

# Tap on Mobile Terms and Conditions

## Overview

This guide is designed to help you quickly and easily understand the key points of the agreement for Tap on Mobile (ToM). **This guide is for informational purposes only and does not form part of the agreement, which starts on p3 of this document.**

### 1. Agreement Overview

By downloading and using the Tap on Mobile App, you agree to the terms and conditions outlined in this document. This agreement works alongside the Merchant Agreement Terms and Conditions. If there is any conflict between the two, this agreement takes precedence.

### 3. Term

The agreement starts when you first access the app and ends when terminated as per the terms.

### 4. Licence

You can use the app on your smartphone to accept payments from customers, but you cannot transfer this licence to another person or business.

### 6. Fees and Invoicing

- You will be invoiced monthly for each active User ID and any transaction fees.
- Payments are due by the 20th of the month following the invoice date. Late payments incur daily interest and collection costs.

### 7. Device Compatibility and Installation

- You must have an Eligible Device to use the app, which can be downloaded from Google Play or the App Store. Ensure your device is compatible and has the latest software updates before downloading the app.

### 8. Usage Restrictions

- Do not modify your phone's operating system to bypass security features, and do not share your device with multiple users simultaneously.
- Only one user per device at a time.
- Do not use the app for illegal activities or to access unauthorized content.

### 9. Updates and Maintenance

- Always install the latest version of the app and update your device's operating system as needed. If a new version of the app is released, download and install it promptly to ensure continued functionality.

### 10. Internet and Telecommunications

- An internet connection is required to use the app. You are responsible for any related telecommunications expenses.

### 11. Infrastructure and Security

- Ensure all devices using the app are secure and protected from malware and unauthorized access. Use strong passwords, regularly update your security software, and never leave your device unattended while logged into the app.

### 13. Settlement of Direct Pay Transactions

- Direct Pay Transactions are usually settled the next business day.

- Contactless Transactions will be settled separately under the terms of your agreement with your Participating Bank.

#### *14. Prohibited Transactions*

- Do not use the app for cashback or transactions involving illegal goods, counterfeit items, or promoting hate or violence.

#### *15. Relationship with Participating Banks*

- The availability of Direct Pay depends on participating banks. Paymark will notify you if a bank stops offering Direct Pay.

#### *17. Dispute Resolution*

- If you have a disagreement with Paymark, attempt to resolve it directly first. If that fails, you can seek help from an independent dispute resolution body.

#### *18. Liability*

- Paymark does not guarantee uninterrupted service.
- Paymark's liability is limited to the fees and charges paid by you in the six months preceding any claim.
- If the app experiences downtime, Paymark is not responsible for any lost sales or business disruption.

#### *19. Processing of Personal Information*

- Collect and use personal information lawfully and ensure it is protected.
- Notify Paymark immediately if there is a security breach involving personal information.

#### *21 and 22. Suspension and Termination*

- Paymark may suspend or terminate the service for various reasons, including non-compliance or security concerns.
- You can terminate the agreement by providing notice before the end of the current billing period.

#### *24. Miscellaneous*

- This agreement is governed by New Zealand law.
- You must comply with the terms of use of third-party service providers when using the app. Follow the rules set by Google Play or the App Store when using the app on your device.

This guide provides some key points in the ToM Terms. For detailed information, please refer to the full agreement below.

## Tap on Mobile Terms & Conditions

### Terms

#### 1. Agreement

- 1.1. By downloading and using the Tap on Mobile App, you (**You/Your**) confirm Your agreement to the below terms and conditions (this **Agreement**).
- 1.2. You need to read this Agreement together with the components of the [Merchant Agreement Terms and Conditions](#) (the **Merchant Agreement**) that are between Paymark (**Us/We/Our**) and You (clauses 1-4 and clauses 8-16 inclusive), which also apply. Where there is any conflict or inconsistency between the Merchant Agreement and this Agreement, this Agreement takes precedence.
- 1.3. The Tap on Mobile App is governed by the rules of the relevant app store (Google Play or App Store) and you must comply with the operating platform's terms of use.

