For further information call
Diners Club Customer Service
24 hours a day on 1300 360 060
dinersclub.com.au
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Introduction

Diners Club offers you a facility to enable Cardholders to buy goods and or services from you by using a Diners Club Card or Account. These terms and conditions set out your obligations when you accept the offer.

You accept the offer and agree to be bound by these terms and conditions when you accept a Diners Club Card or Account as payment for goods or services bought from you, or you fulfill an order for goods or services made through an Approved Electronic Commerce Service, after you have received a copy of these terms and conditions.

1 Definitions and interpretation

1.1 Definitions

In these terms and conditions, unless the context otherwise requires:

**Account** means:
(a) a Diners Club personal, business or corporate charge card account;
(b) where you provide travel services to an Authorised Travel Agent, a corporate travel systems account; or
(c) any other form of credit or charge card account provided by Diners Club that Diners Club notifies to you as being an “Account” under these terms and conditions;

**Application Form** means the form called “Merchant Member Agreement” submitted to Diners Club, either directly or through a third party under which you apply to become a Diners Club Merchant member establishment;

**Approval Code** means a four digit number given by Diners Club to you through an Approved Terminal or by telephone in relation to a Charge;

**Approved Electronic Commerce Service** means an Electronic Commerce Service approved by Diners Club;

**Approved Medium** means a machine readable magnetic tape, computer diskette or any electronic means of communication approved by Diners Club;

**Approved Terminal** means an EFTPOS terminal or any other electronic payment charging system approved by Diners Club;

**Approved Terminal Receipt** means a receipt in a form approved by Diners Club and issued to record a Charge incurred by using an Approved Terminal;

**Associated Person** means:
(a) each of your directors and officers, or the owners of, or partners in, your business; or
(b) any husband, wife, de facto partner or child (including step child) of each person referred to in paragraph (a);

**Authorisation** means, in respect of a Charge relating to the purchase of goods or services ordered other than through an Approved Electronic Commerce Service or mail or telephone order, the provision by Diners Club to you of an Approval Code in relation to that Charge;

**Business Day** means a day on which banks are open for business in Melbourne, except a Saturday, Sunday or public holiday;

**Card** means a card issued by Diners Club, Diners Club International or any other person that Diners Club or Diners Club International authorises to issue Diners Club cards;

**Cardholder** means:
(a) a person who has been issued an individual Card and who is authorised by Diners Club to use that Card; or
(b) any individual who is authorised by an Organisation in whose name an Organisation Card is issued to use that Organisation Card or to charge the Account linked to that Organisation Card;

**Cash Advances** means a debit to an Account which results in, or relates to:
(a) obtaining actual cash (whether at an electronic terminal or by other means);
(b) obtaining “quasi-cash” items such as traveller’s cheques or gaming chips;
(c) payment of a bill where the biller charges the amount as a cash advance; or
(d) the transfer of funds to another account held by the Cardholder or another person with a financial institution;

**Charge** means a charge made by a Cardholder against a Card or Account to buy goods or services from you;

**Commission Fee** means the fee payable to Diners Club under clause 10.4;

**Commission Rate** means the percentage specified as the “Commission Rate” in the Application Form, exclusive of GST, as varied at any time under clause 10.4(c);

**Delayed Charge** means a Charge originated by you and made against a Cardholder’s Card or Account to buy goods or services from you, where the amount of the Charge is determined by you after the Cardholder authorises the Charge;

**Diners Club** means Diners Club Pty Limited ABN 35 004 343 051;

**Diners Club International** means Diners Club International Limited, a company incorporated in New York;

**Diners Club Trademarks** means “Diners Club”, “Diners Club International”, the Diners Club “split circle” logo, and all associated trademarks owned by Diners Club or Diners Club International, whether registered or not;

**Direct Credit** means the arrangement by which Diners Club pays amounts due under clause 10.1 directly into your Direct Credit Account;

**Direct Credit Account** means the account you choose under clause 11.1 to have Direct Credit payments made to;

**EFTPOS** means electronic funds transfer at the point of sale;

**Electronic Commerce Service** means an electronic trading service (other than an Approved Terminal) facilitating the conduct and management of transactions, including buying and selling goods or services using computer networks;

**Floor Limit** means the maximum Australian dollar value of any Manual Charge that may be incurred with you before you must get Authorisation from Diners Club, being the amount specified in the Application Form as the “Manual Floor Limit”, as varied at any time by Diners Club giving you written notice;

**GST** means the goods and services tax;

**Individual Card** means a Card capable of being issued to an individual which bears the name of that individual;

**Individual Charge** means a Charge made using an Individual Card or the Account to which the Individual Card is linked;

**Loss** means any claim, action, damage, loss, liability, cost, charge, expense or payment of any kind;

**Manual Charge** means a Charge created when a Cardholder signs a Record of Charge Form which bears the imprint of that Cardholder’s Card;

**Organisation** means a person in whose name an Organisation Card is issued;

**Organisation Card** means a Card issued to an Organisation which bears the name of only that Organisation or department, division or other part of the Organisation;

**Organisation Charge** means a Charge made using an Organisation Card or the Account to which the Organisation Card is linked;

**Payment Time** means:

(a) the period starting on the date Diners Club receives (or are taken to have received) details of a Charge (other than a Charge processed by an Approved Electronic Commerce Service under clause 10.1(b) and ending on the expiry of the number of days specified as the “Payment Time” in the Application Form; or

(b) if the Charge is processed by an Approved Electronic Commerce Service, the period starting on the date Diners Club records and processes the Charge and ending on the expiry of the number of days specified as the “Payment Time” in the Application Form;

**Personal Information** has the meaning given in the Privacy Act 1988 (Cth);

**Premises** means the branches or outlets at which you carry on your business, as specified
in the Application Form, and includes any other place where you carry on business during the period of the agreement;

Processing Guidelines means any information Diners Club issues to you that sets out the procedures you must follow when incurring, crediting or otherwise dealing with Charges to a Card or an Account;

Record of Charge Form means the Diners Club record of charge form that Diners Club issues to you or that Diners Club approves at any time, which is to be completed by you and signed by the Cardholder whenever a Manual Charge is incurred;

