



# FLX Terms and Conditions of Use

These FLX Terms and Conditions of Use consist of:

Part A – in respect of the FLX Services; and

Part B – in respect of the FLX Card.

Both Part A and Part B apply to the use of FLX.

## PART A – FLX SERVICES TERMS OF USE

These FLX Services Terms and Conditions of Use (FLX Terms and Conditions), the FLX Services PDS and the Policies constitute a contract between you and Flexischools in respect of the FLX Services (FLX, FLX Services).

As you need to be a user of Flexischools in order to use FLX, these FLX Terms and Conditions apply in addition to the Flexischools Terms and Conditions, and the FLX Services PDS .

In the event of any inconsistency between the FLX Terms and Conditions and the Flexischools Terms and Conditions in respect of the FLX Services, these FLX Terms and Conditions will prevail. In addition, in the event of any inconsistency between the terms in Part A and Part B of these FLX Terms and Conditions, Flexischools will act in accordance with the relevant term in Part A, and EML (the FLX Card Issuer) will act in accordance with Part B.

Your use of FLX (including the installation and/or use of the FLX App, including where those things are done by a Child you have authorised in accordance with these FLX Terms and Conditions) constitutes acceptance of that contract.

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### Background

To be eligible to acquire FLX and Utilise the FLX Services you must have a Flexischools Account in accordance with the Flexischools Terms and Conditions.

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### 1 ACCEPTANCE OF FLX TERMS AND CONDITIONS – INCLUDING FOR ANY MINOR GRANTED ACCESS

- 1.1 You acknowledge you may grant your Child access to FLX by creating a FLX Account and authorising your Child to access to the FLX Account via the FLX App by giving the Child the user name and password that you create for that FLX Account (**FLX Access Details**). You also acknowledge that:
- (a) your Child will be issued a FLX Card as part of the FLX Services, and this FLX Card will be issued in the name you allocate to the relevant FLX Account by the FLX Card Issuer; and
  - (b) you take full responsibility for any actions taken by your Child (including their use of FLX either online, through the FLX App, or through the use of a FLX Card) and agree to ensure that they understand and comply with these FLX Terms and Conditions.
- 1.2 You acknowledge and agree that the user of the FLX Card and FLX may be a minor. To the extent

the FLX User is a minor, you acknowledge and agree that you are the FLX User's parent or guardian, and you consent to these FLX Terms and Conditions on the FLX User's behalf and that you will explain to the FLX User how to use, and the rules associated with FLX, including the Privacy Statement and how their Personal Information will be used when they use FLX.

- 1.3 If the FLX User is not a minor, the End User acknowledges and agrees to be bound and consents to these FLX Terms and Conditions on accepting or using the FLX Service.
- 1.4 You accept all responsibility for the minor's actions or omissions in relation to their use of FLX, including use of the FLX Card, FLX Account, and/or FLX App, and in relation to any breach of these FLX Terms and Conditions.
- 1.5 By selecting the relevant box that indicates you have agreed to the FLX Terms and Conditions, including any additional agreements documents and policies, and clicking "Get FLX" when you create a FLX Account, you, and any Child you authorise, agree to be bound by these FLX Terms and Conditions, the FSG (as part of the Flexischools PDS / FSG), the FLX Services PDS, the FLX Card PDS and any Policies, including any update or amendment made to these in accordance with this Agreement. Any changes will be deemed to have been accepted by continued use of FLX including where that use is by a minor.

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## **2 OPENING A FLX ACCOUNT AND FLX SUBSCRIPTION FEE**

- 2.1 As a Flexischools Account Holder, you may open up to five (5) FLX Accounts that will be linked to your Flexischools Account. Each FLX Account may be linked to a different Child.
- 2.2 When opening a FLX Account you must nominate a Default Payment Facility. You agree to keep information relation to this Default Payment Facility up to date.
- 2.3 In consideration for providing access to FLX, Flexischools may charge you Fees including the FLX Subscription Fee, which are set out in the FLX Services PDS. You agree to pay all Fees as they become due and payable.
- 2.4 Flexischools may amend the Fees from time to time on prior notice in accordance with the FLX Services PDS.
- 2.5 You may select to pay your FLX Subscription Fee monthly or annually, and you agree that Flexischools will charge you the FLX Subscription Fee each month, or year, in accordance with your FLX Account set up, for the Term of this Agreement.
- 2.6 You agree that Flexischools will use your Default Payment Facility to debit the amount of the FLX Subscription Fee for each FLX Account when it falls due, in accordance with the FLX Services PDS and these FLX Terms and Conditions.
- 2.7 The relevant FLX Subscription Fee will be first charged 30 days after the date the FLX Account is created, unless the FLX Account is cancelled before that time in accordance with clause 6. The FLX Subscription Fee is not refundable.
- 2.8 You must keep your FLX Account, and Flexischools Account details up to date including any address, email address, or mobile phone number associated with any FLX Account. Flexischools will not be liable if you do not receive any notice or correspondence that has been sent in accordance with Flexischools Account details you have provided.
- 2.9 You agree to pay all Fees as they become due and payable.

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### **3 ALLOCATING FUNDS TO YOUR CHILD'S FLX ACCOUNT**

- 3.1 A Flexischools Account Holder can only move funds to their Child's FLX Account via their Flexischools Parent Wallet. The funds must be first held in the Flexischools Parent Wallet before they can be transferred to a FLX Account. The FLX User is not permitted to move funds from the Flexischools Parent Wallet to a FLX Account.
- 3.2 The total funds that may be loaded onto any FLX Accounts at any one time, including the balance of the Flexischools Parent Wallet, cannot in aggregate exceed the Funds Limit. If you attempt to load value onto the Flexischools Parent Wallet that would result in the Funds Limit being exceeded, the loading of the funds will be rejected.
- 3.3 Once Flexischools is satisfied that the funds transferred to the Flexischools Parent Wallet have 'cleared', Flexischools will credit the FLX Account as appropriate. Depending on the payment method selected, this process may take up to five business days.
- 3.4 Funds transferred to a FLX Account from the Flexischools Parent Wallet will be held by Flexischools in accordance with the FLX Services PDS, in a client segregated monies account that is held by Flexischools.
- 3.5 You acknowledge that a FLX User is not able to access funds stored in the Flexischools Parent Wallet via the FLX App or FLX Card.
- 3.6 You agree that you will receive all Transaction records and any communication in respect of a FLX Account, including the FLX Card, electronically via the Flexischools App, the FLX App, or via email.
- 3.7 You authorise Flexischools to pool any funds held in a FLX Account and the Flexischools Parent Wallet with the money of other customers of Flexischools.
- 3.8 You irrevocably transfer and assign to Flexischools the right to earn interest that may accrue on any funds held in a FLX Account and the Flexischools Parent Wallet. For the avoidance of doubt, nothing in this clause 3.8 grants Flexischools any ownership over the principal of the funds held in any FLX Account.

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### **4 ACTIVATING A FLX CARD FOR USE**

- 4.1 A FLX Card will be sent to the FLX User at the address provided when the FLX Account was set up.
- 4.2 When you receive a FLX Card, you must activate it in the Flexischools Account before it can be used.
- 4.3 During the activation process, a one-time-passcode will be sent to the mobile phone number or email that was registered when the FLX Account was set up, and you will be prompted to set a PIN for the FLX Card. It is your responsibility to remember the PIN for the FLX Card and for the FLX Card User to remember the PIN for the FLX Card.

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### **5 USING A FLX ACCOUNT – SPEND, SAVE AND EARN**

- 5.1 FLX SPEND
- (a) Flexischools is not the issuer of the FLX Card, and the FLX Card is issued by the FLX Card Issuer under licence from Mastercard. The terms in Part B apply in respect of the FLX Card in addition to any relevant terms in this Part A.

- (b) A FLX Card can be used online and in store with any Merchant that accepts prepaid Mastercard cards, subject to:
  - (i) restrictions with respect to Unauthorised Merchants;
  - (ii) Transaction limits in clause 5.1 and the FLX Services PDS and the FLX Card PDS; and
  - (iii) payment for any regular or recurring subscriptions.
- (c) You agree that the FLX Card Issuer, Mastercard and Flexischools may update the list of Unauthorised Merchants from time to time and without notice to you.
- (d) You acknowledge and agree that a Merchant may be inappropriately or inaccurately categorised, and therefore:
  - (i) a FLX Card may be used to purchase goods or services of a nature that may be undesirable for a child from a Merchant where that Merchant is not categorised as an Unauthorised Merchant; or
  - (ii) a FLX Card cannot complete a Transaction with an Unauthorised Merchant, even if the goods and / or services sought are of a nature that is appropriate or desirable for a child.
- (e) When a FLX Card is used to complete a Transaction, the FLX Account's FLX Spend Balance will be debited with the total cost of the purchased goods and services. This may include any applicable foreign currency Transaction Fees, an adjustment at any relevant currency exchange rate or otherwise in accordance with clause 25.1.
- (f) Neither Flexischools nor the FLX Card Issuer will be liable in any way when an authorisation is declined for any particular Transaction regardless of reason.
- (g) You agree that the FLX Card is not a credit or charge card and that a FLX Card can only be used to transact up to the FLX Spend Balance, subject to these FLX Terms and Conditions, and that any Transaction that is for an amount that is greater than their FLX Spend Balance will be declined.
- (h) You acknowledge that the FLX Card must not be used to make cash withdrawals, whether through an ATM, via cash out at point of sale, or otherwise, and that ATM and cash out Transactions will be declined.
- (i) If for any reason a FLX Account, including the FLX Spend Balance falls into debt, including where an Offline Transaction has been performed using a FLX Card, the FLX Account and FLX Card will automatically be suspended until the Negative Balance is restored to at least \$0.00;
- (j) Offline Transactions are subject to floor/redemption limits based on the merchant category code of the point of sale terminal;
- (k) You agree that Flexischools may debit the dishonour plus relevant fees against the FLX Account;

- (l) You acknowledge that sole responsibility for the supply of goods or services purchased using a FLX Card lies with the Merchant.
- (m) You acknowledge that a FLX User may load any FLX Balance in their FLX Account, including where the value of those funds may be attached to a FLX Save Balance, or savings target, to the FLX Spend Balance to be spent using the FLX Card, via the FLX App. For the avoidance of doubt, the FLX App does not allow funds to be transferred from a Flexischools Parent Wallet into a FLX Account.

