would you like further information about fees and charges? You can obtain further information by contacting us.

### **Tyro Bank Account and Tyro Business Term Deposit**

There are no initial costs to open the Tyro Bank Account, nor any ongoing costs to maintain or transact on the Tyro Bank Account.

There are no costs to open or hold a Tyro Business Term Deposit (although there is a reduction in the interest you earn if you withdraw funds before the Maturity Date – see clause 11 of Part E).

We may introduce new fees and charges or change fees and charges - see clause 10.0 of Part A. You may at any time request a copy of the current fees and charges payable. To the maximum extent permitted by law, there is no maximum limit to those fees and charges. If a law applies to such a change we will comply with such law. We may in our absolute discretion waive any fees and charges from time to time or impose a lower fee or charge.

### **Tyro App**

We will not charge a fee to download or use the Tyro App. However you may incur charges from your mobile service provider for downloading and using the Tyro App. You will be solely responsible and liable to pay such charges. You should contact your mobile service provider if you have any questions regarding these charges.

### **Equipment**

You agree that if you rent Equipment from us, you will pay the Equipment Fee from the Commencement Date. You direct and authorise us to debit the Equipment Fee from the Fee Account.

Separate amounts may be payable where you purchase items ancillary to your Equipment from us. We will advise

you of the purchase price of any ancillary products when you purchase them.

#### **eCommerce - Monthly Access Fee**

You agree that if we make Tyro eCommerce available to you, you will pay the Monthly Access Fee from the date on which we process the first Tyro eCommerce Transaction for you (if applicable). You direct and authorise us to debit the Monthly Access Fee from the Fee Account.

#### **Health Fund claiming**

A health fund claiming service fee (as set out in the Application Form) applies per Terminal per month if enabled for health fund claiming.

#### **Transaction Pricing: Tyro EFTPOS Facility and Tyro eCommerce**

##### *Simple Pricing*

Simple pricing is where you pay to us a **Merchant Service Fee** (“MSF”) as set out in the Application Form (or any notice of change of pricing we may give). The MSF that you pay to us includes both our margin and the costs associated with the Transaction and any other item set-out in the Application Form.

##### *Cost Plus Pricing*

Cost plus pricing is where you pay us a margin (referred to as the “**Merchant Acquiring Fee**” or “**MAF**”) in addition to the cost of each Transaction processed. The Application Form (or any notice of change of pricing which we may give) discloses the margin charged for each category of Transaction. You may at any time request a copy of the current fee information.

We may change the Transactions that fall within each category or change the categories (including by introducing new Transactions or Categories) - see clause 10.0 of Part A.

In addition to the MAF (our margin), for each Transaction you must pay to us the following third party fees:

- **Interchange fees** (at cost for each Transaction, that we must pay as part of the respective Scheme). Rates are subject to change by the respective Scheme and (except for UnionPay, which does not publish its interchange fees) are available at:
  - Mastercard:  
<http://www.mastercard.com/au/merchant/en/rba/index.html>
  - Visa:  
<https://www.visa.com.au/about-visa/interchange.html> ; and
  - EPAL:  
<https://www.eftposaustralia.com.au/about/interchange/>
- **Card Scheme fees** (an amount for each Transaction processed which reflects the average of the total Scheme fees/costs charged by the Schemes to us);
- For DCC Transactions, a **DCC levy** (Visa) for Visa international Transactions where a Cardholder chooses to use DCC Services.

##### *Other fees (for simple pricing and cost plus pricing)*

**MOTO fee** – applies for MOTO Transactions as set out in the Application Form or as otherwise notified to you.

**Switching fee** – for some Schemes (including American Express, JCB and Diners Club), where you are required to

have a separate agreement with the Scheme operator and our only obligation in relation to a Transaction is to transmit the particulars of the Transaction to the Scheme operator under which the Card was issued, we will charge a switching fee as set out in your Application Form or otherwise notified to you. You will need to pay all Scheme fees and charges direct or pay us any Scheme fees which we must pay in relation to the Transaction.

**International Service Assessment fee** - for Visa/Mastercard international Transactions payable by you to us as charged by Visa (the International Service Assessment Fee) and Mastercard (the Mastercard cross Border transaction assessment fee). Subject to change by Visa/Mastercard.

**Additional international service assessment fee for DCC transactions** – for Visa/Mastercard international Transactions when processed using DCC. Rebates apply for DCC Transactions – see clause 13.0 of Part B.

**Alipay Service Fee** – for Transactions utilising the Alipay Scheme, we will charge you a service fee as set out in your Application Form, application or agreement to use the Alipay services or as otherwise notified to you.

**Tyro eCommerce** – for each Tyro eCommerce Transaction, you must pay us in respect of that Transaction a Merchant Service Fee or an eCommerce Service Fee (as defined below) as set out in your Application Form relating to Tyro eCommerce or as otherwise notified to you by us.

If an **eCommerce Service Fee** is payable, you must pay us in respect of each Tyro eCommerce Transaction:

- a. the fees, charges and levies you would pay to us if the Transaction were processed through your Tyro EFTPOS Facility; plus
- b. the additional eCommerce Service Fee as set out in your Application Form or as otherwise notified to you by us.

Your total fee per Transaction is described as your “**Merchant Service Fee**” or “**MSF**”.

The total fee per Transaction is made available in a daily terminal report accessible via your Tyro Portal.

You acknowledge that you are responsible for any penalties or fines imposed on us or directly imposed on you by any Scheme or financial institution as a result of your activities.

We may, in the future, offer you additional services via Tyro eCommerce (“**Additional Services**”) by either notifying you or by posting descriptions of the Additional Services and any fees related to the Additional Services on our website.

#### **9.0 Direct Debit Request Service Agreement**

By signing the Direct Debit Request, you authorise us to debit funds from you:

- a. Fee Account in any of the circumstances set out in the Direct Debit Request Service Agreement contained in this clause 9.0 and clauses 3.0, 10.0 and 13.0 of Part B;
- b. Settlement Account in any of the circumstances set out in the Direct Debit Request Service Agreement contained in this clause 9.0 and clauses 10.0 and 13.0 of Part B;
- c. Fee Account from time to time for any amounts payable or owing by you under this Agreement; and
- d. Linked Account with any amounts due to us which we cannot debit from the Fee Account for any reason.

If the due date for a debit to your Fee Account, Linked Account or Settlement Account falls on a day which is not a Business Day, we will debit your Fee Account, Linked Account or Settlement Account on the next Business Day unless your Fee Account and/or Settlement Account is the Tyro Bank Account, in which case we will debit the Tyro Bank Account on the due date (which may be any day). If you are uncertain as to when the debit to your Fee Account, Linked Account or Settlement Account will be processed, you should contact the financial institution with whom the Fee Account, Linked Account or Settlement Account (if this is not your Tyro Bank Account) is held.

It is your responsibility to ensure that:

- a. the account details of the Fee Account, Linked Account and Settlement Account are correct by checking them against a recent account statement issued by the financial institution with whom the Fee Account, Linked Account or Settlement Account (if this is not your Tyro Bank Account) is held;
- b. if you have queries about completing the Direct Debit Request you should contact the financial institution with whom the Fee Account, Linked Account or Settlement Account (if this is not your Tyro Bank Account) is held;
- c. the Fee Account, Linked Account and Settlement Account (if this is not your Tyro Bank Account) can accept direct debits (as direct debiting may not be available on all accounts offered by financial institutions);
- d. the Fee Account, Linked Account and Settlement Account have sufficient cleared funds available to enable the direct debits authorised by the Direct Debit Request to be made from time to time; and
- e. the authority given to us to draw on the Fee Account, Linked Account and the Settlement Account is consistent with the account authority or signing instructions held by the financial institution in which the Fee Account, Linked Account and Settlement Account (if this is not your Tyro Bank Account) are held.

If there are insufficient cleared funds in the Fee Account, Linked Account or Settlement Account to meet a debit payment:

- a. you may be charged a fee and/or interest by the financial institution which holds the Fee Account, Linked Account or Settlement Account (if this is not your Tyro Bank Account); and
- b. you must arrange for the debit payment to be made by another method or arrange for sufficient clear funds to be in the Fee Account, Linked Account or Settlement Account by an agreed time so that we can process the debit payment.

We will not disclose any details of your Direct Debit Request unless:

- a. the disclosure is to a financial institution and is necessary to enable us to act in accordance with this Agreement; or
- b. we are required or permitted by law to make such disclosure.

You should check your account statement for the Fee Account, Linked Account and Settlement Account to verify that the amounts debited from the Fee Account, Linked Account or Settlement Account are correct.

If you believe that there has been an error in debiting the Fee Account, Linked Account or Settlement Account, you should contact us as soon as possible so we can resolve your query. Alternatively, you can contact the financial institution with whom the Fee Account, Linked Account or Settlement Account (if this is not your Tyro Bank Account) is held.

If we conclude that your Fee Account, Linked Account or Settlement Account has been:

- a. incorrectly debited, we will arrange for the financial institution with whom the Fee Account or Linked Account is held to adjust the Fee Account, Linked Account or Settlement Account as required. We will notify you of the amount by which the Fee Account, Linked Account or Settlement Account has been adjusted; or
- b. has not been incorrectly debited, we will promptly respond to you by providing you with reasons and any evidence for this finding.

You must ensure at all times that we have a valid Direct Debit Request from you under which we may debit amounts from the Fee Account, Linked Account or Settlement Account that we are entitled to receive under this Agreement (**direct debit authority**). You may request us to cancel or suspend a direct debit authority. Alternatively, you can contact the financial institution with whom the Fee Account, Linked Account or Settlement Account (if this is not your Tyro Bank Account) is held. If you cancel or suspend our direct debit authority you must at the same time elect a new Fee Account, Linked Account or Settlement Account and execute a Direct Debit Request with respect to the new Fee Account, Linked Account or Settlement Account which will be on the same terms as this clause 9.0 and clause 10.0 of Part B.

You may change the Fee Account, Linked Account or Settlement Account to which your Direct Debit Request relates by giving us 5 Business Days' written notice. In this case, you will be deemed to have cancelled the relevant Direct Debit Request with respect to this account.

We can change the terms of this clause 9.0 in accordance with clause 10.0 of this Part A.

## 10.0 Changes to Agreement

We may make changes to any of the following:

- a. the interest rate or the interest rate tiers that apply to a Tyro Bank Account;
- b. the method of calculating or charging interest including the frequency with which interest is debited or credited;
- c. to introduce, remove or adjust any transaction limits that apply to the use of a Tyro Bank Account; or
- d. the amount, frequency, time for payment of any fee or charge or repayment, or we may introduce any new, fee or charge.

We may make other changes to any of the terms of this Agreement without your consent in the following circumstances:

- a. to comply with or reflect any change (including a change in the interpretation of) or anticipated change in any relevant law, code of practice, guidance, rules of a Scheme or any general industry practice or any applicable prudential standards or liquidity requirements;



- b. to reflect any decision of a court or tribunal or decision or guidance of an external dispute resolution scheme or regulator or Scheme administrator;
- c. to reflect a change in our systems or procedures or to reflect industry or market conditions;
- d. for security reasons;
- e. as a result of changed circumstances (including by adding benefits or new or changed features or products);
- f. to respond proportionately to changes in the cost of funds; or
- g. to make these terms clearer.

However, we cannot change the interest rate on a Tyro Business Term Deposit during its term (although if you withdraw your funds before the applicable Maturity Date, a reduction in the interest payable to you will apply see clause 11 of Part E).

If we change an interest rate applying to an account you hold with us, we will tell you no later than the date of the change unless we are unable to do so because the interest rate is determined by reference to an external reference rate or a money market rate or some other rate designated as a variable or floating rate. Other than changes to interest rates, if the change is unfavourable to you, we will give you at least 30 days prior notice of the change. Otherwise we will notify you no later than the date on which the change occurs.

However, we may give you a less than 30 days notice or, no notice or no prior notice if:

- a. it is a change that is required to immediately restore or maintain the security of a system or an individual facility, including the prevention of systemic or individual criminal activity, including fraud;
- b. we reasonably believe doing so is necessary for us to avoid, or to reduce, a material increase in our credit risk or our loss;
- c. it is a change as a result of the introduction of or a change to a government charge, duty, levy or tax - see clause 8.0 of this Part A; or
- d. the law otherwise requires it.

If after we change any of the terms and conditions, you are dissatisfied, you may terminate this Agreement on 30 days' notice in accordance with clause 19.0 of this Part A although if you have a loan from us, you must first repay that loan in full.

### 11.0 Change of details

You must immediately notify us if there is a change to:

- a. your email address;
- b. your name (including any business or trading name you use);
- c. any of your Authorised Signatories or Account Users;
- d. your Linked Account;
- e. your Settlement Account or Fee Account;
- f. your mobile phone number;
- g. the details contained in your Application Form (including any directors);
- h. the ownership or control of your business including any delegation by way of power of attorney (and

where you are a publicly listed company, you are only required to notify us if there is a change to more than 50% of the ownership or control of your business);

- i. the nature of your business;
- j. your business/trading name, address or telephone number; or
- k. your ability to meet your liabilities as and when they fall due.

