



Member Rules

Member Rules

Background

- A. Billzy is a closed on-line business community (“ Billzy Community”) enabling a Billzy member to securely transact with another Billzy member via the invoicing, payments and discounting products available on the Billzy Payment Platform.
- B. By becoming a Billzy member of the Billzy Community a Billzy member is able to create and send invoices, accept Card payments and Direct Bank Transfers, receive invoices, make payments with Card and Direct Bank Transfer and offer, accept, pay and receive discounted payment offers via Card or Direct Bank Transfer.
- C. Billzy has entered into the Master Agreement with Westpac.
- D. Westpac has agreed to provide Billzy with a Merchant Facility to enable Billzy members to make and accept Card payments subject to the terms and conditions set out in the Master Agreement.
- E. Part of the Master Agreement requires Billzy to ensure that any contractual arrangement between Billzy and Billzy members must be consistent with the provisions of the Master Agreement.
- F. Organisations can become Billzy members and thus be able to utilise the Merchant Facility by completing a Membership Application and submitting it to Billzy for consideration.
- G. If Billzy accepts the Membership Application then the person submitting the Membership Application agrees to be bound by the terms and conditions set out in these Member Rules.

Operative Provisions

1. Definitions

In this Agreement unless the context otherwise requires:

“Accredited Gateway Provider/Data Processor” means a gateway provider/data processor who has formal recognition of compliance with security standards and technical requirements from Westpac and can be identified through appearing on the listing at www.westpac.com.au.

“ADC” (being an Account Data Compromise) means any event whereby Westpac, Billzy (or any of its officers or employees) or the Member (or any of its officers or employees), or any Service Provider facilitating the storage, transmission or processing of Card payments for or on behalf of Billzy or the Member’s behalf, suspect or have confirmation of unauthorised access to Cardholder Data.

“Approved Merchant Monitoring Service Provider” means a service provider that offers merchant monitoring services accepted by MasterCard or Visa, or otherwise approved by Westpac.

“Authorisation” means the response by Westpac to Billzy or the Member (as the case may be) authorising a Card to be used for a particular Transaction.

“Banking Day” means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.

“Billzy” means Billzy Pty Ltd ABN 26 602 796 298 which pursuant to the Master Agreement is designated as the “Aggregator”.

“Billzy member” means any person whose Member Application has been accepted by Billzy and to which Billzy has so notified.

“Card” means:

- a. a valid financial Transaction Card issued by a member or affiliate of MasterCard on which the MasterCard marks appear;
- b. a valid financial Transaction Card issued by a member or affiliate of Visa on which the Visa marks appear;
- c. a valid financial Transaction Card capable of acceptance under the eftpos mark issued by an Australian bank or financial institution;
- d. a Charge Card;
- e. any other valid financial Transaction Card that is issued under any loyalty program; or
- f. any other financial Transaction Card which Westpac requests Billzy to honour.

“Card Not-Present Transactions” means the ability to process a Member’s Card payments via the internet or via other non-face-to-face Transactions.

“Card Scheme” means the MasterCard, Visa, American Express, Diners Club, Discover, JCB and EPAL or any other card scheme provider that Westpac is a member of or participates in.

“Cardholder” means a person to whom a Card has been issued.

“Cardholder Data” means the account information of a Cardholder.

“Chargeback” means a debit entry to the Billzy Account or the Member Account (where applicable) processed by Westpac, and is the reversal of a credit previously settled to the Billzy Account or the Member Account respectively, as a result of an invalid Transaction (as described in **clause 10**).

“Charge Card” means a Card issued under any one of the following Card Schemes: American Express, Diners Club, Discover or JCB.

“Commencement Date” means for the Member the date of which the Person who submitted the Member Application is notified by Billzy as being a Billzy Member because Billzy has accepted the Member Application.

“Confidential Information” means information that is by its nature confidential, or is designated as confidential, and includes but is not limited to all statements, contracts or agreements, specifications, drawings, reports, documents,

technology, know-how and information (regardless of form and specifically including any electronic data irrespective of how it is held or stored) relating to the business of each party and disclosed to each other at any time either in contemplation of or otherwise in connection with the Agreement and either before or after the date of the Agreement. Reference to Confidential Information includes a reference to any part of the Confidential Information.

“Credit Card Transaction” means a Transaction where the details of a MasterCard or Visa Card have been presented and the Transaction is processed using either:

- a. Equipment without a PINpad; or
- b. any Westpac approved electronic device or internet based interface.

This definition applies even where the ultimate destination of a MasterCard or Visa Card Transaction may be a deposit account.

“Debit Day” means a day that payment by the Member to Billzy is due.

“Debit Payment” means a particular transaction where a debit is made.

“eCommerce Merchant” means the Member who has been authorised by Westpac to accept Credit Card Transactions whilst conducting the sale of goods or services with a Cardholder electronically over the internet or other network.

“eCommerce Merchant Facility” means any method and/or device utilised by Billzy or the Member, or by any Service Provider that may be used to engage in the acceptance or transmission of Credit Card Transactions or storage of Credit Card payment details. This definition includes but is not limited to all software, hardware, databases, digital image and physical records used and/or maintained by Billzy, a Member and/or the Service Provider(s).

“eCommerce Transaction” means a Credit Card Transaction between the Member and a Cardholder where the Cardholder sends Card Data to the Member over the internet or other network (including via a Website), regardless of how the data is transmitted from the Billzy or the Member to Westpac.

“Electronically” means electronic communication to Billzy’s nominated electronic email address.

“Fee Schedule” means the fees and charges payable by the Member to Billzy set out in **Schedule 5** of these Membership Rules which may be varied from time to time by Billzy.

“Floor Limit” means the total value of sales or cash out which the Member is authorised from time to time to make to a Cardholder on any one occasion in respect of any one Card without obtaining an authorisation number from Westpac. Billzy may change the Member’s authorised floor limit at any time by giving notice.

“GST and GST Law” have the meanings given to those terms in *A New Tax System (Goods and Services Tax) Act 1999*, as amended from time to time.

“Law” includes any law, statute, regulation, ordinance,

proclamation, by-law, statutory instrument or order, Rules or codes of conduct issued by regulatory bodies.

“Manual” includes the Quick Reference Guide, User Guide, Merchant Operating Guide and any other practical operating instructions that Westpac make available to Billzy and which Billzy may onforward to the Member.

“Master Agreement” means the “Aggregator Master Agreement” between Westpac and Billzy dated 2 December 2016.

“MasterCard” means MasterCard International Incorporated.

“Member” means a Person whose Member Application has been accepted by Billzy and who Billzy nominates to Westpac to use a Merchant Facility in accordance with these Member Rules.

“Member Account” means the account nominated by the Member and approved by Billzy for acceptance of credit and debit entries under these Member Rules and for related purposes.

“Member’s Bank Account” means the bank account held by the Members Financial Institution from which Billzy is authorised to arrange for funds to be debited.

“Member Application” means the application the details of which are set out in **Annexure 1** which must be completed by a Person and submitted to Billzy for approval.

“Member Rules” means this document together with all written amendments or modification from time to time and the Schedules, as well as any brochures that Westpac provides to Billzy or the Members or makes available to Billzy or the Members via the Westpac website.

“Merchant Facility” means the facility made available to Billzy for the benefit of the Member to enable the Member to accept payments using Cards.

“Member’s Financial Institution” means the financial institution nominated by the member on the application form at which the Member Bank Account is maintained.

“Merchant Identification” (MID) means the unique identifier for a Westpac Merchant Facility.

“MSF” means the Members service fee payable by the Member being the amount charged as a % of the gross dollar value processed by Billzy via the Merchant Facility.

“PAN” means the Primary Account Number or Cardholder account number commonly located on the front of a Card.

“Payment Application” means the software that facilitates the processing of a Card payment for a Merchant Facility.

“Payment Gateway” provides a secure method for authorising Credit Card Transactions over the Internet through a system accredited by Westpac.

“PCI PA-DSS” means Payment Card Industry Payment Application Data Security Standards, developed and updated by the PCISSC from time to time, and applying to software vendors and other vendors developing payment applications that store, process or transmit Cardholder Data, as part of an authorisation or settlement process, where

these payment applications are sold, distributed, or licensed to third parties.

“PCI PTS” means Payment Card Industry PIN Transaction Security.

“PCIDSS” means Payment Card Industry Data Security Standards. This refers to the data security standards mandated by Visa and MasterCard to facilitate protection of Cardholder payment data from unauthorised access, which is applicable to any person who stores, processes or transmits Card data regardless of that storage or transmittal device.

“PCISSC” means the Payment Card Industry Security Standards Council, being a not-for-profit organisation responsible for the development of the PCIDSS, the PCI PTS and the PCI PA-DSS standards.

“Person” includes an individual or a company or organisation.

“PPSA” means the *Personal Property Securities Act 2009* (Cth).

“Recurring Transaction” means when the Member is authorised to make regular drawings on a Card at predetermined intervals (such as monthly or quarterly, but not to exceed one year between Card Transactions) with the Cardholder’s written authority.

“Rules” means the Card Scheme rules set by Card Schemes from time to time including the EPAL Scheme Rules.

“Secure Socket Layer” (SSL) means the encryption technology used on a server that encrypts important data such as credit Card numbers and other information when it is being stored or passed from one computer to another.

“Security Interest” includes any security interest under the PPSA, mortgage, pledge, lien, charge, hypothecation, trust arrangement, title retention arrangement or other security interest or encumbrance.

“Sensitive Authentication Data” includes any full magnetic stripe, PIN verification or code otherwise known as CAV, CVC, CVC2, CVV, CVV2, PVV, PIN and PIN Block data and excludes the information listed in **clause 8.4**.

“Service Provider” means the provider of any software or hardware that the Member operates to assist with the acceptance of Card payment details.

“Small Business” means a business having:

- a. less than 100 full time (or equivalent) people if the business is or includes the manufacture of goods; or
- b. in any other case, less than 20 full time (or equivalent) people.

“Technical Standards” means:

- a. Standards PCI DSS, 3DES, Australian Standards - AS2805, APCA CECS, AS 4651-2004: Standard metamodel for software development methodologies, AS/NZS 4598.1:1999 : Guide to the development of application software - Software user documentation; AS 3925.1-1994 : Software quality assurance - Plans, AS 4006-1992 : Software test documentation;

- b. the PCIDSS;
- c. any standards developed by Standards Australia Limited relevant to the Merchant Facility(ies);
- d. all applicable Card Scheme rules, industry mandates and requirements of Industry Bodies;
- e. all applicable pin entry device security requirements, including but not limited to requirements in relation to the protection of security information, controls and audit and pin entry device management; and
- f. any other standards and requirements notified by Westpac to Billzy from time to time in writing.

In all cases, these standards may be amended or replaced over time.

“Transaction” includes a Debit Card Transaction and Credit Card Transaction as well as sales refunds (as set out in **clause 9**).

“Visa” means Visa Inc.

“Web Application” means the software that the Billzy or the Member utilises to advertise the sale of goods and/or services over the Internet.

