

MYOB PayDirect Online Terms and Conditions

February 2016

Issued by MYOB Australia Pty Ltd

ABN 13 086 760 198

Level 3, 235 Springvale Road, Glen Waverley, Vic 3150

1800 555 725

myob.com.au



Important Information

These Terms and Conditions (Terms) govern your use of MYOB PayDirect Online. When you activate an MYOB PayDirect Online Payment Channel you agree to be bound by these Terms (as amended from time to time).

These Terms aim to provide you with enough information to help you decide whether MYOB PayDirect Online will meet your needs.

You should read all sections of these Terms before making a decision to use MYOB PayDirect Online. If you decide to use MYOB PayDirect Online, you should keep these Terms and all documentation relating to MYOB PayDirect Online for future reference.

The advice contained in these Terms has been prepared without taking into account your businesses' objectives, financial situation or needs. Because of this, you should consider whether MYOB PayDirect Online or the advice is appropriate for your business before using MYOB PayDirect Online or acting on any advice in these Terms.

To assist you in understanding these Terms, the definition of some words is provided in the Glossary section of the Terms on page 10.

The information in these Terms may change from time to time and is up to date as at the date stated on the cover. If we update the information in these Terms, we will make that updated information available on our website myob.com.au/paydirectonline.

Paycorp Pty Ltd has consented to being named in these Terms. Paycorp Pty Ltd is an independent service provider and is not an affiliated entity of or in any other way involved with issuing MYOB PayDirect Online. Paycorp Pty Ltd takes no responsibility for any part of these Terms.

What is MYOB PayDirect Online?

MYOB PayDirect Online provides you with access to a range of Payment Channels, such as the Credit Card Payment Channel, that are designed to streamline your collection processes and improve your business cash flow by payment enabling invoices.

MYOB PayDirect Online gives you the ability to have your customers pay your invoices/statements using the Payment Channels that we make available to you from time to time, as described in these Terms.

MYOB PayDirect Online uses the invoicing features that are already in your MYOB software. Once you have registered for MYOB PayDirect Online and selected and activated a Payment Channel, it will be automatically added to your own customised invoices/statements.

Payments made by your customers using MYOB PayDirect Online will be deposited into your nominated business Account as cleared funds, usually by the next business day. The details of all customer Payments made using MYOB PayDirect Online will be emailed to you each day. This information can be used to either manually or automatically update your accounting records.

Further details on the conditions of use are set out later in these Terms.

What are the costs?

The costs of using MYOB PayDirect online are published on our website at myob.com.au/paydirectonline.

Monthly Billing Process

At the beginning of each month, we will debit your nominated Fees Account for the Fees payable for the previous calendar month. A separate charge will be made in respect of each Payment Channel that has been activated. We will also send you a monthly statement providing a breakdown of the Fees that have been charged.

Fee Variations

Please note that certain Fees can vary or may be waived from time to time, as a result of special offers by us, or otherwise in accordance with the Terms. Any such variations or waivers will be published on our website at myob.com.au/paydirectonline

What to do if you have a concern?

Contacting us

You should contact us immediately if you suspect an error has occurred in a transaction or if you experience any other problems concerning the use of the MYOB PayDirect Online. You should do this by either calling the MYOB PayDirect Online support team on 1800 555 725 or emailing us at paydirect@myob.com.au

What we will do

We will promptly look into your concern and decide what course of action should be taken. We will seek to resolve your concern immediately, however if that is not possible, we will aim to resolve it within 5 business days. If this is not possible, we will keep you informed of progress and how long it is expected to take to resolve.

The Terms

1. Introduction

These Terms govern your application for and ongoing use of MYOB PayDirect Online. These Terms also explain relationships with 3rd Parties involved in MYOB PayDirect Online, the available Payment Channels, and our obligations to each other.

These Terms are divided into the following sections:

- Section 1 – Introduction: This section sets out relevant background material.
- Section 2 – Privacy: Privacy is a very important concept in MYOB PayDirect Online. This section refers to our general privacy obligations to you.
- Section 3 - MYOB PayDirect Online - General terms: This section sets out terms and conditions that apply to all Payment Channels available with MYOB PayDirect Online.
- Section 4 - Direct Debit Request Service Agreement: Each Payment Channel requires you to establish and maintain a direct debit request. This section sets out the terms and conditions that apply to the establishment and maintenance of that request.
- Section 5 – Credit Card Payment Channel: This section sets out the specific terms and conditions which, together with those in section 3, apply to the Credit Card Payment Channel.
- Glossary: this sets out definitions and principles of interpretation for these Terms.

2. Privacy

We undertake to comply with our obligations under the Privacy Law in relation to Personal Information. Full details of our privacy policy (the MYOB Group Privacy Policy) are available on our website at the following link: www.myob.com.au/privacy

3. MYOB PayDirect Online - General terms

3.1 Application

- (a) To be eligible to use MYOB PayDirect Online and activate any of the available Payment Channels, you must at the time of your application:
- (1) be the registered user of a Complying MYOB Product or Approved Partner Product;
 - (2) be approved by us to use each Payment Channel that you request us to activate;
 - (3) have a valid ABN; and
 - (4) pay any applicable application Fees to us.