## 5.2 FLX SAVE

- (a) You acknowledge and agree that the FLX Account Balance does not earn interest and that the FLX Account Balance, including any FLX Save Balance, and targets, is not a bank deposit.
- (b) Funds can be moved from the FLX Save Balance to the FLX Spend Balance, within the FLX App, the Flexischools App and the Flexischools Website.

## 5.3 FLX EARN

- (a) The FLX Earn feature allows a Parent to schedule regular top ups from a Flexischools Parent Wallet, to a FLX Account.
- (b) You agree that if there are insufficient funds in the Flexischools Parent Wallet for any scheduled FLX Earn top-up, this top up will not be completed.
- (c) You are responsible for controlling and scheduling FLX Earn top-ups to a FLX Account from your Flexischools Account, including the amount, frequency, the relevant FLX Account for payment and any cancellation of these top-ups, which must be done prior to the day on which they are due to be made.

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## 6 TERMINATION

- 6.1 You may terminate this Agreement by using the relevant close account function in the Flexischools App or Flexischools Website.
- 6.2 Your termination of a FLX Account is subject to Flexischools, and the FLX Card Issuer's determination that there are no outstanding Transactions or settlements in respect of the FLX Card. You may be required to maintain funds in a FLX Account until Flexischools confirm, at Flexischools' discretion, that all Transactions have been finalised.
- 6.3 Any FLX Balance that is in a FLX Account at the time of cancellation will be handled in accordance with clause 7, subject to clearance of any Transactions that have processed but not settled, and payment of any outstanding Fees. If the FLX Account is terminated before you have spent any value loaded to your FLX Spend Balance resulting from a refund then you will have no access to spend those funds other than via the mechanism in clause 7.
- 6.4 Users of the FLX App may terminate this Agreement in so far as it relates to the FLX App by deleting the FLX App.
- 6.5 On termination of these FLX Terms and Conditions;
  - (a) the rights and licences granted under clause 14 will terminate;

- (b) your access to FLX will be removed by Flexischools;
- (c) your right to use the FLX App immediately cease and you must promptly remove the FLX App from all Devices;
- (d) your FLX Card will be blocked;
- (e) any outstanding balances on your FLX Account will be transferred as outlined in clause 7;
- (f) you must handle any FLX Card in accordance with any requirements in Part B of these FLX Terms and Conditions;
- (g) you agree that you will not be entitled to any refund in respect of a FLX Subscription Fee that has been paid for access to the FLX Service including for any unused period; and
- (h) you will remain liable to Flexischools to pay any outstanding charges should the FLX Account balance be insufficient to meet all Transactions, Fees or charges.

6.6 You agree that Flexischools may close or suspend a FLX Account or may refuse to accept an application for a FLX Account at any time at their discretion and that the FLX Card Issuer may close or suspend a FLX Card at any time at their discretion.

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## **7 RETURN OF FUNDS**

7.1 If you request to close a FLX Account, or a FLX Account is terminated in accordance with clause 6.6, Flexischools will transfer the remaining FLX Balance by one of the following methods at its sole discretion:

- (a) Transfer to the Flexischools Parent Wallet;
- (b) credit card refund using the credit card originally used to place funds into the Flexischools Parent Wallet;
- (c) PayPal refund using the PayPal account originally used to place funds into the Flexischools Parent Wallet; and
- (d) EFT payment into the Parent's nominated bank account,

within 10 business days when:

- (e) Flexischools and the FLX Card Issuer are satisfied that there are no further Fees payable, Transactions, un-cancelled or unexpired authorisations or approvals on the relevant FLX Card;
- (f) Flexischools and the FLX Card Issuer are satisfied that there are no further amounts that Flexischools will be debiting, or that Flexischools anticipate debiting, against the FLX Spend Balance; and
- (g) if Flexischools or the FLX Card Issuer require it, Flexischools or the FLX Card Issuer have received the surrendered or cancelled FLX Card from you.

- 7.2 You agree that if any funds return requires Flexischools to obtain account details from you and Flexischools is unable to obtain the relevant details following reasonable attempts made for a period of 30 days, but is unsuccessful, the balance will remain in the FLX Account.

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## **8 DISPUTES RELATING TO PURCHASES MADE WITH THE FLX CARD**

- 8.1 You agree that Flexischools is not responsible for:
- (a) a failure of the Merchant to supply goods or services purchased with a FLX Card, or
  - (b) any goods or services purchased with a FLX Card being unsatisfactory upon receipt.
- 8.2 You agree you must raise any complaint in respect of goods or services purchased with the relevant Merchant. If the Merchant wishes to grant any refund, it is their absolute and sole responsibility and Flexischools is not responsible for this.
- 8.3 Chargebacks must be handled in accordance with clause 32 of these FLX Terms and Conditions.
- 8.4 Enquiries with regard to suspected fraud or Unauthorised Transactions must be handled in accordance with clause 31 of these FLX Terms and Conditions.
- 8.5 Flexischools will not provide cash refunds in any circumstances.

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## **9 FLX CARD**

- 9.1 Your FLX Card will be valid until the Expiry Date shown on it unless it is cancelled before then. The FLX Card cannot be used after expiry. You cannot access any FLX Spend Balance unless a replacement FLX Card is issued to you. Flexischools may arrange for the FLX Card Issuer to issue you with a replacement FLX Card if requested by you at any time after expiry and provided you have registered your details with Flexischools. Flexischools and the FLX Card Issuer reserve the right not to issue a replacement FLX Card to you, in which case Flexischools will handle any return of funds in accordance with clause 7.
- 9.2 You may ask for the FLX Card to be cancelled at any time. If you ask for the FLX Card to be cancelled, you must surrender or destroy the cancelled physical FLX Card at the FLX Card Issuer's request and also remove the Tokenised FLX Card from your Device Wallet, and you must not use the cancelled Card.
- 9.3 The FLX Card Issuer may cancel the FLX Card at any time. Where possible, you will be given 20 days advance notice of the cancellation, however Flexischools or the FLX Card Issuer may act without prior notice if:
- (a) Flexischools or the FLX Card Issuer believe that use of the FLX Card may cause loss to you or to Flexischools or the FLX Card Issuer;
  - (b) Flexischools or the FLX Card Issuer believe that it is required for security purposes, including where it is used for Unauthorised Transactions or due to fraud;
  - (c) You breach any material terms or conditions of these FLX Terms and Conditions or of the FLX Services PDS or the FLX Card PDS; or
  - (d) Flexischools or the FLX Card Issuer suspect the FLX Card has been used illegally.
- 9.4 If the FLX Card is cancelled in accordance with clause 9.3, Flexischools will give you notice as

soon as reasonably practicable afterwards. Flexischools or the FLX Card Issuer may revoke the FLX Card at any time without cause or notice. If Flexischools or the FLX Card Issuer ask you to, you must surrender or destroy the revoked FLX Card and you must not use the revoked FLX Card.

- 9.5 On the revocation or cancellation of the FLX Card, Flexischools will pay or arrange payment of the FLX Balance in accordance with clause 7.

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## **10 FLX ACCOUNT AND FLX CARD SECURITY**

- 10.1 If a FLX Account's FLX Access Details are lost, compromised or stolen, you must immediately notify Flexischools via the Flexischools App or the FLX App and the FLX Account will be suspended.
- 10.2 You are responsible for the confidentiality of your FLX Access Details and FLX Card PIN, and for ensuring that access to the FLX App is appropriately secure from unauthorised use, including where you provide the FLX Access Details to a FLX User (who may be a minor) for use with FLX.
- 10.3 You, and any Child you have authorised to use a FLX, must immediately lock a FLX Card, via the FLX App, or the Flexischools App if you know or have reason to suspect that the FLX Card or Device is lost or stolen or damaged, likely to be misused, or if you have reason to suspect that someone else may know the PIN or other security associated with the FLX Card or FLX Device. A FLX Card retained by an ATM is deemed to be lost for the purposes of these FLX Terms and Conditions. In the event of such a notification, you consent to Flexischools, and (to the extent required) the FLX Card Issuer doing all things required to suspend cancel, block, or otherwise restrict access to the FLX Card. You may be required to confirm details of the loss, theft or misuse in writing (and to provide information in the confirmation) and you must comply with that requirement. If any FLX Card is subsequently found, it must not be used, and you must not attempt to use the FLX Card.
- 10.4 Where you notify Flexischools that a FLX Card or Device has been lost or stolen, the FLX Card Issuer will issue a replacement card to be sent to the address associated with your Flexischools Account. There is no fee involved to have a replacement FLX Card issued although Flexischools retains the discretion to charge an administration fee in accordance with the FLX Service PDS if, in Flexischools' reasonable opinion, an excessive number of replacement cards has been requested for a FLX Account. Flexischools will notify you in advance if this administration fee will be applied.
- 10.5 You will not be held responsible for any charges or Transactions that might arise from use of the compromised FLX Card after the time the relevant stop card notification is received by Flexischools as required by these FLX Terms and Conditions.
- 10.6 Where you notify Flexischools of Unauthorised Transactions on your FLX Card, or if you submit a chargeback in respect of a Transaction, the investigation and handling of this will be managed by the FLX Card Issuer.
- 10.7 Your liability for losses arising from Unauthorised Transactions will be determined under the ePayments Code. Broadly speaking, you will not be liable for losses from Unauthorised Transactions where you have not contributed to the loss. You are liable for loss resulting from an Unauthorised Transaction if Flexischools or the FLX Card Issuer can prove on the balance of probability that you contributed to the loss through fraud or breaching relevant provisions of these FLX Terms and Conditions.

