Smart Real Estate Payments

Terms and Conditions

Effective 7 October 2026

Commonwealth Bank of Australia
ABN 48 123 123 124

008-185 071026

Privacy collection notice – Smart Real Estate Payments

- Neither this privacy collection notice nor our Group Privacy Statement (referenced below) form part of any contract you have with us.
- By using the Service (as defined in the Smart Real Estate Payments Terms and Conditions to which this privacy collection notice is attached) (Terms and Conditions), you acknowledge that you have read this privacy collection notice.

What information we collect

In this privacy collection notice, 'you' includes our customer and any person who holds office in an entity which is a customer. The Commonwealth Bank of Australia ('CommBank', 'we', 'our', 'us') collect information about you (such as your name, address, contact details and identification documentation), and information about your interactions with us (such as bank account and transaction details). We may also collect publicly available information about you.

Why we collect your information and what we use it for

We collect your information because we are required to identify you in accordance with applicable anti-money laundering, financial crimes and sanctions laws, currency control regulations and in order to comply with taxation laws. We also collect it to establish and manage our relationship with you, including risk management and pricing, to provide the Service, to meet our obligations in relation to external payment systems and under our arrangements with government agencies. If you do not provide your information, we may not be able to provide you with the products and services that you require.

We also use your personal information to identify you.

You must give us accurate and complete information, otherwise you may be breaking the law, and we may not be able to provide you with the products and services that you require.

If you change your personal details (such as your address, name or email address), let us know straight away.

Who we may exchange your information with

We may exchange your information with other members of the Commonwealth Bank Group (**Group**), who may use your information for any of the purposes we can. We may also exchange your information with third parties outside the Group: for example, your Tenants (as defined in the Terms and Conditions), your representatives, our licensors, suppliers, subcontractors, and other service providers, other financial institutions, enforcement and government authorities, relevant public registers, payment system operators, and others as required by law. Sometimes, it may be necessary to send your information overseas – for example, where we outsource functions overseas, send information to Group members overseas, where we need to complete a transaction on your behalf, or where this is required by laws and regulations. See our Group Privacy Statement for more information.

Our Group Privacy Statement

Our Group Privacy Statement is available on our website at **commbank.com.au** (search Privacy and follow the Group Privacy Statement link) or upon request from any branch of CommBank, and should be read in conjunction with the above. It contains further details about our information collection and handling practices, including information about other ways we may collect, use or exchange your information; how you may access and seek correction of the information; and how to make a complaint about a breach of your privacy rights, and our complaint handling procedures. This statement also includes details of additional rights that may apply to you if you are located outside of Australia.

How to contact us about privacy

For privacy-related enquiries, please contact us by:

- Email: **CustomerRelations@cba.com.au**
- Telephone: 1800 805 605, or
- Writing: to the address in our Group Privacy Statement.

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Key terms

We would like to make you aware of some important provisions of these Terms and Conditions:

- **Exclusions of our liability:** we exclude our liability to you for various matters, including for:
  - Losses arising from a failure by a Tenant or a User to keep their Tenant Email Address or User Email Address (as applicable) up to date;
  - delays arising due to certain circumstances described in clause 6.8.1 (including failure by a Tenant to authorise a Payment Activity);
  - the imposition by us of limits (imposed fairly and reasonably) on access to and use of the Service;
  - decisions not to process Payment Agreements in certain circumstances described in clause 9.1;
  - the conduct of Tenants and the Property Tree Software (which is not provided by us);
  - Loss resulting from disruptions to the operations or systems of other entities (not being our licensors, suppliers, or subcontractors), or for corruption or interception of data occurring outside our computer systems; and
  - consequential loss, and for liability arising due to defined Qualifying Events.
- **Your liability for loss:** you are liable for certain Losses under these Terms, including:
  - for Losses arising from us acting on information we receive from MRI or via the Agent Portal, that is authenticated (without fault on our part) as having been sent from you, your Users, or your or their Property Tree Software accounts;
  - resulting from us acting on the information we receive from MRI or via the Agent Portal, in the circumstances described in clause 4.1(a);
  - resulting from your failure to meet the Minimum Security Requirements described in clause 5.2;
  - resulting from your failure to notify us of certain events described in clause 5.3; and
  - for Losses we suffer when we exercise our suspension or termination of access and use rights, except in certain circumstances described in clause 9.2.
- **Provision of your data to a third party:** we may provide data you share with us, or data about you, to the third parties as described in our privacy collection notice above for the purposes described in that notice. We may provide such data in a form that will identify you.

Part 1 Background

1.1 About Smart Real Estate Payments

1.1.1 The Smart Real Estate Payments Service is a service which facilitates the creation and management of Payment Agreements for approved Real Estate Agents that meet our eligibility criteria.

1.1.2 The Service is only intended for, and you must only use the Service for, Residential Tenancies.

1.1.3 The Service is not a compliance tool, and we are not responsible for your or any Tenant's compliance with each Lease and applicable Laws. You must only use the Service in compliance with each Lease and applicable Laws. You and the relevant Tenant remain responsible for complying with each Lease and applicable Laws.

1.1.4 Any Payment Activities that you wish to make must be initiated in the Property Tree Software. The Property Tree Software is provided by a separate organisation, MRI, and you will need to maintain your own separate subscription to use the Property Tree Software. We are not responsible for providing the Property Tree Software to you, but will act on instructions and information you provide to us via the Property Tree Software in relation to any Payment Activities. We will also provide certain information to MRI regarding your Payment Agreements and Payment Activities, for you to access via the Property Tree Software. This includes information that allows the reconciliation in the Property Tree Software of Payments received.

1.1.5 As part of the Service, we will separately make the Agent Portal available to you in accordance with the Agreement. The Agent Portal enables you to access certain information and perform some activities in relation to the Service.

1.2 About the Agreement

1.2.1 The Agreement is comprised of the following:

(a) any separate document which the parties have agreed applies to the Service and prevails over any other provisions of the Agreement;

(b) any Payment Method Requirements;

(c) these Terms and Conditions, other than any Payment Method Requirements;

(d) any Smart Real Estate Payments Fee Schedule applicable to you;

(e) the Smart Real Estate Payments Establishment Form; and

(f) any terms and conditions referred to in the Smart Real Estate Payments Establishment Form or which apply to any underlying account, payment and other services that you use in connection with the Service, including:

  (i) the Business Transaction & Savings Account Terms and Conditions, which apply to your Nominated Account(s);

  (ii) the Direct Debit Terms, where you have chosen Direct Debit as a Payment Method;

  (iii) the BPAY® Biller Agreement, where you have chosen BPAY as a Payment Method;

  (iv) the SmartREP PayTo Send Terms and Conditions, where you have chosen PayTo as a Payment Method; and

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(v) the CommBiz Terms and Conditions, where you use the CommBiz Service in connection with the Service,

(the services referred to in this clause 1.2.1(f) being **Other Services**, and the terms and conditions, including any relevant fee schedules, applicable to them being the **Other Terms and Conditions**, copies of which are available at **commbank.com.au**, from your Relationship Manager or otherwise as provided to you).

1.2.2 In some cases, the functionality and design of the Service means that aspects of the Other Services are delivered in a different manner than how those Other Services are usually provided. As a result, certain provisions in the Other Terms and Conditions may apply differently when the Other Services are used in connection with the Service. Those differences are described in Schedule 1 of these Terms and Conditions.

1.2.3 If, despite Schedule 1 of these Terms and Conditions, there is any inconsistency between any parts of the Agreement, the first-listed above in clause 1.2.1 will prevail to the extent of the inconsistency.

1.3 Start and duration

The Agreement starts on the day we approve your Smart Real Estate Payments Establishment Form, or as otherwise agreed, and continues until terminated in accordance with these Terms and Conditions.

Part 2 Smart Real Estate Payments

2.1 Eligibility

2.1.1 To be eligible for the Service, you must meet the Bank's eligibility criteria for accessing its products and services. Among other things, this includes that you must:

(a) be registered, licensed, authorised or approved (as the case may be) in each applicable State and Territory in which you operate as a Real Estate Agent; and

(b) have access to the Property Tree Software as a customer of MRI.

2.1.2 If you suspect or become aware that you no longer meet the eligibility requirements for the Service set out in clause 2.1.1, you must immediately inform us by contacting your Relationship Manager.

2.1.3 If we provide you with access to the Service, and we subsequently determine (acting reasonably) that you are no longer eligible for the Service, we may suspend or terminate your access in accordance with clause 9.2.

2.2 Smart Real Estate Payments

2.2.1 Subject to the Agreement, we will provide you with the Service as set out in Section 1 of the Table below. Your Users will be required to accept our Agent Portal Terms and Conditions in order to access and use the Agent Portal. If your Users do not accept our Agent Portal Terms and Conditions, they must not use the Agent Portal and we may restrict or prevent their access.

2.2.2 The Service also includes the Tenant Portal set out in Section 2 of the Table below, however the Tenant Portal is not available to you as a Real Estate Agent or your Users. It is only available as indicated in Section 2.

Description and capabilities of the Service, including the Tenant Portal

Item	Functionality	Description
Section 1 – Description and capabilities of the Service		
1	Agent Portal	A web portal facilitating the management of Users, Tenants, Payment Agreements, and Payments.
2	Payment Agreements	Create and manage Payment Agreements between you and a Tenant via the Property Tree Software.
3	Payments	Facilitate the processing of Payments related to a Payment Agreement.
4	Payments matching	Automated matching of Payments against a Payment Agreement (where possible). Note: • Not all payments are capable of being matched (including due to Tenant errors in making BPAY payments). • The receipting and reconciliation service is provided by MRI and is MRI's responsibility.
5	SmartREP Messages	Automated messages relating to Payment Agreements or Payments sent to: • you or a User from the Service via email; or • Tenants from the Service via email on your behalf.

Item	Functionality	Description
6	Creation of CRNs for BPAY payments	Creation of new CRNs for Tenants who choose to make Payments using BPAY.
7	CommBiz Service account statement (existing non-Service functionality that can be used in conjunction with the Service)	You can use your CommBiz Service to download account balances and transactions reporting files (containing Payments information). Note: The reconciliation service is provided by MRI and is MRI's responsibility.
Section 2 – Description and capabilities of the Tenant Portal		
8	Tenant Portal (only available to Tenants, not available to you or your Users)	A web portal available to Tenants which provides information relating to a Tenant's Payment Agreements, Payment Methods, Payments and personal details.

Part 3 Payment Agreements

3.1 General requirements and responsibility

3.1.1 In order to use certain functionality of the Service, including to initiate and update Payment Activities, you must use the Property Tree Software. This will require you to activate the Service in the Property Tree Software and maintain that activation.

3.1.2 You may only create one Payment Agreement for a Lease.

3.1.3 Before initiating a Payment Agreement in relation to a Lease, you must:

(a) be appointed the managing agent in relation to the Lease, with the right to collect payments under the Lease. You must not use the Service on a bureau or white label basis on behalf of any other real estate agent business;

(b) have taken steps to identify and verify the identity of the Tenant, including in accordance with applicable Law governing the relevant Lease and requirements or guidance in that State or Territory;

(c) confirm that you have the correct contact details for the Tenant for use with the Tenant Portal, including the Tenant Email Address, and for accessing help and support, including the Tenant's phone number;

(d) communicate with the Tenant about your use of the Service, including when any Payments will commence, and take steps within your control to manage any existing methods you use to receive payments from the Tenant, so that you and the Tenant can correctly transition from any existing payment arrangements and avoid duplicate or incorrect payments being made by the Tenant; and

(e) as required by clause 4.8.1, obtain the Tenant's consent to receiving communications relating to the Service.

3.1.4 You acknowledge that the Lease is the governing document which sets out the terms of each relevant tenancy. You must ensure that:

(a) you are entitled to collect all amounts that you collect under a Payment Agreement, including on the Payment Dates nominated by you; and

(b) any amounts you collect under a Payment Agreement, including amounts collected through any Payment Activity initiated by you under a Payment Agreement, are collected in accordance with applicable notice and timing requirements,

under the associated Lease and in accordance with any applicable Laws (unless the amount collected is a Held for Tenancy Payment, which is subject to the terms of clause 3.4). You are responsible for initiating any Payment Activities as necessary in order to comply with this obligation.

3.1.5 If a Tenant informs you that they wish to update their contact details for the Tenant Portal, which may include the Tenant Email Address, you must promptly update the Tenant's details for the Tenant Portal.

3.1.6 If a Tenant Email Address or User Email Address is not able to receive emails from us for any reason (for example, if that email account is closed, the storage limit has been reached, or the Tenant or User has configured that email account not to receive emails from us), the Tenant or User may not be able to (as applicable):

(a) access and use the Tenant Portal or Agent Portal; or

(b) receive communications relating to the Service.

For a Tenant, this could result in Payments or Payment Activities occurring without the Tenant's review, failed or missed Payments, suspension of the Tenant's Payment Agreement, and failure by the Tenant to receive updates about the Tenant Portal and the Service. For a User, this could result in activities occurring without the User's review and failure to receive updates about the Agent Portal or the Service. If we receive a bounce-back advising that an email could not be delivered to a Tenant Email Address or User Email Address, we will contact you to try and obtain a new email address for that Tenant or User. You must use all reasonable efforts to assist us to obtain a new email address for the relevant Tenant or User, if we are unable to contact them using the Tenant Email Address or User Email Address (as applicable). However, we are not liable for any Losses arising from a failure by a Tenant or a User to keep their Tenant Email Address or User Email Address (as applicable) up to date.

3.1.7 If we are unable to obtain a new email address for the Tenant after following the process described in clause 3.1.6, we may suspend or terminate the Tenant's access to and use of the Tenant Portal and may suspend or cancel their Payment Agreement or any Payment under the Tenant Portal Terms and Conditions. If we choose to exercise our right of suspension, we will use reasonable endeavours to reinstate the Tenant's access to and use of the Tenant Portal, their Payment Agreement and Payments (as applicable), promptly after we obtain a new email address for the Tenant and the email address is able to receive communications relating to the Tenant Portal.

3.1.8 We are not responsible for ensuring that you, any Landlord or Tenant complies with the terms of the relevant Lease or any applicable Laws, including residential tenancy laws, and this remains a matter between you and them.

3.1.9 You must comply with any applicable Laws regarding disclosure of financial benefits you may receive in connection with your use of the Service (if any).

3.2 Payment Methods

3.2.1 You must choose at least one Payment Method for the Service.

3.2.2 You must only offer Payment Methods to Tenants that you yourself have accepted to use in connection with the Service. Your use of the Payment Methods must be in accordance with the requirements of the Other Terms and Conditions (subject to clauses 1.2.2 and 1.2.3).

3.2.3 When using a Payment Method, you must comply with any Payment Method Requirements (see Schedule 1, Schedule 2 and Schedule 3) that are applicable to that Payment Method. The Payment Method Requirements may vary the other requirements in these Terms and Conditions or impose additional obligations.

3.2.4 You may remove a Payment Method by submitting a Smart Real Estate Payments Maintenance Form in accordance with the timeframes outlined in the Documentation, before you want the Payment Method to be removed. We may suspend or remove a Payment Method by providing notice to you in accordance with this Agreement or the Other Terms and Conditions.

3.2.5 Where a Payment Method is to be suspended or removed, you must give each affected Tenant as much notice as possible (at least 30 days) before the suspension or removal takes effect (or provide as much notice as possible, if we provide you with less than 30 days' notice). If a Payment Method is removed or suspended and a Tenant has not selected a new Payment Method for an active Payment Agreement, any upcoming Payments under that Payment Agreement may fail, which may result in consequences for the Tenant such as late payment fees and suspension of the Tenant's Payment Agreement (see clause 3.6).

3.2.6 You can request a new Payment Method by submitting a Smart Real Estate Payments Establishment Form, and any other required documentation to us. You must meet the eligibility criteria and product requirements for the new Payment Method and any request made by you may be accepted or rejected by us in accordance with such eligibility criteria or product requirements.

3.3 Payment Activities generally

3.3.1 You can initiate Payment Activities in the Property Tree Software.

3.3.2 Certain Payment Activities must be authorised by the Tenant before they become effective and for Payments to be received through the Service.

3.3.3 Payment Activities may otherwise become effective once made by you in the Property Tree Software (i.e. they do not require Tenant authorisation), although may subsequently be declined by the Tenant, if that functionality is provided in the Tenant Portal, before the Payment Date.

3.3.4 You must contact the Tenant directly to resolve any matters about the authorisation or non-authorisation, or their decline, of a Payment Activity.

3.3.5 Before initiating any Payment Activity on your own initiative (and not in response to a request by the Tenant), where required you must provide the Tenant with sufficient notice of the subject of the Payment Activity in accordance with your obligations under the associated Lease and any applicable Laws, which may include notice provided outside of the Service.

3.3.6 Where a Payment is to be made using a Payment Method that requires us (as not the Tenant) to initiate the Payment, you authorise us to initiate each such Payment in accordance with the relevant Payment Agreement, together with any retries as provided for by the relevant Payment Method Requirements.

3.4 Held for Tenancy Payments

3.4.1 If a Tenant requests you to hold an amount in trust on their behalf, to be applied to future payments that arise under the Lease, you may initiate a Payment Activity to collect the Held for Tenancy Payment.

3.4.2 Held for Tenancy Payments are completely optional for a Tenant and Payment Activities for the collection of Held for Tenancy Payments may only be initiated where requested by a Tenant outside the Service, and then only in accordance with that request.

3.4.3 If a Tenant requests to make a Held for Tenancy Payment, you must document:

(a) any such request made by the Tenant; and

(b) the terms agreed between you and the Tenant in relation to the Held for Tenancy Payment, including how you may apply such amounts (for example, if there are specific kinds of future payments that those amounts can or cannot be used for).

3.5 Amending and cancelling Payment Agreements and Payments

3.5.1 You may amend and cancel Payment Agreements and Payments by initiating a Payment Activity, subject to compliance with your obligations under the Lease and any applicable Laws (including any notification obligations).

3.5.2 We will do what we can to assist if you have initiated a Payment Activity in error and have been unable to amend or cancel that Payment Activity before the relevant Payment occurs.

3.5.3 If you believe a Payment has been received in error, you must contact the Tenant.

3.5.4 A Tenant may request that you amend or cancel a Payment Agreement, Payment or Payment Activity. If you agree with such a request, you should promptly initiate a Payment Activity to reflect the request. If you do not agree with the Tenant's request, you should contact the Tenant to discuss the request, provided that you should honour a request by the Tenant to cancel their Payment Agreement where they no longer wish to use the Service and must comply with your obligations under the Lease and applicable Laws in managing any request or dispute concerning a Tenant's Payment Agreements, Payments or any Payment Activity.

3.5.5 We may cancel, or require you to cancel, a Payment Agreement or Payment:

(a) in accordance with these Terms and Conditions, including clauses 3.1.7 and 9.2.1(a);

(b) where requested by the Tenant. We will use reasonable endeavours to contact you before we cancel a Payment Agreement at the request of the Tenant, however we will honour a request by the Tenant to cancel their Payment Agreement;

(c) where we exercise our right to terminate a Tenant under the Tenant Portal Terms and Conditions; and

(d) where a Tenant has not accepted the Tenant Portal Terms and Conditions or any amendment of the Tenant Portal Terms and Conditions.

