

Master Services Agreement

MSA Number:

BETWEEN:

EonX Services Pty Ltd (ABN 39 615 958 873)

of Level 1, 1183 Toorak Road, Camberwell VICTORIA 3124

(EonX)

and

Henry Schein Regional Pty Ltd ATF The Henry Schein Trust (ABN 83 132 312 515)

of Building 3 Level 6 189 O'Riordan St Mascot NSW 2020

(Client)

BACKGROUND:

A. EonX has developed a Platform which consists of certain software applications and associated services, to facilitate payments and reward Client Members.

B. The Client wishes to use the Platform as a Service (PaaS) in its business operations.

C. EonX has agreed to provide and the Client has agreed to pay for the use of the Platform in accordance with the terms of this Agreement.

AGREED:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement, unless the contrary intention appears:

Acquirer means an entity such as a bank or financial institution approved by the Network Card Scheme to process credit and debit card transactions on behalf of a merchant or Payment Service Provider.

Agreement means this document including the attached Schedules and any other annexures or documents incorporated by reference into this document.

Authorised Person means in relation to a party, being either the Client or EonX:

- (a) the directors, secretary and any other person appointed to act as an authorised officer of that party;
- (b) the employees of that party;
- (c) the legal, financial and other advisers of that party; and

(d) the respective officers and employees of those legal, financial and other advisers.

Business Day means a day that is not a Saturday, Sunday or public holiday in the State of Victoria, Australia.

Client Member means any person or business that the Client permits to use any part of the Program.

Commencement Date means the date this Agreement commences as specified in Schedule A.

Conclusion Date means the Program end date specified in Schedule A.

Confidential Information means all Information designated as confidential by the Disclosing Party or Information which by its nature could reasonably be considered to be confidential which is disclosed to or acquired by the Receiving Party or the Receiving Party's Authorised Persons before or after the date of this Agreement, whether verbally, in writing or in electronic or machine readable form but does not include Information that:

- (a) the Receiving Party can prove by contemporaneous written documentation was in the lawful possession of the Receiving Party before the Disclosing Party had any dealings with the Receiving Party or was independently generated by the Receiving Party or on its behalf;
- (b) is in the public domain otherwise than as a result of a breach of this agreement or any other obligation of confidentiality owed to the Disclosing Party; or
- (c) was legally and properly obtained by the Receiving Party from any other source without restriction on further disclosure.

Consequential Loss includes:

- (a) indirect loss;
- (b) loss of revenues;
- (c) loss of reputation;
- (d) loss of profits;
- (e) loss of actual or anticipated savings;
- (f) loss of bargain; or
- (g) lost opportunities, including opportunities to enter into arrangements with third parties.

Disclosing Party means a party who discloses Confidential Information to a Receiving Party.

Documentation means documents or other information related to the proper use of the Program made available by EonX to the Client from time to time.

Fees means the relevant amounts payable as specified in the applicable Schedules.

Force Majeure Event means a serious event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent, provided that event or circumstance is limited to the following:

- a. riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority;
- b. ionising radiation or contamination, radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component;

- c. pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- d. plague, pestilence, pandemic, epidemic or public health emergency (declared by the World Health Organisation), or any quarantine (or similar) restrictions imposed as a result thereof;
- e. earthquakes, flood, fire or other physical natural disaster, but excluding weather conditions regardless of severity;
- f. commotion, strikes (or other industrial disputes) or other disorder, but excluding any industrial dispute which is specific to the performance of this Agreement or the Client.

Information means information regardless of form relating to or developed in connection with the Disclosing Party or its business including computer software, financial affairs, projections, forecasts, accounts, prospects, strategies, business processes and system functionality, business operations, assets, liabilities, customers, personnel, formulae, contracts, technology, concepts, product and stock and sales information.

Insolvency means:

- a. in relation to a body corporate, a liquidation or winding up, the appointment of a controller, administrator, receiver, manager or similar insolvency administrator to a party or any substantial part of its assets or the entering into a scheme or arrangement with creditors; or
- b. in relation to an individual, becoming bankrupt or entering into a scheme or arrangement with creditors; or
- c. in relation to a body corporate or an individual, the occurrence of any event that has a substantially similar effect to any of the above events.

Intellectual Property Rights or **IPR** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, data and database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Loss means any claim, loss liability, cost or expense (including legal expenses on a full indemnity basis).

Network Card Scheme means an entity which administers and promotes payment cards, including without limitation the likes of Mastercard, Visa or American Express.

Network Rules means the rules, regulations, releases, interpretations and other requirements, whether contractual or otherwise, imposed or adopted by any Network Card Scheme.

Payment Service Provider (PSP) means an entity (like EonX), which is approved by an Acquirer to facilitate the processing of transactions on behalf of a qualified merchant or third party.

Platform means the EonX operating system and associated services which controls and delivers the Program.

Privacy Policy means the policy set out in Schedule E.

Product means the goods or services, or offers to provide goods or services, provided by EonX and / or a Retail Partner through the Program.

Program means a branded iteration of the Platform provided for use by the Client and Client Members in accordance with this Agreement.

Program Terms and Conditions means the terms and conditions relating to the use of the Program by the Client and the Client Members as detailed in Schedule D and which may be amended from time to time in accordance with its terms.

Receiving Party means a party who receives Confidential Information from or on behalf of the Disclosing Party.

Retail Partner means the issuer of any Product or Reward, made available to EonX through the Program, for redemption by the Client and Client Members.

Reward means Products or any other services which can be redeemed by Client Members within the Program.

Term means the period starting from the Commencement Date and ending on the Conclusion Date.

Third Party Product means:

- (a) any software or code licensed to EonX which is used in the development of the Platform, or with which the Program is compiled or to which it is linked;
- (b) any cloud, internet or subscribed service provided to EonX in relation to the Platform;
- (c) any services provided by an Acquirer;
- (d) any services provided by a Retail Partner; or
- (e) any other service provided by a service provider or vendor in relation to the Platform.

1.2 Interpretation

In this Agreement:

- (a) headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include the other genders;
- (d) if words or phrases are defined, their other grammatical forms have a corresponding meaning;
- (e) a reference to:
 - (i) a person includes an individual, a partnership, a body corporate, a joint venture, an association (whether incorporated or not), a government and a government authority or agency;
 - (ii) a party includes the party's executors, legal personal representatives, successors, transferees and assigns;
 - (iii) unless indicated otherwise, "\$" or dollars means Australian dollars and a reference to payment means payment in Australian dollars;
 - (iv) legislation includes any statutory modification or replacement and any subordinate or delegated legislation issued under that legislation;
 - (v) a law includes any statute, regulation, by-law, scheme, determination, ordinance, rule or other statutory provision (whether Commonwealth, State or municipal);
 - (vi) a clause is a reference to a clause of this document;
 - (vii) a paragraph is a reference to a paragraph of a Schedule
- (f) if the day on or by which something must be done is not a Business Day, that thing must be done on the next Business Day;

- (g) dates and times refer to dates and times in Melbourne, Australia; and
- (h) nothing in this agreement is to be construed against a party merely because that party was responsible for its drafting or relies upon it.

1.3 Priority

In the event of any inconsistency between different parts of this Agreement, then the Agreement will be interpreted using the following order of priority:

- (a) the Master Service Agreement;
- (b) the attached Schedules;

2. LICENCE

2.1 Grant

EonX grants to the Client a non-exclusive, non-transferable licence for the Term, to permit the Client and its Client Members to promote, comply with, access and use the Program in accordance with the terms of this Agreement.

2.2 Conditions

The Client must:

- (a) pay all Fees in accordance with this Agreement;
- (b) not reverse engineer, decompile, translate, disassemble or attempt to discover any source code or underlying ideas or algorithms of the Program or any other software forming part of the Program;
- (c) not modify, duplicate or create any derivative works based on the Program or any other software forming part of the Program;
- (d) other than making the Program available for use by its Client Members in accordance with this Agreement, not transfer, transmit, distribute, sell, lease, licence, lend, disclose, download, display, publish or use for service bureau purposes the Platform or any other software forming part of the Program;
- (e) not remove or modify any Program trademarks, markings or any other notice of the EonX's proprietary rights in the Program or the Documentation;
- (f) not access, scrape, copy, monitor or use any portion of the Program or any materials or other content on the Program by using any robot, "bot," spider, web crawler or other similar automatic device;
- (g) not knowingly distribute to EonX via the Program any viruses, known vulnerability or latent vulnerability that may interrupt, destroy or limit the accessibility or functionality of the Program;
- (h) not attempt or engage in any action that directly or indirectly interferes with the proper working of or place an unreasonable load on Program; and
- (i) ensure there is no unauthorised access to the Program or do anything that might jeopardise the security of the Program;

- (j) not commit, cause or allow any breach (or do anything which might put EonX in breach) of any law, regulation, government direction or industry standard or code;
- (k) not use the Program to breach a person's rights (including committing defamation or infringing a person's intellectual property rights);
- (l) not attempt to or actually access the Program by any means other than through the portals or interfaces provided by Eonx;
- (m) not attempt to or actually override any security component included in or underlying the Program; and
- (n) notify Eonx immediately of any unauthorised access, security breach (suspected or otherwise) of the Program, or loss or misuse of confidential access credentials (including usernames or passwords).

