

Client Service Agreement **Terms and Conditions**



EZIDEBIT CLIENT SERVICE AGREEMENT - TERMS AND CONDITIONS

1. ENGAGEMENT AND TERM

- 1.1 You appoint Ezidebit as Your provider of the Services on the terms of the Application Form and these general terms and conditions (**Agreement**).
- 1.2 During the Term, you will advise Ezidebit if you appoint another party to provide services which are identical or similar to the Services.
- 1.3 This Agreement commences on the date the Application form is submitted by You and is accepted by Ezidebit and continues until the Agreement is terminated in accordance with clause 6.

2. SERVICES

- 2.1 Ezidebit agrees to provide You with the Services during the Term in accordance with the terms of this Agreement.
- 2.2 You acknowledge that Ezidebit is not obliged to provide any services to You other than the Services.
- 2.3 For the purpose of You using the Services, Ezidebit will provide to You (as applicable):
 - 2.3.1 customer brochures for supply to Your Customers (upon request);
 - 2.3.2 a training manual in relation to the Services (upon request);
 - 2.3.3 a template form of Direct Debit Request (in paper or electronic form);
 - 2.3.4 access to the Ezidebit Online Service provided by Ezidebit in connection with the Services; and.
 - 2.3.5 API User Guides to help you build and maintain integration with Ezidebit's software.
- 2.4 You acknowledge that you have been provided with and have read a copy of Ezidebit's Combined Financial Services Guide and Product Disclosure Statement (as applicable to the Services).

3. YOUR OBLIGATIONS

- 3.1 Without limiting any other provisions of this Agreement, in respect of Your receipt of the Services You agree:
 - 3.1.1 To act in accordance with all reasonable directions given by Ezidebit from time to time and in compliance with all applicable laws, regulations and Card Scheme rules.
 - 3.1.2 To provide Ezidebit with all necessary information relevant to You, the Services and Your Customers to enable Ezidebit to perform the Services.

- 3.1.3 That You are responsible for administering and managing access to Ezidebit Online and in keeping Your logon details secure and confidential.
- 3.1.4 That You are solely responsible for all goods and services offered by You to the Customer and for satisfying Yourself as to the commercial viability of any Transaction and the Customer.
- 3.1.5 To comply with Australian Payment Clearing Association's regulations and procedures (as published and amended from time to time) available at: <http://www.apca.com.au/>.
- 3.1.6 Not to display the Cardholder's Card number either online or on the Transaction receipt.
- 3.1.7 Not to split a Transaction into two or more Transactions on the same bank account to avoid breaching the agreed Transaction Limit.
- 3.1.8 To notify Ezidebit immediately You suspect or have reasonable knowledge or belief that a Customer has acted fraudulently.
- 3.1.9 To notify Ezidebit with fourteen (14) days prior written notice of any changes in Your company, trading name or address.

4. SERVICE FEES, INVOICING AND PAYMENT

- 4.1 In consideration of Ezidebit providing the Services, You will pay Ezidebit the Service Fees for the Services.
- 4.2 On each Invoicing Date, Ezidebit will provide You with a tax invoice for the Services provided and Service Fees payable by You for the relevant invoiced period.
- 4.3 You agree and irrevocably authorise Ezidebit to deduct any invoiced Service Fees and other amounts payable by You under this Agreement (including amounts payable under clause 6.4, the indemnity in clause 15 or under clause 18) from the funds collected by Ezidebit on Your behalf or directly from your Billing Account or Settlement Account.

5. SUSPENSION

- 5.1 Ezidebit may, in its absolute discretion, suspend the Services (including suspending Your account and the processing or remitting of any payments to You or Your Settlement Bank Account) if:
 - 5.1.1 You materially breach the terms of this Agreement;
 - 5.1.2 A Termination Event occurs;
 - 5.1.3 The level of Chargebacks has not been rectified in accordance with clause 19.4;
 - 5.1.4 Ezidebit suspects or believes that You have acted in an unlawful, fraudulent, unconscionable or improper manner in utilising the Services; or
 - 5.1.5 It is otherwise reasonable for Ezidebit to do so in the circumstances.

- 5.2 Subject to any other provisions of this Agreement, where You have demonstrated to Ezidebit's reasonable satisfaction that the matters giving rise to a suspension have been rectified, Ezidebit will reactivate the provision of the Services (provided that the reactivation may be subject to such conditions as Ezidebit may prescribe (including, where the suspension was imposed in respect of excessive Chargebacks, You providing a holding deposit for future Chargebacks)).
- 5.3 You hereby expressly release and indemnify Ezidebit against any Claim that arises or may arise against Ezidebit, where Ezidebit acts in accordance with this clause 5.

6. TERMINATION

- 6.1 Either party may terminate this Agreement any time for any reason on thirty (30) days prior written notice.
- 6.2 Ezidebit may terminate this Agreement:
- 6.2.1 immediately by written notice if a Termination Event occurs (and for the avoidance of doubt, Ezidebit may terminate this Agreement without lifting any suspension imposed under clause 5.1); or
 - 6.2.2 immediately without notice if, in the opinion of Ezidebit, You have utilised or have attempted to utilise the Services in any unlawful, fraudulent, unconscionable or improper manner.
- 6.3 You agree to notify Ezidebit immediately upon becoming aware of any of the matters that arise or are likely to give rise to a Termination Event.
- 6.4 You may terminate this Agreement with immediate effect:
- 6.4.1 if an Insolvency Event occurs in respect of Ezidebit;
 - 6.4.2 if Ezidebit is in material breach of an obligation under this Agreement and the breach continues for more than thirty (30) days after the Ezidebit receives written notice of the relevant breach from You; or
 - 6.4.3 if Ezidebit fails to provide the Services for a continuous period of fourteen (14) days (not including for this purpose any period of a suspension of Services imposed by Ezidebit under clause 5).
- 6.5 Subject to clause 7, Ezidebit will cease to provide any Services to You from the date of termination.
- 6.6 The termination of this Agreement does not affect any right of a party that arose or accrued on or prior to the date of termination (including any rights a Party may have against the other Party in the event of any breach of this document by the other Party).
- 6.7 The obligations on the Parties under clauses 3, 5.3, 6, 7, 9.4, 10.3, 10.5, 10.7, 15, 16, 20 to 23, 26 and 27 survive the termination of this Agreement.

