

Kmart Tyre & Auto Service Store Account Card

Terms and Conditions of Account



Application of terms and conditions, definitions and interpretation

These terms and conditions govern the use and operation of your Account and any and all Cards. You acknowledge and agree that your use of the Card and the Account will be bound by these terms and conditions.

Before using a Card or authorising the use of any Card you should read these terms and conditions carefully. If you do not understand any of these terms and conditions please speak to our staff by telephoning the number below. Please ensure you retain a copy of these terms and conditions for future reference. Should you prefer to not accept these terms and conditions you must immediately cut all Cards in half and promptly return them to us and not use the Account in any way. In these terms and conditions, the following definitions and rules of interpretation apply unless the context requires otherwise:

Account means the Account opened by us in your name;

Account holder means the person in whose name the Account is maintained;

Additional Card means a Card issued at your request and at our discretion to a person other than you;

Application means the original, and any subsequent, application made by an applicant to open the Account which may be in writing, via the Internet or made verbally to one of our telephone operators;

Balance means all transactions made using a Card charged to your Account and includes all purchases, fees and other amounts that you have agreed to pay us or are liable for under these terms and conditions;

Business Day means a weekday that is not a public holiday or bank holiday in Melbourne;

Card means each KTAS Store Account Card, Additional Card, replacement Card or other Card as we may determine from time to time that is issued by us for use in relation to your Account (a card may or may not bear the name of the Cardholder and may be with or without a signature panel);

Cardholder means you and any person authorised by you from time to time to use a Card;

Expenditure Balance means, at any time, the total of all amounts that have been charged to your Account but which have not been paid;

Expenditure Limit means the amount notified by us to you from time to time in accordance with clause 8 as being the maximum allowable Expenditure Balance of the Account;

Fee Schedule means the schedule of fees attached to these terms and conditions which form part of the terms and conditions of account including any variation to it;

Late Payment Charge means the amount charged to you if you do not pay the Balance on the time specified in a Statement or an amount charged to your Account when demanded by us;

Merchant means a person authorised by us to accept a Card as the means of payment in relation to the supply of goods or services (or both) by that person;

Nominated Vehicle means, in relation to a Card, the vehicle (if any) specified on that Card;

Notification Event means if:

- you cease, suspend or threaten to cease or suspend the conduct of all or a substantial part of your business or dispose of or threaten to dispose of a substantial part of your assets;
- an administrator is appointed over you or any of your assets or an application or order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court is made or other steps are taken for you to enter into an arrangement, compromise or composition with or assignment for the benefit of your creditors or a class of them;
- you are an individual, you appoint a trustee pursuant to the Bankruptcy Act or a petition for your bankruptcy is issued (except where the petition is no longer in force); or
- you are a company, an application or order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court is made or other steps are taken for your winding up, deregistration, dissolution or administration or for the appointment of a receiver or receiver and manager over any of your assets;

Statement means a statement issued by us pursuant to these terms and conditions;

we, our, us means WEX Australia Pty Limited (ABN 68 005 970 570) and their respective successors and assigns; and **you and your** means the Account holder.

Headings are for convenience only and do not affect interpretation. The singular includes the plural and conversely. A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

1. Opening of Account, issue of Cards, and charging of amounts

If we accept your Application we will open an Account in your name. If you are a corporation or partnership the Account will be opened in the name of that corporation or partnership. Upon opening the Account we will, at our discretion, issue the Cards you applied for. If you ask us to we will, at our discretion, issue Additional Cards from time to time. Any amount payable under these terms and conditions will be charged

to your Account and recorded in a Statement.

2. Acceptance and application of terms and conditions

You will be deemed to have accepted these terms and conditions on the occurrence of any of the following:

- signing an Application form referring to these terms and conditions which is accepted by us; or
- verbally applying for a Card and agreeing to be bound by these terms and conditions; or
- making an online Application and agreeing to be bound by these terms and conditions which is accepted by us; or
- signing the Card; or
- using or attempting to use the Card, whether by a Cardholder or any other person.

