

## Customer Agreement

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Date: 27/12/2019

This Agreement is between Payleadr Pty Ltd ACN 615 881 162 (**we, us**) and you (being a customer of the Business) and sets out the terms upon which we will arrange for your Nominated Account or Card to be debited for amounts due by you under this Agreement.

### 1. Agreement

By agreeing to the Payment Plan, you agree to be bound by this Agreement. The Payment Plan is incorporated into this Agreement. In the event of an inconsistency between this Agreement and the Payment Plan, the Payment Plan will prevail to the extent of the inconsistency.

### 2. Interpretation and definitions

In this Agreement unless the contrary intention appears:

- a) **Account** means the account you establish on the Platform to agree to the Payment Plan and access other features about the Payment Plan which are available on the Account.
- b) **Assembly** means Assembly Payments Platform Pty. Ltd. ACN 637 632 645 trading as Assembly Payments.
- c) **Business** means the business you receive goods or services from in exchange for making payments under the Payment Plan.
- d) **Business Day** means any day other than a Saturday, Sunday or public holiday in the State of New South Wales.
- e) **Claim** means any claim, action, proceeding, demand, cost, damage, loss, expense (including reasonable legal costs on a full indemnity basis), liability incurred or suffered by, or brought or made or recovered against any person and however arising (whether or not presently ascertained, immediate, future or contingent).
- f) **Consequential Loss** means any indirect, special, consequential, punitive or exemplary damages, expenses, losses or costs, loss of anticipated or actual revenue or profits, loss of or inability to use equipment, a failure to realise anticipated savings, lost data, down time costs or loss of goodwill.
- g) **DDR Service Agreement** is the DDR Service Agreement you enter into with Assembly under which Assembly will direct debit amounts owing by you under this Agreement from your Nominated Account or Card.
- h) **Establishment Fee** means the establishment fee we charge (if any) as set out in the Payment Plan.
- i) **Failed Payment Fee** means the failed payment fee we charge (if any) as set out in the Payment Plan.
- j) **Loss** means any damage, loss, cost, charge, expense or liability however arising (including contractual,

tortuous, legal, equitable loss or loss pursuant to statute).

- k) **Nominated Account or Card** means the bank account (which must be held with an ADI), credit card or debit card (which must be issued by an ADI) which you nominate to be direct debited to pay amounts owing by you under this Agreement.

- l) **Payment Plan** means the terms on which you will make regular direct debit payments to the Business in exchange for receiving goods or services from that Business.

- m) **Platform** means our online direct debit platform and includes the Account.

### 3. Business

- a) You and the Business have entered into an arrangement under which the Business provides goods or services to you in exchange for you making regular payments to the Business in accordance with the Payment Plan.
- b) We have been appointed by the Business to administer the Payment Plan on its behalf, which includes collecting payments owing by you under the Payment Plan. Other than the Establishment Fee, Failed Payment Fee and amounts owing to us under clause 10(c), funds collected by us under this Agreement will be remitted to the Business in satisfaction of amounts owing by you to the Business.
- c) You must contact us if you have questions about the general administration of the Payment Plan. However you must contact the Business if you wish to amend or otherwise renegotiate the terms of the Payment Plan.
- d) We do not provide any warranty or assurance in relation to the goods or services provided by the Business. You must contact and deal with the Business if you have any questions or complaints about their goods or services.

### 4. Payment Plan

- a) The Payment Plan is agreed between you and the Business. The Business will provide you with a text message or email which contains a link to establish an Account. You must complete the required fields to establish an Account.
- b) Once you have established the Account, you will be presented with the Payment Plan that has been proposed by the Business. The Payment Plan may contain terms relating to:

- i. the minimum number of payments, which requires you to make at least the minimum number of payments at the payment amount specified in the Payment Plan; or
  - ii. the minimum value amount of the contract, which requires you to make payments which in total are at least equal to the minimum value amount specified in the Payment Plan.
- c) You can either accept or reject the Payment Plan. Acceptance constitutes your agreement with the Business to the terms of the Payment Plan and your agreement to this Agreement which authorises us to act on behalf of the Business in relation to the administration of the Payment Plan.
- d) The Account is the facility from which you can provide us with instructions to amend your personal and payment details or cancel the Payment Plan. If you amend payment details or cancel the Payment Plan, you must ensure that those instructions are submitted on the Account at least 1 Business Day before the next payment date is due under the Payment Plan to ensure subsequent payments reflect your instructions.
- e) You must not provide your Account password to anyone. You authorise and instruct us to act on instructions you provide to us on the Account without inquiring as to the identity or authority of the person providing the instructions. You will be responsible and liable for instructions provided on the Account regardless of whether they were made or authorised by you. You must immediately notify us if your Account password is compromised.
- f) Your arrangement with the Business may entitle the Business to amend the terms of the Payment Plan. If the Business makes any amendment to the Payment Plan, we will deem the amended Payment Plan to have replaced the original Payment Plan for the purposes of performing our obligations under the Agreement. You must promptly contact us if you consider that the Business has amended the Payment Plan in breach of its contract with you.

## 5. Fees

- a) You agree to pay us the Establishment Fee in accordance with the Payment Plan.
- b) We will provide you with notice if a direct debit is dishonoured (at which point it will become overdue) and we will attempt to make the direct debit again within 14 Business Days after the initial attempt was made. You will be liable to pay us the Failed Payment Fee for each dishonoured direct debit.