7. EVENTS FOLLOWING TERMINATION

- 7.1 Subject to applicable law and the rules of any Card Scheme, for a period of two (2) weeks commencing from the date of the termination or expiry of this Agreement, Ezidebit will assist You in transferring Customer information (including Direct Debit Requests) from Ezidebit's systems to Your replacement service provider. Ezidebit will have no further obligations under this clause following the expiry of this two (2) week period in respect of the matter set out in this clause.
- 7.2 Within a reasonable time period following the termination or expiry of this Agreement, Ezidebit will:
- 7.2.1 deduct all outstanding Service Fees or other amounts owed by You to Ezidebit from the funds held by Ezidebit on Your behalf in the Settlement Bank Account or from Your nominated external bank account; and
 - 7.2.2 pay to You the balance of the funds held by Ezidebit on Your behalf.

8. COLLECTION AND PAYMENT OF CUSTOMER FEES

- 8.1 Ezidebit will collect Customer Fees as authorised in writing from time to time by You, subject to Your Customers having completed a valid Direct Debit Request (in either printed or electronic format) and agreed to the Customer Terms.
- 8.2 Customer Fees may only be collected from Australian bank accounts, building societies, credit unions, credit cards and debit cards.
- 8.3 Funds collected will be held in trust for Your Customers in a designated account operated by Ezidebit until such funds are considered 'cleared funds' according to the regulations and procedures of the Australian Payment Clearing Association (APCA). Funds will be deemed 'cleared funds' within three (3) Business Banking Days, unless there are circumstances as set out in statutory, legal or regulatory provisions requiring otherwise and Ezidebit agrees to bring forward the settlement. Any interest accruing on the funds of Your Customers whilst in the designated account will be to the account of Ezidebit.
- 8.4 Subject to the terms of this Agreement, including clause 9, Customer Fees will, following Clearance in accordance with clause 8.3, be electronically transferred promptly to the Settlement Bank Account, supported by a detailed transaction listing from Ezidebit listing all the individual Customer Fees collected.
- 8.5 Ezidebit will collect any additional payments from Your Customers as directed by You in writing (in either printed or electronic format), through the Ezidebit Online secure website, the Ezidebit application interface or over the telephone (where appropriate).
- 8.6 Ezidebit will credit the Customer Fees to the account nominated by You and will change any payment arrangements only when instructed by You in writing.

9. WITHHOLDING CUSTOMER FEES

- 9.1 Ezidebit may hold Customer Fees and not transfer them to the Settlement Bank Account after Clearance:
- 9.1.1 if required in accordance with statutory, legal or regulatory requirements;

- 9.1.2 if You request Ezidebit to delay settlement for a period of time after Clearance;
 - 9.1.3 following a Suspension of the Services by Ezidebit in accordance with this Agreement;
 - 9.1.4 if Ezidebit suspects that You have acted in a fraudulent, illegal, unlawful, unconscionable or in an improper manner in relation to the Customer Fees or their collection; or
 - 9.1.5 where a Transaction Dispute occurs in respect of the Customer Fees.
- 9.2 Ezidebit reserves the right to hold such monies until such time as relevant circumstances in clause 9.1 giving rise to withholding by Ezidebit are resolved. You agree to immediately (but in any event, not longer than seven (7) days after being requested) provide Ezidebit with such information as it requests to determine whether the Customer Fees should lawfully be paid to You. If Ezidebit is not, in its sole and absolute discretion, satisfied with the response provided, Ezidebit may, in its sole discretion, return the Customer Fees to the Customer, and You shall have no further right or Claim against Ezidebit for not transferring the Customer Fees to You.
- 9.3 Nothing in clause 9.1 or 9.2 will prevent Ezidebit from deducting its Service Fees from or in respect of any Customer Fees withheld under this clause 9.
- 9.4 You hereby expressly release and indemnify Ezidebit against any Claim that You may have against Ezidebit where Ezidebit acts in accordance with this clause 9, including any Claim for damages, whether direct or consequential, that You may suffer as a result.

10. DIRECT DEBIT REQUESTS

- 10.1 You acknowledge and agree that the Direct Debit Requests provided by Customers are personal to Ezidebit and no other person (including a direct debit company or institution) shall have the right, permission or authorisation to conduct debit Transactions from Customer accounts by reliance on the Direct Debit Request (unless otherwise authorised by Ezidebit in writing).
- 10.2 You acknowledge and agree that any Transaction conducted by any other person without authorisation shall constitute a material breach of this Agreement and is not a valid Transaction.
- 10.3 You must store all Direct Debit Requests (in printed and electronic format) in a safe and secure place for up to seven (7) years or until delivered to Ezidebit, whichever is the sooner.
- 10.4 Ezidebit reserves the right to cease or suspend Your Direct Debits, including Self Serve Direct Debits, or reject any Direct Debit Request or EDDR if at any time Ezidebit believes that the relevant Customer or any other person has acted fraudulently in connection with the Direct Debit Request or EDDR.
- 10.5 You acknowledge and agree:
- 10.5.1 that You accept responsibility for the collection of all Direct Debit Requests (paper and electronic) and their storage for a period of seven (7) years; and

- 10.5.2 to provide Ezidebit with the original or a copy of any such Direct Debit Requests within 24 hours of a request by Ezidebit. Your failure to provide a signed Direct Debit Request (paper or electronic) in accordance with this requirement may result in a loss of Direct Debit funds and also a suspension of all Direct Debit Services.
- 10.6 You will indemnify Ezidebit from and against every liability, Claim or loss suffered or incurred by Ezidebit (including without limitation any Claims brought by Your Customers) arising in any way from the submission of a Direct Debit Request (including an EDDR).
- 10.7 Ezidebit is not liable for and You release Ezidebit from all liability in tort, contract, bailment or otherwise in respect of any Claim or loss arising out of or in connection with the use of Direct Debit Requests (or EDDRs).
- 10.8 A Direct Debit Request (including an EDDR) of a Customer will be considered inactive and may be cancelled at the discretion of Ezidebit if the payment frequency under the Direct Debit Request is weekly, fortnightly, 4 weekly or monthly and there has been no debit conducted on the account for a period of six (6) months or more.