3.6 Failed or missed Payments

3.6.1 If a Rental Payment has failed or is missed, the Payment Agreement will be suspended, subject to any Payment Method Requirements.

3.6.2 If a Payment Agreement is suspended for a failed or missed Rental Payment, at any time up until the time the Payment Agreement is cancelled, the Tenant can:

(a) make a Recovery Payment; or

(b) make arrangements with you for the failed or missed Rental Payment to be made outside of the Service. In this case, you will need to manually allocate this Recovery Payment in the Property Tree Software, as this payment will not be reconciled by the Property Tree Software,

in which case the Payment Agreement will be unsuspended.

3.6.3 If an Other Payment has failed or is missed, you will need to initiate a new Payment Activity if you still wish to receive the Other Payment via the Service.

3.6.4 You are solely responsible for managing Tenants who are in financial difficulty in accordance with any Laws that are applicable to you.

3.7 Suspending and unsuspending Payment Agreements

3.7.1 A Payment Agreement may be suspended and unsuspended as follows:

Reason for suspension	When a Payment Agreement will be unsuspended
If a Rental Payment fails or is missed, as described in clause 3.6.1.	A Payment Agreement is unsuspended as described in clause 3.6.2.
The Tenant requests you to suspend the Payment Agreement, and you have contacted us to suspend the Payment Agreement as described in clause 3.7.2.	The Tenant requests you to unsuspend a Payment Agreement, and you have contacted us to unsuspend the Payment Agreement as described in clause 3.7.2.
We may suspend a Payment Agreement in accordance with clause 3.1.7.	In accordance with clause 3.1.7.
We may suspend a Payment Agreement in accordance with clause 9.2.	In accordance with clause 9.2.4.
We may suspend a Payment Agreement where we exercise our right to suspend a Tenant under the Tenant Portal Terms and Conditions.	We will use reasonable endeavours to reinstate the Payment Agreement promptly after the reason for suspension has been resolved, in accordance with the Tenant Portal Terms and Conditions.
We may suspend a Payment Agreement on request of the Tenant.	Where we are advised that the Tenant wishes to unsuspend their Payment Agreement.

3.7.2 You must contact the Help Desk if you receive a request from the Tenant outside of the Service to suspend or unsuspend a Payment Agreement. You must provide clear information in relation to the request including the Tenant details, Payment Agreement reference and reason for the suspension or unsuspension. We will action your request promptly and notify you when your suspension request has been successfully actioned.

3.8 Consequences of the cancellation of Payment Agreements and Payments

3.8.1 Upon cancellation of a Payment Agreement:

(a) all future Payments scheduled under that Payment Agreement will be stopped;

(b) no further Payments can be initiated under that Payment Agreement; and

(c) the cancelled Payment Agreement cannot be amended or reinstated. A new Payment Agreement must be created if needed.

3.8.2 Upon cancellation of an Other Payment:

(a) any future payments scheduled for the Other Payment will be cancelled; and

(b) the cancelled Other Payment cannot be amended or reinstated. A new Payment Activity must be initiated if needed.

3.8.3 Where the final Rental Payment has been made under a Payment Agreement:

(a) no further Payments will be made under that Payment Agreement; and

(b) no further Payment Activities can be initiated under that Payment Agreement.

3.9 Reconciliation and receipting

3.9.1 If the Service is unable to match a payment received against the corresponding Payment, you will need to review the Payment and if required, manually allocate the payment in the Agent Portal. This can occur, for example, where a Tenant makes a payment using BPAY with an error in the CRN or payment amount.

3.9.2 We will provide MRI with details of Payments received, so that MRI can facilitate the receipting and reconciliation of those payments in the Property Tree Software. It remains your responsibility to ensure receipts are issued to Tenants as required by Law, and this is not part of the functionality of the Service.

You must only disburse Payments received by Direct Debit after those Payments have been cleared in accordance with the applicable Direct Debit clearing process. For further information on the clearing process for Payments received by Direct Debit, refer to clause 7(a) of Schedule 1 of the Receivables Terms and Conditions.

3.10 Exporting of Payments information

You can download your latest account statements by logging into your CommBiz Service and uploading the files into the Property Tree Software.

3.11 SmartREP Messages

3.11.1 The Service will send automated SmartREP Messages from a Bank registered domain on your behalf to the Tenant in relation to Payment Activities and their upcoming Payments.

3.11.2 You can upload your name and logo in the Agent Portal for display on these SmartREP Messages.

3.11.3 While the Service sends SmartREP Messages on your behalf in relation to a Payment Agreement, you are solely responsible for any debt collection activities you undertake in relation to overdue payments under a Payment Agreement.

3.12 Tenant Complaints

3.12.1 Tenants must be able to raise Tenant Complaints directly with you.

3.12.2 For inquiries and complaints relating to Payments, you must investigate the inquiry or complaint and resolve the matter in accordance with the Lease and applicable Laws.

3.12.3 If a Tenant contacts us directly relating to a Tenant Complaint (other than a complaint relating to the Tenant Portal), we will inform them to contact you or the Tenant Financial Institution for resolution.

3.12.4 We will deal with the Tenant directly where the Tenant Complaint relates to the Tenant Portal.

3.12.5 At our request, you must provide us with information and assistance relating to your use of the Service, including information and assistance relating to specific Payment Agreements and Payments and which allows us to respond to any disputes or investigations that are raised in relation to your use of the Service (including disputes and investigations raised by any other financial institution or person involved in a Payment). You must provide such information and assistance to us within the timeframe reasonably specified by us, including any timeframe that we or our service providers are required to meet as a result of our participation in any Payment Scheme.

Part 4 Responsibilities, changes, IP and privacy

4.1 Specific responsibilities

(a) You are responsible for the accuracy of, and we may rely and act upon as having been given with your authority, the information (including any instruction, request or other message) that we receive:

(i) from MRI, that is authenticated (without fault on our part) as having been sent from you or your Users, or your or their Property Tree Software accounts; or

(ii) via the Agent Portal, that is authorised by you or your Users. When an activity occurs via the Agent Portal using your Means of Authentication, we may assume that you authorised such activity, unless:

(A) you notified us under clause 5.3 of any actual or suspected compromise of your Means of Authentication, and we have been given a reasonable opportunity to cancel that Means of Authentication and re-issue new Means of Authentication to you; or

(B) improper use of your Means of Authentication is due to our fraud, negligence, or wilful misconduct.

This may include information that is fraudulent, contains deficiencies or errors in relation to the amount, accuracy, timeliness or authorisation of any communication or Payment Instruction, or sent as a result of a fraud, scam, or other malicious activity.

(b) Any information (including any instruction, request or other message) referred to in clause 4.1(a) is taken to be validly given by you for the purposes of any Other Terms and Conditions.

(c) We are not required to verify the information we receive from you or the authority of you or a User. We are not required to act on your instructions unless you have provided all of the required information to enable us to do so.

(d) You must promptly respond to any messages you receive from us in relation to the Service.

(e) If you experience any activity that appears suspicious or erroneous, you must promptly report such activity to us by calling the numbers for Frauds and Scams listed in clause 10.2.

(f) If you believe that you have provided incorrect information to us (including in any instruction, request or other message) that you are not able to correct yourself without consequence, you must contact us immediately.

(g) You must not use the Service for fraudulent or improper purposes.

(h) You must act promptly in relation to any instructions that you receive from Tenants in relation to a Payment Agreement.

(i) You must comply with all applicable Laws in connection with your use of the Service.

4.2 Our responsibilities

We will accurately reflect the information that we receive from MRI or via the Agent Portal in connection with a Payment Activity, that is authenticated or authorised as described in clause 4.1(a).

4.3 Limits on access and use

4.3.1 Any limits imposed on you in relation to your use of the Other Services will continue to apply to your use of the Other Services when you use the Service. For example, your Direct Debit Limit will apply to all Direct Debit transactions processed using your BECS User ID, which includes Direct Debit transactions initiated via the Service.

4.3.2 In addition:

(a) from time to time, we may impose limits on your (and any User's) access to and use of the Service (including the number of Payment Agreements that may be made or the total value of transactions that may be made under a Payment Agreement over a period of time);

(b) when we take any action under this clause 4.3.2, we will act fairly and reasonably towards you including by notifying you where appropriate (including in accordance with clause 7.2 where applicable) and in the case of temporary actions, by reinstating your limits or access to and use of the Service when we believe it is reasonable to do so; and

(c) except to the extent caused by our negligence, mistake or wilful misconduct, or that of our agents, we will not be responsible for any Loss you incur from any action taken under this clause 4.3.2.

4.4 Nominated Account(s)

4.4.1 For the duration of the Agreement, you must:

(a) establish and maintain:

(i) SmartREP Settlement Account(s) as required by the Other Terms and Conditions applying to the Payment Methods used by you; and

(ii) a SmartREP Billing Account,

into which payments made using the Service may be credited and from which Fees and charges and other amounts payable under the Agreement or in connection with the Service may be debited. You must not nominate a Statutory Trust Account as a SmartREP Billing Account; and

(b) maintain and have sufficient funds in those Nominated Account(s) for the payment of Fees, charges and other amounts.

4.4.2 You must only nominate an account as a Nominated Account(s) where you are permitted by law to use it for that purpose. We may from time to time impose additional restrictions on the types of accounts that can be nominated as a Nominated Account(s). We may require you to nominate an alternative account if a Nominated Account(s) does not meet the requirements of the Agreement or any additional restrictions we inform you of, or we otherwise reasonably believe it is appropriate to do so.

4.4.3 If you become aware of any changes to a Nominated Account(s) or if you no longer own or have authority to use a Nominated Account(s), you must immediately inform us by contacting your Relationship Manager or the Help Desk.

4.4.4 The Agreement does not affect the existing relationship we have with you regarding the operation of your Nominated Account(s). This includes, for example, our right to deduct fees, transaction costs and other amounts from your Nominated Account(s), and to vary the terms and conditions of the Nominated Account(s), under and in accordance with the applicable Other Terms and Conditions.

4.5 Intellectual Property Rights

4.5.1 We, our licensors, suppliers, or subcontractors remain the owner of all CBA Materials, including all Intellectual Property Rights in them. Except as expressly provided in the Agreement, you do not obtain any right, title, or interest in or to the CBA Materials. If new works, inventions, designs or processes are created by us or our Personnel in the performance of or as a result of this Agreement, these will also be our property.

4.5.2 You or your suppliers remain the owner of your Customer Systems. If new works, inventions, designs or processes are created by you or your Personnel in relation to your Customer Systems, these will also be your property.

4.6 Uploaded Materials

4.6.1 If you upload Material to the Agent Portal or arrange for us to display Material for you on the Agent Portal or Tenant Portal (all such Material being Uploaded Material), you grant us a non-exclusive, royalty free, non-transferrable, non-assignable (except with a permitted assignment of the Agreement under clause 8.5), licence (including a right of sublicence) during the term of the Agreement to use the Uploaded Material for the sole purpose of, and only to the extent necessary, to provide you with the Service, and a Tenant with the Tenant Portal.

4.6.2 You confirm that you have all necessary rights to grant us the licence contemplated in this clause 4.6, and that our use of the Uploaded Materials in accordance with that licence will not infringe the Intellectual Property Rights of any other person.

4.7 Licence to use CBA Materials

4.7.1 We grant you a non-exclusive, royalty free, non-transferrable, non-assignable (except with a permitted assignment of the Agreement under clause 8.5) licence during the term of the Agreement to use the CBA Materials provided to you for the sole purpose of, and only to the extent necessary, to access and use the Service in accordance with the terms of the Agreement (including the limitation on your licence rights set out in clause 4.3.2).

4.7.2 You may permit Users to access and use the CBA Materials in accordance with the terms of the Agreement. In all other respects, the licence to CBA Materials cannot be sub-licensed.

4.7.3 You must not use, modify, copy, develop, enhance, reproduce, distribute, transmit, perform, display, or otherwise deal with CBA Materials for any purpose other than to access and use the Service. You must not copy, modify, adversely affect, reverse engineer, hack into or insert malicious code into the CBA Material.

4.8 Right to provide Customer Data

4.8.1 Subject to clause 4.8.2, where you disclose any Customer Data (including any Personal Information within the Customer Data) to us, you must:

(a) ensure that you have all necessary rights, including having taken all steps required under applicable Privacy Laws:
   (i) to provide that Customer Data (including any Personal Information within the Customer Data) to us;
   (ii) for us, our licensors, suppliers or subcontractors to collect, use, disclose and otherwise handle that Customer Data for the purpose of providing you and your Users with access and use of the Service under the Agreement;
   (iii) for us to disclose that Customer Data to MRI, for use by MRI subject to any terms it has agreed with you;
   (iv) for us to communicate with your Tenants in relation to the Service; and
   (v) as otherwise described in the privacy collection notice at the start of these Terms and Conditions and our Group Privacy Statement; and

(b) direct the relevant Customer or User to our Privacy Collection Notice and Group Privacy Statement available on **commbank.com.au** so they understand how we handle their personal information (noting the Privacy Collection Notice must be read as applying to that Customer or User).

4.8.2 Your obligation in clause 4.8.1 applies to the extent we rely on you to provide us Customer Data. For example, clause 4.8.1 will not apply if we collect Customer Data directly from that User or Tenant through their access and use of the Agent Portal or Tenant Portal (as applicable).

4.8.3 You must ensure your compliance with clause 4.8.1 without us needing to provide any additional notice or obtain any additional consents. The steps you must take include having systems and processes in place and updating your privacy policies, collection notices and any other applicable terms and conditions related to the access to and use of the Service, including those between you and your Personnel, Users and Tenants as required to allow Customer Data (including any Personal Information within the Customer Data) to be collected, used, disclosed, or otherwise handled by us, our licensors, suppliers or subcontractors in accordance with the Agreement.

4.8.4 To the extent we require a Customer or User's written consent to disclose, use or otherwise handle their Personal Information, you must take all reasonable steps to obtain such written consent from each Customer or User. If you obtain the Customer or User's written consent, you must provide a copy of the written consent to us promptly on our request. If a Customer or User refuses to provide, or withdraws, such written consent, for so long as that consent remains outstanding you must not allow that Customer or User to use the relevant part of the Service, including any Payment Method, to the extent that it cannot be provided in compliance with applicable Privacy Law or an applicable Payment Scheme Rule without that consent.

4.8.5 Upon request, you must promptly provide us with evidence of your compliance with clauses 4.8.1 to 4.8.4, including any information reasonably necessary for us to respond to any inquiry or complaint regarding our communications with Tenants in relation to the Service.

4.8.6 To the extent permitted by Law, we may use and disclose information regarding you, including details about your transactions, your financial conditions, your account relationship with us and your account(s) to any Government Agencies, Law enforcement bodies and courts and other parties that we are authorised or required by Law to disclose information to.

Part 5 Security

5.1 You must take reasonable steps and implement Minimum Security Requirements

5.1.1 You are responsible for the security of your Customer Systems, and your Means of Authentication when stored within your Customer Systems.

5.1.2 Without limiting the foregoing, you must take all reasonable steps to secure and prevent unauthorised access to the Agent Portal and Services, and your Customer Systems, Means of Authentication and Nominated Account(s).

5.1.3 You agree that each of the following are reasonable steps:

(a) implementing the Minimum Security Requirements - see clause 5.2; and

(b) notifying us in accordance with clause 5.3.

5.1.4 You acknowledge that if you fail to secure your Customer Systems, and your Means of Authentication when stored within your Customer Systems, it is possible that unauthorised persons may alter your instructions, give us instructions using your Means of Authentication, or otherwise facilitate activity in the Agent Portal or for the Service using your Means of Authentication. You will be responsible for any losses that result from any such failure, except as otherwise provided in Part 6.

5.1.5 At our request (acting reasonably), you must provide us with accurate information regarding your Customer Systems and Means of Authentication. Without limiting any other rights we may have, we may require you to implement any reasonable security improvements, updates or remediation measures where we reasonably determine that your security measures are inadequate or pose a risk to the Services.

5.2 Minimum Security Requirements - General

5.2.1 You must implement each of the following Minimum Security Requirements:

Your Customer Systems

(a) Keep your Customer Systems and Means of Authentication secure at all times.

(b) Ensure that only persons authorised by you can access your Customer Systems.

(c) Maintain the security of your Customer Systems to a standard that is appropriate for the sensitivity of the data and functionality that can be accessed through the Services.

(d) Ensure that all of your Customer Systems are kept physically secure and up to date with the most recent security functions.

(e) Use up-to-date and appropriate malware detection and response software and security settings suitably configured to protect all of your Customer Systems.

(f) Do not implement or permit any practice, configuration or activity that would reasonably be expected to weaken the security of your Customer Systems, your Property Tree Software account or the Agent Portal.

Your Means of Authentication

(g) Maintain the security of all Means of Authentication within your Customer Systems in a manner that is appropriate for the sensitivity of the data and functionality that can be accessed through the Services.

(h) Never disclose any Means of Authentication to anyone, including a Bank representative or a person purporting to be a Bank representative for any purpose.

(i) Never enter any Means of Authentication into any website, app, or software other than the Property Tree Software or the Agent Portal, or save a Means of Authentication in a browser.

You agree that if you do not implement any of the above requirements relating to your Means of Authentication, you will be taken to have disclosed your Means of Authentication regardless of whether or not you or the User are deceived as to the identity of the third person or the purpose of the disclosure.

Without limiting any other rights we may have, we may, in our discretion require you to update or replace your Means of Authentication.

Accessing the Services

(j) Ensure that the Services are only accessed directly through the Property Tree Software or the Agent Portal, and by entering the URL for them directly into a browser and not through a search link or any link sent by a third party, including a Bank representative or a person purporting to be a Bank representative for any purpose.

(k) Use only up-to-date software with the most recent security patches when accessing or using the Services, the Property Tree Software or the Agent Portal.

(l) Do not introduce or attempt to introduce, and do not permit any other person (including a User) to introduce or attempt to introduce, any Harmful Code, or other harmful components into the Agent Portal or our other computer systems when accessing or using the Agent Portal or Services.

(m) Other than to your organisation's verified IT support Personnel, never allow remote access, remote access software, remote desktop sharing or other tools which may enable a third party to view or access your Customer Systems, the Agent Portal, the Services, the Property Tree Software or the Agent Portal on any computer or other device (including by inadvertently downloading remote access software, remote desktop sharing or any other tool (e.g. AnyDesk)).

(n) Do not circumvent, bypass, disable, undermine or otherwise interfere with any security controls, safeguards or mechanisms implemented by us in connection with the Agent Portal or Services.

How Users access the Services

(o) Regularly monitor the Property Tree Software and the Agent Portal, and your Nominated Account(s), Customer Systems and Means of Authentication, to ensure that all instructions are accurate and properly authorised by you.

(p) Ensure that you and your Users do not choose a password or passcode to access the Property Tree Software, the Agent Portal or your Customer Systems that is easy to guess such as a password that represents a date of birth, name or address, a common quote or phrase, or use the same password or passcode that is used to access any other services.