- 10.8 You acknowledge that in the event of any failure to comply with clause 10.3, you fully indemnify Flexischools against any loss associated with unauthorised use of the FLX Card or a Device, and take full responsibility for the cancellation, blocking, or restrictions of access to the FLX Card including via a Device, using the card blocking function made available via the FLX App or Flexischools App.
- 10.9 You agree you may only use the FLX Card for its intended use and in accordance with these FLX Terms and Conditions. You acknowledge that Flexischools may block, lock, or otherwise restrict access to your FLX Account or your FLX Card including if you breach these FLX Terms and Conditions.
- 10.10 When using the FLX Card, you agree to comply with, and you acknowledge that you will be bound by, the FLX Card Terms and Conditions.
- 10.11 You acknowledge that Flexischools or the FLX Card Issuer, may in their respective discretions, modify the FLX Services including the FLX Card, or how FLX is accessed, including modification to existing functionality, or addition of new functionality, or commissioning new versions of FLX, Flexischools App, or FLX App, and decommissioning older versions of FLX, Flexischools App, or FLX App.
- 10.12 Flexischools or the FLX Card Issuer may carry out scheduled maintenance in respect of the FLX Services, including the FLX Card, and the FLX Services may be unavailable during this time. Flexischools will provide you with notice of any scheduled maintenance to the FLX Services. You agree that such notice will be provided electronically including via the FLX App, Flexischools App, or the FLX Website.
- 10.13 Flexischools may request that you or the FLX User provide additional identification information and you acknowledge and agree that you will provide such identification as is requested including for any FLX User and that you will be responsible for obtaining any consent required in order to provide Flexischools with the required information.

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## **11 USE OF YOUR PERSONAL INFORMATION**

- 11.1 You agree that Flexischools will collect and use your Personal Information, as well as Personal Information of any Child you create a FLX Account for the benefit of, in order to provide FLX (including establishing and administering a FLX Account, requesting that the FLX Card Issuer issue a FLX Card, and in respect of Transactions performed using a FLX Card).
- 11.2 You agree that you have obtained the relevant consent required to provide the Personal Information of any person for whom you create a FLX Account.
- 11.3 We will maintain electronic or other records for each FLX Account. These records will contain Personal Information of minors including the name, birth date and contact details including address of the Child for whom the FLX Account created and to whom the login was issued, and other information provided during the Parent's registration process including phone number and email address, and details of all Transactions.
- 11.4 We collect, transmit and use Personal Information of Flexischools Account Holders and FLX Users in order to provide the FLX Services.
- 11.5 Flexischools may, itself or through third party service providers (including the FLX Card Issuer), collect and use information about your use of the Apps, including information you provide directly or through automated means, such as geolocation (only if you choose to share it), App usage, time stamps, device identification, and other information as outlined in the Flexischools

Privacy Statement. Flexischools may exchange your Personal Information with third parties in the ordinary course of Flexischools' business, for example with the FLX Card Issuer, Pays Providers, and Mastercard in the provision of the FLX Service, with payment processing gateways, government agencies and service providers to Flexischools. You consent to the use of your Personal Information and where a FLX User is a minor, the FLX User's information, for this purpose and you acknowledge that it is your responsibility to advise Flexischools of any changes to the information provided in the registration including information provided in respect of FLX User (such as contact details).

- 11.6 Flexischools may also use or disclose Personal Information collected from and or about you or a FLX User for any other purpose mentioned in the Flexischools Privacy Statement, including notifying you of new goods and services available through the FLX Services, changes to conditions of use and changes to or discontinuance of services and for direct marketing or offers from Flexischools (relating to products and/or services of Flexischools or third parties) and related market research. You may request not to receive marketing communications from Flexischools by sending an email to [help@flexischools.com.au](mailto:help@flexischools.com.au).
- 11.7 Flexischools uses cookies in accordance with the Flexischools Privacy Statement.
- 11.8 Without limiting this clause 11 Flexischools may share any of your and the FLX User's Personal Information with the FLX Card Issuer, Mastercard, Pays Providers, and any supplier or provider for the purpose of providing FLX Services, and for any fraud monitoring or investigation. You should also read the FLX Card Issuer's Privacy Statement, which applies to use of the FLX Card and is available in clause 38.
- 11.9 You agree that Flexischools may collect, use and disclose information associated with your use of FLX provided that the information is de-identified, aggregated or otherwise made anonymous and use and disclose that de-identified, aggregated or otherwise anonymous information for any purpose with third parties provided that, in so doing, Flexischools does not reveal any Personal Information.
- 11.10 The Flexischools Privacy Statement explains how Flexischools will collect this information, and the way in which you can access and seek correction of your Personal Information or raise issues about a breach of the Privacy Legislation. To obtain further information about this use of information or the Flexischools Privacy Statement, you may contact Flexischools through the contact details available on the Flexischools Website or FLX Website.
- 11.11 By using a FLX Account and/or the FLX Apps or FLX Card, you consent to Flexischools collecting, using and disclosing your Personal Information, and the Personal Information of any FLX User (including where that person is a minor) in the manner described above.
- 11.12 You warrant that where you have granted a Child access to a FLX Account by providing them the relevant FLX Access Details, they consent to the use and disclosure of their Personal Information as described in this clause 11.

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## **12 TERMINATION OF YOUR ACCESS TO FLX**

- 12.1 Flexischools may suspend or terminate the licence granted under clause 14 and remove your access to and your participation in FLX at any time and for any reason, including but not limited to:
- (a) if you breach any of these FLX Terms and Conditions; or
  - (b) if there is a suspicion that the FLX Account has been used for unauthorised, unusual or

illegal activity; or

(c) if the FLX Subscription Fee is not paid when due.

12.2 Despite any other provision of this Agreement, this clause<sup>12</sup> and clauses 6, 7, 8, 9, 10, 11, 13, 17, and 18 will survive termination of this Agreement.

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### **13 INTELLECTUAL PROPERTY RIGHTS**

13.1 Nothing in this Agreement constitutes a transfer of any Intellectual Property Rights to you in any Content, FLX, the FLX Website or its contents, or the FLX App or its contents.

13.2 You:

(a) acknowledge that Flexischools owns or has the rights to all Intellectual Property Rights in the FLX App; and

(b) will not directly or indirectly do anything that would or might invalidate or put in dispute Flexischools' rights and/or title in the FLX App.

13.3 If any person makes any claim alleging that any of the FLX App (or use of the FLX App) infringes any Intellectual Property Rights or Moral Rights of any person, you must:

(a) promptly notify Flexischools in writing;

(b) not make any admissions or take any action in relation to the claim without Flexischools' written consent;

(c) permit Flexischools (and not, to avoid doubt, any App Store Provider) to take responsibility and control over any and all investigations, negotiations, settlement and dispute resolution proceedings relating to the claim; and

(d) cooperate with, assist and act at all times in accordance with the reasonable instructions of Flexischools, in relation to the claim and any consequent investigations, negotiations, settlement and dispute resolution proceedings.

13.4 If you upload any image to be used in association with a FLX Account, including as an avatar in respect of a FLX User's FLX Account, you warrant that you are the owner of copyright in that image, and you grant to Flexischools an irrevocable, worldwide, royalty free perpetual licence to reproduce that image for the purpose of providing you the FLX Services.

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### **14 GRANT OF LICENCE**

14.1 Flexischools grants you a personal, revocable, non-transferable, non-exclusive, limited licence to:

(a) participate in FLX;

(b) use and install or access the Software on or through your Device (as appropriate); and

(c) use the FLX App and the Documentation (as appropriate) on any devices or other hardware products that you own or control, as permitted by any usage rules for such products or set forth in the applicable App Store.

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**15 THIRD PARTY PROMOTIONS**

- 15.1 As part of the FLX Services, Flexischools may make available third-party product or service promotions (Promotions). The following terms and conditions apply to the extent that Promotions are made available, including through the FLX Website and/or FLX App unless the terms of a particular Promotion are stated to override them:
- (a) Flexischools will not honour any deals, promotions or promises made in such promotions or materials (other than those made directly by Flexischools);
  - (b) Flexischools may delete reference to such promotions or materials after a minimum of one month after termination;
  - (c) any use or reliance on the Promotions is at your own risk; and
  - (d) you may be provided with internet links as part of such promotions or materials, which link to third party websites. If you click on or otherwise connect to such third-party website, Flexischools takes no responsibility for links to third party sites, which are outside the control of Flexischools.

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**16 USE OF FLX AND FLX CARD**

- 16.1 Unless otherwise set out in this Agreement and to the extent permitted by law, you must not, and must procure that a FLX User will not:
- (a) use FLX or FLX Card for any purpose or in any manner other than as set out in these FLX Terms and Conditions;
  - (b) permit any other person or third party (other than a Child to whom you have granted access to a FLX Account by providing them with the Access Details) to access or use the FLX App or FLX Card;
  - (c) permit any person to change, amend or customise any part of the FLX App unless agreed by Flexischools;
  - (d) do yourself nor prevent Flexischools' restraint of you doing the following:
    - (i) reproduce, distribute, make error corrections to or otherwise modify or adapt the FLX App or the Documentation or create any derivative works based upon the FLX App or the Documentation; or
    - (ii) de-compile, disassemble or otherwise reverse engineer the FLX App or permit any thirdparty to do so; and/or
  - (e) modify or remove any copyright or proprietary notices on the FLX App, FLX Card or the Documentation.

- 16.2 Flexischools shall make the FLX App available for download from the site from which you are accessing the FLX App or from an App Store.
- 16.3 Neither Flexischools nor, to avoid doubt, any App Store Provider, is under any obligation to provide technical support to you, including support in relation to the installation of the FLX App on your device.
- 16.4 You shall ensure that the device on which the FLX App, or any tokenised version of the FLX Card in a Digital Wallet is to be installed is in good, up to date working order and operating condition, and has appropriate security for the type of functions you perform using it. Flexischools takes no responsibility for your device's inability to access the Services due to issues with your device.
- 16.5 Flexischools acknowledges that Flexischools has the right and/or licence to provide any Content that Flexischools includes on the FLX App.
- 16.6 Flexischools will investigate complaints made regarding inappropriate Content, or make its own enquiries, and remove the Content, at Flexischools' absolute discretion.
- 16.7 Flexischools does not endorse, support, represent, or guarantee the completeness, truthfulness, tact, accuracy, or reliability of any Content or endorse any opinions expressed in the Content.
- 16.8 Flexischools is not liable for any Content, including, but not limited to, any promises, errors or omissions, or any loss or damage incurred as a result of use of or reliance on any Content that Flexischools has not directly included on FLX.
- 16.9 Flexischools will not honour any deals, promotions or promises made in the Content (other than those made directly by Flexischools).
- 16.10 Flexischools may terminate your use (or your child's use, respectively) of FLX if the Membership Fee has not been paid. You acknowledge that:
- (a) Flexischools may update, alter or change the FLX Service at any time;
  - (b) Flexischools may assign or sell its rights to the FLX Service without notice to you;
- 16.11 You agree to comply with all laws, rules, and regulations applicable to the use of FLX, including the applicable Australian state or territory laws.
- 16.12 Any use or reliance on any Content or Materials viewed in the FLX App is at your own risk.
- 16.13 You may be provided with internet links in the Content which link to third party websites. If you click on or otherwise connect to such third-party website, Flexischools takes no responsibility for links to third party sites, which are outside the control of Flexischools.
- 16.14 You must not do any of the following while accessing or using the FLX App:
- (a) access, tamper with, or use non-public areas or non-indexed areas of the FLX App, or the technical
  - (b) delivery systems of the FLX Services' third party providers;
  - (c) probe, scan, or test the vulnerability of any system or network or breach or circumvent any security or authentication measures;
  - (d) access or search or attempt to access or search the FLX App by any means (automated

or otherwise) other than through published interfaces that are provided by Flexischools;

- (e) forge any TCP/IP packet header or any part of the header information in any email or posting, or in any way use the FLX App to send altered, deceptive or false source-identifying information;
- (f) interfere with, or disrupt, or attempt to disrupt, the access of any user, host or network, including, without limitation, by sending a virus, overloading, flooding, spamming, mail-bombing the FLX App, or by scripting the creation of Content in such a manner as to interfere with or create an undue burden on the FLX App in attempt to gain access to a locked box or purpose built secured area in an Administration area, unless express permission has been granted by Flexischools if appropriate.