To continue to use MYOB PayDirect Online you must maintain compliance with paragraphs 1 to 4 above.

- (b) An approval to use MYOB PayDirect Online can only relate to one Business. A separate application must be made in respect of each Business for which you wish to use MYOB PayDirect Online and activate a particular Payment Channel(s).
- (c) You must nominate a contact person or persons who are authorised to provide instructions to us on your behalf relating to

your use of an activated Payment Channel. You must name that person or persons and provide accurate and current phone and email details for each of them. You acknowledge that the contact person or persons nominated will be given permission to authorise Adjustments and be provided with transaction details relating to your use of that Payment Channel.

- (d) You will only be able to use MYOB PayDirect Online and activate a Payment Channel when we give you notice that you are approved as a user of MYOB PayDirect Online and that a Payment Channel has been activated. This will happen once you provide all required application information to us, pass our internal checks and checks of 3rd Parties, and pass or meet any specific requirements of a Payment Channel (which may be set out in later sections of these terms, or in relevant application documentation).
- (e) You as user of MYOB PayDirect Online, are fully responsible for ensuring that all information provided to us to setup your use of MYOB PayDirect Online and any Payment Channel is correct. You acknowledge and agree that we are not responsible for any consequences that arise out of your provision of inaccurate information to us.
- (f) You authorise, or you must procure another person to authorise, us and any 3rd Parties that we have contracted with for this purpose, to undertake all necessary credit reference and other checks. You must provide or procure another person to provide all information that is required in respect of your application to use MYOB PayDirect Online and/or activate a Payment Channel.
- (g) We will advise you whether your application to use MYOB PayDirect Online or to activate a Payment Channel has been approved or declined, but we need not give reasons why an application or activation request is declined. We may set a minimum time period before a new application or activation request may be made.
- (h) If your application to use MYOB PayDirect Online or to activate a Payment Channel is declined, you will not be charged any Fees.
- (i) If you are approved to use MYOB PayDirect Online and activate a Payment Channel, you will be given the relevant User Guide which forms part of these Terms.
- (j) If circumstances affecting you may amount to a change of control for your Business (within the meaning of clause 3.9(a)(10)), you must advise us immediately, and if we ask you to, you must resubmit an application to use MYOB PayDirect Online and activate the required Payment Channels in respect of your Business(es). Each such application will be treated as if it was a new application. Your use of MYOB PayDirect Online and any activated Payment Channels will be suspended from the time you notify us of the change of control. If your new application is not approved, your use of all Payment Channels will be terminated.

3.2 Other users of MYOB PayDirect Online

- (a) It is your responsibility to ensure that each user who has access to MYOB PayDirect Online protects the security of their own password. You acknowledge and agree that the indemnity provided by you in clause 3.11(d) includes any Loss or Claim suffered or incurred from the unauthorised use of a user account password.
- (b) You must ensure that all users of MYOB PayDirect Online have read and agree to abide by the instructions contained within the User Guides.

3.3 Privacy and confidentiality considerations

- (a) As part of the application process for MYOB PayDirect Online and the activation process for a Payment Channel, and in certain cases, your ongoing use of any activated Payment Channels, credit or other checks may need to be undertaken by us or 3rd Parties. In this respect you acknowledge and agree that we may need to pass information, including Personal Information relating to you or your Personnel to 3rd Parties for use for these purposes only, and we may receive and use information, including Personal Information relating to you or your Personnel from 3rd Parties in return or in relation to similar matters.
- (b) We will not assist in, and do not guarantee the success of, any such credit or other checks.
- (c) You must:
 - (1) comply with any Privacy Law which you are bound by, or that we notify you that you are bound by (generally because it binds us or a 3rd Party and we wish to pass these obligations on); and
 - (2) not do anything that does or may cause us or a 3rd Party to breach any Privacy Law.
- (d) You must not give us any Personal Information in breach or potentially in breach of any Privacy Law. You undertake to obtain, and you warrant that you will obtain, the express written consent of any relevant person before providing such Personal Information to us. The consent must include consent for us to pass the Personal Information on to 3rd Parties (who may themselves pass it on or otherwise deal with it) for the purposes of MYOB PayDirect Online and the use of a Payment Channel. You also undertake to provide, and you warrant that you will provide, notifications to the relevant individual that their Personal Information may be passed to, and used by us, 3rd Parties or others for these purposes.
- (e) Subject to clause 3.3(f), unless otherwise expressly permitted by these Terms, you must:
 - (1) treat as confidential and not disclose to any person any information which comes into your possession as a result of any aspect of MYOB PayDirect Online or these Terms; and
 - (2) not use any of that information except for the purposes for which it was given to you.

'Information' includes Personal Information, Fees and charges related to MYOB PayDirect Online. You must make sure your Personnel comply at all times with the same obligation of confidence.

