

SCHEDULE 5 – GENERAL TERMS

These terms apply where we have agreed to rent Equipment to you, where we have agreed to provide any Services to you, or both.

1 Definitions and Interpretation

In this Agreement:

"**Agreement**" means this agreement, which comprises the documents listed in the Background section as applicable.

"**Agreement Date**" means the date of this Agreement as specified on the first page of this Agreement.

"**Agreement Details**" means the Agreement Details section of this Agreement.

"**Equipment**" means the equipment as defined in Schedule 6.

"**GST**" means goods and services tax, in terms of the Goods and Services Tax Act 1985.

"**Guarantor**" means the guarantor(s) (if any) named in the Agreement Details.

The word "**including**", "**include**" or "**includes**" will be deemed to be followed by the words "(without limitation)".

"**Intellectual Property**" means patents, copyright, registered designs, trade marks, trade secrets, know-how, and other rights in the nature of intellectual property rights.

"**Loss**" means any loss, damage, cost, expense or penalty, and "**Indirect Loss**" means any Loss other than a Loss which would naturally and ordinarily arise from a breach of this Agreement.

"**party**" means either you or us, and "**parties**" means you and us.

"**Products**" means the products as defined in Schedule 7.

"**Redemption GST Products**" has the meaning given to that term in Schedule 7.

"**responsible**" includes being liable for or being liable to pay, irrespective of whether such responsibility or liability arises under contract law, tort (such as negligence) or any other law.

"**Services**" means the services which you have requested, and we have agreed to provide, under this Agreement, which may include the Activata Prepay Service as defined in Schedule 7 and Broadband under Schedule 8.

"**we**", "**us**", "**our**" or "**Activata**" is a reference to us, Activata Prepay Limited or any assignee of its rights under this Agreement.

"**you**", "**your**" or "**Retailer**" is a reference to you, the retailer named in the Agreement Details.

2 Term

This Agreement starts on the Agreement Date or the date on which it is signed by us (whichever is the later). This Agreement will remain in place until you or we cancel this Agreement or we are no longer renting any Equipment or providing any Services to you.

3.1 Unless stated otherwise, all amounts stated in this Agreement are stated exclusive of GST.

3.2 You must pay GST on our fees and charges at the same time at which payment of the fees and charges is due.

4 Warranties and Guarantees

4.1 Except where we expressly say otherwise in this Agreement, we make no promises, representations, guarantees or warranties about the Products, Services or Equipment.

4.2 However, nothing in this Agreement will affect, limit or exclude any rights or remedies you may have (to the extent applicable) the Fair Trading Act 1986 ("**FTA**") or Subpart 3 of Part 2 of the Contract and Commercial Law Act 2017 ("**CCLA**") in relation to misrepresentation. The FTA contains prohibitions on misleading and deceptive conduct and false, misleading and unsubstantiated representations. Subpart 3 of Part 2 of the CCLA provides for certain remedies where a party has been induced to enter into a contract by a misrepresentation made by another party.

5 Extent of our Responsibilities

- 5.1 Subject to clauses 4.2 and 5.3, neither party will be responsible for any:
- (a) Indirect Loss, loss of profits, revenue or goodwill, or loss of data which the other party may suffer or incur; or
 - (b) any Loss which the other party may suffer or incur, to the extent to which this results from the other party's own acts or omissions.
- 5.2 Subject to clauses 4.2 and 5.3, the maximum amount which a party may be required to pay to the other party in respect of a single claim or series of related claims the other party may have under or in connection with this Agreement (whether in contract, tort (such as negligence) or otherwise) is the total amount actually paid by you to us under this Agreement in the 12 months prior to the date on which the claim, or (in the case of a series of related claims) the first claim in that series, first arose.
- 5.3 Clauses 5.1(a) and 5.2 will not apply to your obligations to pay our charges under this Agreement, to any fraudulent conduct by a party, or to any other amounts which this Agreement specifically provides are payable by a party or which a party is responsible or liable for.

6 Force Majeure

Neither party (referred to in this clause as the "**Affected Party**") will be responsible to the other party for any delay or failure to perform where the delay or failure is due to an event or circumstance beyond the Affected Party's reasonable control. Examples of such events may include fires, earthquakes, floods and pandemics.

7 Responsibility for your employees and others

7.1 You are responsible for the acts and omissions of your directors, officers, employees, contractors, consultants, representatives and agents and for their compliance with this Agreement.

7.2 You are responsible for any use of the Services and Equipment by any third party (whether authorised by the you or not) on your premises or over whom you have control.

8 Security

8.1 We may provide confidential information relating to the encryption of cards, the Activata software and related matters ("**Security Information**") to you, and we may also require you to provide Security Information to us which will enable you to access and use the relevant Product or Service. You must treat all Security Information as confidential, and not disclose it to anyone. We are entitled to rely on the Security Information you provide without further enquiry. Any Security Information which is generated by us and supplied to you remains our property at all times.

8.2 You must tell us immediately of any actual or suspected unauthorised use of your Security Information. You will still be responsible for the use of the relevant Product or Service (unless the unauthorised use has arisen due to us failing to keep any Security Information held by us secure), but we will try to minimise the effects of that unauthorised use.

9 Confidentiality

A party must not use or disclose to others the other party's proprietary information, except:

- 9.1 with the other party's prior written consent;
- 9.2 as required by law; or
- 9.3 as reasonably required to implement and give effect

to this Agreement or to exercise any rights under this Agreement.

For this purpose, "**proprietary information**" means information relating to a party's business, operations, subsidiaries, affiliates, suppliers and customers including all technical information, pricing plans, methods, processes, financial data, statistics, business plans, programs, and research and development, but excluding any information which is already in the public domain other than due to a breach of this Agreement by the other party.

10 Intellectual Property

10.1 All Intellectual Property in or relating to the Products, the Service, the Equipment and our software, trade names (including "ACTIVATA"), logos and brands is owned by us or our third party licensors.

10.2 You must not use or copy any of our trade names (including "ACTIVATA"), logos or brands ("**Brands**") except:

- (a) with our prior written consent; or
- (b) where the Brand appears on any Product, Service or Equipment we provide to you (in which case you must not remove or alter the Brand).

