
Tyro Payments Limited ABN 49 103 575 042 AFSL 471951

Tyro Terms and Conditions

D Tyro Business Loan Terms and Conditions

Effective: 17 November 2023

TYRO BUSINESS LOAN

D.1 Your Tyro Business Loan

- D.1.1 We provide the Loan by disbursing the Loan Principal to your Settlement Account.
- D.1.2 You must only use the Loan for your business purposes or any other commercial purpose that we approve in writing.

D.2 Fees

- D.2.1 You must pay us the Loan Fee.

YOUR REPAYMENTS AND OBLIGATIONS

D.3 Repayment

- D.3.1 Once we provide the Loan, you will owe us the Total Repayment Amount and must repay it to us.
- D.3.2 You authorise us to deduct the Daily Repayment from each Daily Settlement and apply it to the Total Repayment Amount until you repay the Total Repayment Amount in full.
- D.3.3 You must repay at least the Minimum Repayment during each Minimum Repayment Period. If, at the end of a Minimum Repayment Period, the value of your Daily Repayments during the Minimum Repayment Period is less than the Minimum Repayment:
 - a. you must immediately repay the deficit in the Minimum Repayment; and
 - b. you will owe us an amount equal to the value of the deficit, which we may debit from your Accounts in accordance with clause A.4.
- D.3.4 If your repayments during a Minimum Repayment Period exceed the Minimum Repayment, it will not reduce the Minimum Repayment for subsequent Minimum Repayment Periods. You must still repay the Minimum Repayment in each subsequent Minimum Repayment Period until you have repaid the Total Repayment Amount.
- D.3.5 You may make additional repayments at any time, but cannot redraw any amounts you have repaid.

If you are experiencing financial difficulty or you believe you may find it difficult to make repayments when due, you should tell us as soon as possible so we can work with you to try to help you.

D.4 Other Obligations

D.4.1 Until you repay the Total Repayment Amount in full, you **must**:

- a. maintain a Tyro Bank Account as your Settlement Account;
- b. prudently manage your business and continue to process Transactions as you usually process them,

and **must not**:

- c. take steps that are likely to materially decrease the value of your Daily Settlements, including:
 - i. actively inviting your customers to pay using methods other than your Electronic Payments Facility;
 - ii. selling or ceasing to carry on all, or a material part of, your business or assets; or
 - iii. allowing any consent, authorisation, registration, permit or exemption that is necessary to conduct or otherwise material to your business to lapse;
- d. to the extent that the following may have a material adverse impact on your ability to repay the Total Repayment Amount:
 - i. declare, pay or make any asset distribution (for example, paying a dividend);
 - ii. amend your constitution or any other document that is material to your business; or
 - iii. enter into any transaction that is not on arm's length terms; or
- e. revoke, or attempt to revoke, any direct debit request you have given us without first agreeing alternative arrangements with us.

D.5 Representations and Warranties

D.5.1 On each day until you repay the Total Repayment Amount in full you represent and warrant to us that:

- a. if you are a company – you are registered, incorporated and validly exist under the laws of your jurisdiction of incorporation;
- b. if you are a partnership – the partnership is not terminated, nor has any event occurred which could result in the partnership terminating;
- c. if you are acting as trustee of a trust – you have authority to accept the Loan on behalf of the trust and authority under the deed constituting the trust to borrow money;

- d. you have obtained all authorisations required in connection with your execution, delivery and performance of this Agreement;
- e. you have power and authority to carry on your business;
- f. the Loan does not infringe or conflict with any law, judgment, ruling, order, document or agreement that applies to you or your assets;
- g. you have paid all Taxes that are due and payable;
- h. you are solvent and have no reason to believe that you will become insolvent or otherwise unable to pay all or any part of the Total Repayment Amount when due; and
- i. all information you have given us that is material to us protecting our rights and legitimate interests is true and not misleading.

DEFAULT

D.6 Defaults

D.6.1 Subject to clauses D.6.2 and D.6.3, it is a Default if:

- a. you fail to make a repayment in full on the due date;
- b. you breach any of your obligations under clauses A.4.6, A.11, D.3.3 and D.4 of this Agreement;
- c. you or your representatives represent that you will breach, or intend to breach, any of your obligations under this Agreement;
- d. a warranty, representation or statement made or repeated by you under or in connection with this Agreement is untrue or misleading in any material respect;
- e. all or a substantial part of your assets are compulsorily acquired or divested by order of a government agency or by law;
- f. a statutory or law enforcement authority notifies us, or we have reasonable grounds to suspect, you are involved in illegal activity; or
- g. an Insolvency Event occurs.

D.6.2 A Default will not be taken to have occurred until:

- a. we notify you in writing that a Default has occurred; and
- b. for a Default that is possible for you to remedy, you have failed to remedy the Default within the lesser of:
 - i. 30 days after we notify you under clause D.6.2(a); or
 - ii. in relation to a Default under clauses D.6.1(b) to D.6.1(g), if we notify you of a shorter remedy period (including no remedy period) which is reasonable for us to manage a material and immediate risk relating to the nature of the Default or your particular circumstances – the period of which we notify you.