(q) Regularly monitor your User's access to and use of the Property Tree Software, the Agent Portal and the Services to confirm that all access and use of the Property Tree Software, Agent Portal and the Services, (including the instructions sent from the Property Tree Software and Agent Portal) is properly authorised by you.

Records

(r) Maintain sufficient records, audit trails and logs in relation to access to and use of your Customer Systems and the Services to enable the detection, investigation and remediation of any suspected or actual unauthorised access or Security Incident, and retain such records for a reasonable period.

5.3 Notifications

(a) Without limiting any of your other obligations in this Part 5, you must immediately (and in any event no later than 24 hours) inform us by contacting your Relationship Manager or the Help Desk if you or a User suspect or become aware of any of the following:

(i) the loss, theft, misuse, misplacement, disclosure or compromise of your Customer Systems or Means of Authentication;

(ii) any unauthorised use or access of the Services, including any instructions that have been submitted or altered without proper authorisation;

(iii) any compromise or threatened compromise of the security or reliability of your Customer Systems or Means of Authentication;

(iv) a disclosure of your Means of Authentication such as the disclosures described in clause 5.2;

(v) any compromise or threatened compromise of your Property Tree account, including the means by which you or your Users authenticate access to that account;

(vi) an actual or suspected breach of your obligations under this Part 5;

(vii) a change to your or a User's personal or contact details or business details in connection with the Services;

(viii) that you or a User no longer have authority to access and use the Agent Portal or Services; and

(ix) that you have, or a User has, introduced Harmful Code into the Agent Portal while accessing or using the Services. You must provide all known details when you notify us,

(each a **Security Incident**).

(b) You must promptly take all reasonable steps to contain, investigate, mitigate, remediate and prevent recurrence of any actual or suspected Security Incident, and must cooperate with us in relation to any such Security Incident, including by providing us with any information and assistance reasonably requested by us.

5.4 Provision of information and assistance

5.4.1 We will maintain adequate records in relation to the Agreement as required by Law.

5.4.2 You must maintain adequate records to evidence your compliance with the Agreement, including records to evidence that you are entitled to collect all amounts the subject of a Payment Agreement. You must maintain such records for at least 7 years from the end of the financial year in which they were created.

5.4.3 At our request, you must provide us with information and assistance relating to your use of the Service, including copies of the records referred to in clause 5.4.2, to allow us to respond to any Payment Claim or Tenant Complaints that are raised in relation to them. You must provide such information and assistance to us within the timeframe reasonably specified by us (**Relevant Time Period**).

5.4.4 If:

(a) we request that you provide records to us under clause 5.4.3;

(b) such records are stored in the Service; and

(c) you are unable to retrieve those records from the Service,

you must contact us promptly and within a reasonable period of time before the end of the Relevant Time Period advising us of your inability to retrieve those records in the Service.

Part 6 Liability

6.1 Tenants

While the Service provides a means for you to interact with Tenants in relation to Payment Agreements, we are not responsible for the acts or omissions of Tenants, including any failure to keep the Tenant Email Address up to date, any authorisation, failure to authorise or decline of any Payment Activity, failure of a Tenant to have sufficient funds to make a Payment or failure to initiate a Payment using their banking platform (as applicable), or any Payment Claim or Tenant Complaint (other than in relation to the Tenant Portal).

6.2 Property Tree Software and MRI

As described in clause 1.1, the Property Tree Software, and associated functionality, such as the receipting and reconciliation of your Payments, is provided by MRI. We are not responsible for providing the Property Tree Software to you, MRI is not a subcontractor of ours, and the Property Tree Software does not form part of the Service provided by us. Without limiting any rights or remedies you may have under Law, we are not liable to you for any Loss arising from your use or inability to use the Property Tree Software, or from errors arising from the Property Tree Software.

6.3 What you are liable for

You are liable for any Losses you suffer, that arise from us acting on information that we receive as described in clause 4.1(a).

6.4 Our liability under the Other Terms and Conditions

In addition to the terms of the Agreement, our liability in relation to a Payment is subject to any limitations or exclusions set out in the Other Terms and Conditions.

6.5 Consequential Loss

Subject to the Non-Excludable Provisions and to the maximum extent permitted by Law, neither party is liable for, and no measure of damages will, under any circumstances, include:

(a) special, indirect, consequential, incidental, or punitive damages; or

(b) damages for loss of profits, revenue, goodwill, anticipated savings or loss or corruption of data,

whether in contract, tort (including without limitation in negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.

6.6 Contribution

Each party's liability under the Agreement is reduced to the extent that the acts or omissions of the other party, or those of a third party other than a licensor, supplier, or subcontractor to that party, contributed to or caused the Loss.

6.7 Liability for Users

6.7.1 You must ensure that your Personnel and Users are aware of, and comply with, the obligations that are imposed on you or those Users under the Agreement, including by providing each User with a copy of these Terms and Conditions. You will be liable for the acts and omissions of all your Personnel and Users in connection with the Agreement as fully as if they were your own acts and omissions.

6.7.2 Clause 4.1(a) applies to information we receive from MRI or via the Agent Portal. You agree that we can treat any other instruction given by you or a User in connection with the Service as being made with your authority. You are responsible for the accuracy of any such instruction. We do not have to verify your authority or the authority of a User unless you have otherwise told us to do so before such instruction is made.

6.8 Delays

6.8.1 Delays might occur in relation to Payment Activities or the processing of Payments including if:

(a) incomplete or incorrect information has been provided to us;

(b) the Tenant does not authorise a Payment Activity (where applicable), or does not do so within the required timeframe, or if the Tenant declines a Payment Activity;

(c) the Tenant delays in resuming a Payment Agreement following suspension;

(d) the Tenant incorrectly captures the CRN or Payment Agreement BPAY Biller Code details;

(e) the Tenant Financial Institution delays in processing a Payment;

(f) the Tenant Bank Account or your Nominated Account(s) is closed, or the details provided are incorrect;

(g) you fail to comply with your obligations under the Agreement;

(h) you exceed a Usage Limit; or

(i) there are insufficient funds in the Tenant Bank Account to process a Payment, or the applicable limit being exceeded.

6.8.2 We will not be liable to you for any delay referred to in this clause 6.8 (except where the delay was due to our fraud, negligence or wilful misconduct or that of our licensors, suppliers or subcontractors).

6.9 Disruptions

6.9.1 The Service may from time to time be unavailable due to scheduled maintenance, system or software updates, upgrades or changes, and operational procedures.

6.9.2 While we take great care to ensure that our systems and processes are robust, you accept that disruptions to our processes may cause interruptions and faults to the Service, and we do not guarantee, represent, or warrant that your access to and use of them will be uninterrupted or fault-free. We will use all reasonable endeavours to overcome any faults or interruptions in the Service as quickly as possible.

6.9.3 Disruptions to the operations and systems of other entities (other than our licensors, suppliers, or subcontractors) may also delay the processing of a Payment Activity or Payment. We cannot control the operations and systems of other entities, and we are not liable to you for such delays or any other loss resulting from disruptions to the operations or systems of those other entities.

6.9.4 You are responsible for storing and making appropriate backups of Customer Data. We are not liable to you for any loss, corruption, or interception of data (including Customer Data) occurring outside of our computer systems (for example, where it occurs while such data is being sent over the internet).

6.10 Disclaimer of warranties and guarantees

6.10.1 To the maximum extent permitted by law, we exclude and disclaim any warranty, guarantee or assurance not expressly set out in the Agreement. Warranties implied or guarantees imposed by the Australian Securities and Investment Commission Act, the Australian Consumer Law, or other legislation may apply to the Agreement, or your access to or use of the Service (**Non-Excludable Provision**).

6.10.2 If we breach any Non-Excludable Provision, and we are able to limit your remedy for that breach, then to the extent permitted by the relevant Law, our liability shall be limited to:

(a) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or

(b) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

Part 7 Variations

7.1 Changes

(a) Acting reasonably and to protect our legitimate interests, we may vary the Agreement, including to increase or introduce new fees, by giving you notice of the variation in accordance with clauses 7.2 and 8.9.1 of these Terms and Conditions. Without limiting our reasons for making changes, we may do this to ensure the terms of the Agreement are reasonable and appropriate for the Service (including as they evolve over time).

(b) You cannot amend, modify, or vary the Agreement unless you make a request in writing, and we accept it. To make such a request, please contact your Relationship Manager.

7.2 Notification of changes

7.2.1 Our obligation to give you advance notice as specified below does not apply if:

(a) doing so is necessary for us to avoid, or to reduce, a material increase in our credit risk, or your, or our Loss;

(b) a change is required to immediately restore or maintain the security of a system or an individual facility, including the prevention of systemic or individual criminal activity, including fraud and scams, or to otherwise manage a material and immediate risk;

(c) there is a change to, or introduction of, a government fee or charge that you pay directly, or indirectly, as part of the Service. In that case, we will tell you about the introduction or change reasonably promptly after the government notifies us (however, we do not have to tell you about it if the government publicises the introduction or change).

7.2.2 In other cases, the amount and method of notice we give for changes are as follows:

Change	Minimum number of days' notice	Method of notice
Introduce or increase a fee or charge in relation to your use of the Service	30 days	Via notice to you*, by advertisement in the national or local media, or in writing addressed to you* unless we cannot locate you
Increase your liability for Losses relating to your use of the Service	30 days	Via notice to you*, by advertisement in the national or local media, or in writing addressed to you* unless we cannot locate you
Any other change that we believe to be unfavourable to you	30 days	Via notice to you*, by advertisement in the national or local media, or in writing addressed to you* unless we cannot locate you
Any other changes that we believe to not be unfavourable to you (including where we introduce new Services)	No later than the day on which the change takes effect	Via notice to you*, by advertisement in the national or local media, or in writing addressed to you* unless we cannot locate you
Any change required due to a change in Law	No later than the day on which the change takes effect	Via notice to you*, by advertisement in the national or local media, or in writing addressed to you* unless we cannot locate you

*Notices in writing may be provided electronically – see clause 8.9.1.

7.2.3 If we vary the Agreement in a way that you don't approve of, you have the option to cease using the Service at any time, and may terminate the Agreement under clause 9.4. If you do not agree to any variation we make to the Fees (other than any variation that is made in respect of a government fee or charge that you pay directly, or indirectly, as part of the Service) and you elect to terminate this Agreement under clause 9.4 during the relevant notice period before the variation has taken effect, the varied Fees will not come into effect for you.

Part 8 General provisions

8.1 Customer representations and warranties

You represent, warrant and undertake on a continuing basis until the termination of the Agreement that:

(a) you have full power and authority to enter into, perform and observe your obligations under the Agreement;

(b) you have the power to own your assets and to carry on your business in the manner it is being conducted;

(c) the Agreement will not cause you to breach any contract to which you are a party;

(d) there are no actions, suits or proceedings pending or, to your knowledge, threatened against or affecting you or your Related Bodies Corporate from time to time, before any court or administrative body or arbitral tribunal that might have a material effect on the ability of you to perform your obligations under the Agreement;

(e) your obligations under the Agreement are valid and binding and enforceable in accordance with their terms;

(f) you have not breached and will not breach any Laws in entering the Agreement, including any Laws regarding the offering of unlawful inducements in connection with this Agreement; and

(g) you will continue to comply with all applicable Laws.

8.2 Notification of breaches of representations and warranties

You must immediately notify us, by contacting your Relationship Manager, in writing if you become aware or suspect that any of the representations and warranties in clause 8.1 are false or have been breached.

8.3 Our Confidential Information

We may provide you with information about the Service which is by its nature confidential, designated by us as confidential, or which you ought reasonably to know in the circumstances is confidential, and which is not otherwise publicly known (**Our Confidential Information**). Our Confidential Information includes the Fees we agree with you. You may only use Our Confidential Information for the purpose of performing your obligations under the Agreement and to use the Service. You may only disclose Our Confidential Information to the extent required by law, or with our prior written consent. At our request, when no longer needed you must return or destroy all of Our Confidential Information in your possession or control except for such copies that you are required by law to retain.

8.4 Qualifying Events

A party will not be liable for any failure to perform its obligations under the Agreement (other than an obligation to pay money) where that performance is delayed, prevented, restricted, or interfered with due to a Qualifying Event. The affected party must:

(a) notify the other promptly of any delay referred to in this clause 8.4; and

(b) use its best efforts to minimise the effect of the Qualifying Event and resume performance in accordance with the Agreement as soon as possible.

8.5 Assignment

(a) You must not:

  (i) assign, sub-license, novate, or otherwise transfer or dispose of your rights or responsibilities under the Agreement without our prior written consent; or

  (ii) disclose, display or otherwise make the Services available to any other person (other than Users) without our consent.

(b) We may at any time assign, novate or otherwise transfer all or part of the Agreement to a third party in connection with the sale of some or all of our business, or any member of the CBA Group, by providing written notice to you.

8.6 Waiving rights

No delay, neglect, or forbearance by either party in enforcing its rights or any provision of the Agreement against the other party is considered a waiver or in any way prejudices any right of either party, unless expressly stated in writing.

8.7 Severability

If any part of the Agreement is void, voidable or unenforceable then that part of the Agreement is severed from the Agreement and the remainder of the Agreement will continue to be enforceable.

8.8 Government duties, fees and charges

You must pay all government duties, taxes, fees, and charges which arise from the Agreement and the rights it gives you.

8.9 Marketing and commercial messages

8.9.1 If you provide us with contact details (such as an email address or mobile phone number), you agree that we may use them to communicate with you (unless you tell us not to), including:

(a) to send commercial electronic messages;

(b) for direct marketing purposes; and

(c) to make phone calls to you on an ongoing basis.

8.9.2 We may use third party service providers such as marketing companies or mail houses to send messages on our behalf for direct marketing purposes. You agree that (unless you tell us not to) we may share your Personal Information with marketing companies or mail houses so they can send direct marketing messages on our behalf.

8.9.3 If you provide us with contact details or other Personal Information of other persons (such as Users), you acknowledge that:

(a) you have provided those persons with a copy of our Privacy Collection Notice and Group Privacy Statement; and

(b) you have obtained the consent of each person for us to collect, hold, use and disclose their personal information in the same manner as described in this clause 8.9.

8.9.4 We will provide you with options you may use to opt out of receiving commercial electronic messages we send you and to choose the way we send them. While in some cases one of the options may be an unsubscribe facility, you agree:

(a) we are not required to include an unsubscribe facility in commercial electronic messages we send you; and

(b) you may be required to log in to your account and update your marketing preferences, to unsubscribe from commercial electronic messages.

8.9.5 Opting out of commercial electronic messages may impact our ability to provide you with information about all the benefits that are available. There are, however, messages that we must be able to send you and which you will not be able to opt out of receiving.

8.10 How we can communicate with you

8.10.1 Unless otherwise specified, we can give you notices or otherwise communicate with you (and any Users you nominate) (including by electronic means) by:

(a) sending the information by email to an email address you nominate;

(b) sending the information by SMS message to a mobile phone number you nominate;

(c) sending the information to any other electronic address you nominate;

(d) making the information available on our website or within the Agent Portal and sending you an electronic notification (e.g. email, SMS message or push notification) that the information is available;

(e) advertising in the national or local media; or

(f) any other means we agree with you.

8.10.2 However, to the extent that we are obliged under Law to communicate with you in a certain way, we will do so.

8.10.3 If we send a notice by email to an email address you have provided us for contacting you and we receive a bounce-back informing that the email could not be delivered (which does not include any out of office or similar holding response), we will make three attempts to contact you using other contact details you have provided us for use with the Service. However, provided we are in the process of doing or have done these things, we will still be regarded as having satisfied our obligation to provide any notice to you under these Terms and Conditions that is sent to the email address you have last given to us, and it remains your responsibility to keep your contact details up to date.

8.10.4 We record that you received an electronic notice on the day that our notification enters the first external information system, such as the server of the relevant email address. Even if we normally provide statements or notices in one of the methods provided above, we may occasionally send you a statement or notice by another method described above instead – for example, if we are unable to provide the information via the first channel.

8.10.5 Where we provide notice by advertising in the national or local media, that notice will take effect on the day the advertisement appears in the media, unless a later date is set out in the notice.

8.11 How you can communicate with us

8.11.1 You and any User can communicate with us and notify us by contracting your Relationship Manager or the Help Desk. Depending on the reason for contacting us, we may require that you or a specific User contacts us to resolve your request.

8.12 Consent

If you ask for our consent, we will only refuse if it is reasonable to do so. If we consent, we may provide our consent subject to reasonable conditions with which you must comply. At any time, in our absolute discretion, we may withdraw or change the conditions of the prior consent.

8.13 Other messages

8.13.1 You may receive SmartREP Messages via email or other messages in relation to the Service via the Agent Portal.

8.13.2 We may suspend the sending of such messages at any time where we reasonably believe it is in your or our interest to do so or if we cannot send them (such as technical faults beyond our control or maintenance).

8.13.3 We will endeavour to send messages as close as possible to the relevant time, but we are not liable if their transmission or receipt is delayed or prevented due to circumstances beyond our reasonable control.

8.14 Governing law

The Agreement is to be governed and construed in accordance with the law of the State of New South Wales and the parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

8.15 Banking Code of Practice

The relevant provisions of the Banking Code of Practice apply if you are an individual or 'small business' as defined in the Banking Code of Practice on the Australian Banking Association website.

8.16 ePayments Code

The ePayments Code does not apply to the Service or any other facilities that are designed primarily for use by a business and established primarily for business purposes. For the avoidance of any doubt, the Agreement will not be interpreted so as to treat the Service or any other facility designed primarily for use by a business and established primarily for business purposes as if the ePayments Code applies to it.

8.17 Entire agreement

8.17.1 Nothing in the Agreement limits any liability either party may have in connection with any representations or other communications (either oral or written) made prior to or during the term of the Agreement, where such liability cannot be excluded (including under the Australian Consumer Law).

8.17.2 Subject to clause 8.17.1, the Agreement states all of the express terms of the agreement between the parties in respect of its subject matter. To the extent permitted by applicable Laws, the Agreement supersedes all prior discussions, negotiations, understandings, and agreements in respect of its subject matter.

8.18 Electronic execution of documents

If you agree to enter into agreements electronically or to electronically sign documents, you agree that we can treat any electronically signed agreements or documents as having been properly signed by you.

8.19 Email forms

If we receive a form or document, which reasonably appears to us to have been properly completed, signed, and sent by you as an attachment to an email, it shall be deemed to be an original form and to have been sent and authorised by you. We may at our discretion (acting reasonably) refuse to accept any such form sent by email provided that we notify you of such refusal as soon as practical.

8.20 Relationship of parties

8.20.1 For the purposes of the Agreement, the parties are not and are not to be taken to be in a partnership, joint venture, or employment or fiduciary relationship in relation to the Service.

8.20.2 Nothing in the Agreement gives a party authority to bind any other party in any way.

8.21 Comply with Regulator directions

You must comply with any directions provided directly or indirectly by a Government Agency in relation to our operations, where that direction relates to you, and we notify you of it.

8.22 Public statements

If you publicly refer to your participation in the Service, you must ensure that you do not misrepresent the Service or the nature of your relationship with us, or use any of our logos or other branding without our prior written consent.