11 Cancellation

11.1 We may cancel this Agreement (in whole or in part) with immediate effect if:

- (a) you commit a material breach of this Agreement and fail to remedy the breach within 14 days of us advising you of the breach. Any failure to pay any charges or other amounts when due under this Agreement will be deemed to be a material breach;
- (b) you or any of your employees, contractors or agents commit any criminal, fraudulent or other illegal act;
- (c) you go into liquidation, are dissolved or wound-up, are adjudicated bankrupt, cease to carry on business, have a receiver or administrator appointed to you or any of your assets, become unable to pay your debts as they fall due, or enter into any arrangement or compromise with your creditors; or
- (d) there is a change (directly or indirectly) to your ownership which results in the Guarantor ceasing to have a direct or indirect shareholding or ownership interest in you.

11.2 If we decide to cancel this Agreement in part, this may be in relation to the supply of some or all of the Products and Services or the rental of some or all of the Equipment. The effect of such a partial cancellation will be to vary this Agreement by removing the terminated Products, Services or Equipment (as applicable) from the scope of this Agreement.

11.3 You may cancel this Agreement (in whole) with

immediate effect if:

- (a) we commit a material breach of this Agreement and fail to remedy the breach within 30 days of you advising us of the breach; or
- (b) we go into liquidation, we cease to carry on business, we have a receiver or administrator appointed to us or any of our assets, or we become unable to pay our debts as they fall due, we or enter into any arrangement or compromise with our creditors.

11.4 Where this Agreement or any part of it is cancelled or expires:

- (a) this will not affect your or our rights in respect of any previous breach of this Agreement by the other;
- (b) you must pay all amounts payable in respect of the period up to the date of cancellation or expiry;
- (c) you must pay any other amounts which become or are payable on termination or expiry under any other Schedule;
- (d) in the case of a cancellation by us for cause, we may require that you pay some or all of the value of

any incentives, benefits or consideration which we provided to you when you agreed to rent the applicable Equipment or take the applicable Services from us. This might include amounts we paid to enable you to bring about the cancellation of third party rental or service agreements and/or initial free rental or service periods;

- (e) provisions of this Agreement which are intended to continue after such cancellation or expiry, such as those relating to Intellectual Property, confidentiality, limitations and exclusions of responsibility, and payment and default interest, will continue to apply; and
- (f) you must comply with any other obligations under another Schedule which arise on cancellation or expiry.

12 General

- 12.1 Subject to clause 4.2 (which shall always take precedence), if there is any inconsistency between a provision contained in this Schedule 5 and a provision contained elsewhere in this Agreement, the parties will follow the provision contained elsewhere in this Agreement.
- 12.2 Neither you or we will be deemed to have waived any provision of this Agreement or any breach of any provision of this Agreement unless such waiver is in writing and signed.
- 12.3 We may send any communication under this Agreement to any address, email address or mobile phone number for you or one of your principals which is set out in the Agreement Details or which we otherwise hold on record from time to time. Communications we send by email or text will be deemed to have been received when sent, unless we receive an automated delivery failure notification or similar. Communications we send to your address will be deemed to have been received on delivery (where delivered in person including by courier) or three days after sending (where delivered by post).
- 12.4 If you wish to cancel or not renew this Agreement or any part of it, or you wish to make any claim or exercise any rights you may have, you must send notice to The Manager, Activata Prepay, PO Box 2533, Shortland St, Auckland, New Zealand, 1140 or to info@activata.co.nz, or to such other address(es) we may advise from time to time. Such notice will be deemed received once sighted by the Manager at Activata.
- 12.5 We may assign and transfer all or any of our rights and obligations under this Agreement. We will take reasonable steps to ensure that any such assignment or transfer does not have a material detrimental affect on you. This may include by procuring an undertaking from the assignee or transferee to comply with the relevant parts of this Agreement which are being assigned or transferred.
- 12.6 You may not assign or transfer any of your rights or obligations under this Agreement without our prior written consent (not to be unreasonably withheld).
- 12.7 This Agreement contains all of the terms of the parties' agreement. Subject to clause 4.2, it supersedes all previous agreements, understandings and arrangements.
- 12.8 You must pay us any expenses, disbursements and legal costs reasonably incurred by us in the enforcement of our rights under this Agreement. This includes any debt collection agency fees.
- 12.9 You may not deduct or set-off any amount which we may owe you against any amount which you owe us.
- 12.10 We may change the terms of this Agreement at any time and for any reason provided we give you at least 60 days' prior notice of the change ("**Change of Terms Notice**"). If such a change would be to your detriment (other than in a trivial way), you may give us notice of your objection to the change (or any aspect of it) ("**Notice of Objection**") within 30 days of your receipt of the Change of Terms Notice ("**Objection Period**"). If we do not withdraw the change (or the relevant aspects of it which you objected to) within 14 days of our receipt of your Notice of Objection, you may terminate this Agreement by giving us notice at any time prior to the change taking effect. If you do not provide a Notice of Objection within the Objection Period, or do not terminate this Agreement within the timeframe required under this clause, the change will take effect in accordance with the Change of Terms Notice.
- 12.11 If any part of this Agreement is illegal, invalid or unenforceable, the other parts of this Agreement will still be legal, valid and enforceable.
- 12.12 This Agreement is governed by New Zealand law.
- 12.13 This Agreement may be executed electronically and/or in any number of counterparts.
- 12.14 The rights, powers and remedies provided in this Agreement are cumulative and are in addition to any rights, powers or remedies provided by law.
- 12.15 We may be required to comply with anti-money laundering and terrorist financing legislation in force in New Zealand and other countries. You agree to provide all information to us which we reasonably require to comply with these laws.
- 12.16 You must execute such further documents and

perform and do such further acts as may be reasonably required in order to give effect to the provisions and intent of this Agreement.

SCHEDULE 6 – EQUIPMENT RENTAL TERMS

These terms apply where we have agreed to rent Equipment to you.

