



**BC Payments
Australia**

General Business Terms

BC Payments Australia Pty Ltd.

April 2023

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1. INTRODUCTION AND SCOPE OF APPLICATION

1.1. These general business terms (the “**General Business Terms**”) set out the terms and conditions applicable to your business relationship with the payment service provider BC Payments Australia PTY Ltd. (as defined in Clause 2). The General Business Terms shall apply to all products and services provided to you by BC Payments Australia PTY Ltd. pursuant to any agreement entered into between you and us, including any Pricing Agreement or otherwise, and the Personal Data Protection Addendum (any terms so applicable to the business relationship between you and us together the “**Agreement**”). Any term agreed individually between you and us shall prevail over the General Business Terms, and the Personal Data Protection Addendum, unless expressly stated otherwise in the Agreement or contrary to any duty under Applicable Law.

1.2. In these General Business Terms, references to “**you**”, “**your**” or “**Client**” means the client having entered into any agreement governed by these General Business Terms. Any references to “**we**”, “**us**” or “**our**” means BC Payments Australia PTY Ltd. The headings in these General Business Terms are for reference only and do not limit the scope of each Clause. Capitalised terms have specific definitions and are provided in Clause 35 (*Definitions and Interpretations*) or otherwise in the text of these General Business Terms.

2. WHO ARE WE?

2.1. We are BC Payments Australia PTY Ltd. (ABN: 18 611 822 390; AFSL 493372), a company limited by shares and a financial institution authorised under the Australian Applicable law.

2.2. Our head office’s principal business address and company registration number are:

3. ABOUT OUR SERVICES

3.1. At our discretion, we may provide you with one or more of the following financial services using our Transaction Platform (the “**Services**”):

- i. Undertake foreign exchange transactions; and
- ii. Provision of payment services;

for institutional and corporate customers.

3.2. We do not provide any investment, or investment advisory, services and will not, nor be under any duty to, undertake any ongoing monitoring of your financial circumstances as a whole or any part. We shall not be obliged to provide any of the Services governed by these General Business Terms.

3.3. We may make other services available to you. Where appropriate, these will be provided on separate terms and conditions or via a supplementary agreement or document.

3.4. We may, at our reasonable discretion, withdraw or suspend the provision of any of the Services to you, for example where we consider that it would otherwise breach any Applicable Laws or Compliance Obligations. We will not be liable for any Loss that you may incur from us suspending the Services, other than if we acted fraudulently, negligently or recklessly in suspending the Service, in which case our liability to you will be as set out in Clause 20.

4. AUTHORISED USERS AND ACCESS TO YOUR ACCOUNT BY THIRD PARTIES

4.1. You may designate one or more of your directors, officers or employees as your authorised representatives (an “**Authorised User**”) to give Instructions, access and operate Your Account or otherwise act on your behalf as specified by you. Certain Authorised Users may designate new Authorised Users.

4.2. Authorised Users shall be designated in writing via our User Registration Form or in a manner as otherwise approved by us at our discretion. A person shall only become an Authorised User upon our approval. Our approval of an Authorised User may be subject to you providing us with evidence of his or her identity or other documentation. We reserve the right to decline at our discretion any request for designation of any new Authorised User and may without notice disable Authorised Users’ access to the Transaction Platform, in whole or in part.

4.3. It is your responsibility to notify us without undue delay if the information provided to us in any User Registration Form is no longer up to date. If you wish to remove or add an Authorised User or make any other amendments to

roles and privileges assigned to any existing Authorised User, you must inform us by giving written notice to your relationship manager with BC Payments and by sending a new User Registration Form duly signed by one of your authorised signatory.

4.4. Subject to any limitations clearly and specifically set out in the applicable User Registration Form, we shall be entitled to rely on and act in accordance with, and you shall be bound by, the Instructions of any person designated by you or on your behalf as an Authorised User in a User Registration Form insofar as such Instruction appears on the face of it to have been made by an Authorised User on your behalf.

4.5. You may also from time-to-time grant access to a third party to your Account via the Transactions Platform to receive transaction data and/or initiate Transactions on your behalf. Access by third party to your Account on your behalf is always subject to the execution of a written power of attorney duly accepted and countersigned by us and the separate onboarding of the third party by us.

5. KYC REQUIREMENTS

5.1. We are required by law to conduct ongoing monitoring of all of our clients, and Transactions carried out for or with our clients, including you (and your employees), in order to comply with our "Know Your Client" ("KYC") obligations. This includes monitoring Instructions and Transactions for the prevention and detection of financial crime.

5.2. You will provide us with all information (e.g. as we consider necessary for opening an Account and conducting the business relationship prescribed by any Applicable Law) and will execute all documents we reasonably request from you from time to time.

5.3. You will provide us with correct, accurate and truthful information.

5.4. You must notify us immediately in writing of any changes in circumstances which might cause the information and documentation provided to us to become incomplete or inaccurate. Changes in circumstances can be but are not limited to changes to; type of business,

type of products or services, any dissolution, liquidation or Insolvency Event, payment flow, licensing, geographic location, company name(s), residence address, company registration number, authorisation or license number (if any), address(es) of residence for tax purposes, tax identification number (TIN), Goods and Services Tax ("GST") registration number, nationality/nationalities, Legal Entity Identifier (LEI), legal entity type and any contact details, such as telephone or fax number(s) and e-mail address(es) and/or in respect of any other person(s) involved in the business relationship, such as the beneficial owner(s), any Controlling Person(s), authorised signatory(ies) and/or person(s) holding a power of attorney.

6. COMPLIANCE & FINANCIAL CRIMES

6.1. You hereby declare that the funds paid to BC Payments for the provision of the Services are not of criminal origin, nor are they in any way likely to be used in the financing of terrorism, money laundering or violation of sanctions laws and other Applicable Law.

6.2. You agree to cooperate on all compliance and operations related matters and to comply with anti-money laundering, counter terrorist financing, and similar legal and regulatory obligations applicable to us.

6.3. You agree to respond to any urgent (as defined by us) requests for:

- i. information e.g. on specific Transactions and beneficiaries, payers or payees and provide all relevant KYC or "Know your Client's Client" (KYCC) documentation; and
- ii. any action that you are required to take to comply with payment system rules,

as soon as possible and no later than four (4) Business Days from the receipt of the request from us.

6.4. For less urgent enquiries for information e.g. prior to ordinary annual compliance review, you agree to respond as soon as possible and no later than ten (10) Business Days from the receipt of the request from us.

6.5.

6.6. To enable us to meet our Australian AML/CTF Regime and Australian Sanctions Regime regulatory compliance obligations we may apply a control and monitoring program. As a result of that program, you need to be aware that:

- a) Transactions may be delayed, blocked, frozen or rejected where we have reasonable grounds to believe that they breach Australian AML/CTF Regime or the Australian Sanctions Regime (or AML/CTF Laws of another country). Where transactions are delayed, blocked frozen or rejected we are not liable for any loss you suffer (including consequential loss) howsoever caused;
- b) We may require additional information from you to assist us in meeting our AML/CTF compliance obligations; and
- c) Where legally required, we will disclose information to regulatory and/or law enforcement agencies.

7.7 You agree and undertake that:

- a) You will not initiate, engage in or effect a transaction that may be in breach of Australian AML/CTF Regime or Australian Sanctions Regime; and
- b) Your underlying business activity for which we provide Direct Entry, NPP, RTGS services does not breach the Australian AML/CTF Regime or the Australian Sanctions Regime.