8.23 Subcontracting

8.23.1 We may subcontract or delegate the performance of any of our obligations under the Agreement to a third party appointed by us or our Related Bodies Corporate. We remain fully responsible for any subcontracted services and obligations and will be liable for the acts and omissions of our subcontractors as if they were our acts or omissions.

8.23.2 You must not permit any third party to access or use the Service, without our prior consent. You remain fully responsible for any access or use of the Service by a third party that is permitted by you, and will be liable for the acts and omissions of any such third party as if they were your acts or omissions.

8.24 Data provided to subcontractors

In addition to our disclosure of Customer Data to subcontractors for the purposes of providing the Service:

(a) if you choose to manage Payment Agreements, Payments or any other payments through any portal that a subcontractor provides to you directly and that you choose to use; or

(b) if you cease using the Service, but choose to continue using an equivalent product that is enabled by a subcontractor (whether offered by that subcontractor or another financial institution),

we will provide Customer Data to that subcontractor for the purposes of that subcontractor providing services to you and your Tenants. If you engage with that subcontractor in the circumstances set out in clauses 8.24(a) or 8.24(b), we are not responsible for the subsequent use and disclosure of that Customer Data by that subcontractor, as that will occur under the terms of your agreement with them.

Part 9 Unacceptable use, suspension and termination rights

9.1 Unacceptable use

9.1.1 You and each of your Users must not, and you must not permit or procure others to, access and use the Service to engage in conduct that in our opinion:

(a) is unlawful, including conduct that may contravene any Law;

(b) is fraudulent or malicious;

(c) disrupts the normal operation of the Service, or any other systems operated by us, or our other business activities;

(d) attempts to gain unauthorised access to the Service, undermine any security measures applied to them, or disrupt the integrity or performance of the Service;

(e) uses the Service for the purposes of product evaluation, benchmarking or other comparative analysis intended for publication;

(f) is high risk where the use or failure of the Service could lead to death, personal injury or damage to physical property;

(g) impersonates any other person in accessing or using the Service;

(h) interferes with any other person's access or use of the Service;

(i) is offensive, defamatory, harassing or threatening to any person;

(j) violates the copyright, trademark, proprietary or other Intellectual Property Rights of any member of the Bank group or any third party;

(k) damages the name or reputation of any member of our Bank group or any third party;

(l) promotes or encourages physical or mental harm of any person;

(m) may cause, result in or otherwise perpetuate financial abuse, or domestic and family violence;

(n) constitutes product evaluation, benchmarking or other comparative analysis intended for publication;

(o) is a high risk activity where the use or failure of the Service could lead to death, personal injury or damage to tangible property;

(p) promotes violence against any person; or

(q) threatens or promotes terrorism,

(each constitutes **Unacceptable Use**).

9.1.2 In the event that you or a User fail to comply with the Unacceptable Use requirements, we may without notice and immediately or at any time:

(a) refuse to process or complete any transaction or dealing of yours; and

(b) suspend or discontinue your or a User's access to and use of the whole or part of the Service.

9.1.3 We are not liable to any party for any Loss arising from any decision not to process a Payment Activity based on this clause 9.1 other than where such Loss is caused by our fraud, negligence or wilful misconduct or that of our licensors, suppliers or subcontractors.

9.1.4 When we take any action under this clause, we will act fairly and reasonably towards you.

9.2 Suspension and termination of access rights

9.2.1 Right to cancel, suspend or restrict access or not to process instructions

(a) Without limiting any other rights we may have, we may, in our discretion, cancel, suspend, restrict or terminate your or any User's access to or use of the whole or any part of the Service, which includes cancelling, restricting or suspending any access to or use of the Service (including access to or use of the Agent Portal for any User), declining or holding the processing of a transaction, Payment Activity, Payment Agreement or Payment, or suspending or cancelling a Payment Agreement or Payment.

(b) When we take any action referred to in this clause 9.2.1, we will act fairly and reasonably towards you, including by:

  (i) notifying you of such action if appropriate to do so, and providing you with a general reason for such action, unless we reasonably believe that giving you a reason would:

    (A) be adverse to, or compromise, our legitimate business interests (including managing any material risk), or

    (B) cause us to be in breach of applicable Laws, and

  (ii) (if applicable) notifying you of any action you are required to take for us to lift the suspension or restriction.

9.2.2 When we can exercise our rights

(a) Without limiting the circumstances where we can exercise our rights under clause 9.2.1 above, we may exercise those rights (acting reasonably and fairly) if any of the following reasons apply:

  (i) (**non-payment**) you fail to pay fees in accordance with Part 12;

  (ii) (**inactivity**) you or any User have not accessed or used the Service for six months and we suspend access to safeguard your security, provided there are no active Payment Agreements (you may contact us within 18 months of the suspension to unsuspend your or a User's access);

  (iii) (**uncontactable User**) in respect of a User, if we are unable to provide a notice or message to the User Email Address, after following the process described in clause 3.1.6;

  (iv) (**protection from Loss – use of the Services**) we reasonably believe that:

    (A) your Customer Systems, Means of Authentication, a Payment Agreement or Payment may be being used (including by third parties) contrary to any Law including fraudulently or as part of a possible scam or in any way that might otherwise cause you, us or another person Loss or harm; or

    (B) we reasonably consider that the risk of fraud or other Losses relating to your use of the Service is too high, including when taking into account the volume or nature of disputes (including Payment Claims and Tenant Complaints);

  (v) (**Payments to cryptocurrency or digital asset exchanges**) we think you have initiated a Payment Activity or Payment that relates to an account or type of account which we reasonably believe may be owned or controlled by a cryptocurrency or digital asset exchange;

  (vi) (**breaches of this Agreement and Unacceptable Use**) you or a User breaches this Agreement, or we reasonably suspect that you or a User have or will breach this Agreement, including:

    (A) by engaging in conduct that constitutes Unacceptable Use;

    (B) where a Usage Limit has been exceeded;

(C) if any of the Agent Portal, Services, your Customer Systems or Means of Authentication or an access method has been operated in a manner we reasonably consider is unsatisfactory or inconsistent with this Agreement; or

(D) failing to pay Fees;

(vii) (**not providing us with material information**) you do not provide us with any material information we reasonably request;

(viii) (**your security**) you do not comply with any of the requirements set out in Part 5, or we reasonably believe your Customer Systems or your Means of Authentication used for the Services are compromised;

(ix) (**our systems and data**) we reasonably believe that the function, integrity, security or reliability of our systems or data (or those provided by third parties) are compromised or threatened, including where caused by an excessive number of Payment Activities or Payments, or where a Payment Activity, Payment Agreement or Payment poses a risk to the function or integrity of information systems or data;

(x) (**third party services**) where a third party service we rely upon to provide any part of the Service or MRI has been suspended or terminated, or a third party provider requires the suspension or termination, through no fault of our own;

(xi) (**corrupted Payments**) any Payment Activities Payments or other information we receive from MRI or via the Agent Portal, that is authenticated (without fault on our part) as having been sent from you, your Users, or your or their Property Tree Software accounts, are corrupted, or at risk of having been altered without your approval;

(xii) (**ineligibility**) you are no longer eligible to access the Service as set out clause 2.1;

(xiii) any of the Other Services have been suspended or terminated pursuant to the Other Terms and Conditions, other than due to your decision to discontinue a particular Payment Method;

(xiv) you cease to maintain the required Nominated Account(s), or we reasonably believe that any Nominated Account is:

(A) not owned or no longer owned by you; or

(B) owned by an entity that we are not permitted to deal with;

(xv) (**your compliance with Laws, and illegal and offensive products and services**) we believe on reasonable grounds that:

(A) there is an actual or suspected breach of Laws applicable to you in connection with your access to or use of the Service;

(B) you have engaged in conduct that materially breaches any applicable Australian or overseas Law (including Laws relating to sanctions);

(C) you are making a payment for the purchase of products or services that are illegal in Australia or another relevant jurisdiction, or contain offensive material;

(D) a Payment Activity, Payment Agreement or Payment relates to products or services that are illegal in Australia or elsewhere, or contain offensive material, including offensive messages; or

(E) you have initiated a Payment Activity or Payment, that relates to an account or type of account which we reasonably believe may be being used unlawfully including fraudulently or as part of a possible scam or in any way that might otherwise cause you, any User or us to lose money or suffer Loss;

(xvi) (**our compliance with Laws and policies**) we consider it reasonably necessary to do so to comply with any Laws or Payment Scheme Rules in Australia or overseas, the directions of any regulator or operator of a Payment Scheme, our financial crimes policies or to manage any risk;

(xvii) (**Proscribed Persons**) we believe on reasonable grounds that you may be (or a User may be) a Proscribed Person, or acting for or conducting business with a Proscribed Person;

(xviii) (**sanctions risk**) if you or a User are travelling to, or are residing in, a sanctioned jurisdiction, while you are in that jurisdiction, providing you with banking services could lead to a material risk of breach of sanctions, or providing you with banking services is otherwise outside our sanctions risk appetite. A list of sanctioned jurisdictions may be found at **commbank.com.au/sanctionedcountries**; and

(xix) (**reasonable necessity**) where it is otherwise reasonably necessary to protect our legitimate interests.

9.2.3 The rights in this clause 9.2 are in addition to all other rights we may have.

9.2.4 Subject to clause 9.3, we will use reasonable endeavours to reinstate your access to and use of the Service promptly after the reason for suspension or restriction has been resolved.

9.2.5 Except to the extent caused by our negligence, fraud, or wilful misconduct, or that of our Personnel, we will not be responsible for any Loss or other inconvenience you incur when we take any action under this clause.

9.2.6 Except to the extent caused by our negligence, fraud, or wilful misconduct in taking any such action, you must pay any Losses that we incur in relation to any such action.

9.3 Immediate termination

9.3.1 We can immediately terminate the Agreement either by notifying you in writing or by ceasing to provide access to and use of the Service if:

(a) we believe that you or a User are subject to sanctions or are otherwise a person with whom we are prohibited from dealing under any applicable Laws or regulations;

(b) we reasonably consider it necessary to comply with our policies, any applicable Law, or to manage associated risk;

(c) an Insolvency Event occurs in relation to you;

(d) you fail to pay Fees when due and the overdue Fees are not paid within 20 Business Days from the date we notify you of the failure;

(e) your access to or use of the Service is suspended under clause 9.2 and we have asked you to take a reasonable action for us to lift the suspension or restriction, but you have failed to do so within a reasonable period of time or by any time that we have specified;

(f) you or a User otherwise breach the Agreement or we reasonably suspect that you or your Users have or will breach the Agreement;

(g) MRI, or any licensor, supplier, or subcontractor that we rely on to provide any part of the Service, suffers an Insolvency Event, ceases to carry on business, or ceases to provide a good or service we rely on to perform our obligations under the Agreement for any reason (including due to termination of their agreement with us); or

(h) it is otherwise reasonably necessary for us to do so to protect our legitimate interests.

9.3.2 When we take action referred to in this clause, we will act fairly and reasonably towards you, including notifying you of such action if appropriate to do so, and providing you with a general reason for such action, unless we reasonably believe that giving you a reason would:

(a) be adverse to, or compromise, our legitimate business interests (including managing any material risk), or

(b) cause us to be in breach of applicable Laws.

9.4 Termination for convenience

(a) You may terminate the Agreement by giving us not less than 21 days' notice in writing to your Relationship Manager, unless otherwise agreed.

(b) Unless clauses 9.2 or 9.3 apply, we may terminate this Agreement by giving you not less than 60 days' notice.

9.5 Effect of termination

On termination of the Agreement:

(a) unless agreed otherwise between us, you and your Users must immediately cease accessing and using the Service, and CBA Materials, and we will no longer be obliged to accept or process Payment Activities or Payments for you, from the Termination Date;

(b) if there are any active Payment Agreements and Payments on the day prior to the Termination Date, you:

  (i) must ensure that all these active Payment Agreements and Payments are cancelled on the Termination Date, where you have sufficient access to do so;

  (ii) authorise us to cancel any active Payment Agreements and Payments on the Termination Date; and

  (iii) may need to make arrangements with those Tenants to make any future payments arising under the Leases outside of the Service;

(c) both parties must continue to comply with their obligations in relation to Payments or other transactions initiated prior to the Termination Date, including in relation to Payment Claims or investigations relating to those Payments;

(d) any Payment Activities initiated prior to termination of the Agreement will be processed in accordance with the Agreement, and notifications related to these transactions will be viewable in the Property Tree Software;

(e) we will cancel your Payment Agreement BPAY Biller Code, where you have chosen BPAY as a Payment Method;

(f) unless we inform you otherwise, you may continue to retain and use your BECS User ID, where you have chosen Direct Debit as a Payment Method;

(g) you must continue to maintain and keep sufficient funds in the Nominated Account(s) for a further period of six months following the Termination Date;

(h) we will be entitled to continue to debit the Nominated Account(s) or invoice you for any Fees, charges, payments or other amounts owed which have not been paid or invoiced prior to the Termination Date;

(i) you and any User must permanently delete and destroy any CBA Material held or controlled by you or a User; and

(j) you must continue to pay us any amounts that are or become payable to us under the Agreement in relation to your use of the Service prior to the Termination Date.

9.5.2 Termination will not:

(a) relieve either party of their obligations incurred prior to the Termination Date; or

(b) affect your right or our right to take action for breaches that occurred before the Termination Date, or any accrued rights or remedies of either party, which will survive the termination of the Agreement.

9.5.3 This clause 9.5, and clauses 4.8, 5.1.4, 5.3, Part 6, Part 7, Part 8 and 9.6 survive termination of the Agreement, together with any other provision which by its nature is intended to survive termination.

9.6 Effect of termination on Tenant Portal access

Where the Agreement is terminated, a Tenant may still have access to the Tenant Portal.

Part 10 What if I have a complaint or need help?

10.1 Complaints

10.1.1 If you have a complaint, please contact your Relationship Manager and explain the problem.

10.1.2 Our staff will review the situation and, if possible, resolve it immediately. If the matter has not been resolved to your satisfaction, please contact our Customer Relations team by:

Visiting our Commonwealth Bank website or

commbank.com.au/support/compliments-and-complaints

by telephone: **1800 805 605**

by facsimile: **1800 028 542**

or by writing to:
Customer Relations
Commonwealth Bank Reply Paid 41
Sydney NSW 2001

10.1.3 If a matter has not been resolved to your satisfaction, you can lodge a complaint with the Australian Financial Complaints Authority, or AFCA. AFCA provides fair and independent financial services complaint resolution that is free to consumers.

Visit the AFCA website www.afca.org.au

Email AFCA at info@afca.org.au

Telephone: 1800 931 678

In writing to:
Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

10.2 Help

10.2.1 If you need any help using the Service, please contact your Relationship Manager or the Help Desk.

10.2.2 However, if you suspect your Service has been compromised, please contact 13 19 98 (General Business Banking) or 13 23 39 (CommBiz) 24 hours a day, 7 days a week.

Part 11 Cut-off times

11.1 When Payments are initiated

Payment type	Payment initiation times
Payments – Direct Debit	All Payments that are due to be initiated: • before 5.00pm Sydney time on a Business Day will be initiated on the same Business Day • after 5.00pm Sydney time on a Business Day will be initiated on the next Business Day Note: Funds received into your Nominated Account(s) can normally take up to 3 Business Days to clear.
Payments – BPAY	Payments using BPAY are initiated by the Tenant, and therefore this is not within our control. A BPAY Payment will be treated as having been received in accordance with the BPAY Biller Agreement.
Payments – PayTo	NPP Payments are made near real time 24 hours a day, 7 days a week, every day of the year. Payments that are due to be initiated: • on any given day of the week will be initiated same day; • Some payments, may be processed in near real time such as Recovery Payment made by a Tenant. Note: Funds received into your Nominated Account(s) are generally credited in near real time.

Part 12 Fees and charges

12.1 Paying Fees

12.1.1 You agree to pay to us the Fees specified in the Smart Real Estate Payments Fee Schedule for your use of the Service.

12.1.2 The Fees:

(a) will be charged as set out in the Smart Real Estate Payments Fee Schedule;

(b) are calculated monthly in arrears each calendar month in accordance with the monthly billing cycle; and

(c) for the previous month will be debited in the following month from your SmartREP Billing Account or, if there are insufficient funds available, another account that you hold with us (other than a SmartREP Settlement Account).

12.1.3 You will be provided with a monthly activity statement which sets out the fees charged for your use of the Service monthly in arrears. This activity statement is not your transaction account statement.

12.1.4 You authorise us to debit your SmartREP Billing Account or any other account that you hold with us (other than a SmartREP Settlement Account) with the Fees set out in the Smart Real Estate Payments Fee Schedule.

12.1.5 Information on the Fees payable is available on request.

12.1.6 Where the Smart Real Estate Payments Fee Schedule contains fees and charges that expressly apply to a particular Other Service (such as Direct Debit, BPAY or PayTo), it will replace any other fee schedule that we have provided to you for that Other Service, but only when that Other Service is used in conjunction with the Services. In all other cases, the Smart Real Estate Payments Fee Schedule does not impact the fees and charges that apply in relation to any Other Service, and such fees and charges will continue to apply in accordance with the Other Terms and Conditions.

12.1.7 In addition, you may be required to pay fees and charges to MRI as the provider of the Property Tree Software, which are charged by MRI separately.

12.2 GST

12.2.1 Capitalised terms that are used in this clause 12.2 that are not otherwise defined in the Agreement have the meaning given in the GST Law.

12.2.2 Unless otherwise stated, all amounts payable, or consideration to be provided under or in connection with the Agreement, are exclusive of GST.

12.2.3 If GST is or becomes payable on a Supply made under or in connection with the Agreement, an additional amount (Additional Amount) is payable by the party providing Consideration for the Supply (in this clause 12.2 only, the Recipient) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (in this clause 12.2 only, the Supplier) in accordance with the GST Law.

12.2.4 The Additional Amount is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice immediately after the time of payment of the Additional Amount if a Tax Invoice has not already been provided under the Agreement.

12.2.5 If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account, any Decreasing, or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient:

(a) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;

(b) the refund, credit, or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and

(c) the Supplier must notify the Recipient of the refund, credit, or further amount within 10 Business Days after becoming aware of the variation to the amount of GST payable. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 10 Business Days after becoming aware of the occurrence of the Adjustment Event.

12.2.6 If either party is entitled under the Agreement to be paid, reimbursed or indemnified by the other party for a Loss, the payment, reimbursement or indemnity payment will be reduced by an amount equal to any Input Tax Credit which may be claimed by the party entitled to be paid, reimbursed or indemnified (or by its Representative Member if that party is in a GST Group) in respect of that loss, cost or expense.

Part 13 Meaning of words

13.1 Definitions

ABN
Australian Business Number.

ACN
Australian Company Number.

Agent Portal
The web portal referred to in Section 1 of the Table in clause 2.2.

Agent Portal Terms and Conditions
The terms and conditions governing your and an authorised User's access to and use of the Agent Portal.

Agreement
The agreement comprising those documents referred to in clause 1.2.1.

AusPayNet
The Australian Payments Network Limited ABN 12 055 136 519.

Australian Consumer Law
Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any equivalent state or territory legislation.

Bank, our, ours, us, we
Commonwealth Bank of Australia ABN 48 123 123 124.