- (f) Clause 3.3(e) does not apply to:
 - (1) any information (other than Personal Information) which is in the public domain or becomes generally known to the public other than through breach of these Terms or another obligation of confidence owed by the disclosing party; or
 - (2) any information including Personal Information which is required to be disclosed by the disclosing party under any law or legal process.

3.4 General provisions

- (a) To request changes to the details that you have provided to us in relation to MYOB PayDirect Online or a specific Payment Channel (e.g. account details, contact details) you must submit the appropriate documentation to us as requested, which if indicated, must be signed by the appropriate person/s specified in that documentation.

- (b) If we or a 3rd party identify any activity or circumstance relating to your use of MYOB PayDirect Online that we consider inappropriate or that otherwise requires investigation, you must provide a detailed written response to us within 2 Business Days of our request for an explanation.
- (c) If the day on or by which any thing is to be done under these Terms is not a Business Day, that thing must be done on or by the next Business Day.
- (d) You authorise us to give any authority, consent or instruction to a 3rd Party or other person in relation to the operation of MYOB PayDirect Online, or a specific Payment Channel, provided that authority, consent or instruction is consistent with, or envisaged by, these Terms. We are not liable to you for any action we take under this clause 3.4(d).

3.5 Intellectual property

- (a) Until you cease to use MYOB PayDirect Online, we grant you a non-exclusive licence to use the MYOB PayDirect Online trademarks notified to you from time to time on your MYOB PayDirect Online invoices and other documents specified by us and in any other way that we permit from time to time.
- (b) These Terms do not give you any intellectual property rights in, or other rights in respect of, any of our:
 - (1) software, documents, templates, marketing material, trade marks, business names, logos, trading styles, get-up, processes or methodologies; or
 - (2) other intellectual property, other than those rights which have been expressly licensed to you under these Terms or under another agreement with us or a related body corporate of ours.
- (c) You must not, and you must ensure that your Personnel do not, use, reproduce or modify the intellectual property rights contemplated by clause 3.5(a) except as expressly provided in these Terms or another agreement with us or a related body corporate of ours or with our prior written consent.
- (d) You agree that any intellectual property rights in any systems, processes or methodologies developed by you which derive from your use of MYOB PayDirect Online become our intellectual property.

3.6 Fees and charges

- (a) You must nominate a Fees Account to be used for debiting Fees for each activated Payment Channel.
- (b) You must pay us, or facilitate the payment to us of, all Fees related to your use of an activated Payment Channel, on the due dates.
- (c) We may:
 - (1) change the amounts of any Fees or Fee schedules; and
 - (2) add to, delete from or change the items, transactions or events on which Fees are payable to us, at our discretion. We must use reasonable endeavours to notify you in writing within 20 days of the addition, deletion or change, but lack of or late notification does not affect the validity of the addition, deletion or change.
- (d) If we make a change under section 3.6 (c), you have the option to terminate your use of MYOB PayDirect Online and any activated Payment Channel. See section 3.8 for more details.

- (e) You authorise us to debit from your Fees Account all Fees payable to us in respect of your use of a Payment Channel.
 - (f) It is your responsibility to ensure that there are always sufficient funds in your Fees Account to cover all debits to be processed by us in relation to your use of a Payment Channel. If, despite this requirement, there are not sufficient funds in your Fees Account or we cannot draw funds from your Fees Account under the DDR, you must on demand immediately pay a sum to us in cleared funds sufficient to cover all such debits.
 - (g) We may charge an additional Fee where a debit for Fees is processed to your Fees Account but is subsequently rejected by your financial institution (e.g. the Fees Account is closed or has insufficient funds).
 - (h) Drawings of Fees will ordinarily occur on the 2nd Business Day of each month (but may occur at other times as required or permitted under these Terms or our agreements with 3rd Parties or other persons). We will debit from your Fees Account Fees payable up to the last day of the previous month. We will provide a monthly statement/tax invoice detailing the Fees that have been debited.
 - (i) A schedule of our Fees from time to time is available on our website at myob.com.au/paydirectonline.
- (4) you fail to remedy a material breach of these Terms (including non-payment of any Fees) within 5 Business Days of notice from us;
 - (5) 3rd Party arrangements necessary to facilitate a Payment Channel cease to exist or in our opinion render the ongoing operation of the Payment Channel substantially unworkable or non-functional;
 - (6) the action of a regulator in our opinion renders the ongoing operation of MYOB PayDirect Online, or a particular Payment Channel, substantially unworkable or non-functional;
 - (7) we believe this is necessary either to protect the security, integrity or reputation of MYOB PayDirect Online or any of its Payment Channels, or to otherwise protect our interests;
 - (8) a change occurs in your Business, assets or financial condition which in our reasonable opinion has or may have a material adverse effect on your ability to meet your obligations under these Terms, on our rights under these Terms or on any of our agreements with 3rd Parties;
 - (9) you no longer use a Payment Channel;
 - (10) in our reasonable opinion (having regard to voting rights, rights to receive income or capital, rights to appoint directors and any other matter which we believe relates to effective control) any person or persons who between them as at the date you were first approved to use MYOB PayDirect Online:
 - (A) control you; or
 - (B) control or beneficially own more than 50% of your ordinary shares or other voting, income or capital participation rights, ceases or cease to control you or hold or control more than 50% of those ordinary shares or other rights; or
 - (11) in circumstances set out in relation to a particular Payment Channel.