You must give us at least 5 Business Days' notice before any change of ownership is effective.

You must notify us of any change to the residency of the account holder or any controlling person (from that notified to Tyro at the time of completing the Application Form) within 30 days of the change occurring.

You are only authorised to process Transactions and use Tyro EFTPOS Banking in furtherance of the business activities specified in your Application Form which must be performed from a location in Australia. You must obtain our prior consent before processing Transactions for or using your Tyro EFTPOS Banking for any other business or non-business activities.

Other than for a change to your mobile phone number, we will notify you of any changes by SMS text notification to your nominated mobile phone number. We will notify you by SMS to your new and old mobile phone number if you change your mobile phone number. We reserve the right to suspend or discontinue providing you with such notifications at any time at our discretion and without providing you with notice.

A change to your email address or your mobile number will become effective one Business Day after your details are updated in our systems.

A change to any of your other details will become effective within 72 hours after we update our systems except:

- for a change in ownership; or
- where the change relates to your Linked Account, Fee Account or Settlement Account, the change will become effective on the latter of 72 hours and the date on which you execute a new Direct Debit Request.

You must immediately notify us if you have not authorised a change.

Where there is a change in ownership of your business, we will continue to settle all Transactions to the existing Settlement Account until we have approved the new owner's application for Tyro EFTPOS Banking, assigned all Equipment to the new owner and have received all other information we request from the new owner.

Unless otherwise notified in accordance with this clause, we will be entitled to assume that all of the details you have provided us with are current and correct. We will not be liable for any loss, damages, compensation or liabilities you incur as a result of failing to immediately notify us of any of the changes set out in this clause.

You must provide us with evidence which we request to support any change you request.

### 12.0 Notices

You agree that we can provide you with notice, statements and any other material that we may give you under this Agreement:

- a. via the Tyro Portal or Tyro eCommerce Portal (as applicable);

- b. via the Tyro App;
- c. via text message to the mobile phone number nominated in your Application Form;
- d. via our website ([www.tyro.com](http://www.tyro.com));
- e. at the registered address or trading address specified in your Application Form or any other postal address you have provided us; or
- f. by email at the email address specified in your Application Form or any other email address you have provided us. It is your obligation to keep your operating systems and software subscriptions up to date so that you can receive emails from us.

Whenever this Agreement requires you to give us notice, you must give us that notice by contacting us:

- a. via the Tyro App; or
- b. following the contact details on our website.

### 13.0 Errors and complaints

We have internal processes in place to deal with any complaints that you may have in relation to the Tyro Services or this Agreement. In relation to errors, queries or complaints regarding Transactions, in some cases our ability to fully respond to you and resolve the error, query or complaint will be dependent on us receiving information from the relevant Scheme involved in the Transaction.

#### Step 1

- a. Please contact us if you have any complaints with respect to the Tyro Services or this Agreement and we will seek to resolve your concerns as soon as possible. You can contact us by using the details on our website.

Please note that you should not use this procedure to report any unauthorised transactions, which you must immediately report to us.

#### Step 2

- a. If you are not happy with the outcome, you may request an independent review by writing a letter or email to us. The independent review will be conducted by our Complaints Officer. Please include all facts and details that are relevant to your complaint and your contact details so our Complaints Officer can contact you.

#### Step 3

- a. If you are still not satisfied with the steps taken by us to resolve your complaint, or if we do not respond to you in a timely manner, you can contact our external dispute resolution service provider, the Australian Financial Complaints Authority (“AFCA”). The details of AFCA are:

Telephone: 1800 931 678

Website: [www.afca.org.au](http://www.afca.org.au)

Fax: 03 9613 6399

Email: [info@afca.org.au](mailto:info@afca.org.au)

Write to: Australian Financial Complaints Authority  
GPO Box 3, Melbourne VIC 3001

Please note that before AFCA can investigate your complaint, they will generally require you to have first provided us with an opportunity to address your concerns.

### 14.0 Integrated software

This clause applies where you use Integrated Software.

Where your Tyro Bank Account is integrated with Integrated Software, you request and authorise us to disclose to the Software Provider and obtain from the Software Provider accounting, financial, account balance (as at the date and time we disclose it), transaction data (including current and historical data and reports) and payment instructions at intervals and using electronic file transfer or other methods we agree with the Software Provider. You accept and acknowledge that electronic services are subject to interruption or breakdown for a variety of reasons.

Where you use Integrated Software in conjunction with the Tyro EFTPOS Facility or Tyro eCommerce, you authorise us to accept from the Software Provider and provide to the Software Provider information about your Integrated Software, your operating system, Transaction instructions and related information.

You acknowledge that it is your obligation to ensure your credentials and information relating to Tyro EFTPOS Banking is kept secret and confidential.

You understand that the Software Provider’s access to and use of data provided by us to the Software Provider will not be subject to our terms, but rather will be treated in accordance with the Software Provider’s terms of use.

You acknowledge and agree that we are not liable for any Loss that you incur as a result of or in connection with:

- (a) us collecting information from or disclosing it to, a Software Provider or other person in accordance with this clause 14.0;
- (b) your use of the Integrated Software, including Loss to the extent that it is caused by:
  - i. any delay, non-performance, failure to perform or processing errors arising from the transmission of data or instructions using the Integrated Software;
  - ii. any interruption or breakdown of electronic services;
  - iii. any transaction conducted in reliance on the accuracy of information provided by someone other than us which is or turns out to be false, inaccurate or misleading; or
  - iv. any act or omission by your provider of Integrated Software or the operation of the Integrated Software,

except for a Loss due to our fraud, negligence or wilful misconduct.

You agree to indemnify and hold us harmless against any Loss (except for a Loss due to our or a Software Provider’s fraud, negligence or wilful misconduct), which we or the Software Provider may suffer or incur to any person as a result of us or the Software Provider acting on the authority given by you to us in this clause.

### 15.0 Your Warranties

You represent and warrant to us that:

- a. all information that you provide to us, including in your Application Form or Administration Authority, is true and correct;
- b. you have power and authority to carry on your business as it is being conducted and have legal authority to use any name under which your business is being conducted as at the date of your Application

Form and for the whole time you have Tyro EFTPOS Banking;

- c. the name under which you have opened your Tyro EFTPOS Banking is the name under which you sell products and services;
- d. your obligations under this Agreement do not conflict with any of your constitutional documents or breach any other contractual obligations that you have;
- e. you are not part of any litigation, proceeding or investigation of any nature pending or, to your knowledge, threatened against or affecting you which would reasonably be expected to have a material impact on your ability to perform your obligations under this Agreement;
- f. you warrant that the goods and services you sell or provide will comply with all applicable laws and will not infringe upon any third party's rights and interests, including, without limitation, intellectual property rights and proprietary rights;
- g. you are not engaged in, and will not engage in, any activity prohibited by clause 19.0 of Part B;
- h. you will not engage in any activity designed to influence the mix of the Transactions you submit for processing via Tyro EFTPOS Banking to be comprised 100% of one Scheme brand; and
- i. you are at least eighteen (18) years of age.

If you engage in transactions with customers who are individuals or small businesses with fewer than 20 employees, you specifically represent and warrant to us that you will provide all consumer disclosures required by applicable law, and will not engage in unfair or deceptive acts or practices, or any other conduct that could be considered to violate such applicable law.

#### 16.0 Disclaimer of Warranties

To the fullest extent permitted by law, Tyro EFTPOS Banking and all other Tyro Services are provided "as is," "as available", and with all faults. We disclaim all warranties, express and implied, including, but not limited to, any warranties of merchantability, quality of information, quiet enjoyment, non-infringement, title, and fitness for a particular purpose. We do not warrant that Tyro EFTPOS Banking or any Third Party Sites will be error free, uninterrupted, free from spyware, malware, adware, viruses, worms, or other malicious code, or will function to meet your requirements.

We do not warrant that Tyro EFTPOS Banking or any Third Party Sites will work on your hardware, with your operating systems, or with any other software installed on your computers. Information obtained by you from Tyro or its business partners, service providers or representatives will not create any warranties.

To the extent permitted by law, you assume all risks associated with your use of Tyro EFTPOS Banking or any other Tyro Service. It is your sole responsibility to determine whether Tyro EFTPOS Banking or any other Tyro Service or product is suitable and adequate for your needs.

You specifically acknowledge that we do not have any control over the products or services that are paid for through Tyro EFTPOS Banking, and we cannot ensure that all Transactions will be completed or that we will authorise all Transactions that your customers initiate.

#### 17.0 Liability and indemnity

To the maximum extent permitted by law or by any code which applies to this Agreement, you agree to indemnify us and keep us indemnified against, and must pay us on demand the amount of all Loss incurred or arising in connection with:

- a. your (or anyone using your accounts) breach of this Agreement or applicable law or any breach of your obligations by any of your officers, employees, advisers or contractors;
- b. the activities in connection with which you are using Tyro EFTPOS Banking, including your online store (if applicable), where such use or activities are conducted in a wrongful, illegal, fraudulent or abusive manner;
- c. your or any of your staff's or representatives' negligence, willful misconduct or fraud, including without limitation, claims of intellectual property infringement, breach of privacy or violation of applicable law; or
- d. any dispute between you and any customer in respect of goods or services or the use of the eftpos System, except to the extent that the dispute has arisen due to our fraud, negligence, wilful misconduct or breach of this Agreement,

except for a Loss due to our fraud, negligence or wilful misconduct.

You may not enter into any stipulated judgment or settlement that purports to bind us without our prior express written authorisation, which will not be unreasonably withheld or delayed.

You authorise us to contact, liaise with and disclose your information to any financial institution holding an account to which you have transferred funds from your Tyro Bank Account, Tyro eCommerce, Tyro Business Term Deposit or Tyro EFTPOS Facility in order to recover amounts due to us (including any Chargeback) or as part of any investigation we are conducting. You authorise us to clawback funds (in an amount we reasonably determine) from any such account and hold such funds in suspense for the reasonable duration of any investigation by us into any potential Chargeback or fraudulent, unauthorised or illegal activity that we may reasonably suspect either involving you or your Tyro EFTPOS Banking. We may apply such funds in any manner we reasonably determine following the completion of any such investigation. You indemnify us for any Loss we suffer in relation to the application of those funds where we have applied them acting reasonably based on the information we have available to us.

The indemnities in this clause are continuing obligations and continue after this Agreement ends. It is not necessary for us to incur expense or make payment before enforcing the indemnities.

Except in respect of fraud and fraudulent misrepresentation, and death or personal injury caused by our negligence, regardless of whether any remedy in this Agreement fails of its essential purpose or otherwise, we are not and will not be liable to you for any indirect, special, punitive, exemplary, Consequential Damages, or any other damages whatsoever, without regard to the form of action (including, but not limited to, contract, negligence, or other tortious actions) arising out of or in connection with:

- a. this Agreement;
- b. Tyro EFTPOS Banking including your use of Tyro EFTPOS Banking or any interruption or delay of service relating to Tyro EFTPOS Banking;
- c. any Third Party Site;

d. the unauthorised access by any party to the Tyro Services and systems, including Personal Data, even if we have been advised of the possibility of those damages.

### 18.0 Suspension

We may, acting reasonably, cancel or suspend your access to the Tyro Services or any component of them by providing you with 30 days prior notice (except the Tyro Business Term Deposit, unless it is required for system or other maintenance).

We may also cancel or suspend your access to the Tyro Services without prior notice if:

- a. we reasonably suspect or a law enforcement authority or a regulator tells us that you have been or may be involved in fraudulent or other unlawful activity;
- b. you are subject to an Insolvency Event or, where you are a company, we become aware that you are deregistered;
- c. for security reasons, where we reasonably suspect that if we do not do so, it may materially adversely affect you or us or cause you or us to suffer Loss; or
- d. we are required to do so as a result of being a member of, or being able to facilitate transactions in relation to, a Scheme.

Where possible, we will inform you as soon as practicable after suspension (except where the suspension is related to a current investigation or is required by law). Whilst in suspension, you must not submit Transactions for processing and we will not process any Transactions that you submit.

In addition to a general suspension of the Tyro Services, we may suspend the Tyro Services in respect of a particular Card or Transaction type due to delay, downtime or suspension by the relevant Scheme.

### 19.0 Termination

We may immediately terminate this Agreement if:

- a. we reasonably suspect that you are committing fraud under the terms of this Agreement, or that you are using your Tyro Services in connection with illegal activity;
- b. you are in breach of a material provision of this Agreement, and if, in our reasonable opinion, the breach is capable of remedy, the breach is not remedied within 10 Business Days of us giving notice to remedy the breach;
- c. you are subject to an Insolvency Event or, where you are a company, we become aware that you are deregistered; or
- d. your continued use of the Tyro Services creates an unreasonable and material security, reputation or compliance risk to us.

We can immediately terminate the provision of the Tyro Services in respect of a particular Scheme if that Scheme declines access, suspends or terminates either our access to the Scheme or its services or directs us to suspend or cease providing the Tyro Services to you for any reason. Termination in respect of one Scheme will not affect the provision of Tyro Services in respect of other Schemes.