## 6. Direct Debit

- a) You agree to pay us amounts owing by you under this Agreement, including amounts payable by you under and in accordance with the Payment Plan.
- b) If any amounts owing by you under this Agreement are in arrears, such amounts will be immediately due and payable by you.
- c) You agree that amounts owing by you under this Agreement will constitute amounts owing by you under

the DDR Service Agreement and you authorise Assembly to debit such amounts from your Nominated Account or Card in accordance with the DDR Service Agreement.

## 7. Termination

- a) We may terminate this Agreement if you have breached the terms of this Agreement and have not remedied the breach to our reasonable satisfaction within 10 Business Days after we have provided you with notice of the breach.
- b) Regardless of how this Agreement is terminated, if your Payment Plan:
  - i. contains a minimum number of payments period and you have not made the minimum number of payments at the payment amount specified in the Payment Plan; or
  - ii. contains a minimum value of contract amount and the payments made by you are less than this amount,

you will be liable to pay us such amounts which are required to ensure you meet the minimum terms of the Payment Plan. Such amounts will constitute a debt owing and will be immediately due and payable to us.

If you have made the minimum number of payments at the payment amount specified in the Payment Plan at the time you request termination of the Payment Plan you acknowledge that a cancellation notice period of not more than 30 days may apply, during which any payments that fall due shall be collected.

- c) We may, upon receiving instructions from the Business, engage a debt collection agency to collect any amounts owing by you under this Agreement. In such cases the total outstanding balance remaining under your Payment Plan will become immediately due and an additional debt collection fee of no more than 25% of the outstanding balance remaining under your Payment Plan will be added to the amount owing to cover the costs of debt collection.
- d) You acknowledge that we may disclose to a credit reporting body details of any amounts owing by you under this Agreement where these amounts are overdue by more than 60 days and the overdue payment relates to an amount of \$150 or more.
- e) Termination of this Agreement will also terminate the DDR Service Agreement.

## 8. Privacy

We will collect, handle and use your personal information in accordance with our privacy policy available at <https://www.payleadr.com>. Our privacy policy contains important information about the purposes for which we collect personal information, the entities to which we may disclose the information we collect (including any overseas disclosures that we may make), how you can access and seek correction of the personal information we hold about you or how you can make a complaint about our handling of your personal information.

**9. No warranty and IP**

- a) We do not give any express warranty in relation to the Platform, including that it will be suitable, of merchantable quality or fit for any particular purpose. We do not give any implied warranties in relation to the Platform, except for those implied under law which cannot be excluded by contract.
- a) All rights, title and interest in the Platform are owned by us.
- b) Until this Agreement is terminated, we grant you a revocable, non-exclusive, non-transferable licence to use the Platform. You grant us with a non-exclusive, irrevocable and sub-licensable right to use any information you submit on the Platform for the purposes of performing our obligations under this Agreement, which includes sharing that information with Assembly. Other than as set out in this clause, the Agreement does not transfer any rights between you and us.
- c) You may not alter, reproduce, adapt, distribute, display, publish, reverse engineer, decompile, disassemble or otherwise attempt to copy or reproduce the Platform.
- d) Your access to the Platform is dependent on you accessing the Platform from a compatible device. We may publish a list of compatible devices on our website from time to time. We may modify or update software or other infrastructure supporting the Platform and, if that modification or update requires you to update software, systems or take any other action, you will receive notice which sets out reasonable particulars of the actions we require you to undertake and the timeframe that you are required to undertake them. You may not have access to the Platform if you do not comply with this notice.

**10. Liability and indemnity**

- a) To the maximum extent permitted by law, we exclude our liability to you in relation to any Claim you may have against us in connection with this Agreement. If our liability cannot be excluded by law, and to the extent we are entitled to do so by law, we limit our liability in respect of such Claim to, at our option, the re-supply of the relevant services (which are subject of the Claim) or payment of the cost of having those services supplied again.
- b) In the event clause 10(a) is not enforceable, we will not be liable to you in any circumstance for any Consequential Loss you suffer or are otherwise entitled to in relation to any Claim you may have against us under or in connection with this Agreement.
- c) To the maximum extent permitted by law, you agree to indemnify us and pay us on demand for any Loss we incur or suffer as a result of engaging a debt collector agency to collect amounts owing by you or your breach of the terms of this Agreement or your fraud, wilful misconduct or negligence.

**11. Miscellaneous**

- a) This Agreement is governed by the laws in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts in that jurisdiction.
- b) We can unilaterally vary the terms of this Agreement by providing you with 30 days' notice of the variation. The variation may come into effect after the notice period expires or at a later date specified in the notice. You agree to any variation by continuing to use the Platform after the date the variation takes effect.
- c) If any term in this Agreement is unenforceable, illegal or void then it is severed from this Agreement and the rest of the Agreement remains in full force.
- d) We may provide you with notice in relation to this Agreement electronically, which includes emailing you or posting a communication on the Platform. You will be deemed to have received the notice at the same time we post or send the communication. You may provide us with notice in relation to this Agreement by emailing us at [support@payleadr.com](mailto:support@payleadr.com).