“Web Hosting Provider” means the provider of web hosting services that hosts or otherwise assist a Member to make their web page available on the world wide web.

“Website” means an interface or portal published by Billzy and/or the Member to facilitate an eCommerce Transaction which includes but is not limited to a web page, web portal or smart phone application.

“Westpac” means Westpac Banking Corporation ABN 33 007 457 141.

2. Interpretation

- 2.1. The following rules apply unless the context requires otherwise:
 - 2.1.1. headings are for convenience only and do not affect interpretation;
 - 2.1.2. a reference to a clause, schedule, annexure or exhibit is a reference to a clause of or a schedule, annexure or exhibit to the Agreement;
 - 2.1.3. the singular includes the plural and vice versa;
 - 2.1.4. a reference to a person includes an individual, corporation, trust, partnership, unincorporated body or other entity whether or not it comprises a separate legal entity;
 - 2.1.5. a reference to a party to the Agreement includes the party’s successors and permitted substitutes or assigns;
 - 2.1.6. a reference to the Agreement is to the agreement as amended, novated, supplemented or replaced from time to time except to the extent prohibited by the Agreement or that other agreement or document;

- 2.1.7. a reference to conduct includes, without limitation, an omission, statement or undertaking whether or not in writing;
- 2.1.8. a reference to “writing” includes any means of reproducing words in a tangible and permanently visible form and, where the parties agree specifically to the giving of notices and communication by facsimile transmission;
- 2.1.9. a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- 2.1.10. mentioning anything after include, includes or including does not limit what else might be included;
- 2.1.11. a sale includes both the supply of goods or the supply of services or both; and
- 2.1.12. reference to any time is Brisbane time.

3. Term

- 3.1. Subject to **clause 3.2**, these Member Rules will for the Member commence on Commencement Date and will end when the Member either notifies that it is foregoing its membership or is notified by Billzy that it is no longer a Member due to some default on the part of the Member.
- 3.2. Notwithstanding any other provision in these Member Rules, Billzy may terminate the Member’s membership without prejudice to Billzy if Westpac no longer provides a Merchant Facility to Billzy for the benefit of the Billzy members or for the benefit of the Member as notified by Westpac to Billzy.

4. Nomination of Members

- 4.1. In order to become a Member, a Person must fully, truthfully, and accurately complete and sign the Member Application and submit that Member Application to Billzy for approval.
- 4.2. Billzy will access the Member Application but the final approval will rest with Westpac as to whether the Person is accepted as a Billzy member.
- 4.3. Each Person applying to become a Billzy member acknowledges that Westpac may require Billzy to make a separate written application to Westpac for each Person that would like to gain the benefit of a Merchant Facility.
- 4.4. Each Person submitting a Member Application acknowledges that Westpac has sole responsibility for, and sole discretion to, approve or reject any Member Application.
- 4.5. Prior to submitting a Member Application to Billzy, or providing any information about it, the Person submitting the Member Application must give its

consent permitting Billzy to disclose that information to Westpac and also permitting Westpac to:

- 4.5.1. use that information to contact the prospective Member regarding Westpac products and services or that of its third party affiliates; and
- 4.5.2. perform checks on the prospective Member to ensure that the prospective Member is able to satisfy any obligation that Billzy or Westpac may impose in order for Billzy to meet its obligations under the Master Agreement.
- 4.6. If Westpac approves a Member Application or declines a Member Application, then Billzy will promptly notify the relevant Person as to whether its application has been approved or declined.
- 4.7. Regardless of whether or not Westpac requires a separate Member Application for each Person, the following will apply:
 - 4.7.1. Upon approval of a Member Application, Billzy will give that the relevant Member the following documents:
 - 4.7.1.1. the document entitled “Protecting Business Against Credit Card Fraud”;
 - 4.7.1.2. the document entitled “Your Guide to the Payment Card Industry Data Security Standards (PCI DSS)”;
 - 4.7.1.3. other brochures, Manuals or practical operating instructions relating to the operation of the Merchant Facility which Westpac provides to Billzy from time to time.

5. Commencement and Provision of a Merchant Facility to a Member

- 5.1. The Member acknowledges that each Merchant Facility established must be operated in accordance with these Member Rules taking into account the requirements of **Schedule 2**.

6. Prohibited Changes to Member without Consent

- 6.1. The Member warrants that it will not whilst it is a member make any change in:
 - 6.1.1. the ownership or effective control of the Member;
 - 6.1.2. the principal business activities of the Member; or
 - 6.1.3. the types of goods or services that the Member supplies to its customers or clients, without first notifying Billzy in writing of that change and receiving the written consent from Billzy for that change.
- 6.2. The Member acknowledges and agrees that Billzy

cannot give its consent to the change without first notifying Westpac in writing of that change and receiving Westpac's written consent for that change.

7. Equipment

- 7.1. The Member warrants that it will comply with the following:
 - 7.1.1. only use technology, software and hardware and other equipment which is compliant to the Technical Standards;
 - 7.1.2. only use technology, software and hardware and other equipment which Billzy has approved as technically compatible with the systems, Equipment and Software used by Westpac for the purposes of its Card Transaction facilities, and in using any such equipment complies with any conditions as to its use which Westpac specifies in its approval.
 - 7.1.3. take proper care of the Equipment and be responsible for any costs incurred in the replacement or repair of the Equipment due to theft, loss or damage (fair wear and tear excepted);
 - 7.1.4. use reasonable care to detect forged or unauthorised signatures or the unauthorised use of a Card;
 - 7.1.5. immediately alert Billzy, if the Member suspects that the Equipment has been tampered with; and
 - 7.1.6. not modify the Equipment in any way.
- 7.2. All Title in the Equipment, Manuals, Card decals and promotional material that has been provided by Westpac through Billzy remains with Westpac or its suppliers and is not transferred to the Member.
 - 7.2.1. The Member must not sell, assign or encumber them, nor attempt to sell assign or encumber them or allow any third party to have access to them without the prior written consent of Billzy which consent can be provided on such terms and conditions Billzy may desire at its discretion.
 - 7.2.2. The Member must not remove any plates, stickers or markers which are used to identify the Equipment and/or the owner of the Equipment.

8. Processing Transactions

- 8.1. The Member must:
 - 8.1.1. only accept valid Cards and instigate Transactions in accordance with these Member Rules and any other practical operating instructions Billzy provides to the Member from time to time;
 - 8.1.2. accept and instigate Transactions in Australian

dollars only;

- 8.1.3. obtains prior Authorisation for any Transaction using a Credit Card if it exceeds the Floor Limit. An Authorisation only confirms that the Cardholder has sufficient funds available to cover the purchase, and that the Card has not been reported lost or stolen. It does not protect the Member from subsequent Chargebacks which may be effected by Westpac in circumstances described in **clause 10.3**;
- 8.1.4. verify the identity of the Cardholder, and ensures any Cardholder authorisation is not forged, obtained by fraud or deception, unauthorised or that the Transaction is not otherwise invalid (refer to **clause 10**).
- 8.2. The Member will not instigate any Transaction:
 - 8.2.1. representing refinancing or transfer of an existing Cardholder's financial obligation to Billzy or any other member (whether or not Billzy or the Member considers that the obligation is uncollectible); or
 - 8.2.2. as an alternate way of accepting payment due to the dishonour of a Cardholder's personal cheque.
- 8.3. The Member must not, under any circumstances, request that the Cardholder provide the Member with the Cardholder's Card and/or PIN number for the Member to retain. The Member may only retain a Cardholder's Card if Billzy has advised the Member that Westpac has requested the Member to do so. Without limiting the other obligations in these Member Rules, the Member will not, disclose (unless required by these Member Rules or by law), buy, sell or exchange a Cardholder's name or Card details to any person.
- 8.4. Subject to **clause 8.5** below the Member will only store the following Cardholder Data:
 - 8.4.1. PAN rendered unreadable in compliance with the PCIDSS;
 - 8.4.2. Cardholder name;
 - 8.4.3. Card expiry date;
 - 8.4.4. extended service code (used for Smart Card processing).

The Member must store this information securely such that the information cannot be reasonably compromised. Cardholder Data should only be stored if there is a genuine business need to do so. If the genuine business need no longer exists, the relevant Cardholder Data must be removed in accordance with the PCIDSS.
- 8.5. Under no circumstances will the Member store Sensitive Authentication Data post Authorisation. All Cardholder Data elements not listed in **clause 8.4** are considered to be Sensitive Authentication Data and are not to be stored under any circumstances after Authorisation.

- 8.6. Under no circumstances should the Member request that the Member's client provide Credit Card details via email for payment of the provision of goods and/or services. Should such details be provided to the Member, the Member must not use this information to provide goods and/or services, and must immediately securely destroy these details.
- 8.7. The Member acknowledges that neither Westpac nor Billzy will be responsible or liable for any delay that might occur in the processing of payments or any lost Transactions that might occur where the Merchant Facility is not available for any reason. This includes instances where cash-out Transactions are not available.
- 8.8. If the Member participates in the storage of Card payment details, then the Member must fully comply with the PCIDSS. Billzy will promptly advise the Member on the volume of Transactions permitted to be processed.
- 8.9. The Member warrants that it:
- 8.9.1. will at all points of Cardholder contact, prominently and unequivocally inform the Cardholder of the Member's identity so that the Cardholder can readily distinguish the Member from any supplier of goods or services to other third parties;
- 8.9.2. will not, either directly or indirectly, process any Transaction or present any voucher to Billzy which does not originate from a Transaction between the Member and a Cardholder to whom the Member has actually supplied the goods and/or services for which the Card was used in payment unless the Member has been approved by Billzy to process pre-payment Transactions and the Cardholder has expressly authorised the Transaction;
- 8.9.3. will not split a Transaction into two or more Transactions on the same Card to avoid having to obtain an Authorisation. The Member will not be considered to be avoiding having to obtain an Authorisation by splitting a Transaction in the following instances:
- 8.9.3.1. when the Cardholder bills a portion of the Transaction to a Card and pays the remaining balance by cash or cheque only; or
- 8.9.3.2. when the goods or services will be delivered or performed after the Transaction date, and one voucher represents a deposit, and the second voucher represents payment of the remaining balance and the second voucher is conditional upon the delivery or performance of the goods or services.
- 8.10. The Member agrees to the following:
- 8.10.1. Westpac is permitted to automatically process Transactions pursuant to these Member Rules

in accordance with the business rules set out in **Schedule 1**;

- 8.10.2. Westpac will not be required to act on any request to change the business rules set out in **Schedule 1** unless Westpac receives a written request signed by both Billzy and the Member for such a change and acknowledgement that Westpac will not be liable or responsible for any cost or other loss arising out of, or in connection with, any delays in agreeing to such request and making such changes.