#### 2. Interpretation

- 2.1. **Definitions:** Meanings for capitalised words used in these Tap on Mobile Terms are set out in Schedule 1. If a capitalised word is used but not defined here, You will find the meaning for it in the Merchant Agreement.
- 2.2. In this Agreement, unless the context otherwise requires:
  - (a) Section, schedule, and paragraph headings will not affect its interpretation;
  - (b) reference to a person includes a natural person and an incorporated or unincorporated body (whether having a separate legal personality or not);
  - (c) reference to legislation or any legislative provision is a reference to the same as amended, extended, or re-enacted in the future and includes all legislation made under such legislation now or in the future; and
  - (d) a reference to writing or written includes email and any notifications given through the Tap on Mobile Services (where applicable).
  - (e) in case of a conflict or inconsistency between various terms contained in the different documents listed in the Order of Precedence section above, the terms contained in a higher-listed document shall take precedence over the terms in a lower-listed document.

#### 3. Term

- 3.1. This Agreement applies from the date We first provide You with access to the Tap on Mobile App and ends on the date this Agreement is terminated in accordance with clause 22.

#### 4. Licence

- 4.1. We hereby grant You a non-exclusive and non-transferable licence to use the Tap on Mobile App on an Eligible Device to accept contactless Transactions in New Zealand from Cardholders and Direct Pay Transactions for the Term of this Agreement. This licence is subject to this Agreement and the relevant sections of the Merchant Agreement noted above.

#### 5. Pre-requisites

- 5.1. Your access to and use of the Tap on Mobile Services is conditional on:

- (a) You (if you do not already have one) establishing and maintaining a Merchant Account; and
- (b) Paymark (in its sole discretion) being satisfied on an ongoing basis throughout the duration of this Agreement that all customer due diligence required under the AML Act has been successfully completed.

## **6. Fees and Invoicing**

- 6.1. We will invoice You monthly in arrears for each Active User ID and (where applicable) any Tap on Mobile Transaction fees. All prices are exclusive of GST unless stated otherwise.
- 6.2. If a User ID is active for part of a billing period, We will invoice You for the whole period.
- 6.3. You must pay invoices by the 20th of the month following the invoice date. If You do not pay on time, You will incur a daily Default Interest Rate until You make the payment. You must also cover any reasonable costs that Paymark incurs, including collection and legal fees, in recovering overdue amounts.
- 6.4. We may raise fees every year based on either the Consumer Price Index or (if higher) any cost increases from Our suppliers related to the Tap on Mobile App. We will notify you in writing at least 30 days before any price changes.

## **7. Device Compatibility and Installation**

- 7.1. You must have and maintain an Eligible Device to use the Tap on Mobile App. You can download the Tap on Mobile App from the Google Play store or the App Store and install it on an Eligible Device.

## **8. Usage Restrictions**

- 8.1. You must not override the software lockdown on the Tap on Mobile Device (for example, "obtaining root access" on an Android device, "jailbreaking" on an Apple device).
- 8.2. You must not let multiple users use the Tap on Mobile App on one device at the same time. This means that A User ID may process a Tap on Mobile Transaction on one device at a time and must not be used on another device concurrently.
- 8.3. You must not (and must not allow anyone else to) use the Tap on Mobile App to access or monitor any content, material or information on any system manually or by automated means including robots, spiders, scrapers.
- 8.4. You must not (and must not allow anyone else to):
  - (a) copy the Tap on Mobile App or to incorporate it with any other software or service without Our prior written consent;
  - (b) modify correct, adapt, translate, enhance or otherwise prepare derivative or improvements of the Tap on Mobile App;
  - (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make the Tap on Mobile App available to any other person;
  - (d) reverse engineer, disassemble, decompile, decode, or adapt the Tap on Mobile App or other attempt to derive or gain access to the source code of the Tap on Mobile App in whole or in part;
  - (e) use the Tap on Mobile App in connection with the development or transmission of any virus or malicious code;

- (f) remove, delete, efface, alter, obscure, translate, combine, supplement or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights, proprietary rights or other symbols, notices, marks or serial numbers on or relating to any copy of the Tap on Mobile App;
- (g) use the Tap on Mobile App in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any Person;
- (h) or that violates any applicable law; or
- (i) use the Tap on Mobile App or any documentation for purposes of: (i) benchmarking or competitive analysis of the Tap on Mobile App; (ii) developing, using or providing a competing software product or service; or (iii) any other purpose that is to Paymark's detriment or commercial disadvantage.