2.3 Reservations

- (a) EonX reserves all rights not specifically granted in this Agreement.
- (b) Except for the rights expressly granted in this Agreement, EonX does not licence or transfer to the Client or Client Members any of EonX's Intellectual Property Rights.
- (c) EonX reserves the right to:
 - (i) suspend Client Members who have breached the Program Terms and Conditions;
 - (ii) temporarily disable or suspend the Program if the Client breaches any terms of this Agreement.

3. PROGRAM

3.1 Provision

EonX shall, during the Term, provide the Program in accordance with the:

- (a) Service Levels;
- (b) Network Rules;
- (c) Documentation and Schedules

3.2 Reservations

The Client acknowledges and agrees that EonX may:

- (a) modify the Program:
 - (i) by issuing standard or progressive updates as EonX sees fit to ensure proper operation of the Program (for example, bug fixes or performance improvements);
 - (ii) to make new enhancements, features, functionality, applications or tools available; or
 - (iii) to alter, limit or remove features, functionality, applications or tools if required by an Acquirer, Retail Partner or the Network Rules.
- (b) amend the Documentation;
- (c) amend the Program Terms and Conditions;
- (d) subject to changes to the Network Rules.

3.3 Notice

- (a) EonX is not required to provide the Client with any prior written notice if a modification under clause 3.2 is non-material or beneficial to the Client.
- (b) For the following modifications under clause 3.2, EonX shall give to the Client:
 - (i) 30 days' notice for any material modifications to the Program Terms and Conditions.
 - (ii) 30 days' notice for changes to Payment Services Fees; and
 - (iii) 30 days' notice for material and detrimental changes to the functionality of the Program.
- (c) Where possible, EonX will provide Client with 30 days' prior notice in the event that there is a change to the Retail Partners included in the Program.

4. FEES

4.1 Payment of Fees

- (a) Invoices issued by EonX by the last business day of the month will be paid before the end of the following month.
- (b) The Client must pay the Fees due and payable to EonX in clear funds and without any deduction or set-off.

4.2 Tax

- (a) The Fees are exclusive of all taxes, levies, duties and government assessments of any nature including without limitation value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (**Taxes**).
- (b) The Client will be responsible for payment of all Taxes (excluding only taxes based solely on EonX's income) arising in relation to this Agreement, and holds EonX harmless therefrom, whether imposed now or hereafter.

4.3 Default

- (a) EonX has the right to temporarily disable or suspend the Program under clause 10 if the Client fails to pay any invoice or settle any outstanding monies that are owed to EonX in accordance with this Agreement.

4.4 Additional work

- (a) The Client agrees to pay EonX for any additional work requested by the Client at the rate agreed in writing by the parties.
- (b) The Client agrees to pay EonX for any remedial work to the Program necessitated by the Client's breach of this Agreement.

5. INTELLECTUAL PROPERTY

- (a) EonX owns, or holds a licence to use, all Intellectual Property Rights:
 - (i) comprised in or relating to the Program including but not limited to the Program, the Documentation and any proprietary materials supplied; and

- (ii) any developments, software or any other outputs modified or created in the provision of the Program for the Client and Client Members;
- (b) The Client will do all that is reasonably required to vest or transfer ownership of any Intellectual Property Rights upon creation to EonX but only to the extent those Intellectual Property Rights attach to or relate to the Program. For the avoidance of doubt, the actions the Client may be required to perform under this clause may include executing, or procuring execution of, such assignment or novation agreements and any other documents as may be reasonably necessary to achieve the objectives of this clause.
- (c) EonX indemnifies the Client in respect of any claim against the Client arising from a breach of a third party's Intellectual Property Rights provided that:
 - (i) the Client notifies EonX within fifteen (15) Business Days of becoming aware of such claim;
 - (ii) the Client provides all reasonable assistance to EonX in the defence or settlement of the claim; and
 - (iii) the Client or Client Members have not in any way caused or contributed to such breach.
- (d) The Client indemnifies EonX for any loss, damage, claim, or expense suffered or incurred by EonX arising or in relation to a breach of the Intellectual Property Rights of EonX and its Retail Partners.
- (e) Except as otherwise expressly provided in this Agreement:
 - (i) neither party shall use the name, logo, business name, trademark or any other Intellectual Property Rights of the other party in any manner without its prior written consent;
 - (ii) the Client and Client Members will not accrue any right to own or use EonX's Intellectual Property Rights as a result of this Agreement or their use of the Program.
- (f) If the Client wishes to display any third-party trademark (being such logos or marketing material) in the Program, the Client must:
 - (i) first obtain the written approval from the owner of such trademark;
 - (ii) provide evidence of such approval; and
 - (iii) comply with the terms of such approval.
- (g) The Client must seek written approval and signoff, which shall not be unreasonably withheld or delayed by EonX, for any use of EonX's or Retail Partner's logos, trademarks, offers or marketing material when used in relation to the Program.

6. GENERAL WARRANTIES AND REPRESENTATIONS

6.1 Warranties by each party

Each party warrants to the other that:

- (a) it has full corporate authority or statutory power, as the case may be, to execute and deliver this Agreement and to perform or cause to be performed its obligations under this Agreement;
- (b) this Agreement constitutes a full and binding legal obligation upon it;
- (c) this Agreement does not conflict with, or result in the breach of or default under, any other agreement, deed, writ, order, injunction, rule, judgment, law, or regulation to which it is a party or is subject or by which it is bound; and
- (d) to the best of its knowledge and belief, there are no actions claims, proceedings or investigations pending or threatened against it, which may have a material effect upon the subject matter of this Agreement or a party's ability to comply with this Agreement.

6.2 Warranties by EonX

EonX warrants that:

- (a) the Program will substantially correspond to the Schedules and Statements of Work;
- (b) if the Program does not substantially correspond with the Statement of Work (other than due to any non-compliance with this Agreement by the Client), EonX will, at its own expense, use all reasonable commercial endeavours to bring the Program into conformity with the Statement of Work or provide the Client with an alternative means of accomplishing the desired performance;
- (c) it will maintain all licences, consents, permissions and accreditations necessary for the performance of its obligations under this Agreement; and
- (d) the Program and its operation will comply with all applicable Laws;
- (e) it will not do anything or omit to do anything that will detrimentally affect the reputation or good standing of the Client;
- (f) all Retail Partners are viable and appropriate for inclusion in the Program

6.3 Warranties by the Client

Client warrants that:

- (i) it will provide EonX with all information and co-operation necessary to permit EonX to comply with its obligations herein;
- (ii) it will comply with all applicable laws with respect to its activities under this Agreement;
- (iii) it will maintain all licences, consents, permissions and accreditations necessary for the performance of its obligations under this Agreement; and
- (iv) it will make available the Program to its Client Member base and actively promote the Program.

6.4 No representations as to certain matters

The Client acknowledges and agrees that:

:

- (a) The Program may contain content and information drawn from Third Party Products;
- (b) EonX does not endorse, is not liable for and makes no representations or warranties whatsoever in respect of any Third Party Products;
- (c) Any links to third party websites or other information sources that are contained in the Program may not remain current or be maintained; and
- (d) To the extent that EonX has made or given any representation, description, illustration, specification or judgment as to the Program, the Client has:
 - (i) been provided with an opportunity to independently verify the accuracy of the same;
 - (ii) relied only on such independent verification; and
 - (iii) satisfied itself of the suitability of the Program for the Client's purposes.
- (e) EonX implements security measures and will use its best endeavours to ensure that the Program will always be secure.
- (f) EonX will use commercially reasonable efforts to make the Program available, subject to the need to conduct scheduled and emergency maintenance from time to time.