9. Sales Refunds

- 9.1. The Member must establish a fair policy for exchange or return of merchandise and give credit upon each return, not in cash, but by means of a Sales Refund Transaction. The Member will, only processes refunds where there was an initial valid Transaction on that Card, and only process the refund on the same Card as used in the initial Transaction.
- 9.2. Subject to **clause 9.3** and where applicable **clause 9.4**, the Member may process Sales Refund Transactions by transferring the amount of the refund from Member Account to a Card account.
- 9.3. The Member agrees that Westpac will not be responsible for any unauthorised Sales Refund Transactions processed through the Merchant Facility, even if those Transactions may cause the Member Account to be debited by the amount of the Transaction(s).
- 9.4. This **clause 9.4** only applies to Merchant Facilities that facilitate Card Not-Present Transactions. For mail, telephone and internet orders and standing authority Transactions, the Member will, establish a fair policy for the handling of orders disputed by Cardholders and for the handling of disputed amounts of standing authority Transactions. This includes establishing a fair policy for refunds for each return of merchandise or for each order not authorised by the Cardholder.
- 9.5. The Member acknowledges that where neither Billzy or Westpac supply Equipment to the Member, then neither Billzy or Westpac (as the case may be) will be responsible for any unauthorised Sales Refund Transactions processed through the relevant Equipment
- 9.6. The Member will control and be responsible for access to the Equipment used for sales refund password. The Member must change its password if for any reason it thinks it has become known to persons other than those who the Member has authorised to complete refund Transactions.

10. Invalid Transactions

- 10.1. A Transaction is invalid if:
- 10.1.1. it was processed after the Member's membership is terminated in accordance

with **clause 32** or whilst it was suspended in accordance with **clause 32**;

- 10.1.2. the Transaction is split into two or more Transactions on the same Card or over two or more cards to avoid having to obtain an Authorisation for the total amount of the sale (each Transaction will be invalid);
 - 10.1.3. the signature on the voucher or any other Cardholder Authorisation on the voucher is forged, obtained by fraud or deception, unauthorised or otherwise invalid;
 - 10.1.4. the particulars on the voucher are not identical with the particulars on the Cardholder's copy;
 - 10.1.5. the Card relating to the Transaction is not current at the time of the Transaction;
 - 10.1.6. the voucher presented to Billzy is incomplete or illegible;
 - 10.1.7. the Card was used without the Cardholder's authority;
 - 10.1.8. the Transaction did not originate from an act between the Member and the Cardholder;
 - 10.1.9. where the Transaction involve the use of a voucher the Member has not retained a copy of the receipt or voucher signed by the Cardholder for 18 months from the date of the Transaction;
 - 10.1.10. it is a Credit Card Transaction and:
 - 10.1.10.1. it is not for the supply of goods or service to a genuine customer;
 - 10.1.10.2. it represents a transfer of funds, not supply of goods or services;
 - 10.1.11. it was submitted as a Transaction authorised by Westpac where an Authorisation was never obtained from or given by Westpac;
 - 10.1.12. it is a Sales Refund and:
 - 10.1.12.1. no corresponding sales Transaction exists for the Card on which the Sales Refund is made or purported to be made;
 - 10.1.12.2. it represents the payment of wages/ salary;
 - 10.1.12.3. it represents the transfer of funds; or
 - 10.1.12.4. insufficient funds are available in the Account to cover the refund amount;
 - 10.1.13. the Member is unable to demonstrate the validity of the Transaction to both Billzy's and Westpac's satisfaction;
 - 10.1.14. the Member does not observe the obligations set out in these Member Rules in relation to the Transaction; or
 - 10.1.15. Westpac advises Billzy that Westpac deems the Transaction to be invalid so any reason Westpac determines;
- 10.2. A telephone, Internet or mail order Transaction is

also invalid if the Transaction is not authorised by the Cardholder, or in the case of a standing authority, the authority has expired or was cancelled prior to the Transaction. The Member acknowledges that Authorisations obtained provide no guarantee that the person providing the Card details is the Cardholder.

- 10.3. The Member acknowledges and agrees, that Westpac may refuse to accept, or may Chargeback, any Transaction if:
 - 10.3.1. the Transaction is invalid or Westpac considers it to be invalid;
 - 10.3.2. the Cardholder claims the Transaction is invalid or disputes liability for any reason;
 - 10.3.3. The Member processes a cancelled Recurring Transaction;
 - 10.3.4. the Cardholder asserts a claim for set-off or a counterclaim.
- 10.4. The Member acknowledges that Chargebacks may be processed to the Member's Account up to 18 months after the date of the original Transaction.
- 10.5. The Member undertakes to abide by industry best practices to minimise fraud and chargebacks as set out in the Manuals from time to time.

11. Surcharging

- 11.1. The Member must:
 - 11.1.1. charge a Cardholder a price for goods and services comparable to the price the Member charges for cash for those goods and services;
 - 11.1.2. honour a Card tendered by a Cardholder for the payment of goods or services to be supplied by the Member to the Cardholder in accordance with these Member Rules;
 - 11.1.3. clearly disclose any surcharges that might apply before processing the Transaction, if the Member charges a fee for Transactions;
 - 11.1.4. include any surcharge in the relevant Transaction and not process as a separate Transaction;
 - 11.1.5. limit the cost of the surcharge to the permitted surcharge as defined by the Reserve Bank of Australia in a standard or other instrument as updated; and
 - 11.1.6. before a Transaction is completed, allow the Transaction to be cancelled, without the Cardholder incurring any cost after advising the Cardholder of the total Transaction amount.
- 11.2. The Member acknowledges that Card issuers may from time to time change the classification of a Card (i.e. standard or premium) and, as a result when applying a surcharge rate to a Cardholder, it cannot be guaranteed that the classification of the Card on which the Member has based the surcharge will be the same as the classification on which the Member is

charged a merchant service fee in relation to the same Transaction.

last day of the period the statement covers of:

12. Cost of acceptance reporting

- 12.1. This **clause 12** is intended to give effect to Standard No. 3 of 2016 as amended or replaced issued by the Reserve Bank of Australia under section 18 of the *Payment Systems (Regulation) Act 1998* (Cth) (**Standard**). For the purposes of this **clause 12** capitalised terms have the same meaning as in the Standard, unless the context requires otherwise.
- 12.2. On or as soon as practicable after 1 September 2016, Billzy will issue to the Member a written notice advising them of the provisions of the Standard. Such notice must provide sufficient detail to allow Member to understand the provisions of the Standard.
- 12.3. Billzy will issue monthly statements to the Member as soon as practicable after the end of the period that the statement covers. Each statement must set out:
 - 12.3.1. the dates on which the period covered by the statement begins and ends;
 - 12.3.2. for the relevant period covered by the statement:
 - 12.3.2.1. the aggregate cost of the Acquirer Supplied Elements of the Cost of Acceptance for Member of:
 - 12.3.2.1.1. Credit Cards of each applicable Credit Card Scheme, and
 - 12.3.2.1.2. Debit Cards and Prepaid Cards of each applicable Scheme Pair, over the relevant period (each such aggregate being a **Month Element Cost Total**);
 - 12.3.2.2. the aggregate value of Card Transactions processed for the Member for:
 - 12.3.2.2.1. each applicable Credit Card Scheme, and each applicable Scheme Pair,
 - 12.3.2.2.2. over the relevant period (each such aggregate being a **Month Value Total**); and
 - 12.3.2.2.3. for each applicable Credit Card Scheme and each applicable Scheme Pair, the **Month Element Cost Total** expressed as a percentage of the corresponding **Month Value Total**; and
 - 12.3.3. if it is the last statement covering the end of a Financial Year:
 - 12.3.3.1. the aggregate cost of the Acquirer Supplied Elements of the Cost of Acceptance for the Member over the 12 month period ending on the

- 12.3.3.1.1. Credit Cards of each applicable Credit Card Scheme, and
- 12.3.3.1.2. Debit Cards and Prepaid Cards of each applicable Scheme Pair, (each such aggregate being an Annual Element Cost Total);
- 12.3.3.2. the aggregate value of Card Transactions processed for the Member for:
 - 12.3.3.2.1. each applicable Credit Card Scheme, and
 - 12.3.3.2.2. each applicable Scheme Pair, the 12 month period ending on the last day of the period the statement covers (each such aggregate being an Annual Value Total); and
- 12.3.3.3. for each applicable Credit Card Scheme and each applicable Scheme Pair, the Annual Element Cost Total expressed as a percentage of the corresponding Annual Value Total.

13. Accounts

- 13.1. Billzy is permitted to record debit and credit entries to reflect Transactions processed in accordance with these Member Rules.
- 13.2. The Member acknowledges that Billzy may debit the Member's Account (and the Member authorises Billzy to do so) with the following:
 - 13.2.1. all service charges, fees and other charges set by us and which are notified to the Member from time to time.
 - 13.2.2. all government charges and taxes (including GST) that apply;
 - 13.2.3. the full amount of all Sales Refund Transactions the Member processes, less any charges Westpac have already debited to the Member Account relating to the Transaction;
 - 13.2.4. any overpayments or credits we have made in respect of Transactions due to errors or omissions;
 - 13.2.5. the value of Transactions which are invalid;
 - 13.2.6. any Chargeback;
 - 13.2.7. any moneys paid by Westpac to the Member (if applicable) for Card Transactions where Westpac is investigating the validity of the Transaction or a suspected Chargeback;
 - 13.2.8. any fees, fines or penalties that Westpac is required to pay to Card Scheme(s) pursuant to the Card Scheme rules as a direct or indirect result of the Member's failure to observe

obligations under these Member Rules including any procedures set out in the Manuals and any other practical operating instructions Billzy has provided to the Member;

- 13.2.9. a Card Transaction not being a valid Transaction or being charged back to Westpac or Billzy (as the case may be);
 - 13.2.10. Westpac's maintenance of the facilities Westpac supplies to either the Billzy or the Member under the Master Agreement;
 - 13.2.11. all penalties and costs incurred by Westpac because of an ADC or the Member's non-compliance to the PCIDSS (including any Service Providers) including but not limited to the cost of all forensic investigations as required by Westpac or the Card Schemes;
 - 13.2.12. any other money the Member owes either Billzy or Westpac under these Member Rules; and
 - 13.2.13. reasonable enforcement expenses under these Member Rules, including any amount reasonably incurred using Billzy staff and facilities, in the event of a breach of these Member Rules.
- If Billzy debits a Member's Account in which there are insufficient funds, then the payment may be reversed and the Member will be regarded as not having made the payment.
- 13.3. If Billzy becomes aware that Westpac has concerns:
 - 13.3.1. about the Member's solvency;
 - 13.3.2. that the Member is involved in a disproportionately high number of Chargebacks or invalid Transactions; or
 - 13.3.3. about the Member or the Member's business, it may withhold release of the funds in the Member's Account, or withhold or suspend payment of any money that would otherwise be owing to the Member until further notice.
 - 13.4. The Member acknowledges that Westpac may appropriate money the Member holds in the Member's Account (where applicable), or any other account with Westpac, held in the Member's name(s), towards any and all amounts the Member owes Westpac pursuant to these Member Rules. If Westpac does this, the balance of the Member Account will reduce by the amount used for this purpose. It is understood that Westpac will notify Billzy promptly after exercising its right to appropriate money in the Member's Account and Billzy will advise the Member accordingly.
 - 13.5. The Member accepts that Westpac will record debit and credit entries to reflect Transactions processed in accordance with these Member Rules, where applicable, to the Member's Account. The Member must notify Billzy immediately if the Member Account details (such as, but not limited to, signatories to the Member Account) change.
 - 13.6. The Member is responsible for, reconciling sales and settlements for all Transactions. If the Member has any

concerns about any missing amounts, it must, contact Westpac within 7 days from the date of the Transaction to have it reviewed. Any disputes raised after this time will not be reprocessed.