## **9. Updates and Maintenance**

- 9.1. You will promptly install the latest version of the Tap on Mobile App on Your Tap on Mobile Device when it becomes available. Continued use of the Tap on Mobile App on your Eligible Device might sometimes require You to update Your Eligible Device's operating system to a newer version.
- 9.2. You will immediately notify Us and immediately cease to use the Tap on Mobile App if it appears to be faulty, damaged, misused, or compromised.

## **10. Internet and Telecommunications**

- 10.1. An internet connection is required to use the Tap on Mobile App. You are responsible for all telecommunications expenses related to its use. The Tap on Mobile App does not support offline transactions.

## **11. Infrastructure and Security**

- 11.1. You must take appropriate technical security measures to prevent any misuse.
- 11.2. We do not guarantee that the Tap on Mobile App will always be available without interruptions or errors, or that the information provided will always be accurate or complete. To the fullest extent allowed by law, we disclaim all warranties and representations regarding the Tap on Mobile App.
- 11.3. You acknowledge and agree:
  - (a) You will make sure all devices using the Tap on Mobile App have the right software, are protected by a password, and are not left alone or logged in when not in use. You will also protect these devices from malware, viruses, and unauthorized access.
  - (b) passwords for the Tap on Mobile App and the Tap on Mobile Device used to access the Tap on Mobile App will never be the same and will be changed regularly;
  - (c) You will ensure that all login credentials are adequately protected from unauthorised third party access;
  - (d) You are responsible for all use of the Tap on Mobile App; and
  - (e) if You believe or suspect that there has been any fraudulent or unauthorised access to or use of the login credentials or the Tap on Mobile App, or any other breach of security in relation to the Tap on Mobile App, You will immediately notify Us and disable the Tap on Mobile App.

## **12. Authorisation of Direct Pay Transactions**

12.1. A Payment Request or Refund Request will be valid and capable of being Authorised only if:

- (a) the Payment Request or Refund Request has been effected through the Direct Pay payment type and approved by Your customer via their mobile banking application or internet banking; and
  - (i) in the case of a Payment Request, the identity of Your customer has been authenticated by the relevant Participating Bank via the customers mobile banking application or internet banking;
  - (ii) the Payment Request or Refund Request complies with the authorisation procedures agreed to by Paymark and/or the relevant Participating Bank;
- (b) in the case of a Refund Request:
  - (i) the value of the Refund Request is less than or equal to the Original Payment Value; and
  - (ii) the total of all prior Refund Requests relating to an Original Payment Identifier and the current Refund Request is less than or equal to the Original Payment Value;
- (c) the Payment Request or Refund Request is not prohibited by law;
- (d) you have complied with this Agreement; and
- (e) there has been no fraud or deception on your part or on the part of your employees or agents.

12.2. In respect of each Payment Request or Refund Request received from You, Paymark will:

- (a) create a database record and, in the case of a Payment Request, assign an Original Payment Identifier;
- (b) send the Payment Request or Refund Request to the applicable Participating Bank;
- (c) notify you of the status of the Payment Request or Refund Request, including when any Payment Request or Refund Request has been Authorised.

### **13. Settlement of Direct Pay Transactions**

13.1. We can take money from Your Merchant Account or other accounts if there are mistakes or if you break this Agreement. For example, if you let someone else make a payment using Direct Pay under a different name, and money goes to you by mistake. We will tell you promptly if We need to take back any money.

13.2. If the total amount of Payment Requests and Refund Requests processed by You in a day is negative, You agree to let us debit your Merchant Account by the negative balance using BECS.

13.3. Direct Pay transactions are usually settled on the next business day after the end of the settlement period when the payment is made.

13.4. Transactions started in one Settlement Period but not approved by Us or the relevant Participating Bank until the next Settlement Period will be considered to have occurred in the next Settlement Period.

13.5. If you follow all the terms of this Agreement, Paymark will start the process to deposit money for:

- (a) Authorised Payments to your Merchant Account; and
- (b) Authorised Refunds to a Customer Account.