7.10 Unless you have told us that you are a trustee of the account or are acting on behalf of someone else, you warrant that you are acting on your own behalf in entering into this agreement

7. GST AND TAX MATTERS

8. SECURITY OF YOUR ACCOUNT AND OF THE TRANSACTION PLATFORM

8.1. You shall take all measures necessary to protect the personalised security features of your Account and only use our Services in accordance with this Agreement. You may not (and may not attempt to) tamper, hack, modify or otherwise corrupt the security or functionality of any Transaction Platform.

8.2. Authorised Users shall be provided with personalised security credentials to access the Transaction Platform and, to the extent applicable, one-time passwords for strong customer authentication through an authentication device or authentication software to authorise Transactions through the Transaction Platform. Such personalised security credentials and one-time passwords must be kept safe by individual Authorised Users and must not be shared with or used by any other person.

8.3. Our payment application programming interface ("API") and Secure File Transfer Protocol ("SFTP") server software offer authenticated channels for communication between your business systems and ours. The API and SFTP server software have the purpose of offering Straight Through Processing ("STP") capabilities by offering a secure channel for transfer of financial information, including payment instructions files between you and Us.

8.4. To access your Account via our API, you are required to share with us a unique digital qualified certificate issued by a qualified trust provider under EU Regulation 910/2014 on electronic identification and trust services for electronic transactions. For more information on our API and SFTP server software integration requirements and security recommendation, please visit www.bcpayments.com under "Access and login". You are expected to act upon potential error messages and rectify any data or integration related errors on your side before continuing data requests.

8.5. Your Authorised Users are required to take all necessary measures to ensure that the technical characteristics of any device or unique digital qualified certificate or other personal API details used to access the Transaction Platform, any authentication device or software, internet access and telecommunications means are up to date for obtaining information and for access to the Transactions and Services offered by the Transaction Platform. Authorised Users are responsible for keeping such devices and/or software up to date and installing all manufacturer provided updates and security fixes when available. Furthermore, Authorised Users are required to properly manage the security of such devices through installing and

updating security components (antivirus, firewalls, security patches).

- 8.6. You and your Authorised Users are obliged to notify us without undue delay if they become aware of irregularities, hacking, misuse or unauthorised use of the Transaction Platform, any authentication device, unique qualified digital certificate, other personal API details or software or any of our Services, including your Account. In such event we will block any such systems and Account.
- 8.7. We reserve the right to notify you in case of sub-optimal or inappropriate use of the API or SFTP server software and to block your connections in case you repeatedly disregard recommendations from us or continuously use the API or SFTP server software inappropriately, or if it comes to our knowledge that your unique qualified digital certificate or other personal API details was shared by you with a third party without our consent.
- 8.8. We may offer training and make material available to you. Such training and materials are provided “as is” and all use thereof is at your risk. We do not provide any warranty of such training and material whatsoever, whether express, implied, or statutory, including, but not limited to, any warranty of merchantability or fitness for a particular purpose or any warranty that the contents of the training or the material will be error-free.
- 8.9. It is your responsibility to train Authorised Users appointed so that they take all measures necessary to protect the personalised security features of the Account and only use our Services and any Account in accordance with the Agreement.

9. COMMUNICATION

- 9.1. We shall conclude agreements and communicate in English unless otherwise agreed (including any correspondence in respect of claims or complaints).
- 9.2. Subject to mandatory Applicable Law, any communication with you may be made by electronic mail or other electronic means and any requirement for communication to be ‘written/in writing’ made by ‘letter’, or through ‘account statement printout’, etc.,

shall include communication and documentation provided by electronic means.

- 9.3. We may contact you via the Transaction Platform, using the e-mail address associated with your Account or the contact details you provided to us, in any way that may be required by Applicable Law or by any other means.
- 9.4. Any notice or communication that is provided to you by e-mail within Business Hours shall be deemed to have been received at the time of sending, otherwise, the relevant notice or communication shall be deemed to have been received when Business Hours resume the following Business Day.
- 9.5. If you wish to contact us, please send communication and notices to us via the Transaction Platform or by other electronic means agreed between you and us.
- 9.6. We reserve the right to record telephone conversations to review the content of such conversations for quality and monitoring purposes.
- 9.7. You acknowledge and accept that we may validly provide certain information, such as information on our bank, information on costs and associated charges, as well as relevant changes, exclusively via our website. You will be notified electronically of the website address and of the place on such website where you can access this information. You undertake to consult our website regularly and in any event upon being notified of any change.
- 9.8. You confirm that you accept the risks, duly authorise the use of electronic communications and agree to use available, appropriate means of detecting the most widely known viruses prior to sending information by electronic means.

- 9.9. You are responsible for having in place and maintaining adequate security measures to ensure the protection of IT systems you use or upon which you rely, and we shall not be liable for any Loss or damage in connection with electronic communications.

10. TRANSACTIONS/INSTRUCTIONS

- 10.1. We will only carry out Transactions to or on your behalf upon the receipt of an Instruction

received from you via our Transaction Platform and if the Instruction is signed or confirmed by an Authorised User where applicable, or if we otherwise have been authorised to do so by you.

- 10.2. A Transaction is deemed concluded when you place an Instruction through the Transaction Platform, or the SWIFT Gateway and we execute such Instruction. Instructions are effective when we receive them. We will confirm receipt of Instructions by way of a status or otherwise by acting on them.
- 10.3. An Instruction may be cancelled or amended only until the payment has been settled or communicated to a third party. Any cancellation or amendment request received thereafter will be handled on a best effort basis only, depending on the co-operation and approval of the beneficiary, even if the request for cancellation is received prior to the value date. We reserve the right to charge you a cancellation fee if you cancel the request after the payment has been settled or communicated to a third party.
- 10.4. We will treat an Instruction as genuine and authorised by you if we believe in good faith that the Instruction is from you or any of your Authorised Users (for example, because it appears to have been sent by you via our API or initiated by any of your Authorised Users on the Transaction Platform), and there are no circumstances that we are or should reasonably be aware of that cause us to suspect the authenticity of the Instruction or that the Instruction has not been duly authorised by you.
- 10.5. You are obliged to ensure that all Instructions are complete and accurate. We may assume, except in any case of manifest error, that the information you give us in connection with a Transaction, including any account number quoted in an Instruction, is correct. If we receive Instructions on which the name does not match the account number indicated thereon, we may rely exclusively on the account number. We are not liable for delays, errors misinterpretations, etc. that may arise from incomplete or unclear Instructions.
- 10.6. We may contact you on any matter relating to your Instructions and Transactions. If we are unable to contact any of your Authorised

Users to verify an Instruction, where we consider that to be necessary, or if following our request, any of your Authorised Users do not provide appropriate Instructions, your Transaction may be delayed or may not be executed.

