

Rental Terms

These Master Rental Terms comprise part of any agreement between Smartpay Australia Pty Ltd and the Renter.

Definitions:

“**Agreement**” means these Master Rental Terms (as amended, modified, supplemented or novated from time to time) and each Rental Schedule and where applicable, any other schedule attached. “**Business Day**” means a day on which banks are open for general banking business in New South Wales other than a weekend day. “**Commencement Date**” means the commencement date set out in the Rental Schedule. “**Equipment**” means all equipment listed in any present or future Rental Schedule together with all Software loaded on the equipment rented by the Renter and listed under previous, present or future Rental Schedules and all replacements and all accessories and any parts supplied at any time, together with any further equipment supplied with, in addition to, or in substitution for, the Equipment and includes the Services. “**GST**” means goods and services tax within the meaning of the A New Tax System (Goods and Services Tax) Act 1999. “**Guarantor**” means any guarantor who guarantees the obligations of the Renter to us. “**Insolvent**” means unable to pay debts when they fall due, in receivership, in liquidation, in provisional liquidation, under statutory management or voluntary administration, wound up, bankruptcy, subject to any arrangement, assignment or composition with creditors or protected from any creditors under any legislation. “**PPSA**” means the Personal Property Securities Act 2009. “**Security Interest**” has the meaning given to it in the PPSA. “**Rental Schedule**” means each rental schedule entered into by the Renter and us in, or substantially in, the form incorporated in or attached to this Agreement as page 1 of the Agreement, including any further rental schedule in the future in relation to additional equipment. “**Rentals**” means payments of rent as specified in any Rental Schedule. “**Services**” means phone support for any technical Equipment faults or defects (not including communications failures) to be provided Monday to Friday 9am to 5pm (excl public holidays) by the Support Centre on the contact details in the Rental Schedule. “**Software**” means the executable program and/or application loaded into Equipment or such other item of software provided by us or a related company to us. “**Term**” is defined in the Rental Schedule and, where applicable, includes any extended term under clause 14. “**Variation Schedule**” means a variation schedule in the form required by us. “**You**” means the Renter. “**We**”, “**Us**” and “**SPR**” means Smartpay Rentals Pty Ltd (ABN 20 139 490 350).

Interpretations:

(a) the singular includes the plural and vice versa; (b) “person” includes anybody or entity; (c) a reference to a party includes that party’s successors, legal personal representatives and assigns (or in the case of the Renter permitted assigns); (d) if two or more persons comprise the Renter and/or Guarantor all shall be bound jointly and severally; and the Schedules to this Agreement form part of the Agreement.

THE PARTIES AGREE

1. Rental of Equipment

1.1 Request for Rental: From time to time you may request us to rent Equipment to you. You may do this by delivering to us a completed and signed Rental Schedule. The Rental Schedule must be signed on your behalf by a director or an Authorised Signatory (whose names and or titles are stated in the Authorised Signatories of Renter).

1.2 Our Discretion: We may, in our absolute discretion, accept or reject any such request. Our discretion will not be affected if you pre-pay any moneys or take delivery of any Equipment.

1.3 Acceptance by Us: We may accept any such request by signing and returning to you a copy of the Rental Schedule. On us signing the Rental Schedule, an agreement will come into effect between the parties for the rental of the Equipment on the terms set out in this Agreement.

1.4 Prior Delivery: If Equipment is delivered to you before we accept a Rental Schedule relating to that Equipment, you must comply with the provisions of this Agreement relating to care, insurance and use of that Equipment as if this Agreement were applicable to that Equipment.

2. Installation and Rental Term

2.1 In respect of each Rental Schedule arising under this Agreement, the Term commences on the Commencement Date and, subject to clauses 9 and 14, continues for the number of months specified in the relevant Rental Schedule.

2.2 Equipment supplied under this Agreement will be delivered by SPR to the Installation Address specified in the Rental Schedule in accordance with the implementation plan agreed in writing between SPR and the Renter or to such other address as agreed in writing by SPR and Renter.

2.3 Unless otherwise agreed in writing by SPR the Renter will be solely responsible for the installation of the Equipment at the Installation Address. If the Customer requests the assistance of SPR in connection with the installation of the Equipment such assistance will be charged to the Renter on a time and materials basis at SPR’s then current rates.