Special Warning Bulletin is a flag or notice listing a Card or Account that is no longer valid for use that Diners Club gives you in writing or in or on an Approved Medium or by other electronic means;

Summary of Charges means:
(a) a Summary of Charges Form; or
(b) a summary of charges in or on an Approved Medium recorded in accordance with clause 4.1;

Summary of Charges Form means any form Diners Club issues to you to summarise Manual Charges, or mail or telephone order Charges for which you seek reimbursement under these terms and conditions;

Taxes means all stamp duty, financial institutions duty and any other duties and taxes including, but not limited to, a goods and services tax, consumption tax, value added tax or similar tax, including GST payable in accordance with the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

Uncollectable Charge means a Charge described in clause 13.2;

Web Site means any document, computer file or computer program which you use in connection with an Electronic Commerce Service; and

Withholding Event means any event where:
(a) you, or your parent company:
   (i) becomes insolvent;
(2) has a receiver or receiver and manager or administrator appointed to it or over the whole or any part of its assets or business;
(3) has the whole or any part of its assets possessed by any chargee or mortgagee or their agent;
(4) makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of its indebtedness; or
(5) has any order or resolution made for its dissolution or liquidation, other than for the purpose of solvent amalgamation or reconstruction;
(b) any owner, director or partner of you is declared bankrupt or becomes unable to pay his or her debts;
(c) you participate in, or Diners Club has reasonable grounds to suspect that you are participating in, any fraud against Diners Club, or a Cardholder or an Organisation;
(d) you have ceased, or intend to cease, trading; or
(e) you have breached these terms and conditions; and

you or your means the member establishment described in the “Merchant Details” and “Ownership Details” sections in the Application Form.

1.2 Interpretation
(a) In these terms and conditions, unless the contrary intention is stated, a reference to:
   (1) “these terms and conditions” includes these terms and conditions (as varied at any time under clause 19.12) and the Application Form;
   (2) “the agreement” is to the agreement formed by you accepting Diners Club’s offer to provide the services specified in these terms and conditions; and
   (3) a person includes a corporation and any other entity the law recognises.
(b) Headings are only for convenience and do not affect interpretation of these terms and conditions.
2 Acceptance of a Card or Account

2.1 Use of a Card or Account
(a) Subject to these terms and conditions, a Cardholder can use a Card or an Account to buy goods or services sold or supplied by you in the ordinary course of your business. Unless you are permitted by Diners Club, you must not allow a Cardholder to use a Card or Account to buy goods or services that are not sold or supplied by you in the ordinary course of your business.
(b) Except where goods or services are ordered through an Approved Electronic Commerce Service or by mail or telephone order, you must not process a Charge unless:
   (1) a valid Card is produced, or a valid Account is used;
   (2) except in the case of an Organisation Charge, the Card has been signed by the Cardholder;
   (3) except in the case of an Organisation Charge, the Card is used within the validity period shown on the Card, except where Authorisation is obtained under clause 2.9;
   (4) except where Authorisation is obtained under clause 2.8, the Floor Limit is not exceeded; and
   (5) if the Charge is processed through an Approved Terminal:
      (A) the name of the card issuer appearing on the Approved Terminal Receipt is Diners Club; and
      (B) the Card number or truncated Card number appearing on the Approved Terminal Receipt is the same as, or is the truncated version of, the Card number of the Card which is produced.
(c) A Card or Account is not valid if it is described in a current Special Warning Bulletin unless you get Authorisation from Diners Club for the use of that Card or the Account linked to that Card before you allow a Charge to be incurred using that Card or Account.
(d) If there is any marking on a Card indicating that the Card is only valid for certain uses or in certain countries, you must not accept that Card for any use inconsistent with that marking. For example, a Card marked “Valid for India only” may only be used in India, or a Card marked “ATM Card” may only be used to obtain cash advances via an Automatic Teller Machine.

2.2 No direct billing Cardholder
(a) Where a Cardholder buys goods or services using a Card or Account, you must not bill or charge that Cardholder or any other person directly or receive payment in respect of the purchase of those goods or services, other than in accordance with these terms and conditions.
(b) If you do not comply with clause 2.2(a), Diners Club may elect not to process the relevant Charge.
(c) If Diners Club does process the Charge under clause 2.2(b), the Charge will be treated as an Uncollectable Charge.

2.3 Mail, telephone or Electronic Commerce Service orders
(a) If indicated in the Application Form, you may allow a Cardholder to buy goods or services by mail or telephone order or by Electronic Commerce Service and to charge those orders to their Card or Account, subject to these terms and conditions.
(b) If you have not indicated in the Application Form that you may allow a Cardholder to buy goods or services by mail or telephone order or by Electronic Commerce Service, you must not accept mail or telephone orders unless you have received prior written approval from Diners Club.

2.4 Cashing cheques, cash advances and refunds
(a) Diners Club is not responsible for cheques
Limit, you must not split the transaction into 2 or more Charges in order to get Authorisation from Diners Club.

2.9 Expired Cards
(a) You must get Authorisation from Diners Club before you allow a Charge to be incurred using a Card or Account with a validity date which has expired.
(b) An Authorisation is not available and will not be given in relation to Charges incurred using a Card with a validity date which has expired where that Charge is a telephone or mail order Charge or an Electronic Commerce Service Charge.

3 Processing charges

3.1 How you must process Charges
You must process each Charge in accordance with the procedures in the Processing Guidelines and these terms and conditions. The processing guideline graphs in the Processing Guidelines display, step by step, procedures in relation to the processing of Charges.

3.2 Additional instructions and directions
(a) You must follow any other instructions or directions about processing Charges that Diners Club issues to you:
   (1) in written form;
   (2) in or on an Approved Medium; or
   (3) by telephone.

(b) Diners Club may vary the Processing Guidelines by giving you written notice of the changes. The changes come into effect on the day specified in the notice.

(c) If you allow a Charge to be incurred with you contrary to any instructions or directions Diners Club issues, whether in the Processing Guidelines or otherwise, the Charge will be treated as an Uncollectable Charge.

