Terms and Conditions

These Terms and Conditions ("Terms") together with your accepted Application form the legal agreement between you ("The Merchant", "you") as specified in the Application and Next Payments Pty Ltd ABN 59 160 985 106 ("NEXT", "we", "our" or "us") and govern our supply and your use of the Software and Services. Capitalised words used in these Terms and in the Application have the meaning given in Schedule 1 to these Terms.

1. Application for Services

1.1 The Application for Services may be signed and/or submitted electronically. We may accept, partially accept or reject your Application in our sole discretion.

1.2 By submitting your Application and agreeing to be bound by these Terms and Conditions, you:

(a) Confirm that you have read, understood, and agree to be bound by all terms and conditions set out in this document;

(b) Acknowledge that, upon acceptance of your Application by us, a legally binding agreement is formed between you and us;

(c) Warrant that the person(s) submitting the Application on your behalf are duly authorised to enter into binding agreements on your behalf; and

(d) Agree to be bound by the terms and conditions of our Payment Partner, Merchant Warrior, available at https://www.merchantwarrior.com/merchantAgreement.

1.3 We will provide you with the Services specified in the Application in accordance with these Terms for your use in your business.

1.4 You represent and warrant that:

(a) Any information you provide to us is complete, accurate and not misleading or deceptive; and

(b) If you have disclosed Personal Information to us, you have obtained the relevant individual's prior consent to the disclosure and otherwise complied with your obligations referred to in this Agreement and generally elsewhere.

1.5 To the extent that these Terms relate to your use of the Services, these Terms as required constitute an agreement between us, you and the Acquirer. In relation to Services relating to Scheme transactions, our rights under these Terms are also rights exercisable by the Acquirer.

1.6 Our agreement to provide Services to you will start on the Commencement Date.

1.7 In addition to these Terms, you must comply with:

(a) Our Payments Partners terms and conditions;

(b) Any requirements that a Scheme imposes on us that relate to the Services that we notify you of;

(c) Any reasonable directions given by us; and

(d) All applicable laws (including AML/CTF Laws).

2. Term

2.1 **Minimum Term**

Where no contract term has been selected in your Application, a minimum term of one (1) year will apply.

2.2 **Term Commencement**

The Term commences on the Commencement Date and will continue for the contract term as specified in clause 2.1, unless terminated earlier in accordance with clause 22 ("Term").

2.3 **Term Expiry**

You must notify NEXT 20 Business Days prior to expiration of the Term that you want NEXT to remove the Services. If you do not provide such notice to NEXT then the Term of this Agreement shall be extended (the "Holding Over Period") during which period the Services will continue at the same agreed fees and

otherwise on the same terms and conditions as set out in this Agreement. The Holding Over Period may be terminated at any time by either party giving 20 Business Days written notice to the other party.

3. Fees and Penalties

3.1 Fees

The Fees detailed within Schedule 2 of this document are payable by you to us.

3.2 Penalties

The following Penalties may be applicable:

(a) You must reimburse Next Payments for any fines or penalties imposed on it by the Acquirer, a Payment Scheme, or a Regulator, to the extent such fines or penalties arise directly as a result of your sole acts or omissions. This does not apply to the extent the fine or penalty is caused or contributed to by Next Payments or another third party.

3.3 GST

Unless otherwise indicated, all consideration payable under this Agreement in relation to any supply is exclusive of GST.

4. Authorised Signatories

4.1 Appointment and Authority of Authorised Signatory

Upon acceptance of these Terms, you agree to appoint at least one (1) person as your representative ("Authorised Signatory/ies"). By appointing an Authorised Signatory, you warrant that the said Authorised Signatories are vested with the necessary authority and power to access, use and control your Services as well as being empowered to disclose and receive all information relative to your account with us. You further agree that any acts, omissions and/or instructions given by your Authorised Signatories shall be, by virtue of these Terms, be deemed as your acts and/or instructions. As such, any violation of these Terms committed by your Authorised Signatories shall be for all intents and purposes deemed as your breach or violation of these Terms. You understand and agree that the authority and power you have granted to your Authorised Signatories under this clause shall continue to subsist until we receive a written notice from you explicitly revoking the same. Upon receipt of such notice of revocation, we shall remove the Authorised Signatory specified in the said notice from your account. You shall indemnify us from any damage or liability that may arise directly and/or indirectly from the removal of the said Authorised Signatory.

4.2 Initial and Subsequent Authorised Signatories

The initial Authorised Signatories are the individuals nominated as such on and who sign and/or submit the Application. If, you wish to add an additional signatory or remove one you are required to provide notice to us.

4.3 Accessing your Services

Where applicable, two (2) Authorised Signatories are required to authorise the following:

(a) Any addition or removal of an Authorised Signatory;

(b) Any change to your Services; and

(c) The closure of the Services.

5. Transaction Processing

5.1 Use of the Services

You must only process Transactions for the business specified in your Application.

5.2 **Your General Obligations**

(a) You shall not make any representation or warranties on our behalf to any person without our express and written approval.

(b) You shall ensure that you will comply with the monetary limits, or the number of daily transactions imposed by a Financial Institution, or by a Card Issuer on a Cardholder.

(c) You shall ensure that you will not possess or have access to you any PIN or passcode of any Cardholder. You must not process any transaction using your own card, or the card of another employee, in the course of performing your duties. This does not restrict personal transactions made outside the scope of your duties, such as when utilising the services as a patron of the venue.

(d) If you enter into a separate agreement with a Scheme Operator you shall indemnify and hold us harmless from any damages or liability that may arise from the operation or effectiveness of the Schemes you are participating in. For avoidance of doubt, our sole obligation in relation to any Transaction is to transmit the particulars of the said Transaction to the concerned Scheme Operator.