- 10.7. We will ensure that Instructions are executed as soon as reasonably possible, but in no predetermined order. If the Instruction is received after the applicable cut-off times available on www.bcpayments.com or as notified to you in any other way by us, such Instruction shall be deemed received on the following Business Day.
- 10.8. If you instruct us to make a payment, or more than one payment, on a future date, we will not begin processing the payment(s) until the future date subject to scheme rules, and the Instructions will be effective on the relevant future date.
- 10.9. We, our correspondent institutions and other banks in the Transaction chain are required, and may take any action considered appropriate, to meet Compliance Obligations relating to or in connection with the detection, investigation and prevention of money laundering, fraud, breach of sanctions and other financial crime ("**Financial Crime Risk Management Activity**"). Such action may include, but is not limited to:
- i. screening, intercepting and investigating any Instruction, communication, application for our Services, or any payment sent to or by you, or on your behalf;
 - ii. investigating the source, or intended recipient, of funds; and/or
 - iii. making further enquiries as to the status of a person or entity, whether they are subject to a sanctions regime, or confirming your identity and status.
- In such case, we are not liable for any subsequent Losses.
- 10.10. We also reserve the right in case of newly implemented sanctions that the execution of an Instruction may be reasonably delayed in order for us to assess whether the sanction may impact the service provided to you.

- 10.11. We may also reject or delay any Instruction from you, at our discretion and without liability, if:
- i. the Instruction is inaccurate, incomplete or unclear;
 - ii. if we suspect that the Instruction has not been properly initiated by you or authorised by any of your Authorised Users, or any other breach of security has occurred in relation to your use of our Services;
 - iii. the Instruction involves a Transaction that is not within our internal acceptable risk appetite or the acceptable risk appetite of our correspondent institutions;
 - iv. an injunction or order is imposed by any competent Authority or court to freeze funds or any other specific measure associated with preventing or investigating crime;
 - v. you are in breach of your obligations under the Agreement or you act fraudulently, with gross negligence or wilful misconduct in relation to your Account with us or any Transactions, or any other fact or matter persists as a result of which we are entitled to terminate the business relationship with you or block access to your Account.
- 10.12. Unless regulatory requirements prevent us from doing so, we will inform you (through the Transaction Platform, as applicable) as soon as reasonably practicable
- i. if the execution of an Instruction was rejected or suspended;
 - ii. of the reasons for such rejection or suspension; and/or
 - iii. of what you can do to correct any errors in the instruction, if applicable .
- 10.13. We will not be liable for any Losses you suffer as a result of a rejection or suspension of the execution of an Instruction.
- 10.14. We make data from the SWIFT BIC directory (SWIFTRef files) available to you through a lookup tool in connection with ordering of payments. You use the data at your own risk, we are not liable for any use of the lookup tool and the data, which is provided “as is”. We do not guarantee the functionality or suitability of the lookup tool or the data for you, or that it will be uninterrupted or error free. You acknowledge and accept that any data in the lookup tool may be inaccurate, incomplete, and/or not up to date. Except as specifically mentioned in the Agreement, any other use of the lookup tool and data is strictly prohibited. The proprietary rights in the data belongs to S.W.I.F.T. SCRL. or its suppliers.
- 10.15. The SWIFT Gateway is available for clients who are registered members of the Society for Worldwide Interbank Financial Telecommunication network (“**SWIFT**”) or clients who are relying on another SWIFT member (“**Authorised Member**”).
- 10.16. When a Client relies on an Authorised Member, the Client must authorise that Authorised Member to send Instructions from the Client’s Account on the Client’s behalf in the form as required by us. We are entitled to request additional information to identify such Authorised Member for the purpose of regulatory compliance.
- 10.17. Access to / use of the SWIFT Gateway is subject to prior exchange of SWIFT relationship management authorisation (RMA) between the Parties.
- 10.18. Depending on the Client, message types such as MT101, MT103 and MT200/MT202 liquidity instructions and queries such as MT195/MT196/MT199 and MT295/MT296/MT299 are generally accepted (all SWIFT message types together referred to as “**SWIFT Messages**”).
- 10.19. SWIFT Messages sent to us must be compliant with the format requirements as indicated in our SWIFT Gateway instruction.
- 10.20. The MT101 can be used to initiate (i) Euro payments, payments in Euro within the EEA, and (ii) foreign payments, payments in a foreign currency and/or outside the EEA. Each MT101 can contain one or more payment transactions with a maximum of 60 Transactions per MT101-file. We accept both single and multiple MT101-messages, as long as only one debit account is present in sequence A of the MT101. The MT103 can be used for (i) Euro payments,

payments in Euro within the EEA, and (ii) foreign payments, payments in a foreign currency and/or outside the EEA. Each MT103 can contain one payment Transaction only.

10.21. We accept Instructions through the SWIFT Gateway as maintained by SWIFT, according to the rules of the actual SWIFT standard release, and reserves the right to reject Instructions which arrive in another form than agreed to, or which contravene Applicable Law. In all disputes arising from the interpretation of any expression in connection with services provided by SWIFT, the definitions and understanding generally used by SWIFT shall apply.

10.22. Instructions that cannot be linked to the Client will be rejected and funds will be returned to the sending institution, and a return fee will be deducted, irrespective of the charging option of the original payment order, unless otherwise agreed.

10.23. Validation check of Instructions happens before fund movement. If we receive a payment order which fails validation, the payment order will be rejected. The reject code will be sent to the Client as a MT199-message in the Instructions Platform.

10.24. Our obligation to perform an Instruction is subject to compliance by the relevant Authorised User with our procedures for customer authentication applicable at any time, including but not limited to any requirement of two-factor authentication and any security requirements related to our API communicated to you separately in accordance with clause 8.

10.25. Any cross-border payment may be returned if the foreign bank(s) involved has been unable to process the payment based on the information provided, or if you have cancelled the payment. We will process a returned payment as a cross-border payment and charge fees accordingly.

10.26. When transferring funds to other countries our correspondent institutions in the receiving country may not be the same as your bank. We may decide at our absolute discretion to use selected correspondent institutions and international clearing systems to facilitate the Transaction.

11. ACCOUNT STATEMENTS, TRANSACTION HISTORY AND OTHER INFORMATION

11.1. Any of your Authorised Users can view your online Transaction history when logging on to the Transaction Platform using his or her user ID and password.

11.2. You should regularly and carefully review the Transaction history and other information and check whether there has been any incorrect information, errors or unauthorised Transactions in the Account.

11.3. You will advise us immediately of errors, discrepancies and irregularities that appear in any documents, Transaction history, confirmations, Account or Account Statements or other communication addressed to you (hereinafter referred to as the “**Communications**”). If we receive no written objection within thirty (30) days of the dispatch of the Communications, all Transactions mentioned therein are considered as having been approved and ratified by you. All Transactions and figures given in the above-mentioned Communications will be considered final and accurate. You will have no direct or indirect right of objection against such Transactions. This rule applies to all Transactions executed by us. You may request copies of any Communications via the Transaction Platform at any time during the period in which we are legally required to keep records of the relevant Transaction.

11.4. Account information service providers (“**AISP**”) shall be able to access information from your Account and associated Transactions held in your Account for the purposes of performing their account information service. You hereby acknowledge and accept that an AISP shall, once authorised and without you having actively requested it, be able to access information from your Account at its absolute discretion as many times as deemed necessary, potentially more than four times in a 24-hour period.

12. SERVICE REVIEW AND UPDATE

12.1. We will undertake periodic Service reviews to ensure a consistent level of quality service is provided.

12.2. We are continually looking to improve and expand our Services. As a result, it may be necessary or desirable from time to time to enhance or amend existing service level objectives or introduce additional service objectives in support of new or developing businesses. These changes may also be required to align operational standards with market practice or industry standards. Any such changes may be implemented by us by amending the Agreement in accordance with Clause 17 (*Amendments*).

13. FEES, MARGINS AND INTEREST/FX RATES

13.1. We shall be entitled to charge for any Services rendered and the use of the Transaction Platform, e.g. payment transfers and currency conversion, withdrawal or amendments of payment orders performing special tasks on your behalf and sending reminders.

