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Instalment Plans Direct Debit Agreement

1 August 2018

## RapidPay- Instalment Plans Direct Debit Agreement

RapidPay Instalment Plans (the "Service") which is available on the RapidPay website ([www.rapidpaylegal.com.au](http://www.rapidpaylegal.com.au)) is operated by Rapid Financial Services Solutions Pty Ltd ABN 25 603 888 179, AFSL 485573 trading as RapidPay, ("RapidPay", "we" or "us").

These terms and conditions, the Registration Form, RapidPay's Privacy Policy, Payment Plan, notices, disclaimers and any other materials available on the RapidPay website that are specifically incorporated by reference, form an agreement between You and RapidPay ("Agreement"). By accessing, viewing or otherwise using the Service, You indicate Your assent to be bound by the terms of this Agreement. If You don't agree to all the terms in this Agreement, You may not use or access the Services.

### 1. Description of Service

- a. The Service provided by RapidPay is administrative only and facilitates payments between You and the Biller via recurring direct debit billing of Payment Plan amounts from your nominated account or credit card.
- b. To use the Service, you must:
  - i. enter into a Payment Plan with your Biller specifying the amounts and how often the payments are to be made by You (as agreed by you and your Biller); and
  - ii. complete the online Registration Form authorising RapidPay to deduct the agreed payments at the agreed intervals as per the Payment Plan.
- c. RapidPay reserves the right to reject your Registration Form and notify both yourself and your Biller of its decision in the event, your Registration Form is incomplete or for any other reason.
- d. Provision of the Service is contingent upon your Biller being registered to use the Service as a RapidPay client. If your Biller ceases to be a client of RapidPay, then RapidPay may immediately terminate this Agreement and any future payments set up by you;

### 2. Direct Debit Authorisation

- a. By completing the bank account or credit card details on the Registration Form, **you request and authorise RapidPay User ID 502098** to make periodic direct debits from the bank account or credit card nominated on the Registration Form:
  - i. For:
    - the amounts payable by You to the Biller as detailed in the Payment Plan;
    - RapidPay's fees and charges;
    - any other fees and charges that may be associated with the processing of your payment - this could include and not be limited to a transaction fee or surcharge for processing your payment and government taxes (including a Goods and Services Tax); and
  - ii. in accordance with the terms of this Agreement.
- b. You authorise Rapid Pay to vary the amount, frequency and date of the periodic direct debits within the Payment Plan from time to time if instructed by the Biller.

### 3. Commencement, duration, and minimum and maximum instalment amounts payable under your Payment Plan

- a. Your Payment Plan will commence within Five (5) Business Days, following the acceptance of your Registration Form by RapidPay.
- b. The maximum length of any Payment Plan is 24 months.
- c. The maximum instalment amount is \$240,000.00 for any Payment Plan.

### 4. Cancelling this Agreement or Payment Plan and Updating Your Account Details

- a. This Agreement and your access to the Service may be terminated at any time without notice by RapidPay, acting reasonably.
- b. You may either:
  - i. suspend or cancel your Payment Plan; or
  - ii. terminate this Agreement;by contacting your financial institution or contacting the RapidPay support team by email at [support@rapidpay.com.au](mailto:support@rapidpay.com.au) or by phone on 1800 487 749 between 9.00am and 5.00pm (AEST) Monday to Friday.
- c. Suspension or termination of either the Payment Plan or Agreement must be authorised five (5) business days prior to the commencement of the Payment Plan or five (5) business days prior to your next debit payment. If you do not provide us with this notice, we cannot guarantee the direct debit process can be stopped. **Please note that cancelling payments is your responsibility and not that of your Biller.**
- d. To change your account details, you will need to cancel your Payment Plan and create a new Payment Plan using your new bank account details.