7. CONFIDENTIALITY

- (a) The Parties acknowledge that in the course of performing their respective obligations under this Agreement, the Parties may gain access to or have disclosed to them Confidential Information of the other Party.
- (b) Each Party hereby agrees to keep all Confidential Information confidential and use Confidential Information only to perform its obligations under this Agreement.
- (c) Each party agrees that it will only disclose Confidential Information;
 - (i) to an Authorised Person where the Authorised Person has a need to know and after the Receiving Party has made the Authorised Person fully aware of the confidential nature of the Confidential Information;
 - (ii) with the prior written consent of the Disclosing Party;
 - (iii) as contemplated in this Agreement; or
 - (iv) as required by law, provided that the Receiving Party must give the Disclosing Party (where legally permitted) reasonable prior notice of the proposed disclosure and full particulars of the said requirement.
- (d) The confidentiality obligations in this clause shall not apply to any information which:
 - (i) becomes generally known to the public, other than by reason of any wilful or negligent act or omission of the Receiving Party;
 - (ii) is at the time of disclosure, legally in the possession of the Receiving Party without any obligation of confidentiality; or
 - (iii) is required to be disclosed pursuant to any applicable court, governmental orders or other legal requirement or legal process.
- (e) The parties agree to keep all terms of this Agreement confidential and must not disclose any information regarding its commercial terms or the nature of the Agreement to any

third parties, except that the Agreement and its commercial terms may be disclosed as required by law or to any professional advisors (being lawyers and accountants) of the respective Parties for the purposes of determining that Party's rights under this Agreement.

- (f) Subject to retaining such copies of information as required by law, each party will, upon completion of its obligations under this Agreement and as directed by the other party:
 - (i) return to the other party, all copies of Confidential Information or any record of Confidential Information obtained from that party and held in connection with performance of the Agreement; or destroy all Confidential Information (and any copies thereof) and any record of the Confidential Information obtained from that party and held in connection with performance of the Agreement, with the exception of Confidential Information stored on computer back-up, archiving or disaster recovery systems in accordance with the usual business practices of a Party which is not readily accessible to that Party .

8. PRIVACY

- (a) Each party must:
 - (i) meet their respective obligations under the *Privacy Act 1988* (Cth) (**Privacy Act**) in respect of any Personal Information that is provided to or accessed by the party in connection with the party's performance of the Agreement. In this clause, Personal Information has the same meaning as that given to it under the Privacy Act;
 - (ii) except as required by law, only process, use or disclose Personal Information obtained from the other party in the course of this Agreement as required for the purpose of fulfilling its specific functions, activities and obligations under this Agreement;
 - (iii) take reasonable steps to protect the Personal Information obtained from the other party in connection with the Agreement from misuse and loss and from unauthorised access, modification or disclosure;
 - (iv) comply with all reasonable direction of the other party in relation to Personal Information obtained from that other party;
 - (v) notify the other party if in relation to Personal Information obtained from that other party: (i) it knows of or suspects unauthorised use or disclosure of such Personal Information; or (ii) it becomes aware of any complaint in respect of such Personal Information; and
 - (vi) provide all reasonable assistance to the other in relation to any complaint, investigation, inquiry, communication or notification to a regulator relating to the handling or treatment of Personal Information under this Agreement.
- (b) EonX will manage any Personal Information it receives from the Client and Client Members in accordance with its Privacy Policy.
- (c) Subject to retaining such copies of information as required by law, or in the case of EonX for the purpose of the provision of services to Client Members, each party will, upon completion of its obligations under this Agreement and as directed by the other party:

- (i) return to the other party, all copies of the Personal Information or any record of the Personal Information obtained from that party and held in connection with performance of the Agreement; or
- (ii) destroy the Personal Information (and any copies thereof) and any record of the Personal Information obtained from that party and held in connection with performance of the Agreement.

9. LIMITATIONS OF LIABILITY

- (a) The Client acknowledges and agrees that the Program is made on an "as is, as available" basis and to the maximum extent permitted by law, EonX disclaims any and all express or implied warranties, guarantees, representations or endorsements about the Program, Documentation or Products.
- (b) Where applicable, and to the maximum extent permitted by law, EonX's liability for any consumer guarantees or warranties in relation to the Program will be limited at EonX's discretion to:
 - (i) replacing any Products;
 - (ii) resupplying of the Program.
- (c) Except to the extent that EonX is directly and solely responsible for the Client's Loss, EonX will not be liable to the Client for any Loss suffered in connection with the provision of the Program (including any Products) or Documentation.
- (d) EonX expressly excludes all liability to the Client for Consequential Loss arising out of or in connection with this Agreement.
- (e) With the exception of fraud, wilful misconduct or breach of applicable Laws, the maximum liability of EonX for any Loss howsoever caused (including by its negligence) under or in relation to this Agreement is limited to the greater of \$100,000 or the Loyalty Program Fees paid by the Client and or Client Members, for the twelve (12) month period prior to the Loss arising.
- (f) The limitation set out in clause 9(d) is an aggregate limit for all Loss, whenever made and howsoever arising.
- (g) EonX shall have no liability or responsibility whatsoever for:
 - (i) Products supplied to the Client or Client Members by Retail Partners; or
 - (ii) Any services provided by Acquirers or other third parties.
- (h) A party is not liable for any loss, cost or expense of another party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right conferred by this Agreement.
- (i) EonX does not accept any liability for delays, interruptions, service failures and other problems relating to the Program, Products or Documentation that is outside the reasonable control of EonX.

10. SUSPENSION AND TERMINATION

10.1 Suspension

- (a) EonX may in its absolute discretion, suspend the Program in the case of a breach of:
 - (i) any term of this Agreement by the Client; or
 - (ii) the Program Terms and Conditions by the Client.

for the period during which such breach subsists.

- (b) Suspension under this clause does not relieve the Client of any of its obligation under this Agreement.

10.2 Termination

- (a) This Agreement will continue for the Term unless terminated earlier under this clause 10.2.
- (b) Either party may terminate this Agreement, for whatever cause, by giving to the other at least 180 days' written notice.
- (c) If EonX makes a material and detrimental modification under clause 3.2(a)(iii), the Client may terminate this Agreement by providing 14 days' notice in writing to EonX following expiry of the notice period under clause 3.3.
- (d) A party may terminate this Agreement immediately by notice in writing to the other party upon the occurrence of any of the following events (**Termination Event**), except where the operation of this clause is stayed under the Corporations Act:
 - (i) any material breach by a party of its obligations under this Agreement and failure by such party to remedy the breach within thirty (30) days of date of notice of breach issued by the non-defaulting party; or
 - (ii) Insolvency of the other party.
- (e) Upon any termination of this Agreement by any party, both parties agree to co-operate in winding down the Program and the measures put in place pursuant to this Agreement. The parties will co-operate to agree the member communications plan and appropriate timing for service termination.

11. DISPUTE RESOLUTION

11.1 The parties undertake to use all reasonable efforts in good faith to resolve any dispute that arises between them in connection with this Agreement except where a party seeks urgent interim, injunctive or interlocutory relief.

11.2 If a dispute arises out of or relates to this Agreement, except where a party seeks urgent interim, injunctive or interlocutory relief, a party may not commence any court, tribunal or other similar proceedings relating to the dispute unless it has complied with this clause.

11.3 If either party believes that a dispute has arisen it must provide a written notice to the other party setting out full details of the dispute ("Dispute Notice").

11.4 The Client Relationship Manager and EonX Relationship Manager must endeavour to resolve the dispute within 10 Business Days of the date of the Dispute Notice.

11.5 If, following the expiry of the period specified in clause 11.4, no written agreement has been reached regarding the matters set out in the Dispute Notice, either party may, by written notice to the other party, escalate the dispute to the persons named herein;

First Escalation Point – Senior Manager Level

Second Escalation Point – Managing Director Level

If an escalation notice is provided under this clause 11.5, there will be a period of 15 Business Days from the service of the notice during which time the parties must participate in good faith negotiations to attempt to reach a written agreement regarding the dispute detailed in the Dispute Notice.

11.6 If the dispute has been escalated under clause 11.5 and no written agreement has been reached regarding the matters set out in the Dispute Notice at either escalation point within the prescribed notice period, either party may submit the dispute for mediation pursuant to 11.7.

11.7 Any dispute submitted for mediation under this clause 11 will be conducted in accordance with the IAMA Mediation and Conciliation Rules. The terms of the IAMA Mediation and Conciliation Rules are incorporated into this agreement. The parties may agree on the identity of the mediator appointed to mediate a dispute, provided that where the parties are unable to agree on the identity of the mediator within five Business Days of the dispute being submitted for mediation, either party may request that the IAMA appoint a mediator.