(e) You must promptly notify us of any malfunction or error in connection with the Services.

(f) Except in cases of manifest errors, you agree that the Transaction data produced by the Services is correct and conclusive.

5.3 **Participation in Schemes**

As a default, the Services where relevant shall, as much as possible accept all Card Transactions to the fullest extent possible, including cards accepted by NEXT as at the date of this Agreement. If you wish to exclude any Scheme, you must submit a written request as well as furnish us all the documents we may reasonably require. We will use commercially reasonable efforts to facilitate your request for exclusion as soon as practicable.

5.4 **Disclaimer of Warranties**

You accept a Card, and you process the Card at your sole risk. As such, you understand and agree that we do not make any express or implied representations, nor do we provide any form of assurances as regards the credited worthiness of any person or whether a particular Card has sufficient funds.

5.5 **Your Representations and Warranties**

You represent and warrant to us that in respect of each transaction that you process or that is processed on your behalf:

(a) All information given to us in respect of that transaction is true and correct;

(b) The transaction is valid and does not fall within any of the circumstances mentioned in clause 5.6; and

(c) The sale in respect of the transaction is not subject to any dispute, set-off or counterclaim.

5.6 **Invalid Transactions**

Without incurring any form of liability on our part, the parties agree that a transaction shall be deemed as an Invalid Transaction and shall not be processed by us, if any of the following circumstances occur:

(a) If the transaction is or the circumstances which gave rise to the transaction is contrary to the law (including the AML/CTF Law) or the rules and/or regulations imposed by a Card Issuer, Scheme Operator or Scheme;

(b) If the transaction is fraudulent or was made without authority of the rightful Cardholder or Bank Account holder;

(c) If the Card used for the transaction is not valid, current, has been declared lost, stolen or otherwise rejected at the time of the transaction;

(d) The transaction or the circumstances surrounding the same violates or does not conform with these Terms or any of our instructions;

(e) If the transaction is not in connection with the provision of services by you to a genuine customer; and

(f) Any other circumstances which, in our reasonable discretion, renders any transaction as invalid.

6. Settlement and Account

6.1 Maintain Account

You must maintain at least one (1) verified and operational Australian bank account ("Account") during the term of this Agreement and for at least one hundred and twenty (120) days after its expiry or termination.

6.2 Account Name

The name of the account holder of the Account must be identical to your legal entity as registered with ASIC.

6.3 Debit authorisation

You authorise us to debit the following funds from your Account (as applicable):

(a) All fees and charges payable under these Terms;

(b) Any Scheme / Acquirer fines or penalties payable because of your breach of these Terms or which we incur because of your actions or omissions (including with respect to any patron);

(c) The full amount of Refunds presented by you;

(d) Any overpayments made by us;

(e) Any Chargeback;

(f) Amounts paid by us for transactions where we are investigating the validity of the transaction or a claimed Chargeback of the transaction;

(g) Duties and taxes payable by you in relation to or connection with the Services;

(h) Any deficiency in a payment disclosed in an audit or check by us;

(i) In the circumstances referred to in clause 7.2; and

(j) Any other amounts you owe or are required to pay us.

6.4 Changing Accounts

You can change your Account by providing us with at least ten (10) Business Days' notice in writing and evidence of the new Account. We must confirm that the Account has been changed before you close the original account.

6.5 Withhold Payments for Disputes

We may withhold or suspend payment of any amount payable to you until we have concluded investigations into any claimed Chargebacks or into the validity of any transactions.

6.6 Sufficient Funds

You must ensure that, at all times, you have funds in the Account to pay your Service Fees. You authorise us to debit your Account even where to so would result in the Account having a debit balance or to exceed any overdraft limit that may be in place.

6.7 Effect of Insufficient Funds

If you do not have sufficient funds in your Account, to pay the Fees we may suspend the Services and charge interest at a rate equal to the Reserve Bank of Australia's cash rate target plus 5% which will accrue daily until the funds are able to be debited from your Account. In addition, you will indemnify us for all costs reasonably incurred by us (including legal costs) in respect of the collection of unpaid Fees.

7. Settlements

7.1 Settling to the Account

Except as otherwise provided in these Terms, we will accept all Valid Transactions. Once accepted, we shall exert commercially reasonable efforts to ensure that the net proceeds of the said Valid Transactions shall be processed to your nominated business bank Account:

(a) Two (2) Business Days for digital deposit transactions;

(b) One (1) Business Day for digital withdrawal transactions;

(c) One (1) Business Day for cash activity within a venue; and

(d) As soon as practicable in any other case.

Notwithstanding the above, we reserve the right to modify these timelines from time to time as the circumstances may warrant. Further, you understand and agree that the time it takes for the amounts we have credited to your Account to become disposable funds is contingent on the rules and regulations imposed by the financial institution or bank that holds your Account.

7.2 Delay in Settlement

Notwithstanding anything to the contrary, we reserve the right to delay any settlement in your favour as well as to delay the payment instruction until:

(a) The Acquirer fulfills its obligations in cases where the Acquirer has delayed processing the pertinent Transaction; and

(b) We receive payment from the Acquirer in respect of the subject Transaction.

If we have credited the proceeds of a Transaction to your nominated bank account but the Acquirer fails to make the corresponding payment to us, you agree to immediately repay the credited amount. Without limiting our other rights, we may withhold this amount from future settlements without further notice. You also authorise us to debit or set off the amount from any funds of yours held by us.

7.3 Processed Transactions may be Disputed

Any Transaction processed, authorised or settled by us shall not be deemed as conclusive proof that the said Transaction is valid. On the contrary, any Transaction may be subject to dispute or a Chargeback in accordance with these Terms.