BECS
The framework of systems and procedures known as the Bulk Electronic Clearing System Framework that co-ordinates and facilitates the exchange and settlement of Direct Debit payment instructions and bulk electronic transactions.

BECS Procedures
The current procedures known as the Bulk Electronic Clearing System Framework procedures and regulations adopted by AusPayNet which governs your use of the Direct Debit Facility, as amended from time to time.

BECS User ID
A unique six-digit number which identifies individuals and companies approved by financial institutions to use the Direct Entry system. This number is commonly referred to as an 'APCA ID' and is issued by financial institutions.

Biller
You as a participant of BPAY who is receiving Payments via BPAY as part of the Service.

BPAY
The electronic payment service promoted by BPAY Pty Ltd ABN 69 079 137 518 which allows you as a Biller to receive BPAY payments from your customers.

BPAY Adjustment
Has the same meaning as "Adjustments" in the BPAY Biller Agreement.

BPAY Biller Agreement
The document titled "BPAY Biller Agreement" provided to you with the document signed by you to establish your participation as a Biller in BPAY, including any terms and conditions contained in that document.

BPAY Biller Code
A unique identifier that you receive upon registration with BPAY to use BPAY payments services.

Business Customer
An entity or individual that carries on operations wholly or predominantly for a trading or commercial purpose.

Business Day
A day other than a Saturday or Sunday or a public holiday or bank holiday at the place where an act is to be done or may be done.

Business Transaction & Savings Account Terms and Conditions
The terms and conditions set out in the Bank's document titled "CommBank Business Transaction & Savings Accounts Terms and Conditions", as amended from time to time in accordance with those terms and conditions.

CBA Group
The Bank, our Related Bodies Corporate, any entity that is Controlled by Controls or is under common Control with us, any joint venture in which we or our Related Bodies Corporate owns 50% or more of the relevant ownership interest, and any other entity nominated by us from time to time in which we or our Related Bodies Corporate have an equity, business or other right or interest.

CBA Materials
Any Material that is provided by us to you under the Agreement, including:

- the Agent Portal;
- the Documentation;
- any reports we provide to you;
- any other documentation, methodologies, tools, records, procedures, processes, software, or other materials created, developed, or modified by us or our Related Bodies Corporate or our licensors, suppliers, or subcontractors in connection with the Service; and
- logos, designs, trademarks, service marks, names and symbols associated with the Service, excluding Customer Data.

CommBiz Service
The Bank's online banking service provided to Business Customers to enable them to manage their business banking needs.

CommBiz Terms and Conditions
The "CommBiz Terms and Conditions" governing the CommBiz Service, as amended from time to time in accordance with those terms and conditions.

Control
The legal, beneficial, or equitable ownership, directly or indirectly, of 50% or more of the capital stock (or other ownership interest, if not a corporation) of such entity ordinarily having voting rights or the possession, directly or indirectly of the power to direct or cause the direction of the management and policies of such entity, by contract or otherwise. **Controlled** has a corresponding meaning.

Corporations Act
The *Corporations Act 2001* (Cth).

CRN
A unique BPAY customer reference number which is presented to a Tenant, together with your Payment Agreement BPAY Biller Code, if BPAY is selected as the Payment Method by the Tenant in the Tenant Portal in relation to your Payment Agreement.

Customer Data
Any data or information, which may include Personal Information, which we receive in connection with the Service, which may include data or information, including Personal Information, relating to a Tenant, User, or other tenants under a Lease.

Customer Systems
The computer hardware, software, data, data storage, and network or other connections that you and your Users use to access and use the Service, including the Agent Portal, or the Property Tree Software.

DDR
The electronic form "Direct Debit Request" completed and accepted by a Tenant in the Tenant Portal for the Tenant to authorise and request Payments to be debited from their Tenant Bank Account, subject to the terms of the DDRSA and BECS Procedures.

DDRSA
The agreement known as the "DDR Service Agreement" or the "Direct Debit Request Service Agreement" between you and the Tenant that outlines the terms of the Direct Debit arrangement for the debiting of Payments in accordance with the DDR, which is presented to the Tenant through the Tenant Portal.

Debit User
Has the same meaning given to this term in the Receivables Terms and Conditions.

Direct Debit
A receivables payment option that allows Business Customers (i.e. you as the Real Estate Agent) to receive payments from accounts held at Australian financial institutions by direct debit (as Debit Users) and allows the Tenants to give authority for Debit Users to debit the Tenant's Bank Account through the Direct Entry system using BECS, subject to the BECS Procedures.

Direct Debit Authority
An authority provided to authorise a Direct Debit arrangement under BECS framework, comprising:

- a DDR; and
- a DDRSA,

which are linked to a Payment Agreement or Payment.

Direct Debit Facility
The facility established by us to provide you with a BECS User ID and capability to initiate Direct Debit payments.

Direct Debit Limit
A processing limit determined by us and communicated to you at the establishment of your Direct Debit Facility, which defines the total amount of Direct Debit transactions by value and frequency that can be processed by you.

Direct Debit Terms
The terms set out in:

- the Receivables Terms and Conditions;
- the Direct Debit User Terms and Conditions; and
- any fee schedule relating to your Direct Debit Facility.

Direct Debit User Terms and Conditions
The terms set out in the "Terms and Conditions", or "Direct Debit Terms and Conditions" section of the relevant establishment form signed by you to establish your Direct Debit Facility.

Direct Entry
A payment service that enables the transfer of funds between Australian bank accounts. Direct Entry is used for payments such as internet banking transactions and Direct Debit instructions.

Documentation
Any documentation, user guides, FAQs or the like that we provide to you from time to time in connection with the Service.

End Customer
A customer of the MPS User, being the payer.

Fees
The fees and charges payable by you in connection with your use of the Service, as set out in the Smart Real Estate Payments Fee Schedule.

Government Agency
A government or government department or other body, a governmental, semi-governmental, administrative, fiscal, or judicial person, body, department, commission, authority, tribunal, agency, or entity, including a statutory corporation or a person (whether autonomous or not) who is charged with the administration of a Law, and includes any Regulator.

Grace Period
A feature which may be enabled by you to allow the Tenant to make a Recovery Payment within a nominated period after the failure of a Rental Payment before any debit retry is attempted.

GST Law
A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Harmful Code
Any virus, trojan horse, worm, spyware, backdoor, trapdoor, wabbit or rabbit, rootkit, logic bomb, bacteria, other malware or executable code embodied in any file, program or program code designed to be harmful, destructive, or disruptive, or to cause malfunctions, errors, denial of service, unauthorised access to, or disclosure, destruction, alteration or corruption of data; or other disabling code which would have the effect of disrupting, impairing, disabling or otherwise adversely affecting, shutting down or denying access to any part of the relevant software or system.

Held for Tenancy Payment
A type of Other Payment which is made to you by the Tenant for you to hold in trust on the Tenant's behalf and to be applied to future payments that may arise under the Lease.

Help Desk
Our call centre which is available by calling 1800 131 856 during the hours 8am to 6pm (AEST/AEDT) on a Business Day.

Insolvency Event
An event where any of the following has occurred in relation to a person:

- an application is made to a court for an order appointing a liquidator or provisional liquidator to that person or its business, or one of them is appointed, whether or not under an order;
- an application is made to a court for an order, or an order is made, that the person or its business be wound up;
- that person enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium, or other administration (other than a solvent reconstruction) involving any of them;
- that person resolves to wind itself up or otherwise dissolve, or gives notice of an intention to do so;
- that person is unable to pay its debts when they fall due;
- as a result of the operation of section 459F(1) of the Corporations Act or any corresponding legislation, that person is taken to have failed to comply with a statutory demand;
- that person makes a statement from which it may be reasonably deduced that it is subject to an event described in section 459C(2)(b) or section 585 of the Corporations Act or any corresponding legislation;
- that person takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to that person;
- to the extent not otherwise provided for above, that person goes into external administration within the meaning of the *Payment Systems and Netting Act 1998* (Cth); or
- anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Intellectual Property Rights

Any and all intellectual and industrial property rights anywhere in the world (including present and future intellectual property rights) including rights in respect of or in connection with:

- confidential information, trade secrets, know-how or any right to have information kept confidential;
- copyright (including future copyright and rights in the nature of or analogous to copyright) or designs;
- inventions, innovations, or discoveries, including any patent applications or patents;
- trademarks, service marks and other related marks;
- database rights; and
- all associated goodwill,

whether or not registered or registrable together with any application or right to apply for registration of those rights and includes all renewals and extensions.

Landlord
The owner (or owners) of the property on whose behalf you are managing under a Lease as agent.

Law
Includes any statute, regulation, proclamation, ordinance or by-law in Australia or any other jurisdiction where such statute, regulation, proclamation, ordinance or by-law relates to economic and trade sanctions, money laundering or terrorism financing and any law, regulation, authorisation, ruling, judgment, order or decree of any Regulator, including but not limited to the Australian Consumer Law, Corporations Law and Privacy Law, and where applicable, the Payment Scheme Rules (which, in the case of Laws you are required to comply with, is limited to the Payment Scheme Rules we advise you of from time to time), and any other regulatory requirements.

Lease
The relevant lease agreement for a Residential Tenancy that governs a Tenant's lease of a property managed by you on behalf of a Landlord.

Loss
Any losses, liabilities, damages, costs, charges, or expenses (including reasonable lawyers' fees and expenses), and fines and penalties, however arising. **Losses** has a corresponding meaning. Without limiting anything else that may constitute Loss, Loss includes:

- negative interest owed,
- administrative costs, and
- costs of sale or purchase of any transactions or deal put in place to meet our obligations under this Agreement.

Mandate
A record of payment authorisation given by an End Customer in favour of an MPS User.

Mandate Management Service
The central, secure database of PayTo Agreements operated by NPP Australia Limited.

Material
Any form of material, including software, documents, reports, data, information, logos, designs, trademarks, service marks, names, and symbols.

Means of Authentication
All logon identity, one-time passcode, and any other account access details, to enable you to access and use the Service, including the Agent Portal.

Minimum Security Requirement
A security requirement listed in clause 5.2.

MPS User
A creditor or payment initiator who is authorised and approved to use PayTo and the Mandate Management Service.

MRI
Management Reports International Pty Ltd ABN 88 078 230 387.

Nominated Account(s)
The:

- SmartREP Settlement Account(s); and
- SmartREP Billing Account.

Non-Excludable Provision
Has the meaning given in clause 6.10.

NPP
The New Payments Platform operated by NPP Australia Limited.

NPP Payment
Electronic payments cleared and settled by participating financial institutions via the NPP. Where we refer to "your NPP Payments" in the context of the PayTo Send Service, this means NPP Payments made by your Tenants to your Nominated Account under a PayTo Agreement.

Other Payment
A payment other than a Rental Payment which is to be made on a one-off or ongoing basis (such as the first rental payment made in advance, invoices and fee reimbursements, bond payments and payments to address arrears), that is to be or has been paid (as applicable) by the Tenant in accordance with a valid and active Payment Agreement. Other Payments do not include Rental Payments.

Other Services
Has the meaning given in clause 1.2.1.

Other Terms and Conditions
Has the meaning given in clause 1.2.1.

Payment
Any Rental Payment or Other Payment.

Payment Activity
An activity initiated by you in relation to an existing or prospective Payment Agreement or Payment, including:

- an initiation of the Payment Agreement or Other Payment;
- an amendment of the Payment Agreement or Other Payment; or
- a cancellation of the Payment Agreement, Other Payment, or other activity referred to in this definition.

Payment Agreement
An agreement that you send to a Tenant for their approval or that a Tenant has approved (as applicable) containing terms for you to receive payments (such as Rental Payments and Other Payments) from Tenants under a Lease. For clarity, a Payment Agreement sets out how such Payments will be received using the Service and does not alter any obligations you have under the Lease, and to the extent of any inconsistency between them, the Lease will prevail. A Payment Agreement as referred to in these Terms and Conditions is different to the 'PayTo Agreements' that may be established in relation to any PayTo service.

Payment Agreement BPAY Biller Code
A BPAY Biller Code that is only intended for use in relation to Payment Agreements where the Tenant has chosen to make Payments using BPAY.

Payment Claim
Any Tenant Claim or BPAY Adjustment.

Payment Date
The date that a Payment will be made.

Payment Method
Any of the following payment methods you have accepted in connection with the Service to enable you to receive a Payment, or a Tenant has selected to use to make a Payment (as applicable):

- Direct Debit;
- BPAY; and
- PayTo.

Payment Method Requirements
Any specific requirements that apply to a particular Payment Method, as set out in Schedule 1, Schedule 2 and Schedule 3.

Payment Scheme
Any network, system or scheme which facilitates the clearing or settling of payments and which is subject to common rules, regulations, procedures or the like applying to each member or participant, including but not limited to credit and charge card schemes, Australian domestic payment schemes such as eftpos, BECS, BPAY and the New Payment Platform, and any settlement system operated by the Reserve Bank of Australia such as the Reserve Bank Information and Transfer System (RITS).

Payment Scheme Rule

Any rule, regulation, procedure, or the like of any Payment Scheme.

PayTo®
A registered trade mark of NPP Australia Ltd ABN 68 601 428 737 and the service which enables:

- MPS Users to:
  - create and send Mandates to End Customers;
  - suspend, unsuspend or cancel PayTo Agreements;
  - amend PayTo Agreements;
  - retrieve the details of PayTo Agreements;
  - initiate an NPP Payment, or a series of NPP Payments, in accordance with an active PayTo Agreement; and
  - retrieve the details of an NPP Payment initiation request made in accordance with a PayTo Agreement; and
- End Customers to:
  - authorise or decline Mandates; and
  - amend, pause, resume or cancel PayTo Agreements.

PayTo Agreement
A Mandate that has been authorised by the End Customer and stored in the Mandate Management Service, authorising an NPP Payment, or a series of NPP Payments, to be made from the End Customer's account to the MPS User's account, in accordance with its terms.

PayTo Send Service

The services provided by us to you as an MPS User to:

- create a Mandate (one-off or recurring);
- cancel Mandates and PayTo Agreements;
- suspend PayTo Agreements;
- retrieve details of Mandates and PayTo Agreements and NPP Payment initiation requests recorded in the Mandate Management Service;
- initiate payment request for PayTo Agreements; and
- amend PayTo agreements,

in connection with Payment Agreements.

Personal Information
'Personal information' as defined in the Privacy Act and any other information that is regulated by, or under, any other Privacy Law.

Personnel
The directors, officers, employees, contractors (including subcontractors) and agents of a person or any of its Related Bodies Corporate but in the case of:

- us, excludes you; and
- you, excludes us.

Property Tree Software
The business management software known as "Property Tree" which is provided in Australia by MRI.

Privacy Act
The Privacy Act 1988 (Cth).

Privacy Law
The Privacy Act (including the Australian Privacy Principles), and any other Law, or binding orders or directions made by a Regulator, relating to privacy, data protection or the handling of Personal Information.

Proscribed Person
A person who we believe on reasonable grounds to be one or more of the following:

- a sanctioned person under any jurisdiction;
- to be in breach of the Laws of any jurisdiction relating to money laundering or counter-terrorism or sanctions or other offences;
- to appear in a list of persons with whom dealings are proscribed by the government or a regulatory authority of any jurisdiction or resident in any comprehensively sanctioned country; or
- to act on behalf, or for the benefit of, or associated with, a person listed in the bullets above.

Qualifying Event
Any:

- act of God;
- war (declared or undeclared) or other state of armed hostilities, insurrection, riot, civil commotion, act of public enemies, national emergency (whether in fact or in law), martial law, revolution, or blockade;

- strikes, lock outs or other industrial disturbances, restraints of labour (whether or not involving employees of the affected party);
- cyclones, tidal waves, landslides, lightning, earthquakes, floods, storms, and adverse weather conditions;
- sabotage, fire, explosions, breakage or accident to machinery, lines, or pipes;
- inability to obtain, or delay in obtaining equipment, materials, or transport;
- expropriation, restraint, prohibition or other frustrating or restraining act or occurrence directed at or affecting a party and prohibiting or restraining the conduct of that party effected by Act of Parliament, legally enforceable order of any Government Agency, or court of competent jurisdiction whether local, State, Federal or in any other jurisdiction;
- pandemic or epidemic, including COVID-19, and its consequences including those relating to work stoppages, mandatory business, service or workplace closures or restrictions, full or partial lockdowns of affected areas, quarantines, border closures and travel restrictions, whether coming into effect before or after the commencement of the Agreement;
- failure or disruption of any process or computer hardware or software (including any third party software) beyond that party's reasonable control; or
- other cause that is not in the control of or could not be attributed either directly or indirectly to, the affected party.

Real Estate Agent
An entity or person licensed, registered, or authorised as a real estate agent, property agent or similar agent in each State and Territory in which they operate to manage a leased property on behalf of a Landlord.

Receivables Terms and Conditions
The terms and conditions set out in the Bank's document titled "Receivables Terms and Conditions", including the "Debit User Agreement" and any schedules and appendices, as amended from time to time in accordance with those terms and conditions.

Recovery Payment
A payment by the Tenant through the Service to account for any failed or missed Payment, using the original or a changed Payment Method.

Regulator
Any one or more of the Australian Prudential Regulatory Authority, the Australian Securities and Investments Commission, the Office of the Australian Information Commissioner, the Australian Transaction Reports and Analysis Centre, a Payment Scheme operator, AusPayNet and any other regulator, government, regulatory or sanctions authority in any jurisdiction which regulates or has supervisory authority over any part of your or our business or affairs.

Related Body Corporate
Has the meaning given in section 50 of the Corporations Act.

Relationship Manager
A banker employed by the Bank who is your personal contact and manages your banking relationship with the Bank.

Relevant Time Period
Has the meaning given in clause 5.4.3.

Rental Payment
A payment for rent that is intended to recur periodically, that is to be or has been received (as applicable) from a Tenant against a valid and active Payment Agreement. Rental Payments do not include Other Payments which are made on an as-needed basis.

Residential Tenancy
Any tenancy governed by a lease that is a "residential tenancy agreement" under the residential tenancy law of the State or Territory in which the lease exists (or, in respect of a lease in Victoria, that is a "residential rental agreement", or in respect of a lease in the Northern Territory, that is a "tenancy agreement").

Service
The Smart Real Estate Payments Service enabling you to create and manage Payment Agreements, including the Agent Portal. It also facilitates the receipting and reconciliation of your Payments in the Property Tree Software provided by MRI.

Smart Real Estate Payments Establishment Form
A form completed and signed by you for you to be granted access to and use the Service, which has been accepted by us.

Smart Real Estate Payments Fee Schedule
A schedule provided by us setting out the fees and charges payable by you in relation to the Service including any Payment Method used in relation to the Service.

Smart Real Estate Payments Maintenance Form
A form which may be completed by you, requesting certain changes as to how you access or use the Service, and which has been submitted to us for acceptance.

SmartREP Billing Account
The account held with us and nominated by you in the manner specified by us to be the account from which any Fees, charges and other amounts payable under this agreement or in connection with the Smart Real Estate Payments Service may be debited.

SmartREP Message
Has the meaning given in Section 1 of the Table in clause 2.2.

