

Last updated on 1 November 2024

National Australia Bank Commercial Entity Agreement (Australia)

This Commercial Entity User Agreement for card processing services for cards issued under licence from Visa and Mastercard (“Commercial Entity Agreement” or “CEA”) is provided to all “Commercial Entities” or the equivalent under Association Rules (defined below) and that require a merchant account. (Each such entity or person receiving this document is hereby referred to as “Merchant”). This CEA constitutes Merchant’s separate legally binding contract for card processing between (1) Merchant, as a Commercial Entity; and (2) Member (which is National Australia Bank Limited (NAB), 800 Bourke St, Docklands, Victoria, 3008). Member may terminate its provision of card processing services and enforce or rely on any term or provision of the Merchant’s Braintree Payment Services Agreement (“PSA”) expressed for the benefit of Braintree, all of which are incorporated in this CEA by reference. In this CEA “we”, “us” and “our” refer to Member. Any reference to the PSA shall mean the Braintree Payment Services Agreement made between Merchant and Braintree. By accepting the Commercial Entity Agreement, Merchant agrees to the terms and conditions of this CEA and any documents incorporated by reference. Merchant further agrees that this CEA forms a legally binding contract between Merchant and Member. Any rights not expressly granted herein are reserved by Member. Descriptions of material amendments to this CEA will be provided as applicable. Any capitalised terms used in this CEA and not otherwise defined shall have the meanings set forth in the PSA.

1. Association Rules

a. **Deposit Transactions.** Merchant agrees that it shall only submit card transactions that directly results from bona fide cardholder transactions with that Merchant. Merchant agrees that it will not submit a transaction until Merchant: (i) obtains an authorisation, (ii) completes the transaction, and either: (iii) ships or provides goods, (iv) performs the purchased service, or (v) obtains the cardholder’s consent for a recurring transaction.

b. **Anti Money Laundering.** Merchant agrees that it shall not submit a transaction that does not result from a purchase of goods or services between the cardholder and Merchant.

c. **Split Transactions.** Split sales transactions are not allowed. Specifically, Merchant agrees that it will not use two or more sales transaction receipts for a single transaction to avoid or circumvent authorisation limits, or monitoring programs. d. **Minimum or Maximum.** Merchant agrees that it shall not set minimum or maximum transaction amounts as a condition of honouring Visa and Mastercard cards.

e. **Surcharges.** Merchant is permitted to impose a surcharge on card transactions, provided that (i) the surcharge is clearly disclosed to the customer before the transaction is completed; (ii) the customer is given the opportunity to cancel the transaction without incurring any cost; and (iii) the amount of the surcharge does not exceed the Merchant’s costs of card acceptance for the applicable card scheme and card type.

f. **Visa and Mastercard Marks.** Merchant is authorised to use the Visa and Mastercard logos or marks only on Merchant’s promotional materials and website to indicate that Visa and Mastercard cards are accepted as payment for the business goods and services. Merchant agrees that it shall

not use the logos and marks either directly or indirectly, to imply that Visa or Mastercard endorses Merchant's goods or services; nor may Merchant refer to Visa or Mastercard when stating eligibility requirements for purchasing its products, services, or memberships.

g. **Credit Vouchers.** Credit vouchers may not be submitted for non-credit transactions. Merchant agrees that it shall not: (i) accept a payment from a card holder for the purpose of depositing funds to the cardholder's Account, or (ii) process a credit transaction without having completed a previous debit transaction with the same cardholder.

h. **Cash Disbursements.** Merchant agrees that if it sells travellers cheques or foreign currency that Disbursements shall be limited to the value of cheques, Visa TravelMoney, or currency sold in a single transaction, plus any applicable commissions. Merchant agrees that under no circumstances shall a Visa or Mastercard transaction represent collection of a dishonoured cheque.

i. **Authorisation Requirements.** Merchant agrees to obtain an authorisation for all transaction amounts. j. **Discrimination.** Merchant agrees that it shall not engage in any acceptance practice that discriminates against or discourages the use of Visa or Mastercard in favour of any other acceptance brand.

k. **Present Transactions within 30 Business Days.** Merchant agrees that a debit transaction shall not be presented until after the goods are shipped, or services provided, unless, at the time of the transaction, the cardholder agrees to a properly disclosed delayed delivery of the goods or services. Merchant agrees that when it receives authorisation for delayed presentment, the words "Delayed Presentment" or something substantially similar must be disclosed to the cardholder.

l. **Fraudulent or Unauthorised Use of Account Information Prohibited.** Merchant agrees that it shall not request or use Visa or Mastercard Account number information for any purpose that it knows or should have known to be fraudulent or in violation of Visa and Mastercard standards, Association Rules, the PSA, or this CEA, or for any purpose that the cardholder did not authorise.

m. **Merchant Identification.** Merchant agrees to prominently and unequivocally inform the cardholder of the identity of the Merchant at all points of interaction so that the cardholder readily can identify the transaction.