13.6. You acknowledge that:

- (a) in respect of each Authorised Payment, the obligation to interchange and make settlement payment for Authorised Payments to the Merchant Account for your benefit is the relevant Participating Bank's obligation; and
- (b) in respect of each Authorised Refund, the obligation to interchange and make settlement payment for Authorised Refunds to a Customer Account for the benefit of a Customer is your bank's obligation, in accordance with the rules of Payments NZ Limited.

13.7. You must ensure that:

- (a) your Merchant Account can accept debit and credit transactions through BECS;
- (b) your Merchant Account has sufficient funds to allow for debit transfers (including Refunds and payment of Fees); and
- (c) you check your Merchant Account details to verify that all Authorised Payment and Authorised Refund amounts are correct.

13.8. If transfers are returned to Paymark's settlement bank by your bank, Paymark may charge you a reasonable fee, in addition to any fees your bank may charge. If a debit transfer is returned to Paymark's settlement bank because your Merchant Account has insufficient funds, it is your responsibility to have sufficient funds in your Merchant Account so that Paymark can re-process the debit transfer.

13.9. If you believe there has been an error in debiting your Merchant Account, you should notify Paymark at [support@paymark.co.nz](mailto:support@paymark.co.nz). You can also notify your bank. If there has been an error, Paymark will arrange with your bank to adjust the Merchant Account and will notify you of the adjustment. If Paymark does not believe there has been an error, Paymark will notify you with evidence of the accuracy of the transfer.

## **14. Prohibited Transactions**

14.1. You must not use the Tap on Mobile App to complete any cash back or cash out Transaction.

14.2. You must not use the Tap on Mobile App to complete any transaction that:

- (a) violates or otherwise fails to comply with applicable law;
- (b) involves:
  - (i) illegal drugs or non-legally prescribed controlled substances;
  - (ii) items that create consumer safety risks;
  - (iii) items that are intended to be used to engage in illegal activities; and
  - (iv) counterfeit or stolen goods;
- (c) promotes hate, violence, or intolerance based on race, age, gender, gender identity, ethnicity, religion, or sexual orientation;
- (d) constitutes fraud;
- (e) infringes on or violates the intellectual property, publicity, or privacy rights of another;  
or
- (f) shows Apple or its products in a false or derogatory light. If you use an Apple device, Apple may disable the Tap to Pay on iPhone platform on Your Tap on Mobile Device for any reason it deems prudent, including if you use a Tap on Mobile Device to conduct a Transaction prohibited by this clause 14.2.

14.3. We may, in Our reasonable discretion, restrict Your access to the Tap on Mobile App in case of any legal proceedings, investigation or pending disputes related to Tap on Mobile Transactions processed by or on behalf of You via the Tap on Mobile App.

## **15. Relationship between Paymark and Participating Banks**

15.1. You acknowledge that:

- (a) Paymark maintains contractual relationships with Participating Banks that participate in Direct Pay for the purposes of providing Direct Pay to customers;
- (b) the availability of Direct Pay relies on the participation of Participating Banks and is not available for customers of all banks.

15.2. Paymark maintains a list of current Participating Banks on its website. If a Participating Bank decides to stop offering Direct Pay to its customers, Paymark will notify you as soon as reasonably practicable that those customers will no longer be able to make payments via Direct Pay.

15.3. You agree and acknowledge that the availability of Direct Pay is subject to Paymark agreeing in writing with each Participating Bank the terms of Direct Pay insofar as it relates to that Participating Bank (the **Bank Agreements**). You understand that the terms of the Bank Agreements may require Paymark to make amendments to this Agreement by posting a revised version on our website and/or the Merchant Portal or to suspend access to the Tap on Mobile Services.

15.4. If there are no Participating Banks offering Direct Pay, Paymark may terminate this Agreement in accordance with clause 22.