SmartREP PayTo Send Terms and Conditions
The terms and conditions set out at Schedule 3, including any provisions incorporated by reference into Schedule 3.

SmartREP Settlement Account(s)
The Statutory Trust Account(s) held with us and nominated by you in the manner specified by us to be the account (s) used for the settlement of Payments using the applicable Payment Method (and which account(s) may also may be debited by us as provided for in the Agreement).

Statutory Trust Account
A bank account called 'Statutory Trust Account' as referred to in the Business Transaction & Savings Account Terms and Conditions and held by you in connection with the Service.

Tenant
An entity or individual that leases, or entities or individuals that lease, under a Residential Tenancy, a property owned by a Landlord and managed by you as the Real Estate Agent.

Tenant Bank Account
The bank account held by the Tenant with the Tenant Financial Institution in Australia for the making of Payments.

Tenant Claim
A claim made by the Tenant or a Tenant Financial Institution for a mistaken, incorrect, unauthorised, or fraudulent Payment in connection with a Direct Debit Authority received by you in your Nominated Account(s).

Tenant Complaint
A complaint made by the Tenant or the Tenant Financial Institution to you or to us in connection with a Payment Agreement, Payment or the Tenant Portal.

Tenant Email Address
An email address for the Tenant, provided by you to us as the Tenant's contact method for the purposes of the Tenant Portal, as updated from time to time in accordance with these Terms.

Tenant Financial Institution
The financial institution where the Tenant's Bank Account for the making of Payments is held, and which offers the applicable Payment Method to the Tenant.

Tenant Portal
The portal provided to Tenants as set out in Section 2 of the Table in clause 2.2.

Tenant Portal Terms and Conditions
The terms and conditions governing the Tenants' access to and use of the Tenant Portal.

Termination Date
The date on which the Agreement is terminated.

Terms and Conditions
These Smart Real Estate Payments Terms and Conditions, including any schedules other than the SmartREP PayTo Send Terms and Conditions.

Unacceptable Use
Has the meaning given in clause 9.1.1.

Usage Limit
Any limits that we may impose in relation to the Service in accordance with clause 4.3.2.

User
You and any of your Personnel who have been given authority by you to access or use the Service, which may include the Agent Portal.

User Email Address
An email address for the User, provided by you to us as the User's contact method for the purposes of the Agent Portal and the Services, as updated from time to time in accordance with these Terms.

you, your, yours
The Real Estate Agent customer who completed the Smart Real Estate Payments Establishment Form, and that Real Estate Agent's executors, permitted assigns and any agent appointed by that Real Estate Agent from time to time.

13.2 Interpretation

In these Terms and Conditions:

(a) words imparting any gender include each other gender;

(b) a reference to a clause is a reference to a clause in these Terms and Conditions;

(c) the word person includes a firm, a body corporate, an unincorporated association, or partnership;

(d) the singular includes the plural and vice versa;

(e) where one or more persons are parties to the Terms and Conditions, the expression “you”, “your”, “yours” shall include each or any of them and each person shall be bound jointly and severally by the Agreement; and

(f) headings are inserted for the sake of convenience of reference only and do not affect the interpretation of these Terms and Conditions.

Schedule 1 Application and modification of certain provisions of the Other Terms and Conditions

As noted in clause 1.2.2, certain provisions of the Other Terms and Conditions may apply in a different manner or may be modified when you use the Service. We have identified relevant provisions and explained how this works, in the tables below.

Direct Debit

If you accept Direct Debit as a Payment Method for the Service, certain provisions of the Direct Debit Terms specified in the "Provision" column will be applied or modified as described in both the "Summary" and "How the provision will apply or be modified when you use Direct Debit using the Service" (**Column 3**) columns in the table below.

Summary	Provision	How the provision will apply or be modified when you use Direct Debit with the Service
Your obligations under the relevant provision will be satisfied where you use the Service, as described in Column 3	Receivables Terms and Conditions, Schedule 1, clause 4(b) (Your obligations) and Appendix A (Direct Debit Request and Direct Debit Request Service Agreement – Minimum Requirements),	Your obligations in these provisions will be met when you create Payment Agreements and initiate Payments under those Payment Agreements using the Service, in accordance with these Terms and Conditions.
	Receivables Terms and Conditions, Schedule 1, clauses 4(i) (Your obligations) and 5(i) (Obtaining Electronic (Online) or Telephone DDRs),	Your obligations to capture and maintain records of the matters required under these provisions will be met, where you capture and maintain (as applicable) these records using the Service. ***Note: If your use of the Service terminates, you must maintain these records separately from the Service in accordance with the requirements of the Other Terms and Conditions.***
	Clause 5(a), (c), (e), (g), (h), (j) ((Obtaining Electronic (Online) or Telephone DDRs)) and Appendix B (Electronic Direct Debit Request and Direct Debit Request Service Agreement Minimum Requirements), Schedule 1, Receivables Terms and Conditions Clause 5.2(a)(1), Direct Debit User Terms and Conditions	Your obligations in these provisions will be met when you initiate and create a Payment Agreement using the Service, in accordance with these Terms and Conditions.
	Clause 5.5(a) (Your obligations), Direct Debit User Terms and Conditions	Your obligation to promptly process direct debit files will be met by the Service where those direct debit files are generated under any Payment Agreement created using the Service.

Summary	Provision	How the provision will apply or be modified when you use Direct Debit with the Service
Our approval will be taken to be given under the relevant provision, if we are supplying the matter requiring approval as part of the Service	Any provision requiring our approval of a matter, where you use the Service in respect of that matter, including: Clause 4(e)(3) (Your obligations), Receivables Terms and Conditions Clauses 4(b), (i), (o) (Your obligations), 5(a), (b), (f), (h), (i) (Obtaining Electronic (Online) or Telephone DDRs), 8 definition of DDR Service Agreement (Definitions) Schedule 1, and Appendix A (7) and (14) Receivables Terms and Conditions Clause 5.2(a), (b), (c) (Your obligations), Direct Debit User Terms and Conditions	Matters requiring our approval in these provisions will be taken to be given by us where you use the Service in respect of that matter. For example, we approve of: • the Service as a manner in which you may store original records of each Payment (clause 4(e)(3) of the Receivables Terms and Conditions and clause 5.2(c) of the Direct Debit User Terms and Conditions); • the DDR and DDRSA forms generated by the Service (clause 4(b), and the definition of 'DDR Service Agreement' in clause 8 of Schedule 1 of the Receivables Terms and Conditions and clause 5.2(a) of the Direct Debit User Terms and Conditions); • the Service as a method for obtaining the Customer's approval of the information communicated to them (clause 5(a) and (b), Schedule 1 of the Receivables Terms and Conditions); • the Service as a format of capturing information electronically (clause 5(i), Schedule 1 of the Receivables Terms and Conditions); • the Service as a manner of maintaining reliable records of the matters in clause 4(i) of Schedule 1 of the Receivables Terms and Conditions; • the Service as an electronic means to obtain DDRs and enter into DDRSAs for the purposes of clause 4(o) of Schedule 1 of the Receivables Terms and Conditions and clause 5.2(b) of the Direct Debit User Terms and Conditions; • the online screens and DDRSAs in the Service, for the purposes of clause 5(f) of Schedule 1 of the Receivables Terms and Conditions; and • the Service as the form of the Direct Debit Request and Direct Debit Request Service Agreement (Appendix A of the Receivables Terms and Conditions). For clarity, you do not need to enter into an "Electronic DDR Agreement" with us as required under clause 5.2(b) of the Direct Debit User Terms and Conditions when using the Service.

Summary	Provision	How the provision will apply or be modified when you use Direct Debit with the Service
Your ability to comply with your obligations under the relevant provision may be facilitated by the Service – however, you are still responsible for ensuring that you comply with these obligations	Clause 4(e)(2) (Your obligations), Receivables Terms and Conditions	To the extent the Service performs automated matching of a credit or debit (as applicable) of a Payment against a Payment Agreement, this may partly satisfy your obligation to credit or debit (as applicable) the amounts of each Payment to the applicable Tenant. Note: Automated matching is not always possible – please see item 4 of Section 1 in the Table in clause 2.2 and your obligations in clause 3.9 of these Terms and Conditions. You remain responsible for ensuring that any matched Payments are correctly credited or debited (as applicable) to the applicable Tenant (including in the Property Tree Software).
	Clause 4(d) (Your obligations), Schedule 1, Receivables Terms and Conditions Clause 5.3 (Your obligations), Direct Debit User Terms and Conditions	You may comply with your obligation to not initiate and to stop initiating Direct Debits where you suspend or cancel a Payment Agreement under these Terms and Conditions.
	Clause 5(m) (Obtaining Electronic (Online) or Telephone DDRs), Schedule 1, Receivables Terms and Conditions	You may comply with your obligation to review and apply an appropriate level of security as required under clause 5(m) of Schedule 1 of the Receivables Terms and Conditions by complying with your security obligations in these Terms and Conditions.
These provisions apply to the Service, but only as described in Column 3	Clause 4(j) (Your obligations), Schedule 1, Receivables Terms and Conditions	Your obligations in clause 4(j) of Schedule 1 of the Receivables Terms and Conditions to take actions in respect of a Notice of Variation of Account Details forms, do not apply where the Tenant changes their account details using the Tenant Portal. If a Tenant submits a Notice of Variation of Account Details form, you must contact the Tenant and inform them that they must change their account details using the Tenant Portal.

Summary	Provision	How the provision will apply or be modified when you use Direct Debit with the Service
These provisions apply to the Service, but only as described in Column 3 (continued)	Clause 9(f) (Indemnity), Receivables Terms and Conditions	Your obligation to indemnify us for your failure to produce the records referred to in clause 9(f) of the Receivables Terms and Conditions will not apply to the extent that the records are stored in the Service and your failure to produce the records is caused by: (a) unavailability of the Service, including due to system failure; or (b) any failure of the Service to provide or retrieve a copy of the records, and you have notified us that your inability to produce the records was due to the circumstances in paragraph (a) or (b) above, within a reasonable period of time before the end of the Relevant Time Period for the production of the records, and such circumstances have not been resolved before the end of the Relevant Time Period.
	Clause 9(g) (Indemnity), Receivables Terms and Conditions	Your obligation to indemnify us for a third party intellectual property breach claim will not apply to the extent the material in question has been generated by the Service and was not based on information provided by you.
	Clause 12(b)(2) (Consequences of termination of cessation), Receivables Terms and Conditions Clause 8.3(b)(3) (Termination and suspension), Direct Debit Terms and Conditions	Your obligation to return the information or documents referred to in clause 12(b)(2) of the Receivables Terms and Conditions does not apply where the information or documents are stored by the Service, which may be extracted and retained by you on termination of the Service. Any copies of DDRs, DDRSAs and Direct Debit amendments held by you in connection with your right to debit the account of the Tenant using the Service must be retained by you.
	Clause 13(a)(3) (Your representation and warranty), Receivables Terms and Conditions	Your representation and warranty in respect of information provided by you to us, does not apply to the extent that that information has been generated by the Service and was not based on information provided by you in accordance with these Terms and Conditions.

Summary	Provision	How the provision will apply or be modified when you use Direct Debit with the Service
These provisions apply to the Service, but only as described in Column 3 (continued)	Clause 15(d)(3) (Confidentiality and privacy), Receivables Terms and Conditions	Your obligation to make privacy disclosures to the Tenant will apply to the extent that we rely on you to provide us with Customer Data (for example as required under clause 4.8.1 of these Terms and Conditions), however this obligation will not apply if we collect Customer Data directly from the Tenant through their access to and use of the Tenant Portal (as described in clause 4.8.2 of these Terms and Conditions).
	Clause 17 (Notices), Receivables Terms and Conditions	We may provide notices to you, in respect of your use of Direct Debit in connection with the Service, in accordance with these Terms and Conditions. ***Note: We may still provide notices to you, in respect of your use of Direct Debit in general, in accordance with the Direct Debit Terms.***
	Clause 5.4(e) (Your obligations), Direct Debit Terms and Conditions	When using the Service, you do not use CommBiz to lodge your Direct Debit files.
	Clause 6(a) (Your liability), Direct Debit Terms and Conditions	Your obligation to indemnify us for a failure to comply with your obligations, or for an act or omission of yours, will not apply to the extent that the obligation, act or omission in question is an obligation, act or omission of the Service that was not based on information provided by you.

BPAY

If you accept BPAY as a Payment Method for the Service, certain provisions of the BPAY Biller Agreement specified in the "Provision" column will be applied or modified as described in both the "Summary" and "How the provision will apply or be modified when you use the Service" (**Column 3**) columns in the table below.

Summary	Provision	How the provision will apply or be modified when you use BPAY with the Service
Your ability to comply with your obligations under the relevant provision may be facilitated by the Service – however, you are still responsible for ensuring that you comply with these obligations	Clause 7(c) (Your general obligations), BPAY Biller Agreement	Your obligation to notify us of certain changes to details, including in relation to the billing arrangements with your Tenants, may be met where you notify us of those changes in relation to your Payment Agreements using the Service.
	Clause 7(h) (Your general obligations), BPAY Biller Agreement	To the extent the Service performs automated matching of a credit or debit (as applicable) of a Payment against a Payment Agreement, this may partly satisfy your obligation to correctly credit or debit (as applicable) the amounts of each Payment to the applicable Tenant. ***Note: Automated matching is not always possible – please see item 4 of Section 1 in the Table in clause 2.2 and your obligations in clause 3.9 of these Terms and Conditions. You remain responsible for ensuring that any matched Payments are correctly credited or debited (as applicable) to the applicable Tenant (including in the Property Tree Software).***
	Clause 7(a)(i) (Your general obligations), BPAY Biller Agreement	Your obligation to make privacy disclosures to, and obtain consents from, the Tenant will apply to the extent that we rely on you to provide us with Customer Data (for example as required under clause 4.8.1 of the Terms and Conditions), however this obligation will not apply if we collect Customer Data directly from the Tenant through their access to and use of the Tenant Portal (as described in clause 4.8.2 of these Terms and Conditions).

Schedule 1 Application and modification of certain provisions of the Other Terms and Conditions

Summary	Provision	How the provision will apply or be modified when you use BPAY with the Service
These provisions apply to the Service, but only as described in Column 3	Clause 12(c) and (e) (Indemnities and limitation of liability), BPAY Biller Agreement	Your obligation to indemnify us for a failure to comply with your obligations or a breach of your obligations in relation to use of a logo or marks, will not apply to the extent the failure or breach was caused by the Service.
	Clause 12(f) (Indemnities and limitation of liability), BPAY Biller Agreement	Your obligation to indemnify us for a third party intellectual property breach claim will not apply to the extent that the material in question has been generated by the Service and was not based on information provided by you.
	Clause 15(a) (Confidentiality), BPAY Biller Agreement	Your obligation to keep confidential any information that comes into your possession as a result of the BPAY Biller Agreement will not restrict your ability to disclose information in accordance with these Terms and Conditions.
	Clause 17.1(c), BPAY Biller Agreement	We may provide notices to you, in respect of your use of BPAY in connection with the Service, in accordance with these Terms and Conditions. ***Note: We may still provide notices to you, in respect of your use of BPAY in general, in accordance with the BPAY Biller Agreement.***

Schedule 2 Additional Direct Debit Terms

As set out in clause 3.2.3 of the Terms and Conditions, when using a Payment Method, you must comply with any Payment Method Requirements set out in the sections of this Schedule 2 that are applicable to that Payment Method. These Payment Method Requirements may vary the other requirements in the Terms and Conditions, or impose additional obligations.

Section 1 Direct Debit

The following terms apply where Direct Debit is the Payment Method for a Payment Agreement or Payment. They are Payment Method Requirements which apply when Direct Debit is used with the Service.

1.1 Direct Debits as a Payment Method

1.1.1 Where you wish to offer Direct Debit as a Payment Method and a Tenant with an existing Direct Debit migrates to the Service, you must remove any existing Direct Debit for that Tenant from the Property Tree Software or cancel any other existing Direct Debit with the Tenant relating to the Lease before you create a Payment Agreement. You can continue to use your CommBiz Service to facilitate the processing of other Direct Debit transactions that are not migrated to the Service and are processed outside of the Service.

1.2 Direct Debit Authority

1.2.1 When the Tenant selects Direct Debit as a Payment Method, we will present to the Tenant on your behalf a Direct Debit Authority in a form consistent with that required by the Payment Scheme Rules for Direct Debit. A copy of the Direct Debit Service Agreement we will present to Tenants is available on the Agent Portal.

1.2.2 The Direct Debit Authority forms part of the applicable Payment Agreement, except as set out in section 1.2.3.

1.2.3 Where the Tenant selects Direct Debit, but chooses a different bank account to make an Other Payment than that which is used for their Rental Payments, the Tenant will need to authorise a new Direct Debit Authority.

1.2.4 Where a Tenant authorises a Direct Debit Authority in connection with a Payment Agreement, and you become aware that the information is incorrect or cannot be verified, you must cancel the Payment Agreement in accordance with clause 3.8.

1.2.5 A Direct Debit Authority may remain active after the associated Payment Agreement is cancelled or completed. You must comply with the scope of any Direct Debit Authority after the associated Payment Agreement is cancelled or completed, and you should confirm with the Tenant that they wish to continue using the Direct Debit Authority outside of the Service before doing so.

1.3 Direct Debit Payment Processing Date

1.3.1 You may be able to select whether Payments are processed 3 Business Days before the date on which the Payments are due, to account for the clearing process for Payments received by Direct Debit. Whether you are permitted to use such functionality may depend on each Lease and applicable Laws, and the arrangements that you may have agreed with the Tenant outside of the Service, and you should confirm this before using such functionality. As provided for in clause 1.1.3, and without limiting the application of that clause 1.1.3 in other circumstances, you must only use the Service in compliance with each Lease and applicable Laws, and you remain responsible for complying with each Lease and applicable Laws. For further information on the clearing process for Payments received by Direct Debit, refer to clause 7(a) of Schedule 1 of the Receivables Terms and Conditions.

1.4 Tenant requests to stop or defer a Payment, or suspend a Direct Debit Authority

1.4.1 If you receive a request from a Tenant to stop or defer a Direct Debit in relation to a Payment, and are unable to complete a Payment Activity for that request, you can have the Payment stopped or deferred by contacting the Help Desk. You must provide clear information including the Tenant details, Payment Agreement reference, Payment details and reason for the stoppage or deferral. We will action your request promptly and notify you by email when your request has been successfully actioned.

1.4.2 If you receive a request from a Tenant to suspend or unsuspend a Payment Agreement, please refer to the requirements in clause 3.7.

1.4.3 If a Tenant requests you or the Tenant Financial Institution to suspend a Direct Debit Authority, this request will result in the suspension of the Direct Debit Authority and any Payments associated with that Direct Debit Authority. In the context of the Service, a suspension of the Direct Debit Authority will:

(a) result in the suspension of the associated Payment Agreement, if the Direct Debit Authority relates to the Payment Agreement and does not solely relate to an Other Payment; and

(b) not result in the suspension of the Payment Agreement where the Direct Debit Authority only relates to an Other Payment.