If there is more than one Account holder, these terms and conditions will apply to each Account holder collectively and individually and you will each be jointly and severally liable under them. If the Account holder is a partnership, each partner in the partnership will be jointly and severally liable under these terms and conditions. You recognise and acknowledge that the Card is a charge card and not a credit card and is issued subject to the fees as set out in, or contemplated by the Fee Schedule attached to these terms and conditions.

3. Permitted use of Cards

A Card:

- may only be used by the Cardholder and, where there is a Nominated Vehicle, may only be used in respect of that Nominated Vehicle;
- may only be used to purchase goods or services from a Merchant as specified on the Card and within any limitations or markings designated on the Card;
- may not be used outside the validity period shown on it; and
- may not be used if it or the Account has been cancelled or suspended, the Card has been cancelled or the Account has been closed pursuant to these terms and conditions.

Neither the Card nor the Account may be used for an unlawful purpose. You must not allow anyone other than a Cardholder to use the Card or the Account. A Cardholder must not use the Card if you do not honestly expect to be in a position to pay the Balance in full when due or if a Notification Event occurs. You acknowledge and agree that we have the right to refuse authorisation for any transaction without cause or prior notice and that we shall not be liable to you, a Cardholder or anyone else for loss or damage resulting from such refusal.

4. Ownership and return of Cards

Each Card remains our property and must not be altered or defaced. A Card is not transferable. If, for any reason, we cancel a Card or ask you to return a Card you must immediately cut the Card in half and promptly return it to us. If you no longer need a Card or a Cardholder leaves your employment or ceases to be authorised to use a Card, you must immediately cut the Cardholder's Card in half and promptly return it to us. If any Card is not cut in half and returned to us as required by these terms and conditions, you are liable for, and must indemnify us on demand in respect of, any subsequent use of the Card by any person.

5. Securing Cards

You are responsible for keeping all Cards, including any Personal Identification Number (PIN), safe and for ensuring they are only used in accordance with these terms and conditions and only for authorised transactions. You must use your best endeavours to secure the return to us of any Card that has been lost or stolen.

6. Liability for amounts in respect of a Card

You are liable to pay us when due all amounts charged to your Account pursuant to these terms and conditions. Except as set out in clause 7 of these terms and conditions, we may charge to your Account the amount of any transaction entered into by any person using a Card, even if:

- the Card is used in a way that is not permitted under these terms and conditions;
- you have withdrawn the authorisation of the Cardholder to use the Card;
- the Card is used by a person other than the Cardholder; or
- the Card, or any other Card, has been cancelled.

You acknowledge that you are liable to pay when due all charges incurred arising from, or in relation to, the use of any Card issued at your direction. We may also charge to your Account any fees, charges or other amounts payable to us by you pursuant to the terms of this Agreement and the Fee Schedule.

7. Liability for lost or stolen Cards and unauthorised transactions

You must immediately notify us by phone or in writing as soon as you or any Cardholder believes that a Card has been lost or stolen or used for an unauthorised transaction or if a renewal Card has not been received when due. In order for notification by phone to constitute a valid notice under these terms and

conditions, you must note and keep a record of the time, date and person you spoke to and promptly confirm your notice to us in writing. If you have validly notified us in accordance with these terms and conditions that you believe a Card has been lost or stolen or used for an unauthorised transaction or a renewal Card has not been received:

- if that Card bears the name of the Cardholder and has a signature verification panel that has been signed by the Cardholder, the maximum total amount you will have to pay for any unauthorised transaction using the Card that is entered into at any time after the date we first receive your notification will be \$100; and
- in any other case, including if the Card bears the name of the Cardholder but does not have a signature verification panel or has a signature verification panel that has not been signed by the Cardholder, you will not have to pay for any unauthorised transaction using the Card entered into at any time after the period ending 30 days after the date we first receive your notification.

Notwithstanding the remainder of this clause, if you or a Cardholder are involved in, or have benefited, directly or indirectly, from, the loss, theft or misuse of the Card, the unauthorised transaction or the non-receipt of the renewal Card, your obligation to pay amounts charged to the Account will not be affected or limited by this clause 7.