2. Payment settlement and fees. Merchant authorises and directs Member to pay all settlement funds as directed by Braintree who shall serve as Merchant's agent for the purpose of providing settlement instructions to Member. Braintree may instruct Member to either settle directly into a bank account held by Merchant, or to settle into an account held by Braintree, or into both accounts for different amounts. This includes an instruction from Braintree to Member to settle into an account held by Braintree for fees and other amounts due to Braintree by Merchant under or in connection with the PSA or for amounts for Braintree to disburse to Merchant. In addition, Merchant authorizes Member to deduct from settlement funds or debit from your nominated account for receipt of settlement funds, all fees and other amounts due to Braintree by Merchant under or in connection with the PSA.

3. Card Associations. Visa Europe Ltd, Visa U.S.A., Inc. and Visa International ("Visa") and Mastercard International Incorporated ("Mastercard") (the "Associations") have developed rules

and regulations (the "Association Rules") that govern their member banks and merchants in the procedures, responsibilities and allocation of risk for payments made through the Associations. By accepting this CEA, Merchant is agreeing to comply with all such Association Rules.

4. Merchant's Refund Policy must be on Merchant's Website. If Merchant limits refund/exchange terms or other specific conditions for Card sales, Merchant's POLICY MUST BE CLEARLY PROVIDED TO THE CARDHOLDER PRIOR TO THE SALE AND AS PART OF YOUR SALE CONFIRMATION PROCESS. Merchant is responsible for ensuring that its refund policy complies with applicable consumer protection laws.

5. Chargebacks and other amounts. Merchant shall use all reasonable methods to resolve disputes with Merchant's customers. Should a chargeback dispute occur, Merchant shall promptly comply with all requests for information from Braintree. Merchant shall not attempt to recharge a customer for an item that has been charged back, unless the customer has authorized such actions. Merchant is liable for all chargebacks that are resolved in favour of the customer, and agrees that the Member may deduct any such chargebacks from Merchant's settlement funds or debit your nominated account for receipt of settlement funds or any other account that Merchant holds with the Member. Member may also set-off any other liability of Merchant to Member under or in connection with this CEA against the Merchant's settlement funds. Member may also debit your nominated account for receipt of settlement funds or any other account that Merchant holds with the Member for any other liability of Merchant to Member under or in connection with this CEA.

6. Term and Termination. This CEA is effective upon the date Merchant accepts the terms and conditions set out herein and continues so long as Merchant uses the Braintree Service ("Services") or until terminated by Merchant or Member, provided that those terms which by their nature are intended to survive termination (including without limitation, indemnification and chargeback obligations and limitations of liability) shall so survive termination. This CEA may be terminated by Member at any time based on a breach of any of Merchant's obligations hereunder or for any other reason that Member or Braintree reasonably deems a credit, regulatory, or brand risk. This CEA will terminate automatically upon any termination of Merchant's PSA.

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7. Indemnification. Merchant agrees to indemnify, defend, and hold Member harmless from and against all losses, liabilities, damages and expenses (including legal fees and collection costs) which the Member and/or its affiliates or agents may suffer or incur arising from any breach of any warranty, covenant or misrepresentation by Merchant under this CEA, or arising as a result of any tortious conduct by Merchant or Merchant's employees or agents, in connection with Card transactions or otherwise arising from Merchant's provision of goods and services to cardholders or from any contravention of any legal requirements.

8. Arbitration. Any dispute with respect to this CEA between Merchant and Member, including a dispute as to the validity or existence of this CEA and/or this clause, shall be resolved by arbitration in Sydney, Australia and conducted in English by a single arbitrator in accordance with the ICC Rules. The parties agree to waive any right of appeal against the arbitration award. In the event of a failure by the parties to agree on the sole arbitrator within 30 days of one party calling upon the other to do so, one shall be appointed by the ICC.

9. Assignment/Amendments. This CEA may not be assigned by Merchant without the prior written consent of Member. Member may assign their rights under this CEA without Merchant's consent and subject to the Association Rules. This CEA may be amended by Member as provided under the PSA, and otherwise shall not be modified in any respect without the express written agreement of the Member.

10. Warranty disclaimer. This CEA is a service agreement. We disclaim all representations or warranties, express or implied, made to merchant or any other person, including without limitation, any warranties regarding quality, suitability, merchantability, fitness for a particular purpose or otherwise of any services or any goods provided incidental to the services provided under this CEA to the extent permitted by law.