11. YOUR DIRECT DEBIT OBLIGATIONS

- 11.1 You must, at least one (1) Business Day prior to each Debit Date:
 - 11.1.1 provide (via Ezidebit online or through your integrated solution) Ezidebit with the account and other relevant details of any new Customers from whom payments are to be collected by Ezidebit (from the completed and signed Direct Debit Requests for such new customers held by You); and
 - 11.1.2 where a Customer is changing the account details to a financial institution different from that nominated on the original Direct Debit Request, provide Ezidebit with the new account details (from the required amendment form detailing the new account details, completed and signed by the Customer held by You).
- 11.2 You acknowledge that Ezidebit must receive notification of any cancellations or variations at least one (1) Business Day prior to the designated Debit Date.

12. ADDITIONAL E-COMMERCE MATTERS

- 12.1 You irrevocably and unconditionally acknowledge and agree that You are solely responsible for all goods and services offered by You to the Customer and for satisfying Yourself as to the commercial viability of any Transaction and the bona fides of any Customer and that Ezidebit shall have no responsibility in respect of these matters.
- 12.2 In addition to your obligations under the applicable Card Schemes rules, You agree to respond promptly to all Customer inquiries (including cancellations and order changes) and will provide the following information to Customers:
 - 12.2.1 Your contact information (including Your trading name and trading address);
 - 12.2.2 a description of all goods and services offered by You;

- 12.2.3 customer service policies and/or trading terms and conditions, including but not limited to usual delivery timeframes and Your refund policy; and
 - 12.2.4 a receipt or record of transaction containing Your name (most recognisable to the Customer), amount, date, Customer's name and receipt number.
- 12.3 You irrevocably authorise Ezidebit to identify Your name/code including all or part of Your business or trading name on Your Customers' bank account or Card account statements for any of Ezidebit's Services.
- 12.4 You agree not to display the Cardholder's Card number either online or on the Transaction receipt.

13. EZIDEBIT COLLECT

- 13.1 You acknowledge and agree that You will:
- 13.1.1 comply with Ezidebit's terms of use for Ezidebit Collect (as issued and amended by Ezidebit from time to time), including in respect of the issue by You of payment reminder notices to Customers using that system;
 - 13.1.2 use Ezidebit Collect in a reasonable and proper manner and for Your business purposes only; and
 - 13.1.3 not use Ezidebit Collect in a manner that:
 - 13.1.3.1 contravenes any applicable laws or regulations; or
 - 13.1.3.2 infringes the rights of any person.

14. WARRANTIES

- 14.1 By entering into this Agreement, You warrant to Ezidebit (both as at the date of this Agreement and on an on-going basis throughout the Term) that:
- 14.1.1 You are a duly incorporated company or registered business and conduct Your operations as a business;
 - 14.1.2 You have the capacity and authority to enter into this Agreement;
 - 14.1.3 Your Customers have provided all necessary authorities and approvals to enable You to authorise Ezidebit to collect fees or payments on Your behalf;
 - 14.1.4 All information provided by You to Ezidebit for the purpose of this Agreement are complete, accurate and not misleading; and
 - 14.1.5 There is no Insolvency Event existing in respect of You.

15. INDEMNITY

- 15.1 You release, indemnify and hold Ezidebit harmless from and against all Claims by any person (including any Customer) sustained, incurred or arising out of or in connection with this

Agreement or its role as the collector of Direct Debits, including (without limitation) Claims in respect of or connected to:

- 15.1.1 the collection of Your Customers' payments by Ezidebit in accordance with this Agreement;
- 15.1.2 the non-payment by You of any amounts payable to Ezidebit under this Agreement;
- 15.1.3 a failure by You to comply with any obligation owed to Ezidebit under or in connection with this Agreement;
- 15.1.4 the misuse of any Services by You;
- 15.1.5 Your failure to provide full and correct information to Ezidebit in accordance with or for the purpose of this Agreement;
- 15.1.6 Direct Debits conducted from an incorrect bank account or credit card where this information was supplied by You or Your Customers;
- 15.1.7 a delay in any new or corrected information being received by Ezidebit from You;
- 15.1.8 incorrect days, months, years being nominated by You or a Customer;
- 15.1.9 the interpretation of a Direct Debit Request or any amendment to a Direct Debit Request being incorrect;
- 15.1.10 any and all bank fees and charges as incurred by any and all parties in respect to a Direct Debit where any of the events described in this clause have taken place;
- 15.1.11 any misuse or theft of the Direct Debit Request in Your possession, regardless of how such an event occurs; and
- 15.1.12 a payment, obligation, Transaction or transfer processed under this Agreement or a Direct Debit Request being void or voidable under any law relating to insolvency or bankruptcy, except to the extent that such Claims are due to the fraud or gross negligence of Ezidebit.

16. LIABILITY

- 16.1 You acknowledge and agree that in entering into this Agreement, You are not relying on any representations, statement or warranty made by Ezidebit or any of its officers, employees or agents, other than those contained in this Agreement. All statutory conditions or warranties that would otherwise be implied into this Agreement under applicable law, are excluded to the fullest extent permitted by law.
- 16.2 Ezidebit shall have no liability to You in respect of any failure of the Direct Debit Facility or any of its operations or processes due to or as a consequence of:
 - 16.2.1 any accident, neglect or misuse by You;
 - 16.2.2 any failure of any computer system whether it be Your system, the computer systems in which Ezidebit places the software to operate the Services, or the

computer hardware of other related computer systems and servers that host the Ezidebit website, or other related websites (whether hosted, owned or controlled by Ezidebit or a third party); or

16.2.3 the input of any incorrect information in the direct debit facility by You.

16.3 You acknowledge that Ezidebit will rely on the information provided by You and in the Direct Debit Requests and that Ezidebit is not required to verify (nor will it have any liability to You in respect of) matters referred to in any written direction it receives from You or information that is contained in a Direct Debit Request.