1 Definitions

In these terms:

"**Default Rate**" is 1% (per month) or such lesser rate as we may advise from time to time.

"**Equipment**" means the equipment listed in the Equipment Rental Schedule and any other equipment which we agree to rent to you from time to time, together with all software, accessories, parts or replacements which are at any time supplied with or attached to such equipment.

"**Equipment Rental Schedule**" means Schedule 1, as that Schedule may be revised or replaced from time to time with each of our and your written agreement.

"**Initial Rental Term**" means the term specified for the relevant item of Equipment in the Equipment Rental Schedule.

"**Installation Address**" means, in respect of the Equipment or a particular part of the Equipment, your address specified in the Agreement Details, or such other location at which the Equipment or part of the Equipment may be located with our consent.

"**PPSA**" means the Personal Property Securities Act 1999, and the expressions "**accession**", "**at risk**", "**attach**" and "**security interest**" have the meanings given to them under, or in the context of, the PPSA.

"**Rebate Schedule**" means Schedule 2.

"**Rental Commencement Date**" means the date on which installation of the Equipment or any item of Equipment (as applicable) is completed, as determined by us (acting reasonably).

"**Rental Term**" means the term for which the Equipment or any item of Equipment (as applicable) will be rented by us to you.

2 Rental

2.1 We will rent the Equipment to you for the applicable Rental Term.

2.2 We may (acting reasonably) complete any blank spaces in the Equipment Rental Schedule if not otherwise completed.

3 Rental Term

3.1 Each Rental Term will commence on its Rental Commencement Date and continue for the Initial Rental Term. On completion of the Initial Rental Term, the Rental Term will automatically roll over for further terms of 18 months each (each a "**Rental Renewal Term**"), unless you or we give the other at least 60 days' notice prior to the expiry of the Initial Rental Term or the then current Rental Renewal Term. We will send you a reminder of each upcoming roll over of the Rental Term at least 90 days in advance.

3.2 For the avoidance of doubt, different items of Equipment may have their own Rental Terms, which

may commence and end at different times.

4 Installation

We will install the Equipment at the Installation Address. Where necessary, you will provide at your cost a suitable installation area with appropriate electrical and telephone connections. You authorise us to make any arrangements with network providers as we may determine, at your cost, to enable the Equipment to be used and to become operational.

5 Property

5.1 We own the Equipment.

5.2 You agree that:

- (a) this Agreement creates, or may create, a security interest in the Equipment under the PPSA;

- (b) you will do all such things and execute all such documents as we may require to ensure that we have a perfected first ranking security interest(s) in the Equipment; and
- (c) we may register a financing statement to perfect our interest in the Equipment.

6 Invoicing and Payment

- 6.1 You will pay, and we will invoice you for, the weekly rental specified for each item of Equipment in the Equipment Rental Schedule ("**Rental Charge**") on a weekly basis during the Rental Term.
- 6.2 Where applicable, you will be entitled to rebates against the Rental Charge in accordance with the Rebate Schedule. If the Equipment includes the ActivPOS system, the additional terms in Appendix 1 to this Schedule will apply and you agree to abide by them. In addition, if the Equipment includes one or more EFTPOS terminals and you have also ordered, via us, Merchant Services from Paymark Ltd trading as Worldline NZ, you may be entitled to credits against the Rental Charge, subject to and in accordance with the terms set out in Appendix 2 to this Schedule.
- 6.3 You agree to pay us by direct debit on each Wednesday following the Rental Commencement Date (the "**Due Date**").
- 6.4 We may charge default interest at the Default Rate per month or part month for any amount owing after the Due Date.
- 6.5 We will apply a \$100 fee for each dishonoured payment (a "**Default**").
- 6.6 Invoices will be generated weekly and emailed or electronically transmitted to you.
- 6.7 You must still make payments even if there is a fault or defect in the Equipment, or the Equipment is lost, stolen or damaged while in your possession.

7 Equipment Condition and Changes

- 7.1 Prior to using the Equipment, you must check the Equipment. If you do not advise us of any issues with or damage to the Equipment within 7 days of its installation, then you are deemed to have accepted that the Equipment is in a good condition, is free from defects and is suitable for the purpose for which you intend to use the Equipment.
- 7.2 We will repair or resolve any faults or defects in the Equipment (including where applicable by supplying replacement Equipment) as soon as is reasonably practicable. If a fault or defect has arisen due to the Equipment being damaged or misused while in your possession, or by your breach of this Agreement, you will pay our reasonable charges for diagnosing and repairing or resolving the defect or fault.

7.3 We may swap, switch, and/or replace the Equipment as we see fit from time to time, whilst ensuring there is no disruption to the services provided to you.

7.4 If we incur any costs to update the Equipment to enable the Equipment to function within the latest Eftpos and terminal security standards and requirements (as they may change from time to time), we may on-charge those costs to you.

8 Your Obligations

- 8.1 You will:
 - (a) take proper care of the Equipment and will ensure the Equipment is not damaged, lost or destroyed;
 - (b) tell us immediately if there is any loss or damage to or destruction of the Equipment;
 - (c) not alter or make any addition to the Equipment without our prior written consent;
 - (d) not sell, assign, mortgage, pledge, lend, lease or

grant any security interest (other than ours) in the Equipment without our prior written consent;

- (e) ensure that the Equipment is used and operated only by persons properly trained to use it, and that it is used and operated only for the purpose intended by the manufacturer of the Equipment and in accordance with the manufacturer's instructions;
- (f) allow us and our agents to enter the Installation Address at all reasonable times to inspect the Equipment and to carry out repairs, maintenance, servicing or removal of the Equipment;
- (g) not remove the Equipment from the Installation Address without our prior written consent;
- (h) not change your name or trading name without first notifying us of the new name at least twenty-one days before the change takes effect; and
- (i) pay for the replacement or repair of any/all Equipment where it has been damaged while in your possession or it is otherwise returned in a condition that would prevent us redeploying the Equipment. Such payment must be made within seven days of receipt of an invoice from us for replacement or repair for such Equipment, provided that credit will be given for any insurance proceeds received by us under any insurance policy in respect of such loss or damage.