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2.4 If SPR agrees to install all or part of the Equipment, the Renter shall: (a) provide suitable access to the Renter's premises to allow the installation to take place; (b) provide or procure all necessary services and amenities (including telecommunications services) to enable SPR (or its employees, agents or sub-contractors) to undertake the installation; (c) provide SPR (and its employees, agents and subcontractors) with all such assistance and support as they may reasonably require to enable them to complete the installation of the Equipment and (d) indemnify SPR under clause 13.1 for any breach of this clause 2.4.

3. Rent and Return of Equipment

3.1 Throughout the Term you must pay to us the Rentals by direct debit into our bank account or in such other manner as we may direct. The Rentals are payable monthly in arrears in cleared funds on each Payment Date as detailed in the Rental Schedule.

3.2 Your obligation to pay Rentals and other moneys under this Agreement is absolute and unconditional and no withholding, deduction or set off for any reason (including because of any counterclaim or otherwise) is permitted. If you are required by law to make any deduction or withholding from any money paid or payable by you to us, you will pay such additional amount to us as may be necessary to ensure that after making that deduction or withholding, we receive and obtain (free from any liability in respect of any such deduction or withholding) an amount equal to what we would have received and retained had no such deduction or withholding been required or made.

3.3 We may apply and set off any monies payable by us to you against any monies owing by you to us on any account in such manner as we determine in our absolute discretion.

3.4 Your obligation to pay any monies under this Agreement shall be released only upon our being satisfied that no payment received from you or on your behalf will be avoided or will have to be repaid by us under any law relating to insolvency.

3.5 The parties acknowledge that, subject to any provisions of the Competition and Consumer Act 2010, the only remedy for misrepresentation, repudiation or breach of contract by SPR is a remedy for damages. For the avoidance of doubt, you shall not be entitled to cancel or otherwise terminate this Agreement upon the event of a misrepresentation, repudiation or breach of contract by SPR.

4. Equipment and its use

4.1 You acknowledge that: (a) you have examined the Equipment before accepting it and have satisfied yourself as to its condition, quality and suitability for your purposes; (b) we may act in your name and on your behalf to take any steps necessary to protect our Security Interest in the Equipment; and (c) the Renter does not have any title or ownership to the Equipment. SPR retains the legal and beneficial ownership of the Equipment and of all information relating to the Equipment and its operation. You will only have rights as a bailee to use the Equipment in accordance with this Agreement.

4.2 You will: (a) keep the Equipment in good order and repair (fair wear and tear excepted); (b) not attempt to sell, dispose of or encumber the Equipment in any way; (c) not alter or make an addition to the Equipment or alter any identifying markings on the Equipment without our prior written consent; (d) not relocate the Equipment without our prior written consent and should the Equipment be taken or removed or lost or damaged you must immediately advise us in writing; (e) allow us to inspect the Equipment at any reasonable time upon our first giving you reasonable notice; (f) notify us in writing seven days prior to any change of your name or address; (g) not use or install the Equipment in any manner that would lead to the Equipment becoming a fixture or an accession to any property that is not Equipment; (h) hold the Equipment in such way that it is clearly identifiable as the property of SPR and protect the Equipment from any form of seizure by a third party; and (i) protect our interest in the Equipment at all times and use best endeavours to avoid any damage to or loss of the Equipment.

5. Insurance

5.1 You: (a) must insure and keep the Equipment insured for its full insurable value (replacement value where this is possible) against loss, fire, accident, theft and damage (including malicious damage), storm and tempest, earthquake and water damage, with a reputable insurer; (b) must not do or permit anything to be done which may prejudice any Equipment insurance; (c) agree that any insurance monies paid out by the insurer with respect to the Equipment shall be applied at our option either towards the repair or replacement of the Equipment or in reduction of the monies owing under this Agreement.

6. Casualty Occurrence

6.1 If any of the Equipment is lost, stolen, or damaged beyond economic repair, you will promptly notify us and unless otherwise agreed by us you will immediately pay to us all Rentals payable with respect to such Equipment for the remainder of the Term.

6.2 Upon our receipt of the moneys referred to in clause 6.1: (a) this Agreement will terminate with respect to that Equipment and the renting of any remaining Equipment will continue at an adjusted Rental (based on the units of Equipment remaining) as notified by us in our absolute discretion; and (b) if you have paid all monies due to us under clause 6.1 and if we receive insurance proceeds in respect of

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the relevant Equipment, such insurance proceeds will be credited to you to the extent of any payment received from you under clause 6.1.