11. Logo usage. In using each other's logos and other trademarks, each agrees to follow the guidelines prescribed by the other, as notified by the parties to each other from time to time.

12. Limitation of Liability. Notwithstanding anything in this CEA to the contrary, in no event shall the parties hereunder, or their affiliates or any of their respective directors, officers, employees, agents or subcontractors, be liable under any theory of tort, contract, strict liability or other legal theory for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect or consequential damages, each of which is hereby excluded by agreement of the parties, regardless of whether such damages were foreseeable or whether any party or any entity has been advised of the possibility of such damages. Notwithstanding anything in this CEA to the contrary, in no event shall we be liable or responsible for any delays or errors in our performance of the services caused by our service providers or other parties or events outside of our reasonable control, including Braintree. Notwithstanding anything in this CEA to the contrary, the parties' cumulative liability for all losses, claims, suits, controversies, breaches or damages for any cause whatsoever (including, but not limited to, those arising out of or related to this CEA) and regardless of the form of action or legal theory and whether or not arising in contract or tort (excluding negligence and wilful misconduct) shall not exceed the total volume of all transactions, expressed as an Australian dollar amount, processed under this CEA. Nothing in this CEA shall exclude or limit any liability of any party for death or personal injury caused by negligence or fraud, deceit or fraudulent misrepresentation, howsoever caused.

13. Governing Law. Governing law with respect to this CEA shall be the laws of Victoria, Australia. Each party hereby submits to the non-exclusive jurisdiction of the courts of Victoria.

14. Waiver. The failure of a party to assert any of its rights under this CEA, including, but not limited to, the right to terminate this CEA in the event of breach or default by the other party, will not be deemed to constitute a waiver by that party of its right to enforce each and every provision of this CEA in accordance with its terms.

15. Relationship between the Parties; No Partnership or Agency; Independent Contractors. No agency, partnership, joint venture or employment relationship is created between Merchant and Member by way of this CEA. In the performance of their respective obligations hereunder, the parties are, and will be, independent contractors. Nothing in this CEA will be construed to constitute either party as the agent for the other for any purpose whatsoever. Neither party will bind, or attempt to bind, the other party to any contract or the performance of any obligation, and

neither party will represent to any third party that it has any right to enter into any binding obligation on the other party's behalf.

16. No Illegal Use of Services. Merchant will not access and/or utilise the Services for illegal purposes and will not interfere or disrupt networks connected with the Services.

17. Your personal information and privacy. Member may collect personal information (as defined in the Privacy Act 1988) for the purpose of providing you with the services to be provided by Member under this agreement, managing and administering your service and for identifying you and protecting or investigating any fraud or crime or suspected fraud or crime. If you don't provide your personal information to us where we require it, Member may not be able to provide you with the service or to effectively manage or administer the service. Member may collect your personal information directly from you, or from Braintree or from other sources where legal to do so. Member may disclose your personal information to Braintree and to third party service providers engaged by Member in connection with providing, managing or administering the service. Member may also use personal information for marketing products or services, unless you tell us not to. Member's privacy policy, available at www.nab.com.au/privacy contains further information about how the Member handles personal information and how you can access your personal information held by Member, how you can correct information held by Member and how you can make a complaint about a privacy issue.

18. Severability. Whenever possible, each provision of this CEA will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision hereof will be prohibited by or determined to be invalid by a court of competent jurisdiction, such provision will be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this CEA.

19. Association Disclosure; Member Bank Information: Member, **National Australia Bank Limited**, may be contacted by mail at: 800 Bourke Street, Docklands, Vic 3008; and by phone at 1300 889 398.

Important Member Bank Responsibilities:

- a. Member, and not Braintree, is the entity approved to extend acceptance of Association products directly to you.
- b. Member must be a principal (signer) to this CEA.
- c. Member is responsible for educating you on pertinent Visa and Mastercard Rules with which you must comply; but this information may be provided to you by Braintree.
- d. Subject to Section 2 of this CEA, Member is responsible for and must provide settlement funds to you.
- e. Member is responsible for all settlement funds prior to funding you (or Braintree as your agent).

Important Merchant Responsibilities:

- a. Ensure compliance with cardholder data security and storage requirements.

- b. Maintain fraud and chargebacks below Association thresholds.
- c. Review and understand the terms of this CEA.
- d. Comply with Visa and Mastercard rules.

20. Multicurrency Acceptance. The following provisions apply where we have agreed to provide you with multicurrency acceptance capability, meaning that transactions initiated using cards denominated in a foreign currency can be processed in that foreign currency.