In all other instances, we may terminate all or any part of this Agreement at any time without cause by giving 30 days' notice to you (although we will not close a Tyro

Business Term Deposit you have opened prior to the applicable Maturity Date).

If we terminate this Agreement and close a Tyro Business Term Deposit, we may in our absolute discretion reduce the interest payable to you on your term deposit funds in accordance with clause 11 of Part E.

Your Authorised Signatories may terminate this Agreement by giving 30 days' notice to us in accordance with the Administration Authority unless:

- a. you have a loan from us in which case the Agreement can only be terminated by you after your loan is repaid in full; or
- b. you have a Tyro Business Term Deposit and there are more than 30 days until the applicable Maturity Date, in which case you must give us at least 31 days' prior notice.

Termination of this Agreement does not affect any obligations incurred prior to termination. Clauses 7.0, 10.0, and 16.0 of Part B, clauses 15.0, 19.0 and 23.0 of Part C, clauses 2.0, 3.0, 8.0, 9.0, 12.0, 14.0, 15.0, 16.0, 17.0, 20.0, 24.0, 25.0, 26.0 and 27.0 of this Part A, and this clause 19.0 survive termination.

On termination of this Agreement for any reason, the rights and licenses granted to you will immediately terminate. Upon the termination of this Agreement, you must immediately cease all use of Tyro EFTPOS Banking.

We will have no liability to you for any damages, loss of profits or other claims arising from the termination or suspension of your access to Tyro EFTPOS Banking or any other Tyro Services.

If this Agreement terminates for any reason, you authorise us to disclose to any Scheme the fact that the Agreement terminated and the reasons for termination. You acknowledge that the information concerning termination of this Agreement will be available to any member of the Scheme(s) and may be used to assess subsequent applications for merchant facilities.

On termination of this Agreement, you must return to us all Equipment supplied to you by us including without limitation all guides, stationery and promotional materials supplied by us.

If you do not return the Equipment on termination of the Agreement, the Replacement Cost (or such lesser amount reasonably determined by us to be the reasonable value of the existing Equipment, which amount will be notified by us to you) will be a debt due by you to us. You authorise us to debit the Fee Account with the amount of the Replacement Cost (or lesser amount as provided above) of any Equipment that is not returned to us within 10 Business Days of termination of the Agreement. We will refund to you the Replacement Cost (or lesser amount as provided above) on receipt by us from you of the Equipment in good order and condition if the Equipment is returned to us within 30 days of termination of the Agreement.

You agree to indemnify us and keep us indemnified against, and must pay to us on demand the amount of all Loss which we suffer or incur in connection with any misuse of Equipment that you were required to return to us but which you have not returned to us except for a Loss due to our fraud, negligence or wilful misconduct.

### 20.0 Remedies

You acknowledge and agree that your breach of this Agreement relating to the licences granted in this Agreement and your use of Tyro Confidential Information

may result in irreparable harm and permanent injury to us for which monetary damages would be an inadequate remedy. Consequently, you acknowledge and agree that, in such circumstances, we will be entitled to seek and obtain, without the posting of a bond, in addition to all other remedies available to us, at law or in equity, immediate injunctive relief to prevent or stop any breach of those provisions.

#### 21.0 Staff remuneration for providing financial services

Tyro staff are paid a salary. Subject to meeting minimum compliance and quality standards, Tyro sales staff may also be eligible to receive additional benefits based on achieving sales targets. The amount of additional benefits paid vary but are usually a smaller proportion of overall staff remuneration.

#### 22.0 Referral arrangements

Tyro may enter into arrangements with third parties to pay fees for referring customers to us. These payments are not an additional cost to you but are paid by Tyro.

#### 23.0 Australian Use

You must not export Tyro EFTPOS Banking.

#### 24.0 Confidential Information

You will treat all of Tyro Confidential Information as strictly confidential and use the same degree of care to prevent disclosure of Tyro Confidential Information as you would use with respect to your own most confidential and proprietary information and, under no circumstances, less than the care that a reasonable person would take under the circumstances.

Except as expressly provided in this Agreement, you may not use or disclose any of Tyro Confidential Information without our prior written consent, except as required to your employees and agents on a need-to-know basis in order to fulfill your obligations under this Agreement; provided that those employees or agents have executed written agreements that are at least as protective of our rights to Tyro Confidential Information as those contained in this Agreement.

On termination of this Agreement or on our written request at any time, you will destroy or return to us all of Tyro Confidential Information in your custody or control.

This clause 24.0 will survive any termination of this Agreement for so long as you have in your possession any Tyro Confidential Information.

#### 25.0 Ownership and Rights

You may provide feedback, suggestions comments, improvements, and ideas (collectively "**Feedback**") to us but you are not required to do so. You agree that we may use and exploit all Feedback for any purpose without obligation of any kind and without any obligation of confidentiality, attribution, accounting, compensation, or other duty to account to you.

We retain all right, title, and interest, including, without limitation, all intellectual **property** rights, in and to:

- a. Tyro EFTPOS Banking;
- b. our systems and services;
- c. our Marks, including without limitation "Tyro EFTPOS Banking" and "Tyro eCommerce";
- d. all Feedback; and

- e. all Tyro Confidential Information, (collectively, "**Tyro Property**").

We reserve all rights in the Tyro Property not expressly granted to you in this Agreement. Without limitation of the foregoing, you have no right to use our Marks in any manner except as may be expressly permitted by us in advance in writing and in accordance with our then-current trademark use guidelines.

We will own all right, title and interest in all information we collect with respect to your use of Tyro EFTPOS Banking, including without limitation, statistical information, and traffic analysis data ("Usage Data"). You agree that we may use and exploit all Usage Data for any purpose without any obligation to you; provided however, that we may only disclose Usage Data to third parties so long as the Usage Data is disclosed only in the aggregate and not in a manner that it is attributable to you or any individual.

During the term of this Agreement, you hereby grant us the right to list you as a Tyro EFTPOS Banking customer in any descriptions of Tyro EFTPOS Banking and related press releases, case studies, and other promotional and marketing materials, provided however, that we have no obligation to do so.

#### 26.0 Personal Data and Data Security

In order to provide the Tyro EFTPOS Banking service, we may be required to process Personal Data on your behalf. We shall only process such Personal Data in accordance with this Agreement, our Privacy Statement and Consent and our Privacy Policy, and otherwise in accordance with your written instructions. We shall ensure that appropriate security measures are taken against unauthorised access to, or unauthorised alteration, disclosure or destruction of, all Personal Data. However, you acknowledge that we are unable to ensure that unauthorised third parties shall not be able to circumvent our protections and gain access to that Personal Data.

In respect of Tyro eCommerce, you will be solely responsible for the security of your online store (where applicable), including all content contained in your online store and all Personal Data you collect from your customers.

You agree to comply with all applicable Privacy and Information Security Requirements.

You are solely responsible for notifying your customers that we are providing Tyro EFTPOS Banking to you and that we are collecting Personal Data from your customers on your behalf in connection with such services. You represent and warrant to us that you will provide your customers with any and all notices, and will obtain from your customers all necessary rights and consents, under applicable law, the Privacy and Information Security Requirements and as required by us from time to time, to allow us to use and disclose all Personal Data collected, stored or processed by Tyro EFTPOS Banking ("**Required Notices and Consents**"). The Required Notices and Consents include, but are not limited to, providing notice and procuring consent to the use of customer Personal Data for the following purposes:

- a. collecting, storing, and tokenising Card information;
- b. delivering Personal Data, including Card information, to us to facilitate the Tyro Services;
- c. collecting and storing Personal Data to create customer accounts in the Tyro eCommerce Portal to facilitate the following services:



- storing of customer details, including Card details, in order to provide card-on-file functionality;
  - the processing of payments from customers by us on a recurring basis;
  - the generation and delivery of invoices and receipts to customers via email;
  - providing coupons to customers that allow them to avail of discounts;
  - the analysis of data in relation to customer shopping habits in your online store;
- d. assisting you and us in the provision of products or services that are requested by a customer;
  - e. collecting and storing Personal Data for the purposes of sending direct marketing messages to customers;
  - f. fraud detection and monitoring;
  - g. for our internal business purposes;
  - h. to enable us to comply with our legal, compliance, regulatory and audit requirements;
  - i. transferring or disclosing Personal Data outside of Australia for the purposes of providing the Tyro EFTPOS Banking service;
  - j. allowing us to include the Personal Data in anonymised form in aggregated databases that can be used to generate reports, statistics or other analysis for use in improving the Tyro EFTPOS Banking services or promoting the Tyro EFTPOS Banking service to third parties; and
  - k. for any additional use of Personal Data necessary to implement new features of Tyro EFTPOS Banking.

You represent and warrant that you will not use the Personal Data that is collected by us on your behalf, or which is made available to you via the Tyro eCommerce Portal or otherwise, other than in accordance with the Required Notices and Consents.

You may not retain, track, monitor, store, or otherwise use Personal Data regarding customers making payments or receiving invoices and/or receipts through Tyro EFTPOS Banking for any purpose other than to process the Transaction, fulfill orders, send the invoice and/or receipt, and collect consents to future direct marketing by email, as the case may be. If you engage a developer and/or administrator to implement or manage your participation in Tyro EFTPOS Banking, you represent and warrant that they will not access or use the Personal Data for any other purposes other than as contemplated in this Agreement.

We recognise the importance of respecting the privacy of those who visit our websites and use our products and services, including Tyro EFTPOS Banking. Our Privacy Statement and Consent and Privacy Policy provide a description of how we collect, use, share, and protect personal information in connection with Tyro EFTPOS Banking, as well as the choices and access rights you have in regards to such personal information.

## 27.0 Miscellaneous

We may from time to time set-off any amount due for payment by you to us against any amount due for payment by us to you.

Every provision of this Agreement will be deemed severable as far as possible from the other provisions. If any provision is found to be void, illegal or unenforceable

for any reason, it will be deemed to be severed and omitted from this Agreement. This Agreement with the offending provision severed and omitted and with any consequential amendment if necessary will otherwise remain in full force.

This Agreement is to be construed according to the laws of New South Wales and the parties submit themselves to the non-exclusive jurisdiction of the Courts of New South Wales and any competent appellate courts.

This Agreement is binding on the parties, their executors, administrators, successors and assigns. You cannot assign this Agreement without our prior written consent. We may assign our rights or novate our rights and obligations under this Agreement at any time without your consent. However, in assigning our rights we will use reasonable endeavours to ensure that the assignee is able to fulfil our obligations under this Agreement.

Our failure or delay to exercise or enforce any right or provision of this Agreement or any rights under applicable law will not constitute a waiver of any of those provisions or rights.

We will not be liable for any delay or failure to perform any of our obligations under this Agreement resulting from any cause beyond our reasonable control, including without limitation, telecommunications, power, or utility failures.

## PART B – TYRO EFTPOS FACILITY AND TYRO ECOMMERCE TERMS

### 1.0 Important information

In addition to the terms of this Agreement, you must also comply with:

- a. the Merchant Operating Guide, the Website Requirements and the PCI DSS Requirements;
- b. any requirements that a Scheme imposes on us that relate to Tyro EFTPOS Banking that we notify you about;
- c. any rules, policies and procedures relating to Tyro EFTPOS Banking that we may publish or provide to you from time to time;
- d. any reasonable directions given by us; and
- e. all applicable laws, rules, regulations, directives, and governmental requirements relating to your business and the use of Tyro EFTPOS Banking.

### 2.0 Registration for Tyro eCommerce

In order to use Tyro eCommerce you must apply to create an eCommerce Facility with us.

We may, in our sole discretion, accept or reject your request to create an eCommerce Facility. If we accept your request to create an eCommerce Facility, we will issue you one or more unique security certificates, tokens, passwords, and other credentials, for authentication, account management, and other purposes. The credentials are our property and you may only use them for the purpose of using Tyro eCommerce as permitted in this Agreement.

