

FRANCHISE PAYMENT SERVICES

SERVICE AGREEMENT

Last updated 6 March 2024

1. INTRODUCTION

1.1 These Terms and Conditions are part of the Agreement between Franchise Payment Services Pty Ltd (ACN: 654 054 823) ("Franchise Payment Services, FPS, we, us or our") and you as the ("Service Provider, you, your or yourself"). It governs our dealings with you in relation to the provision of PayPlans to your Clients.

1.2 FPS is willing to assist the Service Provider by providing the Service (as defined below) from time to time.

1.3 FPS is willing to enter into this Deed with the Service Provider and provide to Clients of the Service Provider payment plans to pay the Approved Invoices (as defined below) on the terms and conditions set out in this Deed.

1.4 The Agreement is constituted by the following documents:

- (a) these Terms and Conditions;
- (b) Schedule 1 FPS Secure Online Payment Service; and
- (c) Schedule 2 Disclosure of your credit information

1.5 You acknowledge and agree that:

- (a) you have read, understood and agree to all documentation provided to you by us including these Terms and Conditions;
- (b) the Transactions and the performance by us of our obligations under the Agreement are subject to the Applicable Laws;
- (c) all information you have provided to us is accurate and not misleading and that you are aware that we are relying on it.
- (d) you enter into this Agreement in your capacity as a Service Provider and not in any other capacity;
- (e) you do not enter this Agreement on behalf of any third- party; and
- (f) we do not provide any legal, tax, financial or accounting advice to you as part of the services that we provide to you in accordance with these Terms and Conditions. We encourage you to obtain independent advice from your financial advisor, auditor and/or legal counsel.

1.6 When you accept this Agreement, you will be bound by the Agreement in your dealings with us.

2. AGREEMENT

2.1 Payment Plans. FPS will from time to time provide services to enable Clients to pay a Client Invoice. Known as a PayPlan.

2.2 Payment Plan Submission Process. Upon the Client of the Service Provider applying to FPS for a Payment Plan, the Service Provider will if requested:

- (a) procure any other documentation from the Client in accordance with FPS's requirements or as FPS may otherwise request; and
- (b) provide any information and/or documentation requested by FPS under any applicable AML, CTF or "Know Your Customer" rules.

2.3 Discretionary Financings. FPS may approve or decline any Client or Client Invoice submitted by the Client to FPS and FPS will notify the Service Provider in writing of its decision. NOTHING CONTAINED HEREIN SHALL BE DEEMED A COMMITMENT TO LEND TO THE SERVICE PROVIDER OR ANY OF ITS CLIENTS.

2.4 Approval Process; Funding of Payment Plan. If FPS decides to allow the use of the Payment Plan for the Client to pay You, FPS will pay the Client Invoice to You and such Client Invoice will become an Approved Invoice. The following process will then be used:

- (a) the first Instalment will be deducted by FPS from the Client's Credit Card;
- (b) apply such other procedures as FPS and its Service partners deem fit; and
- (c) upon FPS receiving the first Instalment in cleared funds from the Client, FPS will deposit the amount of the Payment Plan to the Service Provider's Account within three (3) Business Days from that date.

2.5 Financial Information. The Service Provider will comply with reasonable requests from FPS for financial information including annual Financial Statements of the Service Provider whilst ever this agreement is in force.

3. CHARGEBACKS AND REFUNDS

3.1 Refunds to Clients on Payment Plans.

- (a) If You agree to issue any Client a refund (such amount being the Refund Amount), you must notify Us immediately.
- (b) Where the Refund Amount is a full refund,
 - i. You must pay us an amount equal to the Outstanding Amount; and
 - ii. we will endeavour to cancel the remaining Instalments under the Payment Plan and reasonably cooperate with You to facilitate such refund.
- (c) Where the Refund Amount is a partial refund,
 - i. You must pay us an amount equal to the Refund Amount; and
 - ii. we will endeavour to update the transaction amount in our backend system. Where possible subsequent Instalments shall be adjusted rateably to reflect the partial refund.
- (d) The ability to cancel and/or adjust subsequent Instalments will depend on the notice period provided to us by You. Where You provide insufficient notice for us to adjust the next Instalment, we will reasonably cooperate with You to facilitate adjustments to amounts owing by You and/or the Client so that FPS does not receive in respect of the Payment Plan, an amount in aggregate greater than the Outstanding Amount.