20.1 Definitions. In this clause 20, the following words have the following meanings:

a. **Major currencies** means currencies in respect of which Member receives settlement from the Associations in that foreign currency without conversion. The available major currencies are as set out on the web page <https://www.nab.com.au/business/accounts/specialised-accounts/nab-foreign-currency-account> from time to time or such other web page notified by Member to Merchant. Member or the Associations may amend the list of these currencies from time to time.

b. **Minor currencies** means currencies other than the major currencies which can be processed by the Association but which are converted by the Associations prior to settlement to Member.

20.2 Settlement – major currencies. If you send us a transaction in a major currency and if you have nominated a foreign currency account for that major currency, Member will, subject to clause 2 of this CEA, and to this clause, process and settle it to your foreign currency account held in that currency without conversion. If for any reason Member is unable to process a major currency transaction in that currency (eg. due to temporary systems unavailability) then the following will apply. If you have nominated a United States dollar account as your default account for settlement of multi-currency acceptance, then provided Member is able to process the transaction in United States dollars, Member will settle the transaction to your nominated account held in United States dollars. In all other circumstances, Member will convert the transaction to Australian dollars and settle it to your nominated account held in Australian dollars.

20.3 Settlement – minor currencies. If you send us a minor currency transaction the Associations will convert it first to United States dollars. If you have nominated a United States dollar account as your default account for settlement of multi-currency acceptance, then provided Member is able to process the transaction in United States dollars, Member will settle the transaction to your nominated account held in United States dollars. In all other circumstances, the Associations will convert it to United States dollars then into Australian dollars using their standard exchange rates and Member will settle to you in Australian dollars.

20.4 Refunds and chargebacks – major currencies. Refunds of major currency transactions are ordinarily settled to your foreign currency account in the appropriate currency so no conversion is applied. If there are insufficient funds in your foreign currency account or you are otherwise unable to process a refund for any reason and we agree to process it for you then the following will apply. If you have nominated an account held in United States dollars as your default account for multi-currency acceptance, you acknowledge that we will perform the refund in United States dollars,

provided we are able to process the transaction in United States dollars and there are sufficient funds in your US dollar currency account. In all other circumstances, you acknowledge that we will perform the refund in Australian dollars.

Any chargebacks will be processed in Australian dollars and debited from your nominated Australian dollar account except that if you have nominated an account held in United States dollars as your default account for multi-currency acceptance chargebacks will be processed in United States dollars and debited from your nominated United States dollar account, provided we are able to process the transaction in United States dollars and there are sufficient funds in your US dollar currency account. Merchant wears the risk of any movement in exchange rates between the time of processing the original transaction and the time of processing the chargeback. Merchant should inform Merchant's customer that they may incur a foreign currency conversion fee in the event that the chargeback or refund processed by us is subsequently converted from Australian dollars or United States dollars to the cardholder's domestic currency (eg. by a card scheme or the card issuer).

20.5 Refunds and chargebacks – minor currencies. Minor currency refunds and chargebacks will be processed in Australian dollars, and debited against the nominated AUD settlement account, except that if you have nominated an account held in United States dollars as your default account for multi-currency acceptance, you acknowledge that we will perform the refund or chargeback in United States dollars, provided we are able to process the transaction in United States dollars and there are sufficient funds in your US dollar currency account. Merchant wears the risk of any movement in exchange rates between the time of processing the original transaction and the time of processing the refund or chargeback. Merchant should inform Merchant's customer that they may incur a foreign currency conversion fee in the event that the chargeback or refund processed by us is subsequently converted from Australian dollars or United States dollars to the cardholder's domestic currency (eg. by a card scheme or the card issuer).

First Data Commercial Entity Agreements For Processing of Card Transactions

This Commercial Entity User Agreement for card processing services for cards issued under licence from Visa and Mastercard ("Commercial Entity Agreement" or "CEA") is provided to all "Commercial Entities" or the equivalent under Network Rules (defined below) and that require a merchant account. (Each such entity or person receiving this document is hereby referred to as "Merchant"). This CEA constitutes Merchant's separate legally binding contract for card processing between (1) Merchant, as a Commercial Entity; and (2) Member (which is First Data Merchant Solutions Australia Pty Ltd., with its registered office at Level 30, 100 Mount Street, North Sydney, NSW 2060, Australia). Member may terminate its provision of card processing services and enforce or rely on any term or provision of the Merchant's Braintree Payment Services Agreement ("PSA") expressed for the benefit of Braintree, all of which are incorporated in this CEA by reference. In this CEA "we", "us" and "our" refer to Member. Any reference to the PSA shall mean the Braintree Payment Services Agreement made between Merchant and Braintree and the services supplied under the PSA is referred to as "Braintree Services".