16.15 You cannot opt out of communications from Flexischools that are necessary for the ongoing operation of the FLX Service, including those communicated via the FLX App and where these are sent to a Child including via the FLX App.

16.16 The FLX App is primarily intended for the use of users in excess of 6 years of age.

16.17 You must ensure you comply with any third party terms of agreement that are required for you to use the FLX Service (which for example may include Mastercard Scheme Rules, FLX Card Terms and Conditions, Pays Provider rules, and any applicable wireless data services agreements).

16.18 You warrant that you

- (a) are not located in a country that is subject to a US government embargo, or that has been designated by a USA government agency or department as a “terrorist supporting” country (including under the US Treasury Department’s Specially Designated Nationals List); and
- (b) you are not listed on any USA government agency or department list of prohibited or restricted parties (including under the US Department of Commerce’s Denied Persons List or Entity List).
- (c) In the event of a breach of this clause<sup>16</sup>, Flexischools reserves the right to seek injunctive relief without notice to you in a court of competent jurisdiction along with damages and legal costs and fees incurred in seeking such relief.

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## **17 LIMITATION OF LIABILITY**

17.1 You agree and acknowledge that:

- (a) Flexischools is a distributor of the FLX Card Issuer’s Materials and is not responsible for the content of the Materials;
- (b) Flexischools is a distributor of third party Content (including the Merchant and FLX Card Issuer) and is not responsible for the content of third party Content (including the Merchant and FLX Card Issuer);
- (c) Flexischools is not the issuer of the FLX Card and is not responsible or liable for the FLX Card. Flexischools only distributes the product of the FLX Card Issuer and is not responsible for any issues with defects or function of the FLX Card (except to the extent

the defect is a direct result of errors in the FLX App, or Flexischools' authorisation of Transactions performed on your FLX Card);

- (d) you agree to comply with any third party terms required to access the FLX Services, including any FLX Card Terms and Conditions or the Mastercard Scheme Rules;
- (e) you have not relied on any representation, description, illustration or specification which is not expressly stated in this Agreement;
- (f) except for those required under any Non-excludable Australian Consumer Law, Flexischools make no warranties or representations about the Flexischools Service or its accuracy, reliability, completeness, currency, or ability to achieve any purpose;
- (g) except for liability for breach of any Non-excludable Australian Consumer Law, Flexischools is not liable for any loss or damage arising out of use of the FLX Service;
- (h) the maximum aggregate liability of Flexischools for all proven losses, damages and claims relating to personal injury, sickness or death is limited to the FLX Subscription Fee amount for one year;
- (i) Flexischools does not warrant that you will have continuous access to the FLX Services;
- (j) Flexischools is not liable if the FLX Service is unavailable for any reason;
- (k) Flexischools is not the supplier of goods or services and is not liable for any claims in relation to the goods or services, including their quality, merchantability or fitness for any particular purpose
- (l) Flexischools is not a bank or a card issuer, and does not pay interest on any funds held in your FLX Account and Flexischools is entitled to any interest earned on funds held on your behalf;
- (m) Flexischools may invest any funds held on your behalf and to which you are entitled in any investment of a kind permitted by Regulation 7.8.02(2) of the Corporations Regulations 2001 (Cth), Flexischools shall be entitled to any interest, earnings or similar payments on any such investments which shall be paid into any account nominated by Flexischools and, upon realisation, the amount received (up to an amount not exceeding the amount invested) will be returned to the account Flexischools is required to maintain under the Corporations Act 2001 (Cth). For the avoidance of doubt, Flexischools shall not be required to reimburse any difference between the amount invested and the amount received;
- (n) Flexischools is not responsible for any instructions or communications that you provide via the Flexischools or FLX Services and is not responsible for detecting any errors in your FLX Account instructions;
- (o) Flexischools has no control over the quality, safety or legality of any items sold by a Merchant;
- (p) Flexischools is not a party to any dispute between you and the Merchant. If you have a

dispute with a Merchant, you release Flexischools (and Flexischools' officers, directors, agents, related companies, subsidiaries, joint ventures and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with the dispute;

- (q) Flexischools is not a party to any dispute between you and the FLX Card Issuer, including to the extent there are any issues in provision of any service by Flexischools (including the FLX Service) caused directly or indirectly by any defect or failure of the FLX Card, or of the FLX Card Issuer. If you have a dispute with the FLX Card Issuer, you release Flexischools (and Flexischools' officers, directors, agents, related companies, subsidiaries, joint ventures and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with the dispute. For any disputes with the FLX Card Issuer, refer to the FLX Card PDS.

17.2 You agree that to the extent that Transactions are completed in accordance with Mastercard Scheme Rules, Flexischools will not be liable to you for:

- (a) any indirect or consequential loss, damage or costs incurred by you; or
- (b) any loss or damage of any kind resulting from or in connection with negligence or breach of a term, condition or warranty that may be implied into this Agreement except for liability under Non-excludable Australian Consumer Law;
- (c) in each case, including any loss arising out of or in connection with the FLX Card, the FLX App, or this Agreement.

- 17.3 To the extent permitted by law, where Flexischools' liability is not excluded by clause 17.2, Flexischools' liability for a claim arising out of this Agreement or the FLX Service will in no event exceed the amount of the FLX Subscription Fee paid by you in respect of the FLX Account in relation to which the claim arises.
- 17.4 You acknowledge that Flexischools, not any App Store Provider, is responsible for addressing any claims you or a third party may have that relates to the FLX App or your possession and/or use of the FLX App.

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## **18 INDEMNITY**

- 18.1 You agree to indemnify Flexischools and hold us, Flexischools' officers, directors and employees harmless from any loss, claim or legal liability (including legal fees) arising out of your breach of the Agreement or your breach of any law or the rights of a third party relating to your use of FLX.
- 18.2 You are responsible for any civil or criminal liability that is incurred as a result of your use of FLX. You indemnify Flexischools against all liabilities, expenses, legal costs and fees on a full indemnity basis and for damages arising out of claims based upon your use of FLX.
- 18.3 While Flexischools will endeavour to ensure that information provided through FLX is accurate and error-free, you acknowledge that Flexischools will not be responsible for any inaccuracy, omission, defect or error in this information. Flexischools will not be liable for any loss or damage which may be caused by using this information except to the extent that any loss or damage arises from a breach by Flexischools of any obligations under these FLX Terms and Conditions or fraud, dishonesty or negligence by Flexischools.
- 18.4 Flexischools will use reasonable endeavours to ensure that the information provided through FLX is free from computer virus information, spyware or any other malicious content.

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## **19 MISCELLANEOUS**

- 19.1 Flexischools does not guarantee continuous, uninterrupted or secure access to FLX.
- 19.2 This document sets out the entire Agreement between the parties in relation to its subject matter and all prior representations are excluded.
- 19.3 Notwithstanding any other provision of these FLX Terms and Conditions, Flexischools may suspend your access to FLX in whole or in part at any time without notice or compensation where deemed necessary in Flexischools' sole discretion.
- 19.4 You may not assign, sublicense or otherwise transfer any rights or obligations under this Agreement without the prior written consent of Flexischools. Flexischools may assign or otherwise transfer any rights or obligations under this Agreement at any time.
- 19.5 The Agreement and any other documents, information, statements, notifications, notices or other communications (**Relevant Communications**) in relation to a FLX Account you have established, and/or your or a FLX User's use of FLX may be provided to you by electronic means. You agree to receive all communications from Flexischools by electronic means and that Relevant Communications will be made available on the FLX Website.
- 19.6 We may set off any obligation which you owe Flexischools under this Agreement against the balance of your FLX Account.

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**20 AMENDMENTS**

Flexischools may amend these FLX Terms and Conditions, the FLX PDS and/or Policies from time to time by posting a revised version of such Terms and Conditions, the FLX PDS and/or Policies to the FLX or Flexischools Website and sending you a notification, which may be to the Flexischools or FLX App. By continuing to use FLX after any amendments to the Terms and Conditions, the FLX PDS and/or Policies, you agree to abide and be bound by any such changes. If you do not agree with any changes made to the Terms and Conditions, the Combined Flexischools FSG and PDS or the FLX PDS and/or Policies, you must terminate the Agreement by closing any FLX Account and ceasing to use FLX (including uninstalling the Apps) and ceasing to use any FLX Card.

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**21 GOVERNING LAW**

These FLX Terms and Conditions are governed by the law applicable in New South Wales, Australia and you irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that state.

# PART B – FLX Card Terms and Conditions

In this Part B, the “FLX Card Issuer” is referred to as “EML”

This Part B governs the use of the FLX Card, which is issued by EML under licence by Mastercard.

Please read them carefully and keep a copy for your records. By signing the back of the FLX Card, loading the FLX Card to your Device Wallet or using the FLX Card, you agree (including on behalf of your Child) to be bound by these FLX Card Terms and Conditions.

You also acknowledge and agree to the disclosures and other information contained in the FLX Card PDS. Those disclosures and information form part of the agreement between you and EML except to the extent that these FLX Card Terms and Conditions provide otherwise or qualify the disclosures and information.