7. Essential Terms

7.1 The following terms are fundamental and essential terms: (a) that you pay all Rentals on time (time being of the essence); (b) that you comply with any written notice served by us on you requiring you to rectify a breach of any of your obligations under this Agreement (other than to pay Rental, which is covered in (a) above) within 10 Business Days of service of that notice (time being of the essence); (c) that you keep the Equipment insured in accordance with clause 5.1; (d) that you do not become Insolvent or do not amalgamate with any other company or undergo a solvent liquidation; (e) that you do not attempt to sell, lease, hire out, dispose of, distress, or encumber or endanger or jeopardise the Equipment in any way; (f) that the person who owns and/or controls you does not change at any time during the Term; (g) that you and any Guarantor disclosed to us prior to this Agreement all information (whether or not it is publicly available) that was or could be likely to be relevant in relation to assessing your or any Guarantor's credit standing or ability to obtain credit or your ability to complete this Agreement or any Guarantor's ability to meet their guarantee and that no representation of any kind made by you or any Guarantor (whether or not incorporated into this Agreement or in any guarantee) and no warranty by you in this Agreement is or will become untrue, incorrect or misleading in any material respect (as determined by us in our absolute discretion) during the continuance of this Agreement; (h) that there has been no material adverse change in your business, assets or financial condition (as determined by us in our reasonable opinion) without our prior written consent; (i) that no distress or execution is levied or issued against any of your assets and that no Equipment is at risk; and (j) that no Security Interest is lawfully claimed over any Equipment by a party other than us.

7.2 You will be taken to have repudiated this Agreement if you breach any of the essential terms referred to in clause 7.1.

8. Warranties

8.1 SPR provides an Equipment replacement warranty for any defective or faulty Equipment on the terms specified in clause 8.3. To the full extent permitted by law, all other guarantees, warranties and implied terms and conditions (in each case whether implied by statute, law, trade, custom or otherwise) in your favour are excluded.

8.2 We are not liable in any circumstances for any damage, injury or loss to any person or property arising from the possession, operation or use of the Equipment.

8.3 Our liability under this Agreement is limited to replacing or repairing any defective or faulty item of Equipment. All other liability on us under or in connection with this Agreement (whether in contract, tort (including negligence), equity or otherwise) for any reason is excluded or, if it cannot be excluded, is limited to the maximum extent permitted by law. To the extent permitted by law, we shall not be liable under any circumstances for any consequential, indirect or economic loss. To the extent permitted by law, should we be unable (by law) to exclude our liability, our maximum liability for any reason shall be, at our option limited to: (a) the replacement or cost of replacement or re-supply of the relevant Equipment or services with the same or equivalent Equipment or services; or (b) the repair or cost of repair of the relevant Equipment; or (c) the amount paid by the Renter to us as Rental Fees for the relevant Equipment under Clause 3 of this Agreement for the twelve month period prior to the event which gave rise to the claim occurring.

8.4 You acknowledge that the Equipment has been acquired for business purposes and, to the extent permitted by law, the Competition and Consumer Act 2010 will not apply to this Agreement.

8.5 Representations: You represent that – (a) Entry into Agreement: (i) Power: you have the power and are authorised to enter into this Agreement; (ii) Validity: this Agreement is valid and binding on you; (iii) No Breach: your entry into, and performance of your obligations under this Agreement, do not and will not, breach any law or any material agreement affecting you, and (iv) Trustee: if you enter into this Agreement as a trustee, you acknowledge and agree that you enter into this Agreement for a proper purpose of the trust, that you have power and authority under the trust to enter into this Agreement and that you have the right to be indemnified fully out of the trust property before the trusts' beneficiaries for all liabilities you incur under this Agreement; and (b) Own Skill: subject only to those warranties expressly recorded in this Agreement, in deciding to rent the Equipment you have relied entirely on your own skill and judgement and not on any advice, information, representations or warranties from us or from any person acting, or purporting to act, on our behalf. Each of the above representations is repeated on each date that a Rental Schedule is entered into.

9. Termination and Repossession

9.1 If there is a breach of any term specified in clause 7.1 we may, in addition to any other rights or remedies we may have, give you notice terminating this Agreement immediately and/or (with or without terminating this Agreement) retake possession of the Equipment.