3.7 GST and duties

- (a) All payments due to us (eg. Fees, reimbursement by you to us of any amounts or payments under indemnities) are to be increased by the amount of any GST liability we have in relation to supplies we make to which those payments relate.
- (b) All duties (eg. stamp duty, debits tax, other government charges or financial institution account fees) payable in relation to your use of MYOB PayDirect Online and any Payment Channels are payable by you, or where we have paid them, must be reimbursed by you on our request.

3.8 How you can terminate your use of MYOB PayDirect Online or an activated Payment Channel

- (a) You can terminate your use of MYOB PayDirect Online or an activated Payment Channel at any time by:
 - (1) calling us on 1800 555 725; or
 - (2) selecting "deactivate" where indicated next to the particular Payment Channel within the MYOB PayDirect Online portal.
- (b) You will be billed any outstanding Fees in the next calendar month immediately following termination. See section 3.6(h) for more details.

3.9 When we can suspend or terminate your use of MYOB PayDirect Online or a particular Payment Channel

- (a) In addition to rights set out elsewhere in these Terms, we may suspend or terminate, without prior notice, your use of MYOB PayDirect Online or an activated Payment Channel where:
 - (1) your direct debit authority is cancelled or withdrawn;
 - (2) you go into liquidation, take, permit or suffer a step toward going into liquidation, or we reasonably suspect you may do so or we have reasonable concerns about your credit worthiness;
 - (3) we receive notification of dispute from one or more of the directors or principals of your Business;
- (b) Following suspension or termination, we will use reasonable endeavours to notify you in writing.
- (c) We can lift a suspension or reinstate suspended use in our absolute discretion by written notice to you, and this takes effect on receipt or any later time specified in the notice, subject to you meeting any conditions set out in the notice.
- (d) If you become aware that a circumstance which would permit us to suspend or terminate your use under clause 3.9(a) has arisen or may arise, you must advise us in writing as soon as possible.
- (e) Upon suspension of your use of MYOB PayDirect Online or a particular Payment Channel:
 - (1) you must immediately cease to use or distribute material containing any intellectual property rights of ours or any 3rd Party granted to you in relation to MYOB PayDirect Online or the Payment Channel (as the case requires);
 - (2) you must comply with any reasonable direction given by us to facilitate that suspension in an orderly manner;
- (3) we may place conditions upon any subsequent application by you for the use of MYOB PayDirect Online or a Payment Channel;
- (4) no accrued rights of yours or ours are extinguished or otherwise affected; and

- (5) any other consequences set out in relation to suspension of a particular Payment Channel(s) apply.

3.10 Following termination

- (a) On termination of your use of MYOB PayDirect Online or a particular Payment Channel by you or us:
- (1) you must immediately cease to use or distribute material containing any intellectual property rights of ours or any 3rd Party granted to you in relation to MYOB PayDirect Online or the Payment Channel (as the case requires);
 - (2) you must comply with any reasonable direction given by us to facilitate that termination in an orderly manner;
 - (3) we may place conditions on any subsequent application by you for participation in MYOB PayDirect Online or the Payment Channel (as the case requires);
 - (4) each limitation of liability in favour of us and clauses 3.3(e), 3.3(f), 3.5(b), 3.6, 3.9, 3.10, 3.11(d), 3.11(e), 3.13(a), 3.16(b), 3.16(d), 3.16(f), 3.16(i), and 5.4 continue to apply;
 - (5) your or our rights against each other which:
 - (A) accrued before the time of termination; or
 - (B) otherwise relate to or may arise at any future time from any breach of these Terms which occurred before the termination, are not extinguished or otherwise affected; and
 - (6) any other consequences set out in relation to termination of specific Payment method apply.
- (b) Please refer to section 5 for more details on what happens following termination of your particular Payment Channel.

3.11 Liability, warranties, representations and indemnities

- (a) We do not warrant or represent that MYOB PayDirect Online or any Payment Channel is or will remain suitable or appropriate for your Business' needs. You acknowledge that MYOB PayDirect Online is a generic service, the scope and operation of which is likely to change over time and that you are solely responsible for assessing your own Business to determine the ongoing suitability and appropriateness of MYOB PayDirect Online or any Payment Channel that you use for your Business.
- (b) We are not responsible or liable to you for any:
- (1) delays, however caused, in the processing of Payments made or received or to be made or received (including within our internal systems), or in other data information exchange, in relation to any Payment Channel; or
 - (2) 3rd Party actions or inaction or the actions or inaction of other persons (including negligent or unauthorised actions or inaction) relating to MYOB PayDirect Online, including those relating to internet connections, or dealings with any money held.
- (c) We are not liable to you for any Loss or Claim, and we are not in default under these Terms, for a failure to comply with these Terms for any cause which could not reasonably be controlled or prevented by us. Such causes include strikes, lockouts, labour disputes, acts of God, acts of nature, acts of governments or their agencies, fire, flood, storm, riots, power shortages or power failure, war, acts of terrorism or hostility, sabotage, system failure or disruption, inability to obtain sufficient labour, raw materials,

fuel or utilities, lack of telecommunications equipment or facilities or failure of information technology or telecommunications equipment or facilities or suspension or termination of 3rd Party agreements or services.