### 4. Timing of Payments

- a. Payments made from your bank account:
  - i. before 5.00pm AEDT on a Business Day will be sent to your financial institution for processing on the same day.
  - ii. after 5.00pm AEDT on a Business Day or on a non-Business Day will be sent to your financial institution for processing the next Business Day.
- b. Funds can take up to three (3) Business Days to clear and be disbursed to your Biller from the time the payment request is received by your financial institution.
- c. Any direct debit that is scheduled to occur on a day that is not a Business Day will occur on the following Business Day. If you are uncertain as to when a debit will be processed, you should inquire with RapidPay;

### 5. Your Obligations

It is your responsibility:

- a. before submitting the Registration Form to:
  - i. ensure that your financial institution allows payments to be processed from your account or credit card via direct debit. If your financial institution does not process direct debits from your account or credit card, you must advise RapidPay immediately. You may incur fees as a result of nominating an account or credit card that does not permit Direct Debit;
  - ii. check the bank account and/or credit card details you have provided in the Registration Form are correct by checking them against a recent bank statement;
- b. advise RapidPay if your details change or your nominated account is transferred or closed;
- c. ensure that there are sufficient clear funds available in your nominated bank account or credit card to allow a debit payment to be made in accordance with the Agreement and the Payment Plan;
- d. check payments have been successfully debited from your nominated bank account or credit card. RapidPay will not actively notify you if your payment is unsuccessful; and
- e. to notify RapidPay as soon as possible if at any time you believe that a direct debit against your bank account or credit card is inappropriate, erroneous or incorrect.

### 6. Failed Direct Debit Payments

- a. In the event that your direct debit fails for any reason, RapidPay:
  - i. will attempt to debit your bank account or credit card within 4 business days of the initial direct debit failure;

- ii. will immediately cancel your Payment Plan and notify you of our actions in the event your direct debit also fails on the second attempt; and
  - iii. may charge you a dishonour fee for each direct debit failure
- b. If there are insufficient cleared funds available in your nominated bank account or credit card to meet any debit payment:
- i. you may be charged a fee and/or interest by your financial institution or the Biller's;
  - ii. RapidPay may charge a Dishonour Fee as detailed in clause 8b;
  - iii. RapidPay may attempt a redraw on your nominated account as detailed in the above clause 6a; and
  - iv. RapidPay may cancel this Agreement on three (3) days written notice if two (2) payments are dishonoured because of insufficient funds within a 12 month period.
- c. You acknowledge and agree that Rapidpay will not be held responsible for any fees and charges that may be charged by either your financial institution or your Biller. **You should contact your financial institution or your Biller if you feel any dishonour fee has been incorrectly or unfairly processed.**

## 7. Refund Policy

You acknowledge and agree that:

- a. the Service is a direct debit service only;
- b. Rapidpay acts as a transactional aggregator and sits between the You and the Biller;
- c. Rapid Pay does not have any express or implied liability in relation to goods or services provided by the Biller or the terms and conditions of any agreement that you have with the Biller; and
- d. **RapidPay does not have authority to reverse or refund authorised transactions.** You must contact your Biller directly for a refund or reversal. Your Biller has absolute authority to refund your transaction.

## 8. RapidPay Fees and Charges

- a. **One off establishment fee per Payment Plan**  
A one off establishment fee of \$30.00 (plus GST) may be charged for each unique Payment Plan created by you. The establishment fee is non-refundable and subject to change without notice.
- b. **Dishonour Fee**  
If one of your direct debit payments is dishonoured, the transaction will be reversed and a charge for the cost of the dishonoured direct debit may be applied against your account by RapidPay. The fee for dishonoured items is \$5.00 (plus GST) per item.
- c. **Changes to RapidPay's Fees**  
Rapidpay in its sole, absolute and unfettered discretion reserves the right to change the fees charged by RapidPay for the Services at any time. In the event of an increase in a Fee that amended Fee will become payable at the earlier of:
  - i. 7 days after a notice in respect of the fee is posted on <http://www.rapidpaylegal.com.au/>; or
  - ii. 7 days after notice is given to You.
- d. Rapidpay will not be liable for any variance to, or shortfall to debit amounts of periodic direct debits caused by:
  - i. your financial institution or the Biller's;
  - ii. external factors beyond the control of RapidPay; and
  - iii. the timing of when a periodic direct debit is requested and processed;

## 9. Dispute Resolution

- a. To dispute any transaction processed on your behalf, contact RapidPay by emailing [support@rapidpay.com.au](mailto:support@rapidpay.com.au) or contact your financial institution.

- b. In the event that any payment dispute remains unresolved, you may contact your financial institution and lodge the relevant customer claim form. Your financial institution may investigate whether or not the payment in dispute was authorised by you. Accordingly, you hereby authorise RapidPay to provide your financial institution with any information it may require to determine your claim.
- c. If the disputed payment occurred within 12 months of the date of your claim, upon request from your financial institution, RapidPay will endeavour to provide your financial institution with the relevant information it requests within seven (7) days.
- d. If the disputed payment occurred outside 12 months from the date of your claim, upon request from your financial institution, RapidPay will endeavour to provide your financial institution with the relevant information it requests within 30 days.