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## **22 The FLX Card**

- 22.1 the FLX Card is a prepaid, reloadable Mastercard card and value must be loaded to the FLX Spend Balance before it can be used;
- 22.2 you can load value to the FLX Spend Balance in accordance with clause 5.1 of these FLX Terms and Conditions;
- 22.3 the FLX Card allows purchases to be approved if a sufficient FLX Spend Balance exists for the Transaction, and subject to restrictions in clause 5.
- 22.4 the FLX Card is not a credit card;
- 22.5 if you permit someone else to make a purchase with the FLX Card, including by using your Device, you will be responsible for any Transactions initiated by that person with the FLX Card;
- 22.6 the FLX Card remains the property of EML and you must surrender the FLX Card to us if we ask for it to be surrendered.

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## **23 Using the FLX Card**

- 23.1 The FLX User will be registered as the cardholder of the FLX Card;
- 23.2 Upon receipt, you will need to activate the FLX Card in the FLX App or Flexischools App before it can be used;
- 23.3 You can purchase goods and services, subject to the Merchant restrictions and Transaction limits in these FLX Terms and Conditions, using your FLX Card and the payment is debited against your FLX Spend Balance. The FLX Card allows you to purchase goods and services:
  - (a) at an outlet within Australia that has EFTPOS Device by either:
    - 23.4 selecting the ‘credit’ button wherever Mastercard cards are accepted; or
    - 23.5 making a Contactless Transaction.
      - (a) over the telephone or the internet by providing the PAN, Expiry Date and security code; or
      - (b) at outlets overseas wherever Mastercard cards are accepted;
- 23.6 When you are paying for goods and services by selecting the ‘credit’ button at an EFTPOS Device

or providing the FLX Card number to a Merchant over the telephone or the Internet, you'll be covered by Mastercard's Zero Liability Protection Policy. This means you are protected against Unauthorised Transactions. Mastercard's Zero Liability Protection Policy does not apply to ATM Transactions or Transactions not processed by Mastercard.

- 23.7 you agree not to make or attempt to make Transactions that exceed the FLX Spend Balance in relation the relevant FLX Account;
- 23.8 if you make or attempt to make any Transactions that exceed the FLX Spend Balance then you will be liable for any Negative Balance, along with any costs or interest we or Flexischools incur in recovering or attempting to recover from you the amount owing;
- 23.9 if a Negative Balance arises, that does not mean that a Negative Balance will be allowed to arise or be increased on subsequent occasions;
- 23.10 you can use your FLX Card within the limits specified in clauses 5.1 and 26 provided that you do not exceed the FLX Spend Balance and the Expiry Date for the FLX Card has not passed;
- 23.11 EML or Flexischools may restrict or stop the use of the FLX Card if excessive uses of the FLX Card or other suspicious activities are noticed;
- 23.12 you cannot "stop payment" on any Transaction after it has been completed. If you have a problem with a purchase made with the FLX Card, or a dispute with a Merchant, you must deal directly with the Merchant involved. If you cannot resolve the dispute with the Merchant, you should contact Flexischools, who may engage EML to manage the dispute or complaint in accordance with the Mastercard Scheme Rules.
- 23.13 if you are entitled to a refund for any reason relating to a Transaction, you agree to accept the refund under the policy of that specific Merchant. If the FLX Card is expired or revoked before you have spent any value loaded to your FLX Spend Balance resulting from a refund then you will have no access to spend those funds unless a replacement FLX Card has been issued to you. FLX Spend Balance will be handled by Flexischools in accordance with clause 7;
- 23.14 neither EML nor Flexischools is liable in any way when an authorisation is declined for any particular Transaction regardless of reason;
- 23.15 the FLX Card may not be used at ATMs and any ATM transaction will be declined;
- 23.16 if you permit someone else to use the FLX Card, you will be responsible for any Transactions initiated by that person with the FLX Card;
- 23.17 you may not make pre-authorised regular payments with the FLX Card; and
- 23.18 your FLX Card may not be used for any direct or recurring debit payments or for any mail or telephone order Transactions.

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## **24 FLX Card Fees and Charges**

- 24.1 You agree to pay the fees provided in the FLX Card PDS and these FLX Terms and Conditions. Whenever any Fees are incurred or become payable, you authorise us to deduct it from the FLX Spend Balance and reduce the FLX Spend Balance accordingly.

24.2 Applicable fees are as follows:

<b>Fees and Charges to be paid by the FLX cardholder</b>	
<b>FLX Card Issue and Funds Loading</b>	
FLX Card Issue Fee	\$0
Replacement FLX Card Fee	<p>\$0</p> <p>Replacement cards will generally be issued for \$0 unless it is deemed by Flexischools that you have ordered an unreasonable number of replacement cards in a year.</p> <p>Flexischools will notify you in advance if a replacement card fee is to apply for future replacement cards. The cost of subsequent cards in this circumstance will be \$10 (including GST) to cover the cost of production, delivery and administration.</p>
<b>Point of Sale Purchases</b>	
POS Purchase	\$0
Declined Transaction Fee	\$0
Foreign exchange fee	2.99% of the total amount of each Transaction
Disputed Transaction fee (per Transaction) (may be payable in the event the FLX Card Issuer is unsuccessful in disputing a transaction and the FLX Card Issuer finds that the dispute is lodged fraudulently, or the dispute is otherwise found to not be legitimate.)	\$11.00

- 24.3 All Transaction Fees are charged at the time of Transaction and are included in the total purchase price.
- 24.4 All fees and charges are expressed in Australian dollars and are inclusive of any applicable GST.
- 24.5 Certain Merchants may charge an additional fee if the FLX Card is used to purchase goods and/or services. This fee is determined and charged by the Merchant and is not retained by us.

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## 25 Loading of Value

Funds can be spent using the FLX Card only where there is a positive FLX Spend Balance, as specifically provided in these FLX Terms and Conditions and subject to the limits shown in Section 26 of this Part B.

### 25.1 Foreign Transactions

The FLX Spend Balance is in Australian dollars. Transactions made in a currency other than Australian dollars will be subject to the prevailing Mastercard exchange rate at the time plus a 2.99% foreign exchange fee. Example of how a foreign exchange fee is calculated:

- You make a purchase from a Merchant located outside Australia (e.g. USA);
- At the time, Mastercard's prevailing exchange rate is US\$1.00 = \$0.95 Australian;
- You spend US\$200.00;
- The Australian dollar amount is US\$200.00 x \$0.95 = \$190.00;
- The foreign exchange fee is therefore 2.99% x \$190.00 = \$5.68

For a full listing of fees and charges please refer to clause 24 FLX Card Fees and Charges.

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## 26 Limitations of Use of the FLX Card

In addition to the Transaction limitations in clause 5, the following limitations apply to the FLX Card:

- (a) the FLX Card may not be used for, and authorisation may be declined for, any illegal Transactions; and
- (b) some retailers may choose not to accept prepaid Mastercard cards.

The following table illustrates the Transaction and load limits applicable to the FLX Card. Merchants or other providers of facilities may impose additional limits.

Load/Transaction	Limit
<b>Point of Sale Limits</b>	
Maximum Point of Sale Transaction amount (in any one Transaction)	\$4999
Daily Point of Sale limit per day (no ATM withdrawal Transactions) (cumulative for all Transactions)	\$4999
Maximum number of Transactions per day	25

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## **27 PIN and pass codes**

The FLX User's PIN must be set in the FLX App in accordance with the instructions on activation of the FLX Card.

You must not disclose your PIN to any other person.

A passcode may be provided to your registered Device to complete a Transaction – this is often referred to as Two Factor Authentication. Where you are provided a passcode for Two Factor Authentication, you must not disclose that pass code to any other person.

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## **28 PIN Change**

Your PIN can be changed in the FLX App:

- (a) you will be prompted to enter your 16-digit PAN along with personal details to verify your identity; and
- (b) following verification of your identity a passcode will be sent to the mobile phone number registered with the FLX Card. The passcode will be required to allow you to access your PIN.
- (c) If you have any technical difficulty retrieving your PIN, please refer to the FLX Website [www.flexischools.com.au/FLX-FAQ](http://www.flexischools.com.au/FLX-FAQ)

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## **29 Security**

You must make sure that you keep the FLX Card, Device, Identifiers and any PINs or passcode safe and secure. The precautions we require you to take are set out below. You must not:

- (a) allow anyone else to use the FLX Card;
- (b) interfere with any magnetic stripe or integrated circuit on the physical FLX Card;
- (c) unnecessarily disclose the PAN;
- (d) write, or carry, the PIN with the FLX Card or record the PIN or Device Pass Code on anything carried with the FLX Card or Device that is liable to loss or theft simultaneously with the FLX Card or Device, unless you make a reasonable attempt to protect the security of the PIN or Device Pass Code;
- (e) voluntarily disclose the PIN, Device Pass Code or code to anyone, including a family member or friend;
- (f) allow someone else to register a Biometric Identifier on your Device; or
- (g) provide any Device Pass Code to another person to access your Device.
- (h) To safeguard your FLX Card from unauthorised use, you should:
  - (i) sign your physical FLX Card immediately when you receive it;
  - (j) memorise your PIN and never store it with or near your FLX Card;

- (k) never leave your FLX Card unattended, e.g. in your car or at work;
- (l) if you add the FLX Card to a Device Wallet, you should:
  - (i) always lock your mobile device;
  - (ii) assign a Device Pass Code to unlock your mobile device;
  - (iii) not share your Device Pass Code to anyone;
  - (iv) not leave your Device unattended;
  - (v) remove any other registered Biometric Identifier which is not your own from your Device;
  - (vi) ensure that any security details to access your mobile device or authorise a payment with your Device is not easily guessed;
  - (vii) lock the FLX Card immediately report the loss, theft or unauthorised use of your FLX Card or Device to the FLX Card Issuer on 1300 739 889;
  - (viii) examine your account statement in the FLX App to identify and report, as soon as possible, any instances of unauthorised use; and
  - (ix) on the Expiry Date, destroy the physical FLX Card by cutting it diagonally in half.