- (d) You indemnify us and our Personnel against any Loss or Claim suffered or incurred by us or any of our Personnel arising from your action or inaction or that of your Personnel, including by your or your Personnel's negligence, misrepresentation, fraud, breach of law or breach of these Terms.
- (e) We hold the benefit of the promises in clause 3.11(d) on behalf of our Personnel.
- (f) You acknowledge that we will be relying on and using information provided by 3rd Parties and other persons in reporting and other matters, and to the full extent permitted by law, we will not be liable to you where a 3rd Party or other person provides incomplete, untrue or misleading or deceptive information and we use that information in good faith.
- (g) We expressly disclaim all conditions and warranties, express or implied, relating to the provision of MYOB PayDirect Online, including any Payment Channel, by us under these Terms. If any condition or warranty is implied into these Terms under any legislation (including the Australian Consumer Law) and the legislation avoids or prohibits provisions in a contract excluding or modifying the application of, exercise of, or liability under such a condition or warranty, the condition or warranty will be deemed to be included in these Terms. However, our liability for breach of the condition or warranty is, if the legislation so permits, limited in our sole discretion to:
 - (1) the resupply of MYOB PayDirect Online or the particular Payment Channel (as the case requires); or
 - (2) the cost of resupply of MYOB PayDirect Online or the particular Payment Channel (as the case requires), in respect of which the breach occurred, and otherwise will be limited to the maximum extent permitted by law.
- (h) You represent and warrant to us that:
 - (1) you have all necessary power and authority to agree to these Terms, to use MYOB PayDirect Online and any Payment Channel activated by you, and to perform your obligations under these Terms;
 - (2) you will comply with all laws or industry codes applicable to you in the exercise of your rights and the performance of your obligations under these Terms; and
 - (3) all information provided at any time by you or on your behalf to us or to any other person involved with MYOB PayDirect Online including 3rd Parties (including material provided in relation to any application for use of a Payment Channel or additional Payment Channels), will be true and accurate at the time it is provided. If you discover that any part of it is or may become materially false or misleading, you will advise us as soon as possible and provide updated or correct information.

3.12 Amendment of documents

- (a) We can add to, delete or amend any of these Terms, the User Guide, templates or other forms, reports or other documents relevant to MYOB PayDirect Online as and when we see fit (including when 3rd Parties require, or relationships or changed relationships with 3rd Parties require).

- (b) If we make a change under this clause:
 - (i) we will use reasonable endeavours to notify you within 10 Business Days of the change; and
 - (ii) you have the option to terminate your use of MYOB PayDirect Online under section 3.8.

3.13 Co-operation

- (a) You must do all things and provide all information as and when reasonably required by us to:
 - (1) fulfil our obligations to 3rd Parties from time to time in respect of MYOB PayDirect Online or a Payment Channel under agreements or otherwise; or
 - (2) otherwise administer MYOB PayDirect Online or a particular Payment Channel.
- (b) You acknowledge and agree that the agreements and obligations we have with 3rd Parties relating to MYOB PayDirect Online and each Payment Channel may change from time to time, that we may not be able to control those changes, and that the changes may require:
 - (1) us to do things including imposing additional or increased Fees or other obligations under these Terms; or
 - (2) you to do things including alter printed materials, cease distributing pre-printed materials or pay additional amounts.
- (c) You acknowledge and agree that the agreements and obligations we have with 3rd Parties relating to MYOB PayDirect Online and each Payment Channel may from time to time require us or you to act, or not act, in a manner otherwise inconsistent with these Terms, and that if this occurs, we may act, or not act, in the manner required without any liability to you, and you must act, or not act, in the manner required (as directed by us) without any liability to us. Any such requirement, action or inaction does not have the effect of changing these Terms.

3.14 Other documents and precedence

- (a) Your application for each Payment Channel and the User Guide form part of these Terms as if repeated in them.
- (b) It is intended that terms specific to a Payment Channel operate collectively with, and not detract from, the general terms in this section 3. However, to the extent of any conflict, terms specific to a payment channel take precedence over the general terms.

3.15 Notices and other communications

- (a) Notices or other communications relevant to MYOB PayDirect Online or a specific Payment Channel may be given:
 - (1) to us by email to paydirect@myob.com.au, or to any other postal address or email address notified by us to you from time to time; and
 - (2) to you:
 - (A) by prepaid post to your nominated postal address from time to time; or
 - (B) by email to your nominated email address from time to time, or to another postal address or email address notified by you to us from time to time.