13.2. You agree to pay the fees, margins and Interest or FX rates stated in the Pricing Agreement or in the Transaction Platform or as notified to you from time to time.

13.3. Any fees mentioned in the Pricing Agreement or in the Transaction Platform become due and payable at the end of each month (the “**Invoicing Period**”).

13.4. We will notify you of any due and payable amount in the first week of the month following the end of the Invoicing Period.

13.5. Unless expressly stated otherwise, our fees and costs are exclusive of VAT and other taxes, which will also be payable by you.

13.6. FX margins are taken directly from the payment amount at the time the payment is executed.

13.7. If you do not perform, or delay performing, your obligations under this Agreement and we incur additional costs or expenses as a result, we reserve the right to notify you and invoice you for our reasonable additional costs incurred. We will provide you with information to substantiate those reasonable additional costs.

13.8. Fees for payments are usually distributed to the effect that you pay our fees and the beneficiary pays the receiving bank’s fees (SHA).

Additional fees may be charged if the payment is to be handled by several banks in the payment chain. Payments in EEA currencies to countries in the EEA are subject to the Luxembourg law of 10 November 2009 on payment services as amended from time to time. You may in certain situations also choose to pay the beneficiary’s fees (OUR) as agreed and when permissible under the Australian law. The fees relating to OUR payments are stated in the Pricing Agreement.

13.9. Cross-border payments are for your account and risk, including foreign fees, delays as well as errors and omissions made by the beneficiary’s bank or any intermediary bank.

13.10. We may at any time introduce new fees for Services for which we have not previously charged, subject to one (1) month’ notice given to you.

13.11. You may also need to pay other additional costs, fees and expenses, including any additional fees on termination and any taxes, transfer fees, registration fees and other liabilities, costs and expenses payable in respect of each Transaction, but which are not imposed by us. We will provide you with information about costs as required by Applicable Law.

13.12. Subject to Applicable Laws, we reserve the right to charge an administration fee for handling queries and requests from Authorities, including local law enforcement agencies, pertaining to your Account. This administration fee shall be additional to any other applicable fees, charges, expenses and/or liabilities etc. arising from such query or request, and shall be communicated to you separately upon request.

14. AMENDMENTS TO FEES, MARGINS AND INTEREST/FX RATES

14.1. We may amend fees and margins (“Fees”) spreads set out in the Pricing Agreement, subject to one (1) months’ notice where such amendments are not in your favour and without notice where the amendments are in your favour. We may also without notice introduce and increase fees for one-off services.

14.2. Further, we may vary any new Fees without notice when the grounds for the change is due to external circumstances beyond our control including but not limited to:

- i. changes in the relationship with our counterparties which our cost structure;
- ii. changes in commission and charges from clearing houses, information providers or third-party providers that are passed on to you by BC Payments; and/or
- iii. changes required by an Authority or Applicable Law.

14.3. The amended Fees spreads will appear from the online Transaction history. Further, you will receive an amended Pricing Agreement if the changes affect your individual terms.

14.4. If at any time during the term of the Agreement, we are affected by or suffer a substantial economic hardship event, including but not limited to inflation and financial crisis (the "Hardship Event"), you and we will meet together in reasonable time after occurrence of any Hardship Event, to consider what additional adjustment in the fees and margins are justified. We shall be entitled to amend the fees and margins based on the relevant impact on us of the Hardship Event in question.

15. UNAUTHORISED TRANSACTIONS/BLOCKING OF ACCOUNT

15.1. We reserve the right to cut off access to and prohibit the use of the Transaction Platform if the fees cannot be covered in accordance with Clause 13 or if you are otherwise in material breach of your obligations under the Agreement.

15.2. We reserve the right to block your access to the Transaction Platform and/or specific Account if we become aware of or reasonably suspect financial crime activity, unauthorised or fraudulent use of such systems or for reasons relating to the security of such systems. This includes situations where you have shared your unique digital qualified certificate with technical service providers with the purpose to granting them access to your Account, without our consent.

15.3. Exceptionally, our Financial Crime Risk Management Activity may lead to us delaying, blocking or refusing the making or clearing of any payment, the processing of your

Instructions or application for our Services or the provision of all or any part of our Services.

15.4. As part of Financial Crime Risk Management Activity, we may need to speak with you to re-confirm some Transactions or we may need to ask you for additional security information. We will tell you when this is the case. If we need to speak with you but cannot do so for any reason, we will only execute the Transaction if we believe it is genuine. Our Financial Crime Risk Management Activity may lead to the Transaction being delayed. This will not prevent you from later disputing that you authorised the Transaction.

15.5. You authorise us to block your Account or to take such other measures as we may deem fit upon extra-judicial opposition notified to us by third parties regarding your assets, or if we are informed of any actual or alleged unlawful operations by you or by the beneficial owner of the Account, or if any third-party claims exist on the assets held by you with us.

15.6. If you or we become subject to an Insolvency Event, then we may refuse to act on any Instructions from you or anyone else unless you have obtained an order from the court that proves either the end of the Insolvency Event or your authority to act. You shall inform us as soon as practically possible if you know or suspect that you will become subject to an Insolvency Event.

15.7. Unless regulatory requirements prevent us from doing so, we will inform you as soon as reasonably practicable upon the blocking of your Account. We may be required under Applicable Law to notify Authorities that systems or Account have been blocked for reasons of unauthorised use or suspicion thereof.

16. CONFLICTS OF INTEREST

16.1. You acknowledge and accept that we and any agents or providers may have interests which conflict with your interests and may owe duties to other clients which would otherwise conflict with the duties owed by us to you.

16.2. We have a policy for identifying and managing conflicts of interest that could arise while providing our Services to you. The policy is revised from time to time.

16.3. Where you have been introduced to us by a third party, we may pay an introduction fee on a one-off or continuing basis. In addition, where we pass your Transactions or introduce you to a third party, we may receive a fee from the third party on a one-off or continuing basis. The circumstances in which we and other providers receive and make or provide any such payments or other benefits are regulated by Applicable Law.

17. AMENDMENTS

17.1. We may amend the terms of this Agreement at any time without notice where such amendment is:

- i. required by Applicable Law;
- ii. to reflect a change in Services; or
- iii. to correct any errors.

17.2. Unless otherwise agreed and without prejudice to Clause 17.1, we may amend these General Business Terms or any other part of the Agreement subject to one (1) months' notice where such amendments are not in your favour and otherwise without notice.

17.3. Subject to Applicable Law, amendments to our Agreement may be communicated to you either in writing or through e-mail or similar electronic communication through the Transaction Platform with terms incorporating the relevant amendments being available through a link to our website or by electronic or physical copy of relevant documentation.

17.4. If you do not provide us with notice of rejection of any amendment of which we have notified you, within the period stipulated in Clause 17.2 (or such other notice period in respect of amendments which may apply under the Agreement), we will deem the Agreement to have been amended as per the expiry of the notice period. If you do provide us with notice of rejection of any amendment of which we have notified you, we shall have the right to terminate the business relationship with you with effect as from the date on which the relevant amendment was to apply.

18. TERM AND TERMINATION

18.1. The General Business Terms shall apply from the Effective Date and continue until terminated in accordance with this Clause 18 (*Term and Termination*).

18.2. Either Party is entitled to terminate our business relationship for convenience at any time with three (3) months' written notice.