- D.6.3 A Default under clauses D.6.1(b) to D.6.1(g) will not be taken to have occurred unless it presents a material risk to:
- a. your ability to repay the Total Repayment Amount or our ability to assess whether you can repay the Total Repayment Amount;
 - b. our risk in relation to set-off or our ability to assess that risk; or
 - c. in the case of clause D.6.1(d) or D.6.1(f), our legal rights or reputation.
- D.6.4 You must notify us as soon as possible if a Default occurs or is reasonably likely to occur.

D.7 Consequences of Default

- D.7.1 Without limiting our rights at law, at any time after a Default, we may:
- a. notify you that the Outstanding Repayment Amount is immediately due and payable by you to us (see clause D.7.2);
 - b. notify any Guarantor that the Outstanding Repayment Amount is immediately due and payable by the Guarantor to us; and/or
 - c. do anything else the law allows us to do.
- D.7.2 If we notify you under clause D.7.1(a):
- a. you must immediately pay us the Outstanding Repayment Amount; and
 - b. we may debit your Accounts for any outstanding part of the Outstanding Repayment Amount in accordance with clause A.4.
- D.7.3 You authorise us to withhold your Daily Settlements and apply them to repay the Outstanding Repayment Amount, including in priority to your other creditors, at any time after a Default.

D.8 Indemnity

- D.8.1 You indemnify us for any Loss we reasonably incur in connection with:
- a. a Default;
 - b. if you are acting as trustee of a trust – any claim that the trust does not, or did not, have the power to accept the Loan; or
 - c. our costs to enforce, exercise, preserve or consider any of our rights, powers or remedies in connection with the Loan,
- excluding any Loss caused by the fraud, negligence, mistake or wilful misconduct of us, our employees, agents, contractors or representatives.

MISCELLANEOUS

D.9 Avoidance

- D.9.1 If:

- a. a payment made by you to us is void, voidable, unenforceable or defective; or
- b. we direct the funds comprising such a payment to a third party which is entitled to those funds (each an **Avoidance**), even though we knew, or could or should have known, that the payment would be an Avoidance:
- c. your liability under this Agreement will be what it would have been, and will continue, as if the Avoidance had not occurred; and
- d. you must do all things necessary, or anything we reasonably require, to restore us to our position immediately before the Avoidance.

D.10 Combination and Set-Off

- D.10.1 We may combine or set off the balance of any accounts you have with us and apply any funds in those accounts to repay all or any part of the Total Repayment Amount that is overdue for payment.
- D.10.2 We will:
 - a. only exercise our rights under clause D.10.1 if doing so is reasonably necessary in order to protect our legitimate interests; and
 - b. notify you if we exercise our rights under clause D.10.1.

D.11 Waiver

- D.11.1 Either party may exercise its rights under this Part D despite any delay or previous waiver of those rights.
- D.11.2 Neither party will be liable for any Loss caused by exercising, not exercising or delaying in exercising any of its rights.

INTERPRETATION

D.12 Your Loan Summary

- D.12.1 Your Loan Summary may contain additional terms and conditions to this Part D. To the extent that the terms and conditions in the Loan Summary are inconsistent with this Part D, the terms and conditions in the Loan Summary prevail to the extent of the inconsistency.

D.13 Definitions

In this Part D, all capitalised words have the same meaning as in Part A unless specifically defined in this Part D. In this Part D:

- D.13.1 **Daily Repayment** means the Daily Settlement multiplied by the Repayment Percentage.
- D.13.2 **Daily Settlement** means the proceeds of your Electronic Payments Facility credited to you each day in accordance with clause B.10.
- D.13.3 **Default** has the meaning given in clause D.6.1.
- D.13.4 **Guarantor** means any person who guarantees the payment of a Loan.

- D.13.5 **Loan** means the loan provided by us to you for an amount equal to the Total Loan set out in the Loan Summary.
- D.13.6 **Loan Amount** means the Loan Principal plus the Loan Fee.
- D.13.7 **Loan Fee** means the fee set out in the Loan Summary.
- D.13.8 **Loan Principal** means any principal amount advanced by us to you.
- D.13.9 **Loan Summary** means the key details of a Loan set out by us to you in a Tyro Platform.
- D.13.10 **Minimum Repayment** means 5% of the Loan Amount.
- D.13.11 **Minimum Repayment Period** means each consecutive 30-day period from the date we provide the Loan.
- D.13.12 **Outstanding Repayment Amount** means the Total Repayment Amount less any amounts paid or repaid by you in accordance with this Agreement.
- D.13.13 **Repayment Percentage** means the percentage set out in the Loan Summary.
- D.13.14 **Taxes** means any tax, levy, duty, rate, impost or charge imposed, levied or assessed by the Australian Taxation Office or any other revenue authority and any related penalty, fine, fee or interest.
- D.13.15 **Total Repayment Amount** means:
- a. the Loan Amount; and
 - b. any costs we reasonably incur in the recovery of any amount that you owe to us in connection with the Loan.

Tyro Services are provided by:

Tyro Payments Limited

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