8. Direct Debit Request Service Agreement

8.1 Direct Debit Request Service Agreement

This clause constitutes your Direct Debit Service Agreement with us, with User ID and ABN as provided in the Application. By acknowledging the Direct Debit Request details in the Application, you authorise and direct us to debit funds from your Account. You must always maintain a valid Direct Debit Request for your Account. This is an essential term and failure by you to maintain a valid and current Direct Debit Request in accordance with this clause will give us the right to terminate our relationship in accordance with these Terms.

8.2 Direct Debit Authority

You authorise and direct us to debit funds from your Account the amounts specified in clause 6.3.

8.3 **When we will Debit your Account**

We will debit your Account on the date that a payment is due or, if the due date is not a Business Day, we will debit your account on the next Business Day.

8.4 **Changes to Direct Debit by Us**

You agree that we may, at our absolute discretion, modify the frequency and amount of debits we make pursuant to the directions of a Direct Debit Request provided that we serve on you a notice indicating the modifications made through your monthly statement at least ten (10) days before the date the said modifications are intended to take effect.

8.5 **Failure of Direct Debit**

In case a direct debit fails on account of insufficiency of funds, incorrect account information or such other cause within your reasonable control, you agree that:

(a) We will attempt to repeat the direct debit transaction up to three (3) times in the following two (2) weeks and for each failure or dishonour, we may charge you a Dishonour Fee to be determined by us from time to time and pass on any charges we incur as a result of a failed or rejected direct debit;

(b) Any penalty, fee and/or interest charged upon you by your bank or financial institution holding your Account shall be borne by you exclusively; and

(c) If payment cannot be made through direct debit, you bind yourself to make payment to us through any other method.

8.6 **Privacy and Disclosure**

Our privacy policy and Personal Information handling practices applies to all information that we collect about you under this clause and we will not disclose any details of your Direct Debit Request unless:

(a) The disclosure is necessary to enable us to perform or otherwise exercise our rights and obligations pursuant to these Terms; or

(b) We are required or permitted by law to do so.

8.7 **Errors and Disputes**

If you believe that there has been an error in the debiting or crediting of your Account, you should contact us as soon as possible calling us on 1300 659 918 or emailing us support@nextpayments.com.au and we will investigate your request.

8.8 **Cancellation or Suspension of Direct Debit**

You may cancel or suspend any direct debit from your Account if you serve us with a written notice via email at support@nextpayments.com.au or call us at 1300 659 918 at least ten (10) Business Days before the date your intended cancellation or suspension shall take effect. Before any cancellation or suspension under this clause shall take effect, you understand and agree that you must nominate a new Account and/or execute the necessary Direct Debit Request for the said Account.

9. Refunds

You must ensure you have sufficient funds in your Account to meet your Refund obligations. In any event, you hereby agree that we may, at our absolute discretion, limit the number of Refunds we will process to the periodic sum of funds that are processed by you through your Merchant Facility.

10. Changes to your Details

10.1 Notice of Changes

If a change occurs to your contact details, business or company name, Authorised Signatories, any detail in your Account, the nature of your business, or any circumstances that may affect your ability to comply with your obligation under these Terms, you agree to immediately notify us in writing. You agree to provide us with such evidence we may reasonably require proving such change. Upon receipt of such notice and supporting evidence, you understand and agree that we may revaluate your ability to perform your obligations under these Terms and as such, modify your access or use of the Services we provide you as we deem necessary.

10.2 Change in Control

Notwithstanding anything to the contrary, if there is a change in the control of your business, you understand that you must provide us a written notice of the same at least ten (10) Business Days before the said change of control takes effect.

10.3 Effective Date of Changes

Any request for change to your Services, except changes affecting ownership of your business or those relating to your Account, if accepted by us, shall take effect within seventy-two (72) hours from the time we received the notice specified in clause 10.1 or within seventy-two (72) hours from the time we receive such other documents reasonably requested by us to support such change such as a Direct Debit Request, whichever is later.

11. Chargebacks

11.1 Chargebacks

If we determine that a Transaction is an Invalid Transaction under clause 5.6 or is being disputed, wholly or partially, by the Cardholder or Bank Account holder, we may refuse to accept the same. However, in case the said Transaction has already been accepted by us, you agree that we may chargeback the amount processed by us. To this end, you agree to provide us and the relevant Scheme with all documentation and records relating to a Transaction that is the subject of a Chargeback. In any event, you acknowledge and agree that it is the relevant Scheme which makes the final determination as to whether a Transaction will be subject to a Chargeback. In case of Chargebacks, you agree and thereby authorise us to debit the amount involved from your Account as provided under clause 6.3.

11.2 Charges

In the event of a Chargeback, NEXT may offset the amount of the Chargeback against the settlement proceeds for the same day, or any other day as determined by NEXT at its sole discretion. The Chargeback Fee will be passed through to the Hybrid Gaming Wallet provider, who may, at their sole discretion, determine whether to pass this fee on to you.

11.3 Excessive Chargebacks

If, in our reasonable opinion, there are excessive occasions where Chargebacks occurs or there are numerous fraudulent transactions within any period of time, we shall immediately notify you of the same. Upon receipt of such notification, you must provide us a remediation plan that is acceptable to us. Failure to provide an acceptable remediation plan shall be sufficient basis to terminate these Terms for breach.

12. Software and Intellectual Property

12.1 Ownership and Licence of Software and Intellectual Property Rights

We shall retain our Intellectual Property Rights, and nothing in these Terms constitutes an assignment or transfer of any of our Intellectual Property Rights. All ownership over any Intellectual Property Rights, as well as all title and interest in the Software shall exclusively belong to us. Unless otherwise agreed in

writing, we grant you a revocable, non-assignable, non-transferable, limited, licence during the Term to use the Software solely in connection with the Services and your Business.