9 Insurance

- 9.1 You must, at your own expense, insure the Equipment separately, with us named as co-insured, for its full replacement value (not being less than the amount, if any, specified by us for this purpose) with an insurer reasonably acceptable to us.
- 9.2 If you do not effect or keep up insurance as required by clause 9.1, we may effect and keep up such insurance and amounts spent by us in that regard will be payable by you to us upon demand.
- 9.3 We will be entitled to receive all monies payable by the insurer under such insurance. If, however, you receive any such monies you will pay the same to us. You irrevocably authorise us to apply all such moneys at our sole discretion in making good any damage to the Equipment or (if we have exercised any right to terminate this Agreement or the rental of Equipment under this Agreement) retain or recover such monies.

10 Cancellation

- 10.1 If:
 - (a) any of the Equipment is at risk; or
 - (b) you breach any of these terms and the breach is not remedied within 14 days of us advising you of the breach or is not reasonably capable of being remedied within 14 days; or

- (c) any insurance policy in respect of the Equipment is cancelled; or
- (d) any other event arises which would entitle us to cancel this Agreement under Schedule 5,

we may cancel the rental of some or all of the Equipment.

- 10.2 If this Agreement or the rental of any Equipment is cancelled or expires, we may enter upon any land or premises where the Equipment may be and take possession of the Equipment.
- 10.3 In the event of cancellation by us in accordance with clause 10.1 or Schedule 5, we may require that you pay the Rental Charge for the balance of the Initial Rental Term or the Renewal Rental Term (as applicable) or the early settlement amount (if any) we are required to pay to any third party which provided finance for the purchase of the Equipment (whichever is the lesser amount).
- 10.4 Upon expiry or cancellation of this Agreement or the rental of any Equipment, you must deliver up the Equipment in good working order (fair wear and tear excepted) to us or our nominee. If you fail to do so, you must continue to pay

the Rental Charge (calculated on a daily basis) for each day until the Equipment is returned.

APPENDIX 1 TO SCHEDULE 6 – ACTIVPOS TERMS AND CONDITIONS

The following terms and conditions apply only to the rental of ActivPOS units.

1. Only one ActivPOS unit per store can qualify for rebates per the Rebate Schedule.
2. All sales made by the retailer must be recorded on the ActivPOS unit.
3. To qualify for the Barcode Scan Rebate, 95% or more sales by value and by unit recorded in the ActivPOS system within any billing period must use the barcode scan or Product Look Up (PLU) to correctly identify the item sold.
4. In the event that more than 5% of sales by value and unit are recorded as miscellaneous in any billing period, the Barcode Scan Rebate will not apply for that period.
5. In the event that the Retailer does not record all sales on the ActivPOS unit in any billing period, the Barcode Scan Rebate will not apply for that period.
6. We have the sole and exclusive rights to collect and sell sales data gathered from the Retailer and the ActivPOS unit. The Retailer acknowledges that compensation is provided by us for use of this data, by way of weekly Barcode Scan Rebate.
7. The Retailer acknowledges that the Barcode Scan Rebate is dependent on our ability to sell the data collected from the ActivPOS unit.
8. The Retailer may rent one non-rebated EFTPOS terminal only in conjunction with each ActivPOS system. The EFTPOS terminal must be rented on the same term as the ActivPOS system.
9. The Retailer must have a broadband connection and 2 mains sockets available within 2 metres of each ActivPOS unit.

**APPENDIX 2 TO SCHEDULE 6 – TERMS AND CONDITIONS FOR RENTAL CHARGE CREDIT
ASSOCIATED WITH WORLDLINE NZ MERCHANT SERVICES**

The following terms and conditions apply if the Equipment includes one or more EFTPOS terminals and you have ordered, via us, Merchant Services from Paymark Ltd trading as Worldline NZ ("**Worldline NZ**" / "**Worldline NZ Merchant Services**"):

1. Subject to the other terms and conditions set out in this Appendix, we will provide you will a full credit against the Rental Charge for 1 x EFTPOS terminal.
2. The Rental Charge for this EFTPOS terminal will continue to be invoiced to you on a weekly basis, and the credit will be applied to the invoice.
3. To be eligible for the credit:
 - (a) you must process all credit card and contactless payment transactions utilising the Worldline NZ Merchant Services; and
 - (b) in each month you must process credit card and contactless payment transactions utilising the Worldline NZ Merchant Services with an aggregate value of at least \$40,000; and
 - (c) in each month the proportion of international credit card transactions (by value) relative to all credit card transactions (by value) which you process utilising the Worldline NZ Merchant Services must not exceed 10%
4. If you do not meet, or cease to meet, any of the eligibility criteria set out in clause 3 above at any time, we may (at our sole discretion) cease to apply the credit, in which case the full payment of the Rental Charge for the EFTPOS terminal would resume.
5. If we have ceased to apply the credit under clause 4 above and any changes occur subsequently such that we are satisfied that you once again meet all of the eligibility criteria for the credit, we may at our discretion (but will not be required to) recommence applying the credit.
6. We may (at our sole discretion) also elect to waive, on a temporary or permanent basis, any of the eligibility criteria set out in clause 3.

SCHEDULE 7 – ACTIVATA PREPAY SERVICE TERMS

These terms apply where we have agreed to provide the Activata Prepay Service to you.

1 Definitions

In these terms:

"Activata Prepay Service" means the supply of our Activata software to enable the processing of Prepay Transactions via the Terminal. The Activata Prepay Service may be provided as either a download to the Terminal or integrated with the Terminal (where the Terminal is rented by you under this Agreement).

"Authorised Location" means the location and associated phone number or web address at which you are authorised to sell the Products, as set out in the Agreement Details.

"Default Rate" is 1% (per month) or such lesser rate as we may advise from time to time.

"Initial Service Term" means the term specified in Schedule 3.

"Margins" means the margins you may earn from time to time from Prepay Transactions, as set out in the Pricing Plan.

"Pricing Plan" means the Activata Pricing Plan set out in Schedule 3, as amended from time to time in accordance with these terms.