## **16. Branding and Publications**

16.1. You will

- (a) Not use Paymark's name or logo, or the name or logo of any Participating Bank in any manner other than as expressly permitted in this Agreement;
- (b) Not use any advertising or promotional material in relation to the Tap on Mobile Services or Direct Pay, except as authorised by Paymark and, if applicable, the relevant Participating Bank;
- (c) Only use advertising or promotional material to show the Direct Pay logo and the Participating Banks that allow customers to authorise payments using Direct Pay in accordance with any marketing and brand guidelines as specified by Paymark from time to time.
- (d) Not use Paymark or Participating Bank marks or logos in such a way as to create any impression that your goods, services, or donation request is sponsored or in any way affiliated to Paymark or any Participating Bank.

## **17. Dispute Resolution**

17.1. If there is a dispute between Us arising out of or in connection with this Agreement, we both agree to first try and resolve that dispute by good faith negotiations. If those negotiations are unsuccessful, You might be able to raise a dispute with Our independent dispute resolution body, Financial Services Complaints Ltd. You can find out more information on their webpage.

## **18. Liability**

18.1. You acknowledge that We do not guarantee continuous or fault free operation of or access to the Tap on Mobile App or the Paymark system.

- 18.2. If We are negligent or wilfully default in the performance of our obligations to You under this Agreement, We will be liable to You (but not any other person) for the direct loss or damage sustained by You because of such negligence or wilful default.
- 18.3. Notwithstanding any other provision of this agreement, We will not be liable to You in contract, tort (including negligence), or otherwise for any loss of revenue, profits, business, goodwill, anticipated savings, loss of data, or any other consequential or indirect loss or damage.
- 18.4. In no event will Our liability to You exceed the aggregate of all fees and charges payable by You to Us under this Agreement during the six months immediately preceding the date on which the liability, loss, or cost first arose.

## **19. Processing of Personal Information**

- 19.1. **Compliance and Lawful Collection:** You shall collect Personal Information only for lawful purposes connected to Your business and necessary for those purposes, and by means that are lawful and fair. You represent and warrant that You will obtain any required consents and provide all notices required under the Privacy Act 2020 when collecting Personal Information from individuals. In doing so, You will ensure that each individual is made aware that a) their Personal Information is being collected, b) the purpose of collection, c) the intended recipients (including that the information will be disclosed to Paymark as an intermediary service provider), (d) Your name and contact details as the entity who will hold and use the information, (e) any law authorising or requiring the collection (if applicable), and (f) the individual's rights to access and correct their information. You will also ensure that where an individual's Personal Information is disclosed to Paymark as an intermediary service provider, that individual is aware a) that Paymark holds their personal information, b) of the source of the information that was disclosed to Paymark, c) of the purpose for which Paymark holds and will use that information, d) of their right to access and correct the information held by Paymark, and e) of Paymark's contact, including address, details so that the individual is able to access and correct any information held by Paymark.
- 19.2. **Purpose Limitation and Lawful Processing by Company:** Paymark, as an intermediary receiving Personal Information indirectly from You, will collect, use, retain, and disclose such Personal Information only for purposes related to performing its obligations under this Agreement or otherwise as expressly instructed by You and in accordance with the scope of consent or notice given to the individuals. Paymark will not use Personal Information for any additional or incompatible purposes (such as its own marketing or unrelated analytics) without obtaining any further consent required by law. Both parties shall ensure that all processing of Personal Information is done in compliance with the Privacy Act 2020 and any other applicable data protection laws. Neither party shall knowingly do anything in relation to the Personal Information that would cause the other party to breach its obligations under such privacy laws.
- 19.3. **Transparency and Privacy Notices:** Each party shall maintain a clear and up-to-date privacy policy or notice that is readily accessible to individuals, which accurately describes the collection and use of Personal Information under this Agreement. The Merchant's privacy notice (or other collection statement) must disclose that the individual's Personal Information (including phone number, card details, and transaction information) will be shared with Paymark for the purposes of facilitating the transaction (for example, processing payments or providing related services), and it should identify Paymark and provide its contact details. Paymark will make available via its website all information reasonably required for the Merchant to meet these transparency obligations (such as Paymark's contact information, and a description of how Paymark will use and protect the data). Paymark's privacy policy is available at <https://Paymark.com/en-nz/compliancy/privacy> (or such other URL as Paymark advises from time to time) and your use of the Tap on Mobile Services will constitute Your acceptance of Our privacy policy.