3.3 Timing for submission of Charges
You must submit details of each Charge to Diners Club on a Summary of Charges (or in any other way Diners Club agrees to) no later than 7 days after the date on which you make the Charge. You must submit details of each Charge to Diners Club on a Summary of Charges (or in any other way Diners Club agrees to) no later than 7 days after the date on which you make the Charge.
days after the Charge is incurred, except where the Charge relates to a mail or telephone order where you have allowed a free trial period for the goods or services the subject of the order.

(a) Where you have allowed a free trial period referred to in clause 3.3(a)(3), you must not submit the Charge to Diners Club until the free trial period has expired, and you must submit it within 7 days after that expiry date.

3.4 Delayed Charges

(a) Where a Charge is a Delayed Charge, you must process it as a Manual Charge and show it as a separate item in the Delayed Charge column of the Record of Charge Form.

(b) Diners Club will try to collect a Delayed Charge from the Cardholder, but Diners Club is not liable to make any payment to you on account of the Delayed Charge amount unless Diners Club actually recovers the Delayed Charge amount from the Cardholder.

(c) You must keep a copy of all written evidence that the Delayed Charge has been incurred for at least 1 year from the date the Delayed Charge was incurred, and produce that copy to Diners Club on request.

3.5 Motor vehicle hire

Where a Cardholder uses a Card or an Account to pay for hiring a motor vehicle, you must:

(a) keep a copy of all written evidence that the Charge has been incurred and approved by the Cardholder for at least 1 year from the date the rental ends; and

(b) produce a copy of that evidence to Diners Club on request.

4 Processing by Approved Medium

4.1 Using an Approved Medium

Instead of sending Diners Club a Summary of Charges Form, you may submit to Diners Club a summary of all Manual Charges or mail and telephone order Charges or Electronic Commerce Service Charges recorded in or on an Approved Medium. A Summary of Charges in or on an Approved Medium must contain at least the following information about each Charge:

(a) Cardholder’s name;
(b) Card number or Account details;
(c) where the Charge has been incurred by use of a Card, the expiry date of the Card;
(d) date of transaction;
(e) Australian dollar value (or, if not in Australian dollars, the foreign currency value) of the Charge;
(f) description of the goods or services;
(g) in the case of an Organisation Charge, the information you and the Organisation have agreed for authorisation and processing of that Organisation Charge; and
(h) any other information that Diners Club notifies to you should be included in the Summary of Charges.

4.2 Format of Approved Medium

If you submit a Summary of Charges in or on an Approved Medium, it must comply with the format and procedures that Diners Club notifies to you at any time. If you fail to comply with the format and procedures, Diners Club may treat any Charge in the Summary of Charges as an Uncollectable Charge.

4.3 Notice of failure to comply with approved format and procedures

If a Summary of Charges in or on an Approved Medium does not comply with Diners Club’s requirements as to format and procedures, Diners Club will use its best efforts to notify you of this within 2 Business Days of receipt of the Summary of Charges.

4.4 Costs of complying with laws

If:

(a) you are prevented by law or government regulation from submitting a Summary of Charges in an Approved Medium, or in the format in which it may otherwise be submitted under these terms and conditions, or from including information Diners Club requires; or
(b) the Approved Medium does not satisfy clause 4.2,
neither you nor Diners Club are liable to the other for any Loss relating to complying with those laws or reverting to other ways of submitting the Summary of Charges to Diners Club under these terms and conditions.

4.5 Accepting Summary of Charges is not a waiver
If Diners Club:
(a) accepts a Summary of Charges:
   (1) in an Approved Medium that does not comply with the appropriate format or procedures that Diners Club has notified to you; or
   (2) in the appropriate format, but that does not contain the information relating to each Charge summarised in it required by these terms and conditions; or
(b) fails to give you the notice referred to in clause 4.3,
that does not mean that Diners Club has waived or lost Diners Club’s right of reimbursement under clause 13.1.

5 Processing Manual Charges

5.1 Manual Charges
(a) You must process a Charge as a Manual Charge if:
   (1) you do not have an Approved Terminal; or
   (2) you have an Approved Terminal but it is either not operating or Diners Club stops accepting Charges through it.
(b) You must not process a Charge incurred using an Approved Electronic Commerce Service or an Organisation Charge as a Manual Charge.
(c) When you process a Charge as a Manual Charge, you must ensure that:
   (1) the Card is an Individual Card;
   (2) a valid Individual Card is produced;
   (3) the Individual Card has been signed by the Cardholder;
   (4) the Individual Card is used within the validity period shown on the Card, except where Authorisation is obtained under clause 2.9; and
   (5) except where Authorisation is obtained under clause 2.8, the Floor Limit is not exceeded.

5.2 Record of Charge Form
(a) You must send Diners Club the Diners Club copy of the Record of Charge Form bearing the Cardholder’s signature no later than 7 days after the Manual Charge is incurred. If you do not do so, the Charge may be treated as an Uncollectable Charge.
(b) You must keep the “establishment” copy of the Record of Charge Form for 1 year from the date the relevant Charge was incurred.

6 Electronic point of sale and other electronic charge processing

6.1 Using Approved Terminal
Where you have an Approved Terminal, you must process all Charges by using the Approved Terminal, except where:
(a) the Approved Terminal is not operating;
(b) Diners Club stops accepting Charges through the Approved Terminal; or
(c) the Charge is incurred using an Approved Electronic Commerce Service.

6.2 Procedure for using Approved Terminal
You must process each Charge through an Approved Terminal in accordance with the following procedures.
(a) You must process the Card through the Approved Terminal following any applicable operating instructions issued by the supplier or manufacturer of the Approved Terminal or by Diners Club. If you use the Approved Terminal to process charges made by charge cards or credit cards other than Diners Club Cards, you must comply with any separate agreements you have relating to those cards.
(b) You must check that the Approval Code Diners Club gives you is recorded on each
Approved Terminal Receipt produced by the Approved Terminal.