8. Expenditure Limit on account

We will notify you of the Expenditure Limit (inclusive of GST) at the time you open the Account. We may vary the Expenditure Limit at any time by notice to you in writing. This variation will take effect at the time specified in the notice. The Expenditure Limit will also be set out on each Statement. You must ensure that the Balance at any time does not exceed the Expenditure Limit. If it does you must immediately pay to us the amount that exceeds the Expenditure Limit. We will also charge to your Account an overlimit fee for each month (or part thereof) that the Expenditure Balance exceeds the Expenditure Limit.

9. Non-acceptance of Cards

To the extent permitted by law we are not responsible if for any reason a Merchant refuses to accept a Card.

10. Responsibility for goods and services supplied

To the extent permitted by law, we are not responsible in any respect for any goods or services acquired by any person using a Card or otherwise. You must resolve any complaint or dispute relating to goods or services (including, without limitation, relating to their supply, quality or use) acquired by any person using a Card or otherwise directly with the supplier of the goods or services. Your obligation to pay amounts charged to your Account will not be affected or limited by any such complaint or dispute.

11. Statements

We will send a Statement to you as soon as practicable after the end of each monthly billing period (as determined by us) if:

- any amount has been charged or credited to your Account since the date your Account was opened or the date of your previous Statement; or
- there is any amount outstanding on your Account.

The Statement will show the total amount payable by you to us (this is the Balance or the "Amount Due" shown on the Statement) for the billing period and when payment must be received in order to avoid the charging of a Late Payment Charge. You will be deemed to have received each Statement upon the earlier of its actual receipt by you or the time set out under the 'Notices' clause in these terms and conditions. You will promptly and carefully examine your account transaction information to ensure that all transactions have been properly and correctly recorded. You will notify us within 60 days of the date payment is due of any errors or discrepancies. If you do not notify us within that 60 day period, you accept that the account transaction information is valid and correct.

12. Paying your Account

The Statement shown on a Statement is due and payable to us on the date specified or described in the Statement. We may also, at any time, demand immediate payment of any charge made to the Account by sending a written demand to you. If we do this, the amount demanded becomes immediately due for payment. You may pay amounts to us by direct debit or, if we have consented, by direct credit, credit card, cheque or money order payable to us. We do not accept cash payments. Payments made after 4pm (Melbourne time) on a Business Day or on a day that is not a Business Day will be treated as if made on the following Business Day. All payments must be made in Australian dollars. If we allow a payment to be made in a currency other than Australian dollars, we will convert that payment into Australian Dollars at a rate determined by us on the date of processing that payment. If you make a payment and we (acting reasonably) cannot identify the Account to which the payment relates, we will not be responsible for the payment not being credited to your Account. We may, at our discretion, accept late or part payments or a



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WEX Australia Pty Ltd ABN 68 005 970 570

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payment described as being in full or in settlement of a dispute.

Our agreement to do so does not constitute a waiver of any of our rights under these terms and conditions or at law and does not mean we agree to a variation to these terms and conditions. We accept no responsibility in respect of payments sent to us by post or payments made to other persons for transmission to us. All payments are at your risk until received by us. If we receive a cheque, draft or other payment instrument from you or from another person on your behalf which is not honoured in full for any reason, you are liable to pay us the dishonoured payment fee, the dishonoured amount plus our reasonable collection costs and legal fees. Similarly, if you have arranged to pay us through a direct debit facility of any kind with any financial institution and our debit to your account with that financial institution is not permitted, authorised or honoured in full for any reason, you agree to pay us the dishonoured payment fee, the dishonoured amount plus our reasonable collection costs and legal fees.

13. Fees and Charges

Management and Card Fees

- You must pay to us the Management Fee and Card Fee for each Card issued on your Account each month as stated in the Fee Schedule. The Card Fee is payable in respect of the use of the Card. The Card Fee is payable irrespective of whether the card is used or not used in a given month.

Billing administration Fee

- A billing administration fee of 1.3% applies to all Visa & Mastercard payments, and 2.1% to all American Express payments. There is no fee applicable if you choose to pay by direct debit from your bank account, cheque or BPAY. There is no entitlement to a refund or pro rata payment of any fees if an account is closed.