18.3. We are entitled to terminate the business relationship with you immediately by giving you written notice if:

- i. you are in material breach of your obligations under the Agreement or any Applicable Law;
- ii. changes to previous information or circumstances you have provided to us mean that you are no longer an acceptable Client to us;
- iii. there has been or we reasonably suspect there has been fraud or suspicious activity involving your Account with us or any Transactions on your Account;
- iv. you are subject to an Insolvency Event;
- v. we have reasonable grounds for believing you have committed or are about to commit a crime in connection with your Account or any Transactions;
- vi. you acted with gross negligence, wilful default, or fraudulently in relation to your Account with us or to any Transactions on your Account;
- vii. we reasonably consider that by continuing the Agreement we may (a) break any Applicable Law or other duty, or (b) be exposed to action or censure from any Authority.

Without prejudice to any breach of other obligations which could be deemed material under this Clause 18 (*Term and Termination*), or breach of your obligations in Clauses 5 (*KYC Requirements*), and of the General Business Terms which will always be considered material.

18.4. We may at our discretion grant you a period of up to thirty (30) days to remedy a material breach. We may also decide to block your Account until the breach is sufficiently remedied.

18.5. Termination of the business relationship shall be without prejudice to any rights which accrued before termination.

18.6. A termination of the business relationship shall not affect:

- i. outstanding Transactions being settled and any costs, fees or any other expenses or amounts whatsoever accruing to us (including any additional expenses in connection with such termination being paid); or
- ii. any rights, obligations, liability claims, etc. between you and us, and any warranties or indemnities given by you under this Agreement, which shall survive, which by their nature are deemed to survive the termination.

18.7. At any time after the termination of this Agreement, or after we have reasonably determined that you have not performed any of your obligations to us, we may, upon three (3) Business Days' notice (oral or written) to you of our intention to do so close out, replace or reverse any such Transaction or take, or refrain from taking, such other action at such times and in such manner as we consider necessary or appropriate to avoid, cover, reduce or eliminate any Loss or liability under or in respect of any contracts, positions or commitments.

18.8. Upon termination of this Agreement, all amounts payable by you to us (where only one or more Services are terminated, but not the Agreement as a whole, to the extent they relate to the relevant Service or Services) will become immediately due and payable including (but without limitation):

- i. all outstanding fees, costs, interest and fees;
- ii. any costs expenses incurred by terminating this Agreement; and
- iii. any Losses and expenses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by us on your behalf.

18.9. We will not be liable to you for any Loss that you incur as a result of us acting on

Instructions that you authorised prior to termination of any Service.

19. OTHER CLIENT OBLIGATIONS

19.1. You shall always ensure that:

- i. the execution, delivery and performance of your obligations under the Agreement and any deviations thereof agreed between you and us, the Transactions and the use of the Services contemplated hereunder do not contravene or conflict with (i) any Applicable Law or any instruction, request, regulation or order of any Authority or any judgment, order or decree of any court having jurisdiction over you, or (ii) the provisions of your constitutional documents;
- ii. you are responsible for conducting KYC, anti-money laundering, sanctions and other financial crime and due diligence checks required by Applicable Law on your customers that will use or benefit from the Services. You will provide us with details, as reasonable, of the processes and procedures that you follow to carry out such checks together with any updates or amendments to those checks which you make while this Agreement is in place between you and us;
- iii. you have and will maintain for the term of the business relationship all consents, authority, licenses, recognitions, registrations, permissions, authorisations, exemptions and memberships, if applicable, necessary for the conduct of your business (and that you are properly empowered and have obtained necessary corporate or other authority pursuant to your constitutional and organisational documents);
- iv. all Transactions and other activities relating to our Services are concluded in connection with your commercial activities;
- v. you are in compliance with all Applicable Laws to which you are subject, including, without limitation, all consumer regulation, personal data

protection regulation, tax law and regulation and registration requirements;

- vi. you have not suspended the payment of your financial obligations as they fall due, entered into arrangement with your creditors generally or certain creditor groups, become subject to liquidation, bankruptcy, restructuring or other bankruptcy proceedings, been party to any enforcement proceedings levied against your assets, nor have you been threatened with any insolvency or enforcement proceedings;
- vii. the information provided by you is complete, accurate and not misleading in any material respect.

19.2. In addition to the above, you shall ensure at all times that all Transactions processed through your Account, and opened in your name, are made for the benefit of your payment service users and you hereby confirm that you have full power and capacity and are contractually authorised to collect funds for your payment service users with discharging effect on the payer or execute transactions in the name of and with discharging effect on your payment service users.

19.3. You shall inform us immediately if you breach any of the obligations set out in this Clause 19 (*Other Client Obligations*).

20. BC PAYMENT'S LIABILITY AND LIMITATIONS

20.1. We represent, warrant, and undertake that throughout the term of this Agreement:

- i. We are duly constituted, organised and validly exists under the laws of the country of incorporation;
- ii. We have the ability, capacity and any authorisation (including regulatory authorisation) required by Applicable Law to enter into and perform our obligations under this Agreement;
- iii. We have the legal right, power and authority to enter into, exercise our rights and perform our obligations under this Agreement; and
- iv. entering into this Agreement will not cause us to breach any Applicable Law,

any provision of our constitutional documents or any agreement, licence or other instrument, order, judgment or decree of any court, governmental agency, or Authority to which we are bound.

20.2. We will provide the Services and perform our obligations with reasonable care and skill, using its best efforts and in accordance with our policies.

20.3. Our liability to you for any Loss arising from any act or omission in the course of, or connected to, performing its obligations under this Agreement, shall be as follows:

- i. if the Loss was caused by our gross negligence (*faute lourde*), wilful misconduct (*faute intentionnelle*) or fraud, we shall be fully liable to you;
- ii. in any other case and provided it is not otherwise excluded in these General Business Terms, our total liability in respect of all claims arising in connection with the business relationship and any Transaction or Spot Contract processed on the Transaction Platform shall be limited to AUD 40,000 in any twelve-month period.

20.4. Notwithstanding the above clause 20.3, BC Payments may only be liable for the Loss that was foreseeable by you and us at the time this Agreement was entered into.

20.5. Notwithstanding the above clause 20.3, we shall not be liable for any fines, penalties, loss of information, profit, goodwill, business or anticipated savings, nor any indirect Losses sustained.

20.6. Notwithstanding the above clause 20.3, BC Payments accepts no liability for errors, delays or other inconveniences caused by any correspondent institution chosen by you. If the correspondent institution has been chosen by us, our liability is limited to gross negligence of wilful misconduct in the choice of this correspondent institution. BC Payments can also not be held responsible for the solvency of such correspondent institution.

20.7. Except as provided in clause 20, the use of the Transaction Platform is at your own risk and we are not liable for any use of the Transaction Platform. Furthermore, you acknowledge and agree the Transaction Platform are provided “as is” and we do not represent the functionality or suitability of the Transaction Platform for you, or that it will be uninterrupted or error free. All conditions, warranties, covenants, representations and undertakings which might be implied, whether statutory or otherwise, in respect of our obligations are excluded to the maximum extent permitted under Applicable Law. You acknowledge and accept that any information on the Transaction Platform may be inaccurate, incomplete and/or not up to date.

20.8. We shall not be liable for any Losses resulting from unauthorised use of our Services, including but not limited to the Account and the Transaction Platform. This includes situations where you have shared your unique digital qualified certificate or other personal API details with technical service providers with the purpose to granting them access to your Account, without our consent.