- 13.7. The Member is responsible for reconciling the statements that Westpac sends the Member to ensure that payments to and from the Member Account have occurred in accordance with these Member Rules.
- 13.8. It is the Member's obligation to check the accuracy of the statements. If the Member fails to notify Westpac within 3 months of an incorrect fee being processed, and thus an incorrect amount was debited from the Member Account, or a payment should have been made to the Member, then the Member will have no claim against either Billzy or Westpac and the account with Westpac will be deemed settled.

14. Fees, Costs, Taxes and Expenses

- 14.1. The Member will pay the fees and charges set out in the Fee Schedule as outlined in **Schedule 5**.
- 14.2. The Member acknowledges that the Fee Schedule is based in part upon what is detailed in the Master Agreement and as such Westpac has the right to review from time to time the Fee Schedule.
- 14.3. Billzy may upon giving 28 days' notice to the Member vary the Fee Schedule to take account of any increase in costs incurred by Billzy in its business operations, including any alterations to any fees charges by Westpac to Billzy.
- 14.4. If Westpac does review the fees and charges payable under the Master Agreement and advised Billzy accordingly then Billzy will promptly notify the Member of such changes in accordance with these Member rules.
- 14.5. The Member must pay:
 - 14.5.1. all stamp, transaction and other similar duties, taxes and charges in relation to becoming a Billzy member under these Member Rules or any document related to these Member Rules to which it is a party. The Member must also pay any fines and penalties unless they result from a failure by Billzy to lodge a document for stamping in sufficient time, having received from the Member the amount of stamp duty in good time;
 - 14.5.2. all costs and expenses incurred by Billzy in enforcing its rights under these Member Rules; and
 - 14.5.3. Goods and Services Tax.
- 14.6. Unless stated otherwise in the Fee Schedule, the amounts payable to Billzy under these Member Rules include any GST.
- 14.7. To the extent that anything done or to be done under or in connection with these Member Rules by Billzy constitutes a taxable supply for the purposes of any GST legislation, the amounts expressed elsewhere in

these Member Rules as payable or to be provided in relation to that supply will automatically include the additional amount on account of GST. Such amount will have been calculated by multiplying the value of the non-taxed amount payable or to be provided by Billzy for the relevant taxable supply by the prevailing GST rate. Any additional amount paid or payable on account of GST shall be calculated and shall be payable by the Member without any deduction or set-off of any amount payable by Billzy to the Member.

- 14.8. If, after a supply is made under these Member Rules, it is determined on reasonable grounds that the amount of any GST paid or payable by Billzy to the Commissioner of Taxation on that supply differs for any reason from the amount of GST recovered from the Member, the amount of GST recovered or recoverable from the Member shall be adjusted by Billzy repaying to the Member the amount of the overpayment or by the Member paying to Billzy the amount of the underpayment, (as the case may be).

15. Direct Bank Transactions

- 15.1. On becoming a member, the Member authorises Billzy to arrange for funds to be directly debited from the Member's Bank Account. The Member should refer to the application form signed by the Member prior to becoming a member.
- 15.2. Billzy will only arrange for funds to be debited from the Member's Bank Account as authorised in the application form signed by the Member. Further, Billzy may arrange for funds to be debited from the Member's Bank Account, if Billzy has sent to the Member a statement of account which specifies the amount payable by the Member to Billzy and when it is due.
- 15.3. If the Debt Day falls on a day that is not a Banking Day, Billzy may direct the Member's Financial Institution to debit the Member's Bank Account on the following Banking Day. If the Member is unsure about which day the Member's Bank Account has or will be debited the Member should ask the Member's Financial Institution.
- 15.4. The Member agrees that Billzy may vary the details of these provisions concerning direct bank transactions including a direct debit at any time by giving the Member at least fourteen (14) days written notice.
- 15.5. The Member may change, stop or defer a debit payment, or terminate the legal impact of this **clause 15** by providing Billzy with at least 28 days notification to Billzy. The Member acknowledges that the reference to change in this **clause 15.5**, is restricted to the Member's Financial Institution being able to "change" the Member's debit payment only to the extent of advising Billzy of the Members new account details.
- 15.6. It is the Members responsibility to ensure that there are sufficient clear funds available in the Member's Bank Account to allow a Debit Payment to be made in accordance with this **clause 15**.
- 15.7. If there are insufficient clear funds in the Member's

Bank Account to meet a Debit Payment:

- 15.7.1. the Member may be charged a fee and/ or interest by the new Members Financial Institution;
- 15.7.2. the Member may also incur fees or charges imposed or incurred by Billzy;
- 15.7.3. the Member must arrange for the Debit Payment to be made by another method or arrange for sufficient funds to be in the Members Account by an agreed time so that Billzy can process the Debit Payment.
- 15.8. If the Member believes that there has been an error in debiting the Member's Bank Account, the Member should notify Billzy directly by emailing the Member's concerns to contact@billzy.com and confirm that notice in writing with Billzy as soon as possible so that Billzy can resolve the Member's query more quickly. Alternatively, the Member can take it up directly with the Member's Financial Institution.
- 15.9. If Billzy concludes as a result of the Billzy investigation that the Member's Bank Account has been incorrectly debited Billzy will respond to the Member's query by arranging for the Member's Financial Institution to adjust the Member's Bank Account (including interest and charges) accordingly. Billzy will also notify the Member in writing of the amount by which the Member's Bank Account has been adjusted.
- 15.10. If Billzy concludes as a result of the investigation that the Member's Bank Account has not been incorrectly debited Billzy will respond to the Member's query by providing the Member with reasons and any evidence for this finding in writing.
- 15.11. It is the Member's responsibility to check:
- 15.11.1. with Member's Financial Institution whether direct debiting is available from the Member's Bank Account as direct debiting is not available on all accounts offered by financial institutions;
- 15.11.2. The Member's Bank Account details which the Member has provided to Billzy are correct by checking them against a recent account statement; and
- 15.11.3. with the Member's Financial Institution before completing the application form authorising Billzy to directly debit the Member's Bank Account and if the Member has any queries about how to complete the application form then they should direct such queries to the Member's Financial institution.

16. Discounting Through Billzy Deal

A Member may use Billzy Deal to offer or request a discounted invoice payment amount in exchange for earlier payment of the same invoice. This offer or request can be made by a Member issuing an invoice at the time of issue, by a Member issuing an invoice at any time after issue but prior to the original due date and by a Member receiving

an invoice at anytime up to the original due date. This offer or request can be withdrawn by the Member making the offer or request at anytime prior to acceptance by the other Member. An offer or request can be accepted, declined or counter offered by a Member receiving such offer or request.

16.1 Agreement by the Parties. The parties to a confirmed early payment discount agree to such modified terms of the Invoice and the acceptance of such modification using Billzy Deal constitutes signed written agreement of the parties to an amendment of any agreement between them.

Acceptance of a request or offer is deemed to have occurred upon a Member accepting or facilitating payment of the discounted invoice amount within the Billzy payment platform and prior to the early due date.

Payment of a discounted invoice amount is deemed to have occurred upon a Member initiating payment prior to the earlier agreed due date irrespective of whether the funds related to such payment have been deposited or cleared in the recipient's bank account.

16.2 Notification. If a Member's offer or request to receive or to pay a discounted payment is accepted by another Member, Billzy will confirm to both Members the agreed discounted payment amount and earlier payment due date via the Billzy Platform and by other electronic means including email and mobile application notification. In the event that an offer or request is withdrawn, declined or counter offered then a similar notification will be received by both Members. If the early payment discount offer or request is no longer available (for example, if it has already been withdrawn or has expired), the Members to the now-unavailable early payment discount agree that the original terms of the relevant Invoice shall remain unchanged and the early payment discount will not apply.

16.3 Fees. As compensation for facilitating an early payment discount, Billzy charges a percentage of the discount received ("Billzy Deal Fee"). The Billzy Deal Fee is described in Schedule 5. The Billzy Deal Fee is payable by the Member that originally initiated the Billzy Deal negotiation (for example, if a Member issuing an invoice offers a discounted payment amount to another Member in exchange for earlier payment and if that other Member accepts that offer by paying the invoice by the offered earlier payment date then the Billzy Deal Fee will be payable by the first mentioned Member). If a Member elects to use Billzy Deal by initiating an offer or request, that Member agrees not to attempt to structure the submission or payment of any invoice so as to avoid the assessment of a Billzy Deal Fee that would otherwise be assessed if the transaction were completed as contemplated in this Agreement.

16.4 Dishonour. In the event the payment instrument used to pay the discounted Invoice amount is dishonoured, the early payment discount that was previously agreed to shall be rescinded and the terms of the original invoice shall apply including due date and payment

amount.

16.5 Limitation of Liability. Billzy shall not be liable for any damages of any kind arising out of any Member's failure to comply with the invoice payment terms revised in connection with the use of Billzy Deal. Billzy further shall not be liable for any damages of any kind arising out of another Member's decision to decline an offer or request for a discount or early payment. Billzy also shall bear no liability for its operation of Billzy Deal, and Billzy makes no representations regarding the availability or continued offering of Billzy Deal.

17. Responsibilities

17.1. The Member must, provide a complete copy of the Transaction receipt to the Cardholder (unless otherwise stated, for example, contactless Transactions) at the time the purchased goods are delivered or services performed, and advise the Cardholder to retain the receipt as proof that payment has been made. The Transaction receipt may be delivered in either of the following formats:

17.1.1. electronic (e.g. email or fax); or

17.1.2. paper (e.g. hand-written).

17.2. For Merchant Facilities that facilitate Card Not-Present Transactions a Transaction receipt must contain the following information:

17.2.1. the Member name most recognisable to the Cardholder, such as:

17.2.1.1. merchant "doing business as" name as used on your website;

17.2.1.2. merchant "universal resource locator" (URL) if possible.

17.2.2. Transaction type (purchase or credit);

17.2.3. Transaction amount, indicated in Transaction currency;

17.2.4. Transaction date;

17.2.5. Unique Transaction identification number;

17.2.6. Purchaser's/Cardholder's name;

17.2.7. authorisation code;

17.2.8. description of goods and services;

17.2.9. return/refund policy, if restricted;

17.2.10. cancellation policies.