"Prepay Transaction" means a resale or charge or top-up of a Product to or for one of your customers

"Products" means all mobile top ups, phone cards, other stored value cards and other tokens, stamps or vouchers (including the Redemption GST Products) from time to time supplied by us to you including those items detailed in the Pricing Plan.

"Redemption GST Products" means any tokens, stamps or vouchers ("**Vouchers**") to which all of the following apply:

- (a) they are (now or in the future) distributed by us;
- (b) they are redeemable with a Third Party Supplier; and
- (c) we (on behalf of the Third Party Supplier) have agreed with you that the supply of goods or services in respect of a such Voucher occurs upon redemption instead of the sale of the Voucher.

"Service Commencement Date" means the Agreement Date or the date we first provide the Activata Prepay Service to you, whichever is the later.

"Service Term" means the term for which the Products and Activata Prepay Service will be provided by us to you.

"Set up Fee" means the set up fee specified for the relevant item in the Pricing Plan.

"Terminal" means the EFTPOS terminal or other standalone terminal which we have provided or configured in order to provide the Activata Prepay Service to you.

"Third Party Supplier" means the entity supplying Redemption GST Products to us.

"Transit Card" means a physical stored value card issued by us for use as a transit card as part of a national

ticketing solution which enables the processing and payments of journeys on public and other authorised transport services in New Zealand.

"Transit Card Rights" means rights to, or in relation to, a Transit Card (for example, a right to process and use that Transit Card).

"Weekly Charge" means the weekly charges for the Activata Prepay Service, as set out in the Pricing Plan.

2 Supply of Products and Activata Prepay Service

2.1 We will supply the Products and Activata Prepay Service to you for the purpose of conducting Prepay Transactions.

2.2 We will supply the Products and Activata Prepay Service in accordance with our standard provisioning policies.

2.3 All tangible Products supplied shall remain our property until resold to a customer.

3 Invoicing and Payment

3.1 In return for us providing the Activata Prepay Services you must pay the Set up Fee and the Weekly Charge.

3.2 You acknowledge that the Margins are ultimately dictated by or on behalf of the third parties which supply the underlying goods or services in relation to which the Products can be used (for example, in the case of a mobile top-up, the mobile phone company). If such a third party requires us to change a Margin or otherwise changes its pricing to us so as to reduce the amount payable by it to us in relation to a Prepay Transaction, we may change the Pricing Plan, by giving you at least 5 days' prior written notice, as necessary to reflect that change of Margin or pass on the reduction payable in respect of Prepay Transactions. .

3.3 For each type of Prepay Transaction you must:

- (a) pay the amount of the Prepay Transaction less the Margin to us; or
- (b) pay the full amount of the Prepay Transaction to us. We would then subsequently pay the Margin on the Prepay Transaction to you.

We will let you know which of the above two processes you must follow from time to time for each particular type of Prepay Transaction. In all cases amounts will be excluding GST if any.

3.4 You will pay all invoices on Wednesday of each week (the "**Due Date**"). Weekly invoices will include all Prepay Transactions made by the Retailer within the preceding week, being 00:01 Monday ending 24:00 Sunday.

3.5 We may invoice you on a daily or other basis when the Prepay Transactions exceed the credit limit or when you conduct Prepay Transactions that are invoiced on a different basis. All such invoices will be paid by direct debit.

3.6 We may set credit limits based on your average rate of sale of Prepay Transactions for a given period. Where you exceed this limit we may at our discretion block access to Prepay Transactions from your account.

3.7 We may charge default interest at the Default Rate per month or part month for any amount owing after the Due Date.

3.8 We will apply a \$100 fee for each dishonoured payment (a "**Default**").

3.9 Invoices will be generated weekly and emailed or electronically transmitted to you.

3.10 Upon any Default, we may do one or more of the following:

- (a) withdraw your authority to process any Prepay Transaction through the Activata Prepay Service; and/or
- (b) disconnect/remove any terminal rented by you from us.

3.11 If you wish to dispute any item appearing on an

invoice, you must write to us and seek resolution of the disputed amount within one month of receipt of the invoice. You must pay all undisputed amounts invoiced in full by the Due Date. If we agree or a court determines there is a mistake, the necessary amendment will be made.

4 Sale of Activata Products

4.1 You must only sell the Products at the Authorised Location and must not accept orders for the Products at any other location.

4.2 You must tell us at least 20 days before any proposed change of Authorised Location.

4.3 You must not initiate, issue or handover a Product or Prepay Transaction until payment has been received in full from the customer.

4.4 You must not sell any Products to any person who intends to resell the Products.

4.5 You must not use display devices provided by us for any purpose other than to display the Products.

4.6 You may apply to have a Prepay Transaction voided. Such application must be made to us within 4 hours of issue where it relates to the sale of a mobile top up and within 7 days of issue where it relates to the

sale of a phone card.

- 4.7 You agree to and must adhere to our anti-fraud policy as set out in Appendix 1.
- 4.8 If the Products include the Bonfire Prepaid Gift Mastercard®, you agree to and must adhere to the additional terms and conditions set out in Appendix 2.
- 4.9 If the Products include the Transit Card, you agree to and must adhere to the additional terms and conditions set out in Appendix 3. In the event of any conflict or inconsistency between a term in Appendix 3 and a term in any other party of this Agreement, the term in Appendix 3 will prevail. You may also be entitled to certain rebates against the Margins for Prepay Transactions involving the Transit Card. Details of any such rebates, and the terms and conditions applicable to them, are set out in the [Rebate Schedule.]

5 GST on Redemption

For Redemption GST Products:

- 5.1 we (on behalf of each Third Party Supplier) and you agree that the supply of goods and services takes place on redemption (and not the sale) of the Redemption GST Products in accordance with section 5(11G) of the Goods and Services Tax Act 1985 (the "**GST Act**");
- 5.2 you acknowledge that we have the authority to agree on behalf of each Third Party Supplier that the supply of goods and services take place on redemption of the Redemption GST Products (for the purposes of section 5(11G) of the GST Act);
- 5.3 we will tell you if this authority is revoked or the GST treatment of any Redemption GST Product is changed; and
- 5.4 we and the you agree that all Redemption GST Products will be itemised separately from other Products on all invoices from us to you.