21. YOUR LIABILITY

21.1. You are obliged to compensate us for all Losses, taxes, expenses, costs and liabilities whatsoever (present, future, contingent or otherwise and including reasonable legal fees) which may be suffered or incurred by us as a result of or in connection with the breach of your obligations (including representations and warranties) pursuant to the General Business Terms.

21.2. For the avoidance of doubt, you are liable without any limit for all Losses relating to Transactions where you or one of your Authorised Users have acted fraudulently, negligently or failed to comply with the Agreement or Applicable Law.

21.3. You shall indemnify and keep us indemnified against all actions, proceedings, costs, Losses or damages of any kind that we, our parent company, subsidiaries or associated companies may suffer as a result of handling your Instructions or as a result of your failure to comply with your obligations under the Agreement

or you having acted fraudulently or negligently.

21.4. You will give us prior notice (or, if for confidentiality reasons you are unable to give us prior notice, as soon as possible thereafter) if you undergo a change of Control. The notification shall include details of the new Controller.

22. CONFIDENTIALITY, DISCLOSURE OF INFORMATION, AND OUTSOURCING

22.1. Our privacy policy as documented into the Personal Data Protection Addendum applies to your use of our Services and the Transaction Platform. The Personal Data Protection Addendum is available on our website and/or is provided to you when entering the business relationship.

22.2. We are bound by strict professional secrecy obligations and may not disclose data or information relating to our business relationship with you to any third party, except when disclosure of the information is made in compliance with, or required under, Applicable Law, or upon your instruction or otherwise with your consent.

22.3. To adequately and efficiently provide you with our Services, to comply with applicable legal and regulatory requirements whether in Australia or abroad, we must in certain circumstances disclose your information.

22.4. We are further both entitled and required to disclose certain data, in connection with our business relationship with you including payment or other Transactions that we carry out for you, to any other third parties in Australia or abroad that are involved in these transactions (e.g., in their role as banks, especially correspondent institutions, operators of payment systems or brokers). The data that may need to be disclosed by us in this context may in particular include the data explicitly specified above, the account number, the International Bank Account Number (IBAN), as well as name of the beneficiary of the payment. In particular, data contained in credit transfer orders, or any similar Transactions carried out for your Account and on your behalf will be processed by our subcontractors or other specialised companies,

such as SWIFT. Such processing may take place in special centres or with third parties located in other countries in or outside of Australia or the EEA/EU, including in countries which may not offer a similar level of protection as applicable within Australia or the EEA/EU, in accordance with their legislation. Accordingly, you acknowledge that such third parties or Authorities in said countries may request access to data which is stored in processing centres of this sort, for the purposes of combatting terrorism or for any other legal purpose. By instructing us to carry out any Transaction, you acknowledge and agree that all data required in order to execute the Transaction correctly may be shared, processed and held outside of Australia or may be disclosed to local Authorities or any third parties as described.

22.5. Please note that, when transferring funds internationally, information may be passed on to relevant Authorities in the United States of America. SWIFT – who facilitates such international transfers – is required to report information about the Transaction to relevant Authorities in the United States of America if it suspects the Transaction to be connected to financing of criminal activities or terrorism in accordance with the laws and regulations of United States of America.

22.6. We are required under regulatory obligations to report certain Transactions to a trade repository or relevant regulators. You hereby acknowledge that disclosure made pursuant to such regulatory obligations may include your identity (by name, identifier or otherwise).

22.7. You are hereby informed and acknowledge that we are authorised, at any time and without further prior notice or consent to disclose data and information relating to our business relationship with you to:

- i. any of our employees, agents or representatives;
- ii. any other member of the Banking Circle Group and its employees, agents or representatives;
- iii. any third parties in the context of outsourcing arrangements (please see the Data Transfer and Outsourcing

Addendum for information on outsourcing arrangements);

- iv. any Authority;
- v. any person when we consider in good faith that disclosure is necessary for any legitimate purpose in connection with the Agreement;

provided the same data protection obligations as set out in the Data Protection Law and strict confidentiality obligations shall be imposed on any employee, agent, representative of BC Payments or other third parties processing such data by way of a contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet any regulatory requirements, including under the Data Protection Law. BC Payments shall remain fully liable to you for the processing of such data by any employee, agent, representative of BC Payments or other third parties.

22.8. For the avoidance of doubt, neither Party shall copy, reproduce or disclose any information relating to the other Party's business, investments, finances or other matters of a confidential nature as may come to the Party's knowledge during the performance of said Party's obligations or in any other ways, and both Parties shall use all reasonable endeavours to prevent any such disclosure. This shall not apply, however, where the Party is obliged to disclose such information due to Applicable Law or an Authority or to another person who is entitled by law to demand such disclosure (including tax Authorities), or in order to enable the Party to an adequate extent to fulfil its obligations in accordance with the Agreement.

23. AUDIT/COMPLIANCE REVIEW

23.1. Upon two (2) weeks written notice and upon reasonable grounds for belief of non-compliance or as part of an ordinary annual compliance review, BC Payments or a representative acting on behalf of BC Payments, shall have the right to conduct an on-site audit/compliance review during normal business hours. The on-site audit/compliance review shall be strictly limited to the extent reasonably necessary to validate such compliance and/or carry out other

reasonable control measures to verify compliance with the Agreement.

23.2. You shall reasonably cooperate with us by;

- i. making applicable records available;
- ii. providing copies of the relevant records requested; and
- iii. directing all employees, agents and representatives to reasonably cooperate.

23.3. If the audit/compliance review shows that you are not in compliance with the Agreement, you shall pay our reasonable expenses for conducting the audit along with any other claim for breach of the Agreement or Applicable Law. Failure to accept the conduct of an audit may constitute a material breach under these General Business Terms and entitle us to termination of the Agreement without notice in accordance with Clause 18.

24. EVIDENCE

24.1. You will provide us with copies of authentic originals (including electronic copies).

24.2. You expressly agree that we shall, whenever useful or necessary, be entitled to prove our allegations by any means legally admissible in commercial matters, such as witnesses or affidavits.

24.3. Computerised registrations effected by us based on original documents, will constitute prima facie evidence and will have the same value in evidence as an original written document. You may only disprove micrographic reproductions or electronic records or any other form of record made by us based on original documents or documents having the value of an original by submitting a document of the same nature or in writing.

24.4. Our books and records will be regarded as probative and will conclusively prove, *inter alia*, the SWIFT Messages and Instructions given by you and that Transactions mentioned in such documents have been carried out in accordance with your Instructions.

24.5. Tape recording of telephone conversations may be used in court or other legal proceedings, with the same value in evidence as a written document.

25. TRANSFER AND ASSIGNMENT

25.1. You may not assign or transfer any of your rights or obligations under the Agreement, without a prior written consent from us which we will not unreasonably withhold. Notwithstanding the above, you may assign any of your rights or obligations upon prior written notice to your Affiliate or in connection with a merger, acquisition or sale of all, or substantially all of the assigning party's assets, or similar transaction so long as the Affiliate is not one of our competitors.

26. LIMITATION OF CLAIMS

26.1. Legal actions initiated by you against us must be filed with the competent courts within twelve (12) months from the date of our action, or omission, or from the date when such action or omission became known whichever occurs first. Any action brought after the expiry of such twelve (12) month period will be time barred.