17.3. The Member will:

17.3.1. respond promptly to all customer inquiries, including cancellations and order changes;

17.3.2. not do anything that constitutes or encourages a violation of any applicable law or regulation in Australia or an overseas jurisdiction, including but not limited to the sale of illegal goods or the violation of export controls, obscenity laws or gambling laws;

- 17.3.3. not offer for sale goods or services, or use or display materials, that are illegal, obscene, vulgar, offensive, dangerous, or are otherwise inappropriate;
 - 17.3.4. not generate a significant number of complaints for failing to be reasonably accessible to customers; and
 - 17.3.5. fulfil customers order in a timely manner or adequately deal with customers' warranty or service requirements.
- 17.4. The following clauses only apply to a Merchant Facility that facilitates Card Not-Present Transactions:
- 17.4.1. The Member must ensure that the URL of the Website must be substantially similar to the trading name of the Member and be designed in such a way that a reasonable Cardholder is able to readily identify it as a Member Website without any confusion.
 - 17.4.2. The Member is responsible for all materials used or displayed on the website, and all acts or omissions that occur at those websites. The Member must ensure the following is displayed on the website:
 - 17.4.2.1. a prominent statement that the Member is responsible for the handling of disputes, complaints and enquiries;
 - 17.4.2.2. contact information, including the Member's trading name, Australian Business Number, address, telephone number, fax number, e-mail address and Billzy and Member's country of domicile;
 - 17.4.2.3. a complete description of all goods and services the Member offers on the website;
 - 17.4.2.4. a clear explanation of shipping practices and delivery policy;
 - 17.4.2.5. transaction currency;
 - 17.4.2.6. total costs of the goods or services offered including all appropriate shipping/handling charges and taxes. Where the total cost of the Transaction cannot be ascertained in advance the website must include a statement to that effect and provide a description of the method that will be used to calculate it;
 - 17.4.2.7. images that Westpac supplies of Card types accepted for payment;
 - 17.4.2.8. customer service policies, including usual delivery timeframes, and the process if the order cannot be filled any reason. The Member must inform its customers within two business days if goods are not available;
 - 17.4.2.9. refund/return policy;
 - 17.4.2.10. consumer data policy;
 - 17.4.2.11. security capabilities and policy for transmission of payment Card details.
 - 17.4.3. The Member must ensure that any Transaction in relation to an internet business approved by Westpac to accept eCommerce Transactions, must be processed through the Merchant Facility made available for that purpose.
 - 17.4.4. The Member must make provision for payment and delivery of goods or services as specified at the Member's website. Payment pages provided must adhere to the Westpac security requirements. The Member's domain must utilise separate payment pages.
 - 17.4.5. The Member will forward any eCommerce Transaction to Westpac and it must identify with the appropriate Card Scheme eCommerce indicator.
 - 17.4.6. The Member agrees that it will not, return the Cardholder's number to the Cardholder either online or on the Transaction receipt.
 - 17.4.7. The Member must:
 - 17.4.7.1. not substantially change the Member's goods or services or other material aspects of Member's website from the time it was accepted by Westpac without its written agreement;
 - 17.4.7.2. keep all information on the website true, accurate, current and complete;
 - 17.4.7.3. not change the Member's domain name without first obtaining Westpac's written consent to the change of name; and
 - 17.4.7.4. fulfil customer orders in a timely manner and adequately deal with a customer's warranty or service requirements.
 - 17.4.8. The Member is responsible for:
 - 17.4.8.1. ensuring that the connection between Member's website is operational. Neither Billzy or Westpac warrant that the provision of the services will be continuous, uninterrupted or without errors;
 - 17.4.8.2. ensuring that the Member's website is secure and that Cardholder information is encrypted during the exchange of Cardholder information between Member's website and the Payment Gateway. The level of encryption is to be to Westpac's satisfaction as detailed in the document entitled "Web Site Requirements";

- 17.4.8.3. ensuring that any service provider the Member engages to participate in the payment process is to be a Westpac Accredited Gateway Provider/Data Processor. Payment pages will be accredited by Westpac or a Westpac Accredited Gateway Provider/Data Processor, and must adhere to our security requirements. Neither Billzy or Westpac is not responsible for the functioning of any third party service provider, including a Westpac Accredited Gateway Provider/Data Processor.
- 17.4.9. If the Person submitting the Member Application is approved as a Billzy member, then the Member consents to Billzy supplying Westpac with full details of the Member's Web Hosting Provider, Secure Socket Layer (SSL) provider and expiration date of SSL certificate. The Member also permits Billzy to disclose details of all service providers the Member engages with to enable the acceptance of credit Card payments and compliance with PCIDSS. The Member must also ensure that any Service Providers the Member engages to participate in the payment process has installed a Secure Socket Layer (SSL) which meets Westpac requirements and that it is renewed prior to its date of expiration.

18. Audit

- 18.1. The Member acknowledges and agrees that Westpac or the Card Schemes may, from time to time, conduct a risk review audit either onsite or offsite with the Member. The audit review may include, but not limited to, organisational structure, PCIDSS compliance, payments to the Member and risk and fraud management. Any costs associated with the audit will be borne by the Member. A report of findings will be provided to Billzy and the Member by Westpac or Card Schemes.
- 18.2. This process may require the Member to make information available to Westpac or the Card Scheme, including but not limited to:
 - 18.2.1. a full list of all Members, including the Merchant Facility they operate under, their MCC, the volume and value of Transactions processed in the last month and the last twelve months, the date upon which the Member commenced processing Transactions;
 - 18.2.2. a copy of the agreement between the Member and Billzy for the Member's use of the Merchant Facility.

19. Records

- 19.1. The Member must:

- 19.1.1. maintain and retain in their possession (while complying with all applicable security requirements) their books of account and records (including all Transaction information, voucher and copy rolls and other information that these Member Rules requires them to retain) relating to a Transaction for at least 18 months after the Transaction;
- 19.1.2. permit Westpac to inspect and examine their books of account and records;
- 19.1.3. not sell, purchase, provide or exchange a Cardholder's name or Card number information in any form. This clause shall not prohibit the Member from providing Card number information to Billzy or an agent solely to allow the Member to process Transactions;
- 19.1.4. keep all systems and media containing a Card number, Cardholder or Transaction information in a secure manner to prevent access by, or disclosure to, anyone other than the Member's authorised personnel or agent processing Transactions. If the item needs to be discarded, the Member must destroy it in a manner which makes the information unreadable;
- 19.1.5. provide Westpac with all clear and legible documentation relating to a Transaction when requested and within 14 days of our request or the due date specified in our request, whichever is the earlier. Otherwise Billzy and in Particular Westpac may treat the Transaction as invalid and process a Chargeback to the Merchant Facility;
- 19.1.6. provide Westpac with all financial information in relation to their business including but not limited to annual balance sheets and trading results, end of quarter results and a 12 month cash flow projection, in a form acceptable to Westpac and/or Billzy, when requested;
- 19.1.7. agrees to Westpac monitoring Transactions processed via the Merchant Facility.
- 19.2. The Member must also keep reasonable records about their compliance with these Member Rules including records about when they implemented a variation that Westpac has agreed to under **clause 21** and the Member's compliance with PCIDSS. The Member must retain these records for at least 6 years and provide access to these records when either Billzy or Westpac request.
- 19.3. The obligations under this **clause 19** survives the day on which the Member is not longer a member for any reason.

20. Creditworthiness of the Cardholder

- 20.1. Neither Billzy or Westpac guarantee the creditworthiness or the correct identity of the Cardholder, irrespective of whether the Transaction is

approved or processed.

21. Variations

21.1. If Westpac varies the Master Agreement, then Billzy may accordingly vary these Member Rules to the same extent. Billzy will notify the Member accordingly of any variation to the extent that variation affects the Member. Use of the Merchant Facility(ies) after notification of any such variation will constitute acceptance of that variation.

Type of Variation	Time Frame	Notification Method
New fee or charge (other than a government charge).	30 days in advance.	In writing or electronically
A new or varied government charge that directly or indirectly affects Billzy or the Member.	In advance of the change, or as soon as practical afterwards, unless the change has been publicized by a government or representative body	In writing, electronically or through an advertisement in a major newspaper.
Any other term or condition (including a variation of fees and charges).	In advance of the date of the change.	In writing, electronically or through an advertisement in a major newspaper.

Advance notice may not be given in some circumstances, for example, when a change is necessitated by an immediate need to restore or maintain the security of our systems or where the Member cannot be reasonably located.

22. Notices

- 22.1. All notices, requests, demands, consents, approvals, agreements, or other communication by a Member:
- 22.1.1. must be in writing;
 - 22.1.2. must be signed by an Authorised Officer of the sender;
 - 22.1.3. must be either delivered by hand, prepaid post, or facsimile to the address or facsimile number of the recipient shown on the signature page of the Membership Application or to any other address or number notified to the sender by the recipient; and
 - 22.1.4. will be deemed to be duly given or made:
 - 22.1.4.1. in the case of delivery in person, when delivered;
 - 22.1.4.2. in the case of delivery by post, two Banking Days after the date of posting;
 - 22.1.4.3. in the case of facsimile upon transmission having been recorded

as completed by the sender's machine, but if delivery or receipt is on a day on which business is not generally carried on in the place to which the communication is sent or is later than 4 p.m. (local time), it will be taken to have been duly given or made at the commencement of business on the next day on which business is generally carried on in that place.

22.2. The Member must notify both Billzy and Westpac within 14 days of any changes in its company (including ownership or control), trading name or address. The Member further agrees to continue to notify both Billzy and Westpac of these changes for a period of 12 months after the member is no longer a member.

23. Other Warranties and Indemnities

- 23.1. The Member must not make any warranty or representation whatsoever in relation to any of its goods or services which may bind either Billzy or Westpac.
- 23.2. The processing of any Transaction through a Merchant Facility will constitute warranty by the Member to both Billzy and Westpac that:
- 23.2.1. all particulars are true;
 - 23.2.2. the Transaction and any voucher is valid; and
 - 23.2.3. the Transaction is not subject to any dispute, set-off or counterclaim.
- 23.3. The Member indemnifies Billzy on demand against all losses, expenses, costs (including legal costs on a full indemnity basis), liability and damages Billzy may suffer arising directly or indirectly as a result of:
- 23.3.1. the Member's failure to observe the Member's obligations under these Member Rules including any procedures set out in these Member Rules and any other practical operating instructions Billzy provides to the Member;
 - 23.3.2. the Member's failure to do or not do, as the case may be, something contemplated by these Member Rules and any other practical operating instructions Billzy provides to the Member;
 - 23.3.3. any dispute between the Member and a Cardholder;
 - 23.3.4. any liability arising from a Chargeback;
 - 23.3.5. any error, negligence, misrepresentation or fraud on the part of the Member or their servants, agents, employees or contractors;
 - 23.3.6. any damage to, or loss of the Equipment due to negligence or misuse by the Member or any of their servants, agents, employees or contractors;

23.3.7. any fees, fines or penalties that Billzy is required to pay to Westpac because Westpac is required to pay pursuant to the rules, by-laws or regulations of any Card Scheme that Westpac is a member of or participates in, as a direct or indirect result of Member's failure to observe any of the procedures, requirements or obligations required to be complied with under any Card Scheme, provided that the loss or liability is not caused by any fraud, negligence or willful default on the part of Billzy or Westpac, or their respective employees, agents and sub-contractors. For the purpose of this clause neither Billzy or Westpac shall be taken to have been negligent if they acted as required or contemplated by these Member Rules or at the express request or direction of the Member.