6 Term

The Service Term will commence on the Service Commencement Date and continue for the Initial Service Term. On completion of the Initial Service Term, the Service Term will automatically roll over for further terms of 18 months each (each a "**Service Renewal Term**"), unless you or we give the other at least 60 days' notice prior to the expiry the Initial Service Term or the then current Service Renewal Term that the Service Term will not be extended. We will send you a reminder of each upcoming roll over of the Service Term at least 90 days in advance.

7 Extent of Responsibility

- 7.1 We will not be responsible for interruptions to the provision of any Products or the Activata Prepay Service where these are due to any defects or issues with third party services.is faulty or defective (other than where this is due to the Product being damaged or misused while in your possession, or by your breach of this Agreement), we will (at our discretion) replace

that Product or refund to you the value of that Product (or the associated Prepay Transaction). If we do this, you may not make any other claim in relation to the faulty or defective Product.

8 Cancellation Fee

- 8.1 If this Agreement or the supply of the Products and Activata Prepay Service under Schedule 5 is cancelled by us for cause, we may require you to pay a termination fee. The termination fee will be calculated as any Set-up Fee that has been waived, any other waived fees that have been documented in this Agreement plus our reasonable estimate (based on historical Prepay Transaction volumes) of the profit we would have made in respect of Prepay Transactions and our supply of Activata Prepay Service the if this Agreement had continued for the remainder of the Initial Service Term or the current Service Renewal Term (as applicable).

9 Faults & Outages

- 9.1 Where the Activata Prepay Service has a fault or outage we will try to fix that fault or outage within a reasonable time period.
- 9.2 Where remedial action is required as a result of any of your acts or omissions or by failure or replacement of equipment owned by you or rented from a third party, we may charge you at our standard rates for the cost of remedying the fault or outage and/or any other costs we incur as a result.

APPENDIX 1 TO SCHEDULE 7 - ACTIVATA PREPAY ANTI-FRAUD POLICY

We supply a range of PIN on receipt products and services to our retailers.

Due to the method of delivery fraudulent behaviour can sometimes be an occurrence for our retailers.

It is the Retailer's responsibility to protect secure information. We will not be liable for losses incurred in the event that you the retailer release secure information.

Common practices to avoid fraudulent behaviour:

- Never give out secure information such as PINS, codes or open packaging to reveal product sensitive information to a customer over the phone, by email or in person without receiving payment first.
- Activata employees will never contact you by email, phone or in person asking you to reveal sensitive information such as PINS, codes, or open packaging to reveal product sensitive information.
- If you suspect fraudulent behaviour by email, or over the phone or in person call Activata on 0800 960 000 immediately and we can confirm the validity of the caller or email. In the case of in person, the person must produce an Activata staff ID or ask the person to come back at another time and then call Activata on 0800 960 000 to confirm their identity.

Anti-fraudulent Behaviour Agreement

1. You acknowledge we will not be liable for any losses resulting from you the retailer releasing secure product information.
2. You acknowledge Activata employees will never request PINS, codes or ask you to open packaging to reveal sensitive product information.
3. You acknowledge responsibility for action to prevent fraudulent behaviour and advise us of any attempted behaviour by calling our customer care team immediately on 0800 960 100.

APPENDIX 2 TO SCHEDULE 7 - BONFIRE PREPAID GIFT MASTERCARD TERMS & CONDITIONS

The following terms and conditions apply only to the Bonfire Prepaid Gift Mastercard®

The Bonfire Card is issued by BanzPay Technology Limited pursuant to a licence provided by Mastercard Asia/Pacific Pte. Ltd. The Bonfire card is a product of Card Works Limited.

1. The Retailer acknowledges the Bonfire card remains the property of Card Works Limited.
2. The Retailer acknowledges selling restrictions exist regarding the maximum quantity and value that can be sold to a customer. The quantity of Bonfire gift cards cannot exceed 5 cards sold to a single customer within a 24 hour period. Each card can be loaded with between \$25 and \$1000 with a maximum value loaded of \$1000.00 (excluding load fees). These restrictions are in place to restrict fraudulent behaviour.
3. The Retailer acknowledges Card Works Limited have no obligation to replace stolen or deliberately damaged cards or packaging.
4. The Retailer acknowledges a Bonfire card is non-refundable once value has been loaded on the card. Card Works Limited will not supply a replacement or refund for the returned Bonfire Card. Unless upon an investigation Card Works Limited finds the card to be faulty or defective, a replacement card will be provided. Card Works Limited retains the right to assess a replacement Bonfire card on a case by case basis.
5. The Retailer acknowledges Activata Prepay Limited/Card Works Limited will never contact a retailer by phone, email or in person requesting Bonfire Card secure packaging be opened to reveal sensitive information such as Bonfire Card PIN, CBC2 number or card number. Activata Prepay Limited/Card Works Limited will have no obligation to replace or refund Bonfire cards or funds loaded arising from the retailer failing to comply with the instructions outlined above.

APPENDIX 3 TO SCHEDULE 7 – TRANSIT CARD TERMS & CONDITIONS

The following terms and conditions apply only to the Transit Card.