(c) Where you do not get an Approval Code through the Approved Terminal, you must follow the procedures in clause 5 for processing Manual Charges. You must not engage in another transaction for that customer unless it is processed as a manual transaction under clause 5. Any manual transaction must have authorisation gained directly from Diners Club by ringing the authorisation number if the floor limit is exceeded. You may not reduce the original transaction amount to gain automatic authorisation.

(d) You must ensure that:
(1) the Card is an Individual Card;
(2) a valid Individual Card is produced;
(3) the Individual Card has been signed by the Cardholder;
(4) the Individual Card is used within the validity period shown on the Card, except where Authorisation is obtained under clause 2.9;
(5) except where Authorisation is obtained under clause 2.8, the Floor Limit is not exceeded;
(6) the name of the card issuer appearing on the Approved Terminal Receipt is Diners Club;
(7) the Card number or truncated Card number appearing on the Approved Terminal Receipt is consistent with the Card number of the Card which is produced;
(8) unless the Approved Terminal is not operating, you process the Charge through the Approved Terminal by using the Card and do not key enter the details of the Charge on the Approved Terminal;
(9) you get the Cardholder’s signature on the Approved Terminal Receipt;
(10) you keep the “establishment” copy of the Approved Terminal Receipt for 1 year from the date the Charge was incurred; and
(11) you send Diners Club the Diners Club copy of the Approved Terminal Receipt within 14 days of Diners Club’s request.

(e) If you do not send Diners Club the Diners Club copy of the Approved Terminal Receipt within 14 days of Diners Club’s request and we do not collect the Charge to which the Approved Terminal Receipt relates from the Cardholder or a third party, the Charge may be treated as an Uncollectable Charge.

7 Off-line Charge processing

7.1 Off-line Charges

Except for a Charge incurred by mail or telephone order or by using an Approved Electronic Commerce Service, if you have an Approved Terminal and:

(a) it is not operating; or
(b) Diners Club stops accepting Charges through it,

you must process each Charge, in accordance with the following procedures:

(c) the Charge must be processed as a Manual Charge in accordance with the requirements set out in clause 5; and
(d) as soon as the Approved Terminal becomes operational after the Charge is incurred, you may send Diners Club details of the transactions to which the Charge relates by key entering the details on the Approved Terminal in accordance with the Processing Guidelines. If you do this, you must not send Diners Club the Record of Charge Form or include the Charge in accordance with the Processing Guidelines in any Summary of Charges you send Diners Club. Instead you must keep the Record of Charge Form as evidence of the transaction to which the Charge relates.

7.2 No Authorisation

Any notification of the transaction details in accordance with clause 7.1(d) does not mean that:

(a) an Authorisation has been given by Diners Club in respect of the Charge;
(b) the Charge will not be treated as an Uncollectable Charge; or
(c) you need not process the Charge as a Manual Charge in accordance with clause 7.1(c).

8 Charges relating to mail or telephone orders

8.1 Processing of Organisation Charges

(a) You must process all Organisation Charges by or as if it were a mail and telephone order in accordance with the Processing Guidelines. If you process an Organisation Charge by any other method, the Charge may be treated as an Uncollectable Charge.

(b) Where the Cardholder disputes an Organisation Charge, the Charge may be treated as an Uncollectable Charge if a Charge is made to an Account, and you cannot provide to Diners Club the information you and the Organisation have agreed for authorisation of that Organisation Charge.

8.2 Processing of Charges

(a) You must process all Charges made by mail or telephone in accordance with the Processing Guidelines relating to mail or telephone orders.

(b) Where the Cardholder disputes a Charge that relates to a mail or telephone order, the Charge will be treated as an Uncollectable Charge if you cannot produce to Diners Club on request a bill or order form for the goods or services the subject of the Charge bearing the Cardholder’s signature and the Card or Account number.

8.3 Proof of delivery

You must not submit to Diners Club a Charge relating to a mail or telephone order unless the goods or services the subject of the Charge have been supplied to the Cardholder or as directed by the Cardholder and this is substantiated by proof of delivery.

8.4 No Authorisation

Diners Club will not give you an Authorisation for mail or telephone orders made using a Card or an Account. However, before processing a Charge relating to a mail or telephone order, you may telephone Diners Club to check that the Cardholder’s Card or Account is valid and to verify the Account number and name. Any verification of these details in this way, or the provision of an Approval Code by Diners Club, does not mean it cannot be treated as an Uncollectable Charge.

8.5 Withholding payment for mail or telephone Charges

Diners Club may withhold payment of the face value of any mail or telephone order Charge for 20 Business Days after the Charge is submitted to Diners Club to allow Diners Club time to investigate and check the validity of the Charge.

9 Electronic Commerce Service

9.1 Where Electronic Commerce Service is not approved

(a) You must not accept an order for goods or services using an Electronic Commerce Service which has not been approved by Diners Club. Diners Club may approve the use of an Electronic Commerce Service which:

(1) uses, as a minimum, 128 bit public key encryption; and

(2) provides appropriate levels of:

(A) data storage;
(B) authentication;
(C) data integrity;
(D) physical security;
(E) maintenance; and
(F) technical support.

(b) If the levels of encryption, data storage, authentication, data integrity, physical security, maintenance and technical support of the Electronic Commerce Service fall below those on which Diners Club has given its approval under clause 9.1(a), the Electronic Commerce Service will no longer be an Approved Electronic Commerce Service until the changes are again approved by Diners Club.
9.5 Your representations and warranties
You represent and warrant to Diners Club that:
(a) you are able to supply the goods or services ordered using an Approved Electronic Commerce Service;
(b) your Web Site displays at all times your policy on privacy and the handling of Personal Information;
(c) your Web Site complies with any relevant laws and industry codes of conduct or practice; and
(d) your Web Site does not contain material that is defamatory or obscene or infringes any copyright or other intellectual property rights or which may adversely affect Diners Club’s name, reputation or business.