Late Payment Fees

- Any reference in this clause to "overdue amount" includes any Late Payment Charge that has been charged to your Account and remains unpaid.
- A Late Payment Charge will be charged to your Account if you do not pay the Balance shown on a Statement by the date specified or described in the Statement or you do not pay an amount charged to your Account when demanded by us. The Late Payment Charge will comprise a late fee and an administration fee as outlined in the Fee Schedule.

Ancillary Fees

- We may also charge you the fees set out in the Fee Schedule.

14. Refunds

We will credit your Account with a refund in respect of any amount charged to your Account in respect of a transaction if we receive a credit voucher or other refund verification that is acceptable to us from the relevant Merchant.

15. Application of payments

Any amount we receive from you will be applied in any order we choose to amounts charged to your Account or any other Account that you have with us that are outstanding.

16. Cancellation of Cards and closure of Account

Notwithstanding any other provision in these terms and conditions, we may cancel any Card at any time at our discretion without providing you or the Cardholder with prior notice or any reason. We will also cancel a Card if you or the relevant Cardholder asks us to or if you or the relevant Cardholder notifies us under clause 7 of these terms and conditions. If you ask us to close your Account, or we decide to close it (see below), we may cancel all Cards immediately without further notice to you or the Cardholder. Any Card that is cancelled must not be used and you must immediately cut it in half and promptly return it to us. Subject to clause 7, cancellation of a Card does not affect or limit your obligations under these terms and conditions, including your obligation to pay amounts charged to your Account whether in respect of transactions on your Account using the cancelled Card (before or after it is cancelled) or otherwise.

Your Account will be closed when:

- you ask us in writing to close it or if we decide, in our discretion, to close it; and
- you have cut in half and returned to us all Cards which may be used to access the Account or, where not all Cards are so returned, explained to our satisfaction why the outstanding Cards cannot be returned; and
- all amounts outstanding on the Account have been paid in full.

Closure of the Account does not affect or limit your obligations under these terms and conditions.

17. Suspension

We can suspend the Account or a Card at any time without notice:

- if you are in default under these terms and conditions (including, without limitation, in default of any

payment obligation); or

- if we suspect that a Card or the Account has been used fraudulently by you or a third party; or
- to prevent loss to you and/or us.

If we do this then you and each Cardholder must not use the relevant Card or the Account until such time as we advise you that the Account or the relevant Card has been reactivated or reinstated. The suspension of the Account or a Card does not otherwise affect or limit your obligations under these terms and conditions.

18. Variation

We may vary these terms and conditions in our discretion in any way (including varying a fee or charge or imposing a new fee or charge) at any time by giving you not less than 30 days written notice of the variation or by giving you not less than 30 days written notice that an amendment to the Terms and Conditions of Account will be made the full particulars of which are set out at www.ktas.com.au/storeaccountcard

19. Certificate

A certificate signed by one of our authorised officers concerning an amount charged to your Account or payable by you under these terms and conditions or concerning any other matter in connection with your Account or these terms and conditions will, in the absence of manifest error, be conclusive evidence of the amount charged or payable or of the other matter.

20. Notices

Subject to these terms and conditions, any notice, demand or other communication given or made under these terms and conditions must be:

- in writing;
- if given or made by us, signed by one of our authorised officers;
- if given or made by you, signed by you or (if you are a body corporate) one of your authorised officers; and
- delivered to the intended recipient by prepaid post, hand or fax to the address or fax number set out below and will be taken to have been given or made:
 - in the case of delivery by post, three Business Days after the date of posting;
 - in the case of delivery by hand, when delivered; and
 - in the case of delivery by fax, on receipt by the sender of a transmission control report from the dispatching machine showing the relevant number of pages and the correct destination fax machine number or name of recipient and indicating that the transmission has been made without error.

Any notice received, or taken to be received, on a day that is not a Business Day or after 4pm (Melbourne time) on a Business Day is taken to be received at 9am (Melbourne time) on the following Business Day. Any notice, demand or other communication may also be given or made in accordance with any method, procedure or requirement permitted under any applicable law.