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### **30 LOSS, THEFT AND MISUSE OF FLX CARD**

- 30.1 If you know or have reason to suspect that your FLX Card or Device is lost or stolen or damaged, likely to be misused or you have reason to suspect that someone else may know the PIN, Identifiers, Device Pass Code or passcode, you must immediately notify Flexischools by using the relevant 'lock card' function in the Flexischools App or FLX App. We will then suspend your FLX Card to restrict further use.
- 30.2 You may be required to confirm details of the loss, theft or misuse in writing (and to provide information in the confirmation) and you must comply with that requirement.
- 30.3 If any lost FLX Card or Device is subsequently found, it must not be used, you must not attempt to use the FLX Card associated with that Device.
- 30.4 Should your FLX Card be retained by any ATM, the FLX Card is deemed to be lost or stolen and hence cannot be recovered. In that event, you will need to contact Flexischools and arrange to be issued with a new FLX Card. There is no fee involved to have a replacement FLX Card issued, subject to an administrative fee in accordance with the PDS when an unreasonable number of replacements cards has been requested.

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### **31 Liability for Unauthorised Transactions**

- 31.1 Your liability for losses arising from Unauthorised Transactions will be determined under the ePayments Code.
- 31.2 Where you are not liable:
  - (a) You will not be liable for losses resulting from Unauthorised Transactions where you

have not contributed to the loss.

- (b) You will not be liable for losses resulting from Unauthorised Transactions are caused by:
  - (i) fraud or negligence by our employees or agents, a third party involved in networking arrangements, or a Merchant or their employee or agent;
  - (ii) a FLX Card, Identifier or passcode which is forged, faulty, expired or cancelled;
  - (iii) a Transaction requiring the use of a FLX Card and/or passcode that occurred before you have received the FLX Card and/or passcode (including a reissued FLX Card and/or Pass Code);
  - (iv) a Transaction being incorrectly debited more than once to your FLX Card; or
  - (v) an Unauthorised Transaction performed after you have blocked or locked your FLX Card in the FLX App, or after you have informed Flexischools that your FLX Card has been misused, lost or stolen, or the security of a passcode has been breached in accordance with these FLX Terms and Conditions.
- (c) You are not liable for loss arising from an Unauthorised Transactions that can be made using an Identifier without the FLX Card or a PIN. Where a Transaction can be made using the FLX Card, or a FLX Card and an Identifier (such as a Contactless Transaction using the Tokenised FLX Card) without a PIN, you are liable only if you unreasonably delay reporting the loss or theft of a Device or the physical FLX Card.

### 31.3 Where you are liable

- (a) You are liable for loss resulting from an Unauthorised Transaction if we can prove on the balance of probability that you contributed to the loss through fraud or breaching clause 29 of these FLX Card Terms and Conditions. In those circumstances you are liable in full for the actual losses that occur between when you become aware (or should reasonably have become aware) of the theft or misuse of a FLX Card or Device or the compromise of the PIN or Pass Code, and when you reported it to us; however:
  - (i) you are not liable for the portion of losses incurred on any one day more than any applicable daily Transaction limit; and
  - (ii) you are not liable for the portion of losses incurred in any period more than any applicable periodic Transaction limit; and
  - (iii) you are not liable for the portion of losses that exceeds the FLX Spend Balance; and
  - (iv) you are not liable for the portion of losses incurred if you and we had not agreed that the FLX Spend Balance could be accessed using the FLX Card or Identifier and/or PIN used to perform the Transaction.
- (b) You will be liable for losses arising from an Unauthorised Transaction that occurs because you contributed to losses by leaving a physical card in an ATM, as long as the ATM incorporates reasonable safety standards that mitigate the risk of a FLX Card being

left in the ATM.

- (c) You will be liable for losses arising from an Unauthorised Transaction if we can prove on the balance of probability that you contributed to those losses by unreasonably delaying reporting the misuse, loss or theft of a FLX Card or Device, or that the security of all PIN or Device Pass Codes has been breached. In those circumstances, you are liable in full for the actual losses that occur between when you become aware of the security compromise, or should reasonably have become aware in the case of a lost or stolen FLX Card, but:
  - (i) you are not liable for the portion of losses incurred on any one day more than any applicable daily Transaction limit; and
  - (ii) you are not liable for the portion of losses incurred in any period more than any applicable periodic Transaction limit; and
  - (iii) you are not liable for the portion of losses that exceeds the FLX Spend Balance; and
  - (iv) If a PIN was required to perform an Unauthorised Transaction not already covered above, you will be liable for the lesser of:
    - (v) \$150; or
    - (vi) the FLX Spend Balance; or
    - (vii) the actual loss at the time that the misuse, loss or theft of a FLX Card or breach of PIN security is reported to us, excluding that portion of the losses incurred on any one day which exceeds any relevant daily or other periodic Transaction limit.
- (d) If you report an Unauthorised Transaction, we will not hold you liable for losses arising from the Unauthorised Transaction for an amount greater than your liability if we exercised any rights under Mastercard Scheme Rules, at the time of the report, against other parties to the Mastercard scheme (for example, chargeback rights).

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## **32 Important Information about Chargebacks**

A chargeback is a right under the Mastercard Scheme Rules by which a Transaction can effectively be reversed by us debiting an amount to the Merchant's financial institution and crediting back to your FLX Spend Balance via your FLX Card. We can only process chargebacks if the Mastercard Scheme Rules allow us to.

- 32.1 In some circumstances, you may be able to request a chargeback of a Transaction when you have a dispute with a Merchant; for example:
- (a) where goods or services you paid for using the FLX Card were either not as described or defective;
  - (b) where goods or services you paid for using the FLX Card were not provided;
  - (c) where there was an Unauthorised Transaction on the FLX Card;

- (d) the Transaction amount differs to the purchase amount; or
- (e) where you believe a Transaction has been duplicated.

- 32.2 If you believe that you are entitled to a chargeback, you must notify us as soon as possible by contacting the FLX Card Issuer as the Mastercard Scheme Rules impose time limits for initiating chargebacks. The time limit is generally 90 days from the date of the disputed Transaction.
- 32.3 If you request a chargeback, we may need you to provide additional information. If we do ask you for additional information and you do not provide it within 10 days, then you may lose any rights to the chargeback and if it has already been processed, we may reverse it.
- 32.4 Please note that if we process a chargeback, the Merchant may have rights under the Mastercard Scheme Rules to have the Transaction investigated further, and this can in some circumstances result in the chargeback being reversed (which means the original Transaction might be reinstated by being debited to your FLX Spend Balance).

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### **33 Transactions**

- 33.1 You acknowledge that you will not receive paper statements from us regarding the operation of your FLX Card. Periodic statements showing the Transactions on your FLX Card and the FLX Spend Balance are available on the FLX App.
- 33.2 Provided you have registered your FLX Card, Flexischools will take reasonable steps to ensure that your balance and Transaction history will be available 24 hours a day, 7 days a week, through the FLX App, to the extent reasonably practicable.
- 33.3 If you notice any error (or possible error) in any Transaction or statement relating to FLX Card, then you must notify the FLX Card Issuer immediately. We may request you to provide additional written information concerning any error (or possible error) and you must comply with that request.
- 33.4 It is your responsibility to regularly review your Transaction history to identify Unauthorised Transactions.

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### **34 FLX CARD EXPIRY**

- 34.1 The FLX Card is valid until the Expiry Date shown on it unless it is cancelled before then.
- 34.2 Your FLX Card cannot be used after expiry. You cannot access any value loaded on the expired FLX Card unless a replacement FLX Card is issued to you.
- 34.3 We may issue you with a replacement FLX Card if requested by you at any time after expiry and provided you have registered your details with us, including your name and Australian address. We reserve the right not to issue a replacement FLX Card to you, in which case any FLX Spend Balance will be returned to you subject to and in accordance with clause 7.

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### **35 REPLACEMENT FLX CARDS**

- 35.1 If your FLX Card is misused, lost or stolen, you should notify Flexischools in accordance with clause 10.3 so that your FLX Card can be cancelled.
- 35.2 You can request Flexischools to provide you with a replacement FLX Card.
- 35.3 A replacement FLX Card will be arranged after you notify us that your FLX Card or FLX Card

details are misused, lost or stolen in accordance with clause 30 and the misused, lost or stolen FLX Card has been blocked. You will need to confirm your personal details, register and activate the new FLX Card in accordance with clause 4.

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## **36 LIABILITIES AND DISCLAIMERS**

### **36.1 EML is not liable:**

- (a) if, through no fault of our own, the FLX Spend Balance is not enough to cover a Transaction;
- (b) if, through no fault of our own, an EFTPOS Device or system does not work properly;
- (c) if circumstances beyond EML control prevent a Transaction, despite any reasonable precautions having been taken by us;
- (d) for any loss resulting from any failure due to events outside our reasonable control;
- (e) for any loss resulting from any system failure or industrial dispute outside our reasonable control;
- (f) for any industrial dispute;
- (g) for any ATM refusing to or being unable to accept the FLX Card;
- (h) for the way in which any Merchant refuses to accept the FLX Card;
- (i) for any indirect, special or consequential losses;
- (j) for any infringement by you of any currency laws in the country where the FLX Card is issued or used;
- (k) for any dispute between you and the supplier of any goods or services purchased with the FLX Card;
- (l) for our taking any action required by any government, federal or state law or regulation or court order; or
- (m) for anything specifically excluded or limited elsewhere in these Conditions of Use.

### **36.2 However:**

- (a) your liability for Unauthorised Transactions will be determined according to the ePayments Code; and
- (b) we will not avoid any obligation to you under the ePayments Code on the basis that another party to a shared electronic payments network (to which we are also a party) has caused the failure to meet the obligation.

### **36.3 Our liability in any event shall not exceed the amount of the FLX Spend Balance except in relation to:**

- (a) Unauthorised Transactions; and

- (b) consequential losses arising from a malfunction of a system or equipment provided by any party to a shared electronic network (unless you should reasonably have been aware that the system or equipment was unavailable or malfunctioning, in which case our liability is limited to correcting any errors and refunding any fees or charges imposed on you).

36.4 If any warranties or conditions are implied because of Part 2 of the Australian Securities and Investments Commission Act 2001 or any similar law in respect of services supplied under these FLX Card Terms and Conditions or in connection with the FLX Card, then our liability for a breach of such a warranty or condition will in any event be limited to:

- (a) the supplying of the services again; or
- (b) the payment of the cost of having the services supplied again.