- 19.4. **Data Security:** Each party agrees to implement and maintain appropriate technical and organizational security measures to protect Personal Information against loss, unauthorised access, use, modification, disclosure, or other misuse. Such measures shall be consistent with industry standards and the sensitivity of the Personal Information (for example, adhering to Payment Card Industry Data Security Standards (**PCI-DSS**) for any cardholder data, using encryption and access controls, and other security best practices). The parties shall regularly monitor and evaluate their security practices in relation to Personal Information and promptly address any identified vulnerabilities. You must not transmit or provide payment card data to Paymark except through secure, encrypted means agreed by the parties. Paymark will ensure that any Personal Information it holds on its systems (or those of its sub-processors) is stored and processed in a secure environment and only accessed by authorised personnel who require access for the purposes of this Agreement. Each party shall also take reasonable steps to ensure that any third-party agent or subcontractor that processes Personal Information on its behalf is bound by similar data security obligations.
- 19.5. **Access and Correction Requests:** The parties acknowledge that individuals have the right to request access to, and correction of, their Personal Information under the Privacy Act 2020. Each party agrees to cooperate in good faith and assist the other in responding to any such privacy requests or queries from individuals regarding the Personal Information collected and used in connection with this Agreement. In practice, You will typically be the initial point of contact for individuals; however, if an individual contacts Paymark to exercise their rights or inquire about their data, Paymark will promptly either address the request if it relates to information Paymark holds, or forward the request to You (as appropriate) and notify You of the request. You shall, upon receiving a request from an individual or a referral from Paymark, promptly take all necessary steps to comply with the request in accordance with the Privacy Act (for example, by providing the individual with access to their transaction records or updating/correcting their contact information as needed). Neither party shall unreasonably delay or refuse to comply with a valid request by an individual to access or correct their Personal Information. Each party remains responsible for any decision to refuse an individual's request (such as if an exception in the Privacy Act applies), but they must consult with the other party where the decision could impact the other party's data or legal obligations.
- 19.6. **Data Breach Notification:** Each party shall notify the other without undue delay (and in any event promptly) if it becomes aware of any Privacy Breach in connection with Personal Information processed under this Agreement. In the event of a Privacy Breach, the party experiencing the breach will: (a) immediately take steps to contain and investigate the breach, mitigate any harm, and remediate the cause of the breach; (b) inform the other party of the details of the breach, including the nature of the Personal Information affected, the individuals impacted (if known), and the steps being taken to control and remedy the situation; and (c) cooperate with the other party and provide timely information and assistance as reasonably required to enable the parties to meet their obligations under applicable law. This includes determining whether the breach is one that is notifiable under the Privacy Act 2020 and if so, working together to ensure that the New Zealand Privacy Commissioner and the affected individuals are notified in accordance with legal requirements. Unless otherwise agreed or required by law, You (being the organization with the direct customer relationship) shall be responsible for notifying the individuals, provided that nothing in this clause prevents Paymark from making any required notifications if You are unwilling or unable to do so. Each party will bear its own costs in managing and notifying breaches, except to the extent such breach was caused or contributed to by a breach of this Agreement by the other party. Both parties agree to keep each other informed of any material developments in the breach response and not to make any public announcements or notices to affected individuals about a breach involving the other party's data without first coordinating (except where required by law or regulatory authorities, in which case prompt prior notice to the other party should be given if possible).
- 19.7. **Data Retention and Return/Deletion:** Each party shall not retain Personal Information for longer than is reasonably necessary to fulfill the purposes of this Agreement or as required by law. Paymark will only retain Personal Information received from You for as long as needed to provide the services,

or to comply with its legal or regulatory obligations, resolve disputes, or enforce agreements. The obligations in this clause regarding the handling of Personal Information shall survive termination of the Agreement for so long as either party continues to hold or process the Personal Information.