### 3.0 Equipment

You agree that:

- a. risk in the Equipment passes to you on delivery of the Equipment to the Delivery Address. From delivery of the Equipment, you are liable for any loss or damage to the Equipment or as a result of you doing

something to the Equipment not contemplated by this Agreement, including the cost of repairing or replacing the Equipment at the Replacement Cost. If Equipment is altered or damaged after it has been delivered to you at the Delivery Address, we are authorised to debit the repair cost or the Replacement Cost from the Fee Account. We may choose whether to repair or replace Equipment at our discretion;

- b. we will deliver Equipment to you in accordance with the delivery quantity, Delivery Address and information stipulated in the Application Form. We may charge you any delivery and freight charges for the shipment of Equipment in our discretion;
- c. we will pay any insurance coverage in respect of the delivery of Equipment to you;
- d. you must notify us within forty-eight (48) hours after delivery of Equipment, of any claimed shortages or rejections in respect of the Equipment. To the maximum extent permitted by law, failure to give such notice of a claim will be deemed an acceptance in full of all Equipment delivered;
- e. you must not allow anyone to service or repair the Equipment and must return all Equipment to us to arrange repair;
- f. you must ensure that all Equipment complies with our security and other requirements;
- g. you will affix to the Equipment any label or sticker supplied by us in accordance with any instructions we give you, and will not do anything to remove or obscure that label or sticker;
- h. you are not permitted to use the Equipment with any other acquirer;
- i. we will provide you with reasonable assistance over the phone or electronically by explaining how to install software required to connect the Equipment to point-of-sale or practice management software that we support an integration for;
- j. you must ensure you maintain operating systems that are supported and that your systems are upgraded as necessary to ensure that Transactions can be initiated and processed;
- k. in respect of each particular Card for which you accept Transactions, you must ensure that your:
  - systems meet software requirements and services processes required by the relevant Scheme with respect to order handling and goods delivery or service provision as advised by us or the Scheme from time to time;
  - cashier hardware and software (including where relevant Alipay "spot payment" scanner, physical circuits or networks) are in good operational condition and properly link to the relevant Scheme's platform where relevant;
- l. some Transactions can only be initiated via your Integrated Software so if the relevant software is not functional for any reason, you may be unable to process Transactions;
- m. we are not responsible for installing, operating or maintaining any third party applications you install or have installed on Equipment or any of your devices or systems;
- n. security features on the Terminal or in respect of Tyro eCommerce can be enabled. Please contact us if you want more information on this. You must have your

own internal procedures to manage security and prevent fraud in your business; and

- o. from time to time we may supply you with new, upgraded or repaired Equipment. If this occurs, you must return the existing Equipment within fourteen (14) days of receiving the new, upgraded or repaired Equipment. If we do not receive the existing Equipment within fourteen (14) days, we will, acting reasonably, determine an amount representing the reasonable value of the existing Equipment and that amount will be notified to you and will constitute a debt due by you to us and you authorise us to debit such amount from the Fee Account without notice. We will refund to you the amount we have debited on receipt by us of the Equipment in good order and condition if the Equipment is returned within 12 months.

You will have no right, title, property or interest in the Equipment except as bailee and must not sublet, transfer, dispose of, grant a security interest over, permit a security interest to be registered over or otherwise deal with any rights or interest in the Equipment.

We grant to you a non-transferable and non-exclusive licence to use the Software solely for the purpose of us being able to supply the Tyro Services to you pursuant to this Agreement. Your licence to use the Software ceases immediately on termination of this Agreement. All copies of the Software, including all intangible and tangible elements, are our property (or our licensor's property if applicable) and no title to or interest in the Software or any part of it is transferred to you except as provided for in this Agreement. You must not loan out, grant sub-licenses to encumber, sell or otherwise deal with the Software nor reverse engineer, decompile or disassemble the Software, make derivatives, modifications or translations of the Software or otherwise deal with the Software or Equipment.

We warrant that:

- a. any Equipment rented from us is of merchantable quality and is fit for the purpose for which it is supplied as at the date of supply; and
- b. the Tyro Services provided to you will be performed with reasonable care and skill.

We are not, to the maximum extent permitted by law, liable for any Loss (except for a Loss due to our fraud, negligence or wilful misconduct) which arises from or in relation to or is caused by:

- a. damage to the Equipment due to a dysfunction of any network on which the Equipment is used or the Communications Service;
- b. your use of the Equipment or Software otherwise than in accordance with this Agreement;
- c. the Equipment not integrating with your computer systems; or
- d. the Equipment not working or you being unable to process Transactions because of an act or omission of a third party (including an entity responsible for the supply of telecommunications or electricity or a Scheme or a member of or participant in a Scheme (such as the issuer of scheme cards)).

You must ensure that the Equipment is:

- a. installed following our guides and procedures for installation of the Equipment;
- b. used in accordance with the Merchant Operating Guide at all times and solely for the purpose for which

it was designed and provided by us in connection with the Tyro Services; and

- c. not moved from the Delivery Address without our prior written consent.

It is your responsibility to:

- a. determine the specific location of installation of the Equipment (within the Delivery Address) and to prepare the location in accordance with the specification set out in the Set Up Guide;
- b. ensure that you have internet access and supported and regularly upgraded operating systems;
- c. ensure you have sufficient electrical surge protection;
- d. exercise reasonable care in the use, operation, protection, and security of the Equipment at all times;
- e. ensure that the Equipment is stored safely and protected from theft, loss or damage and to insure the Equipment against any loss or damage to the Equipment arising from theft, vandalism, fire, flood, earthquake, misuse, neglect, or as otherwise required by us; and
- f. regularly check for evidence of tampering including skimming devices and confirm the identification number on the Equipment is correct. You must contact us immediately if you discover any evidence of or suspect that Equipment has been tampered with.

Where you request our assistance in relation to installing or operating your Equipment, we may offer to remotely access your computer system in order to help you using any program which we select ("**Purpose**"). This may include amongst other things changing your settings, conducting test transactions or downloading and running system tools. If you agree over the phone or via email to us doing this, you expressly agree to us accessing your systems for the Purpose and anything incidental to the Purpose. You acknowledge that we may have access to information including confidential, personal or sensitive information, data and records which are contained on or copied on your computer systems ("**Information**"). You authorise us to access, use and disclose any Information for the Purpose and you confirm that where Information has been provided by or is owned by any other person, you have that person's consent to our access, use and disclosure of that Information.

To the maximum extent permitted by law, we will have no liability for and will not be responsible for any Loss which arises as a result of, in connection with or in relation to our access of your computer systems as described above or your use of the Equipment except for a Loss that is due to our fraud, negligence or wilful misconduct.

You agree to indemnify and keep us indemnified against any Loss arising out of, in connection with or as a result of our access to, use or disclosure of the Information except for a Loss that is due to our fraud, negligence or wilful misconduct.

#### 4.0 Transactions

You must:

- a. if processing a Transaction using the Tyro EFTPOS Facility or Tyro eCommerce, use a Terminal or Tyro eCommerce (as applicable) to process every Transaction, unless the Terminal, Tyro eCommerce, the eftpos System or the Communications Service is inoperative;

- b. perform all obligations to a Cardholder (including providing any goods or services) in respect of a Transaction prior to processing the Transaction;
- c. not split a single sale into multiple Transactions on the same Card or process lower Transaction values in order to obtain an Authorisation;
- d. not make any warranty or representation to a Cardholder regarding us or on our behalf;
- e. establish and maintain a prudent policy for obtaining and maintaining proof of Cardholder authorisation for MOTO sales so as to minimise the possibility of Cardholder disputes and unauthorised Transactions;
- f. clearly and prominently display any surcharge you charge for a Transaction over and above the price that would be charged if the Cardholder paid cash for the sale in a manner that enables the Cardholder to cancel the Transaction;
- g. only charge a surcharge that accurately reflects your cost of accepting Transactions and not cross-subsidise across Schemes;
- h. ensure any Refund also includes any surcharge charged in the original Transaction. In the case of a partial Refund, the surcharge must be pro-rated;
- i. establish and maintain a fair policy for giving refunds or exchanging goods which complies with all applicable laws and Scheme rules and notify your customers of Scheme refund deadlines either in your after-sale service policy or on your invoices or receipts;
- j. give refunds by means of a Refund and not cash;
- k. not process Transactions in respect of any Prohibited Products;
- l. only use the Tyro Services for your own account, your own business purpose and must not make use of the Tyro Services for performing any commercial or non-commercial services for or on behalf of any third party;
- m. not process any Transaction using your own Card or any Card of your associates;
- n. not hold a Cardholder's PIN or passcode as part of a book-up arrangement;
- o. not compel, require or influence a Cardholder to pay for goods or services via a cash out Transaction;
- p. in the case of your eCommerce Facility, include on your website the items identified in the Website Requirements; and
- q. not use Tyro EFTPOS Facility to receive payment of a bond or security for potential damage to, destruction of or non-return of goods or property made available for hire.

Card issuers may impose limits on the monetary amount and number per day of Transactions a Cardholder may effect. You agree to comply with those limits.

The Terminals and Tyro eCommerce will be programmed to accept all Card Transactions which they are able to accept. If you do not wish to participate in any particular Scheme you must contact us and complete and return any forms we request.

For some Schemes, you are required to have a separate agreement with the Scheme operator and our only obligation in relation to a Transaction is to transmit the particulars of the Transaction to the Scheme operator under

which the Card was issued. For these types of Transactions, we make no representation and give no assurances in relation to the performance of any agreement or arrangement between you and such entity.

If requested, you must inform us of your merchant number for all Schemes in which you participate.

We reserve all rights to route Transactions using networks we determine or to change the way we route Transactions without notice. For example, we may change the cost; infrastructure or system features. You can opt-in to Tap & Save by contacting us. Certain transactions are excluded from Tap & Save, for details refer to the FAQs at <https://help.tyro.com/s/article/Tap-Save-least-cost-routing-FAQs>. Some pricing structures are not eligible for Tap & Save. Tap & Save will become available from a date nominated by Tyro in its discretion. Tyro does not guarantee any cost savings by opting in for Tap & Save. You can turn off Tap & Save functionality at any time by contacting us.

We make no representations and give no assurances whatsoever in relation to the credit worthiness of any person presenting a Card.

You acknowledge that the authorisation or processing of any Transaction by us does not constitute:

- a. a representation or warranty from us that the Transaction is a valid transaction; or
- b. an assurance by us that the Transaction is free from risk of dispute or Chargeback.

As we do not supply your point of sale or practice management software, we are not liable for any error, delay, malfunction or failure caused or contributed to or initiated by your point-of-sale or practice management software.

You must promptly notify us of any malfunction or error of the Terminals, Tyro eCommerce, the eftpos System or the Communications Service. In processing offline Transactions you agree to:

- a. only do so if the Terminal, eftpos System or Communications Service is inoperative or is inaccessible and the malfunction has been reported to us;
- b. obtain prior authorisation through Tyro's Voice Authorisation Process for each Transaction; and
- c. capture the offline Transaction on paper and within three (3) Business Days enter the details of the offline Transaction into the Terminal or Tyro Portal.

You acknowledge and agree that processing offline Transactions is at your own risk.

In processing Transactions initiated by telephone you must give the Cardholder the following information at the time of all Transactions:

- a. the receipt number;
- b. the amount of the Transaction;
- c. the type of Transaction, e.g. purchase, refund, credit;
- d. confirm the Card details charged; and
- e. your trading name.

On receiving a MOTO, you must maintain a written record of the following details:

- a. Card number (the last four digits only);

- b. expiry date;
- c. full name of the Cardholder (as it appears on the Card);
- d. full address of the Cardholder (street address only, no post office box);
- e. telephone number;
- f. details of goods or services supplied;
- g. price of goods or services supplied;
- h. delivery instructions; and
- i. date of Transaction.

For MOTO Transactions where you are not required to obtain the Cardholder's PIN or signature and compare the Cardholder's signature with that on the Card, you must ensure that each person processing such a MOTO Transaction uses best endeavours to verify the authenticity of the information given to you by the customer.

You must obtain authorisation via the MOTO option on the Terminal for all MOTO Transactions regardless of the value of the Transaction.

Where there will be a delay of more than five (5) days in you dispatching goods or providing services ordered by telephone, you must not process the Transaction in respect of such goods or services until the day of dispatch. For further assistance, please contact Customer Support.

If goods are to be shipped, you may obtain a preauthorisation on any day up to seven (7) days prior to the date the goods are shipped. This authorisation is valid if the amount of the Transaction is within 15% of the authorised amount, provided that the additional amount represents shipping costs.

You must ensure you have sufficient funds in your Settlement Account or Fee Account to meet your Refund obligations for all Refunds you process.

You warrant by processing any Transaction that:

- a. all information given to us in respect of that Transaction is true and correct;
- b. the Transaction is valid; and
- c. the sale in respect of the Transaction is not subject to any dispute, set-off or counterclaim.

You acknowledge that MOTO Transactions and Transactions processed via the eCommerce Facility are riskier than other Transactions and more likely to result in a Chargeback. It is your responsibility to know and identify your customer. Each MOTO Transaction and each Transaction processed via the eCommerce Facility is at your risk.

## 5.0 Accepting Card Transactions via Tyro eCommerce

This clause applies to Transactions processed via Tyro eCommerce only.

Information regarding Transactions completed in respect of which Tyro eCommerce provides technical support ("**Transaction History**") will be available to you on your Tyro eCommerce Portal when you login using your eCommerce Facility.

After each settlement to your Settlement Account, we will update information in your eCommerce Facility to reflect settlement and you can view this information in your Transaction History on your Tyro Portal. We provide a minimum of one year of Transaction History on your Tyro

Portal. Except as required by law, you are solely responsible for compiling and retaining permanent records of all Transactions and other data associated with your eCommerce Facility, your Transaction History, and your use of Tyro eCommerce.

Except as required by law, you are solely responsible for reconciling your Transaction History with your actual processed Transactions. You agree to notify us of any discrepancies arising from such reconciliation and verification within sixty (60) days. In the event you are owed money as a result of the discrepancy, please contact us to seek resolution.