1. You acknowledge and agree that the following terms and conditions are reasonably necessary in order for us to protect a legitimate interest, that is being able to comply with our obligations under our agreement with Waka Kotahi New Zealand Transport Agency ("**NZTA**") relating to the issue and management of Transit Cards, Transit Card Rights and Transit Card top-ups.
2. If required to by NZTA, we may suspend at any time the distribution of Transit Cards and/or the sale of Transit Card Rights and/or Transit Card top-ups. You must adhere to any such suspension. We will give you as much prior notice of a suspension as is reasonably practicable in the circumstances.
3. You must comply with any health, safety, security and other policies, codes of conduct, procedures and directions as may be reasonably required by us and/or NZTA.
4. You must carry out your duties in respect of Transit Cards, Transit Card Rights and Transit Card top-ups with all due skill, care, diligence, efficiency, effectiveness and supervision and in accordance with industry best practice.
5. You warrant that neither you and nor any of your personnel and related companies have been found to be in breach of any Corruption Law, or have been investigated (or are being investigated or are subject to a pending or threatened investigation) or are involved in an investigation (as witness or suspect) in relation to any Corruption Law, or by any law enforcement, regulatory or other governmental agency or any customer or supplier. For the purposes of this Appendix, "**Corruption Law**" means all anti-corruption Laws including the Crimes Act 1961, the Anti-Money Laundering and Countering Financing of Terrorism Act 2009; the Terrorism Suppression Act 2002, the Proceeds of Crime Act 1991 and the Criminal Proceeds (Recovery) Act 2009.
6. Without limiting clause 5 above, you must comply with all applicable Corruption Laws.
7. You undertake that you and your personnel and related companies have not, and will not, make, give or offer any payment, gift or advantage which contravenes any laws, is or was intended to improperly influence any person (including a public official), or which a reasonable person would otherwise consider to be unethical, illegal or improper.
8. You warrant that you will not make any representations to any third person in relation to NZTA's national ticketing solution (or any part of it) on behalf of NZTA (or its agent), any transport service owner participating in the national ticketing solution ("**Participating TSO**") and/or any other provider contracted to NZTA to provide services in relation to the national ticketing solution, except as authorised in writing by NZTA.
9. We may disclose the terms of this Appendix and any other parts of this Agreement, insofar as they relate to Transit Cards and Transit Card Rights, to NZTA.
10. You must check for any conflicts of interest in relation to Transit Cards or Transit Card Rights, NZTA (or its agent), or any Participating TSO at regular intervals and in any event not less than once in every six months. You must notify us immediately upon becoming aware of any actual or potential conflict of interest. You must work with NZTA to do whatever is necessary (including the separation of staff working on, and data relating to, Transit Cards or Transit Card Rights from the matter in question) to manage the conflict to the NZTA's satisfaction.
11. To the extent that you store, process, transmit or have access to cardholder information, you must:
 - (a) ensure that cardholder information is maintained in a secure manner with access restricted to authorised personnel;
 - (b) comply with the most recent version of PCI DSS (being the Payment Card Industry Data Security Standards published by the Payment Card Industry Security Standards Council); and
 - (c) comply with such other security-related requirements and directions which we or NZTA may specify from time to time.
12. You must treat all information and data in your possession relating to NZTA, its national ticketing solution, its agents and other contractors, the Participating TSOs and Transit Card holders ("**NZTA Data**") as "proprietary information" for the purposes of clause 9 of schedule 5 of this Agreement. In addition, you must:
 - (a) ensure that the NZTA Data is kept secure, managed, protected in accordance with industry best practice; and
 - (b) not transfer or store NZTA Data outside of New Zealand without NZTA's approval.

13. You acknowledge and agree that nothing in this Agreement confers upon you any right, title or interest in the NZTA Data or document created for or on behalf of NZTA.
14. If NZTA exercises any step-in rights to assist us or to act on our behalf (or to have a third party assist us or act on our behalf) in relation to the Transit Cards, Transit Card Rights and/or the national ticketing solution, you must cooperate with NZTA (or its nominated third party) and provide such assistance as it may require.
15. You must comply with the following principles ("**Sourcing Principles**") to ensure that your personnel are treated fairly, humanely and equitably, and with integrity, honesty and transparency:
 - (a) employment must be freely chosen;
 - (b) wages must meet or exceed the minimum legal requirements and, for labour used in New Zealand, wages must meet or exceed the 'living wage'. Workers should be entitled to a decent wage for a fair day's work;
 - (c) working conditions must be safe and hygienic to the standard required by New Zealand law;
 - (d) employers should have employment agreements with their employees, keep adequate employment-related records (including if workers are employees or contractors) and have management systems that support good practice and clear accountability;
 - (e) child labour must not be used;
 - (f) working hours must not be excessive;
 - (g) workers must not be expected to effectively work for free;
 - (h) a worker should not make payments to their employer in exchange for a sponsored work visa or for recruitment fees without being reimbursed by the employer;
 - (i) no harsh or inhumane treatment can be permitted; and
 - (j) the work environment should be free from discrimination, harassment, corruption and bribery.
16. You must at all times ensure that you are aware of, and have read and understood, the latest version of the "Supplier Code of Conduct", currently available at www.procurement.govt.nz.
17. If:
 - (a) our agreement with NZTA is terminated (in whole or in part) or expires for any reason;
 - (b) NZTA requires us to remove you as a retailer of Transit Card Rights and top-ups, due to there being insufficient demand in your area;
 - (c) you have failed to carry out your duties in respect of Transit Cards and Transit Card Rights in accordance with this Agreement;
 - (d) you are the subject of a complaint by an end user customer or potential customer who purchases Transit Card Rights or tops-up a Transit Card through you (a "**Transit Card Customer**");
 - (e) you are not compliant with the Sourcing Principles; or
 - (f) have committed a dishonesty offence,

we may cancel your rights to distribute Transit Cards and to sell Transit Card Rights and Transit Card top-ups.
18. In relation to Transit Card Rights, you acknowledge and agree that:
 - (a) you are appointed to sell Transit Card Rights as agent for and on behalf of NZTA;
 - (b) you will charge only the price notified by NZTA from time to time for Transit Card Rights;
 - (c) you will not treat yourself as principal for the supply of any Transit Card Right, or account for GST on the sale of any Transit Card Right;
 - (d) if you include a Transit Card Right in any tax invoice or taxable supply information ("**GST Documentation**") issued by you, the GST Documentation must include the GST inclusive price for the Transit Card Right, and must not include any separate GST charge for the supply of the Transit Card Right;
 - (e) you will comply with any tax invoicing guidelines for Transit Card Rights provided by NZTA; and
 - (f) each Transit Card Right sale amount paid by a Transit Card Customer to you will be paid into our bank account.
19. In relation to top-ups of Transit Cards, you acknowledge and agree that:

- (a) you are appointed to sell top-ups as agent for and on behalf of NZTA;
- (b) you will apply the minimum and maximum top-up limits set by NZTA from time to time, and not permit a top-up outside of those limits;
- (c) you will not treat yourself as principal for the supply of any top-up, or account for GST on the sale of any top-up;
- (d) if you include a top-up in any GST Documentation issued by you, the GST Documentation must include the GST inclusive price for the top-up, and must not include any separate GST charge for the supply of the top-up;
- (e) you will comply with any tax invoicing guidelines for top-ups provided by NZTA; and
- (f) each top-up sale amount paid by a Transit Card Customer to you will be paid into our bank account.