27. MISCELLANEOUS

27.1. In some cases, we receive a commission or another fee when we sell a partner's products or when we refer you to another company. Any right, title and interest in and to our website and any content thereon is the exclusive property of BC Payments. The name "BC Payments" and our logos are trademarks belonging to BC Payments and you are unauthorised to copy, imitate, modify, alter, amend or use the names without our prior written consent.

27.2. You may not alter, modify or change the Transaction Platform or intellectual properties in any way, or use them in a manner that is disparaging or display them in any manner that implies our sponsorship, endorsement, affiliation or otherwise.

27.3. You may not reverse engineer, decompile, or disassemble any of the software used for the Transaction Platform or Services. Also, you may not copy, modify, sell, distribute or transfer any parts of the software used for the Transaction Platform or Services.

27.4. Subject to any applicable notice period set out herein, these General Business Terms are applicable from the date hereof and shall remain effective until a new version is released. The newest and current version of the General Business Terms is always available on our website.

28. RIGHTS AND REMEDIES

28.1. Except where otherwise expressly provided, the rights and remedies contained in this Agreement are cumulative and not exclusive of rights and remedies provided by Applicable Law.

28.2. No delay in exercising, or failure to exercise, any right, power or remedy in connection with this Agreement will be considered a waiver of any of these. No single or partial exercise of a right will preclude any other exercise of that right.

29. OUR AUTHORITY AND USE OF THIRD PARTIES

29.1. You hereby confer on us all powers, authorities and discretions on your behalf which are necessary for, incidental to, or customary in, the provision of the Services to be provided under this Agreement, including the power to appoint sub-agents, and you hereby agree to ratify and confirm everything which we shall lawfully do in the exercise of such powers, authorities or discretions in the manner contemplated under this Agreement.

29.2. We may carry out any Transaction for you, at our discretion, with or through a broker, intermediary, or member of any exchange/clearing institution on such terms as we think fit (including entering into such contracts as a principal whilst discharging our duty to you as your agent and entering into any give-up or similar agreement on your behalf).

30. QUERIES AND COMPLAINTS

30.1. If you have a query regarding a Transaction, the query shall be raised in the first instance to the client services team at clientservices@bcpayments.com.

30.2. We will have no interaction with either payers or payees of your payment service users or customers and your payment service users or

customers themselves acting in any of these capacities. If any of the payers, payees or your payment service users or customers contacts us, we shall refer them to you and you shall resolve any issues with them directly.

30.3. If you are not satisfied with the Service you have received and wish to make a complaint or raise a dispute, you should e-mail us at info@bcpayments.com, setting out full details of the matter.

30.4. Any complaint will be handled in accordance with our complaint handling policy (available on www.bcpayments.com). The complaint handling policy is available in English only. Unless otherwise agreed, any correspondence between us in relation to a complaint shall be made by e-mail.

31. ENTIRE AGREEMENT

31.1. The Agreement constitutes the entire agreement between the Parties. Any prior statement or representation by either Party, whether express or implied is hereby excluded from the Agreement insofar as is permissible under Applicable Law.

32. ILLEGALITY, INVALIDITY AND UNENFORCEABILITY

32.1. If at any time any provision of the Agreement is or becomes illegal, invalid or unenforceable in any respect under Applicable Law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of the Agreement under Applicable Law of that jurisdiction nor the legality, validity or enforceability of such provision under the Applicable Law of any other jurisdiction shall be in any way affected.

33. GOVERNING LAW AND CHOICE OF JURISDICTION

33.1. The Agreement and any matter arising from or in connection with the business relationship, including the termination hereof, shall be governed by and construed in accordance with Australian law, excluding private international choice of law rules, and all claims and disputes (including non-contractual claims and disputes) arising out of or in connection with this Agreement and/or its subject matter, negotiation or formation will be determined in accordance with Australian law.

33.2. Each Party submits to the courts of Australia in relation to all claims, disputes, differences or other matters (including non-contractual claims, disputes, differences or other matters) arising out of or in connection with this Agreement.

34. FORCE MAJEURE

34.1. If either Party is unable to perform its obligations under this Agreement in whole or in part because of a Force Majeure Event, then the Party affected shall immediately notify the other Party of the extent to which it will be unable to perform its obligations.

34.2. If we are the Party affected, we will implement our business continuity plan.

34.3. The affected Party will use reasonable efforts to minimise the effect of the Force Majeure Event.

34.4. The affected Party is entitled to request renegotiation of the material provisions of the Agreement by providing reasonable written notice to the disadvantaged Party. In such events, the affected Party shall be obliged to provide justification on all grounds for the request and the suggested changes. Parties will discuss in good faith the actions to be taken and/or any modifications to be made in the Agreement because of such Force Majeure Event in order to mitigate its consequences on the affected Party and to avoid any non-performance or delayed performance of any substantial obligations of the Parties. If any Force Majeure Event continues for a period over 6 (six) months' time limit and/or the Parties have not succeeded to renegotiate the terms of the Agreement within at least 3 (three) months of ongoing negotiations, the disadvantaged Party may terminate this Agreement by providing written notice with immediate effect.

34.5. If the affected Party complies with its obligations above, that Party will not be liable to the other Party for Losses the other Party suffers as a result of the Force Majeure Event.

34.6. For the purpose of these General Business Terms, « Force Majeure Event » shall be defined as:

- i. breakdown/lack of access to IT systems or damage to data stored in such systems (that could not reasonably have been avoided using normal industry countermeasures) which can be attributed to the events mentioned below, regardless of whether we or an external contractor are responsible for operating such systems;
- ii. failure in our power supply or telecommunications, or non-availability of our website, e.g. due to non-planned or non-scheduled maintenance downtime, legal measures or administrative decrees, natural disasters, war, riot, civil unrest, sabotage, terrorism or vandalism (including computer virus, cyber terrorism, including but not limited to hacking and other cyber-crime);
- iii. the insolvency of a clearing system, save to the extent the Loss would not have arisen but for our wilful default or fraud. In the event of the insolvency of any third party, we may only have an unsecured claim against that third party. There is therefore a risk that any amounts recovered from that third party are insufficient to satisfy your claim and the claims of other clients;
- iv. strike, lockout, boycott or blockade, regardless of whether the conflict is directed against or initiated by us or our organisation and regardless of the reason for the conflict. This also applies if the conflict only affects some of our operations;
- v. the outbreak of an epidemic and/or pandemic disease;
- vi. other circumstances which are beyond our control or due to complying with our other obligations under Applicable Law related to, including but not limited to, the action of any Authority and/or disruption to the international banking systems to and/or through which payments are sent, any investment exchange and/or clearing house, the operator of SWIFT, any other settlement or clearing system.