## 6.0 Security

You must:

- a. not disclose (other than to us or unless required by law) or obtain a Cardholder's name or Card details to or from any person, except where that information has been lawfully collected by you other than through a Transaction;
- b. comply with all applicable user guides and other security requirements specified at <https://www.tyro.com> (including for the eCommerce Facility <https://www.tyro.com/solutions/payments/online/features/security-and-fraud-protection/> and for the Tyro EFTPOS Facility <https://www.tyro.com/solutions/payments/eftpos/features/security-and-fraud-protection/>) as published and amended by us from time to time;
- c. comply with the PCI DSS Requirements and any Scheme security requirements;
- d. permit us or our representative reasonable access to inspect your computer systems to conduct an investigation on whether there has been a security breach and/or data compromise. To the extent reasonably possible, we will use reasonable endeavours to cause minimal disruption where possible;
- e. use reasonable care to detect forged or unauthorised signatures or the unauthorised use of a Card;
- f. not process a Transaction by keying the transaction details manually into a Terminal unless instructed to do so by the Terminal;
- g. co-operate with, implement required measures and provide information requested by either a Scheme or us in order to reduce risks generally including the risk of Invalid Transactions;
- h. use reasonable care to prevent the use of a Card as an instrument in money laundering activities;
- i. use reasonable care to protect the security of your Tyro EFTPOS Banking passwords; and
- j. not and must ensure that your Authorised Signatories and Account Users do not:
  - voluntarily disclose their Tyro EFTPOS Banking password to anyone; and
  - keep a written record of their Tyro EFTPOS Banking password on one or more articles likely to be lost or stolen simultaneously, without making a reasonable attempt to protect the security of the password.

You acknowledge that from time to time, we may implement processes, procedures and software to identify fraudulent

transactions in connection with your use of Tyro EFTPOS Banking. You acknowledge and agree that these measures are designed to minimise the incidence of fraud or otherwise illegal transactions, but do not guarantee that such transactions are eliminated.

## 7.0 Records and Statements

You must:

- a. keep all Receipts, your books of account and records of all Transactions (both sales Transactions and Refunds) for a minimum period of eighteen (18) months;
- b. provide us with all Receipts and other records in connection with Transactions as requested by us; and
- c. permit us or our representative to inspect Receipts, your books of account and records of all Transactions (both sales Transactions and Refunds) on request. Where reasonably possible we will do this with prior notice and/or during business hours.

We will make available to you on the Tyro App each month a statement showing the amount of all Transactions processed by us for you during the month. It is your obligation to check the statement to ensure the accuracy of the payments to and from the Settlement Account and from the Fee Account.

## 8.0 Settlement Times

For Transactions processed using the Tyro EFTPOS Facility, an automated settlement time can be nominated via the Terminal by any person or by any person who contacts us with your Terminal details and requests us to do so. You authorise us to act on these instructions and establish the nominated automated settlement time. If you have not nominated an automated settlement time, your existing automated settlement time (allocated by us) will apply.

For Transactions processed using Tyro eCommerce, we will initiate transfer of the proceeds of all valid Transactions processed via Tyro eCommerce (net of fees, Chargebacks and other funds owed to us) at the same settlement time as for your Tyro EFTPOS Facility.

## 9.0 Settlement

If you have an activated Tyro Bank Account that is your Settlement Account we will use reasonable endeavours to credit your Tyro Bank Account with the proceeds of all valid Transactions promptly after your nominated automated settlement time or, where you have not nominated a settlement time, your existing automated settlement time (allocated by us). However, we are not liable for any delay in crediting your Tyro Bank Account.

If your Settlement Account is not your Tyro Bank Account, we will generally credit the proceeds of all valid Transactions to your Settlement Account no later than two (2) Business Days following the date the Transaction is processed by a Terminal or Tyro eCommerce (as applicable) as long as settlement of all your Terminals and Tyro eCommerce (if applicable) occurs either by a manual settlement initiated by you or an automated settlement initiated by our systems prior to 5am (AEST).

Your Tyro Bank Account will automatically be your Settlement Account unless you instruct us to make another account your Settlement Account.

If you nominate a Settlement Account that is not the Tyro Bank Account, we will initially credit all funds into your Tyro Bank Account and then automatically sweep all funds to



your Settlement Account every banking day. Notwithstanding when we credit your Settlement Account which is held with another bank, your bank will determine when it makes the instructed payment available as disposable funds in your Settlement Account.

If there is any delay by our counterparties in respect of a Transaction, we may delay settlement to you until that counterparty fulfils its obligations. We reserve the right to delay the payment instruction of any Transaction until we receive payment in respect of that Transaction.

If our counterparty in respect of a Transaction:

- a. fails to make a payment to us; or
- b. makes a payment to us that is less than the full value of the relevant Transaction,

for any reason and we have already credited the Settlement Account in respect of the relevant Transaction, you must immediately repay to us the amount of the shortfall. Without limiting any other recourse we may have, you authorise us to debit the shortfall amount (as reasonably determined by us) from the Fee Account.

You acknowledge and agree that our obligation to credit valid Transactions to your Settlement Account may from time to time be subject to other legal obligations binding on us to credit part or all of a valid Transaction to a third party, including the Australian Taxation Office and any other third party pursuant to an applicable law or legally binding order.

#### 10.0 Settlement Account and Fee Account

For the duration of this Agreement you must maintain a Settlement Account to which amounts payable by us to you may be credited or any Refunds or Chargebacks may be debited.

You authorise us to debit the Settlement Account in respect of:

- a. the full amount of Refunds presented by you;
- b. any overpayments made by us;
- c. any Chargeback; and
- d. any amounts payable to us in relation to DCC Chargebacks and DCC Refunds,

or as you otherwise instruct us.

You must maintain a Fee Account to which amounts payable by you to us may be debited. The Settlement Account and the Fee Account will be the same account unless you notify us otherwise. You must maintain the Fee Account for the duration of this Agreement and for at least one hundred and eighty (180) days after termination of this Agreement. You must not make any changes to the Fee Account without notifying us in advance.

You authorise us to debit the Fee Account in respect of:

- a. all fees and charges payable by you under this Agreement;
- b. any Scheme fines or penalties payable as a result of your breach of this Agreement or which we incur because of your actions or inactions;
- c. the full amount of Refunds presented by you if these cannot be debited from your Settlement Account;
- d. any overpayments made by us if these cannot be debited from your Settlement Account;
- e. any Chargeback if this cannot be debited from your Settlement Account;

- f. any amounts payable to us in relation to DCC Chargebacks and DCC Refunds if these cannot be debited from your Settlement Account;
- g. amounts paid by us for Transactions where we are investigating the validity of the Transaction or a claimed Chargeback of the Transaction;
- h. duties and taxes payable by you in relation to or connection with this Agreement;
- i. any deficiency in a payment disclosed in an audit or check by us; and
- j. any other amounts due by you to us under this Agreement,

or as you otherwise instruct us.

We have the right to withhold or suspend payment of all amounts that would otherwise be payable to you:

- a. where you owe us any amount under this Agreement (including fees and charges) until such amount has been paid; or
- b. until we have concluded reasonable investigations into any claimed Chargebacks or into the validity of any Transactions.

You agree that these authorisations continue despite termination of this Agreement.

#### 11.0 Chargebacks

We may refuse to accept, or having accepted, may Chargeback, any Transaction if:

- a. we consider that the Transaction is an Invalid Transaction or the relevant Scheme determines that a Transaction is prohibited, unauthorised or fraudulent or otherwise determines not to pay us the value of the relevant Transaction for any reason;
- b. the Transaction is illegal;
- c. the Cardholder disputes all or any part of its liability for any reason; or
- d. the Card was not valid at the time of the Transaction.

You agree to provide us and the relevant Scheme with all relevant documentation and records relating to a Transaction that is the subject of a Chargeback, to enable us to fulfil our obligations to the relevant Scheme with respect to that Chargeback.

You acknowledge and agree that the relevant Scheme makes the final determination as to whether a Transaction will be subject to a Chargeback.

You agree to comply with our guidelines and procedures relating to chargebacks, available at <https://www.tyro.com/chargebacks-disputes-guide/>.

For the avoidance of doubt this clause 11.0 does not apply to BPAY Payments.

#### 12.0 Promotional material

We may supply you with decals and insignias for the Cards accepted. We may supply you with other promotional material at our discretion.

You agree to:

- a. prominently display, wherever reasonably directed by us, logos, decals and other signs advertising Schemes and Cards;

- b. not use any Scheme or Card logo or decal for any purpose other than the purpose of indicating acceptance of the relevant Scheme or Card or, in the case of advertising or promotional material provided by us, except as expressly authorised by us;
  - c. give all payment methods equal or substantially similar logo placement and treatment in terms of payment flow, terms, conditions, restrictions or fees;
  - d. not attempt to influence or inhibit a Cardholder's decision in relation to the use of any payment method or encourage a Cardholder to use a particular payment method;
  - e. not mischaracterise, misrepresent or disparage any payment method or exhibit a preference for one or more payment methods; and
  - f. when you display or exhibit the payment methods that you accept, display all payment methods in an equal and positive manner, including on websites and in marketing materials, advertising and other customer communications.
- f. for DCC Chargebacks and DCC Refunds, you will be required to refund the Cardholder the Transaction value at the currency conversion rate applicable at the date of the DCC Chargeback or DCC Refund. This means that you assume currency risk for these types of Transactions.

For the purposes of clause 13.0(e), we will issue you any DCC Recipient Created Tax Invoice within 28 days of determining the relevant DCC Rebate. You will not issue tax invoices in respect of the supplies included on the DCC Recipient Created Tax Invoice.

You confirm that you are registered for GST at the start of this Agreement (if you are required to be registered) and will immediately notify us if you cease to be registered for GST.

You will notify us if you cease to comply with the requirements or undertakings provided in this clause 13.0 or by any issue known to, or becoming known to you which would cause us not to qualify to issue the DCC Recipient Created Tax Invoices.

We confirm we are registered for GST at the start of this Agreement and we will immediately notify you if we cease to be registered for GST.

We will notify you if we cease to comply with the requirements or undertakings provided in this clause 13.0, or by any issue known to or becoming known to us which would cause us not to qualify to issue the DCC Recipient Created Tax Invoices.

In the course of your use of Tyro eCommerce, there may be certain images made available for use by you ("**Gallery Images**"). As part of the use of the Gallery Images, you must comply, and will ensure that any third party you allow access to your credentials on Tyro eCommerce complies, with the following terms. The Gallery Images shall not be used:

- a. except solely as incorporated into the digital products created and distributed using Tyro eCommerce;
- b. together with pornographic, defamatory, or unlawful content or in such a manner that it infringes upon any third party's trademark or intellectual property rights;
- c. portraying any person depicted therein (a "**Model**") in a way that a reasonable person would find offensive, including but not limited to depicting a Model: a) in connection with pornography, "adult videos", adult entertainment venues, escort services, dating services, or the like; b) in connection with the advertisement or promotion of tobacco products; c) as endorsing a political party, candidate, elected official, or opinion; d) as suffering from, or medicating for, a physical or mental ailment; or e) engaging in immoral or criminal activities; or
- d. as or as part of a trademark, service mark, or logo.

### 13.0 DCC Services

If we provide DCC Services to you:

- a. the Terminal will display the amount payable by the Cardholder in AUD and also the relevant foreign currency amount for each DCC Transaction;
- b. the Cardholder must select whether to process the DCC Transaction in AUD or the applicable foreign currency, you must not influence this decision;
- c. we will settle the relevant DCC Transaction by crediting the Settlement Account with the AUD value of the Transaction;
- d. you will be entitled to a DCC Rebate which we will pay into your Settlement Account on the first Business Day after the end of each calendar month;
- e. on the first Business Day after the end of each calendar month, we will generate a DCC Recipient Created Tax Invoice detailing DCC Rebate payable for the preceding month. You agree not to generate any other invoice relating to DCC Rebate payments;

It is important that where a mistake occurs in processing a DCC Transaction that you reverse the DCC Transaction rather than processing a DCC Refund. If you process a DCC Refund rather than a reversal, significant currency spread can occur which can result in you incurring a large liability.

If you process a DCC Refund or reversal or a DCC Chargeback occurs, you are required to repay to us an amount equivalent to the DCC Rebate paid in respect of the original DCC Transaction. In these circumstances, you authorise us to debit an amount equivalent to the relevant DCC Rebate paid in respect of the original DCC Transaction from your Settlement Account.

### 14.0 Medicare Easyclaim

If we provide you with the ability to process Medicare Easyclaim transactions via your Terminal:

- a. you must comply with all relevant legislation and government guidelines and requirements in relation to processing Medicare Easyclaim transactions;
- b. for fully paid accounts, we process the electronic claim to Medicare and where authorised, credit the Medicare rebate to the claimant. If you use the Terminal to process the claim, you must also process the payment via the same Terminal, except where the payment cannot be processed via the Terminal;
- c. in processing a bulk bill claim or part paid claim you must ensure that the claimant has assigned the right benefits to the relevant provider and retain evidence of the assignment of benefit in accordance with all relevant legislation and government guidelines;
- d. for bulk bill or part paid claims, we facilitate electronic claiming via the Terminal but do not provide settlement services. Medicare is responsible for processing such payments in accordance with its procedures;

- e. for bulk bill claims, you acknowledge that such claims may be subsequently rejected by Medicare and it is your responsibility to manage the payment process with Medicare;
- f. to the maximum extent permitted by law, we are not responsible or liable where a claim cannot be processed or is rejected or void for any reason;
- g. you must not process in-patient claims via the Terminal; and
- h. we may suspend or discontinue these services for any reason in our discretion (acting reasonably).