12.2 **Limitations on your use of our Intellectual Property Rights**

In relation to your use of our Services as well as in consideration of the access we have given you to our Software, you agree that you shall not directly or indirectly disassemble, copy, recreate, decompile, reverse engineer, modify, translate, adapt, create derivative works from, or sublicense any part of the Software nor perform any act which may be considered as "phishing", "mining" or attempting to trigger remote code for the purpose of accessing data or material you would not otherwise have access to. Neither shall you circumvent, disable or otherwise interfere with security-related features of the Software or the Services.

12.3 **Updates**

We are not required to provide you with any update to our Software. However, we shall endeavour to provide updates which we deem necessary for your continued use of the Software.

13. Product, Services and Representation Warranty

13.1 **Facility Equipment Warranty**

We warrant that we have exercised commercially reasonable efforts to ensure that:

(a) The Services will be provided to you with reasonable care and skill; and

(b) At the date of delivery, the Facility Equipment complies with its design and was manufactured in compliance with the requirements of the law. We disclaim any warranty as to merchantability and fitness for a particular purpose.

13.2 **Warranty Exclusion**

To the maximum extent authorised by law, no other warranties in relation to the Facility Equipment provided by us under these Terms except those mentioned above. Consequently, we disclaim and you agree to hold us free and harmless from any and all liability directly and/or indirectly arising from:

(a) Any damage to the Facility Equipment caused by anything beyond our reasonable control, including without limitation, any damage caused by a malfunction of any network on which the Facility Equipment is used, failure on the part of the principal acquirer from whom we may obtain some or all of the Services from time to time, or such other damage or injury caused by or arising from any act or omission of any Communications Service; or

(b) Delay in the installation or provision of Facility Equipment, commencement of the Services, or any loss you incur if the Facility Equipment is not working or you are unable to process Transactions.

13.3 **No Warranty**

The Services are provided on an "as is" basis. Some or all the Services may be provided by third party providers. To the maximum extent permitted by law, we make no warranty that the Services (or any part of them) will be error-free or will run without interruption, or any other warranty regarding the provision of the Services.

13.4 **Representations and Warranties**

You represent and warrant that:

(a) You have the right and capacity to agree to these Terms;

(b) The person who agrees to these Terms on your behalf is properly authorised to do so, and

(c) These Terms will be legally binding on you.

14. Security

14.1 Your Confidentiality and Security Obligations

You must:

(a) Not disclose, unless otherwise required by law, to any person other than us, any information relating to any Personal Identifiable Information relating to any Cardholder or Bank Account holder;

(b) Not obtain a Cardholder's name, Card or account details to or from any person unless such information was acquired by you lawfully and in the course of lawfully processing a Transaction.

(c) Comply with the prevailing Payment Card Industry Data Security Standards found in www.pcisecuritystandards.org or any other relevant Scheme security requirements;

(d) Allow and/or grant us reasonable access to computer systems for purposes of conducting the necessary inspection and/or investigation on whether there has been a security breach and/or data compromise;

14.2 Transaction Monitoring

You must:

(a) Take reasonable measures to monitor transaction reports and review any alerts generated by the Hybrid Gaming System to detect suspicious activity, prevent unauthorised use of a Card, and identify any use of a Card or Bank Account for money laundering or other criminal purposes; and

(b) Ensure that such monitoring includes real-time and post-event rules and alerts as reasonably required by NEXT to detect structuring, unusual patterns, self-laundering or any other activity that may be indicative of money laundering, terrorism financing, sanctions-evasion or other criminal conduct.

15. Records and Statements

15.1 Recording Obligations

You shall ensure that you keep copies of all transactions processed by the Services, your books of account and records of all sales and Refund Transactions as required by law. You shall likewise furnish us copies of all the aforesaid records, receipts, and such other documents reasonably requested by us in connection with any Transactions.

In addition, you must retain, for at least seven (7) years (or any longer period prescribed by the AML/CTF Law), a complete and accurate record of all KYC, customer due-diligence and transaction-monitoring documentation, and make such records available to NEXT within two (2) Business Days of request.

15.2 Statements

Your Hybrid Gaming Wallet provider will provide you with a statement wherein the amount of all Transactions processed in the previous month as well as your cost of accepting the same, inclusive of the fees they have charged you, are reflected. It is your responsibility to check and ensure that the amounts reflected therein are correct and accurate.

16. KYC Due Diligence and AML/CTF Obligations

16.1 KYC and AML/CTF Due Diligence Obligations

In order for us to meet our obligations under the AML/CTF Law, we are required to verify the identity of our Client's as well as certain information about the Client's beneficial owners.

You must sign the Application in accordance with the signature requirements under the *Corporations Act 2001* (Cth).

You must ensure that, upon signing the Application, you provide us with the appropriate personal identification (ID) as part of the Know Your Customer (KYC) and Know Your Business (KYB) due diligence procedural requirements under the AML-CTF regulatory regime. ID requirements will reflect the level of customer due diligence (CDD) undertaken and in some cases, enhanced customer due diligence (ECDD) will require more ID disclosures.

A copy of the personal ID you must provide to us includes (but is not limited to):

(a) Current Driver's Licence or Photo ID Cards issued by the relevant States and Territory authorities in Australia;

(b) Current (Australian) Passport or Medicare Card if the you do not have a Driver's Licence or Photo ID Card;

(c) Letters mentioning the Principal Place of Business Address including the BSB and Account Number such as Bank Statements for the Business Account (not Personal Bank Account);

(d) A signed copy of the Trust or Partnership Deed if applicable; and

(e) Any current documents that confirm the nature of the business and/or the business trading address if we require further evidence to confirm these details. Such documents include but are not limited to:

(i) Lease agreements;

(ii) Contracts of Sale;

(iii) Supplier Invoices; and

(iv) Photos of the premises and/or goods/items being sold The documentation provided by you must be up-to-date, complete, and genuine in respect of the KYC obligation requirements, in addition to the legibility requirement and the signature requirements under the *Corporations Act 2001* (Cth).