9.6 Diners Club Trademarks
(a) You acknowledge and agree that:
(1) Diners Club International is sole and exclusive owner of the Diners Club Trademarks and the goodwill associated with the Diners Club Trademarks and all rights in and to all uses of any of them. The Diners Club Trademarks have acquired valuable goodwill and secondary meaning and you must not challenge or adversely affect Diners Club International’s ownership rights therein;
(2) any rights that you may acquire or develop in or to the Diners Club Trademarks or any similar Diners Club Trademarks, and any goodwill associated with the Diners Club Trademarks, will be held by you solely as fiduciary in trust for Diners Club International for Diners Club International’s benefit. You will use the Diners Club Trademarks (or variations thereof) and take action with regard to them only as specifically directed by Diners Club International; and
(3) should you have received a prior written grant of right in any Diners Club Trademarks from Diners Club International or any predecessor in interest to Diners Club International, you represent and warrant that such uses have been, and
are subject to Diners Club International’s exclusive ownership rights therein, and you shall immediately discontinue any such uses if requested by Diners Club International.

(b) Diners Club reserves all rights, and owns or licenses all intellectual property, in the Diners Club Trademarks.

(c) You are authorised by Diners Club to use the Diners Club Trademarks in relation to an Approved Electronic Commerce Service, subject to the following conditions:

(i) authorisation to reproduce the Diners Club Trademarks is given solely in relation to the promotion of you as a merchant who is authorised by Diners Club to accept Charges, and for such purpose may only be reproduced on brochures, your Web Site and any other promotional materials which promote your status as such a merchant;

(ii) you may not use the Diners Club Trademarks or any similar trademark, words or logos for any other purpose whatsoever, without the prior written consent of Diners Club;

(iii) when you reproduce any Diners Club Trademarks in accordance with clause 9.6(c)(1), you may not in any way indicate that Diners Club or Diners Club International endorses your goods or services or is the supplier of, or guarantees the supply, quality or fitness for purpose of your goods or services;

(iv) if, in Diners Club’s absolute discretion, Diners Club believes your use or reproduction of the Diners Club Trademarks is in any way prejudicial to Diners Club’s rights or interests, or does not comply with Diners Club’s specifications, or this authorisation is terminated, you will at Diners Club’s request immediately amend, withdraw, remove, destroy, or return to Diners Club, or otherwise as directed by Diners Club, any document or thing bearing the Diners Club Trademarks;

(v) reproduction of the Diners Club Trademarks must strictly accord with all specifications prescribed by Diners Club, from time to time, including spacing, size and colour requirements; and

(vi) authorisation to use the Diners Club Trademarks will terminate when this agreement terminates, or when Diners Club notifies you in writing of such termination, which Diners Club may do at any time in its absolute discretion and without any liability to you for any form of compensation. If authorisation to use the Diners Club Trademarks is terminated, you will immediately cease using the Diners Club Trademarks in any way whatsoever and will thereafter not use any name, mark, logo, or trade dress substantially identical with, deceptively similar to any Diners Club Trademark, or so nearly resembling any Diners Club Trademark as to be likely to deceive or cause confusion.

10 Payment of Charges and Commission Fees

10.1 When Diners Club will pay Charges

(a) Subject to these terms and conditions, Diners Club will pay you the amount of each Charge you submit to Diners Club in accordance with these terms and conditions before the Payment Time for the Charge expires.

(b) If Diners Club receives details of;

(i) a Manual Charge processed under these terms and conditions after 12pm (Melbourne time) on a Business Day;

(ii) a Charge processed by an Approved Electronic Commerce Service or a Charge other than a Manual Charge, after 6pm (Melbourne time) on a Business Day, Diners Club is taken to have received the details on the next Business Day.

(c) If Diners Club pays a Charge, the payment of any Charge shall not constitute a waiver of Diners Club’s right to treat it as an Uncollectable Charge.
10.2 Charges in Australia and certain other countries
You must submit to Diners Club any Charges incurred with you in Australia, Papua New Guinea, the Solomon Islands, Nauru and any other countries that Diners Club specify to you by written notice.

10.3 How Diners Club will pay Charges
Diners Club will make payments under this clause 10 by Direct Credit in accordance with clause 11.

10.4 Commission Fee
(a) You must pay Diners Club a Commission Fee, together with an amount equal to any Taxes Diners Club incurs or pays which relate to that payment or the Charge, including any GST payable in respect of a supply by Diners Club for which the Commission Fee is payable, for each Charge you submit to Diners Club.
(b) The Commission Fee is the amount of the Charge multiplied by the Commission Rate.
(c) Diners Club may review the Commission Rate and vary it by giving you written notice of the change.

11 Direct Credit arrangements

11.1 Direct Credit arrangements
(a) You may choose to have payments Diners Club makes under clause 10.1(a) paid directly into your account with a financial institution. You must give Diners Club details of your account and any of your other banking arrangements that Diners Club requires.
(b) Diners Club will make payments under clause 10.1(a), less any amount that Diners Club are entitled to withhold or set-off against those payments, including, without limitation, any Commission Fee payable by you in respect of the Charge.

11.2 Change in your Direct Credit account
(a) If you change or cancel your Direct Credit Account, you must give Diners Club at least 7 days advance written notice of the change or cancellation. You must ensure that Diners Club has the correct details of your Direct Credit Account at all times.
(b) Diners Club is not liable for any Loss you suffer, incur, pay or are liable for as a result of Diners Club transferring funds to a Direct Credit Account that is no longer current or has been cancelled or changed by you.

11.3 Account adjustments
(a) If Diners Club credits any funds to your Direct Credit Account by mistake, or in excess of the amounts Diners Club owes you, you must immediately refund the payment or the excess payment (as applicable) to Diners Club whether or not Diners Club gives you notice of the amounts mistakenly paid or paid in excess.
(b) You authorise Diners Club (and you direct the financial institution at which the Direct Credit Account is held) to debit your Direct Credit Account to correct any error relating to any payment Diners Club makes to your Direct Credit Account. You must also get the signatories to the Direct Credit Account to sign or authorise any withdrawal from that account for the purposes of this clause 11.3.