36.5 EML:

- (a) does not make or give any express or implied warranty or representation in connection with the FLX Card (including quality or standard or fitness for any purpose), other than as set out in the FLX Card PDS and these FLX Card Terms and Conditions or when the warranty or representation is imposed or required by law and cannot be excluded; and
- (b) is not liable for any loss you suffer (including indirect or consequential loss) arising in connection with the FLX Card (whether a failure to provide the FLX Card or its loss, theft or destruction).
- (c) EML's obligation to you in relation to the functionality of the Device Wallet is limited to securely supplying information to Pays Providers to allow the use of the FLX Card within a Device Wallet. the FLX Card Issuer is not otherwise liable for the use, functionality or availability of the Device Wallet, the availability of compatible EFTPOS Devices, or a reduced level of service caused by the failure of third party communications and network providers (except to the extent that we are deemed liable under the ePayments Code).
- (d) You will need to agree to the respective Pays Provider's terms and conditions to use the Tokenised FLX Card
- (e) Any failure or delay enforcing a term of these FLX Card Terms and Conditions does not mean a waiver of them.

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## **37 ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING OBLIGATIONS**

37.1 EML is subject to the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and the rules and other subordinate instruments under the Act (AML/CTF Laws). Before the FLX Card can be activated, EML is obliged to collect certain identification information from you (and verify that information) in compliance with the AML/CTF Laws. Customer identification information includes detailed 'know your customer' (KYC) information about the FLX User such as:

- (a) name, and
- (b) address, and

(c) date of birth.

37.2 EML may be prohibited from offering services or entering into or conducting Transactions with you if you do not provide this information to EML (or provide this information to Flexischools with consent for Flexischools to share this information with EML).

37.3 You should be aware that:

- (a) EML is not required to take any action or perform any obligation under or in connection with the FLX Card if it is not satisfied as to your identity, or where there are reasonable grounds to suspect that by doing so it may breach the AML/CTF Laws;
- (b) Transactions may be delayed, blocked, frozen or refused where we have reasonable grounds to believe that they breach Australian law or sanctions (or the law or sanctions of another country).
- (c) Where Transactions are delayed, blocked, frozen or refused, EML is not liable for any loss you suffer (including consequential loss) howsoever caused in connection with your FLX Card;
- (d) EML may from time to time require additional information from you to assist us in the above compliance process; and
- (e) where legally obliged to do so, EML will disclose the information gathered to regulatory and/or law enforcement agencies, banks, service providers or to other third parties.
- (f) You provide EML with the following undertakings and indemnify EML against any potential losses arising from any breach by you of such undertakings:
  - (i) you will not initiate, engage or effect a Transaction that may be a breach of Australian law or sanctions (or the law or sanctions of any other country); and
  - (ii) the underlying activity for which your FLX Card is being provided does not breach any Australian law or sanctions (or the law or sanctions of any other country).

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## **38 PRIVACY AND INFORMATION COLLECTION**

38.1 In addition to Flexischools' collection and handling of Personal Information in accordance with Part A, you agree that EML may treat any Personal Information it holds in accordance with this clause 38. We collect your Personal Information along with information regarding your Device (such as device type and model, operating systems and security information) so that we can establish and administer the FLX Card provided to you.

Examples of Personal Information we collect include names, addresses, email addresses, and phone numbers.

When we collect Personal Information we will, where appropriate and where possible, explain to you why we are collecting the information and how we plan to use it.

We collect and store your Personal Information for the primary purpose of creating and managing your FLX Card. As part of this process, we use this information to verify your identity so that we can comply with Anti-Money Laundering and Counter Terrorism Financing laws. We

may also use your Personal Information to communicate with you and in circumstances where you would reasonably expect such use or disclosure.

We will only use your Personal Information to:

- (a) to ensure that the FLX Card properly functions with your Device;
- (b) to assist in arrangements with other organisations in relation to the provision of a product or service;
- (c) to perform administrative and operational tasks (including systems development and testing);
- (d) to prevent or investigate any fraud or crime (or a suspected fraud or crime);
- (e) satisfy identification requirements under the Anti-Money Laundering & Counter-Terrorism Financing Act 2006 (Cth) and the Rules and other subordinate instruments under that Act and such information may be exchanged with verification agencies (which may be overseas).
- (f) We may also exchange information with Pays Providers:
- (g) to enable the use of the FLX Card with the Device Wallet and to improve and promote the Pays Providers generally; and
- (h) to detect and address suspected security breaches or fraud.
- (i) Without your information, we cannot make the FLX Card available to you and you should not apply for FLX.

38.2 If you provide us with Personal Information about someone else, you should ensure that you are authorised to do so and agree to inform that person of the contents of clause 38.

38.3 Information will be disclosed to third parties about the FLX Card, or Transactions made with the FLX Card, whenever allowed by law and when necessary:

- (a) for completing a Transaction; or
- (b) to verify the existence and condition of a FLX Card; or
- (c) to utilise services of affiliates who assist in providing a FLX Card; or
- (d) if you give us permission; or
- (e) if you owe us money; or
- (f) if there are legal proceedings or a complaint in connection with the FLX Card; or
- (g) to protect against potential fraud and other crimes.

38.4 We will not disclose your Personal Information outside Australia.

38.5 By applying for and using the FLX Card, you consent to us collecting, using and disclosing your Personal Information under these FLX Card Terms and Conditions in the manner described

above.

38.6 EML privacy policy sets out how you can access and correct information we hold about you, how you can complain about a breach by us of your privacy rights and how your complaint will be handled. Our Privacy Policies are available at:

(a) EML

(i) <https://www.emlpayments.com/privacy>

(ii) You may contact EML's Privacy Officer in relation to your Personal Information (or to opt out of marketing) on 1300 739 889 or [support@emlpayments.com.au](mailto:support@emlpayments.com.au).

(b) The privacy policies of the Pays Providers are available at:

(i) Apple Pay: <https://www.apple.com/au/privacy/>

(ii) Google Pay: <https://policies.google.com/privacy?hl=en&gl=au>

(iii) Samsung Pay: <https://www.samsung.com/au/info/privacy/>

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## 39 COMMUNICATIONS

39.1 You agree that we may give written notices or other communications to you under or in connection with these FLX Card Terms and Conditions (including information under the ePayments Code such as statements) by either:

(a) sending the notice, information or communication using email; or

(b) using email to notify you that the notice, information or communication is available from an electronic address (such as the FLX Website or FLX App)

(c) In addition, we may give you notices, information or other communications to you relating to the FLX Card (including information under the ePayments Code such as statements):

(d) by sending communications to the email address last known to us, or which you last gave us for sending notices and communications to you; or

(e) if the notice or communication is not personal to you – by publishing a notice to the Flexischools Website, FLX Website or the FLX App.

39.2 If we give a notice, information or other communication to you electronically, you are taken to have received it on the day it is transmitted.

39.3 You agree that, for the purpose of communications received by us by email or through the FLX Website, we:

(a) may verify your identity by reference to any or all the information given by you when applying for the FLX Card or during the FLX Card activation or any changes made to this information; and

(b) may proceed on the basis that we are satisfied by that verification.

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**40 CHANGES TO THESE FLX TERMS AND CONDITIONS**

- 40.1 We may change these FLX Card Terms and Conditions at any time without your consent for one or more of the following reasons:
- (a) to comply with any change or anticipated change in any relevant law, code of practice, guidance or general banking practice; or
  - (b) to reflect any decision of a court, ombudsman or regulator;
  - (c) to reflect a change in our systems or procedures, for security reasons; or
  - (d) because of changed circumstances (including by adding benefits or new features); or
  - (e) to respond proportionality to changes in the cost of providing the FLX Card; or
  - (f) to make them clearer.
- 40.2 We will notify you at least 20 days before any changes to the FLX Card Terms and Conditions take effect and we may update the information by making information about the change available on the FLX Website. You can obtain a paper copy of this information on request free of charge. However, changes necessitated by an immediate need to restore or maintain the security of the system in which the FLX Card is used can be made subject to the law and the ePayments Code without prior notice.

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**41 GOVERNING LAW**

- 41.1 Any legal questions concerning these FLX Card Terms and Conditions, the agreement between you and us (which is governed by these FLX Card Terms and Conditions) or the FLX Card will be decided under the laws of Queensland, Australia.
- 41.2 Any legal proceedings concerning these FLX Card Terms and Conditions , the agreement between you and us (which is governed by these FLX Card Terms and Conditions) or the FLX Card may be conducted in the courts at Brisbane, Queensland, Australia.

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## 42 DEFINITIONS

In these FLX Terms and Conditions of Use (Part A and Part B) capitalised words have the following meaning:

**Agreement** means the agreement constituted by the FLX Services PDS, these FLX Terms and Conditions, the FLX Card PDS, the Policies and your completion of the online registration form;

**AML/CTF Laws** means the *Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth)* and the rules and other subordinate instruments under the Act.

**App Store** means an online store for purchasing and downloading software and applications for mobile phones and other devices;

**App Store Provider** means a company that provides or makes available an App Store and related services and products, and which may include Apple or Google as appropriate.

**Apps** means, as the context requires, the Flexischools App and / or FLX App.

**ATM** means an automated teller machine that accepts cards with the Mastercard® brand for cash withdrawals.

**Biometric Identifier** means a fingerprint, faceprint or any other similar biometric identifier.

**Combined Flexischools FSG and PDS** means the Combined Financial Services Guide and Product Disclosure Statement issued by Flexischools in relation to Flexischools product and made available on the Flexischools Website (as updated or amended from time to time);

**Child** means the child or other minor in the care and or control of a Parent.

**Contactless Transaction** means a transaction made by holding a FLX Card (which can make a Contactless Transaction) against an EFTPOS Device to complete a transaction, rather than inserting the card into the EFTPOS Device.

**Content** means any information, text, files, graphics, photos or other materials uploaded, downloaded, posted, provided to, or appearing in the FLX App including Transaction history and statements;

**Default Payment Facility** means the credit card, bank account or PayPal account nominated by a Parent when setting up the FLX account, and which may be changed by the Parent within the Flexischools App.

**Device** means a compatible smartphone or wearable device that supports a Device Wallet, enabling you to use the Device as a payment method for purchase Transactions.

**Device Pass Code** means anything used to unlock and access a Device including, but not limited to, a password, numerical code, pattern or Biometric Identifier.