### 15.0 Allied Health Claiming

If we provide you with the ability to process allied health claims via your Terminal:

- a. you authorise us to register you with DXC Technology;
- b. you agree to comply with all terms, conditions and requirements of and to pay all applicable fees to DXC Technology;
- c. the Terminal will display the amount payable to you by DXC Technology or the relevant health fund (as applicable);
- d. we facilitate the electronic claim being provided to DXC Technology or the relevant health fund to be assessed and settled by DXC Technology or the relevant health fund (as applicable). We do not settle and are not responsible for any payments by DXC Technology or the relevant health fund to you;
- e. the remaining payment due by the Cardholder to you must be processed as any other Transaction using the Terminal; and
- f. you must not process in-patient claims via the Terminal.

### 16.0 Scheme Information

You acknowledge that we may obtain from and disclose to any person who is a Card issuer or who is involved in any Scheme, information about you for any purpose relating to the operation of the Scheme. Our rights under this clause continue despite termination.

You authorise us to obtain from any Scheme information relating to facilities you obtained or are obtaining from other suppliers. We use this information (including personal information about you), including information about you collected from third parties, for any one or more of the following purposes:

- a. to assess and process your application for facilities we supply under this Agreement;
- b. to administer and manage the facilities we supply under this Agreement; and
- c. to facilitate our internal business operations, including fulfilling any legal requirements and systems maintenance and testing.

You acknowledge and agree that we may disclose information about you that we collect from the Application Form, the above information or conduct of the Tyro Services to any person who is a Card issuer, Scheme operator or otherwise involved in any Scheme, for any purpose relating to the operation of those Schemes. This information may include information about terminating facilities made available to you and the reasons for that termination. Another service provider may use this

information (amongst other things) to determine whether or not to make facilities available to you.

Schemes and other third parties to whom we disclose your information may also share your information with other third parties.

### 17.0 Online store integration

If you wish to integrate Tyro eCommerce into your online store (the "Integration"), you must ensure that your developer complies with the Developer TOU.

### 18.0 Grant of licence

So long as you comply with this Agreement, we grant you a royalty free, limited, non-exclusive, revocable, non-transferable license, without right of sublicense, to use Tyro eCommerce solely for the purpose of accepting Card payments online. You may not use Tyro eCommerce for any other purpose and may not, or allow any other party to:

- a. reverse engineer, disassemble, reconstruct, or decompile any object code relating to Tyro eCommerce (except to the extent you are expressly permitted by law to do so) and except to the extent that applicable laws prevent us restraining you from doing so;
- b. gain access to or use of our services or systems, other than Tyro eCommerce as permitted by this Agreement, or damage, disrupt, or impede the operation of our services or systems;
- c. use Tyro eCommerce to engage in fraudulent, illegal, abusive or immoral conduct of any kind;
- d. restrict, inhibit, or engage in any activity that prevents any other merchant from using Tyro eCommerce;
- e. request, collect, solicit, or otherwise obtain access to credentials or open an eCommerce Facility by automated means or under false or fraudulent pretenses;
- f. sell, transfer, sublicense, or otherwise disclose your credentials;
- g. circumvent or modify any credentials or other security mechanism used by us;
- h. use your credentials or Tyro eCommerce for purposes other than accepting and processing Card payments online;
- i. use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers," to access Tyro eCommerce in a manner that sends more request messages to our servers in a given period of time than a human can reasonably produce in the same period by using a conventional online web browser;
- j. rent, lease, loan, trade, sell/re-sell, or otherwise charge any party for access to Tyro eCommerce; or
- k. transmit any viruses, worms, defects, Trojan horses, or any programming of a destructive nature.

### 19.0 Prohibited Businesses and Activities

You must not:

- a. use Tyro EFTPOS Banking in connection with any Prohibited Products (as they apply to the relevant Tyro Service); or
- b. use Tyro EFTPOS Banking to engage in any business or activity relating to any Prohibited Products (as

applicable to the relevant Tyro Service) or that is other illegal or inappropriate, as determined by us in our sole discretion.

## 20.0 Third Party Sites

Tyro eCommerce may contain links to Third Party Sites. Links to Third Party Sites are included solely for the convenience of users and do not constitute any approval, endorsement, or warranty by us. We are not responsible for the content, security, operation, or use of any Third Party Sites or the products or services that may be offered or obtained through them or for the accuracy, completeness, or reliability of any information obtained from a Third Party Site. When you click on a link to a Third Party Site, you will leave Tyro eCommerce. Any information you submit after you leave Tyro eCommerce will not be collected or controlled by us. It will be subject to the privacy notice or terms of use applicable to the Third Party Site. It is your responsibility to review those policies before submitting your information to the Third Party Site and you provide your information to Third Party Sites at your own risk. You expressly relieve us from any and all loss, damages or other liabilities you incur as a result of your access to, or use of, any Third Party Sites.

## 21.0 Modifications to Tyro EFTPOS Banking

We may discontinue, modify, or change Tyro EFTPOS Banking, at any time with three (3) months' notice in advance. Such changes may require you to update your online store at your own cost so that it remains compatible with, and interfaces accurately with, Tyro eCommerce. To the fullest extent permitted by law, we will have no liability or obligation to you with regard to any modifications or changes we make to Tyro EFTPOS Banking or the Tyro Services.

## 22.0 Customer Support

We will provide you with support via email or telephone to resolve any issues relating to your use of Tyro EFTPOS Banking. You are solely responsible for providing support to your customers for all issues relating to the products and services that you sell and the Transactions you process using Tyro EFTPOS Banking.

## 23.0 Protecting Your Tyro EFTPOS Banking Account Information

You are responsible for all activities that occur through your Tyro EFTPOS Banking or through the use of your credentials, including the activities of others and regardless of whether such activities are authorised.

You agree to immediately notify us of any breach or unauthorised use of your Tyro EFTPOS Banking or credentials. We reserve the right to require you to alter your password if we believe your password is no longer secure. You are responsible for maintaining up-to-date and accurate information (including a current e-mail address and other required contact information) for your Tyro EFTPOS Banking. Without limitation of the foregoing, you will provide notice to us in advance of any change in the business of your online store in connection with which you are using Tyro EFTPOS Banking.

# PART C – TYRO BANK ACCOUNT TERMS

## 1.0 Important information

We confirm that:

- a. the Tyro Bank Account is a protected account under the *Banking Act 1959 (Cth)* and accordingly:
  - you may be entitled to payment under the financial claims scheme;
  - payments under the scheme are subject to a maximum limit of \$250,000 for each depositor; and
  - information about the financial claims scheme can be obtained from <https://www.fcs.gov.au/>.

## 2.0 Opening a Tyro Bank Account

To open the Tyro Bank Account, you must provide us with:

- a. a completed and signed Application Form;
- b. information we reasonably request about your Linked Account; and
- c. any other information we request, information required for us to satisfy our obligations under the AML/CTF Act.

In addition you must:

- a. currently use, or in conjunction with opening the Tyro Bank Account will commence using, the Tyro EFTPOS Facility or eCommerce Facility; and
- b. hold, or on the opening of the Tyro Bank Account will hold, a currently operating Linked Account.

We may refuse your application to open a Tyro Bank Account at our absolute discretion. We may, but are not required to, provide you with reasons for such refusal.

If we accept your application to open a Tyro Bank Account, we will:

- a. notify you of our acceptance by any method permitted by this Agreement; and
- b. provide you with details on how to register for and use the Tyro App.

## 3.0 Access – Tyro App

You will only be able to access your Tyro Bank Account through the Tyro App, which is only accessible from a Device. Not all electronic devices can install and use the Tyro App. Please view [www.tyro.com](http://www.tyro.com) to see the Devices that are currently approved by us. We may update the list of approved Devices from time to time in our discretion.

Via the Tyro App you will be able to:

- a. view your current Tyro Bank Account balance;
- b. receive real-time billing alerts for payment instructions initiated via Integrated Software;
- c. initiate and approve Payment Directions on the Tyro Bank Account;
- d. view your transaction history;
- e. view your statements;
- f. receive notifications from us; and
- g. use any other features or functions that we make available on the Tyro App from time to time.

We do not guarantee that you will receive any notifications generated by the Tyro App as delivery relies on the services of a third party and is outside of our control.

It is your obligation to obtain, and maintain and upgrade as required any Device if you wish to have access to the Tyro App.

You can install and register the Tyro App on more than one Device using the same Access Code. If you are no longer in possession of one or more of your registered Devices, you must remove them from your devices list in the "Settings Menu" on the Tyro App or by contacting us.

Once you have registered for the Tyro App, we will send to you by email a username and temporary password for the Tyro App. Once you have logged in, you will be prompted to change your password and set your Access Code. You can change the password and Access Code at any time through the Tyro App.

You must only install approved applications on your Device and never override the software lockdown (i.e. jailbreak your Device).

You must not (and must ensure others do not):

- a. make or distribute copies of the Tyro App;
- b. act fraudulently or maliciously in relation to the Tyro App (including any software or code written or produced in connection with the Tyro App);
- c. copy, reproduce, alter, modify, reverse engineer, disassemble, decompile, transfer, exchange or translate the Tyro App (including any software or code written or produced in connection with the Tyro App);
- d. adversely affect, hack into or insert malicious code into the Tyro App (including any software or code written or produced in connection with the Tyro App);
- e. create derivative works of the Tyro App of any kind whatsoever.

If you grant the Tyro App permission to use your Device's location information, we will log this location information for security purposes.

You acknowledge that the Tyro App and this Agreement is between us and you, and not Apple or any other third party provider. Subject to the terms of this Agreement, we are responsible for the Tyro App, and Apple is not responsible for the Tyro App in any way to the extent permitted by law.

You acknowledge that you, the Account Users and Authorised Signatories are given a non-transferable licence to use the Tyro App on your Device in accordance with the terms of this Agreement and the Apple Usage Rules in the Apple Store Terms and Conditions. Any queries or complaints regarding the Tyro App (including but not limited to issues regarding intellectual property) should be directed to us. You also acknowledge the application of the AML/CTF Act, and agree that you are not in a location that is subject to a government embargo.

To the maximum extent permitted by law we are not liable for any failure, delay or error of any Device or the unavailability of the Tyro App for any reason.

The availability of the Tyro App may be affected by factors outside our control. We will not be liable for any loss or damage which arises from the unavailability, difficulty, delay or inability to download or access content on the Tyro App or any communication system failure.

We may suspend or terminate your use of the Tyro App without notice at any time if we suspect that unauthorised transactions have occurred or that the Tyro App is being misused.

You acknowledge that the terms of agreement with your mobile service provider will continue to apply when using

the Tyro App. To the extent that there is an inconsistency between those terms and the terms of this Agreement, you agree that the terms of this Agreement will prevail.

By downloading and installing the Tyro App, you agree to the terms of this Agreement.

#### 4.0 Tyro Bank Account transactions

If you have the Tyro App and your Tyro Bank Account is activated you can:

- a. deposit funds into your Tyro Bank Account by electronic transfer from any account held with another Australian ADI; and
- b. withdraw funds from your Tyro Bank Account by initiating and approving a Payment Direction.

If you do not have the Tyro App you cannot deposit funds into or withdraw funds from your Tyro Bank Account.

You can only access the Tyro Bank Account through the Tyro App. You can only approve Payment Directions on the Tyro App. We will not process any Payment Direction until an Authorised Signatory or Account User approves the transaction via the Tyro App.

If your Tyro Bank Account is not activated, the closing balance of funds held in the Tyro Bank Account will be automatically swept to your Settlement Account. You will not receive interest on such balance and will not be able to put a stop on the Tyro Bank Account to prevent automated sweeping to the Settlement Account.

Unless we notify you otherwise, you cannot:

- a. draw a cheque on the Tyro Bank Account;
- b. withdraw funds from the Tyro Bank Account from an ATM;
- c. transfer funds to an account that is held with a financial institution that is not an Australian ADI; or
- d. transfer funds from an account that is held with a financial institution that is not an Australian ADI to the Tyro Bank Account.

You can only transfer cleared funds from the Tyro Bank Account.

If we receive instructions to transact on your Tyro Bank Account by way of a Payment Direction and such instructions are appropriately authorised on the Tyro App, you authorise us to carry out such instructions. You authorise us to treat the instruction contained within a Payment Direction as if it was authorised by you or your Authorised Signatory. We will be under no obligation to confirm the validity or authenticity of the person providing us with those instructions. For the avoidance of doubt, any instructions we are provided with via the Tyro App will be taken to have been provided or authorised by you and will not be an unauthorised transaction to which clause 19.0 of this Part C applies.