11.7 If a dispute referred to mediation under clause 11.7 is not resolved within 30 days after the mediator was appointed or any further time period agreed by the parties in writing, the dispute resolution process under this clause 11 will be terminated and either party may commence legal proceedings in respect of the dispute.

12. FORCE MAJEURE

- (a) Neither party shall be liable for any delay in performing or failure to perform its obligations hereunder where such delay or failure is due to a Force Majeure Event.
- (b) The affected party shall, for the duration of such Force Majeure Event, be relieved of any obligation under this Agreement which is thereby affected. If a Force Majeure Event prevents a party from carrying out its obligations under this Agreement for a continuous period of thirty (30) days or more, then the other party may terminate the Agreement upon written notice to the party whose performance is affected.

13. GENERAL

13.1 Invalidity

If a provision of this Agreement is invalid or unenforceable:

- (a) then it is to be read down or severed to the extent of the invalidity or unenforceability;
and
- (b) the invalidity or unenforceability does not affect the validity or enforceability of the other provisions of the Agreement and the Agreement will be construed as if such invalid or unenforceable provision was not contained herein.

13.2 Waiver

- (a) A waiver of a right arising under this Agreement must be given in writing signed by the party or an authorised officer of the party granting the waiver.
- (b) No indulgence, extension, delay or failure by a party in exercising a right prevents its exercise or operates as a waiver.

13.3 Relationship of parties

- (a) The parties do not intend to create, and this Agreement does not constitute, a partnership, agency, trust or other arrangement and this Agreement is not to be construed as creating a joint venture.
- (b) Neither party has the authority to act for, or incur any obligation on behalf of, the other party.

13.4 Restraint

During the Term and for a period of 12 months following the termination or expiry of this Agreement, the Client must not:

- (a) directly or indirectly solicit for employment, employ, engage the services or otherwise contract any of EonX's personnel who have been engaged to provide the Program; or
- (b) induce or encourage any of EonX's Personnel to cease their employment, terminate their contractor agreement or other similar contractual relationship with EonX.

13.5 Variation

This Agreement may be amended only by a written document signed by all parties.

13.6 Assignment

A party must not assign, create an interest in or deal in any other way with any of its rights under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld.

13.7 Entire Agreement

- (a) this Agreement represents the entire agreement of the parties about its subject matter and supersedes all other representations, negotiations, arrangements, understandings or agreements and all other communications.
- (b) No party has entered into this Agreement relying on any representations made by or on behalf of the other party, other than those expressly made in this Agreement.

13.8 Further assurances

Each party must, at its own expense, whenever requested by another party, promptly do or cause to be done everything reasonably necessary to give full effect to this Agreement and the transactions contemplated by this Agreement.

13.9 Rights and remedies

Except as expressly provided herein, the rights and remedies for which this Agreement provides are in addition to any rights and remedies provided by law.

13.10 Jurisdiction

- (a) This Agreement is governed by and is to be construed under the laws of Victoria.
- (b) Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the State of Victoria and waives any claim or objection based on absence of jurisdiction or inconvenient forum.

13.11 Notices

- (a) Notices must be emailed to the entities listed in Schedule 1.
- (b) A notice will be taken to have been given at the time of delivery if it is received by the recipient's email server before 5.00pm on a business day, at the time of delivery, or otherwise at 9.00am on the next following Business Day.

13.12 Tax Implications

The Client and Client Members acknowledge and agree that EonX shall not be responsible for any income tax, fringe benefit tax or other tax arising from the use of the Program.

13.13 Audit Rights

- (a) Both parties will at all times promptly provide any financial or other information reasonably requested, to perform credit risk, security, qualification, regulatory and Network compliance tasks and other reviews related to the provision of the Program.
- (b) Each party authorises the other to obtain information from third parties when performing credit risk, security, qualification, and other reviews and share such information with such of its affiliates or the Acquirer as reasonably necessary for the provision of the Program.

13.14 GST

Words and expressions which are not defined in this document but which have a defined meaning in the A New Tax System (Product and Services Tax) Act 1999 (Cth) and other similar or related act, regulations, or rulings (GST Laws) have the same meaning as in the GST Laws.

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under these terms are exclusive of GST. If a supply made pursuant to this document is a taxable supply, the recipient must pay on demand to the supplier any GST payable on that supply in addition to any other amount that may be payable by the recipient to the supplier for that supply pursuant to this document, provided that the supplier provides to the recipient a valid tax invoice in the form prescribed by the GST Laws.

Executed as an Agreement:



EXECUTED by **EonX** by its duly authorised representative:

EXECUTED by **Client** by its duly authorised representative:

Signature of authorised person

Signature of authorised person

CEO

CHIEF FINANCIAL OFFICER
SECRETARY

Office held

Office held

Andrew Kallen

Michael ELL

Name of authorised person (print)

Name of authorised person (print)

14 September 2020

14 SEP 2020

Date

Date

SCHEDULE A – Term & Notices

Commencement Date: _14th September_2020__

Conclusion Date: __14th September 2023_____

Notices as detailed in the following table:

Company	Name	Email	Contact Number
EonX	Andrew Kallen		1300 134 418
Client	Jade Watson		02 9697 6288

SCHEDULE B – Loyalty Services and Fees

Background

EonX will deliver a branded payments and rewards platform ("**Program**") under which the:

- (a) Client Member can register to participate in the Program;
- (b) Client can set, and the Client Member can select, a Program Tier;
- (c) Client Member can pay Client Invoices;
- (d) Client Member will be awarded Program Points for the successful payment of Client Invoices;
- (e) Client Members can redeem Program Points for Product, Concierge Payments or transfer Program Points to an Affiliated Points Partner.

Definitions

Affiliated Points Partner means an entity such as an airline or loyalty provider, who has approved the transfer of Program Points to their own frequent flyer or points programs for redemption.

Client Invoice means an invoice generated by the Client which has been sent directly to Client Members for payment.

Concierge Payments means payments made to third party payees by Client Members using Program Points or Points plus Pay.

Point plus Pay means a facility where Client Members can pay for Rewards or Concierge Payments using accumulated Program Points combined with other accepted payments methods.

Product means the offers, goods or services provided by EonX and or a Retail Partner through the Program.

Program Fees means the fees payable by the Client and or Client Member for the cost of Program Points.

Program Points means the points accumulated in the Program from the payment of Client Invoices or other marketing campaigns, for redemption on Products and Concierge Payments.

Program Tier means the selected plans which govern the rate that Program Points are earned in the Program by a Client Member.

EonX Obligations

During the Term of this Agreement, EonX shall provide:

- (a) secure access to the Program for Client and Client Members;
- (b) the ability for the Client to decide which Client Member can have access to the Program;
- (c) the accumulation of Program Points in accordance to a selected Program Tier;
- (d) Points plus Pay functionality;
- (e) the ability for the Client to promote their own products in the Program;
- (f) the Client with the ability to run promotional campaigns and issue bonus Program Points to Client Members;
- (g) the supply of activity and reconciliation reports;
- (h) access to a 1300 help desk for Client and Client Member enquiries pertaining to the Program;
- (i) Client Members with the ability to redeem their Program Points for:
 - (i) Digital gift cards;

- (ii) Physical eStore products;
- (iii) Client products (to be determined);
- (iv) Client statement credit (using points to pay Client Invoices);
- (v) Transferring to Affiliated Points Partners;
- (vi) Making Concierge Payments.

Client Obligations

During the term of this Agreement, the Client shall;

- a) Confirm eligibility of Client Members to participate in the Program in accordance with this Agreement.
- b) Actively market and promote the Program to its Members through a mutually agreed plan.
- c) Seek written approval and signoff, which shall not be unreasonably withheld or delayed by EonX, for any use of EonX's or Retail Partner logos, trademarks, offers or marketing material when used in relation to the Program.
- d) Upon the Client's decision, ensure that any delivery costs, transaction costs or processing fees pertaining to the Program shall be borne by the Client Member as stipulated at time of online checkout in the Program

Program Fees & Tiers

During the Term, the Program will incorporate the following tiers and incur the following fees:

Program Table

Program Tier	Program Fee	Program Points earn per \$1
Platinum		
Gold		

Additional Fees

a. Bonus Point Fee

Bonus points can be provided to Client Members at the request of Client for a fee of [REDACTED] per point.

b. Adhoc Fees

These fees will be mutually agreed by both parties.

Program Mechanics & Timing

The mechanics for the Program which will include without limitation the treatment of onboarding, point allocation, billing of fees, file creation, reporting requirements, controlled unwinding or termination and the timing for activities, will be clearly outlined and approved by both parties in the Statement of Work.