FRANCHISE PAYMENT SERVICES

SERVICE AGREEMENT

Last updated 6 March 2024

- (e) You are solely responsible for issuing refunds of any amount that has already been paid by a Client in previous Instalments.

3.2 Chargebacks. If we receive notice of a Chargeback, we will notify You accordingly and reserve the right to terminate the Authorisation and all activities regarding the relevant Transaction. Notwithstanding anything herein to the contrary, You shall be liable to Us for any Chargeback initiated by or on behalf of a Client and You shall indemnify and hold Us harmless for any damage, loss, cost or liability relating to, or resulting from, any such Chargeback.

3.3 Where a payment plan for a Client relates to services wholly or partly not yet performed, the provisions of clauses 3.4 to 3.6 herein apply.

3.4 Where FPS approves a payment plan to pay for some or all of your services and the value of the payment plan is \$10,000 or more, the following terms apply:

- (a) Where work is yet to be done, a maximum of 50% of the payment plan value will be settled to you following the successful first payment by the Client; and
- (b) Where the customer advises us that you have provided your services satisfactorily, the remainder of the payment plan will be settled to you.

3.5 Where a customer cancels a contract with you and as a result full settlement of the payment plan will not occur, the unpaid amount will be applied to reduce the value of the payment plan outstanding.

3.6 Where a customer does not proceed with a service to be provided by you before you have commenced work, the payment plan will be cancelled, and any amounts paid to you are to be repaid to us.

4. EFFECT OF CHARGEBACKS.

In the event of a chargeback, we will be unable to maintain Authorisations on the affected Payment Plan during the chargeback processing. Therefore, even if You succeed in opposing the Chargeback, we cannot guarantee processing of the remaining Instalments and take no liability to You. You will reimburse FPS any and all amounts due and which remain outstanding as a result of (or in connection with) a Chargeback.

5. RECORDS AND INFORMATION

5.1 Books and Records. You agree to maintain all records required (i) by law, or (ii) by Us, as requested by Us in writing.

5.2 Ongoing Review. We reserve the right to reassess your eligibility for use of any of the Services from time to time. This may include obtaining updated credit report authorisations or other business information as reasonably required regarding your financial condition.

5.3 Release and Exchange of Financial Information. You hereby authorise Us to release your financial information to your processor or Card Network or other

financial/insurance institutions that reasonably request such information. We take no responsibility for this exchange of information, and You will not have any claim against Us in this regard.

6. COSTS

The Service Provider must pay or, to the extent already paid by FPS, reimburse FPS on demand for all costs, Claims and Liabilities (including legal costs on a full indemnity basis), charges and expenses incurred by FPS, its agents, contractors and employees in connection with the enforcement of this Deed.

7. ASSIGNMENT

7.1 The Service Provider may not assign any interest in this Deed without the prior written consent of FPS.

7.2 FPS may assign any interest in this Deed without the consent of the Service Provider.

8. WARRANTIES AND INDEMNITIES

8.1 Regarding Client Invoices. With respect to each Client Invoice submitted to FPS, the Service Provider warrants as follows:

- (a) that the amount of the Client Invoice represents a reasonable charge for the services rendered by the Service Provider and that the services that are the subject of the Client Invoice have been properly rendered by the Service Provider to a Client located in Australia in the ordinary course of its business;
- (b) there are no setoffs existing or asserted with respect there to;
- (c) that the Client Invoice is not under any dispute or challenge and the Client has not indicated an intention not to pay the Client Invoice for whatever reason;
- (d) that the clients referred to FPS by the Service Provider are Clients (noting that Clients excludes Affiliates);