**Device Wallet** means the Apple Pay, Google Pay or Samsung Pay mobile applications that store the FLX Card as a tokenised card on a compatible phone or wearable device.

**Documentation** means any and all proprietary documentation made available to you by Flexischools for use with the FLX Service, including any documentation available online;

**EFTPOS/POS** means Electronic Funds Transfer at Point Of Sale/Point Of Sale.

**EFTPOS Device** means the device included in an authorised interchange network used by Merchants to accept cards for purchases at point of sale, including for Contactless Transactions.

**ePayments Code** refers to the amended code formerly known as the Electronic Funds Transfer Code of Conduct issued by the Australian Securities & Investments Commission on 1st April 2001, as amended on 20 March 2013, and includes any subsequent amendments or replacements.

**Expiry Date** means the expiry date printed or displayed on the front, or back, of the FLX Card as the case may be.

**Facility Provider** means the entity from which goods and services may be purchased using the Flexischools Service;

**Fees** mean the fees payable by you to Flexischools or to the FLX Card Issuer in relation to your use of the FLX Service as detailed in the FLX Services PDS and FLX Card PDS;

**Flexischools** means InLoop Pty Ltd (ACN 114 508 771) trading as Flexischools;

**Flexischools Account** means an account established by a Flexischools Account Holder in order to use the Flexischools Services;

**Flexischools Account Holder** means the person who has opened the Flexischools Account in order to obtain the Flexischools Service.

**Flexischools App** means the Flexischools application available through an App Store;

**Flexischools Parent Wallet** means the Flexischools facility by which a Flexischools Account Holder may deposit money by direct deposit, credit card, debit card or PayPal (in accordance with the Flexischools Combined FSG / PDS) which is stored as value against their Flexischools Account, and which the Flexischools Account Holder may then use in respect of payments using the Flexischools Services, or allocate to FLX Account/s they have created in accordance with these FLX Terms and Conditions, and which may be funded up to the Funds Limit.

**Flexischools Privacy Statement** means the Privacy Statement issued by Flexischools made available on the Flexischools Website (as updated or amended from time to time);

**Flexischools Service** means the services offered by Flexischools providing an efficient and convenient method of (a) purchasing goods and/or services from a Facility Provider, (b) making non-cash payments for those goods and/or services and/or (c) receiving communications, including through emails, using the Flexischools Website and/or using the Apps;

**Flexischools Terms and Conditions** means the terms and conditions governing the operation and use of the Flexischools Service (as amended from time to time) and available on the Flexischools Website.

**Flexischools Website** means the website at [www.flexischools.com.au](http://www.flexischools.com.au);

**FLX** means the product named FLX prepaid Mastercard® and Savings App for Kids! which includes the FLX App, the FLX Card and the FLX Account offered pursuant to this Agreement;

**FLX Access Details** has the meaning given in 1.1.

**FLX Account** means the account of the FLX User restricted by a username and password which is used to access FLX, the FLX Services and linked to the FLX Card;

**FLX App** means the application that allows a FLX User to operate and move funds within their FLX Account, including to be spent using their FLX Card, and to receive Content, which is available through an App Store;

**FLX Balance** means those funds held in respect of a FLX Account in accordance with the FLX Services PDS and these FLX Terms and Conditions.

**FLX Card** means the reloadable FLX Prepaid Mastercard issued by the FLX Card Issuer to the FLX User and includes a Physical or Tokenised FLX Card.

**FLX Card Issuer** means EML Payment Solutions Limited (ACN 131 436 532, AFSL 404 131);

**FLX Card PDS** means the product disclosure statement issued by the FLX Card Issuer in relation to the FLX Card available on the FLX Website, as amended from time to time.

**FLX Card Terms and Conditions** the terms and conditions applicable to the FLX Card as provided by the FLX Card Issuer from time to time, including those at Part B of these FLX Terms and Conditions;

**FLX Subscription Fee** means the fee reflecting the costs for allowing you to use the FLX Services, including access to the FLX Accounts, and use of the FLX App, and provision of the FLX Card, including Transaction fees for Transactions using the FLX Card.

**FLX Prepaid Mastercard® and Savings App for Kids!** means the FLX Account and associated services, including the FLX App provided by Flexischools and the FLX Card provided by the FLX Card Issuer pursuant to this Agreement;

**FLX Services PDS** means the product disclosure statement issued by Flexischools in respect of the FLX Services.

**FLX Save** means the function in the FLX App that allows a FLX User to allocate FLX Balance to be unavailable to be spent using the FLX Card, and may be attached to particular savings target but is not a deposit for the purposes of the Financial Claims Scheme..

**FLX Service** means the non-cash payment services (and other services) provided by us and available through a FLX Account, which includes the FLX App, FLX Balance and access to the FLX Card, which can be used to complete transactions at Merchants up to the FLX Spend Balance, as provided by Flexischools pursuant to these FLX Terms and Conditions and the FLX Services PDS.

**FLX Spend Balance** means the function in the FLX App that allows a FLX User to allocate FLX Balance to be spent using the FLX Card in accordance with these FLX Terms and Conditions and the.

**FLX Terms and Conditions** means these terms and conditions, including those at Part A and Part B, governing the operation and use of FLX (as amended from time to time).

**FLX User** means the child or ward of the Flexischools Account Holder, in whose name the FLX Account has been created and the FLX Card has been issued by the FLX Card Issuer.

**FLX Website** means the website at [www.flexischools.com.au/flx](http://www.flexischools.com.au/flx).

**Funds Limit** means, in aggregate across the Parent's Flexischools Parent Wallet, and any or all FLX Account(s) created for FLX Users connected to that Flexischools Parent Wallet, \$4999.99 in total.

**Intellectual Property Rights** means all intellectual property rights, including all copyright, patents, trademarks, design rights, trade secrets, domain names, source code, knowhow and other rights of a similar nature, whether registrable or not and whether registered or not, and any applications for registration or rights to make such an application;

**Mastercard** means Mastercard® International Incorporated.

**Mastercard Scheme Rules** means the Mastercard Scheme Rules and the Mastercard Technical Operational and Security Rules as published from time to time by Mastercard.

**Mastercard's Zero Liability Protection Policy** means the policy of Mastercard accessible at <https://www.mastercard.com.au/en-au/about-mastercard/what-we-do/terms-of-use/zero-liability-terms-conditions.html>.

**Materials** means, as the context requires, website or App content, these FLX Terms and Conditions, the FLX Service PDS, the FLX Card PDS and other materials of the FLX Card Issuer;

**Merchant** means an entity from which goods and/or services may be purchased using the FLX Card;

**Moral Rights** has the meaning given under the Copyright Act 1968 (Cth) and includes any similar rights existing in other countries;

**Negative Balance** means a negative rather than a positive FLX Spend Balance.

**Non-excludable Australian Consumer Law** means rights or guarantees you may have under Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (and any equivalent State or Territory legislation) or other rights in relation to the supply of goods or services (such as terms implied into a contract by the *Australian Securities and Investments Commission Act 2001* (Cth) or any equivalent State or Territory legislation) that cannot lawfully be excluded;

**Offline Transaction** refers to a Transaction captured at point of sale but communicated to the FLX Card Issuer later due to financial messaging links being temporarily unavailable.

**PAN** means the 16-digit Primary Account Number, which is the number embossed on the front of the FLX Card or provided in your Device.

**Parent** means a Flexischools Account Holder who has created a FLX Account for a FLX User and agrees for the FLX User to use the FLX Service, the FLX App and be issued with a FLX Card;

**Part A** means the terms and conditions set out in part A of this document, issued by Flexischools in relation to the FLX Service.

**Part B** means the terms and conditions set out in part B of this document, issued by the Card Issuer in relation to the FLX Card.

**Pays Providers** means the mobile payment and Device Wallet service created by Apple, Google and Samsung Pay, respectively.

**Personal Information** has the meaning given to the term in the Privacy Legislation;

**PIN** means the four-digit personal identification number which can be used to make purchases using the FLX Card.

**Policies** mean the policies applicable to the Flexischools Service (including the Flexischools Privacy Statement) made available on the Flexischools Website (as updated or amended from time to time);

**Privacy Legislation** means the *Privacy Act 1988* (Cth);

**Services** means, as the context requires, the Flexischools Services and / or FLX Services;

**Software** means the software or tools, and related functionality, provided or made available by Flexischools for use with the FLX Service and includes the FLX App and those aspects of the Flexischools Service that are specific to the FLX Service;

**Term** commences the date that a FLX Account is opened, until it is terminated in accordance with this Agreement.

**Tokenised FLX Card** means the process in which the sensitive personal information (including, but not limited to, Personal Information and / or a PAN) is substituted for a unique identifier (token) by Mastercard and stored within a Device for you to use as payment. A Tokenised FLX Card can be used for Contactless Transactions as well as card not present transactions, including online purchases.

**Transaction** means a purchase of goods or services using the FLX Card;

**Unauthorised Merchant** means any Merchant with the following Merchant category code:

- (a) 5122 (drugs, drug proprietors, etc);

- (b) 5813 (bars, cocktail lounges, etc);
- (c) 5921 (package stores: beer, wine, liquor);
- (d) 5933 (cigar stores and stands);
- (e) 7273 (dating services);
- (f) 7800 (government owned lotteries);
- (g) 7801 (government licenced casinos);
- (h) 7802 (government licenced horse racing or dog racing); or
- (i) 7995 (gambling transactions),
- (j) or as amended from time to time.

**Unauthorised Transactions** means a transaction on the FLX Card not authorised by you but does not include any transaction carried out by you or by anyone performing the transaction with your knowledge and consent.

**US Department of Commerce's Denied Persons List or Entity List** is a list of certain persons and/or entities (as relevant) that are subject to specific license requirements for the export, reexport and/or transfer of specified items, as further explained at [www.bis.doc.gov](http://www.bis.doc.gov);

**US Treasury Department's Specially Designated Nationals List** is the list of individuals and companies owned or controlled by or acting for or on behalf of targeted countries as further explained at [www.treasury.gov](http://www.treasury.gov); and

**we, us, or our/s** in Part B, means the FLX Card Issuer.

**you** means the Parent who is a Flexischools Account Holder and / or the FLX User, as the context requires, and **your** is interpreted accordingly.

In these FLX Terms and Conditions of Use, any use of the verb includes, or of words such as for example or such as, do not limit anything else that is included in general speech.