SCHEDULE C - Payment Services and Fees

Background

EonX, as an approved Payment Service Provider, will deliver the following payment services under the Program:

- (a) Facilitate processing, transmission, remittance and reporting services to the Client;
- (b) Process Client Invoice Transactions and allocate Program Points for Client Members;
- (c) Facilitate Concierge Payment Transactions for Client Members;
- (d) Comply with all relevant Network Rules and Acquirer requirements; and
- (e) Uphold all PCI Compliance and necessary accreditation throughout the Term.

Definitions

Acquirer means an entity such as a bank or financial institution approved by the Network Card Scheme to process credit and debit card transactions on behalf of a merchant or Payment Service Provider.

Concierge Payment Transaction means a Transaction by a Client Member to pay a third-party bill, statement or invoice.

Card means a debit or credit card which can be used to initiate a Transaction.

Cardholder means the individual whose name is referenced on a Card as the authorised user of such Card.

Chargeback Dispute means an instruction initiated by a Client Member with their bank or Card issuer, requesting to investigate and or reverse an existing Transaction.

Client Invoice Remittance means the settlement of funds which were transacted in the Program from Client Invoice Transactions.

Client Invoice Transaction means a Transaction Instruction by a Client Member to pay an invoice issued by the Client.

Direct Debit Request Authority means an authorisation given by a bank account holder or Cardholder to allow EonX to perform a Transaction from their nominated account as outlined in the Program Terms and Conditions.

Merchant Agreement means the agreement for the purposes of completing the Know Your Customer (KYC) process and registering the Client for a merchant ID number.

Network Card Scheme means an entity which administers and promotes payment cards, including without limitation the likes of Mastercard, Visa, American Express.

Network Rules means the rules, regulations, releases, interpretations and other requirements, whether contractual or otherwise, imposed or adopted by any Network Card Scheme.

Payment Service Provider means an entity such as EonX, which is approved by an Acquirer to facilitate the processing of transactions on behalf of a qualified merchant or third party.

PCI Compliance means the certification to the Payment Card Industry Data Security Standards (PCI-DSS).

Points Pay means an instruction by the Client Member to make a payment using their Program accumulated points.

Rewards Transaction means a Transaction by a Client Member for the purchase of Products or Rewards accessed through the Program.

Settlement means the value remitted to the Client by EonX, from the processing of Client Invoice Transactions.

Settlement Account means the bank account nominated by the Client to initiate: (1) credits for proceeds of Client Invoice Transactions submitted, and (2) debits for any amounts that may be owed or required to be paid under this Agreement.

Transaction means an instruction to credit or debit a Client Member's bank account or Card in the Program.

Transaction Fee means an amount applicable at billing when a Client Member authorises a Transaction.

Transaction Refund means an instruction to reverse a Transaction.

EonX Obligations

PROCESSING

EonX is responsible for:

- a) the processing of Network Card Scheme payments
- b) the processing of Direct Debit payments
- c) the processing of BPAY payments
- d) the transmission of the Transaction data, including all transaction details required by the Networks, to the Acquirer.
- e) upholding its PCI Compliance for the secure transmission and tokenisation of sensitive Card data.
- f) retaining transaction records according to the timelines required by the Network Scheme Rules or applicable laws.
- g) implementation of fraud control measures.

EonX will process the payment of Client Invoice Transactions;

- a. in accordance with the Client Member's payment instructions.
- b. after the Client Member has confirmed that the Client has shipped the goods or delivered services.
- c. After the Client Member has confirmed to accept all risk in connection to the non-performance of the Client.
- d. after the Client Member has instructed the payment.
- e. after the Client Member has agreed the Program Terms and Conditions.

SETTLEMENT & REPORTING

EonX is responsible for:

- a) the facilitation and processing of Client Invoice Transactions and Concierge Payment Transactions.
- b) Settlement for the value of Client Invoice Transactions submitted before merchant cut-off times on the prior banking day.
- c) the provision of data files and Settlement reports, which are to be defined in the Statement of Work, and to be made available to Client upon each Settlement.

CLIENT OBLIGATIONS

The Client is responsible for:

- a) the payment of all fees and charges for the services as set out in the **Payments Service Fees Table**;
- b) the liability of all Chargeback Disputes instigated by Cardholders, Card issuers, or the Networks, which are specific to Client Invoice Transactions;
- c) all obligations imposed on EonX by the **Networks** or Acquirers;
- d) reconciling Settlement reports provided by EonX, against its own invoices.
- e) promptly notifying EonX if it fails to receive any Settlement or if there are any changes to the Settlement Account. EonX is not responsible for Settlement errors that arise if the Client provides inaccurate information about, or fails to notify EonX of changes to, the Settlement Account.

GENERAL

- a) After funds have been deposited into the Settlement Account, Cardholders, Card issuers, and the Networks still have the right to require reimbursement of Transactions, to impose obligations relating to violations of the Network Rules, to assess additional interchange or other assessments, and to impose fees, fines, or charges relating to the qualification of Transactions and the Settlement Account may be debited for these amounts at a later date.
- b) All payments to be made by the Client shall be made free and clear of and without deduction of any taxes unless the Client is required to make such a payment subject to the deduction or withholding of tax, in which case the sum payable by the Client (in respect of which such deduction or withholding is required to be made) shall be increased to the extent necessary to ensure that EonX receives a sum net of any withholding or deduction equal to the sum which it would have received had no such deduction or withholding been made or required to be made.
- c) EonX may set off Settlement amounts against any funds that EonX is owed by the Client in accordance with the terms of this Agreement.
- d) EonX will provide the Client with statements or electronic reporting (Statements) reflecting the fees, settlement amounts, and other information related to the payment services provided by EonX. The Client must review the Statements and inform EonX of any errors within 60 days following the date that the error was, or should have been, reported. The reporting of any errors will enable EonX to recover amounts or prevent the errors from continuing. EonX will have no obligation to provide refunds for errors that the Client reports more than 60 days after it was, or should have been, reported. EonX and the Client will work together to resolve issues or disputes that arise in connection with the Statements, or the funds credited or debited to the Settlement Account.
- e) EonX is not responsible for any over or underpayments made by the Client Member.
- f) EonX is not responsible for the Client Member entering incorrect data.

- g) EonX is not responsible for any delays, failures or errors caused by the Networks, the Acquirer, the Client's financial institution, or any third party telecommunications networks.

Payment Service Fees

During the Term, the Program will incur the following payment processing fees in accordance with the following Settlement terms:

Payment Service Fees Table

Payment types	Service Fee	Cut Off	Settlement
Visa and Mastercard		Business Day 5pm	
American Express		Business Day 5pm	
Direct Debit		Business Day 5pm	
BPay		Business Day 5pm	
Chargeback Fee			

*Fees and charges are quoted exclusive of GST.

Upon the Client's decision, ensure that any processing fees pertaining to the Program shall be borne by the Client Member as stipulated at time of online checkout in the Program

SCHEDULE D - PROGRAM TERMS AND CONDITIONS

Note: These are the Terms and Conditions that will be agreed by the Client Member upon entering into the Program. The Client Member will explicitly provide approval by ticking a box that they have read and agreed the Terms and Conditions.

1 General Definitions

- (a) "Affiliated Points Partner" means an entity such as an airline or loyalty provider, who has approved the transfer of Program Points to their own frequent flyer or points programs for redemption.
- (b) "Account" means the profile You have created which provides you access to the Program.
- (c) "Client" means the party that is promoting the Program to its Members, for clarity being Henry Schein Pty Ltd.
- (d) "Client Invoice Transaction" means a transaction instructed by You in the Program, to pay an invoice issued by the Client.
- (e) "Concierge Payments" means payments made to third party payees by You on the Program.
- (f) "Direct Debit Request (DDR)" means the approved request You have made to Us to debit Your nominated bank account in order to facilitate a payment on your behalf within the Program.
- (g) "EonX" means EonX Services Pty Ltd (ABN 39 615 958 873), the operator of the Program, and is herein referred to as We, Us or Our.
- (h) "Estore" means a digital marketplace where You can purchase goods or services on the Program.
- (i) "EWallet" means the registered and trademarked name of the digital wallet available to You on the Program.
- (j) "Member" means the person or business, which has been provided approved access to the Program for the purpose of using it to make payments.
- (k) "Payment" means all moneys transacted on the Program in Australian Dollars.
- (l) "Products" means the goods or services, or offers to provide goods or services, provided by EonX and / or a Retail Partner through the Program.
- (m) "Program" means this Site, which delivers loyalty and payment services to You, and which you have agreed to use in accordance with the Site Terms.
- (n) "Program Points" means the points you have accumulated and redeemed in the Program.
- (o) "Program Tier" means the selected plans which govern the rate that Program Points are earned on the Program by a Client Member.
- (p) "Retail Partner" means a third party business or retailer offering Products in the Program.
- (q) "Reward" means Products or any other services which can be redeemed by Client Member within the Program.
- (r) "Site" means the Program website made available to You in accordance with these Site Terms.
- (s) "Site Terms" means these Program Terms and Conditions.
- (t) "You" or "Your" means the Member.
- (u) "We, "Us" or "Our" means EonX, the operator of the Program.