By accepting the Commercial Entity Agreement, Merchant agrees to the terms and conditions of this CEA and any documents incorporated by reference. Merchant further agrees that this CEA forms a legally binding contract between Merchant and Member. Any rights not expressly granted

herein are reserved by Member. Descriptions of material amendments to this CEA will be provided as applicable. Any capitalised terms used in this CEA and not otherwise defined shall have the meanings set forth in the PSA.

1. Network Rules

- a. **Deposit Transactions.** Merchant agrees that it shall only submit card transactions that directly results from bona fide cardholder transactions with that Merchant. Merchant agrees that it will not submit a transaction until Merchant: (i) obtains an authorisation, (ii) completes the transaction, and either: (iii) ships or provides goods, (iv) performs the purchased service, or (v) obtains the cardholder's consent for a recurring transaction.
- b. **Anti Money Laundering.** Merchant agrees that it shall not submit a transaction that does not result from a purchase of goods or services between the cardholder and Merchant.
- c. **Split Transactions.** Split sales transactions are not allowed. Specifically, Merchant agrees that it will not use two or more sales transaction receipts for a single transaction to avoid or circumvent authorisation limits, or monitoring programs.
- d. **Minimum or Maximum.** Merchant agrees that it shall not set minimum or maximum transaction amounts as a condition of honouring Visa and Mastercard cards.
- e. **Surcharges.** Merchant is permitted to impose a surcharge on card transactions, provided that (i) the surcharge is clearly disclosed to the customer before the transaction is completed; (ii) the customer is given the opportunity to cancel the transaction without incurring any cost; and (iii) the amount of the surcharge does not exceed the Merchant's costs of card acceptance for the applicable card scheme and card type.
- f. **Visa and Mastercard Marks.** Merchant is authorised to use the Visa and Mastercard logos or marks only on Merchant's promotional materials and website to indicate that Visa and Mastercard cards are accepted as payment for the business goods and services. Merchant agrees that it shall not use the logos and marks either directly or indirectly, to imply that Visa or Mastercard endorses Merchant's goods or services; nor may Merchant refer to Visa or Mastercard when stating eligibility requirements for purchasing its products, services, or memberships.
- g. **Credit Vouchers.** Credit vouchers may not be submitted for non-credit transactions. Merchant agrees that it shall not: (i) accept a payment from a card holder for the purpose of depositing funds to the cardholder's Account, or (ii) process a credit transaction without having completed a previous debit transaction with the same cardholder.
- h. **Cash Disbursements.** Merchant agrees that if it sells travellers cheques or foreign currency that Disbursements shall be limited to the value of cheques, Visa TravelMoney, or currency sold in a single transaction, plus any applicable commissions. Merchant agrees that under no circumstances shall a Visa or Mastercard transaction represent collection of a dishonoured cheque.
- i. **Authorisation Requirements.** Merchant agrees to obtain an authorisation for all transaction amounts.

- j. **Discrimination.** Merchant agrees that it shall not engage in any acceptance practice that discriminates against or discourages the use of Visa or Mastercard in favour of any other acceptance brand.
- k. **Present Transactions within 30 Business Days.** Merchant agrees that a debit transaction shall not be presented until after the goods are shipped, or services provided, unless, at the time of the transaction, the cardholder agrees to a properly disclosed delayed delivery of the goods or services. Merchant agrees that when it receives authorisation for delayed presentment, the words “Delayed Presentment” or something substantially similar must be disclosed to the cardholder.
- l. **Fraudulent or Unauthorised Use of Account Information Prohibited.** Merchant agrees that it shall not request or use Visa or Mastercard Account number information for any purpose that it knows or should have known to be fraudulent or in violation of Visa and Mastercard standards, Network Rules, the PSA, or this CEA, or for any purpose that the cardholder did not authorise.
- m. **Merchant Identification.** Merchant agrees to prominently and unequivocally inform the cardholder of the identity of the Merchant at all points of interaction so that the cardholder readily can identify the transaction.
- n. **Access to Cardholder Data and Card Data Security.** You acknowledge that some Braintree Services do not provide you access to Cardholder Data (defined as a cardholder’s account number, expiration date, and CVV2) for payments received by you through such services. In relation to such Braintree Services, you agree you shall not request access to Cardholder Data from either Braintree or any customer making payment. To the extent you do receive Cardholder Data in connection with the Braintree Services, you agree (x) to the extent the Braintree Services do not inherently provide you access to such Cardholder Data, to promptly notify Member and Braintree of such and (y) that at all times you shall be compliant with the Payment Card Industry Data Security Standards (“PCI-DSS”) and that you shall certify such compliance in accordance with Network Rules, or when asked by Braintree to do so. You also agree that you will use only PCI-DSS compliant service providers in connection with the storage, or transmission of Cardholder Data. You must not store CVV2 data at any time. If you receive Cardholder Data in connection with the Braintree Services, you further agree that you will not (i) use the Cardholder Data for any purpose other than to support payment for your goods and services, or acceptance of donations, (ii) use the Cardholder Data for any purpose that you know or should know to be fraudulent or in violation of any Network Rules, (iii) sell, purchase, provide, or exchange in any manner or disclose Cardholder Data to anyone other than your acquirer (in this case the Member), Visa, or Mastercard (as applicable), or in response to a government request.
- o. **Limited Acceptance.** Pursuant to the Network Rules, you understand that you are allowed to limit your acceptance to either (i) only accept non-PIN debit transactions; or (ii) only accept credit card transactions; however, by using Braintree Services you are electing full acceptance.