8.2 Regarding the Service Provider. The Service Provider warrants as following:

- (a) that all information provided to FPS about the Service Provider and its Clients is true, accurate and not misleading (whether by omission or otherwise) in any respect.
- (b) that it will not charge or levy a fee or expense on a Client in making the Service available to a Client;
- (c) the persons signing this Agreement have the authority of the Service Provider to enter into this Agreement.
- (d) They have been introduced to this solution by FPS and will not access services directly from any party engaged by FPS for delivery of the Services and that to do so would cause FPS loss that would not be adequately compensated by common law damages

FRANCHISE PAYMENT SERVICES

SERVICE AGREEMENT

Last updated 6 March 2024

- (e) no party to this agreement is a Sanctioned Person, and no party to this agreement, either in its own right or through any third party, (i) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law, (ii) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (iii) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

8.3 Indemnity. In consideration of the benefits flowing to the Service Provider under this Agreement, the Service Provider hereby unconditionally indemnifies, defends, and holds harmless FPS and its officers, employees, and agents against any Liability or Claim against FPS and must pay FPS on demand the amount of, any loss, Liability or expense that FPS may suffer or incur, as follows:

- (a) because of a breach of any of the warranties set out in Section 8.1 or 8.2;
- (b) because of any breach by the Service Provider of this Agreement;
- (c) in connection with any refund by you to the Client;
- (d) in connection with a Chargeback.

9. NOTICES

9.1 Any notice or other communication required to be given by this Deed before a right can be exercised (notice) must be:

- (a) signed by the party giving it or by its authorised representative; and
- (b) delivered by hand or sent by registered post (air mail if sent to an address in another country) to the relevant address set out in this Deed; and

9.2 sent to the relevant email address as notified to the parties from time to time. A party may change its address or email address for the purpose of notices by giving notice of that change to the other party in accordance with the provisions of clause 9.1 or 9.2.

9.3 Notices are taken to be given:

- (a) in the case of delivery by hand, when delivered; and
- (b) in the case of delivery by post, on the third (seventh, if sent to an address in another country) day after the date of posting.

9.4 If a notice by email is given:

- (a) on a day in which business is not generally carried on in the place in which the email is received, or
- (b) after 4.00 pm (local time) on a day in which business is generally carried on in the place in which the email is received, the notice will be taken to have been given at the commencement of business on the next day in which business is generally carried on in the place in which the email is received.

10. WAIVER AND CONSENTS

10.1 No delay or indulgence by either party in enforcing any of the provisions of this Deed shall prejudice or restrict the rights of that party, nor shall any waiver of those rights operate as a waiver of any subsequent breach.

10.2 No waiver or consent given by a party shall be effective unless it is in writing and signed by or on behalf of that party.

11. REMEDIES

11.1 The rights and remedies contained in this Deed are cumulative and are not exclusive of any rights and remedies provided at law.

11.2 Any right or remedy which may be exercised, or any determination which may be made, under this Deed by a party may be exercised or made (or declined to be exercised or made) in the absolute discretion of that party who is not under any obligation to do so or to give reasons for its decision.

11.3 A party is entitled to enforce or take action in respect of, to the extent permitted by law, any breach of another party's obligations under this Deed notwithstanding the termination of this Deed.

12. FURTHER ASSURANCES

12.1 Each party must do and perform all such other acts matters and things as may be necessary or convenient to implement the provisions of this Deed so as to give effect to the intentions of the parties as expressed in this Deed.

13. INTRODUCTION

13.1 You acknowledge that You have been exposed to certain technologies through Your use of the Service or the execution of this Agreement and that You will not deal directly with such technology service providers and that to do so will cause FPS substantial harm.