16.2 **Your requirements to conduct KYC and undertake due diligence**

(a) You must conduct appropriate Know Your Customer (KYC) procedures and such necessary identification, PEP, sanctions-screening and ongoing customer due diligence in respect of each patron in accordance with all applicable laws (including obligations under AML/CTF Law) and any additional reasonable directions issued by NEXT from time to time to ensure alignment with Scheme or Acquirer requirements.

(b) NEXT reserves the right to audit your compliance with this clause 16.2 at any time as specified in these Terms, including by requesting evidence of KYC procedures and documentation maintained in respect of patrons.

(c) If NEXT elects to exercise its audit rights under clause (b):

(i) it will provide you with no less than five (5) Business Days' written notice prior to conducting the audit; and

(ii) you must fully co-operate with, and procure that your officers, employees, agents and contractors co-operate with, any investigation, audit, review or inspection conducted by NEXT, including by:

(A) providing reasonable access to premises, systems, records and personnel; and

(B) completing any remedial action plan notified by NEXT within the timeframe specified.

16.3 **Rights of Next Payments**

You acknowledge and agree:

(a) We may, in our sole and absolute discretion delay, block, or refuse to process or settle any Transaction without incurring any liability, if we suspect, for any reason, that an unlawful act has occurred;

(b) In order to use and continue to use the Services, we may at any time request further information from you. If you do not provide the information as requested, or there is a delay in you providing this information we may not be able to provide you with access to the Services; and

(c) We may disclose your Personal Information to a Credit Reporting Body (CRB) to verify your identity and obtain an assessment of whether the information you have provided us with matches the information provided by the Credit Reporting Body.

16.4 **Assistance with NEXT's AML/CTF obligations**

Without limiting any other provision of these Terms, you must, on request, promptly (and in any event within ten (10) Business Days) provide to us or our nominated representative all information, documentation and assistance that we reasonably require in order to:

(a) assess, monitor and evidence compliance with your obligations under AML/CTF Law;

(b) facilitate our own compliance with AML/CTF Law (as applicable);

(c) respond to any query, direction, notice or request from AUSTRAC, a Regulator, a Scheme Operator, the Acquirer or any law-enforcement agency; and

(d) undertake any internal or external review, assurance or audit of applicable AML/CTF controls."

16.5 **Maintenance of AML/CTF controls**

You must establish, document, maintain and regularly test risk-based systems, procedures and internal controls (including transaction monitoring, customer due-diligence, enhanced customer due-diligence and ongoing customer due-diligence measures) that are:

(a) reasonably required by NEXT Payments; and

(b) at least equivalent to the controls you maintain as an AUSTRAC reporting entity,

so as to ensure that money-laundering, terrorism-financing, sanctions or other financial crime risks associated with the Services are appropriately managed.

16.6 **Acknowledgement**

For the avoidance of doubt, you acknowledge and agree that:

(a) to the extent the Hybrid Gaming Wallet or any stored-value facility, account, credit or similar arrangement constitutes a 'financial product', you (and not NEXT) are the issuer of that product;

(b) you are solely responsible for any disclosure, licensing, authorisation and regulatory obligations (including those under the *Corporations Act 2001* (Cth) and the AML/CTF Law) that attach to the issuer of that product; and

(c) nothing in these Terms creates any fiduciary, trustee or agency relationship between NEXT and any patron.

16.7 **Patron Terms and Conditions**

You must provide to each patron, at or before sign-up to the Hybrid Gaming Wallet, a set of terms and conditions governing the patron's use of the Wallet ("Patron T&Cs"). Such Patron T&Cs must:

(a) be substantially consistent with, and not conflict with, these Terms;

(b) disclose, in clear and prominent language, the nature of the product issued by you and the manner in which patron funds are held, used and protected;

(c) include an express consent by the patron to the collection, use and disclosure of information required for AML/CTF, fraud-monitoring and transaction-processing purposes, including any Personal Information; and

(d) be provided to NEXT Payments on request.

16.8 **Ongoing review**

The parties must review the operation of this clause 16 at least annually, and within thirty (30) days of:

(a) any material change to AML/CTF Law; or

(b) receipt of any direction, guidance or enforcement outcome from AUSTRAC, a Scheme Operator, the Acquirer or other Regulator impacting the Services,

agree in good faith any additional controls reasonably required by NEXT to reflect such changes. Nothing in this clause limits NEXT's rights to implement variations in accordance with clause 25.

17. Privacy Policy

Both parties agree to be bound by the principles set out in our Privacy Policy located at https://www.nextpayments.com.au/documents/privacy-policy.

18. Dispute Resolution

18.1 **Step 1: Notice of Concern or Dispute**

In case you have a dispute pertaining to your use of the Services, any billing concerns or any other matter covered by these Terms, except those relating to reports of unauthorised transactions on your Account, you must notify us through support@nextpayments.com.au the details of your dispute. We shall endeavour to resolve the said dispute in soonest possible time but in accordance with the provisions of clause 18.

18.2 **Step 2: Mediation**

Once notice specified in the preceding clause is received, we shall exert commercially reasonable efforts to conduct the appropriate investigation to resolve your dispute in the fastest means possible. We will notify you in writing of the outcome of our investigations, including how we propose to resolve your concern or dispute. If you do not agree with our proposed resolution or if your dispute remains unresolved, you may request that such dispute be resolved through mediation by serving upon us a written request for the same. In such instances, the parties agree that we shall mutually appoint a mediator. In case of disagreement, the mediator shall be the person appointed by the Chair of the Resolution Institute. The determination of the Mediator once appointed shall be final and binding upon the parties.