23.4. Each indemnity given by the Member under this Agreement is a continuing obligation and continues after this Agreement ends. It is not necessary for Billzy to incur expense or make payment before enforcing the relevant indemnity.

23.5. With the exception of any terms, conditions, rights or warranties that are implied by law in these Member Rules and may not legally be excluded, Billzy gives no warranty or representation in respect of any Transaction, hardware or software, and all other terms, conditions or warranties, whether expressed or implied, are expressly excluded.

23.6. The Member acknowledges, that both Billzy's and Westpac's liability for breach of any condition, right or warranty that cannot be excluded from these Member Rules by law is limited to the replacement or the repair of the hardware or software, or the re-performance of the repair or the Transaction.

23.7. The Member represents and warrants as follows:

23.7.1. **(Status):** It is a corporation validly existing under the laws of the place of its incorporation and it has become a member in its own right and not as a trustee of any trust or as an agent on behalf of any other entity.

23.7.2. **(Power):** It has all the necessary power to enter into and perform its obligations under these Member Rules, to carry out the transactions contemplated by these Member Rules and to carry on its business as now conducted or contemplated.

23.7.3. **(Authorisations):** All necessary resolutions have been duly passed and all consents, approvals and other procedural matters, as required by its constitution and the *Corporations Act, 2001* (Cth), in relation to the execution, delivery or performance by it and the validity and enforceability of these Member Rules and the transactions contemplated by these Member Rules have been obtained or effected.

23.7.4. **(Transactions permitted):** In executing and in giving effect to these Member Rules it has not contravened and will not contravene or

violate in any respect a provision of a law or a judgement, ruling, order, decree, guideline or directive issued by any Government Agency; any legislative requirement nor any provision of its constitution, or any deed, agreement or other document to which it is a party.

24. Fraud Prevention

24.1. PCIDSS Compliance

24.1.1. Billzy will use its best endeavours to ensure that its business and any Service Provider acting on its behalf, is compliant to the PCIDSS at all times.

24.1.2. The Member must not do anything which could jeopardise Billzy's business in being PCIDSS compliant.

24.1.3. The Parties acknowledge that Westpac will have the sole determination as to whether the business operated by Billzy is PCIDSS compliant and if Westpac determines that it is not due to some activity by the Member then the Member will fully indemnify Billzy for any damage, expense or costs associated such a determination.

24.2. The Member must ensure that any software or hardware it purchases, creates or otherwise utilises for the purpose of selling goods or services does not retain its original password before employing it for the acceptance of Transactions. The Member must also ensure that all system and/or software passwords are changed on a regular basis.

24.3. Account Data Compromise (ADC) Events

24.3.1. The Member must comply with the ADC procedures detailed in the booklet "Your Guide to the Payment Card Industry Data Security Standards" that Westpac will provide to Billzy who will promptly on supply to the Member, immediately upon suspected or known breaches of confidential Cardholder Data whether or not the breach has occurred through a Service Provider or otherwise.

24.3.2. If the Member's business is suspected of having suffered an ADC:

- 24.3.2.1. The Member must give to Billzy and/or Westpac and its agents full access to its systems and databases, to facilitate a forensic analysis to ascertain:
- what Card data has been compromised;
 - what weaknesses in the system permitted the unauthorised access to the database; and
 - whether Card data was created, deleted, altered, copied or manipulated in any manner.

- 24.3.2.2. If the Member uses the services of an external Service Provider, the Member must ensure that Billzy and/or Westpac and its agents are given full access to necessary outsourced components such as databases, web hosting systems, etc.
- 24.3.2.3. The Member must pay all costs in connection with analysing and
- 24.3.2.4. resolving the ADC.
- 24.3.2.5. In order to continue processing Transactions, the Member must validate to the absolute satisfaction of Westpac that the Member is fully PCIDSS compliant as a Level 1 Merchant within 3 months of the ADC. All costs incurred by the Member as a result of their compliance with this **clause 23** will be borne by the Member.

24.4. Consent to share information

- 24.4.1. The Member acknowledges and agrees that Westpac may report all ADC events to Card Schemes and their members and may be required to report ADC events to law enforcement agencies and/or Australian regulators. The Member grants an irrevocable and enduring consent to Westpac to disclose details of any such ADC (including information about the Member or its customers) to the aforementioned bodies.
- 24.4.2. The Member irrevocably confer upon Westpac the enduring right to contact any Services Providers that enable the Member to acquire Credit Card Transactions. This **clause 24** is limited to the purpose of determining the extent of an ADC, assessing remedies for that ADC and assessing the level of compliance with the PCIDSS.

24.5. Chargeback and Fraud Management

- 24.5.1. Where excessive fraud or Chargeback behaviour is observed under any Merchant Facility, the Member must if requested by Westpac to provide such information as requested by Westpac. This may include but is not limited to:
 - 24.5.1.1. Member's name;
 - 24.5.1.2. Member's address;
 - 24.5.1.3. Names of all directors or proprietors;
 - 24.5.1.4. The date of birth of all directors or proprietors;
 - 24.5.1.5. The date upon which Billzy commenced processing Transactions for the Member;
 - 24.5.1.6. Transaction volume and value for the most recent month;

- 24.5.1.7. Transaction volume and value for the last twelve months;
- 24.5.1.8. The merchant facility under which the Member operates; and
- 24.5.1.9. The value of prepayment calculated against the Member. Westpac may also request the above information to assist with ongoing fraud investigations, or to assist law enforcement/government agencies, or to assist with data compromise investigations.

24.5.2. Billzy will promptly onforward any requests made by Westpac to the Member if the Member's Chargebacks in any particular category has, or is in threat of, exceeding the threshold. The Member must action to rectify the excessive Chargebacks. Failure to resolve the cause of the problem will result in non-compliance Card Scheme fines which shall be payable by the Member.

25. Undertakings

25.1. The Member undertakes as follows:

25.1.1. **(Authorisations)** It will ensure that all authorisations required for:

- 25.1.1.1. the execution and delivery of the Transactions contemplated by these Member Rules and the performance of these Member Rules; and
- 25.1.1.2. the validity and enforceability of these Member Rules as against the Member; and
- 25.1.1.3. the carrying out by it of its business as now conducted or contemplated, are obtained and promptly renewed and maintained in full force and effect.

25.1.2. **(Information)** It will provide promptly to Billzy and Westpac any information concerning its financial position or any other information that either Billzy or Westpac may reasonably request from time to time.

26. Limitation of Liability to Direct Loss

26.1. To the extent permitted by law and notwithstanding that any of Billzy's officers, employees, contractors or agents may be aware of the likelihood of such loss or damage, the Member is not entitled to special, indirect or consequential loss or damage, including loss of profits, loss of income or goodwill, loss of or corruption to data and loss of opportunities, no matter how it is caused.

27. Independent Obligation

- 27.1. Each obligation under these Member Rules:
- 27.1.1. is a separate, independent and continuing obligation payable on demand;
 - 27.1.2. has effect despite any time, waiver or indulgence granted; and
 - 27.1.3. survives termination or discharge of these Member Rules or any of the Merchant Facility(s) made available under it.

28. Code of Banking Practice

- 28.1. This clause applies to the Member if the Member is an individual or a Small Business.
- 28.2. The Member acknowledges that the relevant descriptive information referred to in **clauses 15.1 and 15.2 of the Code of Banking Practice** is set out in Westpac's account terms and conditions booklets, which has been supplied to the Member prior to the Member becoming a member. These booklets contain information regarding:
- 28.2.1. Westpac's account opening procedures;
 - 28.2.2. Westpac's obligations regarding the confidentiality of the Member's information;
 - 28.2.3. complaint handling procedures;
 - 28.2.4. general descriptive information regarding bank cheques;
 - 28.2.5. a recommendation that the Member informs Westpac promptly if it is in financial difficulty; and
 - 28.2.6. a recommendation that the Member carefully reads the terms and conditions applying to the relevant banking service (which in relation to this facility means the Member should carefully read this document before accepting it). Copies of these booklets are available on request from Billzy who will obtain them from Westpac.
- 28.3. Each relevant provision of the Code of Banking Practice will apply to the Merchant Facility from the date Westpac adopts that provision.

29. Financial Crimes Monitoring and Anti-Money Laundering

- 29.1. In order for Billzy to comply with its obligations under the Master Agreement and for Westpac to comply with its regulatory and compliance obligations for anti-money laundering and counter financing of terrorism, the Member acknowledges and agrees, that:
- 29.1.1. Transactions may be delayed, blocked, frozen or refused where Westpac has reasonable grounds to believe that they breach Australian law or the law or sanctions of any other country. Where

Transactions are delayed, blocked, frozen or refused, neither Billzy or Westpac and their accredited processors are not liable for any loss suffered (including consequential loss as noted in **clause 26**);

- 29.1.2. Westpac may from time to time require information from the Member about the Member or any a person who is employed by, contracted to, an agent of, or otherwise associated with, the Member or a Cardholder in order to meet Westpac's anti-money laundering and counter Terrorism financing obligations. This information may include "personal information" as defined by the *Privacy Act 1988*. If Westpac asks for such information, the Member agrees to immediately provide the information requested or, at least within 24 hours of such a request;
 - 29.1.3. where legally obliged to do so, Westpac may disclose the information gathered to regulatory and/or law enforcement agencies, other banks, other members of the Westpac Group, service providers who do things on Westpac's behalf or to other third parties;
 - 29.1.4. where Westpac has reasonable grounds to believe that a suspicious matter has arisen in relation to the Merchant Facility, it is obliged to complete and render a report to the Federal Government (AUSTRAC). A suspicious matter includes any Transaction that Westpac believes may be of relevance to the investigation or prosecution of any breach or attempted breach of an Australian law (including laws related to money laundering, tax evasion, financing of terrorism or the proceeds of crime);
 - 29.1.5. it will not initiate or conduct a Transaction that may be in contravention of Australian law or the law of any other country.
- 29.2. The Member acknowledges that Westpac may be required to identify a person who is employed by, contracted to, an agent of, or otherwise associated with, the Member prior to becoming a member and during the such membership to meet its anti-money laundering and counter terrorism financing obligations. The Member agrees to, provide Westpac with any assistance it requests of the Member or is requested by Billzy on behalf of Westpac to assist Westpac to perform such identification checks.

30. Privacy Law

- 30.1. The Member undertakes to comply with:
- 29.1.1. any privacy laws by which it is bound; and
 - 29.1.2. any other privacy requirement notified by Billzy to the Member.
- 30.2. The Member acknowledges that it does not rely on any information or representation supplied by either Billzy or Westpac to it as advice regarding compliance with the Privacy Laws.