9.2 If we terminate this Agreement under clause 9.1, you must immediately: (a) return the Equipment in good order and condition to us at a place specified by us (If you fail to do so, we may take possession of the Equipment at your cost); (b) pay to us all moneys then due and payable under this Agreement (including, without limitation, unpaid Rentals and default interest); (c) pay to us on demand

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as liquidated damages (which you acknowledge to be a genuine pre-estimate of our loss) the sum total value of all future Rentals payable for the balance of the Term; (d) pay to us on demand an early repayment fee of \$400 for any fixed term contract including 24 & 36-month contracts, or \$195 for those on no contract terms; and (e) pay to us any and all costs and expenses that we notify you that we have incurred in connection with the early termination of the Agreement, including, without limitation, debt recovery costs, legal costs, repossession costs, repairing, storing and selling costs.

9.3 Any termination of this Agreement or any payment of the amounts referred to in clause 9.2 by you does not affect any other rights we have under this Agreement or at law.

9.4 If we retake possession of the Equipment without terminating this Agreement we may retain the Equipment (in which case you will still be required to pay the Rentals and other amounts payable under this Agreement during the period that we retain the Equipment) and we will return the Equipment to you only if: (a) you remedy the relevant breach to our satisfaction in all respects; (b) we are satisfied that the event(s) which led us to exercise our right to retake possession of the Equipment does not and will not prejudicially affect us or the Equipment; and (c) you pay all reasonable costs associated with the exercise of our right to retake possession of the Equipment.

9.5 For the purpose of exercising our powers of repossession set out in clause 9.1, you agree to permit us, and any persons who work for us or who are our agents, to enter any premises (including motor vehicles) you occupy of where the Equipment is installed. You also agree to give us, as your agent, the right to enter premises (including motor vehicles) of any other person or corporation to search for and repossess the Equipment without being liable to you or anyone claiming under you. We shall not be liable for any damage or loss caused by such repossession and you will indemnify us against any costs, expenses, claims, actions, damages, compensation, liability or loss that we may incur or suffer directly or indirectly as a result of or in connection with any such repossession.

10. Return of Equipment

10.1 At the expiration of the Term or the earlier termination of this Agreement you will at your expense (including transport and recycling costs or levies if any) deliver up the Equipment in good working order and condition (fair wear and tear excepted) to such place as we may reasonably direct in writing, including but not limited to our office or representative. Alternatively, at our request you will make the Equipment available (in good working order and condition, fair wear and tear excepted) for collection by such person as we may nominate.

10.2 If you do not deliver up the Equipment as required, we may at any time enter any premises (including motor vehicles) where we believe the Equipment is located and you release us from any liability or damage incurred in retaking or attempting to retake possession of the Equipment and you indemnify us against any costs, damages, loss or liability that we may incur or suffer in retaking possession of the Equipment.

10.3 We may retake possession of the Equipment at any time without notice if we consider the Equipment to be at risk or if any Rental Schedule or this Agreement has been terminated for any reason. We shall not be liable for any damage or loss caused by such repossession and you will indemnify us against any costs, expenses, claims, actions, damages, compensation, liability or loss that we may incur or suffer directly or indirectly as a result of or in connection with any such repossession.

11. Software and Intellectual Property

11.1 Where Software is installed on the Equipment, you agree that you have no ownership of this Software and all intellectual property rights in such Software remain with us at all times. You simply have a non-exclusive, non-transferrable licence to use the Software solely in connection with the Equipment for the Term, subject to you complying with your obligations under this Agreement.

11.2 Should we further develop the Software, with or without your assistance and knowledge, you agree that all rights to such developments and improvements remain with us.

11.3 You shall: (a) only use the Software for business purposes in accordance with normal operating procedures as notified by SPR; (b) not analyse, alter, modify, copy or reverse engineer the Software or any part thereof or allow staff or any third party any access to the Software in any way which may facilitate the analysis, alteration, modification, copying or reverse engineering of the Software or any part thereof.