18.3 **Step 3: Arbitration**

If the dispute remains unresolved within a period of four (4) weeks or such other period agreed upon by the parties, if either party does not wish to have the dispute mediated, then either party may refer the dispute to the Chair of the Resolution Institute for the appointment of a graded arbitrator who will arbitrate the matter in accordance with the *Commercial Arbitration Act 1990* (Cth). Unless we agree otherwise, the place of arbitration will be Sydney, New South Wales. The outcome of the arbitration will bind the parties.

19. Liability and Indemnity

19.1 Liability and indemnity

Except to the extent caused or contributed to by us, you agree to indemnify and keep us indemnified from and against any liability, actions, claims, demands, damages, costs and expenses incurred or suffered by us arising from:

(a) A breach of these Terms by you;

(b) Any wrongful, willful or negligent act by you or any of your officer's employee agents or contractors;

(c) Any breach of the AML/CTF Law, sanctions laws or related regulatory obligations by you, or by your officers, employees, agents or contractors, or any failure by you to comply with clauses 16, including any fines, penalties, remediation costs or losses incurred by NEXT as a consequence; and

(d) Any claims made by a third party (including any customer) in connection with goods or services or use of the Services.

19.2 Disclaimer and Exclusions

To the maximum extent permitted by law:

(a) We give no condition, warranty or representation as to ownership, description, condition, merchantability, suitability or fitness (for a particular or any purpose) of the Facility Equipment, the Software or of the Services and no such term, condition or warranty will be implied;

(b) All Terms (whether express, implied, oral, or otherwise) not expressly stated in these Terms are excluded; and

(c) We will not be liable to you for any loss of profit, loss of revenue, loss of business opportunities, loss of reputation or goodwill or any indirect or consequential loss arising in connection with these Terms or the Services.

19.3 Limitation of Liability

Neither party shall be liable for any indirect, incidental, special, punitive or consequential damages, or any loss of profits and/or revenue. To the fullest extent permitted by the law, our maximum liability for any damages arising out of or related to these Terms, whether in contract or in tort, or otherwise, shall be limited to the lower of:

(a) One Thousand Dollars ($1,000.00); and

(b) replacement of the Facility Equipment, resupply of the Services, payment of the cost of the supply of replacement Facility Equipment or acquiring equivalent Facility Equipment, or cost of having services supplied again, at our sole and absolute discretion and otherwise in accordance with these Terms.

In no event shall our liability arising out of or related to these Terms exceed the total fees you have paid for the Transaction from which the liability arose.

19.4 Limitations are Subject to Law

Nothing in these Terms excludes, restricts or modifies any terms, conditions or warranties that are imposed or implied by any law, including the *Competition and Consumer Act 2010* (Cth).

You acknowledge and agree that you are not acquiring the Facility Equipment or the Services as a "consumer" as that term is defined in the Australian Consumer Law and that you are not and will not become a consumer during the Term.

20. Force Majeure

Neither party will be liable to the other for any failure or delay to perform its obligations under these Terms where such failure or delay is caused by events beyond its reasonable control, including industrial disputes, strikes, lockouts, acts of god, acts or threats of terrorism or war, failure of third-party services providers and government actions including declarations of Pandemic or similar health emergency ("Force Majeure"). However, the foregoing does not apply if the Force Majeure event is caused by a breach of these Terms by the non-performing party.

21. Suspension of a Service Agreement

If we suspect that either of us or any person may suffer any loss or subject to fraud if we continue to supply the Services, or we suspect any breach of applicable law (including AML/CTF Law), we may, at our reasonable discretion, suspend the Service or any part thereof with or without notice. For avoidance of doubt, you agree that while the Services are suspended, we will not process any Transaction you submit. You further agree that we shall not be liable and that you shall hold us free and harmless for any loss or damage that you or any other third party may suffer as a result of the suspension of the Services under this Clause.

22. Termination

22.1 Termination for Cause by Us

We may terminate by notice in writing to you if:

(a) You fail to maintain a bank account; a Direct Debit Request Service Agreement or you fail to remedy this failure within seven (7) days of a written notice from us;

(b) We are directed to terminate these Terms by any third party from whom we may acquire some of the Services, a Scheme Operator or Scheme member. This may occur, for example, where excessive multiple Chargebacks are processed to your account; you change your business and the industry category into which your business falls changes; multiple fraudulent transactions are processed to your account or any other matter that may put us, the principal acquirer, a Scheme Operator or a Scheme member into disrepute; or

(c) At our discretion or for any reason having provided you with thirty (30) days' notice.

22.2 Termination for Cause by You

You may terminate these Terms by providing thirty (30) days' written notice to us. However, if you have selected a contract term in your Application, you will remain liable for and agree to pay all fees due for the remainder of that term. Where no contract term has been selected in your Application, a minimum term of one (1) year will apply and you must pay all fees due for the remainder of that term as applicable.

22.3 Termination for Cause by Either Party

In addition to and without prejudice to or limiting any other rights and remedies available to a party at law or in equity, either party may, by written notice to the other party, terminate these Terms with immediate effect:

(a) If the party reasonably believes that any person is committing fraud in connection with these Terms or any of the Services;

(b) If the other party is in breach of any of these Terms and such breach is incapable of remedy, or has not been remedied within seven (7) days of receipt by that other party of written notice specifying the breach and requiring that it be remedied; or

(c) With immediate effect if the other party is declared insolvent; makes, or attempts to make, any arrangement for the benefit of creditors; is the subject of any resolution or petition for winding up or judicial management (other than for the purpose of a solvent amalgamation or reconstruction); a receiver or manager of the other party is appointed, or an order is made or resolution passed for the liquidation of the other party (other than for the purposes of a solvent amalgamation or

reconstruction), or in the event any similar action or proceeding is instituted relating to any of the foregoing and the same is not dismissed within fourteen (14) calendar days.