## **20. Intellectual Property**

- 20.1. Nothing in this Agreement confers on a party any right or interest in, licence to use, or permit to be used, any of the other party's Intellectual Property, except as specifically provided for in this Agreement.
- 20.2. All Intellectual Property that is owned by or is proprietary to a party at the commencement of this Agreement will remain owned exclusively by that party. For the avoidance of doubt Paymark owns or licences the Intellectual Property Rights in Direct Pay, the Direct Pay API, and the Tap on Mobile App and associated portals.
- 20.3. Any new Intellectual Property Rights that are created because of (or in connection with) Your use of the Tap on Mobile Services, or otherwise in connection with this Agreement, will be owned by Paymark unless otherwise agreed in writing between the parties.

## **21. Suspension**

- 21.1. Paymark may suspend the operation of the Tap on Mobile Services in whole or in part or decline or suspend any Transaction:
- (a) If you fail to comply with this Agreement;
  - (b) If Paymark considers on reasonable grounds that serious circumstances exist and that the principles of prudential banking (as set out from time to time by the Reserve Bank of New Zealand) so require;
  - (c) If Paymark believe the Tap on Mobile Service is, or is likely to be, used fraudulently or in a manner that will jeopardise the security, reputation or integrity of the Tap on Mobile Services, the Paymark network, or any Participating Bank's systems;
  - (d) To undertake maintenance and / or technical upgrades, as necessary;
  - (e) Where required to do so by a Participating Bank;
  - (f) If Paymark (acting reasonably) considers it necessary for any other reason including, without limitation, for customer due diligence purposes as required pursuant to the AML Act, While Paymark will try to give advanced notice of any suspension where possible, it may suspend without notice, for such period or periods as Paymark considers appropriate.
- 21.2. Paymark will endeavour to advise you at your last known phone or email address in advance of any suspension and if no such advice is given in advance, then as soon as possible after a suspension is implemented pursuant to this clause 21.

## **22. Termination**

- 22.1. We may terminate this Agreement at any time if We cannot provide the Tap on Mobile App for any reason. We will try to give You as much prior notice as possible but not less than 30 days.
- 22.2. You may terminate this Agreement:
- (a) At any time by telling us that You would like to do so not less than 5 Business Days before the end of the then current billing period; or
  - (b) If We increase the price You pay for the Tap on Mobile or change the way Tap on Mobile works that removes features or functions that adversely affect Your use of the

Tap on Mobile Services, You can terminate this Agreement by giving Us notice prior to the price increase or change taking effect.

22.3. Either of Us can terminate this Agreement:

- (a) if the other party enters a composition with its creditors, is unable to pay its debts (within the meaning of s287 of the Companies Act 1993), is declared bankrupt or commits an act of bankruptcy (within the meaning of the Insolvency Act 1967) or goes into liquidation, or a receiver, statutory manager, or a receiver and manager is appointed; or
- (b) if the other party materially breaches this Agreement including, in Your case, if You in any way compromise the security of the Tap on Mobile App or the System.

### **23. Consumer Guarantees Act**

23.1. You confirm that You have entered into this agreement solely for business purposes and that nothing in the Consumer Guarantees Act 1993 applies in respect of the provision of the Tap on Mobile Services.

### **24. Miscellaneous**

24.1. This Agreement constitutes the entire agreement, understanding and arrangement between the parties relating to the subject matter of this Agreement and supersedes and cancels any previous agreement, understanding and arrangement relating thereto whether written or oral.

24.2. App Store is a service mark of Apple Inc. Android and Google Play are registered trademarks of Google Inc.

24.3. You warrant that You are not located in a country subject to a U.S. government embargo or designated by the U.S. government as a "state sponsor of terrorism", and that You are not listed on any U.S. government list of prohibited or restricted parties.

24.4. You agree to comply with the terms of use of all third party service providers (such as software providers and network service providers) when using the Tap on Mobile App.

24.5. This Agreement is governed by the laws of New Zealand and the parties hereby submit to the exclusive jurisdiction of the courts of New Zealand to resolve any disputes arising out of or in connection with this Agreement.

## Schedule 1 Definitions

**Active:** with respect to a User ID means that User ID has been logged into at any time during the last 90 days, and which has not been Suspended.

**AML Act:** means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (as amended, re-enacted, re-numbered or extended from time to time).