- (b) For the purposes of the Spam Act 2003 (Cth) you acknowledge and consent to us sending you a notice or other communication by email under clause 3.15(a)(2)(B). In sending such an email, we are not obliged to provide you with a means of unsubscribing or opting-out of receiving any future emails sent by us.

- (c) A notice or other communication given under clause 3.15(a)(1) or (a)(2) is taken to be received:

- (1) if sent by prepaid post, on the 3rd Business Day after posting; or
- (2) if sent by email, 1 hour after sending unless the recipient or the sender's machine notifies the sender in writing within 1 hour from sending that the email has not been received or not been delivered.

3.16 Miscellaneous

- (a) Reliance

We can rely on the authority of persons who are, or who appear to us to be, authorised to act on your behalf.

- (b) Governing law and jurisdiction

These Terms are governed by the law of Victoria. You irrevocably submit to the non-exclusive jurisdiction of the courts of Victoria and courts that may hear appeals from those courts.

- (c) Our consent

Where anything in these Terms requires our consent, then unless expressly provided otherwise, to be effective, that consent must be in writing signed by an authorised officer of ours.

- (d) Waiver

Any waiver of a right or power of ours under these Terms may only be given in writing signed by an authorised officer of ours. We may waive all or part of these Terms, on such terms as we see fit.

- (e) Assignment

- (1) You cannot assign or otherwise deal with your rights under these Terms without our prior written consent.
- (2) We can at any time assign or novate our rights and obligations under these Terms. If we do so, you must execute any documents required to give effect to that assignment or novation.

- (f) Severability

If the whole or any part of these Terms is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of these Terms have full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 3.16(f) has no effect if the severance alters the basic nature of these Terms or is contrary to public policy.

- (g) Whole agreement

These Terms and the documents incorporated by reference in them contain the whole of the agreement between us and you in relation to MYOB PayDirect Online. Any representations or warranties made by our Personnel before you are accepted for participation in MYOB PayDirect Online have no force or effect unless expressly set out in these Terms.

(h) Further action

Both you and we agree to do all things and execute all documents necessary or desirable to give full effect to these Terms and the transactions contemplated by them.

(i) Remedies cumulative

The rights, powers and remedies provided to you and us in these Terms are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

4. Direct Debit Request Service Agreement

4.1 General

- (a) You acknowledge that a DDR will be required in respect of each Payment Channel that you use to enable the direct debit of your Account, or Accounts.
- (b) The sections in these Terms relating to the particular Payment Channel(s) you use may set out further details relating to the required direct debit arrangements for those Payment Channels.
- (c) This section 4 sets out your rights, our commitment to you, your responsibilities to us and where you should go for assistance, in relation to direct debit matters.

4.2 Your obligations

- (a) It is your responsibility to ensure that:
 - (1) your Account, or Accounts, can accept direct debits (your financial institution can confirm this);
 - (2) on each drawing date there are sufficient cleared funds in the Account;
 - (3) we are notified if an Account is transferred, closed or otherwise becomes unsuitable or unavailable for the DDR;
 - (4) you keep a DDR in place at all times; and
 - (5) direct debit through the Bulk Electronic Clearing System is available on your Account (noting that the Bulk Electronic Clearing System is not available for some bank accounts).
- (b) If your drawing is returned or dishonoured by your financial institution:
 - (1) for a drawing for Fees or Adjustments, we will attempt to re-draw after 3 Business Days; and
 - (2) we may add any transaction Fees payable in respect of the dishonour and the re-draw to the amount drawn.
- (c) If you are unsure about when a drawing will be processed in relation to your Account, please enquire directly with your financial institution.

4.3. Our obligations

- (a) We will debit your Fees Account for all Fees and other amounts of any nature payable by you to us or to 3rd Parties in relation to your use of a Payment Channel.
- (b) Drawings for Fees will ordinarily occur on the 2nd Business Day of each month. Other drawings will occur as required or permitted under these Terms or our agreements with 3rd Parties (e.g. to adjust a Payment made by a customer of yours). If a due date for payment falls on a day which is not a Business Day, drawing will take place on the next Business Day following the due date.

(c) We will send you a monthly statement/tax invoice or other advice by email setting out the nature and amount of each drawing.

(d) All Personal Information relating to you held by us will, subject to these Terms, be kept confidential. However, you acknowledge and agree that we will need to provide information to our financial institution to initiate or alter drawings from your Account.

4.4 Changes to DDR arrangements

- (a) We will give you at least 14 Business Days written notice when we change the initial terms of the DDR arrangement.
- (b) If you wish to discuss any changes to DDR arrangements made by us, please contact the MYOB PayDirect Online support team on 1800 555 725 between 9.00am and 5.00pm (AEST) Monday to Friday.
- (c) If you want to change the DDR arrangements, please contact the MYOB PayDirect Online support team. These changes may include, subject to these Terms:
 - (1) deferring a drawing in relation to a later billing period;
 - (2) altering a schedule;
 - (3) stopping an individual debit;
 - (4) suspending the DDR; or
 - (5) cancelling the DDR completely.
- (d) You should direct all such enquiries to us, rather than to your financial institution. These enquiries should be made at least 3 Business Days before the end of a month.