12. Costs, Duties, Taxes, Fees and Charges

12.1 You must pay or reimburse us on demand for: (a) all taxes (excluding income tax), stamp duties and other duties (including financial institutions duty) payable or that may become payable in connection with this Agreement or with any supply, payment, receipt or other transaction arising under this Agreement; (b) our reasonable costs, including out of pocket expenses incurred by us, in complying with any demand made by you under sections 184 and 185 of the PPSA; (c) any costs or expenses which we may reasonably incur in retaking, or attempting to retake, possession of the Equipment; (d) any moneys which we may reasonably think fit to pay to make good any failure by you to comply with any of your obligations; and (e) any costs or expenses (including legal costs and expenses on a full solicitor-own client basis) reasonably incurred by us in connection with the protection of the Equipment or the enforcement or attempted enforcement

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of our rights under this Agreement.

12.2 Whenever a sum of money is payable by you to us under this Agreement (including without limitation Rentals, costs or expenses), you shall pay GST at the rate current when the sum of money is payable where we are obligated to charge GST on that sum. Should any amount payable be stated to be "incl GST", that is only meant to signify the total amount payable at the time when the figure has been inserted and does not prevent us from charging any increased GST where the rate of GST changes.

12.3 You shall pay us interest at the default rate of 15% per annum calculated on a daily basis from (and including) the date payment was due in accordance with this Agreement to (but excluding) the date on which payment is made to SPR in full in cleared funds, but this is without prejudice to any other rights available to SPR including, in particular, SPR's right to terminate this Agreement and its right to recover legal costs and debt collection costs from the Renter. Default interest payable under this clause shall accrue both before and after judgement, shall be payable on demand and shall compound and be added to the amount owing on a monthly basis.

13. Indemnities

13.1 You indemnify us against: (a) any loss of or damage to or by the Equipment, however arising; (b) loss or liability for any death, injury or damage to any person or property arising directly or indirectly from the Equipment, its possession or use; (c) any loss suffered and any expense incurred by us as a result of any breach by you of this Agreement or as a result of any Rental Schedule terminating prior to the end of its Term for any reason; and (d) any loss arising from all or any part of this Agreement being invalid, void, voidable or unenforceable for any reason. In this clause, loss, damage, liability and expense include any prospective loss, damage, liability or expense where that loss, damage, liability or expense is certain to occur.

13.2 Survival: Each indemnity in clause 13.1 is a separate and independent obligation and continues after termination (however occurring) of this Agreement or of any particular Rental Schedule.

13.3 Costs: Each indemnity in clause 13.1 includes all legal costs and expenses incurred by us (on a full solicitor – own client basis).

14. Extension of Term and Holding Over

14.1 The Term automatically extends for consecutive periods of 3 months unless: (a) you deliver to us written notice not more than 6 months but at least 3 months prior to the expiration of the Term of your intention to return the Equipment at the end of the Term; and (b) you deliver the Equipment to us at your expense in accordance with clause 10.1 before the expiry of the Term.

14.2 If the Term is extended under clause 14.1 then unless (a) you deliver to us written notice at least 3 months prior to the expiration of the extended Term of your intention to return the Equipment at the end of the extended Term; and (b) you deliver the Equipment to us at your expense in accordance with clause 10.1 on or before the expiry of the extended Term, the Term shall continue to be extended until such time as: (a) we terminate the renting of the Equipment by notice in writing to you; or (b) you terminate the renting of the Equipment by first giving us at least 3 months' written notice and delivering up the Equipment to us in accordance with clause 10.1.

14.3 Without limitation to clauses 14.1 and 14.2, your obligations under this Agreement continue until the later of: (a) the end of the term of this Agreement; (b) the date that all amounts due and payable to SPR under this Agreement have been paid in full in cleared funds; and (c) the date that the Equipment is returned to SPR in the manner and condition required under this Agreement.

15. Assignment and Agency

15.1 You acknowledge and agree that SPR may in its absolute discretion (without the need to give notice to, or receive consent from, you) assign (absolutely or by way of security), transfer, discount or charge, to or in favour of any third party, any or all of SPR's rights, title and interest in and in connection with this Agreement including, without limitation, SPR's rights, title and interest in: (a) payment of all moneys due, owing or payable or which shall become due, owing or payable by you under this Agreement; (b) all Equipment from time to time leased to you; (c) all guarantees and indemnities and other rights granted by you, the Guarantor or any other person pursuant to or in connection with this Agreement; and/or (d) all other rights, powers and benefits of SPR including, but not limited to, all rights to any cause of action or remedy which may have arisen or may in the future arise howsoever in connection with or under this Agreement.