For the purpose of providing notice, our contact details are (unless we otherwise notify you):

Client Services Manager, GPO Box 5342 Melbourne VIC 3001
Fax: (03) 9274 9130, Phone: 1300 366 109

For the purpose of providing notice, your contact details are (unless you otherwise notify us in accordance with clause 21) the details provided in your Application for the Account.

21. Change of details

You must notify us:

- promptly of, and in any event no later than 14 days after, any change in your name or address; and
- promptly of, and in any event no later than 14 days after, any change in the name of a Cardholder whose name appears on a Card; and
- immediately upon the occurrence of a Notification Event.

If we ask you to provide us with the name and address of any person authorised by you to use a Card you must do so immediately and, in any event, within three days after we ask you.

22. Dispute Resolution

If you disagree with any amount charged to the Account, please contact us as soon as possible on 1300 366 109. You must provide us with written confirmation of your claim and any supporting evidence upon request. Nothing in this clause 22 entitles you to withhold payment from us in respect of the amount in dispute, unless and until it has been refunded in accordance with these terms and conditions.

23. Privacy Act Authorisations

By applying for and using a Card you are or may be providing personal information to enable us to assess

your application for a KTAS Store Account Card. Without this information, we may not be able to process your application. By submitting this application you agree that, subject to the Privacy Act 1988, for the primary purpose of assessing your application and administering the KTAS Store Account Card arrangements, we may:

- give to a credit reporting agency personal information about you contained in the application or otherwise acquired by us and which is permitted to be kept on a credit information file;
- obtain a consumer credit report containing information about you from a credit reporting agency for the purpose of assessing your application or for the purpose of collecting overdue payments relating to commercial credit provided by us to you;
- exchange information about you with any credit providers named in this application or named in a consumer credit report issued by a credit reporting agency:
 - to assess an application for credit by you;
 - to notify other credit providers of a default by you;
 - to exchange information with other credit providers as to the status of your account where you are in default with other credit providers; or
 - to assess your credit worthiness; and you understand that the information exchanged can include anything about your credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988;
- produce this application or a reproduction of it as evidence of this application for KTAS Store Account Card cards and of the Acknowledgements;
- use your personal information for additional purposes including planning, product development, partner offers and research;
- provide you with, or arrange for a partner to provide you with, marketing information including special offers for cardholders (if you do not wish to receive any marketing offers, please call us on 1300 366 109);
- exchange information about you with your nominated referees any person who has introduced you to us;
- disclose personal information about you and your use of the KTAS Store Account Card to Kmart Tyre & Auto Service
- disclose to our related entities, alliance partners and service providers including bankers, electronic interface switch providers, roadside assist service providers, printers, insurance companies, mail houses, solicitors, auditors, professional advisers and debt recovery agents with whom we have a contract such of the personal information as is necessary by us to enable us to manage your account or to promote our or their products and services;

We acknowledge that you may, without charge, request a copy of any personal information about you held by us by writing to us at WEX Australia Pty Ltd GPO Box 5342 Melbourne VIC 3001.

You can obtain more information about how we collect, store, use and disclose personal information by accessing our Information, Privacy and Data Security Statement on our website at www.ktas.com.au/storeaccountcard

24. Miscellaneous

The laws of Victoria govern these terms and conditions. You submit to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning these terms and conditions. You may not assign or transfer any of your rights or obligations under these terms and conditions or in respect of your Account without our prior written consent. We may at any time in our discretion without your consent assign or transfer to any person any of our rights or obligations under these terms and conditions or in respect of your Account. Time will be of the essence in relation to your obligations under these terms and conditions. No failure to exercise, nor any delay in exercising, any right, power or remedy by us operates as a waiver.

A single or partial exercise by us of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on us unless in writing. Our rights, powers and remedies under these terms and conditions are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any other agreement or instrument. Any provision of, or the application of any provision of, these terms and conditions which is:

- prohibited in a jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition; and
- void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction and may be severed without affecting the enforceability of the other provisions in these terms and conditions.



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