- 30.3. The Member warrants that it is aware of the Privacy Laws which apply to it in respect of these Member Rules, and also warrants that, after the enquiry, it is not aware of having breached any of those Privacy Laws.
- 30.4. The Member authorises Westpac to obtain, from any Card Scheme, information relating to facilities the Member has obtained or is obtaining from other suppliers.
- 30.5. The Member acknowledges and agrees that Westpac may disclose any information that Westpac has collected from any application, obtained from any Card Scheme or obtained concerning these Member Rules in the following circumstances:
 - 30.5.1. to Westpac's external service providers (some of which may be located overseas) that provide services for the purposes only of Westpac's business and providing the Merchant Facility, on a confidential basis (for example, mailing houses);
 - 30.5.2. to any person who is a card issuer, Card Scheme operator or otherwise involved in any Card Scheme, for the purpose relating to the operation of those schemes. This information may include information about terminating a Merchant Facility and the reasons for that termination. Other service providers may use this information amongst other things to determine whether not to make facilities available;
 - 30.5.3. to persons who the Member informs Billzy or Westpac supplies services related to the Merchant Facility.

31. Assignment

- 31.1. These Member Rules are binding upon the parties, their executors, administrators, successors and assigns. Where the Member consists of any two or more persons, the Member's obligations shall be joint and several.
- 31.2. The Member is not permitted assign or attempt to assign these Member Rules as they apply to them to any other person without Billzy's prior written consent, which consent can be given on such conditions as Billzy may require.

32. Termination

32.1. *Master Agreement Terminated by Westpac*

If the Master Agreement is terminated for any reason, then the Member's Billzy membership will promptly be suspended by Billzy and Billzy may at its discretion also terminate the Member's Billzy membership without any prejudice or liability to Billzy.

32.2. *Termination with notice:*

Either Party may at any time terminate the Members membership by giving 90 days prior notice to the other

party in writing (in the case where the termination is less than 3 years from the date on which the Member became a member) or 30 days prior notice to the other party in writing (if the termination occurs more than 3 years from the date on which the Member became a member). If the Merchant Facility(s) is terminated, Billzy may pass on any fee charged by Westpac under the Master Agreement.

32.3. *Termination without notice:*

Billzy may immediately suspend or terminate a Members membership at any time if requested by Westpac. The grounds on which Westpac may do so are as follows:

- 32.3.1. If Westpac considers that it could suffer a loss because of the Member's Merchant Facility continuing to operate;
- 32.3.2. The Member commits a material breach of its obligations under these Member Rules (including a breach of Law) or a representation and warranty made by that party proves to be untrue in a material respect and that party fails to remedy such breach or make the representation true within the time specified in a written notice requiring such breach or such representation to be remedied;
- 32.3.3. Westpac considers the Member's ratio of Chargebacks to sales, whether by number or dollar value of Chargebacks, to be excessive;
- 32.3.4. The Member has substantially changed the Member's line of business, or the types of goods or services that the Member supplies to its customers or clients without first notifying both Billzy and Westpac and receiving Westpac's written consent;
- 32.3.5. The Member ceases to carry on business generally;
- 32.3.6. The Member makes a general assignment for the benefit of its creditors;
- 32.3.7. Westpac has concerns about the Member's solvency, or the solvency of the Member's business;
- 32.3.8. The Member becomes insolvent, or is subject to any form of insolvency administration, or a resolution is passed or an order is made for the winding up of the Member;
- 32.3.9. a change occurs in the business, assets or financial condition of the Member which in the reasonable opinion of the party giving the notice may have a material adverse effect on the Member's ability to observe its obligations under these Member Rules;
- 32.3.10. Westpac has concerns about the Member's ability to meet or repay the amounts of any Chargebacks that have been received, or that are likely to be received in the future conduct of the Member's business;
- 32.3.11. The Member has a significant adverse credit

event recorded against it;

32.3.12. Either Billzy or Westpac has reasonable grounds to suspect that the Member has fraudulently processed Transactions, or have knowingly allowed fraudulent Transactions to be processed through the Member's Merchant Facility;

32.3.13. The Member or any Service Providers utilised by the Member are not compliant with the PCIDSS; or

32.3.14. The Member or any Service Providers utilised by the Member have suffered an ADC.

32.4. *Notice of Suspension or Termination:*

32.4.1. Billzy will use its best endeavours to notify the Member within 24 hours of receiving notice from Westpac of any suspension or termination of Member's membership. If Billzy is unsuccessful in contacting the Member, Westpac may choose to continue to suspend or terminate the facility. However, Billzy will give the Member subsequent written confirmation that the facility has been suspended or terminated at the Member's last known address.

32.4.2. Suspension or termination will be effective immediately. The Member accepts that Westpac is not obliged to accept any Transactions the Member processes after the Member's membership is suspended or terminated.

32.5. *Consequences of Termination:*

32.5.1. On termination of the Member's membership the Member must immediately cease to use the Merchant Facility provided under these Member Rules and do anything that is required to terminate its obligations under these Member Rules.

32.5.2. Termination of the Member's membership for any reason shall not relieve either party of any obligations incurred prior to the date of termination and will not prejudice, extinguish or otherwise affect any rights of either party against the other which:

32.5.2.1. accrued prior to the time of termination; or

32.5.2.2. otherwise relate to or may arise at any future time that would otherwise be a breach of these Member Rules if these Member Rules had not been terminated.

31.5.3. The Member agrees that any unused stationery and promotional material remain the property of Westpac. On termination, the Member must immediately return to Billzy all material provided by either Billzy or Westpac to the Member.

32.5.4. For this clause, a combined terminated merchant file is a file containing the merchant

name, trading name and address, names and identifications of principals, owners, managers and key employees of merchants, account details, listing reason and Uniform Resource Locator (URL) of Internet merchants terminated for poor Card acceptance practices. The Member consents to Westpac providing this information for addition to the file if Member's membership is terminated. The Member will indemnify Billzy and Westpac against all claims, actions, suits, losses, defaults, damages and liabilities resulting from termination of Membership, including all claims, actions, suits, losses, defaults, damages and liabilities made by the Member or the Member's principals on this file. Any payments made by the Member under this clause shall be automatically increased by the amount of any goods and services tax liability incurred by either Billzy or Westpac in respect of those payments.

33. Default and Acceleration of Debt

33.1. It is a default of these Member Rules by the Member if the Member:

33.1.1. does something these Member Rules contemplates must or should not have been done; or

33.1.2. does not do something these Member Rules contemplates must or should have been done.

33.2. In addition to **clause 33.1**, it is a default if:

33.2.1. the whole of any amount due by the Member to Westpac is not paid by the date that Westpac informs the Member it is due;

33.2.2. the Member gives either Billzy or Westpac incorrect or misleading or deceptive information;

33.2.3. the Member commit an act of bankruptcy or enter any assignment, arrangement or composition with any creditors;

33.2.4. the Member is a corporation and:

33.2.4.1. an administrator, receiver, receiver and manager, liquidator or similar officer is appointed to the Member; or

33.2.4.2. an order is made for the Member's administration, winding up or dissolution or steps are taken towards this (for example, a resolution is passed, or an application is made to a court).

33.3. Without limiting any other provisions under these Member Rules (including the right to terminate the Member's membership), in the event of default, Billzy may require the Member to pay immediately all amounts due from the Member under these Member Rules that would not otherwise have been immediately

payable.

34. Dispute Resolution

- 34.1. The parties undertake to use all reasonable efforts in good faith to resolve any dispute, which arises between them in connection with these Member Rules.
- 34.2. Either the Member or Billzy may give the other a notice of dispute in connection with these Member Rules. Both the Member and Billzy agree that Westpac may intervene in any dispute arising. Billzy may at anytime refer to or notify Westpac of a dispute between Billzy and the Member. Any dispute will be referred:
- 34.2.1. initially to the Transactional Manager in the case of Westpac and Manager Finance, in the case of the Member and an authorised person on behalf of the Member, who will endeavour to resolve the dispute within five (5) Banking Days of the giving of the notice; and
- 34.2.2. If the dispute is not resolved within the time specified in **clause 33.2.1**, to the Relationship Manager in the case of Westpac and Director Corporate Service in the case of Billzy, and to a director of the Member, who will endeavour to resolve the dispute within a further ten (10) Banking Days or such other period as is agreed by the parties.
- 34.2.3. If the dispute is not resolved within the time specified, the parties can then take whatever action they deem necessary to resolve that dispute.
- 34.2.4. The operation of this clause does not detract from either party's obligation to continue to comply with these Member Rules.

35. Promotion and Advertising

- 35.1. The Member must not use any advertising or promotional or other material advising or promoting the availability of the Merchant Facility(s) if such material has not previously been approved in writing by Westpac.
- 35.2. The Member must obtain Westpac's written approval, prior to production and publication of any advertising, documents or other material containing any description of or any reference whatsoever to Westpac by name or otherwise or reproducing Westpac's logo or trade mark.

36. Confidentiality

- 36.1. Subject to this clause, the parties will treat as confidential and will not disclose any Confidential Information which comes into their possession pursuant to, or as a result of, any aspect of these Member Rules or from complying with the obligations detailed in these Member Rules.

- 36.2. The obligation of confidentiality will not apply to any Confidential Information where the Confidential Information:
- 36.2.1. is disclosed with the consent of the party who supplied the Confidential Information;
- 36.2.2. is or comes lawfully into the public domain;
- 36.2.3. is required to be disclosed pursuant to any legislation or legal process; or
- 36.2.4. is required to be disclosed to the employees, legal or financial advisers, auditors, or to any other party for the purpose of giving effect to the Agreement.
- 36.3. This **clause 36** continues after the termination of the Member's membership.

37. Intellectual Property

- 37.1. Nothing in these Member Rules is intended to transfer title to either party's intellectual property rights in respect of material, information, know-how, skills, methodologies or tools existing at the date the Member became a member.
- 37.2. All intellectual property rights in any material created under these Member Rules shall, from the time of its creation, vest in the party creating the material.

38. Member Approval

- 38.1. The Member acknowledges and agrees that it must be a Westpac approved business.
- 38.2. Billzy represents that these Member Rules are consistent with the Master Agreement entered into between Westpac and Billzy.
- 38.3. The Member agrees that it will not change its fundamental line of business to, amongst other things, enable Billzy to continue to trade under the assigned MCC code notified to it by Westpac.
- 38.4. The Member agrees that it consents to Westpac's right to audit, review and inspect the Member on a regular basis. The Member acknowledges that Westpac may take immediate steps to either limit or halt the use of the Merchant Facility(s) if these Member Rules are not complied with by Member and that non-compliance is not rectified within a reasonable time frame (no longer than one month).
- 38.5. If the Member changes their business from the agreed industry code, Billzy as the right and will notify Westpac of this change within seven (7) days of the change. The Member agrees and acknowledges that Westpac has the right to re-assess the Member who has changed their business type or business structure.
- 38.6. If the Member, ceases to operate, is declared bankrupt or is subject to other similar circumstances, Billzy will have the right to negotiate with the appointed administrator or receiver and refund any money to the appointed administrator or receiver.