1.5 Cancellation of Payment Agreements and Payments

1.5.1 Where the Direct Debit Authority is cancelled, you must provide a copy of the Direct Debit Authority to the Tenant and inform the Tenant that they must make any payments under the Lease using a different Payment Method or outside of the Service.

1.5.2 Upon cancellation of an Other Payment, you must promptly provide a copy of any Direct Debit Authority relating solely to the Other Payment to the Tenant.

1.6 Failed Rental Payments and Grace Periods

1.6.1 A Grace Period only applies where:

(a) you have chosen to activate this functionality for the Service; and

(b) we have confirmed to you in writing that it has been activated.

1.6.2 If a Rental Payment has failed, the Property Tree Software and the Agent Portal will be updated to reflect that failure within a reasonable timeframe after the failure occurs, and if a Grace Period applies:

(a) the Tenant can make a Recovery Payment during the Grace Period;

(b) if the Tenant does not make a Recovery Payment or arrange for the payment to be made outside of the Service, there will be a debit retry attempt after expiry of the Grace Period; and

(c) we will only suspend the Payment Agreement if no Recovery Payment is made during the Grace Period and the debit retry attempt is unsuccessful.

1.6.3 There is no Grace Period or debit retry available for any failed Other Payment.

1.7 Tenant Claims

1.7.1 A Tenant or the Tenant Financial Institution can make a Tenant Claim relating to a Payment made using Direct Debit.

1.7.2 When you receive a Tenant Claim, you must comply with your obligations and follow the processes set out in the Direct Debit Terms as if it was a "Customer Claim" under the Direct Debit Terms.

1.7.3 You must retrieve a copy of any Direct Debit Authority from the Agent Portal and provide it to the Tenant if requested.

Section 2 BPAY

The following terms apply where BPAY is the Payment Method for a Payment Agreement or Payment. They are Payment Method Requirements which apply when BPAY is used with the Service.

2.1 BPAY as a Payment Method

2.1.1 Where you wish to offer BPAY as a Payment Method:

(a) we will provide you with a new Payment Agreement BPAY Biller Code which must be used for the Service and a unique CRN for each Payment Agreement when the Tenant chooses BPAY as their Payment Method; and

(b) where a Tenant with an existing BPAY Biller Code and CRN migrates to the Service, you must inform them that they should stop using the existing BPAY Biller Codes and CRNs and use the new Payment Agreement BPAY Biller Code and CRN provided in the Tenant Portal.

2.1.2 Payments made using BPAY are initiated by the Tenant using the banking platform provided by the Tenant's Financial Institution. The Tenant needs to accurately insert the CRN and Payment Agreement BPAY Biller Code from the Payment Agreement details into the Tenant's banking platform. If a BPAY transaction for a Payment is made to a non-Payment Agreement BPAY Biller Code and CRN, it will not be automatically reconciled in the Property Tree Software, and you must manually allocate the BPAY transaction to a Payment in the Agent Portal, so that the transaction can be matched against the relevant Payment Agreement.

2.1.3 We will perform a single settlement on each Business Day to your Nominated Account(s) for all Payments received using BPAY.

2.1.4 Where you remove BPAY as a Payment Method, we will cancel your Payment Agreement BPAY Biller Code.

2.2 Missed Rental Payments

2.2.1 The Payment Agreement will only be suspended for a missed Rental Payment, if the Payment is more than 5 Business Days overdue.

2.3 Cancellation of Payment Agreements and Payments

2.3.1 The suspension or cancellation of a Payment Agreement or Other Payment does not result in the suspension or cancellation of your Payment Agreement BPAY Biller Code, or the CRN associated with the relevant Payment Agreement.

2.3.2 If a Tenant continues to use your Payment Agreement BPAY Biller Code or the CRN associated with the relevant Payment Agreement to make BPAY payments after the Payment Agreement is suspended or cancelled, you:

(a) must not use the BPAY Adjustments process to refund any such BPAY payments, and instead must use the process for Adjustments set out in clause 9(j) of the BPAY Biller Agreement to return any amounts outside of the BPAY Payment Scheme using other payment methods if required; and

(b) must put in place arrangements for the Tenant to make payments outside of the Service (which may include arrangements for the making of payments using BPAY outside of the Service, in accordance with section 2.3.3).

2.3.3 If you wish to receive payments from the Tenant outside of the Service using BPAY, and you have an existing BPAY Biller Code, you must provide the Tenant with a CRN and BPAY Biller Code which is not your Payment Agreement BPAY Biller Code. If you do not have an existing BPAY Biller Code with us, you may contact your Relationship Manager to apply for a new BPAY Biller Code.

Schedule 3 Additional BPAY Terms

1.1 General

(a) When these SmartREP PayTo Send Terms and Conditions apply

This Schedule contains terms and conditions that apply where you have chosen PayTo as a Payment Method.

(b) Application of certain Terms and Conditions

Schedule 4 SmartREP PayTo Send Terms and Conditions

1.1 General

Clauses 4.1 (Specific responsibilities), 4.4 (Nominated Account(s)) and 4.8 (Right to provide Customer Data), Part 5 (Security), clause 6.7.1 (Liability for Users), Part 7 (Variations), Part 8 (General provisions), Part 9 (Unacceptable use, suspension and termination rights), and Part 12 (Fees and charges) of the Terms and Conditions apply to your use of PayTo, as if they were incorporated into this Schedule with any necessary changes as to detail including as if the PayTo Send Service were a 'Service' for the purposes of those clauses and as if a reference to suspension or termination of the Agreement in Part 9 were a reference to suspension or termination of these SmartREP PayTo Send Terms and Conditions. A reference to any of those provisions in this Schedule, is a reference to that provision as incorporated by reference under this clause 1b.PayTo Send Service

(a) Eligibility

To be eligible for the PayTo Send Service, you must:

- be a Business Customer, corporate or institutional company that holds an Eligible Product,
- be incorporated in Australia (if you are a company),
- ordinarily be a resident in Australia (if you are a sole trader),
- be formed or created in or under the Laws of Australia (if you are an entity other than a company or sole trader), including a partnership, trust, or governmental entity,
- have an ACN/ABN,
- be successfully onboarded as our customer, and:
  - satisfy and adhere to any other eligibility criteria and specific requirements (including know-your-customer requirements), for any services and products we offer Business Customers which you hold separate to the PayTo Send Service, and
  - have an active customer profile with us, and
- satisfy our requirements in relation to:
  - technical, organisational, administrative and financial capabilities,
  - ability to comply with applicable Laws (including Payment Scheme Rules which we may advise to you from time to time), and
  - onboarding, governance, privacy and data protection arrangements, security arrangements, and operational arrangements, and
- have submitted a completed Establishment Form for the PayTo Send Service.

If we provide you with access to the PayTo Send Service, and we subsequently determine (acting reasonably) that you are no longer eligible for the PayTo Send Service, we may suspend or terminate your access or use of the PayTo Send Service.

(b) General use requirements

You must, and must ensure that your Users:

- access and use the PayTo Send Service in a manner which complies with these SmartREP PayTo Send Terms and Conditions,
- not directly or indirectly access or use the PayTo Send Service in any manner that adversely impacts:
  - the functionality, availability, stability, integrity or security of the PayTo Send Service,
  - the ability of others to access or use the PayTo Send Service, or
  - our reputation,
- comply with our reasonable directions with respect to accessing and using the PayTo Send Service, including requests that are reasonably required for us to comply with our obligations under applicable Laws,
- comply with all Laws applicable to you in connection with your access and use of the PayTo Send Service, and have adequate corporate governance, policies and procedures to ensure your and your Users' compliance with all such Laws,
- take reasonable precautions to ensure that your access and use of the PayTo Send Service, do not harm any other person, including us,
- ensure that any information you provide to us in connection with these SmartREP PayTo Send Terms and Conditions is accurate and complete and not misleading, and notify us promptly if that information changes,
- not enable any third party to engage in any conduct that is restricted or prohibited in these SmartREP PayTo Send Terms and Conditions, including this clause 2b and Part 5 (Security) of the Terms and Conditions, and
- hold all approvals, consents, licences, authorisations and permits necessary to exercise your rights or perform your obligations under these SmartREP PayTo Send Terms and Conditions.

(c) Access to PayTo Send Service

Subject to you meeting the eligibility and general use requirements set out in this clause 2, we will grant access to the PayTo Send Service in accordance with the terms of these SmartREP PayTo Send Terms and Conditions.

(d) Features and functionality

We may modify the PayTo Send Service (including its features and functionality), provided that we otherwise provide you with notice of such modifications in accordance with clause 7.2 of the Terms and Conditions where required under that clause.

If we make modifications or provide new features or functionalities under this clause 2d, and you no longer wish to use the PayTo Send Service, you have the option to cease using the PayTo Send Service at any time in accordance with clause 3.2 of the Terms and Conditions.

(e) Nominated Account(s)

You must establish and maintain a PayTo Nominated Account into which NPP Payments made using the PayTo Send Service may be credited and from which refunds, corrections, returned payments, error payments, duplicated payments, Mandate Claims, dispute-related amounts and other amounts

relating to those NPP Payments may be debited (Settlement Account). A Settlement Account must be an account held with us, and must be a Statutory Trust Account.

You must only nominate an account as a Settlement Account where you are permitted by Law to use it for that purpose. We may from time to time impose additional restrictions on the types of accounts that can be nominated as a Settlement Account, and we will inform you if a Settlement Account does not meet these additional restrictions. We may require you to nominate an alternative account if a Settlement Account does not meet the requirements of these SmartREP PayTo Send Terms and Conditions or any additional restrictions we inform you of, or we otherwise reasonably believe it is appropriate to do so.

Any NPP Payments to be made by us to you under these SmartREP PayTo Send Terms and Conditions will be credited by us to your Settlement Account.

Because your Settlement Account must be a Statutory Trust Account, where we are permitted to debit any amount from the Settlement Account, we may instead debit that amount from your SmartREP Billing Account or the STA Billing Account. For these purposes, the term 'debit' includes any similar phrases, such as 'deduct' or 'draw'. Before doing so, we may give you the opportunity to instruct us to deduct the relevant amount from the Settlement Account as if it were a payment initiated by you. In deciding whether to give us such an instruction, we remind you of the obligations under the CommBank Business Transaction & Savings Accounts Terms and Conditions to comply with all laws applicable to you or the account holder, including laws applying to the handling of trust money and the operation of the account.

These SmartREP PayTo Send Terms and Conditions do not affect the existing relationship we have with you regarding the operation of your Settlement Account. This includes, for example, our right to charge and deduct fees and charges from your Settlement Account, and to vary the terms and conditions of the Settlement Account, including our Business Transaction & Savings Account Terms and Conditions.

(f) Limitations

Except to the extent expressly permitted in another part of these SmartREP PayTo Send Terms and Conditions, you must not, and must ensure that your Users do not:

- sell, let for hire, rent, lease, offer to third parties on a bureau basis, encumber, transfer, or assign (except with the assignment of this Agreement in accordance with clause 8.5 of the Terms and Conditions) any rights in the CBA Materials,
- make CBA Materials available to third parties (other than Users) without our prior written approval, and then only as agreed on a need-to-know and confidential basis,
- commercially exploit the CBA Materials independently of the PayTo Send Service,
- copy, modify, adversely affect, hack into, insert Harmful Code, decompile, reverse compile, disassemble, reverse engineer, reverse assemble, reverse translate or otherwise attempt to obtain the source code for, or trade secrets in, any CBA Materials,
- remove, alter or obscure any identification, copyright, trade mark or other proprietary notices or labels applicable to the CBA Materials,
- use or refer to the CBA Materials in developing any software or solution which has similar functionality or competes with any of our products or services, or
- use CBA Materials in any manner that would infringe, violate, dilute or misappropriate any such rights.

2.1 PayTo Send Service

(a) Payment Instructions

You must ensure that all Payment Instructions are correct and complete. This includes ensuring the amount, the BSB and account number or PayID to be credited or debited for the payment, recipient, any payment references numbers, payment date and (if applicable) any details for any trace account are accurate and correct. It is important that you separately confirm the accuracy of this information.

(b) Mistaken, incorrect and unauthorised payments

You must tell us immediately if you:

- give a Payment Instruction by mistake, in error, or with incorrect details,
- think that you or a User have been fraudulently induced into making a Payment Instruction, or
- have reason to believe that an unauthorised payment was made using a PayTo.

Fees and charges may apply if you ask for our assistance – see clause 3 of these SmartREP PayTo Send Terms and Conditions.

(c) Returned or rejected payments

A payment may be rejected (in whole or part) if any party connected with or having jurisdiction over the payment refuses to accept the Payment Instruction. Fees and charges may apply to returned or rejected payments – see clause 3 of these SmartREP PayTo Send Terms and Conditions.

(d) Payment status and reconciliation

A response from us indicating that a Payment Instruction has been accepted, received or processed does not necessarily mean that the payment has been completed, finally credited to the intended recipient, or will not later be returned or rejected. You are responsible for reconciling the final status of each payment using any notifications, reporting or information we make available to you, and the transaction history and statements for the relevant PayTo Nominated Account(s).

3.1 Our rights in relation to your use and access of the PayTo Send Service

(a) Right not to process instructions

Additionally, our rights under clause 9.2 of the Terms and Conditions include the right to decline or hold the processing of a transaction, dealing or payment or particular types of transactions, dealings or payments without providing you with prior notice.

(b) When we can exercise our rights

Without limiting the circumstances where we can exercise our rights under Part 7 of the Terms and Conditions, we may exercise those rights (acting reasonably and fairly) if any of the following reasons apply:

- (**Account restrictions**): one or more of the Accounts is restricted, suspended or blocked in accordance with these SmartREP PayTo Send Terms and Conditions that apply to that Account,
- (**protection from Loss – payments or purchases**) the transaction, dealing or payment or type of transaction, dealing or payment may be being used contrary to any Law including fraudulently or as part of a possible scam or in any way that might otherwise cause you, us or another person Loss,

- (**digital assets and cryptocurrency**) you have created or sent a Payment Instruction that relates to a merchant, an account or type of account which we reasonably believe may be owned or controlled by a cryptocurrency or digital asset exchange, or
- (**Compliance with Laws**) we consider it reasonably necessary to comply with any Laws.

(c) Payment limits

In addition to any payment limits which may apply, we may in our discretion limit the amount of a payment made using the PayTo Send Service:

- to accounts and/or merchants which we reasonably believe may be owned or controlled by a cryptocurrency or digital asset exchange or being used to purchase cryptocurrency or digital assets, and/or
- using a particular payment product, type of transaction or dealing, and/or
- where it is reasonably necessary to prevent systemic or individual criminal activity, including suspected or potential fraud or scams.

We may in our discretion remove or reduce your access to transfers and/or payments and/or reduce your payment limit if:

- you have requested a higher payment limit and have not made a transaction utilising any of that increased limit within the last month, or
- we believe it is reasonably necessary to protect you or us from possible fraudulent activity, scams or other activity that might cause you or us to lose money.

When we take any action under this clause 4c, we will act fairly and reasonably towards you. Except to the extent caused by our negligence, mistake or wilful misconduct, or that of our agents, we will not be responsible for any Loss or other inconvenience you incur from any action taken under this clause.

4.1 PayTo Agreements

(a) Creating a Mandate

Where a Tenant selects PayTo as the Payment Method to be used by them in connection with a Payment Agreement:

(i) we will present to the Tenant on your behalf a PayTo Service Agreement in a form consistent with that required by the Payment Scheme Rules for PayTo. A copy of the PayTo Service Agreement we will present to Tenants is available on the Agent Portal; and

(ii) if the Tenant accepts the PayTo Service Agreement, we will obtain the Tenant's BSB and account number or PayID from the Tenant on your behalf, and you will be taken to have instructed us to produce a Mandate reflecting those data elements and the Payment Agreement through the PayTo Send Service, which will be submitted to the Mandate Management Service.

(b) Mandate Authorisation or Rejection

(i) You acknowledge that once the Mandate is submitted to the Mandate Management Service:

(A) the Mandate Management Service will notify the Tenant Financial Institution of the Mandate,

(B) the Tenant will receive a notification to either authorise or reject the Mandate from the Tenant Financial Institution, and

(C) the Tenant is required to authorise or decline the Mandate within the period of time specified in the Mandate (as determined by us), otherwise the Mandate will expire.

(ii) Where the Tenant does not authorise the Mandate within the specified period of time, the Mandate is deemed to be rejected. Where the Mandate is declined by the Tenant or is deemed to have been rejected, the Tenant will need to select their Payment Method again.

(iii) If the Tenant declines a Mandate because they do not believe that it reflects the terms of the agreement that they will enter into with you as the MPS User, you may need to cancel the Payment Agreement and issue a new Payment Agreement with the correct terms.

(iv) Once a Mandate has been authorised by the Tenant, it becomes a PayTo Agreement.

(v) A PayTo Agreement forms part of the applicable Payment Agreement.

(vi) Without limiting any other provision in these SmartREP PayTo Send Terms and Conditions, and except to the extent caused by our fraud, negligence or wilful misconduct or that of our licensors or suppliers, you acknowledge and agree that we are not responsible for:

(A) the Tenant's authorisation or declining of a Mandate, or

(B) the related actions or processes involved in the Mandate Management Service between the Tenant and the Tenant Financial Institution.

(vii) We may set a Usage Limit relating to the maximum number of Mandates that can be sent to Tenants or the number of transactions or payments value can be initiated within a set timeframe. You acknowledge and agree that:

(A) you must not exceed any Usage Limits which we impose, and

(B) we may exercise our rights of suspension and termination in accordance with these SmartREP PayTo Send Terms and Conditions if any such Usage Limit is exceeded.

(c) Amending a PayTo Agreement

(i) Where the terms of the agreement between you as an MPS User and a Tenant requires amendment, any such amendment must be captured in the relevant PayTo Agreement.

(ii) You cannot amend Tenant details. Any amendment of a PayTo Agreement (other than Tenant details) must be initiated by you.

(iii) You must obtain consent from each Tenant where required to any changes to the terms of your agreement with those Tenants before initiating an amendment of a PayTo Agreement.

(iv) You acknowledge that you hold, and are able to produce evidence upon request, each Tenant's consent obtained pursuant to clause 5c(iii) of these SmartREP PayTo Send Terms and Conditions.

(v) You must instruct us to process the amendment to the PayTo Agreement in the Mandate Management Service on your behalf. The Mandate Management Service will notify the Tenant of the amendment request at which point the Tenant is required to either authorise or decline the amendment request.

(vi) Where the Tenant's authorisation is required, the Tenant must either authorise or decline the amendment request within 5 calendar days, otherwise the amendment request will expire. For clarity, where the Tenant does not authorise or decline the amendment request within the specified period of time, the amendment request is deemed to be rejected.

(vii) If the Tenant declines the amendment request because they do not believe that it reflects the updated terms of the agreement that they have with you as the MPS User, the Tenant must contact you as the MPS User and have you resubmit the amendment request with the correct details.

(viii) Once an amendment request has been authorised by the Tenant, the Tenant Financial Institution will promptly update the Mandate Management Service with this information. The updated PayTo Agreement will apply from the date that is specified in the agreement between the Tenant and you as the MPS User.