## 10. Representations and Covenants

By entering into the Agreement, you warrant that:

- a. you have read and understood the Agreement and the fees and charges that may apply for using the Service;
- a. you have the legal capacity and authority to execute the Registration Form and to be bound by this Agreement;
- b. have entered into this Agreement with RapidPay of your own free will and have in no way been required to enter into this Agreement by any other person with whom you may be contractually bound, under any contract; and
- c. the bank account and/or credit card details provided in the Registration Form are correct.

## 11. Confidentiality

- a. We will keep any information (including your bank account or credit card details) confidential. We will make reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to this information about you do not make any unauthorised use, modification, reproduction or disclosure about that information. For more information please refer to the RapidPay Privacy Policy: <https://www.rapidpay.com.au/Home/Privacy>. You will be taken to have accepted that policy when you accept these terms.
- b. We will only disclose information that we have about you:
  - i. to the extent specifically required by law; or
  - ii. for the purposes of this agreement including disclosing information in connection with any query or claim. For example, RapidPay may need to pass on details of your Registration Form to its sponsor bank in the Bulk Electronic Clearing System to assist with the checking of any incorrect or wrongful debits to your nominated account

## 12. Severability

If any provision within this Agreement is unenforceable, illegal or void, then it is severed and all other provisions remain in force.

## 13. Changes to these Terms and Conditions

RapidPay may, from time to time, vary or modify these terms to reflect changes in or requirements of the law or modifications or updates to the Service. The current version is published on <http://www.rapidpaylegal.com.au/>. Any subsequent access, viewing or otherwise using RapidPay Instalment Plans will constitute an acceptance of the variations or modifications. RapidPay (in its sole discretion) will notify you if such change materially affects your rights under this Agreement and You will have a right to terminate the Services within 14 days of being notified of the change.

## 14. Continuing Obligations

All terms which by their nature and intent are required to be performed after termination of this Agreement shall survive to the extent necessary to enable their fulfilment.

#### 15. Limitation of Liability

To the extent permitted by law, RapidPay excludes all representations and warranties, express or implied, other than those contained in this Agreement. Where RapidPay is found to be liable for breach of any warranty guarantee or condition implied by statute and which RapidPay cannot lawfully exclude, RapidPay's liability is limited (to the extent permitted by law) at the option of RapidPay to the following:

- a. to the supply of the services again; or
- b. to the payment of the cost of having services supplied again.

#### 16. Indemnity

You indemnify us against all losses, costs, damages and due liability ('loss') that we suffer as a result of you breaching this Agreement or you providing us with an invalid, ineffective or non-binding Agreement or if for any other reason payments under this Agreement from the nominated bank account or credit card detailed in your Registration Form cannot be performed. This indemnity includes, without limitation, legal costs and expenses on a full indemnity basis. This indemnity is a continuing obligation, separate and independent from your other obligations and survives termination of this agreement. It is not necessary for us to incur expense or make payment before enforcing a right of indemnity conferred by this agreement. This indemnity does not apply to loss as a result of our (or any of our delegates' or agents') fraud, negligence or breach of trust. You will pay us any sum due under this clause fully without deduction or set-off (and irrespective of any counterclaim) whatsoever.

#### 17. Entire agreement

This Agreement constitutes the entire understanding between RapidPay and You and supersedes all other negotiations, agreements or understandings whether written or oral relating to the supply and use of RapidPay Instalment Plans provided under this Agreement. All implied terms are hereby excluded to the full extent permitted by law and this agreement is governed by the laws of New South Wales and the Jurisdiction of the Sydney Courts.

#### 18. Definitions

**AEDT** means Australian Eastern Daylight Time.

**Registration Form** means the RapidPay- Instalment Plans online Registration Form which you have filled out.

**Biller** means the is the organisation who has issued you with your RapidPay Reference Number.

**Business Day** means a day that banks are open for business in Sydney, New South Wales, Australia.

**Payment Plan** means a recurring direct debit payment as agreed by you and your Biller, whereby you can specify how much and how often you would like to make payments;

**RapidPay Reference Number** means the unique reference number generated by your Biller using RapidPay, found on your invoice, matter statement or anticipated trust deposit request.

'You' and 'Your' means includes all persons entering this Agreement with RapidPay.

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