11.4 Direct Credit relating to Uncollectable Charges
On Diners Club giving you written notice that a Charge is an Uncollectable Charge, you authorise Diners Club (and you authorise the financial institution at which the Direct Credit Account is held) to debit an amount from the Direct Credit Account equal to the face value of that Charge. You must also get the signatories to the Direct Credit Account to sign or authorise any withdrawal from that account for the purposes of this clause 11.4.

11.5 Ending Direct Credit
Diners Club may end the Direct Credit arrangements at any time by giving you 5 Business Days advance written notice.
12 Complaints and price adjustments

12.1 Dealing with complaints and making price adjustments or refunds
(a) You must handle all complaints by Cardholders relating to purchases from you, except any complaints relating to a Cardholder’s statement of account or Diners Club’s method of billing.
(b) You may only make price adjustments or refunds to a Cardholder relating to goods or services bought by using a Card or Account by crediting the Cardholder’s Account in accordance with the Processing Guidelines to give effect to that price adjustment or refund. You must not give cash refunds relating to a Charge.

12.2 Motor vehicle hiring agreements
Any price adjustment or refund that you give in satisfaction of a claim or dispute by a Cardholder arising from hiring a motor vehicle must be made to the rental charge for the vehicle or to any insurance relating to the rental of the vehicle or in accordance with clause 12.1(b).

13 Uncollectable Charges

13.1 You must reimburse Diners Club for Uncollectable Charges
Within 2 Business Days of receiving written notice from Diners Club that a Charge is an Uncollectable Charge, you must pay Diners Club an amount equal to the amount of that Charge.

13.2 What is an Uncollectable Charge
A Charge is an Uncollectable Charge if:
(a) where it is a telephone or mail order Charge or an Electronic Commerce Service Charge, it is incurred by a Cardholder whose Card or Account or identifying symbols or numbers applicable to it was listed in a Special Warning Bulletin before the Cardholder incurred the Charge;
(b) who was listed in a Special Warning Bulletin before the Cardholder incurred the Charge;
(k) it is processed through an EFTPOS terminal or other electronic charging system terminal which is not an Approved Terminal, or where the date of the Charge is wholly or partly incapable of being deciphered or processed;

(l) it relates to a transaction which you key enter through an Approved Terminal despite not having obtained an Approval Code for the Charge through the Approved Terminal;

(m) Diners Club receives the details or date of the Charge more than 7 days after the Charge was incurred by the Cardholder;

(n) it is a Delayed Charge and is not processed as a Manual Charge in accordance with these terms and conditions;

(o) you billed the amount of the Charge direct to the Cardholder, or received payment for the Charge other than through the use of a Card or Account;

(p) it exceeds the Floor Limit except where you obtained prior Authorisation under clause 2.8;

(q) the Approved Terminal referred you to Diners Club to get Authorisation and (not being a mail or telephone order Charge) you did not get from Diners Club, or Diners Club refused to give you, Authorisation;

(r) the Cardholder refuses to pay it because goods or services the subject of the Charge were defective, returned, not delivered or provided, or not as promised, but this will not apply if the Charge relates to goods returned to you under an exchange only policy where no refund is given;

(s) it relates to the rental of a motor vehicle and it cannot be substantiated by written evidence that the Charge was incurred and approved by the Cardholder;

(t) it relates to a purchase of goods or services made through an Approved Electronic Commerce Service which is disputed by the Cardholder;

(u) it relates to a mail or telephone order which the Cardholder has failed to pay and you cannot produce to Diners Club on request a bill or order form for the goods or services the subject of the Charge bearing the Cardholder’s signature and Card number; or

(v) it relates to a transaction for which you have previously processed a Charge under these terms and conditions;

(w) the amount of the Charge is altered by you or any other person in any way after the Cardholder signed the Record of Charge Form or the Approved Terminal Receipt;

(x) in Diners Club’s opinion it relates to a single transaction which has been split into 2 or more Charges;

(y) it is incurred through the use of a Card which was evidently a forgery, or which you had reasonable grounds to suspect was a forgery;

(z) it is unsigned and incurred in a hotel establishment for which the Cardholder can furnish a cancellation number provided by the hotel or the amount of the Charge exceeds the cost of one night’s stay;

(aa) it is an in-flight or on-board ship sales Charge for which you did not get Authorisation from Diners Club and that Diners Club is unable to collect from the Cardholder;

(bb) a payment Diners Club receives for it from a Cardholder is wholly or partly avoided, or a claim is made to avoid it and that claim is upheld, conceded or compromised under any applicable law (including, but not limited to, any law relating to bankruptcy or liquidation);

(cc) the Charge is processed through an EFTPOS terminal or other electronic payment charging system which has not been approved by Diners Club; or

(dd) it is otherwise treated as an Uncollectable Charge under these terms and conditions.

13.3 Authorisations
A Charge can be an Uncollectable Charge notwithstanding that an Authorisation or Approval Code has been given in relation to that Charge.

13.4 Notice of Uncollectable Charge
Unless Diners Club gives you written notice that a Charge is or may become an Uncollectable
Charge within 12 months after you submit details of the Charge to Diners Club, both your obligation to reimburse Diners Club under clause 13.1 and Diners Club’s authority under clause 11.4 to debit the Direct Credit account lapse at the end of that 12 month period.

13.5 Repayment of amounts Diners Club receives

If Diners Club receives a payment from a Cardholder relating to an Uncollectable Charge that has been reimbursed by you under clause 13.1, Diners Club will pay the amount of the payment to you, less any amount that Diners Club is entitled to withhold or set-off under these terms and conditions.

13.6 You must help with enquiries

If Diners Club asks you anything about a Charge (including asking you to provide Diners Club with copies of any document relating to the Charge), you must promptly help Diners Club with its enquiries. If you do not answer an enquiry to Diners Club’s satisfaction within 14 days of the date of the enquiry, the Charge to which the enquiry relates will be treated as an Uncollectable Charge.