- p. Marketplace Requirements. If you are a Marketplace (as determined by, and registered with, the Networks), you represent, warrant and agree as follows: (i) you and your retailers will comply with the Network Rules and applicable law in relation to the processing of transactions using the Braintree Services and your provision of services to cardholders and retailers on your platform; (ii) you are permitted to submit transactions through the Braintree Services for retailers located in a different country than where you are domiciled, provided that any such transactions are compliant with applicable law in both your and the retailer's country; (iii) you will enter into a legally binding contractual relationship with each retailer before submitting transactions through the Braintree Services on the retailer's behalf; (iv) you will immediately comply with Member's instruction to prohibit individual retailers from participating in the Networks and to immediately stop submitting transactions through the Networks via the Braintree Services for any individual retailer for good cause or upon a Network's request; (v) you are liable for all acts, omissions, buyer disputes, and other cardholder customer service-related issues arising from and/or caused by your retailers; (vi) you are responsible and financially liable for all transactions you submit through the Braintree Services on behalf of a retailer; (vii) you must not transfer or attempt to transfer your, or permit a retailer to transfer or attempt to transfer its, financial liability by asking or requiring cardholders to waive their dispute rights; (viii) you must submit transactions through the Braintree Services only on behalf of retailers that use your platform's website or mobile application to sell goods and services to, or accept donations from, cardholders; and (ix) you must not knowingly enter into a contract with a retailer whose card acceptance agreement was terminated at the direction of a Network or a government agency.
- q. Digital Wallet Operator Requirements. If you are a Digital Wallet Operator (as determined by, and registered with, the Networks), you represent, warrant and agree as follows: (i) you and your retailers will comply with the Network Rules and applicable law in relation to the processing of transactions using the Braintree Services and your provision of services to cardholders and retailers on your platform; (ii) you may not use the Braintree Services to process transactions as or for a third party Staged Digital Wallet Operator (as defined from time to time by the Networks); (iii) you must provide the names of principals and their country of domicile for each of your retailers and transaction reports to us or to the Networks upon request; (iv) you will enter into a legally binding contractual relationship with each retailer before submitting transactions through the Braintree Services on the retailer's behalf; (v) you will immediately comply with Member's instruction to prohibit individual retailers from participating in the Networks and to immediately stop submitting transactions through the Networks via the Braintree Services for any individual retailer for good cause or upon a Network's request; (vi) you are liable for all acts, omissions, cardholder disputes, and other cardholder customer service-related issues arising from and/or caused by you or your retailers; (vii) you are responsible and financially liable for all transactions you submit through the Braintree Services on behalf of a retailer; (viii) you must not transfer or attempt to transfer your, or permit a retailer to transfer or attempt to transfer its, financial liability by asking or requiring cardholders to waive their dispute rights; and (ix) you must not knowingly enter into a contract with a retailer whose card acceptance agreement was terminated at the direction of a Network or a government agency.

- r. **Consumer Bill Payment Service Provider Requirements.** If you are a Consumer Bill Payment Service Provider (as determined by, and registered with, the Networks), you represent, warrant and agree as follows: (i) you and your billers will comply with the Network Rules and applicable law in relation to the processing of transactions using the Braintree Services and your provision of services to cardholders and billers; (ii) you are permitted to submit transactions through the Braintree Services only where the provision of the underlying goods/services of the transaction and the biller are located in Australia ; (iii) you will immediately comply with Member's instruction to prohibit individual billers from participating in the Networks and to immediately stop submitting transactions through the Networks via the Braintree Services for any individual biller for good cause or upon a Network's request; (iv) you are liable for all acts, omissions, disputes, and other cardholder customer service-related issues arising from and/or caused by you or your Billers; (v) you are responsible and financially liable for all transactions you submit through the Braintree Services on behalf of a biller.