16.4 Notwithstanding any other provision of this Agreement, the maximum liability of Ezidebit to You (whether under this Agreement, any applicable law, in tort or otherwise) in connection with this Agreement (including in respect of an implied warranty or condition that cannot be excluded under applicable law) is limited:

16.4.1 where the liability of Ezidebit relates to a default in the provision of the Services and:

16.4.1.1 the re-performance of the relevant Services is a suitable remedy, to Ezidebit:

(a) providing the relevant Service again; or

(b) the cost of a third party supplying the Service again; or

16.4.1.2 where the re-performance of the relevant Services is not a suitable remedy, the amount of the Service Fees collected by Ezidebit in respect of the relevant Service, or

16.4.2 where the liability of Ezidebit does not relate to the Services, to the aggregate amount of Service Fees paid by You to Ezidebit under the Agreement.

16.5 No party will have any liability to the other in connection with this Agreement for any loss of business or profits, or in connection with any indirect or consequential loss or any punitive or aggravated damages, arising out of any matter or circumstance giving rise to any Claim or other matter arising under this Agreement.

16.6 Nothing in this clause limits a Party's liability for fraud.

17. REFUNDS

17.1 You acknowledge and agree that:

17.1.1 it is Your obligation to determine the circumstances in which a refund will be made to a Customer; and

17.1.2 Unless otherwise specifically agreed, Ezidebit is under no obligation to (whether under this Agreement or otherwise), and will not, transfer funds to a Customer as a refund.

18. TRANSACTION DISPUTES AND DISHONOURS

- 18.1 In the event that one of Your Customers raises a Transaction Dispute or has a dishonour:
- 18.1.1 Unless You advise Ezidebit otherwise, Direct Debits that have been returned unpaid will be reprocessed on the 3rd Business Day
 - 18.1.2 You acknowledge and agree that it is Your responsibility to deal with such a query and You will take all reasonable steps to ensure that the Customer is made aware that the query is to be directed to You and not Ezidebit;
 - 18.1.3 You consent and agree that should a Customer first contact Ezidebit, Ezidebit will, as permitted by law, direct the Customer to contact You or Your nominated representative, directly on the nominated email or contact points as advised by You;
 - 18.1.4 in the event that Ezidebit receives a request for documentation from the Customer's issuing financial institution requesting the merchant to substantiate a Transaction, Ezidebit will provide notice to You by email;
 - 18.1.5 in the event that Ezidebit receives a Claim in relation to a Direct Debit, Ezidebit will, in the first instance, supply to the claimant's financial institution all documents as permitted and requested to be supplied according to the BECS Regulations and Procedures;
 - 18.1.6 You acknowledge that Ezidebit may, in certain circumstances in accordance with applicable law, not notify You of a Claim made by a Customer;
 - 18.1.7 Ezidebit may from time to time request and You agree that You will supply all documents, billing accounts, contracts and all source documents that may be required by Ezidebit in connection with a Transaction Dispute or a dishonour; and
 - 18.1.8 if all or part of a Claim or a Transaction Dispute raised by a Customer is successful, Ezidebit will advise You immediately and upon notification You undertake to refund to Ezidebit any and all monies paid by Ezidebit in respect of such a Transaction Dispute (or that part of the Transaction Dispute that was successful) within 14 days of the notification.

19. CHARGEBACKS

- 19.1 Ezidebit may refuse to accept or process any Transaction or series of Transactions (or may require an indemnity from You prior to accepting or processing any Transaction or series of Transactions) where Ezidebit suspects or has reasonable grounds to believe that the relevant Transaction or series of Transactions will or will be reasonably likely to result in a Chargeback.
- 19.2 You acknowledge and agree that where a Transaction Dispute occurs, and the Transaction is found to be either invalid, fraudulent, not for You, or the Customer claims that the Transaction is invalid, Ezidebit may be required by the issuing financial institution to process the Transaction as a Chargeback (or claim an indemnity from You) on account of the Chargeback.
- 19.3 Where a Chargeback occurs:

- 19.3.1 Ezidebit will notify You by email of the Chargeback that has occurred.
 - 19.3.2 Ezidebit will not enter into any Transaction Dispute between You and a Customer.
 - 19.3.3 Service Fees related to any Chargeback will be deducted from funds held on Your behalf or debited from the Fee Bank Account. Such fees are not refundable by Ezidebit.
 - 19.3.4 Ezidebit may off-set a Chargeback against funds in Your Settlement Bank Account at any time in the 12 month period after the date of the original Transaction.
 - 19.3.5 The Chargeback will be reversed if You supply proof that You have provided the goods or services to the relevant Customer (in accordance with Your transaction documentation, ordering forms and internal methods) and this proof is accepted by the Customer's issuing bank.
- 19.4 The Business must ensure that Chargebacks do not exceed 0.5% of the total Transactions in any calendar month. Where Chargebacks exceed 0.5% of the total Transactions in any calendar month, Ezidebit will notify the Business and the Business must within a 30 day period, reduce the level of Chargebacks. If You fail to reduce the level of Chargebacks to the levels required under this clause prior to the expiry of this 30 day period, Ezidebit has the right to suspend the Services in accordance with clause 5.1.
- 19.5 To reduce the incidence of disputes, Claims, dishonours and Chargebacks and to comply with applicable Card Scheme regulations, Ezidebit may include all or part of Your business/trading name in the Debit transaction description on Your Customers' account statements. You hereby consent and authorise Ezidebit to establish, obtain and identify any Credit Card Merchant, Direct Debit or BPAY Biller facility by name/code which includes all or part of Your business/trading name.

20. GST

- 20.1 Terms used in this clause that are not otherwise defined in this Agreement have the meanings given to them in the GST Law.
- 20.2 All consideration provided under this Agreement is exclusive of GST, unless it is expressed to be GST-inclusive. Where a party (**Supplier**) makes a taxable supply to another party (**Recipient**) under or in connection with this agreement, the Recipient must pay to the Supplier an additional amount equal to the GST payable on the supply. The additional amount must be paid by the Recipient at the later of:
- 20.2.1 the date when any consideration for the taxable supply is first paid or provided; and
 - 20.2.2 the date when the Supplier issues a tax invoice to the Recipient.
- 20.3 If an adjustment event varies the amount of GST payable by the Supplier in respect of a supply under this Agreement, the Supplier will adjust the amount payable by the Recipient to take account of the adjustment event. Any payment will be made by the Recipient to the Supplier or by the Supplier to the Recipient within ten (10) Business Days of the Supplier becoming aware of the adjustment event. Any payment under this clause is deemed to be an

increase or decrease (as appropriate) of the additional amount payable under clause 20.1. The Supplier will issue an adjustment note to the Recipient within ten (10) Business Days of becoming aware of the adjustment event.