15.2 For the avoidance of doubt: (a) any assignment by SPR pursuant to clause 15.1 shall not affect the rights and obligations of the parties under this Agreement; and (b) SPR may assign its rights without assigning its obligations under this Agreement and if it does so you agree that the assignee shall not take an assignment of any of SPR's obligations under this Agreement or at law.

15.3 We may execute this Agreement or any Rental Schedule pursuant to it as agent for an undisclosed principal, who may own the Equipment. We may also execute this Agreement or any Rental Schedule pursuant to it as agent for a principal who will be disclosed at that time and where we do so, all references in the Rental Schedule to us shall be deemed to be a reference to the principal and the terms of this Agreement shall apply to that Rental Schedule and shall be deemed to have been incorporated into the Rental Schedule as if all references to us were to the disclosed principal. Where we act as agent for a disclosed principal, we may, to the extent permitted by law, exercise all of its rights and remedies as its agent.

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15.4 You may not, without our prior written consent, sell, assign, transfer or otherwise dispose of (whether absolutely or by way of security), all or any of your rights under, or in respect of, this Agreement or the Equipment. Should you be a company and should you amalgamate with one or more other companies or should there be a change in your direct or indirect control that shall be deemed to be an assignment under this clause.

16. PPSA

16.1 Security Interest: You acknowledge that this Agreement creates a Security Interest in the Equipment as security for your obligations to us under this Agreement and this Security Interest is registrable on the Personal Property Securities Register under the PPSA. You irrevocably authorise SPR (or a third party assignee under clause 15) to register a financing statement on the Personal Properties Security Register over any or all of their right, title and interest of, or in connection with, this Agreement. You shall: (a) provide us with all such information and assistance as we may require to register a financing statement under the PPSA with respect to the Security Interest created by this Agreement and to perfect such Security Interest in the Equipment; and (b) indemnify us against any costs we incur in registering, maintaining or enforcing our Security Interest in the Equipment and exercising any of our rights under this Agreement or the PPSA.

16.2 Further Assurance: You must sign and deliver any documents that we require to ensure that we have a perfected first ranking Security Interest in the Equipment under the PPSA.

16.3 Contracting Out: You waive any right to receive a copy of a verification statement (as defined in the PPSA) under the PPSA and agree to the extent permitted by law that – (a) Additional Rights: pursuant to s115(1) of the PPSA, our rights set out in this Agreement apply despite those provisions mentioned in s115(1) of the PPSA and are in addition to any rights that we may have under those provisions mentioned in s115(1); (b) Non-Application: where Chapter 4 of the PPSA applies, sections 130(3)(a) and 143 of the PPSA will not apply; and (c) Waiver: where Chapter 4 of the PPSA applies and to the extent permitted by the PPSA, you will have none of the rights referred to in sections 92, 95, 97, 132, 135 and 137 of the PPSA.

17. Variation

17.1 No course of dealing between the parties, no agreement between the parties, whether before or subsequent to the signing of this Agreement by the parties and no purported modification or variation of this Agreement, shall be effective to amend, modify, vary, override or replace this Agreement unless the parties have expressly agreed in writing in a Variation Schedule that this should be the case.

18. Notices

18.1 All notices and other communications between us and you shall be in writing and shall be delivered by hand or sent by fax, post, or email, charges prepaid, to the office address, fax number or email address specified in the Rental Schedule or as advised from time to time in accordance with this Agreement. A notice shall be deemed to have been received by us or you: (a) if delivered by hand, upon delivery; (b) if sent by post, four Business Days after, but not including, the date of posting; (c) if sent by fax, at the time of transmission specified in a transmission report from the sending machine confirming that transmission is successful; and (d) if sent by email, upon successful transmission of such email. Provided, in each case, that any notice of communication received or deemed to be received after 5.00pm on a Business Day in the place of receipt, or on a day which is not a Business Day in that place, will be deemed not to have been received until the next Business Day in that place.

19. Blanks and Corrections

19.1 You authorise us to complete any blank spaces in the Rental Schedule relating to the Commencement Date, first Payment Date and the serial numbers and other identification of the Equipment or any administrative details. You also authorise us to rectify any details in the Rental Schedule to correct any manifest errors.

20. Confidentiality

20.1 Confidentiality: Both parties must each keep confidential all information about each other which is, in its nature, or is advised by the other party in writing to be, confidential and which comes into our respective possession.