2 EonX capacity

- (a) You acknowledge and agree that EonX has entered into these Site Terms in its own right and as an approved Payment Service Provider for the Client.
- (b) EonX holds the benefits of these Site Terms on behalf of the Client and any obligation of EonX under these Site Terms may be performed by EonX, the Client or third party service provider.

3 Site Terms

- (c) The Site is owned and operated by Us.
- (d) Through this Site;

- (i) You can register as a Member;
 - (ii) You can subscribe for access to the Program; and
 - (iii) You can access the Program, subject to being an approved eligible Member.
- (e) These Site Terms apply to the use of the Program and the Site, including the use of the services offered on this Site.
- (f) Any party that is registered to use the Program, and uses the Program, hereby agrees to be bound by these Site Terms.
- (g) If You do not accept these Site Terms, please discontinue using this Site immediately. If You use the Site, You will be deemed to have accepted these Site Terms in their entirety.
- (h) These Site Terms must be read in conjunction with any other applicable policies, terms and conditions governing the use of this Site as advised from time to time.
- (i) We reserve the right to amend these Site Terms at any time.
- (j) Members' access and use of this Program is permitted by Us and the Client, and You remain liable to Us for any misuse of the Program (i.e. use of the Program outside the scope of these Program Terms and Conditions), and liable for any misconduct in using the Program (i.e. using the Program in a manner deemed to be fraudulent or unethical by Us).
- (k) We may, at Our discretion, suspend access to the Program due to any breach of the Site Terms.
- (l) We may change or add to this Program, any information or offers including products and services contained herein at any time.
- (m) While We will use all commercially reasonable efforts to ensure that information on this Program is accurate and up to date, We will not be liable to You and any other third party for any errors displayed within the Program.
- (n) In the event that the Program is terminated, We may continue to provide services (including those covered by these Site Terms) to the Member with the exception of any benefits that would have applied exclusively to the Client branded Program.

4 Disclaimers and Liabilities

- (a) You are ultimately liable for any loss, damage, claim, fees, chargeback, demand and expense suffered or incurred by Us or the Client as a result of a breach of the Program Terms and Conditions, and for any misuse, misconduct and fraudulent activity by You.
- (b) We will not be liable for any damage to or any viruses which may affect Your computer on account of Your access to this Program.
- (c) We are not liable if interference with or damage to Your computer systems occurs in connection with the use of this Program or linked websites.
- (d) You may not use this Program to collect or harvest personal information including internet addresses about anyone participating in the Program.
- (e) You may not purchase Products through this Program with the intention of on-selling them or for generating profit for You, or for any other third party.
- (f) We are not liable whatsoever to You in respect of any loss or damage which may be suffered or incurred due to misuse, misconduct or fraudulent activity, or which may arise directly or indirectly in respect of the services supplied pursuant to these Site Terms or in respect of any failure or omission on part of Us.
- (g) To the extent permitted by law, no warranty condition, description, endorsement, guarantee or representation by Us is given or implied or has been given or implied, and any statutory or other warranty condition, description or representation is hereby excluded.
- (h) You will access the Program using the approved access credentials to identify You, and You will be in breach of these Site Terms if You share these access credentials with anyone else, or provide information which is not Yours.

5 Warranties

- (a) To the extent permitted by law, We do not warrant that any information or service provided or referenced by this Program is either merchantable or accurate, that such information or service will fulfil any of Your particular purposes or needs, or that such information or service does not infringe on any third-party rights.

- (b) While We use commercially reasonable efforts to include accurate and up-to-date information on the Program, We make no warranties or representations as to its accuracy.
 - (c) We may at Our discretion, periodically add, change, remove or improve any of the information, Products and technology contained in these Site Terms and Program.
 - (d) We assume no liability or responsibility for any errors or omissions in the content of the Program.
-

6 Third Parties

- (a) We will not be liable for any mistake, failure or negligent action on the part of any Retail Partner or the Client or any other third-party providing services in the Program.
 - (b) You acknowledge and agree that the provision of any services available to You in the Program are at Your own risk.
 - (c) Third parties that are providing services in the Program reserve the right to change, modify or cancel any offers or terms at their discretion.
 - (d) We will not be liable for any direct, indirect, incidental, special, consequential or punitive loss or damages (including but not limited to loss of use, loss of opportunity, loss of revenue, loss of profits, or loss of business) arising out of access to, or use of, the Program, website materials or linked materials.
 - (e) All goods and services are supplied on the basis that should any problems arise, then warranty/repair is the responsibility of the third party providing the goods or services.
-

7 Termination and Suspension

- (a) These Site Terms commence on the date that Site access is granted to You and shall continue until terminated in accordance with its terms.
 - (b) We may in our discretion, suspend or terminate Your access to the Program in the case of a breach of any Site Terms, without notice.
-

8 Closing Your Account

- (a) You may close Your Account and terminate Your relationship with Us at any time but You will remain liable for all obligations related to Your Account even after the Account is closed.
 - (b) Before Your Account is closed, You must redeem Your points or funds within the Program, otherwise they will be forfeited upon Your Account closure or termination.
 - (c) Once Your Account is closed, You will not have access to the Program, however You will still be able to use the digital gift cards You have purchased on the Program and which were emailed to You upon completion of each previous purchase.
 - (d) You may not close Your account where You have a pending transaction or an open dispute or claim.
-

9 Electronic Listings and Advertisements

- (a) We do not accept responsibility for the accuracy, error or omission in any services or advertisements published within the Program, and disclaim all liability to You for any loss or damage arising from such inaccuracy, error or omission.
- (b) Third parties providing services in the Program shall own the copyright of the listing or the advertisement.
- (c) Your use of the Program may or may not require the installation of third party software or products. You agree that:
 - (i) this is entirely Your responsibility; and

- (ii) We are not responsible in any way for making any recommendations about, supplying or installing such software or products.
 - (d) You acknowledge and agree that:
 - (i) the Program may contain content and information drawn from a variety of third party sources and may from time to time make available to You third party products or services (;
 - (ii) The linked websites on this Program are provided for convenience only and may not remain current or be maintained.
 - (iii) Links to third party websites should not be construed as any endorsement, approval, recommendation, or preference by Us, of those third party sites, and of any information, products or services referred to on those sites.
-

10 Trade Marks

Other products and company names mentioned in this Program may be the trademarks of other third parties, people or entities. Nothing in these Site Terms transfers any right title or interest in any trade marks to You.

11 Personal Information

- (a) When transacting with You, We may ask You for Your name, email, mobile number, membership information, and any other relevant information required to accurately identify You.
 - (b) You are responsible for maintaining adequate security and control of Your passwords, personal identification numbers or any other information that You use to access the Program. You must complete and keep Your profile information current at all times.
 - (c) We will handle (and will procure that the Client handles) all personal information provided by You in accordance with Our Privacy Policy.
 - (d) We may change the Privacy Policy from time to time by publishing an updated version on the Site. We encourage you to check the Site periodically to ensure that you are aware of the current Privacy Policy.
 - (e) All parties are bound to comply with all relevant privacy laws and regulations, including the National Privacy Principles and Information Privacy Principles made under the Privacy Act 1988 (Commonwealth).
-

12 Delivery

- (a) We do not take any responsibility for any Products such as gift cards, tickets, or vouchers that are misplaced, lost or stolen when sent through Australia Post. On ordering, You have the option of Registered Post at a fee, which is displayed during the time of checkout, and You acknowledge that Australia Post will be held liable for items that are misplaced or lost when sent via this method.
 - (b) For products purchased through the Estore, please note that that standard delivery is between 5-15 business days, subject to stock levels. Parcels will require a signature upon delivery. Deliveries cannot be made to a PO Box. Deliveries may not be made to gated communities. If You see that Your item has been damaged in transit, or upon arrival please refuse to accept the delivery so that items may be returned to Us immediately. If Your item is faulty please contact Us directly for assistance. Please choose Your purchases with care as We are unable to accept returns due to change of mind. Items can only be returned in circumstances where an item is damaged or faulty. If a return is required, please ensure You notify Us within 2 days of receipt of Your item.
 - (c) When You choose to pay by Direct Deposit, Your items will be shipped once payment has been cleared, which can take up to 3 business days. We recommend that payment be made as soon as possible to avoid any delays in shipping. If payment is not received within 14 days, Your order will be cancelled. Please use Your order number as Your payment reference.
-

13 Governance

This Program shall be governed by and construed in accordance with the laws of the State of Victoria, and the parties irrevocably submit to the jurisdiction of any Court of that State.