4.5 Queries and disputes

- (a) If you believe that a drawing has been initiated incorrectly, you should initially discuss the matter with us by contacting our MYOB PayDirect Online support team by email at paydirect@myob.com or on 1800 555 725 during normal business hours (AEST).
- (b) If you do not receive a satisfactory response to your issue from us, you should then contact your financial institution to lodge a dispute.
- (c) We may send notices electronically to your email address or by ordinary post to the address that you have given us. Please refer to the notice provisions in section 3.15 for more details on how we will send you notices.

5. Credit Card Payment Channel – Terms and Conditions

5.1 Structure of relationships

We have contractual relationships with 3rd Parties that provide a legal framework for the Credit Card Payment Channel within MYOB PayDirect Online.

5.2 Your obligations to us

- (a) As part of your ongoing use of the Credit Card Payment Channel, you acknowledge and agree that we will receive credit card details of your customers.
- (b) You must:
 - (1) give any reasonable information, assistance, authorities or consents;
 - (2) obtain from your customers any reasonable information, assistance, authorities or consents;

- (3) make any Payment; and
- (4) comply with any reasonable condition or procedural requirement, as directed or reasonably required by us or a 3rd Party participant in the Credit Card Payment Channel, in respect of your use or former use or your customers' use of the Credit Card Payment Channel at your cost, including matters related to:
 - (A) initiating, processing or effecting of transactions, including Payments or Adjustments within the Credit Card Payment Channel;
 - (B) the format of materials issued by you in relation to the Credit Card Payment Channel;
 - (C) our entitlement to be indemnified, or that of another participant in the Credit Card Payment Channel;
 - (D) dealings with confidential information of ours or a 3rd Party participant in the Credit Card Payment Channel; or
 - (E) consents to the collection, use and/or disclosure of Personal Information under Privacy Law, as and when reasonably required by us.
- (c) You may only give your customers the information and materials specified by us (and you must not give them any other information or materials) in relation to the use of the Credit Card Payment Channel to assist them to use the Credit Card Payment Channel.
- (d) If requested by us, you must promptly give us copies of all information and materials you give your customers relating to the Credit Card Payment Channel.
- (e) Your use of the Credit Card Payment Channel is subject to you having and maintaining a current merchant facility with the Card Payments Gateway. Please refer to section 5.6 for more information.
- (f) You acknowledge that:
 - (1) there are times and circumstances where 3rd Party participants in the Credit Card Payment Channel are not obliged to make it available; and
 - (2) at these times and in these circumstances neither you nor your customers will be able to use the Credit Card Payment Channel.
- (g) You acknowledge that we do not give any warranty or make any representation in respect of goods or services that may bind any 3rd Party participant in the Credit Card Payment Channel, including the Card Payments Gateway.

5.3 Adjustments - Refunds

- (a) In respect of Adjustments made by way of a refund in the Credit Card Payment Channel (Refunds):
 - (1) you will be able to process full Refunds of Payments made through the Credit Card Payment Channel;
 - (2) Refunds for an individual Payment received via the Credit Card Payment Channel cannot exceed the value of the original transaction;
 - (3) there is a minimum Refund amount (set by us from time to time);

- (4) a Refund can only be made to the credit card that was used to make the original Payment to which the Refund relates; and
- (5) you can Refund a Payment up to 6 months after the original Payment to which the Refund relates.

5.4 Liability

- (a) We are not liable to you for any Loss or Claim suffered or incurred by you arising in relation to any Payment, Adjustment or other transaction effected via the Credit Card Payment Channel, including any fraudulent, unauthorised or mistaken transaction, Payment instruction, reversal or error correction.
- (b) We are not liable to you for any action or inaction of a 3rd Party in relation to the Credit Card Payment Channel, whether or not under any agreement between us and that 3rd Party.
- (c) You acknowledge that, to the maximum extent permitted by law, neither we nor a 3rd Party participant in the Credit Card Payment Channel is liable to you for any missing or erroneous Payment or the failure or disruption of any process or computer hardware or software beyond that person's reasonable control.

5.5 Suspension and Termination

- (a) You may cancel your use of the Credit Card Payment Channel at any time. See section 3.8 of these Terms for further details.
- (b) We may at any time and without notice:
 - (1) prevent the use or application of money held by us; or
 - (2) suspend or terminate your use of the Credit Card Payment Channel, where we are required to do so by an agreement with a 3rd Party.
- (c) Your use of the Credit Card Payment Channel terminates automatically where:
 - (1) our agreements with 3rd Parties in relation to the Credit Card Payment Channel terminate and no substitute arrangements are in place; or
 - (2) your merchant facility with the Card Payments Gateway terminates or is cancelled.