14. NOTICE OF DISCLOSURE

14.1 The Service Provider authorises FPS, at its discretion to make enquiries of a credit reporting agency in relation to the Service Provider and if a body corporate, its shareholders, directors and any other officer of the body corporate on the terms set out in Schedule 2.

14.2 The Service Provider will procure the Client to sign a notice of disclosure authorising FPS, at its discretion to make enquiries of a credit reporting agency in relation to the Client and if a body corporate, its shareholders, directors and any other officer of the body corporate on the terms set out in Schedule 2.

15. NONDISCLOSURE BY FPS

FPS agrees that it shall take commercially reasonable measures to protect the secrecy of and avoid disclosure and unauthorised use of the Confidential Information. Without limiting the generality of the foregoing, FPS shall take at least those measures that it takes to protect its own

FRANCHISE PAYMENT SERVICES SERVICE AGREEMENT

Last updated 6 March 2024

confidential information of a similar nature. FPS shall not disclose the Confidential Information, or any part thereof, except to such of FPS's Representatives that need to know such information for the purposes set out in Schedule 2 of evaluating the credit worthiness of the Service Provider and who agree in writing to be bound by the provisions of this Agreement to the same extent as FPS is bound hereby or are otherwise legally obligated not to disclose or use such Confidential Information in a manner at least as restrictive as the provisions of this Agreement.

16. NONDISCLOSURE BY SERVICE PROVIDER

The Service Provider agrees that it shall not use the Confidential Information to the detriment of FPS and will take reasonable measures to protect the secrecy of and avoid disclosure and unauthorised use of the Confidential Information.

17. COUNTERPARTS

This Deed may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument

18. GOVERNING LAW

This Deed is governed by the laws of New South Wales. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales.

19. NON MERGER

A term or condition of, or act done in connection with, this Deed does not operate as a merger of any of the rights or remedies of the parties under this Deed and those rights and remedies continue unchanged.

20. OPERATION OF INDEMNITIES

20.1 Each indemnity in this Deed survives the expiry or termination of this Deed.

20.2 FPS may recover a payment under an indemnity in this Deed before it makes the payment in respect of which the indemnity is given.

21. NO RIGHT OF SET-OFF

Unless this Deed expressly provides otherwise, the Service Provider and the Client do not have a right of set-off against a payment due to FPS.

22. NO ADVERSE CONSTRUCTION

This Deed is not to be construed to the disadvantage of FPS because it was responsible for its preparation.

23. AMENDMENTS TO THIS AGREEMENT

23.1 We may amend this Agreement at any time, for example if We change the functionality of Our Services or as required by law.

23.2 We will post any revised version of this Agreement on Our website. With the exclusion of any substantive changes referred to in clause 23.3, the revised Agreement will take effect as soon as it is posted on Our website.

23.3 If We make any substantive changes to this Agreement which may negatively impact Your use of Our Services in a material way, we will email You a notification. You agree to receive such notices in this way. The changes will take effect on the date specified in the mail which will be at least 30 days after We send the notification email to You.

23.4 Subject to clause 23.3, We may not provide 30 days prior written notice where We add new functionality to Our Services.

23.5 By continuing to use Our Services after any amendments to this Agreement, You agree to abide and be bound by any changes. If You do not agree with any changes We make to this Agreement, You may cancel this Agreement.

24. DEFINITIONS

24.1 These meanings apply unless the contrary intention appears.

Additional User means an individual or entity selected by the Primary Authorised User to have access to the business account.

Affiliate means with respect to a natural person:

- i. spouse or domestic partner.
- ii. parent, sibling or child by blood or adoption (relative);
- iii. any relative of your spouse or domestic partner;
- iv. any spouse or domestic partner of your relative;
- v. with respect to a company, a Related Body Corporate and a Related Entity.

Approved Invoice means an invoice provided by You to a Client that has entered into a PayPlan with FPS.