14 Payments, Refunds & Chargebacks

- (a) You agree to make all payments within the Program in Australian Dollars.
- (b) Payment can be made by credit/debit card and Direct Deposit, or other payment options made available to You by Us. Once payment has been cleared, We will distribute the Products You have purchased. You confirm that the credit/debit card that is being used is Yours. All credit/debit card holders are subject to validation checks and authorisation by the card issuer and Us. If the issuer of Your credit card refuses to authorise payment for Products or services within our Program, We will not be liable for any such delay or non-delivery.
- (c) Expiration of any Products including but not limited to gift cards and vouchers may vary depending on the requirements of the participating Retail Partners.
- (d) All gift cards or vouchers sold via this Program are restricted by the terms and conditions of each Retail Partner, and should be found in their specific terms & conditions. It is important and we strongly encourage you to read the terms and conditions of applicable Retail Partners.
- (e) All gift cards and vouchers are non-refundable and are to be treated as cash. Gift cards and vouchers are valid until the expiry date set by the Retail Partner and cannot be exchanged or replaced. Gift cards and vouchers are sold for Your personal use only, and are not to be re-sold or to be re-distributed.
- (f) We will only process card transactions that have been authorised by the applicable card issuer, and do not guarantee or assume any liability for transactions authorised and completed which may later be reversed or charged back. You are responsible for all reversed or charged back transactions, regardless of the reason for, or timing of, the reversal or chargeback.
- (g) We may add or remove one or more payment methods at any time.
- (h) If a chargeback occurs, We will use commercially reasonable efforts to resolve the dispute, however once the chargeback is finalised, We will automatically debit You for the chargeback amount in addition to a chargeback fee of \$45.00.

15 Client Invoice Transactions

- a) We will process Your Client Invoice Transactions:
 - (i) in accordance with Your payment instructions;
 - (ii) after You have confirmed that the Client has shipped the goods or delivered services;
 - (iii) after You accept all risk in connection with the non-performance of the Client;
 - (iv) after You have approved the payment;
 - (v) after You have agreed to these Program Terms and Conditions;
- b) You agree that once a Client Invoice Transaction has occurred, there is no recourse to reverse the transaction through chargeback dispute or request with your bank or card issuer, and that You must resolve any dispute directly with the Client.
- c) We will only refund Client Invoice Transactions when instructed to do so by the Client.
- d) You are responsible for entering the correct Client Invoice Transaction details, and although We will make every reasonable effort to resolve any issues regarding incorrect information entered, We are not liable in any way for losses incurred.

16 Concierge Payments

- a) When utilising the EonX provided Concierge Payment Service, We agree to process the payment:
 - (i) in accordance with Your payment instructions;
 - (ii) after You have confirmed that the payee has shipped the goods or delivered services;
 - (iii) after You accept all risk in connection with the non-performance of the payee;
 - (iv) after You have approved the payment;
 - (v) after You have agreed to these Site Terms;

- b) You agree that once a Concierge Payment has occurred, there is no recourse to reverse the transaction through chargeback dispute or request with your bank or card issuer, and that You must resolve any dispute directly with the payee.
- c) We will only refund Concierge Payments when instructed to do so by the payee.
- d) You are responsible for entering the correct Concierge Payment details, and although We will make every reasonable effort to resolve any issues regarding incorrect information entered, We are not liable in any way for losses incurred.

17 Direct Debit Authority

a. Direct Debit Request (DDR) Terms

- (i) By entering Your nominated bank account details to this Program, You agree to authorise Us to directly debit any associated payments due to Us or the Client from Your nominated Australian dollar denominated bank account.
- (ii) We will only arrange for funds to be debited from Your nominated bank account as authorised by You or upon Your request.

b. Changes to the Arrangement

We may vary this DDR at any time by giving You at least 14 days' notice. If You would like to make changes to the DDR, please contact Us directly. Please allow up to 7 days for the changes to take effect.

Changes You may request include:

- Deferring the debit; altering the timing of debits; stopping an individual debit; suspending the DDR; requesting an adhoc debit; or
- Cancelling the DDR completely. If You would like to stop an individual debit or cancel the DDR completely, contact Us at any time.

c. Your Obligations

- (i) It is Your responsibility to ensure that:

- You have the authority and or that the nominated bank account is Yours;
- You have added the correct details of Your nominated bank account;
- Your nominated bank account can accept Direct Debits (If You are unsure, please check directly with Your financial institution);
- You advise Us if the nominated bank account is closed; and
- There are sufficient cleared funds in the nominated bank account on the date of each debit.

- (ii) If there are insufficient cleared funds in Your nominated bank account to meet a debit payment:

- You may be charged a fee and or interest by Your Financial Institution;
- You may also incur fees or charges imposed or incurred by Us; and
- You must arrange for the debit payment to be made by another method or arrange for sufficient cleared funds to be in Your nominated bank account by an agreed time, so that We can process the debit payment.

- (iii) You must check Your nominated bank account statement to verify that the amounts debited are correct.

d. Disputes

- (i) If You believe that there has been an error in debiting Your nominated bank account, You should notify Us by email as soon as possible so that We can resolve Your query.
- (ii) If We conclude as a result of our investigations that Your nominated bank account has been **incorrectly** debited, We will respond to Your query by arranging for Your bank or financial institution to adjust Your nominated bank account (including interest and charges) accordingly. We will also notify You in writing of the amount by which Your nominated bank account has been adjusted.
- (iii) If We conclude as a result of our investigation that Your nominated bank account has not been **incorrectly** debited, We will respond to Your query by providing You with reasons and any evidence for this finding.
- (iv) Any queries You may have about an error made in debiting Your nominated bank account should be directed to Us in the first instance, so that We can attempt to resolve the matter between Us and You.
- (v) If We cannot resolve the matter You can still refer it to Your bank or financial institution which will obtain details from You of the disputed transaction and may lodge a claim on Your behalf.

e. Confidentiality

- (i) We will keep the information of Your Direct Debit Request (including Your nominated bank account details) confidential. We will make reasonable efforts to keep any such information that We have about You secure and make reasonable efforts to inform our employees or agents who have access to information about You that they are not to make any unauthorised use, modification, reproduction or disclosure of that information.
- (ii) We will only disclose information of Your Direct Debit Request: (a) to the extent specifically required by law; or (b) for the purposes of this Agreement or any written Agreement or written arrangement between You and Us (including disclosing information in connection with any query or claim).

18 Program Points

- (a) You will be awarded Program Points for the successful payment of Client Invoices in accordance with your chosen Program Tier.
- (b) You can redeem Program Points for Product, Concierge Payments, or transfer to an Affiliated Points Partner.

19 Taxes and Information Reporting

It is Your responsibility to determine what, if any, taxes apply to the benefits or payments You make or receive, and it is solely Your responsibility to assess, collect, report and remit the correct taxes to the appropriate authority. We are not responsible for determining whether any taxes apply to Your transaction, or for calculating, collecting, reporting or remitting taxes arising from any transaction. You acknowledge that We may make certain reports to tax authorities regarding transactions that We process.

20 Contact

We are committed to dealing with customer queries and resolving issues in accordance with our complaints handling processes and policies, and relevant regulatory standards.

If You have a concern about our services, or believe Your Account may be subject to an unauthorised transaction, account takeover or other type of fraudulent activity, You should contact Us immediately.

For any notice to be given in writing, or to get in touch with Us, please contact us as follows:

Email	
Phone	

SCHEDULE E – Privacy Policy

We recognise the importance of Your privacy and understand Your concerns about the security of the personal information You provide to Us.

In the course of doing business with You, the collection of personal information in some instances is necessary or unavoidable. We are committed to protecting the privacy of all personal information that We collect and ensuring that Your personal information is handled correctly.