(ix) If you as an MPS User wish to change the Tenant's details, the existing PayTo Agreement must be cancelled and a new Mandate must be created, unless the Tenant is able to change their details via the Tenant Financial Institution.

(x) We may set a Usage Limit relating to the maximum number of requests you can submit to a Tenant to amend a PayTo Agreement. You acknowledge and agree that:

(A) you must not exceed any Usage Limits which we impose, and

(B) we may exercise our rights of suspension and termination in accordance with these SmartREP PayTo Send Terms and Conditions if any such Usage Limit is exceeded.

(xi) Without limiting any other provision in the Agreement, and except to the extent caused by our fraud, negligence or wilful misconduct or that of our licensors or suppliers, you acknowledge and agree that we are not responsible for:

(A) the Tenant's authorisation or decline of an amendment of the PayTo Agreement, or

(B) the related actions or processes involved in the Mandate Management Service between the Tenant and the Tenant Financial Institution.

(d) Pausing, resuming or cancelling a PayTo Agreement

(i) You as an MPS User do not have the ability to separately pause, resume or cancel a PayTo Agreement via the PayTo Send Service. If you wish to pause or cancel a Payment, you must amend or cancel the Payment Agreement.

(ii) Where a Payment Agreement is suspended, the PayTo Agreement will not be affected, but no Payments will be initiated under it. Where a Payment Agreement is cancelled, we will cancel any associated PayTo Agreement.

(iii) We may cancel any active PayTo Agreements in existence on the Termination Date of the PayTo Send Service.

(iv) The Tenant may pause, resume or cancel a PayTo Agreement via their Tenant Financial Institution. If the Tenant pauses the PayTo Agreement, only they can resume it via their Tenant Financial Institution.

(v) Without limiting any other provision in the Agreement, you acknowledge and agree that we are not responsible for:

(A) any request to pause, resume or cancel a PayTo Agreement, where that request is initiated by the Tenant with the Tenant Financial Institution, or

(B) any claims and Losses arising from unauthorised, fraudulent or erroneous messages sent by third parties to the Mandate Management Service in relation to pausing, resuming or cancelling of a PayTo Agreement (except where the claim or Loss was caused by our fraud, negligence or wilful misconduct or that of our licensors or suppliers).

(e) Failed or missed Rental Payments and Grace Periods

(i) A Grace Period only applies where:

(A) you have chosen to activate this functionality for the Service; and

(B) we have confirmed to you in writing that it has been activated.

(ii) If a Rental Payment has failed, and a Grace Period applies:

(A) the Tenant can make a Recovery Payment during the Grace Period;

(B) if the Tenant does not make a Recovery Payment or arrange for the payment to be made outside of the Service, there will be up to 5 retries, once a day over a 5 day period after expiry of the Grace Period; and

(C) we will only suspend the Payment Agreement if no Recovery Payment is made during the Grace Period and each attempted Payment retry is unsuccessful.

(iii) There is no Grace Period or Payment retry available for any failed Other Payment.

5.1 Responsibilities

(a) Your responsibilities

You acknowledge and agree that:

(i) you are responsible for the accuracy of the information that is provided to us in connection with all Mandates and PayTo Agreements, other than information referred to in clause 5a(ii) which is provided to us by a Tenant. You will be liable for any claims and Losses that we suffer in connection with us receiving any incorrect information relating to Mandates and PayTo Agreements (except where the claim or Loss was caused by our fraud, negligence or wilful misconduct or that of our licensors or suppliers),

(ii) you have processes in place to perform your obligations under this Schedule,

(iii) you must promptly respond to any notification that you receive from us regarding the pausing of a PayTo Agreement for misuse, fraud or for any other reason. We will not be responsible for any claim or Losses that you suffer as a result of you not promptly responding to such a notification (except where the claim or Loss was caused by our fraud, negligence or wilful misconduct),

(iv) if you experience any activity that appears suspicious or erroneous, you must promptly report such activity to us via email to **cba_psu_paas_support@cba.com.au**,

(v) you must properly respond to any notification from us requiring you to confirm that any or all of your PayTo Agreements are accurate and up to date,

(vi) you must not use PayTo, the PayTo Send Service or the Mandate Management Service for fraudulent or improper purposes, which includes (but is not limited to) where you contravene clause 5c(x) of this Schedule, or where you cancel a PayTo Agreement without a Lawful basis,

(vii) you must act promptly in relation to any instructions that you receive from Tenants in relation to a Mandate or PayTo Agreement,

(viii) you must comply with all applicable Laws, including any NPP Rules and NPP Procedures which we may advise you of from time to time, in connection with your use of PayTo and the PayTo Send Service,

(ix) if you incorrectly initiate a Payment Activity, either through error or duplication, you must promptly contact us to arrange for the return of any affected NPP Payment to the Tenant and promptly notify any other impacted party. You authorise us to debit any such erroneous or duplicated NPP Payment from the PayTo Nominated Account(s), and

(x) you must not initiate Payment Activities that are fraudulent or unauthorised as a result of a fraud, scam or other malicious activity.

(b) Our responsibilities

We:

(i) will accurately reflect the information provided by you in connection with a Mandate and PayTo Agreement in the Mandate Management System, and

(ii) may monitor your PayTo Agreements for misuse, fraud and security reasons, but we do not have an obligation to do so.

6.1 Fees and charges

Fees and charges relating to your use of PayTo specified in the Smart Real Estate Payments Fee Schedule will be debited from your SmartREP Billing Account or another account that you hold with us in accordance with Part 12 of the Terms and Conditions, unless otherwise expressly agreed.

7.1 Payment Instructions

(a) Communications made in error

We will do what we can to assist when you advise that a communication, including a Payment Instruction, has been made in error.

(b) Prohibited communications or transactions

You must not create or send a communication in relation to the PayTo Send Service, including any Payment Instruction, or enter into a transaction:

- that is contrary to any Law, or
- if you are acting as agent for a principal that has not been disclosed to us, other than the Landlord.

8.1 Terminating

(a) Termination of the Terms and Conditions

For clarification, termination of the Terms and Conditions for any reason includes termination of these SmartREP PayTo Send Terms and Conditions.

(b) Suspension and termination

In addition to the circumstances set out in Part 9 (Unacceptable use, suspension and termination rights) of the Terms and Conditions, we may also exercise the suspension and termination of access rights referred to in that part if we reasonably consider that the risk of fraud or other Losses relating to your use of the PayTo Send Service is too high, including when taking into account the volume or nature of disputes (including Tenant disputes).

In any circumstances where we can exercise a right of suspension or termination under Part 9 (Unacceptable use, suspension and termination rights) of the Terms and Conditions, or this clause 9 of these SmartREP PayTo Send Terms and Conditions, we may (subject to the provisions of Part 9 (Unacceptable use, suspension and termination rights) suspend or cancel any Mandates or PayTo Agreements relating to you.

(c) Effect of Termination

In addition to clause 9.5 (Effect of termination) of the Terms and Conditions, on termination of this Schedule:

- we will no longer be obliged to give you access to the PayTo Send Service, or accept NPP Payments for any PayTo Agreements on your behalf,
- if there are any active PayTo Agreements on the day prior to the Termination Date, you:
  - must ensure that all these active PayTo Agreements are cancelled on the Termination Date, and
  - authorise us to cancel any active PayTo Agreements on the Termination Date, and
- both parties must continue to comply with their obligations in relation to payments or other transactions initiated prior to the Termination Date, including in relation to investigations or disputes relating to those payments or transactions.

(d) Survival

This clause 9, clauses 2e and 3 (in relation to fees or other amounts owed which have not been paid or invoiced prior to the Termination Date), 10 and 11 of these SmartREP PayTo Send Terms and Conditions, and any clauses of the Terms and Conditions referred to in clause 1b of these SmartREP PayTo Send Terms and Conditions which survive pursuant to clause 9.5.3 of the Terms and Conditions, survive termination of the PayTo Send Service or these SmartREP PayTo Send Terms and Conditions, together with any other provision which by its nature is intended to survive termination.

9.1 Liability and indemnity

(a) What you are liable for under these SmartREP PayTo Send Terms and Conditions

Subject to this clause 10, you are liable for any Loss you suffer (including in relation to unauthorised payments) that arises from any of the following:

- any acts or omissions by you or any User, including when we act on any information referred to in clause 4.1(a) of the Terms and Conditions; or
- any incorrect or mistaken payments.

You will not be liable for Loss from an unauthorised payment to the extent that any of the following applies:

- the cause of the Loss is due to our negligence, fraud or wilful misconduct, or
- the unauthorised payment occurs after you notify us that the access to the Services has been breached, misused or compromised and the unauthorised payment is connected with that breach, misuse or compromise.

(b) What we are not liable for under these SmartREP PayTo Send Terms and Conditions

No liability for any acts or omissions by you or any Users

You agree that we are not liable for any Loss or inconvenience of any nature that you suffer or incur due to any acts or omissions by you, any Users or any third party's actions except to the extent the Loss arises due to our or our agent's negligence, fraud or wilful misconduct. For example, we are not liable for any of the following:

- any incorrect referred to in clause 4.1(a) of the Terms and Conditions,
- any failure or delay in giving us a communication, including any Payment Instruction,
- not verifying the authority of any User or any other person who is entitled to give us instructions,

- any inability of us to recover any incorrect or mistaken payments that you or a User made,
- any errors or omissions caused by a third-party communications system that we have not specifically provided including any discrepancies in the information that you transmit to us, or we transmit to you, using those systems, and
- any other bank's actions, including mistakes, failing to act, transmission delays or not receiving any messages.

Availability, business interruptions and circumstances beyond our reasonable control

From time to time, the Property Tree Software, the Agent Portal or the PayTo Send Service may be subject to faults. We do not warrant that any problem with the Agent Portal, the PayTo Send Service, or the internet can be solved immediately or quickly. You acknowledge that the PayTo Send Service may rely on factors that are outside our control. However, we will use reasonable endeavours to overcome any fault or problem in the PayTo Send Service as quickly as possible.

Subject to the provisions below regarding statutory warranties, guarantees and protections, we do not guarantee the availability of the PayTo Send Service and will not be liable to you, nor be in default under these SmartREP PayTo Send Terms and Conditions, for any Loss, business interruption or inconvenience of any nature arising from:

- the unavailability of the PayTo Send Service, including without limitation any impact on the level of functionality or service arising from:
  - the testing and implementation of any preparedness, preventative or incident response measures to avoid or minimise the impact of potential or actual disruptions to our critical business operations and PayTo Send Service (whether such disruption has occurred), and/or
  - scheduled maintenance, system or software updates, upgrades or changes, and operational procedures,
- any failure or delay in:
  - restoring the availability of the PayTo Send Service (or any part thereof) to a level of service, or
  - recovering access to data via the PayTo Send Service, within a specific timeframe (including any adjustment of recovery objectives and priorities) following a disruption,
- any failure or delay in the performance of any obligations under these SmartREP PayTo Send Terms and Conditions, including any direct Loss or Consequential Loss, to the extent that failure or delay is caused by any circumstances beyond our reasonable control so long as the failure or delay could not have been prevented by reasonable precautions, or could not have reasonably been circumvented by us by means of alternate sources, workarounds or other means, and
- any Loss caused by failures or delays to payments to or from your Accounts that may be caused by disruptions to the operations and systems of other financial institutions.

Customer Data

Subject to the provisions below regarding statutory warranties, guarantees and protections:

- the PayTo Send Service may be unavailable due to scheduled maintenance, system or software updates, upgrades or changes, and operational procedures, and

- we are not responsible for any loss, corruption or interception of data that occurs outside the PayTo Send Service (such as those which occur while data is being sent over the internet), and you are responsible for making appropriate backups of Customer Data.

No liability for restrictions, suspensions or terminations under these SmartREP PayTo Send Terms and Conditions

Without limiting our liability to account to you for any amounts we receive on your account, and except to the extent caused by our or our agents' negligence, fraud or wilful misconduct, we will not be liable for any Loss or inconvenience you suffer or incur as a result of us:

- exercising our rights under Part 9 (Unacceptable use, suspension and termination rights) of the Terms and Conditions or clause 9 of these SmartREP PayTo Send Terms and Conditions, or
- terminating these SmartREP PayTo Send Terms and Conditions or this Agreement.

Statutory warranties and guarantees

Warranties and guarantees implied by the *Australian Securities and Investments Commission Act 2001*, or the *Australian Consumer Law of the Competition and Consumer Act 2010*, or any similar legislation, may apply to these SmartREP PayTo Send Terms and Conditions or your use of the PayTo Send Service. If we breach any such warranty or guarantee, to the extent permitted by the relevant Act or legislation, our liability is limited to:

- in the case of services, either supplying the services again or paying the cost of having the services supplied again; or
- in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired.

Statutory protections unaffected

Nothing in these SmartREP PayTo Send Terms and Conditions is intended to exclude our liability or your rights under or impose any obligations on you that are inconsistent with or contrary to, any statutory protections or mandatory or voluntary codes of conduct that apply including those intended to protect consumers or small businesses.

Any provisions of these SmartREP PayTo Send Terms and Conditions are to be interpreted so that any applicable statutory protections or codes prevail to the extent of any inconsistency.

Mandate creation delays

You acknowledge that delays might occur in the creation of Mandates and PayTo Agreements or the processing of NPP Payments if:

- incorrect instructions have been provided to us in relation to a Mandate or a PayTo Agreement,
- you fail to provide adequate information to us in all the mandatory fields,
- the Tenant does not authorise a Mandate within the required timeframe,
- the Tenant rejects or cancels a Mandate,
- the Tenant does not authorise an amendment to a Mandate or PayTo Agreement within the required timeframe,
- the Tenant delays in resuming a PayTo Agreement following suspension,

- PayTo or the Mandate Management Service is unavailable or is not responsive,
- the Tenant Financial Institution delays in processing an NPP Payment or does not comply with its obligations under the NPP Rules or NPP Procedures,
- you fail to comply with your obligations under this Schedule,
- you exceed a Usage Limit, or
- there are insufficient funds in the Tenant's account to process the NPP Payment or the applicable limit being exceeded.

We will not be liable to you for any delay referred to above (except where the delay was due to our fraud, negligence or wilful misconduct or that of our licensors or suppliers).

(c) No liability for Consequential Loss

Unless otherwise specified, neither party is liable to the other party for and no measure of damages will, under any circumstances, include any: Consequential Loss, incidental or punitive damages, whether in contract, tort (including without limitation in negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, whether or not such Loss was foreseeable and even if advised of the possibility of the Loss. This clause 10c does not apply in relation to the indemnity under clause 10d below.

(d) Your indemnity

Subject to clause 10b above, you indemnify us, our agents, suppliers and our contractors (each an **Indemnified Person**) against:

- any claim or Loss (including Consequential Loss), including claims and Losses that we may be liable to NPP Australia Limited or other NPP Participants for, that may be reasonably and directly suffered or incurred resulting from or arising out of:
  - us taking any action under Part 9 (Unacceptable use, suspension and termination rights) of the Terms and Conditions or clause 9 of these PayTo Terms,
  - any conduct by you which results in us, our agents, suppliers or contractors acting on an erroneous basis, including your failure to disable any Security Identification after:
    - becoming aware that the Security Identification has, or may have been, compromised, or
    - termination of the authority of a User to whom any Security Identification relates,
  - any negligent, fraudulent or wilful misuse of the services provided under these SmartREP PayTo Send Terms and Conditions by you or your Users,
  - any other breach by you or your Users of any obligation under these SmartREP PayTo Send Terms and Conditions, including where the breach arises due to an act or omission of a User (including any failure to comply with Part 5 (Security) of the Terms and Conditions),
  - a Mandate Claim, and
  - any breach by you of these SmartREP PayTo Send Terms and Conditions, which results in us being liable under any indemnity in the NPP Rules, and
- our reasonable and directly incurred incremental costs of investigating, recovering or returning an erroneous payment caused by any act or omission of yours or a User.

However, clause 6.6 (Contribution) of the Terms and Conditions applies to your obligations under this clause 10d, including where we or a Tenant caused or contributed to the relevant claim, Loss or cost.

To the extent that this indemnity benefits an Indemnified Person that is not us, you acknowledge that we hold the benefit of the indemnity on trust for the Indemnified Person and may enforce this indemnity on behalf of any of those persons.

10.1 Meaning of words

(a) General

Terms defined in both these SmartREP PayTo Send Terms and Conditions and clause 13.1 of the Terms and Conditions have the meaning given in these SmartREP PayTo Send Terms and Conditions. Terms defined in clause 13.1 of the Terms and Conditions but not this Schedule have the meaning given in that clause 13.1.

(b) Definitions

Account
Any Eligible Product held by you in relation to the PayTo Send Service, including your PayTo Nominated Account(s).

Consequential Loss
Any special, indirect, incidental or consequential Loss, including without limitation (a) economic Losses (for example loss or corruption of data, loss of revenues, profits, contracts, use, opportunity, business or anticipated savings); (b) loss of goodwill or reputation; and (c) Loss or damage which was not reasonably foreseeable.

Eligible Product
Any product, account or other facility that we allow to be used with the PayTo Send Service, as set out in the Establishment Form or otherwise approved by us in writing.

Establishment Form
Any form provided by us and completed and signed or otherwise accepted by you to be granted access to the PayTo Send Service, which has been accepted by us. You will need to sign or accept an Establishment Form, and have it accepted by us, for the PayTo Send Service. For the avoidance of doubt, when we refer to a 'form' in this definition, we include an online or digital registration process and the information provided and terms accepted as part of that registration process.

NPP Procedures
The technical, operational and security procedures prescribed by NPPA for the purposes of the NPP Basic Infrastructure.

NPP Rules
The rules prescribed by New Payments Platform Australia (NPPA) that establish the core obligations and rights between NPPA, NPP Participants, Connected Institutions and Overlay Service Providers.

Mandate Claim
A claim made by a Tenant Financial Institution for and on behalf of a Tenant in connection with a Mandate or PayTo Agreement to which the Tenant is a party that you initiated an NPP Payment request and procured an NPP Payment for that was not authorised by the terms of the Mandate or PayTo Agreement or by the Tenant at the time the NPP Payment request was made.

PayID
An identifier you can register to receive payments, by linking your bank account to a memorable piece of information, such as your phone number, email address, ABN, ACN or Organisation ID. PayID is an account identifier that can be used to send or address payments via NPP, without the need to remember BSB and account numbers.

Payment Instruction
An instruction given to us via the PayTo Send Service to facilitate an NPP Payment.

PayTo Nominated Account(s)
Your Settlement Account, and your SmartREP Billing Account.

Settlement Account
The account nominated by you as contemplated by clause 2e of these SmartREP PayTo Send Terms and Conditions, into which NPP Payments received may be credited and from which refunds, corrections, returned payments, error payments, duplicated payments, Mandate Claims, dispute-related amounts and other amounts relating to those NPP Payments may be debited.

STA Billing Account
The account referred to as such in the CommBank Business Transaction & Savings Accounts Terms and Conditions.

Tenant Financial Institution
The financial institution of the Tenant that offers NPP enabled payments and services in near real-time.

Termination Date
The date on which the PayTo Send Service, these SmartREP PayTo Send Terms and Conditions or the Agreement is terminated.

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