Business Day means any day other than a Saturday, Sunday or public holiday in Sydney, New South Wales

Chargeback means a challenge to a payment that a client files directly with his or her Credit Card provider or with us. The decision for a Chargeback is made independently by the Credit Card provider. We are bound to follow their instructions. Chargebacks include amounts governed by clauses 3.3 to 3.6.

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 an ascertained, actual or contingent, whether at law, in equity, and statute or otherwise.

Clear Funds means an amount received by Us which has not dishonoured.

Client means any person, other than an Affiliate of the Service Provider, to whom the Service Provider provides or proposes to provide professional services.

FRANCHISE PAYMENT SERVICES

SERVICE AGREEMENT

Last updated 6 March 2024

Client Invoice means properly rendered invoices by the Service Provider for the benefit of its Clients which must include:

- (a) the description of the services provided by the Service Provider to the Client;
- (b) the date the Service Provider's services were provided to the Client which must not be a date greater than 2 weeks from the date the Service Provider was engaged by the Client; and
- (c) the fees charged to the Client by the Service Provider. Corporations Act means the Corporations Act 2001(Cth).

Consequential Loss means any loss, damage or costs incurred by You that is indirect or consequential, as well as loss of revenue; loss of income; loss of business; loss of profits; loss of production; loss of or damage to goodwill or credit; loss of business reputation, future reputation or publicity; loss of use; loss of interest; losses arising from claims by third parties; loss of or damage to credit rating; loss of anticipated savings and/or loss or denial of opportunity.

Credit Card means Visa, MasterCard or debit cards.

Deed means this deed including the recitals, any schedules and any annexures.

Default means the failure of the Service Provider to comply with any term of this Deed.

Direct Debit Agreement means the Direct Debit Request and Service Agreement which sets out the terms on which We are permitted to direct debit Your Nominated Bank Account.

Instalment means the monthly instalments to be paid to FPS by the Client pursuant to a client Payment Plan.

Nominated Bank Account means the bank account You hold with a financial institution in Australia that You link to your account.

Liability means any liability or obligation (whether actual, contingent or prospective), including for any loss irrespective of when the acts, events or things giving rise to the liability occurred.

Outstanding Amount means the amount as determined by FPS to be uncollected in respect of the payment plan.

Payment Method means nominated Credit Card or any other payment method offered or accepted by FPS from time to time.

Payment Plan means the service provided by FPS to a Client to enable the Client to pay an Approved Invoice. Referred to as a PayPlan.

PayPlan means an instalment Payment arrangement entered into by a client and governed by the terms and conditions of such payment agreement published by us from time to time in respect of a purchase from a Service Provider.

Primary Authorised User means the individual given responsibility to make decisions in respect of a business account on behalf of the entity that owns it.

Prove Your Identity means our process for verifying Your identity in connection with Our obligations under the anti-

money laundering and counter-terrorism financing laws and "know your customer" requirements. This process may require Us to obtain information and documentation from You.

Related Bodies Corporate means an entity controlled by or controlling Franchise Payment Services Pty Limited.

Related Body Corporate has the meaning set out in the Corporations Act.

Related Entity has the meaning set out in the Corporations Act.

Reversal means a payment that You received which FPS returns to the sender or another third party because:

- (a) Chargeback was received, or
- (b) The transaction was unauthorised.

Schedule or **Schedule 1** means the online application to access the service or a completed printed version thereof.

Service means the service provided by FPS of financing the Service Provider's Approved Invoices.

Service Provider's Account means the primary business bank account in use by the Service Provider and specified initially by the Service Provider in the Direct Debit Request attached hereto or as otherwise varied from time to time with FPS's prior written approval.

Services means the payment processing services provided by Us and available through Your account.

Transaction means a payment made by us to You, upon receiving clearance of the First Instalment Payment from your Client.

Writing includes electronic mail.