22.4 **Termination for Inactivity**

If you do not make a Transaction for a period of sixty (60) days either:

(a) From the Commencement Date, or

(b) From the date of the last Transaction,

we reserve the right to terminate these Terms on written notice to you with immediate effect.

22.5 **Obligations on Termination**

Upon termination:

(a) Your right to use the Facility Equipment (including the Software) immediately ceases and the licenses granted under these Terms terminate;

(b) You must return to us all Facility Equipment; and

(c) All monies owed to us must be paid in accordance with these Terms.

22.6 **No Effect on Other Duties**

Except as otherwise provided herein, termination for any reason shall not relieve or discharge either party from any duty, obligation or liability which was accrued as of the date of termination.

23. Notice

Except as otherwise provided in these Terms, each communication (including each notice, consent, approval, request and demand) under or in connection with these Terms:

(a) Must be in writing;

(b) Must be addressed as notified by that Party to each other Party from time to time;

(c) Must be signed by the Party making it or (on that Party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that Party;

(d) Must be delivered by hand or posted by prepaid post to the address, or sent by email in accordance with clause 23(b); and

(e) Is taken to be received by the addressee:

(i) In the case of prepaid post, on the fifth day after the date of posting;

(ii) In the case of email, at the time the email is received in the inbox of the recipient; and

(iii) In the case of delivery by hand, on delivery.

If the communication is taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day.

24. Promotional Materials

24.1 **We will Supply Promotional Material**

We will supply you with promotional material at our discretion.

24.2 **Marketing, Promotion, and Use of Payment Method Branding**

- You must not, without our prior written authorisation:
- Use any marketing, promotional, or advertising material in relation to the Hybrid Gaming Wallet;

- Use our logo, any scheme logo (including but not limited to Visa, Mastercard, or eftpos), or any related branding in any materials or communications;
- Advertise or communicate NEXT fees, terms, or pricing associated with the Hybrid Gaming Wallet or any payment method.

In all your marketing and customer communications, including websites, advertising, in-venue signage, and promotional content, you must:

- Ensure all supported payment methods are presented with equal or substantially similar prominence, including logo placement and description;
- Not mischaracterise, misrepresent, or disparage any payment method;
- Not exhibit a preference for, or direct customers towards, any particular payment method over another.

25. Changes to the Terms

25.1 Changes to these Terms

We may immediately vary these Terms if required by, or in order to comply with, any law, or in connection with, or as a result of, any changes to any laws or requirements impacting the Services (including to comply with AML/CTF Law, sanctions laws, a Scheme rule, an Acquirer requirement or a direction from a Regulator), provided that we give you written notice of such variations as soon as is reasonably practicable after making the variation. Notwithstanding the foregoing, we may (subject to law) change these Terms in our absolute discretion by giving you at least thirty (30) days written notice before the effective date of the change.

25.2 Changes and Waiver of Fees

The Fees specified in these Terms, may be modified by us at our absolute discretion but subject to the extent authorised by law. We will serve a notice indicating the fee changes and the date when such changes shall take effect. We shall provide at least thirty (30) days before the effective date of the change indicated in the said notice. Your continued use of the Services after the effective date of a change in the Fees will constitute as your consent and agreement to be bound by the revised Fees. If you disagree with, or you do not want to be bound by the revised Fees, you may terminate these Terms in accordance with the provisions of clause 22.

26. General

26.1 Entire Agreement

To the extent permitted by law, in relation to its subject matter, these Terms:

(a) Embodies the entire understanding of the Parties, and constitutes the entire terms agreed by the Parties; and

(b) Supersedes any prior written or other agreement of the Parties, whether written or oral.

26.2 Severability

If at any time a provision of these Terms is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction that will not affect or impair:

(a) The legality, validity or enforceability in that jurisdiction of any other provision of these Terms; or

(b) The legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of these Terms.

26.3 Survival

The following provisions of this Agreement will survive termination or expiry of this Agreement:

(a) Clauses 12, 13, 19 and 22.5; and

(b) A provision of these Terms that is expressed or is obviously intended to survive termination or expiry of these Terms.

26.4 **Assignment**

You may only dispose of, declare a trust over or otherwise create an interest in your rights under this Agreement with our consent.

26.5 **Governing Law and jurisdiction**

This Agreement is governed by the law in force in New South Wales, and each Party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Agreement, and waives any right it might have to claim that those courts are an inconvenient forum.

26.6 **Interpretation**

In these Terms, unless the context requires otherwise:

(a) A reference to a clause, schedule or exhibit is to a clause, schedule or exhibit of or to these Terms,

(b) Where an expression is defined anywhere in these Terms, it has the same meaning throughout;

(c) A reference to "law" means all laws, codes, guidelines and the like, including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, rules, regulatory principles and requirements, statutory rules of an industry body, statutory and mandatory codes of conduct, writs, orders, injunctions, judgements, Australian generally accepted accounting principles and industry-wide non-statutory rules or obligations in force from time to time;

(d) A reference to dollars or $ is to an amount in Australian currency and is exclusive of GST;

(e) A reference to any party to these Terms or to any other document or arrangement, includes that party's legal personal representatives, substitutes (including any person taking by novation), successors and permitted assigns.