- 20.4 If the GST payable in relation to a supply is less than the amount that the Recipient has paid the Supplier under clause 20.1, the Supplier is only obligated to pay a refund of GST to the Recipient to the extent the Supplier receives a refund of that GST from the Commissioner. For the avoidance of doubt, this clause 20.4 does not apply in relation to adjustment events.
- 20.5 Clauses 20.1, 20.3 and 20.4 do not apply in relation to a particular supply where either of the following apply:
- 20.5.1 the consideration for the supply is expressed to be GST-inclusive; or
 - 20.5.2 the GST is payable on the supply by the Recipient.

Other GST matters

- 20.6 Subject to an express provision in this Agreement to the contrary, any payment, amount, reimbursement or indemnity required to be made to a party (the Payee) under this Agreement that is calculated by reference to a cost, expense, liability or other amount paid or payable by the Payee to a third party (**Expense**) will be calculated by reference to that Expense inclusive of GST, less the amount of any input tax credit which the Payee is entitled to claim on that Expense. The Payee is assumed to be entitled to a full input tax credit on an Expense unless it demonstrates otherwise before the date the payment, amount, reimbursement or indemnity is required to be made.

21. CONFIDENTIALITY AND NON DISCLOSURE

- 21.1 Each Party must keep confidential the terms of this document, the contents of all negotiations leading to its preparation and any other information relating to another Party or its business that it obtains as a result of this document or anything done under it (**Confidential Information**). A Party must only use Confidential Information for the purpose of this Agreement and must not disclose or permit the disclosure of such Confidential Information to any other person. If a Party becomes aware of a breach of this obligation, that Party will immediately notify the other Parties. This document does not prohibit the disclosure of Confidential Information by a Party in the following circumstances:
- 21.1.1 the other Party has consented to the disclosure of the relevant Confidential Information;
 - 21.1.2 the disclosure is specifically contemplated and permitted by this document;
 - 21.1.3 the disclosure of Confidential Information is to an employee, subcontractor, agent or representative who needs it for the purposes of this document and the Party disclosing the Confidential Information ensures that the relevant employee, subcontractor, agent or representative complies with the terms of this clause;
 - 21.1.4 the disclosure is to a professional adviser in order for it to provide advice in relation to matters arising under or in connection with this document and the Party disclosing the Confidential Information ensures that the professional adviser complies with the terms of this clause;

- 21.1.5 the disclosure is required by a court or governmental or administrative authority or by applicable law or regulation;
- 21.1.6 the disclosure is required to be made by virtue of the law or regulations that govern a relevant stock exchange on which the Party's shares (or that of its holding company) are listed; or
- 21.1.7 the disclosure is to any person involved in an equity-based transaction with Ezidebit or a related party of Ezidebit and their financiers or proposed financiers, legal advisers, accountants or auditors, financial advisers or other professional advisers.

22. DISPUTES

- 22.1 Subject to clause 18, if any dispute or disagreement arises between the Parties in connection with this Agreement, the Party with the dispute will provide written notice to the other Party setting out all relevant details and background information in relation to the dispute.
- 22.2 If the dispute cannot be resolved within ten (10) Business Days of the receipt of the notice under clause 22.1, the dispute shall be referred to a senior officer of each Party, who will endeavour to resolve the dispute.
- 22.3 If the dispute has been referred to a senior officer of each Party and the dispute is not resolved, either Party may refer the dispute for mediation by an independent mediator, selected by agreement between the Parties.

23. PRIVACY

- 23.1 Each Party acknowledges that it has obligations under the Privacy Act 1988 (Cth) (**Privacy Act**) to ensure that its collection, use, disclosure and storage of Personal Information (as that term is defined in the Privacy Act) complies with the Australian Privacy Principles and agrees to comply with the Privacy Act, the Australian Privacy Principles and Ezidebit's Privacy Policy (which can be found at: <http://www.ezidebit.com.au/privacy-policy/>) in respect of any Personal Information collected in connection with this Agreement.
- 23.2 You must inform Customers that You will be providing their Personal Information collected for the purpose of this Agreement to Ezidebit and that such Personal Information will be collected, held, used and disclosed to Ezidebit in accordance with Ezidebit's privacy policy (which can be found at: <http://www.ezidebit.com.au/privacy-policy/>).

24. NOTICES

- 24.1 All notices or other communication under this Agreement must be in writing. Notices to You will be sent to the address as set out in Section 1 (Your Business Details). Notices to Ezidebit must be sent to the following:

E mail: Ezidebit Support support@ezidebit.com.au

By post: Ezidebit Pty Ltd, PO Box 3327, Newstead, QLD, Australia, 4006

- 24.2 Communication is taken to be received by the recipient of the communication:
 - 24.2.1 in the case of correspondence by post - on the third (seventh, if sent outside the country in which it is posted) Business Day after the date of posting; or

- 24.2.2 in the case of a facsimile or email – on production of a successful transmission report by the machine from which the facsimile or electronic mail was sent.
- 24.3 If time of despatch or deemed receipt of a notice is not on a Business Day, or is after 5.00 pm, it will be taken to have been despatched or received (as applicable) at the commencement of the next Business Day.

25. PPSA

- 25.1 You undertake solely for the purposes of section 275 of the Personal Property Securities Act 2009 (Cth) (**PPSA**) not to disclose information of the kind referred to in section 275(1) of the PPSA, including by uploading to the Personal Properties Securities Register established under section 147 of the PPSA or by otherwise making available a copy of this Agreement or any part of it, unless required by section 275(7) of the PPSA; and not to authorise the disclosure of any information of a kind referred to in section 275(1) of the PPSA, without the prior written consent of Ezidebit.