24.2 Unless the contrary intention appears, a reference in this Deed to:

- (a) a document (including this Deed) includes any variation or replacement of it;
- (b) a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (d) the singular includes the plural and vice versa;
- (e) the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;
- (f) a body or authority includes a reference, if that body or authority ceases to exist, to the body or authority which has substantially the same functions and objects as the first body or authority;
- (g) a particular person includes a reference to the person's executors, administrators, successors,

FRANCHISE PAYMENT SERVICES SERVICE AGREEMENT

Last updated 6 March 2024

- substitutes (including persons taking by novation) and assigns;
- (h) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
 - (i) time is a reference to the time in Sydney, New South Wales;
 - (j) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
 - (k) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
 - (l) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
 - (m) if an act under this Deed to be done by a party on or by a given day is done after 5.00 PM on that day, it is taken to be done on the next day;
 - (n) if an event under this Deed must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day; and
 - (o) headings are for convenience only and do not affect the interpretation of this Deed.

SCHEDULE 1

FPS SECURE ONLINE PAYMENT SERVICE

25. HOW THIS AGREEMENT WORKS

25.1 This part of the Agreement governs use of the FPS Secure Online Payments services and only applies if you have selected this service. It is a contract between You and FPS. It sets out the terms and conditions that apply to Your use of our Services. You agree that Your use of our Services shall constitute Your acceptance of this Agreement.

25.2 If You do not want to be bound by this Agreement, You must stop using our Services. The Agreement will continue to apply to Your previous use of Our Services.

26. AMENDMENTS TO THIS AGREEMENT

26.1 We may amend this Agreement at any time, for example if We change the functionality of Our Services or as required by law.

26.2 We will post any revised version of this Agreement on Our website. With the exclusion of any substantive changes referred to in clause 26.3, the revised Agreement will take effect as soon as it is posted on Our website.

26.3 If We make any substantive changes to this Agreement which may negatively impact Your use of Our Services in a material way, We will email You a notification. You agree to receive such notices in this way. The changes will take effect on the date specified in the mail which will be at least 30 days after We send the notification email to You.

26.4 Subject to clause 26.3, We may not provide 30 days prior written notice where We add new functionality to Our Services.

26.5 By continuing to use Our Services after any amendments to this Agreement, You agree to abide and be bound by any changes. If You do not agree with any changes We make to this Agreement, You may terminate this Agreement by closing Your account.

27. OUR RELATIONSHIP

About us

27.1 We act as a payment service provider. We do not have any control over, and are not responsible or liable for, the products or services paid for with Our Services.

27.2 We do not:

- Act as a common carrier or public utility;
- Pay interest on balances kept in Our account;
- Act as an escrow agent with respect to any funds kept in Your account;
- Enter into a partnership, joint venture, agency or employment relationship with You;
- Determine if You are liable for any taxes; or

- Collect or pay any taxes that may arise from Your use of Our Services.

28. MARKETING

You agree that FPS may promote that FPS is a provider of the services to the Service Provider and that FPS may use the Service Provider's name, logo, and statements in its marketing and public relations material. In addition, You agree to furnish FPS examples and case studies on its successful use of the services, which information may be utilised by FPS in FPS's marketing, sales and public relations materials, subject to written approval by You which will not be unreasonably withheld.

29. FEES

The fees currently payable by You are set out below and may change in accordance with clause 23 of this agreement: Initial setup fee of \$199 + GST. Transaction fees:

- Payment plan: Invoice size \$750 - \$1,500: 6.5% + GST
- Payment plan: Invoice size \$1,501 - \$25,000: 8.75% + GST
- Pay in full: No merchant fee (0%)

You agree to pay all fees as they become due and payable and authorise the use of the Direct Debit Authority in this Agreement.