20. You must:

- (a) use only the POS terminal provided or approved by us to process sales of Transit Card Rights and top-ups;
- (b) offer, at least, the following payment methods for Transit Card rights purchases and top-ups: (i) Eftpos; and (ii) cash;
- (c) provide both Transit Card Rights sales and to-up facilities;
- (d) activate each Transit Card which has been delivered in an inactive state at the time the Transit Card Customer purchases Transit Card Rights or otherwise requests;
- (e) notify us promptly of any Transit Card Customer request for a chargeback;
- (f) not alter any signage material provided by us or NZTA, without our or NZTA's approval;
- (g) ensure Transit Card stock is kept in good condition and stored separately;
- (h) allow NZTA to carry out spot checks, including for the purposes of checking the number of Transit Cards held in stock by you and assessing our own compliance with our agreement with NZTA;
- (i) not do anything that would prevent a Transit Card Customer who pays for a top-up from being able to use that top-up amount in real time;
- (j) comply with the minimum opening hour requirements for your outlet(s) where Transit Card Rights and top-ups may be purchased. These are 7:00 am to 5:00 pm, seven days a week;
- (k) participate in such training in relation to Transit Cards, Transit Card Rights and Transit Card top-ups as we may specify from time to time; and
- (l) comply with any other reasonable directions, instructions or policies which we may specify from time to time. For the avoidance of doubt, a direction, instruction or policy will be deemed reasonable if compliance with it is necessary to ensure compliance with our agreement with NZTA.

21. At no time will ownership of a Transit Card pass to you.

22. You accept risk of loss of or damage to each Transit Card from the time at which the Transit Card is delivered to you. If a Transit Card is lost, stolen or damaged while it is at your risk, we may require that you pay us compensation in respect of that Transit Card. The amount of compensation would be calculated as the cost to replace the Transit Card, plus any applicable freight and insurance costs.

23. If a Transit Card is damaged and/or is found to be faulty, you will promptly notify us and will follow our instructions relating to the damaged or faulty Transit Card, which may include returning the damaged or faulty Transit Card to us, or securely destroying the damaged or faulty Transit Card.

24. To facilitate the appropriate distribution of Transit Cards across our retailer distribution network, we may at any time uplift and re-distribute any Transit Cards in your possession.

25. We may remove any materials, including signage material and Transit Card stock from your physical outlet:

- (a) following a request to do so by NZTA; or
- (b) upon cancellation or expiry of this Agreement or your rights to distribute Transit Cards and to sell Transit Card Rights and Transit Card top-ups.

SCHEDULE 9 – GUARANTEE TERMS

1. The Guarantor unconditionally and irrevocably guarantees to us that the Retailer will pay all amounts payable by the Retailer under this Agreement ("**Guaranteed Monies**") when due and will perform all other obligations of the Retailer under this Agreement ("**Guaranteed Obligations**") in accordance with this Agreement. If, for any reason, the Retailer does not pay any Guaranteed Monies or perform any Guaranteed Obligations when due, the Guarantor will pay the relevant Guaranteed Monies or perform (or procure the performance of) the relevant Guaranteed Obligations immediately following demand by us.
2. As separate and additional obligation, the Guarantor will pay to us immediately on demand all Losses which we may suffer or incur as a result of the Retailer failing to pay any Guaranteed Monies or failing to perform any Guaranteed Obligations when due.
3. We may claim against the Guarantor under the above provisions without needing to first claim against the Retailer. The Guarantor waives any right it may have to require us to proceed against or enforce any other right or remedy against any person (including the Retailer) before claiming from the Guarantor under this Schedule.
4. The Guarantor's obligations under this Schedule will not be released or in any way affected in any manner detrimental to us by any amendments to this Agreement, the granting of time or any waiver by us, any delay in exercising our rights or by any other act, omission, matter, circumstance or law which, but for this clause, would have been released from its obligations under this Schedule.
5. If any of the Guaranteed Monies or Guaranteed Obligations are not recoverable from or enforceable against the Retailer by reason of illegality, incapacity, lack or exceeding of powers, ineffectiveness of execution or any other reason, the Guarantor shall remain liable for the Guaranteed Monies and the Guaranteed Obligations as if it were a principal debtor.
6. If the Guarantor comprises more than one person, the obligations of the Guarantor under this Schedule are joint and several. This means that we may claim against either or both of those persons for the full amount owing under this Schedule.
7. This Schedule is and shall at all times be a continuing guarantee and shall cover all Guaranteed Monies and Guaranteed Obligations, irrespective of any intermediate payment, performance or discharge (in full or in part) of the Guaranteed Monies or Guaranteed Obligations.
8. Until all Guaranteed Monies and Guaranteed Obligations have been irrevocably paid and performed in full, and unless we otherwise direct in writing (in which case the benefit of that exercise or that proof and of all money received by the Guarantor as a result is to be held on trust for us), the Guarantor shall not:
 - exercise any security or other rights which it may have by reason of performance by it of its obligations under this Schedule, whether such rights arise by way of set off, counterclaim, subrogation, contribution, marshalling, indemnity or otherwise; or
 - prove, in competition with us, in the bankruptcy, receivership, liquidation or insolvency of the Retailer (or any other Guarantor of the Guaranteed Obligations).
9. The Guarantor acknowledges that it has read the terms of this Agreement and has been advised to take independent legal advice in relation to its obligations under this Schedule.