20.2 Disclosure: Neither party is permitted to disclose any confidential information about the other without the prior consent of the other unless: (a) Public: that information has become publicly available other than by reason of a party's breach of confidentiality; (b) Required by Law: disclosure is required by law; (c) Participating Person: disclosure is to any other person participating, or potentially participating, in the funding, discounting or assignment of the Equipment or this Agreement or any particular Rental Schedule provided that party undertakes to comply with this condition; or (d) disclosure is required in order to exercise a right or remedy under this Agreement.

21. Whole Agreement

This Agreement together with each Rental Schedule, and any Variation Schedule constitutes the whole agreement between the parties and no representation made by either party, whether express or implied (except as implied by law.), shall form part of this Agreement. In no case shall we be liable for any statement or representation made or purported to be made to you by us or on our behalf unless it has

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been included in this Agreement as an express term or is implied by law.

22. Information

As and when requested by us you will provide us, with: [(a) (a) such other reports or financial information, or other information in relation to the Equipment or insurances relating to it, as we may reasonably request and (c) such documentation or other evidence as we may request, promptly, and in any event, within 7 days of a request, to enable us to ensure that you comply with our client requirements and satisfy our identification checks under all applicable laws and regulations and under our normal operating procedures.

23. General

23.1 If any provision of this Agreement is or becomes illegal, invalid or unenforceable, such provision shall be severed and the remaining provisions shall continue unaffected.

23.2 This Agreement is governed by the laws of New South Wales. The Parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

23.3 Without limiting or affecting any other specific provision of this Agreement, the failure or omission by us to take any step or steps shall not be deemed to be a waiver by us of any provision, right or remedy or a variation of any provision unless we expressly state in writing that our failure or omission is to constitute a waiver of a particular provision, right or remedy and shall not be deemed to be a variation of this Agreement unless a Variation Schedule is completed. No waiver by us of any default, breach or repudiation by you will affect our rights in respect of any further or continuing default, breach or repudiation.

23.4 We may use your name and act on your behalf in exercising any rights or instituting, carrying on or enforcing any legal proceeding which we think may be desirable to protect our rights in the Equipment.

23.5 A payment statement given by us shall be prima facie evidence of the amount of monies due, owing or recoverable from us under this Agreement.

23.6 We may issue a certificate concerning (a) the amount you owe us on a particular date (b) the amount of our losses up to that date; (c) the date of the delivery of the Equipment; and (d) the value of the Equipment at a particular date; and we can use these certificates as proof of what they say unless you prove they are incorrect.

23.8 You authorise us to act in your name and act on your behalf wherever we deem this to be appropriate to exercise any of our rights under this Agreement (for example, to recover possession of the Equipment where it is located in premises other than yours or to institute any legal proceedings) and you will indemnify us in all respects in relation to our taking any such steps. In addition, each person comprising the Renter appoints SPR as its attorney to do anything (relating to any matter whatsoever) that the Renter is required to do under this Agreement but does not do.

23.9 Should this Agreement be signed by us before you, by signing it and returning it to us, you represent that you will have made no changes to the Agreement and that you will be bound by the Agreement in the form in which it was presented to you by us. Should you wish to make any changes to the Agreement of any kind, those changes must be agreed to in writing by us in a Variation Schedule, which will only become binding and effective once the Variation Schedule has been signed by you and by an authorised person on our behalf. Execution of this Agreement by us is on the basis that you have made no changes to any of the terms of the Agreement. You agree that any proposed deletions, additions or variations will need to be (a) added as a Variation Schedule to the Agreement and (b) the Variation Schedule will need to be signed by us.

23.10 If there is any inconsistency between the terms set out in the body of this Agreement and any terms in any schedule or appendix that is part of this Agreement or is to be read in conjunction with this Agreement, the terms in the schedule or appendix shall prevail.

24. Guarantee

Where we specify that a guarantee and indemnity in respect of your obligations to us under this Agreement must be given, the guarantee and indemnity must be delivered to us simultaneously with delivery of this Agreement duly executed by the Guarantor(s) failing which you will be in fundamental breach of your obligations to us under this Agreement and we will be entitled (at our option) to treat the breach as repudiation by you of this Agreement. It is agreed that execution by us of this Agreement does not constitute a waiver of our rights under this clause. The same principle applies if we sign a Rental Schedule before any required Guarantor signs that Rental Schedule, in which case we may terminate that particular Rental Schedule or this Agreement (which, to avoid doubt, includes all Rental Schedules entered into before the Rental Schedule in question) at any time before the required Guarantor(s) sign.