13.7 Fraudulent Charges and Cardholder complaints

If you claim reimbursement from Diners Club in relation to 2 or more Charges incurred during any calendar year which involve, or Diners Club suspect involves, fraud committed by you or an Associated Person or your employee, or in Diners Club’s opinion a serious Cardholder complaint is made concerning the use of a Card or Account with you, Diners Club may do any combination of the following:

(a) withhold payment of any Charge (whether or not that Charge relates to the Cardholder complaint or the Charge which involves fraud) incurred with you until Diners Club has had time to fully investigate the Cardholder complaint or the fraudulent Charge;
(b) exercise its right of set-off under clause 16 in relation to any such withheld payment; or
(c) on giving you written notice, treat as an Uncollectable Charge any Charge (whether or not that Charge relates to the Cardholder complaint or the Charge which involves fraud) incurred with you and which is disputed by the Cardholder.

14 Confidentiality

14.1 Confidentiality

(a) You acknowledge that all information you or your officers or employees receive in the course of dealing with a Card or Account or Diners Club (including a Cardholder, Card and Account details) that is not information in the public domain, is Diners Club’s property.

(b) Except as otherwise required by law or agreed to by Diners Club in writing, you must:

(1) hold that information in strict confidence; and
(2) not disclose for cause to be disclosed any of that information to any third party other than your employees and agents who need access to that information for the purposes of your compliance with these terms and conditions;
(3) not use or reproduce that information for any purpose other than compliance with your obligations under these terms and conditions; and
(4) take reasonable steps to protect that information from misuse and loss and from unauthorised access, modification and disclosure.

14.2 Credit assessments

(a) For the purposes of these terms and conditions Diners Club may carry out credit assessments and otherwise obtain, check and exchange with third parties information or Personal Information (including, but not limited to, credit reports) about you or your Associated Persons.

(b) If Diners Club requests, you must promptly get the consent of the relevant Associated Person so that Diners Club can exercise its rights under this clause 14.2.
If Diners Club requests company financials, you must promptly provide them.

15 Special Warning Bulletins

15.1 Diners Club may issue Special Warning Bulletins

Diners Club may give you Special Warning Bulletins listing Cards and Accounts that are no longer valid for use.

15.2 You must check Special Warning Bulletins

Whenever you receive, or are taken to have received, a Special Warning Bulletin, for all Charges presented to you after the “Effective Date” shown on the Special Warning Bulletin, you must, before permitting a Charge to be incurred with you:

(a) check the Special Warning Bulletin to see if the Card or Account is listed; and
(b) if it is listed, get Authorisation from Diners Club for the Charge.

16 Diners Club’s right of set-off

16.1 Diners Club may set-off all payments

Where under these terms and conditions or any other agreement between Diners Club and you, or under any law or regulation, Diners Club is entitled to any payment, repayment or reimbursement from you (including, but not limited to, any payment by indemnity), Diners Club may set-off the payment, repayment or reimbursement against amounts due and payable to you under these terms and conditions.

16.2 Cardholders associated with you

Where any amount billed to a Card or Account held by any of your Associated Persons as a result of a Charge processed by you is not paid within 30 days of the date payment is due to Diners Club under the terms and conditions for that Card or Account, Diners Club may deduct that amount from any amount payable to you under these terms and conditions.

16.3 You must pay Diners Club on demand

If there is no amount against which Diners Club can set-off an amount due and payable to you under these terms and conditions, you must immediately pay Diners Club the amount you owe Diners Club whether or not Diners Club gives you notice of that amount.

17 Indemnities, no liability

17.1 General indemnity

Subject to any applicable law to the contrary, you must indemnify Diners Club against all Loss (whether direct or indirect) that Diners Club suffers, incurs, pays or is liable for in respect of:

(a) your breach of any of your obligations under these terms and conditions;
(b) any dispute between you and a Cardholder or an Organisation about the supply, use, quality or fitness for purpose of goods or services bought from you;
(c) any Taxes now or in future assessed, levied, imposed or collected by any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department or authority in respect of the use of a Card or Account to buy goods or services from you, any Charge or any transaction under, or contemplated by, these terms and conditions;
(d) your possession, operation, control or use of an Approved Terminal, Electronic Commerce Service or imprinter;
(e) a claim by a Cardholder or an Organisation against you or Diners Club for damages or to recover an amount from you or Diners Club as a result of misrepresentation, breach of contract or failure of consideration relating to goods or services bought from you;
(f) a claim by a Cardholder or an Organisation against you or Diners Club for damages or to recover an amount from you or Diners Club in respect of any representation, warranty or statement made (whether orally or in writing) by you, or any person acting on your behalf, in relation to the Card or Account; and
(g) outages, faults or delays in any of your computer systems or any infrastructure or systems connected to your computer.
systems or any corruption of data caused by, or in any way attributable to, the use of a Card or Account.

17.2 Continuing indemnities
Each of your indemnities in these terms and conditions:
(a) is a continuing obligation, despite any settlement of account or anything else that occurs;
(b) remains in force until all money owing contingently or otherwise, under the indemnity has been paid in full;
(c) is an additional, separate and independent obligation; and
(d) continues after this agreement ends.

17.3 No liability
Diners Club is not liable for any Loss (whether direct or indirect) you suffer, incur, pay or are liable for in respect of:
(a) any dispute between you and a Cardholder or an Organisation about the supply, use, quality or fitness for purpose of goods or services;
(b) your possession, operation, control or use of an Approved Terminal, Electronic Commerce Service or imprinter;
(c) a claim by a Cardholder or an Organisation against you for damages or to recover an amount from you as a result of misrepresentation, breach of contract or failure of consideration relating to goods or services bought from you;
(d) a claim by a Cardholder or an Organisation against you for damages or to recover an amount from you in respect of any representation, warranty or statement made (whether orally or in writing) by you, or any person acting on your behalf, in relation to the Card or the Account; or
(e) outages, faults or delays in any of your computer systems or any infrastructure or systems connected to your computer systems or any corruption of data caused by, or in any way attributable to, the use of a Card or Account.

18 Period of agreement
18.1 Ending agreement with notice
This agreement continues until you or Diners Club ends it by giving written notice to the other. The notice takes effect on the date it is given.

18.2 Continuing obligations
All your payment and confidentiality obligations to Diners Club and all Diners Club’s rights of set-off, withholding, reimbursement and indemnity under these terms and conditions continue after the agreement ends.