26. GENERAL

- 26.1 You must not assign or transfer any of Your rights or obligations under this document without the prior written consent of Ezidebit (such consent not to be unreasonably withheld or delayed).
- 26.2 Each Party must pay its own costs and expenses in relation to preparing, negotiating, executing and completing this document and any document related to this document.
- 26.3 This Agreement and the documents referred to in it contain the whole agreement between the Parties relating to the transactions contemplated by this document and supersede all previous agreements between the Parties relating to its subject matter.
- 26.4 This document is properly executed if each Party executes either this document or an identical document. In the latter case, this document takes effect when the separately executed documents are exchanged between the Parties.
- 26.5 This document is governed by the law of Queensland. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.
- 26.6 Nothing contained or implied in this document will create or constitute, or be deemed to create or constitute, a partnership between the Parties. A Party must not act, represent or hold itself out as having authority to act as the agent of or in any way bind or commit the other Parties to any obligation.
- 26.7 Each provision of this document is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.
- 26.8 No variation of this document will be of any force or effect unless it is in writing, signed by all of the Parties to this document.

27. DEFINITIONS

27.1 In this Part the following definitions apply:

Agreement means this the Ezidebit Client Service Agreement and these general terms and conditions;

API User Guides means programming instructions and standards for accessing the Services;

Application Form means the Ezidebit Client Service Agreement executed by You and delivered to Ezidebit;

BECS Rules and Procedures means the Bulk Electronic Clearing System issued by the Australian Payments Clearing Association Ltd as far as they apply to the Services provided by Ezidebit;

Banking Business Day means any day on which banks in Melbourne or Sydney are able to effect settlement through the Reserve Bank of Australia. These days are determined by public holidays which are gazetted by the State Governments;

Business Day means a Business Banking Day;

Card means a debit, charge, credit or financial transaction card, issued by an Australian bank or financial institution or any other financial transaction card or virtual card of any nature;

Card Scheme means MasterCard, Visa, American Express, Diners Club, EPAL and includes card fraud detection agencies and any other card scheme that an Australian bank or financial institution participates in;

Change of Control means:

- (a) a change in the beneficial ownership of at least 50% of Your shares;
- (b) a change in the Control of You; or
- (c) the sale or disposal by You of all or a substantial part of Your business, where the part of the business sold or disposed of utilises the Services,

provided that paragraphs (a) and (b) will not apply to the extent that the shares in You or any holding company of You are listed on a stock exchange;

Chargeback means a challenge to a payment by a Customer, a banking institution, or a third party which results in a debit or a reversal of Customer Fees from Your Settlement Bank Account;

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise;

Clearance means the time period that Ezidebit, in accordance with the BECS Regulations and Procedures, will deem Direct Debits to have cleared (which is usually within three (3) Business Days);

Control has the meaning set out in the Corporations Act 2001 (Cth);

Customer means Your Customers that have completed, signed and returned a valid Direct Debit Request and agreed to the Customer Terms, if any;

Customer Fees means payments and any fees and interest owed by a Customer to you;

Customer Terms means the terms and conditions that Your Customers must accept and agree to prior to making a payment to You by utilising the Services (if required by Ezidebit);

Debit Date means the date on which Customers' accounts are to be debited;

Direct Debit means a debit from a Customer's Card, nominated bank account or digital wallet;

Direct Debit Request means the written, verbal or electronic request (including a direct debit service agreement) between Ezidebit, on Your behalf, and the Customer, authorising Ezidebit to undertake a Direct Debit, including an EDDR;

EDDR means a paperless Direct Debit Request that is produced, displayed and authorized via electronic means. These requests can be managed by Your system or by Ezidebit's systems;

Ezidebit means Ezidebit Pty Ltd (ABN 47 110 689 711, AFSL No. 315388), the provider of the Services described in this Agreement and Ezidebit Pty Ltd (ABN 67 096 902 813, Authorised Representative No.320082), who will provide the Services on behalf of Ezi Management Pty Ltd, as Ezi Management Pty Ltd's Authorised Representative;

Ezidebit Collect means the Service function that allows You to send payment reminder notices or SMS reminders to Your Customers;

Fee Bank Account means Your bank account for the processing of Service Fees that apply to your account with Ezidebit, set out in the Application Form;

Fee Schedule means Section B;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

GST Law has the same meaning as in the GST Act;

Insolvency Event in relation to a person means anything that reasonably indicates that there is a significant risk that that person is or will become unable to pay its debts as they fall due. This includes any of the following where it has not been revoked, rescinded declared invalid or stayed within five (5) Business Days of occurring:

- (a) a meeting of the person's creditors being called or held;
- (b) a step being taken to make the person bankrupt;
- (c) an application is presented or an order is made for the sequestration of the person's estate;
- (d) a step being taken to wind the person up;
- (e) a step being taken to have a receiver, receiver and manager, administrator, liquidator or provisional liquidator appointed to the person or any of its assets or such an appointment taking place;
- (f) the person entering into any type of agreement, composition or arrangement with, or assignment for, the benefit of all or any of its creditors; or
- (g) the person ceases or threatens to cease to carry on its main business;

Party means You or Ezidebit and Parties shall mean both You and Ezidebit;

Self Serve Direct Debits means either:

- (a) a manual direct debit system adopted by You with Ezidebit's consent (including arranging for Customers to complete Direct Debit Requests and the performance of all data entry via the online [Service] provided by Ezidebit on the terms and conditions described on that website); or
- (b) software implemented by You which incorporates electronic access to the Ezidebit [Services];

Service Fees means the fees set out in the Application Form and agreed to by Ezidebit;

Services means the services listed in the Application Form and agreed to by Ezidebit and **Service** means any one of them;

Settlement Bank Account means Your bank account for the settlement of funds, set out in the Application Form Section ;

Term means the term set out in clause 1.3;

Termination Event means the occurrence of any of the following:

- (a) a Change of Control occurs in respect of You without the prior written consent of Ezidebit;
- (b) an Insolvency Event occurs to You;
- (c) a warranty made by You in this Agreement is misleading or inaccurate in any material respect;
- (d) a breach by You of any other obligation under this Agreement that continues for more than [20] days after You receive written notice of the breach from Ezidebit; or
- (e) the matter giving rise to a suspension of the Services by Ezidebit under clause 5 is not rectified to the reasonable satisfaction of Ezidebit within 14 days of the suspension of the Services;

Transaction means a debit to a bank account, Card or a digital wallet;

Transaction Dispute means a dispute by a Customer or the banking institution that a Transaction is an invalid or fraudulent Transaction or a dispute arising for any other reason, including Your failure to provide the services or goods to the Customer; and

Transaction Limit means any dollar value limit that we will allow You to debit one Customer in a single day (as set out in the Application Form).