- s. **Business Payment Solutions Provider Requirements.** If you are a Business Payments Solution Provider (as determined by, and registered with, the Networks), you represent, warrant and agree as follows: (i) you and your suppliers will comply with the Network Rules and applicable law in relation to the processing of transactions using the Braintree Services and your provision of services to cardholders and suppliers; (ii) you are permitted to submit transactions through the PayPal Services only for suppliers located in Australia ; (iii) you will immediately comply with Member's instruction to prohibit individual suppliers from participating in the Networks and to immediately stop submitting transactions through the Networks via the Braintree Services for any individual supplier for good cause or upon a Network's request; (iv) you are liable for all acts, omissions, disputes, and other cardholder customer service-related issues arising from and/or caused by you or your suppliers; (v) you are responsible and financially liable for all transactions you submit through the Braintree Services on behalf of a supplier.

2. Payment settlement and fees. Merchant authorises and directs Member to pay all settlement funds as directed by Braintree who shall serve as Merchant's agent for the purpose of providing settlement instructions to Member. Braintree may instruct Member to either settle directly into a bank account held by Merchant, or to settle into an account held by Braintree, or into both accounts for different amounts. This includes an instruction from Braintree to Member to settle into an account held by Braintree for fees and other amounts due to Braintree by Merchant under or in connection with the PSA or for amounts for Braintree to disburse to Merchant. In addition, Merchant authorizes Member to deduct from settlement funds or debit from your nominated account for receipt of settlement funds, all fees and other amounts due to Braintree by Merchant under or in connection with the PSA.

3. Card Networks. Visa Europe Ltd, Visa U.S.A., Inc. and Visa International ("Visa") and Mastercard International Incorporated ("Mastercard") and other card associations for which you receive service hereunder (the "Networks") have developed rules and regulations (the "Network Rules") that govern their member banks and merchants in the procedures, responsibilities and allocation of risk for payments made through the Networks. By accepting this CEA, Merchant is agreeing to comply with all such Network Rules.

4. Merchant's Refund Policy must be on Merchant's Website. If Merchant limits refund/exchange terms or other specific conditions for Card sales, Merchant's POLICY MUST BE CLEARLY PROVIDED TO THE CARDHOLDER PRIOR TO THE SALE AND AS PART OF YOUR SALE CONFIRMATION PROCESS. Merchant is responsible for ensuring that its refund policy complies with applicable consumer protection laws.

5. Chargebacks and other amounts. Merchant shall use all reasonable methods to resolve disputes with Merchant's customers. Should a chargeback dispute occur, Merchant shall promptly comply with all requests for information from Braintree. Merchant shall not attempt to recharge a customer for an item that has been charged back, unless the customer has authorized such actions. Merchant is liable for all chargebacks that are resolved in favour of the customer, and agrees that the Member may deduct any such chargebacks from Merchant's settlement funds or debit your nominated account for receipt of settlement funds or any other account that Merchant holds with the Member. Member may also set-off any other liability of Merchant to Member under or in connection with this CEA against the Merchant's settlement funds. Member may also debit your nominated account for receipt of settlement funds or any other account that Merchant holds with the Member for any other liability of Merchant to Member under or in connection with this CEA.

6. Term and Termination. This CEA is effective upon the date Merchant accepts the terms and conditions set out herein and continues so long as Merchant uses the Braintree Service ("Services") or until terminated by Merchant or Member, provided that those terms which by their nature are intended to survive termination (including without limitation, indemnification and chargeback obligations and limitations of liability) shall so survive termination. This CEA may be terminated by Member at any time based on a breach of any of Merchant's obligations hereunder or for any other reason that Member or Braintree reasonably deems a credit, regulatory, or brand risk. This CEA will terminate automatically upon any termination of Merchant's PSA.

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7. Indemnification. Merchant agrees to indemnify, defend, and hold Member harmless from and against all losses, liabilities, damages and expenses (including legal fees and collection costs) which the Member and/or its affiliates or agents may suffer or incur arising from any breach of any warranty, covenant or misrepresentation by Merchant under this CEA, or arising as a result of any tortious conduct by Merchant or Merchant's employees or agents, in connection with Card transactions or otherwise arising from Merchant's provision of goods and services to cardholders or from any contravention of any legal requirements.

8. Intentionally Omitted

9. Assignment/Amendments. This CEA may not be assigned by Merchant without the prior written consent of Member. Member may assign their rights under this CEA without Merchant's consent and subject to the Network Rules. This CEA may be amended by Member as provided under the PSA, and otherwise shall not be modified in any respect without the express written agreement of the Member.

