

PLEASE COMPLETE THIS FORM FULLY IN CLEAR BLOCK LETTERS AND RETURN BY EMAIL TO [accounts@paymentassist.com.au](mailto:accounts@paymentassist.com.au).

These terms of business ("**Terms**") apply to all contracts between you (either an individual or a single legal entity) and Payment Assist Pty Ltd (a company registered in Australia with Australian Company Number 619 974 908 whose registered office is at 27 Elizabeth Street, Hobart, Tasmania AUSTRALIA 7000) ("**we**", "**us**" or "**our**") for the provision of services, to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 1 ABOUT YOU AND US

- 1.1 We provide the short-term financing to your clients for their purchases or bills from yourselves ("**Service**").
- 1.2 You will be an introducer of our Service to your clients.

## 2 INTRODUCTIONS

- 2.1 Your introduction will be deemed as accepted when we have agreed the finance for the client and the first payment is taken successfully. This will be evidenced via the authority code provided on the secure payment page. At this point the invoice will be assigned to Payment Assist Pty Ltd, which will be confirmed by the signed recurring transaction authority from the client.
- 2.2 Once an introduction has been accepted, the liability is ours and there will be no recourse to you\* and payment will be made into your bank account within 7 working days

## 3 PRICE AND PAYMENT

- 3.1 Pricing is agreed at an agreed % of the transaction value, the payment to you from us will incorporate this charge.
- 3.2 Pricing to the client will be at your pricing levels, there will be no additional charge levied to the client because of them taking this service. Hence a 0% interest and zero fee charged can be advertised to them

## 4 GOODS AND SERVICES TAX (GST)

- 4.1 Our Service is exempt from GST.

\* Except in the case of a disputed transaction or a fraudulent transaction

## 5 YOUR INSOLVENCY OR INCAPACITY

- 5.1 If you become subject to any of the events listed as Relevant Events below or we reasonably believe that you are about to become subject to any of them and notify you accordingly, then, without limiting any other right or remedy available to us, we may cancel or suspend all further transactions under the Contract or under any other contract between you and us without incurring any liability to you
- 5.2 The "**Relevant Events**" are:
  - 5.2.1 an order is made or a resolution passed for your winding-up or an administrator is appointed by order of the court or by other means to manage your affairs, business and property or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of your assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the court to make a winding-up or bankruptcy order or you take or suffer any similar or analogous action in consequence of debt;
  - 5.2.2 you cease, or threaten to cease, to carry on business; or
  - 5.2.3 (being an individual) you die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or becomes a patient under any mental health legislation.

## 6 LIABILITY

- 6.1 Nothing in these Terms shall limit or exclude our liability for:
- 6.1.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
  - 6.1.2 fraud or fraudulent misrepresentation;
  - 6.1.3 breach of the terms implied by Australian Consumer Law and associated Sale of Goods Act in each state and territory;
  - 6.1.4 any matter in respect of which it would be unlawful for us to exclude or restrict liability.
- 6.2 Subject to the above statement:
- 6.2.1 we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of business, loss of contract or goodwill or for any indirect or consequential loss arising under or in connection with the Contract.

## 7 FORCE MAJEURE

- 7.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable (a "**Force Majeure Event**").

## 8 CONTRACT & TERMINATION

- 8.1 Each party reserves the right to close the account at any time by giving 30 days written notice or make effective an immediate cancellation where it is deemed by either party such immediate cancellation is necessary.
- 8.2 By signing this agreement, you are committing to a minimum 3 year exclusive deal, with regards to short term financing, for your client with Payment Assist Pty Ltd.

## 9 INTELLECTUAL PROPERTY

- 9.1 We own certain intellectual property rights (including, without limitation, rights in registered trade marks, unregistered trade marks, trade names, design rights and copyright in images and text) (together, "Content") and such Content remains our property and may not be used and/or reproduced without licence.
- 9.2 You may make a written application to us for a licence to use and/or reproduce specific Content. We shall give reasonable consideration to any licence application but we shall be under no obligation to grant a licence to use and/or reproduce any Content.
- 9.3 The terms of any licence to use and/or reproduce Content shall be determined by us in our sole discretion.
- 9.4 Any licence to use and/or reproduce Content may be terminated by us at any time by giving written notice to you. We will normally provide you with a maximum period of 30 days' grace before termination becomes effective but we reserve the right to make an immediate termination where we deem such immediate termination necessary.
- 9.5 You shall not under any circumstances:
- 9.5.1 alter, remove or tamper with any Content, numbers, or other means of identification used on or in relation to the Service;
  - 9.5.2 use any of the Content in any way which might prejudice its distinctiveness or validity or the goodwill belonging to us attaching to such Content;
  - 9.5.3 use in relation to the Service any trade marks owned by you or a third party without obtaining our prior written consent;
  - 9.5.4 use any trade marks or trade names so resembling any of our trade marks or trade names as to be likely to cause confusion or deception; or
  - 9.5.5 use any Content in such a way that implies that you are owned by or otherwise associated with us or any of our affiliate companies

## 10 INTERNET USAGE

- 10.1 We require certain quality standards to be observed when an internet site is used to resell our Service. When selling our Service via a website, you must ensure that:
- 10.1.1 the website conforms with the requirements of the Competition and Consumer Act 2010 and The ADMA Code of Practice.
  - 10.1.2 your business is not knowingly non-compliant with payment card industry ("PCI") compliance and validation regulations and you have secure server technology for transaction of cash or you demonstrate secure 3rd party payment service provider ("PSP") payment methods;
  - 10.1.3 your business allows consumers to make contact easily by phone during office hours;
  - 10.1.4 your business conducts its trade in a businesslike and professional manner and does not damage or otherwise diminish the reputation of Payment Assist Pty Ltd or any of its affiliates;
  - 10.1.5 your business has expertise in house to handle routine enquiries and normal day to day trading without passing such enquiries and trading queries to us;
  - 10.1.6 telephone numbers and contact details for Payment Assist Pty Ltd (or any of its affiliates) are not be shown on the approved website.

## 11 CONTENT ON WEBSITES

- 11.1 If you wish to use and/or reproduce specific Content on a website, when applying for a licence to use and/or reproduce such Content, you must specify on which websites you wish to use such Content. If we grant you a licence to use Content, subject to any express statement by us to the contrary, you may only use such Content on those websites specified in your licence application.
- 11.2 Content may not be used by you on any site to which a domain name containing the words 'Payment Assist' (or any other word which gives the impression that the site belongs to or is run by us or any of our affiliated companies) directs Internet users.

## 12 GENERAL

- 12.1 **Assignment and subcontracting:** We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights or obligations under the Contract. There are 2 assignee's that we can assign the client debt to, firstly it will be assigned back to you should anything happen to Payment Assist during the 7 day period before you are paid and secondly it can be assigned to our back to back financing company.
- 12.2 **Severance:** If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 12.3 **Waiver:** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 12.4 **Third party rights:** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 12.5 **Variation:** Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by both you and us.
- 12.6 **Governing law and jurisdiction:** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, Australian law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Australia. All telephone calls made to and from Payment Assist Pty Ltd may be recorded for quality and training purposes and may be used in the event of a dispute.
- 12.7 We adhere to the **ACCC/ASIC Debt Collection Guideline: For Collectors and Creditors 2017**.
- 12.8 Nothing in this document shall be taken to constitute or create a partnership between any of the named parties to this agreement or to make or appoint an agent.