You acknowledge that it is your responsibility to confirm payee and payment details are accurate before approving any transaction on the Tyro App. We do not check these details and are not responsible if they are incorrect.

You acknowledge and agree that (except when due to our fraud, negligence or wilful misconduct) we will not be liable for any loss, damages, compensation or liabilities you incur as a result of or in connection with:

- a. us processing transactions in accordance with the instructions contained in a Payment Direction; or



- b. any delay or non-performance or failure to perform caused by us where we reasonably suspect the instruction contained in a Payment Direction to be suspicious or gives rise to security concerns or would cause loss to you or us.

By using any voice assistant function, such as Siri, Google Assistant, or any similar function which is available on your Device, you authorise us to share relevant information with Apple, Google, or any other provider of the function, for the purpose of interpreting and completing your requests.

## 5.0 Scheduling and recurring future payments and transfers

You can 'schedule' a Payment Direction by nominating a future date on which the transaction is to be made.

A Payment Direction is a **"Recurring Transaction"**, where it is scheduled to occur on more than one future date.

Depending on the availability of cleared funds in your Tyro Bank Account, we will continue to attempt to process the payment or transfer at regular intervals unless you cancel the payment or transfer before it is processed.

In the case of Recurring Transactions, we will continue to attempt to process the particular scheduled payment or transfer on the day it falls due. Should you have insufficient funds in your Tyro Bank Account at that time, this will result in the particular scheduled payment or transfer being cancelled and not reprocessed.

Scheduled transactions can be suspended or cancelled by you up to and including the day the transfer or payment is due if we have not begun processing the payment. Otherwise we will process the payment or transfer as originally instructed by you in the Payment Direction.

Where there are insufficient cleared funds in your Tyro Bank Account and Payment Directions are delayed as a result, we will process transactions in the order in which they are approved.

## 6.0 When are Payment Directions processed?

Subject to having sufficient cleared funds in your account and being within your daily transaction limits, Payment Directions on your Tyro Bank Account are processed on the day they are made or scheduled to occur or, where made or scheduled on a non-Business Day, on the next available Business Day. Settlement proceeds from your Tyro EFTPOS Facility or Tyro eCommerce (as applicable) will be displayed as cleared funds in your Tyro Bank Account. However, any Payment Directions in relation to those proceeds will not be processed until the next bulk electronic clearing system settlement.

We will credit amounts to the Tyro Bank Account as soon as practicable after we receive them. We may assign any date we consider appropriate to a debit or credit to the Tyro Bank Account except that in the case of a debit, the date will not be earlier than the date of the relevant transaction. We may adjust debits and credits to the Tyro Bank Account so as to accurately reflect your and our legal obligations.

## 7.0 Transaction and daily limits for Payment Directions

The combined daily limit for Payment Directions on your Tyro Bank Account (excluding Linked Account Transfers) is set at a default of \$20,000 per day. You may request to change this combined daily limit to an amount from \$0 to \$120,000 (except Pay Anyone transactions which are limited to up to \$30,000 in aggregate per day) by contacting us (changes are subject to meeting our eligibility criteria).

There is a per transaction limit of \$100,000 for Linked Account Transfers. Daily limits do not apply to Linked Account Transfers.

There are no daily or transaction limits for direct debits.

Limit increases must be approved in accordance with your Administration Authority for your Tyro Bank Account. You authorise us to obtain approval from your Authorised Signatory(ies) verbally over the phone for limit increases. All Authorised Signatories will be notified of any limit increase and the limit increase will be effective 2 Business Days after approval is obtained.

Any one Authorised Signatory can request a limit decrease by contacting us, even if your Administration Authority is "any two to sign". All Authorised Signatories will be notified of any limit decrease and the limit decrease will be effective immediately. Decreasing your limit may have an impact on previously scheduled payments. You will need to ensure that you adjust any previously scheduled payments so that they fall within your new daily limit. Where a scheduled payment will exceed your daily limit, we will not process the payment and will notify you.

If you request a higher daily transaction limit your liability for unauthorised transactions may increase. Third parties including BPAY Billers and other financial institutions may impose other restrictions on transfers.

We may reduce your daily limit or suspend your ability to initiate or approve Payment Directions if we have reason to believe that your security is at risk. If we do, your access to the Tyro App and/or your ability to initiate or approve Payment Directions may be suspended or limited and won't be available until we reactivate it. We can suspend or cancel any payment in our discretion if we consider that a Pass Code, Fingerprint Login or the Tyro App is being used in a way that may cause loss to you or us or as a result of any system malfunction.

## 8.0 Direct Debit transactions

You may authorise a third party to debit your Tyro Bank Account for the payment of services (**direct debit authority**).

You may request us to cancel or suspend a direct debit authority at any time. We will promptly action such a request. We recommend that you also notify the authorised party that debits the payment from your account of this request to cancel or suspend your direct debit authority.

If you believe that there has been an error in debiting your Tyro Bank Account, you should contact us as soon as possible so we can resolve your query. Alternatively, you can contact the authorised party that debits the payment from your account.

## 9.0 BPAY Payments

We are a member of the BPAY Scheme. We will tell you if we cease to be a member of the BPAY Scheme.

You can use BPAY to pay bills bearing the BPAY logo from the Tyro Bank Account.

When you instruct us, via a Payment Direction, to make a BPAY Payment you must tell us the BPAY Biller's code number (found on your bill), your Customer Reference Number (e.g. your account number with the BPAY Biller) and the amount to be paid from the Tyro Bank Account. We will then debit your Tyro Bank Account with the amount of that BPAY Payment.

Maximum limits on BPAY Payments from your Tyro Bank Account are set out in clause 7.0 of this Part C.

We cannot effect your instructions to make a BPAY Payment if you do not give us all the specified information or if you give us inaccurate information.

We may suspend your right to participate in the BPAY Scheme at any time including (but not limited to), in any of the following circumstances:

- a. you are in breach of the terms of this Agreement; or
- b. you or someone on your behalf is suspected of engaging in fraudulent conduct.

#### **10.0 Processing BPAY payments**

In most cases a BPAY Payment is treated as received by the BPAY Biller to whom it is directed:

- a. on the same day you make the BPAY Payment, if you direct us to make a BPAY Payment before the cut off time on a BPAY Banking Day; or
- b. on the next BPAY Banking Day, if you direct us to make a BPAY Payment after the cut off time or on a non- BPAY Banking Day.

The cut off time is 5.30 pm on any BPAY Banking Day.

A delay may occur processing a BPAY Payment where:

- a. there is a non- BPAY Banking Day on the day after you tell us to make a BPAY Payment;
- b. you tell us to make a BPAY Payment either on a day which is not a BPAY Banking Day or after the cut off time on a BPAY Banking Day; or
- c. a BPAY Biller, or another financial institution participating in the BPAY Scheme fails to comply with its obligations under the BPAY Scheme.

If we are advised that your payment cannot be processed by a BPAY Biller, we will:

- a. advise you of this;
- b. credit your Tyro Bank Account with the amount of the BPAY Payment; and
- c. take all reasonable steps to assist you in making the BPAY Payment as quickly as possible.

We cannot stop or reverse a BPAY Payment once we have submitted your BPAY payment to BPAY.

BPAY Payments are irrevocable except where a BPAY Payment is a mistaken payment (refer to clause 12.0 of this Part C), unauthorised payment (refer to clause 13.0 of this Part C) or a fraudulent payment (refer to clause 14.0 of this Part C). No refunds will be provided through the BPAY Scheme where you have a dispute with the BPAY Biller about any goods or services you may have agreed to acquire from the BPAY Biller. Any dispute must be resolved with the BPAY Biller.

We will treat your BPAY Payment instruction as valid if, when you give the instruction to us, you have complied with the security obligations in clause 21.0 of this Part C and you access the Tyro App to make your BPAY Payment, by way of a Payment Direction, in accordance with the terms set out in this Agreement.

You should notify us immediately if you think you have made a mistake when instructing us to make a BPAY Payment (except when you make an underpayment in which case you can make another BPAY Payment for the difference).

Please keep a record of the BPAY receipt number generated for your BPAY Payment.

We will attempt to make sure that your BPAY Payments are processed promptly by participants in the BPAY Scheme.

#### **11.0 BPAY mistaken payments, unauthorised transactions and fraud**

You must tell us promptly if:

- a. you become aware of any delays or mistakes in processing your BPAY Payments;
- b. you did not authorise a BPAY Payment that has been made from your account; or
- c. you think that you have been fraudulently induced to make a BPAY Payment.

We will attempt to rectify any such matters in relation to your BPAY Payments.

To the maximum extent permitted by law, we will not be liable for any loss or damage you suffer as a result of using the BPAY Scheme, other than due to any loss or damage you suffer due to our fraud, negligence or wilful misconduct or in relation to any breach of a condition or warranty implied by law in contracts for the supply of goods and services and which may not be excluded, restricted or modified at all or only to a limited extent.

#### **12.0 Mistaken BPAY Payments**

If a BPAY Payment is made to a person or for an amount, which is not in accordance with your instructions (if any), and your Tyro Bank Account was debited for the amount of that payment, we will credit that amount to your Tyro Bank Account. However, if you were responsible for a mistake resulting in that payment and we cannot recover the amount of that payment from the person who received it within 20 BPAY Banking Days of us attempting to do so, you must pay us that amount.

If you instruct us to make a BPAY Payment and later become aware that you have instructed us to pay an amount that is greater than the amount that you owe to the BPAY Biller, you must contact the BPAY Biller to obtain a refund of the excess amount paid.

#### **13.0 Unauthorised BPAY Payments**

If you tell us that a BPAY Payment made from your account is unauthorised, you must give us your written consent addressed to the BPAY Biller who received that BPAY Payment, consenting to us obtaining from the BPAY Biller information about your account with that BPAY Biller or the BPAY Payment, including your customer reference number and such information as we reasonably require to investigate the BPAY Payment. If you do not give us that consent, the BPAY Biller may not be permitted under law to disclose to us the information we need to investigate or rectify that BPAY Payment.

If a BPAY Payment is made in accordance with a payment direction, which appeared to us to be from you or on your behalf but for which you did not give authority, we will credit your Tyro Bank Account with the amount of that unauthorised payment. However, you must pay us the amount of that unauthorised payment if:

- a. we cannot recover within 20 BPAY Banking Days of us attempting to do so that amount from the person who received it, and
- b. the payment was made as a result of a payment direction, which did not comply with our prescribed security procedures for such payment directions.

If we are able to recover part of the amount of that payment from the person who received it, you must only pay us the amount of that payment that we are not able to recover.

If an unauthorised BPAY Payment is also a mistaken payment (refer to clause 12.0) or fraudulent payment (refer to clause 14.0), the payment will be dealt with under this clause 13.0.

#### 14.0 Fraudulent BPAY Payments

If a BPAY Payment is induced by the fraud of a person involved in the BPAY Scheme, then that person should refund you the amount of the fraud-induced payment. However, if that person does not refund you the whole amount of the fraud induced payment, you must bear the loss unless some other person involved in the BPAY Scheme knew of the fraud or would have detected it with reasonable diligence, in which case that person must refund you the amount of the fraud-induced payment that is not refunded to you by the person that induced the fraud.

If a fraudulent BPAY Payment is also a mistaken payment (refer to clause 12.0), the payment will be dealt with under this clause 14.0.

#### 15.0 Scheme Information

You acknowledge that we may obtain from and disclose to any person who is a participant in the BPAY Scheme information about you for any purpose relating to the operation of the BPAY Scheme. Our rights under this clause continue despite termination.

#### 16.0 Tyro Bank Account must not be in debit

You are responsible for knowing the balance of your Tyro Bank Account and you must not overdraw your Tyro Bank Account make a transfer or authorise a payment from your Tyro Bank Account for an amount that exceeds your Tyro Bank Account balance.

#### 17.0 Base Interest

Subject to the other provisions of this Agreement, your Tyro Bank Account will accrue interest at the Base Interest Rate on the daily balance of your Account.

There is no minimum balance required for interest to be payable.

Interest is:

- a. calculated on the daily cleared balance at the end of each Business Day; and
- b. credited to the Tyro Bank Account:
  - monthly in arrears on the third Business Day of the subsequent month; or
  - otherwise on the day the Tyro Bank Account is closed. However, no interest is payable for the day of closure.

We reserve the right to determine the exact cut off time for calculation of interest or change that cut off time in our discretion.

As an example, if your Tyro Bank Account balance is \$1,000 at the end of day for 29 days in the month, the current Base Interest Rate applicable to your Tyro Bank Account is 2.00% pa, your interest is paid monthly, and the month in which the interest is calculated has 30 days, then the interest will be calculated as follows:

$$\frac{(\$1,000 \times 2\% \times 29)}{360} = \$1.61$$

The interest paid for the calendar month is \$1.61 and is credited to your Tyro Bank Account on the third Business Day of the subsequent month.

The above example is indicative only and uses rates and figures we have selected to demonstrate how the Tyro Bank Account works. Actual interest rates may vary without your consent. The calculations include rounding of decimal places.