Schedule 1 – Definitions

Acquirer means Cuscal Limited ACN 087 822 455, or any other Acquirer who replaces Cuscal.

AML/CTF Law means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and associated Rules.

Application means the application form submitted by you.

Australian Consumer Law means the Australian Consumer Law Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Bank Account means an account established and maintained by a patron with a Financial Institution, which is capable of receiving and transmitting funds electronically.

Business Day means a weekday that is not a public holiday in New South Wales.

Card(s) means any debit, credit or prepaid card, regardless of its form, whether traditional card, virtual, part of a digital wallet or wearable device.

Cardholder means the person to whom a Card is issued at the account holder's request.

Card Issuer means the institution that provides the Cards to Cardholders.

Chargeback means a debit entry to your account to reverse a credit previously made to your account in the circumstances set out in clause 11.

Commencement Date means the date on which your venue is first connected to our systems and the Services become operational, following our approval of your Application.

Communications Service means all facilities, devices and network connections that allow for the capture and switching of Transactions via the Services by use of either an analogue or digital mobile telecommunication service, broadband internet, Wi-Fi service or similar telecommunication services.

Consumer Data Right (CDR) means the regime established under the **Competition and Consumer Act 2010 (Cth)** and associated legislation, rules, and standards, which provides individuals and businesses with a right to access specified data held about them by data holders, and to authorise the secure sharing of that data with accredited data recipients. The CDR framework is regulated by the **Australian Competition and Consumer Commission (ACCC)**, the **Office of the Australian Information Commissioner (OAIC)**, and other relevant authorities, and includes obligations relating to consent, privacy, data security, accreditation, and the use and disclosure of CDR data.

Customer Support means our customer support team who will assist you with enquiries.

Direct Debit Request means the direct debit request made of you and authority as contained in these Terms.

Facility Equipment means either manual facility equipment or electronic facility equipment or as the case may be, including the Software.

Fee means any fee payable by you to us and as may be varied from time to time in accordance with these Terms.

Financial Institution means a bank, credit union, or other authorised deposit-taking institution (ADI) that has issued a bank account to a patron.

GST has the meaning given to that term in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Hybrid Gaming Wallet means the digital wallet solution operated by the relevant third party provider, with which our Services may interoperate.

Intellectual Property Rights means all rights, titles and interests, wherever subsisting throughout the world and whether registered or not, in and to copyright, author's rights, neighbouring rights, sui generis protection for the contents of databases, the designs, patents, rights in inventions, works of authorship, data, designs, know-how, trade secrets, confidential information, trademarks, trade, business and domain

names, logos, and goodwill, along with copyrights, moral Rights and any other intellectual property and proprietary rights.

Invalid Transaction has the meaning given in clause 5.6.

Merchant Facility means and includes the merchant gateway, optional products, facility equipment, and accessories.

NPP Services means OSKO, PayID and PayTo real time digital services.

Payment Partner means SR Global Solutions Pty Ltd trading as Merchant Warrior ACN 132 951 172 (https://www.merchantwarrior.com/merchantAgreement)

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

Refund has the meaning given in clause 9 by which a previously processed Transaction is refunded back onto the previously processed Card or Bank Account.

Regulator means any governmental, semi-governmental, administrative, statutory or judicial entity, authority, agency, commission, department, tribunal or public body (whether national, state, territory, local or foreign), including any industry body, having jurisdiction over, supervisory or regulatory authority in respect of, or whose consent, approval, authorisation or directive is legally required for, the activities contemplated by these Terms.

Scheme means NPP Australia, Mastercard and Visa card schemes and any other similar schemes provided that we facilitate transactions in relation to.

Scheme Operator means PayPal, Apple Pay or Google Pay.

Service Fees means the fees set out in Schedule 2.

Services means the products and services included under the Merchant Facility or NPP Services, that we will provide to you from time to time.

Software means any software developed by us, provided by us, or otherwise made available by us to you as part of the Services.

Trading Address means the address you conduct business activities as provided in the Application.

Transaction means a Card transaction or any other payment transaction which is the subject of the Services provided to you.

Valid Transaction is any Transaction that is not an Invalid Transaction and is approved by us.

Schedule 2 – Fees

Description		Fee(s)	Frequency
Venue Platform Fees: Single Venue Platform & Portal Hosting Level 3 Support		$0.60c Capped at $3,500.00 per month	Per EGM per day
Venue Platform Fees: Multi Venue Charged for additional venues to access solution		$500 per additional venue	Per month
Deposit – Debit Card	Debit Card per transaction	0.90% + $0.15	Per transaction
Deposit – PayTo	Mandate (create / modify PayTo Agreements)	$0.35	Per transaction
	Payment Initiation Request (PayTo Txn)	$1.00	Per transaction
Direct Entry	Direct Entry per transaction	$0.25	Per transaction
BPAY	Bpay per transaction~	$1.15	Per transaction
Eftpos Pricing	Debit per transaction based on value	0.55%	Per transaction
	Debit per transaction based on volume	$0.22	Per transaction
CDR	CDR profile	$0.40	Per active profile per month
Withdrawal	Real time per transaction	$0.40	Per transaction
	Batch processed per transaction	$0.20	Per transaction
Fraud & Returns	Per case raised	Pass-through	Ad-hoc
Transaction Chargeback and Disputes	Per case raised	$31.80	Ad-hoc
DDR Dishonour Fee	Per transaction not honoured	$12.00	Ad-hoc
Venue settlement	Daily settlement to venue	$0.20	Per settlement transaction

Notes for pricing

Pricing is subject Venues being connected via Cloud services

Fees are exclusive of Schemes fees which are passed through based on actuals from scheme providers

Transaction pricing is subject to payment scheme mandates

Fees are exclusive of GST