30. YOUR OBLIGATIONS WHEN YOU OPEN AN ACCOUNT

30.1 When using Our Services You must not:

- Provide false, inaccurate or misleading information;
- Act fraudulently;
- Use our Services to provide yourself a cash advance from your Credit Card (or help others to do so);
- Be defamatory, unlawfully threatening or harassing;
- Transmit any computer viruses or malicious code;
- Allow anyone else to have or use your Payment Methods or password details; or
- Use, or attempt to use, Our Services for purposes other than sending and receiving payments and managing Your account, including tampering, hacking, modifying or otherwise corrupting the security or functionality of Our Services.

30.2 Our failure to act with respect to a breach by You or others does not waive Our right to act with respect to subsequent or similar breaches.

30.3 You authorise FPS to be entitled to the funds in Your account and acknowledge that FPS may hold or withdraw funds on Your behalf:

- For risk management reasons; To pay fees to FPS or a third party;

FRANCHISE PAYMENT SERVICES

SERVICE AGREEMENT

Last updated 6 March 2024

- To pay another person or FPS as a consequence of a refund, Reversal, Chargeback or claim;
- To combine the accounts You hold with Us.

31. RECEIVING FUNDS

31.1 If We receive a payment that has been sent through our Service to you, We will pay that amount to You when it becomes clear funds, usually less than 3 business days from receipt.

31.2 If You receive funds through Our Services you must pay any applicable fees for receiving the funds into Your account.

31.3 If We have placed a hold on a transaction we will not transfer the funds related to that transaction until the hold is released.

31.4 You must ensure the details of the Service Provider's Bank Account are correct.

31.5 If a transaction for which We have paid You is subsequently dishonoured, You must repay us that amount within 5 days. We can debit Your bank account to make this happen.

32. HOLDS ON FUNDS

32.1 We may hold funds in your account for a variety of reasons as set out below. We will notify you if We place a hold on any funds in Your account.

Why do we hold funds?	We hold funds to review and mitigate any actual or reasonably anticipated risk of us or our users being adversely affected.
When do we hold funds?	We hold funds when: we need to ensure the integrity of a transaction; we believe that there is a risk associated with You or your account
What do We consider before holding funds?	Before holding funds, We consider: Information We receive from related third parties; Whether the funds are related to an irregular or unusual transaction; and Other related information.
How long do we hold funds?	Holds are usually placed for 21 days. Funds may be held for longer than 21 days if: You receive a dispute, claim, Chargeback or reversal relating to the transaction subject to the hold; and/or We have taken another action permitted under this Agreement, for example if We believe there is an increased risk associated with Your account or we need you to Prove Your Identity. We may release a hold earlier than 21 days where We reasonably believe that the relevant transaction has completed successfully.

	Funds held for buyer disputes may not be released until We consider the issue resolved.
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32.2 You will not have access to held funds until the hold is released. You direct us to make any payments, Reversals or refunds from held funds to a person entitled to them in accordance with this Agreement.

32.3 We may remove held funds from Your account in accordance with this Agreement.

32.2 Funds subject to a hold may be subject to a subsequent Reversal, Chargeback or claim, even after the hold has been released.

33. CLOSING YOUR ACCOUNT

33.1 Subject to clause 33.4, you can close your account at any time by emailing info@franchisepaymentservices.com.

33.2 We may close Your account at any time, for any reason, including a breach of this Agreement, by providing notice.

33.3 When Your account closes, any pending transactions will be cancelled.

33.4 You may not be able to close Your account where you have:

- a dispute in progress; or
- any account restriction, limitation or hold.

33.5 Any funds We are holding for you at the time of closure, less any fees, will be paid to You at FPS's discretion by:

- direct deposit to Your nominated bank account; or
- a cheque mailed to the address listed in Your account.

33.6 You cannot use closure of Your account as a means of evading investigation. If an investigation is pending at the time You close Your account, we may continue to hold Your funds for up to 180 days to protect Us against the risk of reversals. In some cases We may be prohibited by law from releasing funds or unrestricting Your account. If You are later determined to be entitled to some or all of the funds in Your account, We will release them to You.