- 38.7. If Westpac suffers any damage or loss or suspects it may suffer any damage or loss as a result of any acts or omissions by the Member, upon Westpac's request, Billzy will immediately terminate or suspend any agreement with Member (or a Related Entity of the Member) and Westpac may do all things necessary to terminate or suspend any dealings with the Member and its Related Entities.
- 38.8. The Member acknowledges that Billzy must comply with any reasonable conditions in any suspension or termination request issued by Westpac under clause 30 in relation to the Member.

39. Authorised Officers

- 39.1. The Member irrevocably authorises Billzy to rely on a certificate by any person purporting to be its director or secretary as to the identity and signatures of its Authorised Officers. The Member warrants that those persons have been authorised to give notices and communications under or in connection with the Agreement.

40. Change of Address

- 40.1. The Member will promptly notify both Billzy and Westpac of any changes in the Member's name or address. The Member will give this notice in accordance with **clause 21**. The Member agrees that it must continue to notify both Billzy and Westpac of any changes for a period of 12 months after the Member ceases to be a member for any reason. Neither Billzy nor Westpac will be responsible for any errors or losses where it has not received adequate prior notice.

41. Jurisdiction

- 41.1. The Agreement shall be governed by and interpreted in accordance with the laws of Queensland

42. Personal Property Securities Act

- 42.1. The Member acknowledges and agrees that if Westpac determines that these Member Rules (or a Transaction in connection with it) is or contains a security interest for the purposes of the PPSA, the Member agrees to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which Westpac asks and considers necessary:

- 42.1.1. to provide more effective security over any personal property over which Westpac has a Security Interest;
- 42.1.2. to ensure that a Security Interest created under or connected with these Member Rules is enforceable, perfected (including, where possible, by control in addition to registration) and services and otherwise effective;

- 42.1.3. to enable Westpac to apply for any registration, or give any notification, in connection with any Security Interest created under or connected with these Member Rules so that the Security Interest has the priority Westpac requires;
- 42.1.4. to enable Westpac to exercise its rights in connection with any personal property over which Westpac has a Security Interest;
- 42.1.5. to bind the Member and any other person intended to be bound under these Member Rules; or
- 42.1.6. to show whether the Member is complying with these Member Rules.

- 42.2. The Member acknowledges and agrees:

- 42.2.1. that Billzy may fill in any blanks in any Membership Application or any document relating to it (such as Corporations Act forms, financing statements or financing change statements);
- 42.2.2. not to register a financing change statement in respect of a Security Interest created under or connected with these Member Rules without Westpac's prior written consent;
- 42.2.3. not to register, or permit to be registered, a financing statement or a financing change statement in relation to any personal property over which Westpac has a Security Interest, in favour of a third party without Westpac's prior written consent;
- 42.2.4. that Westpac need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) and 132(4) of the PPSA, or any other provision of the PPSA notified to the Member by Westpac after the date of the Agreement;
- 42.2.5. that the Member may not exercise any rights under sections 142 and 143 (reinstatement of security) of the PPSA;
- 42.2.6. that neither Westpac nor any receiver (or receiver and manager) appointed by it need give any notice required under the PPSA (including a notice of a verification statement); and
- 42.2.7. that the Member will not disclose or permit any party to disclose any information of the kind referred to in section 275(1) of the PPSA unless section 275(7)(b) or (e) of the PPSA applies.

- 42.3. In this **clause 42** terms in italics have the meaning given to them in the PPSA.

43. Waivers

- 43.1. No failure to exercise and no delay in exercising any right, power or remedy under the Agreement operates as a waiver. Nor does any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or

remedy. Waivers must be in writing.

44. Severability of Provisions

44.1. Any provision of these Member Rules which is prohibited or unenforceable in any jurisdiction will be read down or severed in that jurisdiction to the extent of the prohibition or unenforceability. Such action does not invalidate the remaining provisions of these Member Rules nor affect the validity or enforceability of that provision in any other jurisdiction.

45. Relationship

45.1. Billzy's relationship with the Member is that of an independent contractor, and nothing in these Member Rules will be taken as constituting either party, a servant or agent, or employee of the other party.

45.2. The Member, and Billzy each acknowledge that, except to the extent otherwise expressly provided in these Member Rules:

45.2.1.. they are not, for the purpose of these Member Rules, the legal representative, agent, party to a joint venture arrangement or partner of the other party for any purpose; and

45.2.1.. it, any of its directors, employees or agents, has no right or authority to assume or create any obligations of any kind, or to make any representations or warranties, whether express or implied, on behalf of the other party or to bind the other party in any respect.

46. Force Majeure

46.1. The parties will not be liable for any loss or damage (whether direct or indirect) nor be in default under the Agreement for failure or delay to observe or perform any provision of the Agreement, for any reason or cause of whatever nature which could not, with reasonable diligence, be controlled or prevented by the parties including, without limitation, acts of God, acts of nature, acts of governments or their agencies, fire, flood, storm, riots, power shortages or power failures, strikes, lockouts, labour disputes, sudden and unexpected system failure or disruption by war, sabotage or inability to obtain sufficient labour, raw materials, fuel or utilities.

46.2. This clause does not apply in relation to the Member's obligation to pay Billzy pursuant to these Member Rules.

SCHEDULE 1 – Business Rules

1. Transaction Type Permitted

Card Present

Card Not-Present

2. Member Onboarding

Billzy Onboarding

Westpac Onboarding

3. Funds Disbursement

Completed by Billzy

Completed by Westpac

4. Prepayment Allowed (subject to Credit approval)

Yes

No

5. Special Conditions

- 1) A prepayment assessment must be completed for each Merchant Facility that is established.

SCHEDULE 2 – Assessment and Approval

Billzy will establish a separate Merchant Facility for each type of business they intend to aggregate for. For example, if Billzy wishes to sign-up electricians, plumbers and carpenters etc, then three merchant facilities will be required, each with its own MCC. Each of these facilities will be governed by these Member Rules.

Card payments should be presented under the correct MCC, as required by Card Scheme rules.

When establishing a Merchant Facility under a given MCC, Billzy is authorised by the Member to provide to Westpac:

- A completed and signed Membership Application form for assessment;
- Settlement account details, which must be in the same name as the Merchant Facility and confirmed by Westpac records;

The Member acknowledges that upon receipt of the Merchant Facility application, Westpac may conduct a credit reference report against the proposed member.

All proceeds from the Merchant Facility must settle into a Westpac bank account held in the name of Billzy.

The Member acknowledges that Westpac will have the final say on whether a Merchant Facility will be established for the benefit of a Member or proposed Member.

SCHEDULE 3 – Member Arrangement

These Member Rules govern the relationship between Billzy and the Member.

Billzy represents and agrees that these Member Rules are consistent with and give effect to the Master Agreement.

The Member acknowledges and agrees that:

- Westpac will not be contractually affected by these Member Rules.
- if any provision detailed in these Member Rules are determined to be a breach of the Master Agreement or would be, or is, inconsistent with the operation of the Master Agreement, then the Member agrees that Billzy may, at its own expense, immediately amend or change these Member Rules so that Billzy is not in breach of the Master Agreement or so that these Member Rules are inconsistent with the operation of the Master Agreement.

Billzy will assess each Member before extending the offer of Merchant Facility. This should include collection and assessment of the following information as a minimum:

- Completed and signed Member Application;
- Settlement account details, which must be in the same name as the legal entity that is the Member;
- A commercial credit report of the Member entity;
- A statement of position from all directors/proprietors, or company trading reports, if the Member has prepayment risk greater than \$50,000;
- Copies of previous Merchant Facility statements, where applicable.

Billzy agrees that the member who process, or are expected to process, \$100,000 or more per Scheme, per annum via their Merchant Facility, should have a Merchant Facility established for their exclusive use. The Merchant Facility will remain in the name of Billzy; however the Merchant Facility will transact only those Transactions processed by the Member.

The following Member types will not be supported by Billzy:

- Members selling products that are illegal or breach any law or regulation in the jurisdiction of the Acquirer or Billzy or the member or Cardholder;
- Members selling legal highs;
- Members selling products or services that require licenses, where the license cannot be presented or the license is not valid;
- Members selling goods or services that may carry material reputational risk to Westpac or Billzy;
- Members selling sporting arbitrage software or supporting products;
- Members providing payment aggregation services;
- Members providing sexual services (brothels) and/or escort services;
- Members providing Pay Day Loans;
- Members selling replica, counterfeit and/or fake goods;
- Members growing and/or manufacture of tobacco products;
- Members selling Virtual Currency (Bitcoin)

(Prohibited Members)

The following Member types will only be supported after prior approval by Westpac:

- FX or CFD trading;
- Online pharmaceuticals/prescription medicine;
- Online tobacco;
- Gaming;
- Voluntary carbon credits;
- Debt Recovery (Collections) Agencies;
- Online Liquor Sales;

- Solarium Products;
- Tobacco Cessation (Quit Smoking) Products;
- Sports/Luxury car hire;
- Multi-level marketing business.

The following Member types will only be onboarded by Billzy with caution, given associated risks:

- Members selling products that commit to provide tangible medical and/or health benefit, particularly if there is need for involvement of a medical practitioner when dispensing products or services;
- Members entering into arrangements involving material prepayment risk, particularly products such as solar power, voucher/coupon sales and luxury goods.

Billzy agrees to disburse funds to Members within three business days of receipt of funds from Westpac.

SCHEDULE 4 – Security

The Member acknowledges that the following are dictated to Billzy by Westpac and as such Billzy must ensure that the following are complied with:

1. Westpac, at its sole discretion, may require Billzy to provide security to Westpac to reduce the potential harm to Westpac due to fraud or the provision of credit. This security may take the form of Billzy:
 - Maintaining a set amount of funds with Westpac in a Security Deposit Account;
 - Providing a director's guarantee(s) in favour of Westpac;
 - Providing a mortgage over property in favour of Westpac;
 - Entering into a general security agreement over all present and after-acquired property of Billzy in favour of Westpac; or
 - a combination of all or any of the above.

If Billzy is required to provide any of the security noted above the Billzy may require the Member to also provide the same security to Billzy.

2. Billzy acknowledges that Westpac may notify Billzy before or during the term of the Master Agreement if a form of security is required by Westpac ("**Security Notice**"). Billzy agrees to do everything as soon as practicable, and at Billzy's own expense, to give effect to the Security Notice upon receipt of such notice (this includes, but is not limited to, Billzy or the Member (s) preparing, executing or stamping any required document to give effect to the Security Notice). If Billzy does receive a Security Notice then Billzy may in turn require the Member(s) to in like manner provide a security in favour of Billzy that is proportional to the risk involved. Billzy will have the sole right to determine the member's risk contribution.

SCHEDULE 5 – Fees

Our current fees and charges are outlined below.* These charges are inclusive of Goods and Services Tax (GST). All merchant fees and charges are subject to GST. Billzy reserves the right to vary fees in accordance with the Agreement, this may include where Billzy changes its gateway provider.

Fee Type	Amount	Details
Billzy Transaction Fee (payable by Transferee)	1.67% inc GST	Fees will apply to Visa and MasterCard transactions.
Bank Transfer Fee (payable by Transferee)	Free	Per Bank Transfer
Deal Fee	10% inc GST	Payable by the initiator of a Deal negotiation