35. DEFINITIONS AND INTERPRETATION

- 35.1. In these General Business Terms the following terms shall, unless the context otherwise pledges, have the following meanings and may be used in singular or plural, as appropriate:
- i. **“Account”** means an account that you open with BC Payments to receive the Services and access the Transaction Platform;
 - ii. **“Account Statement”** means a periodic statement of the Transactions carried out through an Account;
 - iii. **“Affiliate”** means any legal entity that controls, is controlled by, or that is under common control with the Client;
 - iv. **“Agreement”** has the meaning defined in Clause 1.1;
 - v. **“API”** has the meaning defined in clause 8.3;
 - vi. **“Applicable Law”** means any law, statute, regulation and acts, including but not limited to the Corporations Act 2001, Australian Corporations Regulations 2001, Australian Securities and Investment Commission Act 2001, Anti-Money Laundering and Counter-Terrorism Financial Act (2010) and Privacy Act, as amended from time to time, and any regulatory guidelines (including ASIC Regulatory Guides) as amended from time to time, and any legally binding requirement, legal order, judgment, decision or similar, as amended from time to time, or order as interpreted taking appropriate account of regulatory policy, guidance or industry code, relating to either of the Parties or subject matter in question, including any instructions or requirement imposed by a competent Authority, and any rules and restrictions in relation to trade embargos or other sanctions regulation imposed by Australia, the United States of America, the United Nations, the European Union and any of its member states, the United Kingdom, any institution, or agency acting on behalf of any of them, in each case to which (i) BC Payments Australia PTY Ltd. and/or the Services, and (ii) if the context so requires, you, are subject;
 - vii. **“Australian AML/CTF Regime”** means all obligations and requirements arising from the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and all associated instruments, guidance notes and determinations.
 - viii. **“Australian Sanctions Regime”** includes the Autonomous Sanctions Act 2011 (Cth), the Charter of the United Nations Act 1945;
 - ix. **“Authorised Member”** has the meaning defined in Clause 10.15;
 - x. **“Authorised User”** has the meaning defined in Clause 4.1;
 - xi. **“Authorities”** includes any judicial, administrative, public, regulatory or law enforcement body either national, European or international; any government, tax authority, securities exchange, court, central bank; and any of their agents or agencies;
 - xii. **“Business Day”** means any day on which banks are open for business in Sydney, New South Wales, Australia;
 - xiii. **“Business Hours”** means the time between 09:00 and 17:00 (time in Sydney, New South Wales, Australia);
 - xiv. **“Client”** has the meaning defined in Clause 1.2;
 - xv. **“Client Money”** or **“Client Monies”** means money paid to you as an AFSL holder as set out under section 981A of the Corporations Act and held by us in the Client Monies Trusts Accounts.
 - xvi. **“Client Money Obligations”** means the laws and obligations relating to Client Money and Client Monies Trust Accounts set out in Chapter 7 of the Corporations Act and Chapter 7 of the Corporations Regulations.
 - xvii. **“Client Monies Trust Account”** means the account we provide to you holding Client Monies for you to comply with obligations under the Corporations Act and Corporations Regulations as set out under Section 981B of the Corporations Act.

- xviii. **“Collateral Account”** means the account pledged in favour of BC Payments Australia Pty Ltd. as security for all payment obligations towards us;
- xix. **“Compliance Obligation”** means under Applicable Law and/or any of our obligation to comply with (a) laws or international guidance and internal policies or procedures, (b) any demand from Authorities regarding reporting, disclosure or other obligations under Applicable Laws, and (c) Applicable Law requiring us to verify the identity of our clients;
- xx. **“Control”** or **“Controlling”** means (i) ownership of fifty (50) per cent or more of the issued share capital, or (ii) the power to direct or cause the direction of the general management, of the relevant entity, or its parent. **“Controller”** shall mean the person or entity Controlling.
- xxi. **“Controlling Persons”** has the meaning ascribed to such terms in the clause **Error! Reference source not found.**
- xxii. **“Data Transfer & Outsourcing Addendum”** means the addendum provided to you as part of the Agreement and providing information on the type of information transmitted in the context of the processes we outsource, the suppliers of the Services and their country of establishment;
- xxiii. **“Effective Date”** means the date the last Party signs the Agreement;
- xxiv. **“Fee Account”** means a single account used for settling fees from activities on the Transactions Platform;
- xxv. **“Financial Crime Risk Management Activity”** has the meaning defined in Clause 10.9;
- xxvi. **“Force Majeure Event”** has the meaning defined in Clause 42;
- xxvii. **“FX Interbank Exchange Rate”** means the relevant exchange rate prevailing in the foreign exchange market, as conclusively determined by us;
- xxviii. **“FX Production Costs”** means BC Payments spread together with the Interbank Exchange Rate.
- xxix. **“General Business Terms”** has the meaning defined in Clause 1.1;
- xxx. **“Insolvency Event”** means that a Party:
- (a) is unable, or admits inability, to pay its debts, or suspends or threatens to suspend making a payment on any of its debts;
 - (b) has an order or petition made against it or a resolution passed for its administration, insolvency, liquidation, winding-up or dissolution, or similar procedure (as per the applicable jurisdiction) or any other corporate step or legal proceeding is taken with a view to the same (otherwise than for the purposes of a solvent amalgamation or reconstruction);
 - (c) has an administrative receiver, receiver, manager, liquidator, administrator, insolvency practitioner, trustee or similar officer appointed over all or a significant part of its assets;
 - (d) enters into or proposes any compromise arrangement with its creditors; or
 - (e) suffers or carries out anything similar to the above in any applicable jurisdiction;
- xxxi. **“Instructions”** means a payment order or a Spot trading order;
- xxxii. **“Loss”** includes any loss (including loss of profits), costs, damages (including indirect), taxes, expenses or other liability;
- xxxiii. **“Net Open Position Limit”** means the maximum amount of all negative net positions open at any time in all currencies allowed to you from time to time;
- xxxiv. **“Party”** means either you or us, individually, and **“Parties”** means you and us, collectively;
- xxxv. **“Personal Data Protection Addendum”** means the terms and conditions that govern our treatment of personal data when a client uses our Services (including, but not limited to any information you provide in relation to the use of our Services) as applicable from time to time;
- xxxvi. **“Pricing Agreement”** means the agreement executed by you and us

- documenting the agreed pricing for the provision of the Services;
- xxxvii. **“Real-Time FX Platform”** means the online trading platform ‘Real-Time FX’ made available to you and enabling you to trade currency;
- xxxviii. **“Settlement/Trade Confirmation”** means a notification us confirming the entry into a Spot Contract;
- xxxix. **“Services”** has the meaning defined in Clause 3.1;
- xl. **“Settlement Line”** means the uncommitted intra-day facility granted to you from time to time;
- xli. **“Spot Contract”** or **“Spot”** has the meaning given to “spot contract” in Article 10 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
- xl.ii. **“SFTP”** means Secure File Transfer Protocol;
- xl.iii. **“SWIFT”** has the meaning defined in Clause 10.15;
- xl.ii. **“SWIFT BIC directory”** or **“SWIFTRef files”** is an electronic, downloadable file on the SWIFT website, that contains details of the financial institutions and corporations, such as the bank identifier codes and the national payments system participation codes.
- xl.ii. **“SWIFT Gateway”** means the messaging capacity that allows for payment messages to be initiated and distributed;
- xl.ii. **“SWIFT Messages”** has the meaning defined in Clause 10.8;
- xl.ii. **“Transaction”** means the transfer or receipt of funds, or any other action pertaining to the processing or disposal of funds carried out on your behalf;
- xl.ii. **“Transaction Platform”** means BC Connect, the Real-Time FX Platform and any other system or application programming interface(s) (API) or SFTP server software made available to you for the purpose of sending Instruction or entering into any Spot Contract;
- xlix. **“User Registration Form”** means the form setting out the roles and privileges of certain individuals using the Transaction Platform on your behalf as well as the individuals authorised to designate other users.
- 35.2. References to any law, statute, regulation or enactment in these General Business Terms shall include references to any amendment, modification or re-enactment thereof or to any regulation or order made under such law, statute or enactment.
- 35.3. Any references to the terms "include", "includes", "including", or any similar terms are not intended to limit, or provide an exhaustive, meaning or generality of the related wording.