The terms and conditions of this Agreement shall apply to the provision of all Services involving the making of BPAY payments processed by Ezidebit.

BPAY BILLER AGREEMENT

1. PURPOSE

- 1.1 This agreement sets out the terms and conditions under which:
- (a) the Master Biller agrees to act on behalf of the Customer to facilitate the receipt of BPAY Payments by the Customer; and
 - (b) the Customer agrees to accept BPAY Payments through the MB Biller Code.

2. AUTHORISATION

- 2.1 The Customer agrees to receive payments through BPAY Payments made using the Payment Methods.
- 2.2 The Customer authorises the Institution, and directs the Master Biller to authorise the Institution:
- (a) to accept Payments for the Customer made using the Payment Methods; and
 - (b) to credit and debit to the Account all amounts contemplated under this agreement.

Without limiting clause 2.2 in any way, the Customer authorises the Institution to make debits and credits to the Account as and when necessary to effect Payments and Adjustments made using the Payment Methods, and whether that Payment or the original transaction to which that Adjustment relates occurred before, on or after the date of this agreement.

- 2.3 The Customer agrees to do all acts, including without limitation executing any documents and other instruments, and give any consents, necessary to give effect to the authorisations in clauses 2.2 and 2.3.
- 2.4 The Customer may not give the Institution any instruction or direction, whether concerning the operation of an Account or otherwise, which is inconsistent with any authorisation or other provision of this agreement, and the Institution is entitled to disregard any such inconsistent instruction or direction.
- 2.5 The Customer acknowledges for the benefit of the Master Biller and the Payer Customers of the Customer that a Payment or Adjustment made to the Institution in its capacity as representative of the Master Biller will be treated as having been received by the Customer on the Settlement Date for that payment, whether or not it is in fact received by the Customer on that day.
- 2.6 The Master Biller will pass on to the Customer any information about Payments or Adjustments relating to the Customer which is received by the Master Biller from the Institution within 24 hours of receipt of that information by the Master Biller.
- 2.7 This agreement does not confer any rights or obligations on any party with respect to BPAY View. If a Sub-biller wants to participate in BPAY View, it may only do so with the prior written agreement of the Master Biller on such conditions as the Master Biller and the Sub-biller may agree.

3. OBLIGATIONS OF THE MASTER BILLER

3.1 The Master Biller must:

- (a) comply with its obligations under BPAY Payments as a Master Biller;
- (b) perform its obligations under BPAY Payments in relation to the Customer and this agreement with reasonable skill and care; and
- (c) use reasonable efforts to ensure that the Institution complies with its obligations in respect of Payments to the Customer.

4. OBLIGATIONS OF THE CUSTOMER

4.1 The Customer must:

- (a) correctly and promptly credit or debit as the case may be the amounts of each Payment received by the Customer to the Customer's accounting record applicable to the Payer Customer, as identified in the information provided to the Customer by the Master Biller;
- (b) promptly notify the Master Biller if it is unable to apply Payments to its Payer Customers for any reason;
- (c) establish and maintain a fair policy for correction of errors and exchange and return of goods and Services if a dispute arises in respect of a Payment;
- (d) receive Payments for its own benefit and to its own accounts, not on behalf of third parties; and
- (e) report to the Master Biller any fraud or suspected fraud involving the Customer or any of its Payer Customers.

4.2 The Customer consents, and agrees to ensure that its Payer Customers consent, to each information exchange necessary to allow:

- (a) the Institution and other participants in the BPAY Scheme to accept and process Payments from the Payer Customers of the Customer;
- (b) the information exchanges contemplated by this agreement to occur; and
- (c) the Master Biller to comply with its obligations and exercise its rights under this agreement.

4.3 The Customer agrees to be bound by the adjustment rules set out in the document called "Sub-biller Operations Manual Part 1" as attached to this agreement and as varied or amended from time to time. The Customer acknowledges:

- (a) receipt of the Sub-biller Operations Manual; and
- (b) that the Sub-biller Operations Manual forms part of this agreement.

5. CUSTOMER ACKNOWLEDGEMENT

- 5.1 The Customer acknowledges that a delay of any duration might occur and no rights arise as a result of a delay in the processing of Payment Instructions where:
- (a) there is a public or bank holiday on the day or on the day after a Payer gives a Payer Direction;
 - (b) a Payer Direction is received either on a day which is not a Banking Business Day or after the Payment Cut-off Time on a Banking Business Day. These Payer Directions will ordinarily be processed by the Payer Institution on the next Banking Business Day;
 - (c) another financial institution participating in BPAY Payments does not comply with its obligations under the BPAY Scheme; or
 - (d) the Customer fails to comply or is suspected on reasonable grounds of failing to comply with its obligations under this agreement, or is suspected on reasonable grounds of being involved in fraud, and payments to the Customer are suspended pending resolution of the issue.
- 5.2 The Customer acknowledges and accepts that its ability to receive Payments through BPAY Payments may be suspended or terminated, without prior notice to the Customer, if the participation of the Master Biller or the Institution in BPAY Payments is suspended or terminated.
- 5.3 If for any reason beyond the Institution's or Master Biller's control a Payer Customer effects a payment to the Customer through BPAY Payments by which that Payer Customer's Payer Institution receives value, but an equivalent value is not received by the Institution, the Institution is not liable to the Customer for that value not being credited to its Account, or if already credited, being debited to the Account by way of an Adjustment.