#### 18.0 Bonus interest

Bonus interest will be paid on the balance in your Tyro Bank Account, dependent on the minimum balance across a period of time. The Bonus Interest Rate applies once the minimum interest tier period is reached. The Bonus Interest Rate will be paid in addition to the Base Interest Rate.

The Bonus Interest Rate and tier information can be found at [tyro.com/rates](http://tyro.com/rates). We can change the Bonus Interest Rate and tier information at any time in our discretion.

For example, if the minimum interest tier period is 30 days and your Tyro Bank Account balance is \$1,000 at the end of day for 29 consecutive days and the balance decreases to \$530 on the thirtieth day, the minimum balance held for a 30 day period is \$530 and the Bonus Interest Rate, in addition to the Base Interest Rate, will accrue each subsequent day that the \$530 balance is held, commencing on the 31<sup>st</sup> day.

Assuming that the current Base Interest Rate applicable to your Tyro Bank Account is 2.00% pa, current one month Bonus Interest Rate applicable to your Tyro Bank Account is 0.25% pa, interest is paid monthly, and the month in which the interest is calculated has 30 days. Interest will be calculated for the second month (as long as the minimum balance remains at \$530) as follows:

$$\begin{array}{r} \frac{(\$1,000 \times 2.00\% \times 30)}{360} \\ \text{plus} \\ \frac{(\$530 \times 0.25\% \times 30)}{360} \\ = \$1.78 \end{array}$$

The interest paid for the calendar month is \$1.78 and will be credited to your Tyro Bank Account on the third Business Day of the subsequent month.

#### 19.0 Your liability

You will be liable for all transactions conducted on the Tyro Bank Account by an Authorised Signatory, Account User or any other person you (or the Authorised Signatory or Signatories) have authorised to use or transact on the Tyro Bank Account.

You will not be liable for loss arising from an unauthorised transaction if the loss is caused by:

- a. fraud or negligence by our employee or agent or a third party involved in networking arrangements;
- b. a Pass Code or Fingerprint Login which is forged, expired or cancelled;
- c. a transaction requiring the use of a Device and Pass Code or Fingerprint Login that occurred before you acquired the Device and received the Pass Code from us or set up the Fingerprint Login for the Tyro App;
- d. a transaction being incorrectly debited more than once from the Tyro Bank Account; and
- e. an unauthorised transaction performed after you have notified us that you have lost your Device or your

Device has been stolen or that the security of your Device, Pass Code or Fingerprint Login (as set out in clause 21.0 of this Part C) has been breached.

You will be liable for loss arising from an unauthorised transaction if we can prove on the balance of probabilities that you contributed to the loss through fraud, or by breaching your security obligations, in which case you will:

- a. be liable in full for the actual losses that occur before the loss, theft or misuse of a Device or breach of any of the security obligations are reported to us; but
- b. not be liable for the portion of losses that exceeds the balance of the Tyro Bank Account.

If we can prove, on the balance of probabilities, that you contributed to losses resulting from an unauthorised transaction by unreasonably delaying reporting to us of the misuse, loss or theft of a Device or that the security of the Pass Code or Fingerprint Login has been breached, you will be liable for the actual losses that occur between:

- a. when you became aware of the security compromise, or should reasonably have become aware in the case of a lost or stolen Device; and
- b. when you report the security compromise to us,

but you will not be liable for any portion of the losses that exceed the balance of the Tyro Bank Account.

For an unauthorised transaction that occurs other than in the circumstances set out above, you will be liable for the least of:

- a. AUD150;
- b. the balance of the Tyro Bank Account; or
- c. the actual loss at the time you report to us the misuse, loss or theft of a Device or breach of Pass Code or Fingerprint Login security.

## 20.0 Mistaken payments (excluding BPAY)

When initiating and approving Payment Directions, you must ensure that the recipient details (the BSB and account number, or the BPAY Biller code and reference number) of the relevant account has been correctly entered in the Payment Direction. We do not check or verify this information.

If you believe a transfer has been made to the wrong account, you must notify us immediately. We will then investigate whether a mistaken payment has occurred.

If we are satisfied that a mistaken payment has occurred, we will send to the ADI that received the payment a request for the return of funds. If the receiving ADI returns such funds, we will credit the Tyro Bank Account for the amount received.

If the receiving ADI does not return the funds, we will have no obligation to seek to receive such funds from the receiving ADI or any other party. We will have no liability or responsibility for any loss you incur as a result of a mistaken payment that cannot be recovered by us under this clause.

You should regularly check your transaction history and tell us immediately if you discover any error.

## 21.0 Security obligations

You must not and must ensure that your Authorised Signatories and Account Users do not:

- a. voluntarily disclose their Pass Codes to anyone;

- b. provide or allow any person to use a Device on which the Tyro App is accessible;
- c. keep a written record of the Pass Code on one or more articles likely to be lost or stolen simultaneously, without making a reasonable attempt to protect the security of the Pass Code;
- d. keep a record of the Pass Code with the Device; and
- e. keep a record of the Pass Code on your Device or other electronic device.

A reasonable attempt to protect the security of a Pass Code record includes making any reasonable attempt to disguise the Pass Code within the record, or prevent unauthorised access to the Pass Code record, including by:

- a. hiding or disguising the Pass Code record among other records;
- b. hiding or disguising the Pass Code record in a place where a Pass Code record would not be expected to be found;
- c. keeping the Pass Code record in a securely locked container; or
- d. preventing unauthorised access to an electronically stored record of the Pass Code.

You must (and must ensure that your Authorised Signatories and Account Users do) take reasonable precautions to prevent others from watching you (or them) enter the Pass Code.

You agree that you will (and that you will ensure that your Authorised Signatories and Account Users will):

- a. not leave the Device unattended and logged in to the Tyro App;
- b. lock the Device or take other steps necessary to stop unauthorised use of the Tyro App; and
- c. immediately report to us if the Device has been lost or stolen or if you suspect that your Pass Code has become known to someone else.

When choosing a Pass Code, you must not (and you must ensure that your Authorised Signatories and Account Users do not) choose a Pass Code that:

- a. is obvious or can be easily guessed, such as using a number that represents your date of birth or drivers licence number; or
- b. is an alphabetical Pass Code that is a recognisable part of your name (including your business name).

You must not (and must ensure that your Authorised Signatories and Account Users do not) allow any other person to set up a Fingerprint Login for the Tyro App or on a Device on which the Tyro App is accessible.

If you, or an Authorised Signatory or Account User, are in breach of this clause you will be taken to be in breach of your security obligations.

Your Pass Code must only be entered on the Tyro App. You must not provide your Pass Code to any person (including a person who purports to be from us or acting on our behalf) or enter the Pass Code on any website, email or in any other manner. If you receive a communication (other than through the Tyro App) that requires you to provide your Pass Code, you must not provide the Pass Code and must immediately report the communication to us.

## 22.0 Reporting a breach

You must immediately report a breach of any security requirements to us by using the contact details on our website.

### 23.0 Statements

We will issue you with a statement at least every 6 months either via the Tyro App or by other electronic means as we determine in our discretion.

Each statement will record all transactions on your Tyro Bank Account since the date of the last statement.

You should review your statement as soon as you receive it to ensure that all transactions are correct.

Please contact us immediately if you believe there is an error on your statement.

### 24.0 Freezing your account

Any one Authorised Signatory can ask us at any time to place a stop on your Tyro Bank Account, in which case you and any other Account User will not be able to make any further transactions on the account until two Authorised Signatories ask us to remove the stop. If you request a stop on your account, you will continue to be liable for any transactions authorised but not yet processed at the time of your request. We will also continue to debit your Tyro Bank Account with all amounts due to us (including any loan repayments) while the stop is in place.

In some circumstances we may be required by law to freeze your account. In addition, in our discretion we may freeze your account where any loan you have with us is in arrears, where we reasonably believe there has been fraudulent, illegal or unauthorised activity on your account, where we are at risk due to a dispute or where we need to conduct reasonable investigations into your use of Tyro EFTPOS Banking. We will continue to debit your Tyro Bank Account for amounts due to us where permitted by law. Where we are not permitted by law to continue to debit your Tyro Bank Account for amounts owing to us, we will debit your Linked Account or Fee Account (if not your Tyro Bank Account) for all amounts owing to us including pursuant to any loan product you have with us. You will remain liable for all amounts due to us despite us not being able to debit such amounts from your Tyro Bank Account.

### 25.0 Closing the Tyro Bank Account

We will close your Tyro Bank Account if the Authorised Signatory(ies) in accordance with the Administration Authority request us to do so (unless you have a loan with us in which case your Tyro Bank Account must remain open until your loan is repaid in full). If you close your Tyro Bank Account, once all transactions have cleared, the cleared credit balance will be transferred to your Linked Account.

Notwithstanding anything in this Agreement, your Tyro Bank Account will be closed if the Tyro EFTPOS Facility or eCommerce Facility is terminated or if you are no longer using your Tyro EFTPOS Facility or eCommerce Facility and there are no funds held in the Tyro Bank Account. Where possible we will attempt to notify you before closing your Tyro Bank Account.

We may, acting reasonably, close the Tyro Bank Account at any time by giving you not less than 30 days prior notice.

We may also close the Tyro Bank Account without notice if:

- a. we reasonably believe that you provided us with information in the Application Form that is both false or misleading and material;
- b. you have failed to comply with any material terms of this Agreement and, if in our reasonable opinion, the failure is capable of remedy, you have failed to remedy the failure within 5 Business Days or such longer period reasonably specified by us, taking into account the circumstances of us giving notice of such failure;
- c. you have failed within a reasonable time after our request to provide us with information or take any action which we reasonably require in order for us to comply with all relevant laws;
- d. circumstances beyond our control mean that we could not meet our obligations under these terms and conditions; or
- e. the account does not comply with any law, rule, regulation, judgment order or directive of any government.

If the Tyro Bank Account is closed, we will pay to your Linked Account the cleared credit balance of the Tyro Bank Account less:

- a. any accrued fees and charges;
- b. any accrued government charges, duties and taxes; and
- c. any amounts which are payable by you to us under this Agreement,
- d. by direct credit within 5 Business Days after your Tyro Bank Account is closed.

To the extent that the balance of the Tyro Bank Account is insufficient to discharge the amounts payable by you under this Agreement, you will remain liable to pay us such amounts and you authorise us to debit such amounts from the Linked Account and/or the Fee Account.

### 26.0 Death

If you are a partnership of individuals or otherwise comprise more than one individual and one of the account holders dies, the surviving owner(s) will own the Tyro Bank Account once we have received notification of death together with any other relevant documentation we request.

If:

- a. you are an individual and you die; or
- b. the Administration Authority is "any to sign" and your sole Authorised Signatory dies; or
- c. the Administration Authority is "any two to sign" and as a result of the death of an Authorised Signatory, there are less than 2 surviving Authorised Signatories,

then, we will, subject to the below transactions, freeze the Tyro Bank Account on receiving notice of death until we receive all relevant documentation we request including confirmation of the identity of the relevant personal representative or replacement Authorised Signatory.

Once we receive notice of your death, we will:

- a. give effect to transactions which were approved through the Tyro App before we were notified of your death; and
- b. make such payments and debits from your Tyro Bank Account or Fee Account which are required for you to fully discharge your liabilities to us and other

counterparties at the time we are notified of your death.

We will pay the balance of the funds (after having deducted all amounts which are required for you to fully discharge your liabilities and obligations to us) in your Tyro Bank Account to the person or persons that are lawfully entitled to receive such funds. We will not be responsible or liable if we pay those funds to a person who was not entitled to receive such funds. Upon paying such funds, your Tyro Bank Account will be deemed to have been closed.

### **27.0 Insolvency**

If we receive notice that you are subject to an Insolvency Event, we will immediately freeze the Tyro Bank Account and we will only authorise transactions on the Tyro Bank Account that we receive from or on behalf of the receiver, administrator, controller, liquidator or any other person that is appointed or otherwise lawfully controls you or your assets.

### **28.0 Australian business number**

At all times you must maintain a valid and current Australian business number (ABN). If we receive notice or become aware that your ABN is no longer current or valid, we can immediately freeze the Tyro Bank Account and will only remove a freeze where we are provided with evidence that you have a valid and current ABN.

### **29.0 Withholding tax**

Tyro may decide to not accept your application if you do not provide your ABN. If you do provide your ABN, we may provide it to the Australian Taxation Office.

If you do not provide your ABN and you are not exempt from withholding tax, then we are required to withhold tax earned from the interest accrued on the Tyro Bank Account and provide this interest to the Australian Taxation Office. We may also be required to withhold tax from interest accrued in some other circumstances depending on your residency. Any amounts to be withheld in accordance with this clause 29.0 will reduce the amount of interest credited to your Tyro Bank Account in accordance with this Agreement. The interest withheld will generally be at the highest tax marginal rate, plus any levies that are applicable.

### **30.0 Additional requirements**

In order for us to comply with any applicable laws or regulations, you agree that, despite any term in this Agreement to the contrary:

- a. you will provide us with any information or assistance we request; and
- b. we may block access to the Tyro Bank Account or delay processing any transactions conducted on the Tyro Bank Account.