**Authorised:** means as a permitted operation by Paymark or a Participating Bank.

**Authorised Payment:** means a Payment Request that has been Authorised by the applicable Participating Bank.

**Authorised Refund:** means a Refund Request that Paymark has Authorised.

**Bank Agreement:** has the meaning set out in clause 15.3.

**BECS:** means the Bulk Electronic Clearing System operated by Payments New Zealand Ltd.

**Customer Identifier:** means a unique identifier in a format approved by a Participating Bank that uniquely identifies Your customer making a Transaction using Direct Pay. Currently this is the customer's phone number registered with their Participating Bank.

**Default Interest Rate:** means the 5% above the base lending rate charged by Paymark's bank from time to time.

**Direct Pay:** means Paymark's open-banking account-to-account payment solution that utilises application programming interfaces offered by Participating Banks.

**Direct Pay Permitted Use:** means the transmission to, and receipt from, a Participating Bank of data relating to Direct Pay Transaction that You submit.

**Documentation:** means the standard of technical specifications and technical reference documentation for Tap on Mobile, as made available from time to time, including by publication on a web portal accessible by You.

**Eligible Device:** means devices running on Android OS (the last three (3) major versions of the Android OS are to be supported at any point of time) with Google Mobile Services (GMS), and Apple iOS devices as defined by Apple for Tap to Pay on iPhone. Devices must have NFC capability.

**Merchant Account:** means the bank account You specify to which funds will be credited / debited.

**Merchant Identifier:** means the alphanumeric characters Paymark uses to uniquely identify You.

**Original Payment Identifier:** means in respect of a Refund Request, a unique alphanumeric code used to identify the payment record for which a refund is to be processed.

**Original Payment Value:** means in respect of a Refund Request, the Payment Amount of the original Authorised Payment for which a refund is to be processed.

**Participating Bank:** means a bank that has a Bank Agreement with Paymark enabling that bank's customer to use Direct Pay as a payment type.

**Payment Amount:** means the monetary value of the Authorised Payment.

**Payment Request:** means a message submitted by You to Paymark in respect of a payment and consisting of the Payment Amount, the Customer Identifier, the Merchant Identifier, and payment particulars including payment code and references.

**Personal Information:** means information about an identifiable individual, as defined in the Privacy Act 2020.

**Privacy Breach:** means any unauthorised or accidental access, acquisition, use, loss, disclosure, or destruction of Personal Information, or any other incident where Personal Information is compromised.

**Refund:** a refund by You through the to a Cardholder of all or some of the funds that You previously received from that Cardholder for payment of goods or services by way of a valid Tap on Mobile Transaction.

**Refund Amount:** means the monetary value of an Authorised Refund.

**Settlement Agent:** means Paymark's agent for the purposes of interchanging and settling Settlement Instructions.

**Settlement Amount:** means the total value of all Authorised Payments for you within a Settlement Period less the total value of all Authorised Refunds in the same Settlement Period. The Settlement Amount may be net of any Fees.

**Settlement Period:** means the 24 hour period commencing at 23:00 on one calendar day and ending at 22:39:59 the following calendar day.

**Suspended:** with respect to a User ID, means that User ID has been marked as inactive either by You or Us.

**Tap on Mobile App:** our designated mobile payment application required for the processing of Tap on Mobile Transactions as part of the Tap on Mobile Services.

**Tap on Mobile Device:** an Eligible Device that has the Tap on Mobile App installed on it.

**Tap on Mobile Services:** the services provided by Us to You that support, facilitate and/or process:

- Tap on Mobile Transactions through the Tap on Mobile App;
- Your access to the Paymark system; and
- provision of any associated services (including the support services associated with the above) and any Documentation

each as relevant and subject to this Agreement.

**Tap on Mobile Transaction:** a Transaction using the Tap on Mobile App and includes a purchase (whether accepted or declined, or subject to any adjustment or chargeback) and a Refund.

**Term:** has the meaning set out in clause 3.1.

**User ID:** the credentials (username and password) enabling You to access the Tap on Mobile App.

## Change Log

Revision Notes		
Version	Date	Summary of Changes
1.0	21 November 2024	Launch version
2.0	16 June 2025	Updated to incorporate Direct payment type, updated privacy policy and clarifications
3.0	[June 2026]	Updates for re-branding from Worldline to Cuscal Paymark and resulting changes to terms