10. Warranty disclaimer. This CEA is a service agreement. We disclaim all representations or warranties, express or implied, made to merchant or any other person, including without limitation,

any warranties regarding quality, suitability, merchantability, fitness for a particular purpose or otherwise of any services or any goods provided incidental to the services provided under this CEA to the extent permitted by law.

11. Logo usage. In using each other's logos and other trademarks, each agrees to follow the guidelines prescribed by the other, as notified by the parties to each other from time to time.

12. Limitation of Liability. Notwithstanding anything in this CEA to the contrary, in no event shall the parties hereunder, or their affiliates or any of their respective directors, officers, employees, agents or subcontractors, be liable under any theory of tort, contract, strict liability or other legal theory for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect or consequential damages, each of which is hereby excluded by agreement of the parties, regardless of whether such damages were foreseeable or whether any party or any entity has been advised of the possibility of such damages. Notwithstanding anything in this CEA to the contrary, in no event shall we be liable or responsible for any delays or errors in our performance of the services caused by our service providers or other parties or events outside of our reasonable control, including Braintree. Notwithstanding anything in this CEA to the contrary, the parties' cumulative liability for all losses, claims, suits, controversies, breaches or damages for any cause whatsoever (including, but not limited to, those arising out of or related to this CEA) and regardless of the form of action or legal theory and whether or not arising in contract or tort (excluding negligence and wilful misconduct) shall not exceed \$10,000 AUD. Nothing in this CEA shall exclude or limit any liability of any party for death or personal injury caused by negligence or fraud, deceit or fraudulent misrepresentation, howsoever caused.

13. Governing Law. Governing law with respect to this CEA shall be the laws of New South Wales, Australia. The courts of New South Wales will be the proper venue for legal proceedings brought in connection with this Agreement.

14. Waiver. The failure of a party to assert any of its rights under this CEA, including, but not limited to, the right to terminate this CEA in the event of breach or default by the other party, will not be deemed to constitute a waiver by that party of its right to enforce each and every provision of this CEA in accordance with its terms.

15. Relationship between the Parties; No Partnership or Agency; Independent Contractors. No agency, partnership, joint venture or employment relationship is created between Merchant and Member by way of this CEA. In the performance of their respective obligations hereunder, the parties are, and will be, independent contractors. Nothing in this CEA will be construed to constitute either party as the agent for the other for any purpose whatsoever. Neither party will bind, or attempt to bind, the other party to any contract or the performance of any obligation, and neither party will represent to any third party that it has any right to enter into any binding obligation on the other party's behalf.

16. No Illegal Use of Services. Merchant will not access and/or utilise the Services for illegal purposes and will not interfere or disrupt networks connected with the Services.

17. Your personal information and privacy. Member may collect personal information (as defined in the Privacy Act 1988) for the purpose of providing you with the services to be provided by Member

under this agreement, managing and administering your service and for identifying you and protecting or investigating any fraud or crime or suspected fraud or crime. If you don't provide your personal information to us where we require it, Member may not be able to provide you with the service or to effectively manage or administer the service. Member may collect your personal information directly from you, or from Braintree or from other sources where legal to do so. Member may disclose your personal information to Braintree and to third party service providers engaged by Member in connection with providing, managing or administering the service. Member may also use personal information for marketing products or services, unless you tell us not to. Member's privacy policy, available at www.nab.com.au/privacy contains further information about how the Member handles personal information and how you can access your personal information held by Member, how you can correct information held by Member and how you can make a complaint about a privacy issue.

18. Severability. Whenever possible, each provision of this CEA will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision hereof will be prohibited by or determined to be invalid by a court of competent jurisdiction, such provision will be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this CEA.

19. Network Disclosure; Member Bank Information: Member, First Data Merchant Solutions Australia Pty Ltd., may be contacted by mail at: Level 30, 100 Mount Street, North Sydney, NSW 2060, Australia; and by phone at 1800 243 444.

Important Member Bank Responsibilities:

- a. Member, and not Braintree, is the entity approved to extend acceptance of Network products directly to you.
- b. Member must be a principal (signer) to this CEA.
- c. Member is responsible for educating you on pertinent Visa and Mastercard Rules with which you must comply; but this information may be provided to you by Braintree.
- d. Subject to Section 2 of this CEA, Member is responsible for and must provide settlement funds to you.
- e. Member is responsible for all settlement funds prior to funding you (or Braintree as your agent).

Important Merchant Responsibilities:

- a. Ensure compliance with cardholder data security and storage requirements.
- b. Maintain fraud and chargebacks below Network thresholds.
- c. Review and understand the terms of this CEA.
- d. Comply with Visa and Mastercard rules.

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