5.6 Your obligations to the Card Payments Gateway

- (a) As the owner of the Business, you authorise the Card Payments Gateway to apply for and operate the merchant facility for the Business, for the purposes of collecting credit card Payments on behalf of participating organisations.
- (b) In processing your first transaction using the Credit Card Payment Channel, you agree to be bound by the terms and conditions issued by the Card Payments Gateway, as provided to you during your application for MYOB PayDirect Online.
- (c) You agree to process transactions in accordance with that agreement or any operating guides that are issued to you by the Card Payments Gateway from time to time.

Glossary

Definitions

In these Terms:

Account means an account with a financial institution you nominate for the relevant purpose, including a Fees Account;

Adjustment means, for the purposes of sections 3, 4 and 5, an amount paid or payable by you, or on your behalf, in relation to a Payment, including a reversal, a Refund and an error correction;

Approved Partner means a third party accounting or payroll software provider that has entered into a relationship with us to enable their customers to use MYOB PayDirect Online and one or more of the Payment Channels;

Approved Partner Product means an approved partner accounting or payroll product approved by us to utilise and connect to MYOB PayDirect Online;

Bulk Electronic Clearing System means the payments clearing system managed by the Australian Payments Clearing Association Limited also known as BECS or CS2;

Business means a separate business enterprise of yours – you may register a number of business enterprises for MYOB PayDirect Online;

Business Day means:

- (a) a day on which banks are open for business in the city where the notice or other communication is received, excluding a Saturday, Sunday or public holiday; or
- (b) for all other purposes, a day on which banks in Melbourne or Sydney are able to effect settlement through the Reserve Bank of Australia;

Credit Card Payment Channel means the electronic payment service that facilitates payments by credit card, as it operates within MYOB PayDirect Online;

Card Payments Gateway means the institution nominated by us to process transactions within the Credit Card Payment Channel, which is currently Paycorp Pty Ltd, ABN 96 096 953 374;

Complying MYOB Product means a current version of our software specified for operation with MYOB PayDirect Online;

DDR means direct debit request;

Direct Credit means the payment crediting the bank account of a nominated payee in accordance with the instructions transmitted by you in association with an electronic payment message;

Direct Credit System means the system forming part of the Bulk Electronic Clearing System which allows Direct Credits to be made;

Fees means fees and charges payable by you in relation to your use of MYOB PayDirect Online and a particular Payment Channel, as published on our website at myob.com.au/paydirectonline;

Fees Account means an account with a financial institution nominated by you for the purpose of having Fees debited by us for your use of MYOB PayDirect Online;

Loss or Claim means any loss, liability, action, proceeding, damage, cost or expense (including all reasonable legal costs and expenses), including liability in tort and consequential and economic losses;

Password means the unique code selected by a user as their password to enable access to MYOB PayDirect Online;

Payment means an amount received by you, or allocated for receipt by you or on your behalf, from a customer of yours via a particular Payment Channel in MYOB PayDirect Online, including an amount received by you whether or not it should have been paid to you;

Payment Channel means a particular electronic payment service offered as part of MYOB PayDirect Online, for example the Credit Card Payment Channel;

Personal Information means information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion, which is received from any source as a consequence of the exercise of rights or performance of obligations under these Terms or otherwise in relation to MYOB PayDirect Online, including your credit information and your tax file number;

Personnel in relation to a person means that person and that person's officers, employees, agents and contractors;

Privacy Law means the Privacy Act 1988 (Cth), including the Australian Privacy Principles, as updated, replaced or amended from time to time and all other applicable legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to any Personal Information;

Terms means these terms and conditions governing MYOB PayDirect Online; and

User Guide means any user guide that we supply to users of MYOB PayDirect Online, as updated by us from time to time; and

3rd Party means any person with whom we have contracted in relation to MYOB PayDirect Online. This includes the Card Payments Gateway and all other service providers engaged by us for the delivery of MYOB PayDirect Online and the specific Payment Channels.

Interpretation

In these Terms, headings and bold type are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) other parts of speech and grammatical forms of a word or phrase defined in these Terms have a corresponding meaning;
- (c) a reference to a person includes an individual and a company, partnership, joint venture, association, corporation or other body corporate and a government agency;
- (d) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause (d) implies that performance of part of an obligation constitutes performance of the obligation;
- (e) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (f) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (g) a reference to a party to a document includes that party's successors and permitted assigns;

- (h) no provision of these Terms may be construed adversely to us on the ground that we were responsible for the preparation of these Terms or that provision;
- (i) a reference to an agreement other than these Terms includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing;
- (j) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (k) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (l) a reference to a body, other than us or you (including an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (m) examples are descriptive only and not restrictive or exhaustive; and
- (n) 'we', 'us', 'our' and equivalent terms refer to MYOB Australia Pty Ltd (and where relevant, our Personnel) and 'you', 'your' and equivalent terms refer to an applicant for, or participant in, MYOB PayDirect Online (and where relevant, your Personnel).

All matters concerning the interpretation of these Terms and their application, in any specific or general case, may be determined by us in our sole discretion, and we need not give any reasons for our determination.

MYOB PayDirect is a registered trademark of MYOB Technology Pty Ltd.