All personal information collected by Us will be treated in accordance with the Australian Privacy Principles (“APPs”) as contained in the Privacy Act 1988 (Cth). The APPs detail how personal information may be collected, used, disclosed, stored and destroyed, and how an individual may gain access to or make complaints about the personal information held about them.

This policy details the type of personal information We collect from our customers, how We manage personal information about You, with whom We may share it and the choices available to You regarding our use of the information. We also describe the measures We take to safeguard Your personal information and tell You how to contact Us regarding our privacy practices.

What types of personal information do We collect and hold

“Personal information” is information or an opinion about an identified individual, or about an individual who is reasonably identifiable, whether true or not, and whether recorded in a material form or now. Information where We have removed any reference to a person, so that the person cannot be reasonably identifiable from the information, is not personal information.

The kinds of personal information that We may collect and hold from You or about You include:

- contact information, such as Your name, postal address, e-mail address and telephone number;
- date of birth and gender;
- account information such as username, password and transaction history;
- bank account details;
- information concerning Your interests, buying habits and product preferences; and
- any other personal information submitted to Us by You.

We do not collect sensitive information (such as relating to Your ethnic origin, religious or philosophical beliefs, membership of a political or trade association, sexual preferences or health), and would not do so without Your consent.

Website

When You browse our website or contact Us electronically, We may record geographical tagging, cookies and statistical data. This may include Your IP address, date and time of Your visit, operating system, language preferences, device characteristics, pages visited, information downloaded and type of browser used to access the website.

We use this information to help Us to make decisions about maintaining and improving our website and online services.

While our website may contain links to other websites with the exception of our related entities, those websites are not subject to our privacy standards, policies and procedures. We recommend that You make Your own enquires as to the privacy policies of these third parties and We are in no way responsible for the privacy practices of these third parties.

How We collect and hold personal information

We aim to collect personal information only directly from You, unless it is unreasonable or impracticable for Us to do so.

For example, We collect personal information from You or about You from information You submit to Us when:

- You apply for or request a product or service;

- You participate in our call centre marketing campaigns, competitions or surveys;
- You respond to our advertising and direct mail;
- You provide information to Us via email or telephone; and
- You have other dealings with Us.

However, in some circumstances, it is necessary for Us to collect personal information through third parties or from a source of publicly available information.

If We receive personal information that We have not requested (unsolicited information) and We determine that We could not have collected that information under the APPs if We had requested it, then We will destroy or de-identify the information if it is lawful and reasonable to do so.

Why We collect, hold, use and disclose personal information

We collect, hold, use and disclose personal information from You or about You where it is reasonably necessary for Us to carry out our business functions and activities and as necessary to provide our services to You. We also collect, hold, use and disclose Your personal information for related purposes that You would reasonably expect, such as our administrative and accounting functions. For example, We may use the information obtained from You:

- to process Your application for service and to establish and manage Your account or facility, and carry out transactions You wish to make;
- to provide requested services to You, and bill You for our services and collect overdue payments;
- for our research and development of new products and services;
- for training, quality control and verification purposes (including monitoring and recording Your telephone conversations with Us from time to time);
- to communicate our related company's or a third party's marketing offers to You (when making the offer We will let You know how You may stop receiving any further marketing offers);
- respond to and communicate with You about Your requests, questions and comments;
- protect against, identify and prevent fraud and other criminal activity, claims and other liabilities; and
- comply with and enforce applicable legal requirements, relevant industry standards and our policies.

If We do not collect, hold, use or disclose Your personal information, or if You do not consent, then We may not be able to answer Your enquiry, complete the transaction You have entered into, or provide our services to You to the best of our ability.

How We hold and protect personal information

Your personal information is held and stored on paper, by electronic means or both. We have physical, electronic and procedural safeguards in place for personal information and take reasonable steps to ensure that Your personal information is protected from misuse, interference, loss and unauthorized access, modification and disclosure.

We store personal information in a combination of secure Australian based computer storage facilities and paper based files and other records. We use industry accepted and compliant technology and security so that We are satisfied that Your information is transmitted safely to Us through the internet or other electronic means.

We also employ the following measures in order to safeguard Your personal information:

- data held and stored on paper is stored in lockable offices and in secure premises;
- data held and stored electronically is protected by internal and external firewalls, limited access via file passwords, and files designated read-only or no access;
- data held and stored "in the cloud" is protected by internal and external firewalls, limited access via file passwords and files designated read-only or no access. We also require our IT contractors and other third parties to implement privacy safeguards;
- where We disclose personal information to third parties (including contractors and affiliated businesses located locally and overseas), our contractual arrangements with them include specific privacy requirements; and
- our staff receive regular training on privacy procedures.

Destruction and De-identification

We will retain Your personal information whilst it is required for any of our business functions, or for any other lawful purpose.

We use secure methods to destroy or to permanently de-identify Your personal information when it is no longer needed:

- paper records are shredded or destroyed securely; and
- electronic records are deleted from all locations, to the best of our ability, or encrypted and/or placed beyond use.

Disclosure of Information

We respect the privacy of personal information and will take reasonable steps to keep it strictly confidential.

We may share the information You provide with companies that are related Us, through common ownership (including other affiliated companies within or outside Australia).

We will disclose personal information to third parties if it is necessary for the primary purpose of collecting the information, or for a related secondary purpose, if the disclosure could be reasonably expected. Where such a disclosure is necessary, We will require that the third party undertake to treat the personal information in accordance with the APPs.

Generally, We may disclose personal information about You in the following circumstances:

- where We have contracted an external Client to provide Us with support services. This may include but is not limited to processing applications or orders, marketing support, deliveries, market research and debt collection. These service providers may be within or outside Australia;
- to comply with our legal obligations (We notify You any time We are required to produce information in this way unless We are prohibited by court order or law or there is suspicion of fraud and/or criminal activity);
- where We suspect that unlawful activity has been or may be engaged in and the personal information is a necessary part of our investigation or reporting of the matter; or
- where Clients cooperate with Us in offering products and services such as co-brand partners (We will notify You of that disclosure and obtain Your consent on the application form).

We may share information about You with affiliated joint marketing partners and/or third parties whose products or services may be of interest to You. These third parties may contact You directly about their products and services in order to provide continuous improvement to the Program.

Where We use Your personal information for marketing and promotional communications, You can opt out at any time by notifying Us. Opt out procedures are also included in our marketing communications. If You do not want Us to use Your information for marketing purposes, or share Your information with related companies for their own marketing purposes, please notify Us by sending an email to the contact email listed below.

Otherwise, We will only disclose Your personal information to third parties without Your consent if the disclosure is:

- necessary to protect or enforce our legal rights or interests or to defend any claims;
- necessary to prevent or lessen a serious threat to a person's health or safety;
- required or authorised by law; or
- permitted by another exception in the Privacy Act.

Where We wish to use or disclose Your personal information for other purposes, We will obtain Your consent.

We impose strict requirements of security and confidentiality on all third parties as to how they handle personal information. We provide our outside contractors both locally and internationally, and retail affiliates only with information they need to perform their services - they are not permitted to use the information for any purpose except to provide the service to Us. The Privacy Act also strictly controls the information We exchange with credit reporting agencies.

Additional information regarding Credit/Payment Information

This Privacy Policy also applies in relation to our collection and use of credit information of individuals, in connection with commercial credit provided by Us.

The types of credit information that We collect and use for the purpose of collecting payments and/or making payments include:

- names, ~~addresses~~ and other contact details of accountholders (both prospective and current);
- bank account details;
- driver's licence details; and
- financial information.

We do not disclose credit information to credit reporting bodies.

Requests for access and correction

We have procedures in place for dealing with and responding to requests for access to, and correction of, the personal information held about You.

In most cases, We expect that We will be able to comply with Your request. However, if We do not agree to provide You access or to correct the information as requested, We will give You written reasons why. For example, a request to access personal information may be rejected if:

- the request is frivolous or vexatious;
- providing access would have an unreasonable impact on the privacy of another person;
- providing access would pose a serious and imminent threat to the life or health of any person;
- providing access would prejudice our legal rights; or
- there are other legal grounds to deny the request.

To assist Us to keep our records up-to-date, please notify Us of any changes to Your personal information.

Complaints and Concerns

We have procedures in place for dealing with complaints and concerns about our practices in relation to the Privacy Act and the APPs. We will respond to Your complaint in accordance with the relevant provisions of the APPs.

About this Privacy Policy

We may update our policies and this Privacy Policy Statement from time to time. The latest version is published within Your Program Site.

Contact

If You have any questions about this Privacy Policy, or if You would like Us to update information We have about You or Your preferences, please email Us at privacy@eonx.support