18.3 Withholding payment upon notice
Should Diners Club become aware, or have reason to suspect, that a Withholding Event has occurred, or in Diners Club’s opinion is likely to occur, with respect to you or your parent company, Diners Club may, upon notifying you, withhold all or any part of any amounts thereafter payable by Diners Club to you under these terms and conditions.

19 General provisions
19.1 Governing law
These terms and conditions are governed by the laws of Victoria. You submit to the non-exclusive jurisdiction of the courts of Victoria.

19.2 Certificate conclusive
A certificate, statement or letter signed by a Diners Club employee or approved agent of Diners Club stating the amount you owe Diners Club under these terms and conditions is conclusive evidence of the amount of your liability to Diners Club at the date of the certificate, unless there is obvious error.

19.3 Right of access
Diners Club may enter the Premises during your normal business hours to:
(a) remove or protect any of Diners Club’s property that is in your possession;
(b) take copies of any documents in your possession relating to any transactions involving the use of a Card or Account; or
(c) to audit your compliance with these terms and conditions.
19.4 Change of Details
(a) You must promptly give Diners Club written notice if you change the address where you carry on business or start carrying on business at any place other than the Premises specified in the Application Form.
(b) You must promptly give Diners Club written notice if you change any details specified in the Application Form.

19.5 Notice of insolvency events
You must promptly give Diners Club written notice if:
(a) you are placed in receivership, have an administrator appointed to you, or are wound up, or any person or its agent takes possession of any part of your property;
(b) your business or the Premises are sold, assigned, leased or transferred;
(c) any event occurs that might prevent or restrict you from meeting your obligations under these terms and conditions; or
(d) any of your Associated Persons is declared bankrupt or becomes unable to pay his or her debts.

19.6 Change of Ownership
You must provide Diners Club with details (which Diners Club reasonably requires) of any proposed change in your ownership or control (including, without limitation, your Australian Business Number and new names under which you may trade or operate):
(a) if you are a listed company, within 7 days of the change taking effect; or
(b) otherwise, prior to the change taking effect.
If you fail to comply with the requirements of this clause 19.6, and receive any amount incorrectly as a result of your failure to comply, you must immediately return that amount to Diners Club, and in any case, on demand from Diners Club.

19.7 Australian Business Number and GST Registration
You will provide Diners Club with a signed statement stating:
(a) your Australian Business Number (ABN) and Branch Registration Number (where applicable);
(b) whether or not you are registered for GST;
(c) whether the supplies you make are either:
   (1) solely taxable supplies;
   (2) solely non-taxable supplies (that is, GST-free or input taxed supplies); or
   (3) a mixture of both taxable and non-taxable supplies;
(d) where you only make supplies that are solely taxable supplies, whether or not GST is calculated at 1/11th of the price for all the taxable supplies you provide; and
(e) that you undertake to immediately notify Diners Club in writing:
   (1) if after you submitted or submit the Application Form (including, for the avoidance of doubt, at any time on or after 1 July 2000), your GST registration status changes or changed (that is, you cease or ceased to be registered for GST or you become or became registered for GST), the date on which that GST registration changes or changed; and
   (2) if after you submitted or submit the Application Form (including, for the avoidance of doubt, at any time on or after 1 July 2000), you cease or commence or ceased or commenced, as the case may be, to make only taxable supplies where the GST is calculated at 1/11th of the price, the date on which that event occurs or occurred.

19.8 Financial information
Diners Club may request that you provide Diners Club with information relating to your financial condition (including, but not limited to, financial statement, balance sheets or profit and loss statements) at any time while this agreement remains on foot. You must provide the requested information to Diners Club within 2 Business Days following the receipt by you of such a request.
19.9 Assignment restricted

(a) You must not assign or transfer any of your rights or obligations under this agreement without Diners Club’s prior written consent.
(b) Diners Club may assign or transfer any of its rights or obligations under this agreement without your prior consent.

19.10 Notices to you

(a) A notice, direction or other information (including a Special Warning Bulletin) to be given to you in writing under these terms and conditions (each called a notice) must be legible and may be posted, faxed or sent by email or other electronic messaging system to your address.
(b) A notice is regarded as given to you:
   (1) if posted, 2 Business Days after the date it is posted;
   (2) if faxed, when transmitted to you; or
   (3) if sent by email or other electronic messaging system, when sent to your computer system or your email or electronic messaging system account, but if delivery or receipt is on a day which is not a Business Day or is after 5pm (your time), it is regarded as received at 9am on the next Business Day.
(c) A notice sent by facsimile, email or other electronic messaging system is regarded as legible unless, within 24 hours after the transmission is received or regarded as received, you:
   (1) give Diners Club written notice that it is not legible; or
   (2) telephone Diners Club and tell Diners Club that it is not legible.
(d) In this clause 19.10 address means your address, facsimile number or email or other electronic messaging address last known to Diners Club.

19.11 Notices to Diners Club

(a) A notice to be given to Diners Club in writing under these terms and conditions must be legible and may be posted,
    faxed or sent by email or other electronic messaging system to Diners Club’s address.
(b) A notice is regarded as given to Diners Club:
   (1) if posted, when received by the addressee at Diners Club;
   (2) if faxed, when received by the addressee at Diners Club; or
   (3) if sent by email or other electronic messaging system, when received by Diners Club,
    but if delivery or receipt is on a day which is not a Business Day or is after 5pm (Melbourne time), it is regarded as received at 9am on the next Business Day.
(c) A notice sent by facsimile, email or other electronic messaging system is regarded as legible unless, within 24 hours after the transmission is received, Diners Club:
   (1) gives you written notice that it is not legible; or
   (2) telephones you and tell you that it is not legible.
(d) In this clause 19.11 address means Diners Club’s address, facsimile number or email or other electronic messaging address last notified to you.

19.12 Varying these terms and conditions

Diners Club may vary these terms and conditions at any time by giving you written notice of the changes, including, without limitation, imposing fees and charges in connection with these terms and conditions. The changes come into effect on the day specified in the notice.