6. PROMOTIONS AND ADVERTISING

- 6.1 The Master Biller is entitled to sub-licence use of the Marks and grants the Customer a sub-licence to use the Marks including the BPAY logo and name in the manner specified in this agreement and the Standards Manual for the purposes of advertising its participation in and promotion of BPAY Payments to Payers and for no other purpose. The sub-licence granted pursuant to this clause terminates immediately on termination or expiry of the Master Biller's right to sub-licence use of the Marks or on termination or expiry of this agreement.
- 6.2 The Customer acknowledges that BPAY owns the Marks and agrees:
- (a) not to contest or in any way impair any rights of BPAY to the Marks; and
 - (b) at any time at the request of the Master Biller or Institution to include a statement on any packaging, promotional or advertising materials used in connection with BPAY Payments, including any in electronic form, that the Marks are being used by the Customer under the control of and with the authorisation of BPAY and acknowledging ownership of BPAY of the Marks.
- 6.3 Any use of the Marks by the Customer which is not in compliance with the requirements of this agreement or the Standards Manual and which is not promptly discontinued following

written notice from the Master Biller to discontinue such use will be regarded as adequate ground for termination of this agreement.

- 6.4 The Customer is not entitled to licence or assign the right to use any of the Marks whether by sale, consolidation, merger, amalgamation, operation of law or otherwise.
- 6.5 The Customer must use the appropriate denotation or legend of trademark registration or ownership in connection with the Marks, as required or consented to by the Master Biller.
- 6.6 If the Customer desires to use a denotation or legend of trade mark registration or ownership in connection with any mark (other than the Marks), but used in association with or on the same printed matter as the Marks, it may do so provided that:
 - (a) such use will not adversely affect the rights of BPAY in the Marks;
 - (b) the specification for such use is notified in writing to the Master Biller, and the Master Biller gives its written approval to that specification prior to such use.
- 6.7 The Customer must not use the Marks in such a way as to create an impression that the goods or Services offered by the Customer are sponsored, produced, offered or sold by the owner of the Marks. The Customer must not adopt "BPAY" or any other Mark as any part of the name of its business or apply it to any goods or Services offered for sale.
- 6.8 The Customer must immediately on becoming aware of any infringement or potential infringement of the Marks notify the Master Biller.
- 6.9 If any claim is asserted or legal proceedings commenced against the Customer for alleged infringement of any rights held by a third party by reason of the use of the Marks, then the Customer must when it becomes aware of that claim or legal proceedings:
 - (a) provide prompt written notice of such claim or proceedings to the Master Biller; and
 - (b) keep the Master Biller informed of all developments in respect of the claim or proceedings.
- 6.10 The Customer undertakes to:
 - (a) inform its Payer Customers, in a manner which is not misleading, how they may use BPAY Payments (including giving them the MB Biller Code);
 - (b) use only literature or promotional materials provided or approved by the Master Biller for the above purposes and in accordance with the Standards Manual; and
 - (c) print the BPAY logo and the MB Biller Code on its customer invoices, until such time as this agreement is terminated.
- 6.11 The Customer agrees to give the Master Biller access to the literature and materials referred to in clause 6.10 upon receiving reasonable notice from the Institution of its desire to have such access from time to time.
- 6.12 The Customer consents to the use of its name and main trading logo in lists and in promotional material by BPAY, the Master Biller, Payer Institutions and the Institution.

7. CUSTOMER REPRESENTATIONS AND WARRANTIES

- 7.1 The Customer represents and warrants to the Master Biller and the Institution that:
- (a) it has all necessary power and authority to enter into this agreement and to perform its obligations under it;
 - (b) it will comply with all laws or industry codes applicable to the Customer in its exercise of its rights and performance of its obligations under this agreement; and
 - (c) all information provided at any time by the Customer to the Master Biller as contemplated by this agreement is true and accurate at the time it is provided. The Customer agrees to provide updated or corrected information to the Master Biller if any of the information provided by the Customer to the Master Biller at any time as contemplated by this agreement is no longer true and accurate.

8. TERMINATION

- 8.1 This agreement terminates automatically if the Master Biller Agreement between the Master Biller and the Institution is terminated and as at that date the Master Biller has not entered into a Master Biller Agreement with another financial institution.

9. DEFINITIONS

- 9.1 The following words have these meanings in this agreement unless the contrary intention appears.

Account means the account named as such in the Details.

Adjustment means a transaction processed through BPAY Payments to reverse a previous Payment.

Banking Business Day means any day on which banks in Melbourne or Sydney are able to effect settlement through the Reserve Bank of Australia.

BPAY means BPAY Pty Limited ABN 69 079 137 518.

BPAY Payments means the electronic payments service promoted by BPAY and any other enhancement of or addition introduced by BPAY from time to time.

BPAY Scheme means

- (a) BPAY Payments;
- (b) BPAY View; and
- (c) any other enhancement of or addition to (a) or (b) above from time to time introduced by BPAY.

BPAY View means the service promoted by BPAY, which allows Payers to view Bills electronically.

Customer means the entity named as Customer in the Details. Details means the section of this agreement headed "Details". Institution means the financial institution named as Institution in the Details.

Marks means the trade and service marks owned by BPAY from time to time and set out in the Standards Manual.

Master Biller (“MB”) means the person named as Master Biller in the Details.

Payer means a person who uses BPAY Payments to make a Payment.

Payer Customer means a Payer who makes a Payment to the Customer.

Payer Direction means a direction from a Payer to their Payer Institution to effect a Payment through BPAY Payments, by or crediting an account or facility held by the Payer with that Payer Institution.

Payer Institution means a financial institution participating in the BPAY Scheme with whom a Payer has an account facility from which payments can be made and who receives a Payer Direction from that Payer. Payment means a payment made, or to be made, by or on behalf of a Payer through BPAY Payments.

Payment Cut-off Time means, with respect to a Payer and its Payer Institution, the time on a Banking Business Day set from time to time by that Payer Institution as the time by which that Payer Institution must receive a Payer Direction for it to be processed by it on that day.

Payment Methods means the methods specified in the Details accepted by the Institution, which may be used by a Payer Customer to make a Payment through BPAY Payments.

Settlement Date means the date being in the case of a Payer Direction given by a Payer to its Payer Institution:

- (a) before its applicable Payment Cut-Off Time on a Banking Business Day, that day; or
- (b) after its applicable Payment Cut-Off Time on a Banking Business Day, or on a non-Banking Business Day, the next Banking Business Day. Standards Manual means the BPAY Identity Standards Manual issued by BPAY prescribing the way in which the Marks may be represented, and provided to the Customer with this agreement (as may be amended from time to time).



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