25. Assignment

25.1 Customer May Not Assign: The Customer may not assign or transfer all or any of its rights, benefits and obligations under this

Rental Terms

Agreement without the prior written consent of the Company, the granting of which shall be at the sole and unfettered discretion of the Company. If you wish to assign your rights under this Agreement, you can apply to do so on our "Assignment Agreement" form;

25.2 Company May Assign: The Company may at any time assign or otherwise transfer to any party all or any part of its right and obligations under this Agreement and in that event (and subject to clause 3.3) the assignee or transferee should have the same rights against the Customer and the Guarantor as it would have had if it had been a party to this Agreement;

25.3 Company may Assign to Financier: The Company may assign this Agreement to a financier of the Company at its sole discretion. Where such an assignment occurs, the Customer agrees and acknowledges that the financier shall take assignment of all rights of the Company under this Agreement, but shall not take an assignment of any of the Company's obligations under clause 6 or any other obligation of the Company to the Customer under this Agreement or at law.

25.4 A fee is payable, in advance, to cover the administrative costs of Assigning an existing Agreement;

25.5 Assignment of an Agreement is subject to the creditworthiness of the Assignee and at our discretion.

25.6 Information: The Customer and the Guarantor agree that the Company may disclose to a potential assignee or to any person who may otherwise enter into contractual relations with it in relation to this Agreement, such information about either of them as the Company considers appropriate, absolutely or by way of security.

Smartpay – Additional Terms and Conditions for Smartpay Zero Cost™ EFTPOS

- 1. The Surcharge:** In respect of all Transactions processed by you an amount will be charged in addition to the price of the goods and services. The amount is referred to as a "Surcharge", The Surcharge is equal to your cost of acceptance (being the fees that we charge to you). We process and collect the Surcharge and we credit it against the fees that we charge to you.
- 2. Signage:** You must, at the point of sale display a prominent sign that advises customers that all card Transactions will incur a Surcharge and that specifies the amount of the Surcharge, for example: "1.98% surcharge will be added to all transactions paid by card".
- 3. Receipt:** Your end customer must receive a receipt issued from the Terminal that separately identifies the Surcharge and the total value of the Transaction. The terminal software provides this function.
- 4. Surcharge of Credit Card transactions:** Smartpay will supply software on its terminals to facilitate a surcharge for Credit card transactions. This software application will automatically add the quoted surcharge to the transaction amount charged to your customer. For example, on a \$100 transaction where the Surcharge is 1.98% the Visa/ Mastercard fee will be \$1.98 exclusive of GST, and in the event that the surcharge application is utilised, your customer will be charged \$101.98, and you will be settled \$100 into your nominated bank account.
- 5. Surcharge on EFTPOS transactions:** Smartpay will supply software on its terminals to facilitate a surcharge on your customers for EFTPOS transactions. This software application will automatically add the quoted surcharge to the gross amount charged to your customer. For example, on a \$100 transaction where the Surcharge is \$0.50 the EFTPOS fee will be \$0.50 exclusive of GST, and in the event that the surcharge application is utilised, your customer will be charged \$100.50, and you will be settled \$100 into your nominated bank account. Where your customer presents a card that is a combined Visa or Mastercard and an EFTPOS card, the treatment of the transaction for surcharge purposes will reflect how the issuing bank has issued the card based BIN / card number range. For example, where the issuing bank has issued the card under a Visa or Mastercard BIN card number range the terminal will treat the transaction as a Visa or Mastercard and apply the Visa or Mastercard surcharge accordingly, regardless of the customer account selection.
- 6. Surcharge Opt-Out Used:** The Smartpay software allows you to suppress the Surcharge for an individual transaction where you have a requirement to do so. In any event that you use this function, the surcharge that would have applied to the respective transaction will be charged to you and deducted from the next settlement to your nominated bank account. All such amounts at the Merchant's account will be offset against the next settlement to the Merchant and disclosed on the month end payment statement "surcharge opt-out option taken" or similar.
- 7. Free Rental Threshold:** If your total transactional value on Visa and Mastercard for any calendar month on any individual terminal is less than the amount specified as Free Rental Threshold in Other Fees and Charges, the Terminal Rental will be charged to you.