33.7 You will remain liable for all obligations related to Your account even after it is closed.

33.8 If you close your account or FPS closes your account, you will return any device (if applicable) including any unused collateral provided by FPS.

33.9 The following clauses will survive any termination or expiry of this Agreement:

FRANCHISE PAYMENT SERVICES

SERVICE AGREEMENT

Last updated 6 March 2024

29. Fees;
32. Hold on funds;
33. Closing your account;
34. Notices;
35. Release;
37. Limitation of liability;
38. Indemnification;
39. Assumption of rights;
40. General Terms; and
41. Definitions and interpretation.

34. NOTICES

34.1 This Agreement and any other agreements, notices or other communications regarding Your account and/or Your use of our Services may be provided to You electronically. You agree to receive all communications from Us in electronic form. Communications will be posted on Our website and/or sent to your primary email address.

34.2 Except as explicitly stated otherwise, any notices to Us should be given by mail to:

Franchise Payment Services Pty Limited
Suite 4.07
10 Century Circuit,
Norwest NSW 2153

34.3 Notices are deemed as given when the email enters the server of Your email address. Alternatively, We may give You notice by mail to the address You have provided to Us. In such case, notice shall be deemed given 3 days after the date of mailing.

35. RELEASE

If you have a dispute with one or more users, you release us, our Related Bodies Corporate, employees, agents and directors from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with such disputes.

36. MALFUNCTION

If the Service malfunctions and You should have been aware that Our Service was unavailable or malfunctioning, We will only be responsible for correcting errors in Your accounts and refunding any associated fees or charges.

37. WARRANTIES AND LIMITATION OF LIABILITY

37.1 We do not give any express warranty as to the suitability of Our Services.

37.2 We will use all reasonable efforts to ensure requests for electronic debits and credits involving bank accounts and Credit Cards are processed in a timely manner. We make no representations or warranties regarding the amount of time needed to complete processing.

37.3 We do not guarantee continuous, uninterrupted or secure access to Our Services.

37.4 We expressly disclaim all conditions and warranties, express or implied, in respect of the provision of the Services. If any condition or warranty is implied into this Agreement pursuant to any legislation, and the legislation avoids or prohibits provisions in a contract, excluding or modifying the application of, or exercise of, or any liability under such conditions or warranty, the conditions or warranty will be deemed to be included in this Agreement, provided that Our liability for any breach shall, if the law so permits, be limited in Our sole discretion to (a) the re-supply of the Services, or (b) the cost of re-supply of the Services, in respect of which the breach occurred, and otherwise will be limited to the maximum extent permitted by law.

Subject to clause 35 and to the maximum extent permitted by law:

(a) We and our Related Bodies Corporate will not be liable to You for any Consequential Loss or for loss or damage of any kind resulting from or in connection with negligence or breach of a term, condition or warranty that may otherwise be implied into this Agreement, including any such loss arising out of or in connection with Our website, our Services or this Agreement; and

(b) To the extent that liability is not excluded by clause 37.1, in no event will FPS's liability for a claim arising out of this Agreement or Our Services (when aggregated with FPS's liability for all other claims arising out of this Agreement and our Service) exceed the net fees and charges paid by You to Us during the six (6) months immediately preceding the date on which the claim arises.

38. INDEMNIFICATION

38.1 You indemnify and hold Us, Our Related Bodies Corporate, officers, directors and employees harmless from any claim or demand (including legal fees) made or incurred by any third party due to or arising out of Your breach of this Agreement, or Your breach of any law or of the rights of a third party relating to Your use of Our Services.

38.2 You hold Us, Our Related Bodies Corporate, officers, directors, and employees harmless from any losses or other damage whatsoever incurred as a direct or indirect consequence of access to Your account by Additional Users. You also indemnify Us for any harm that arises as a direct or indirect consequence of unauthorised users accessing Your account as a result of Your negligence.

39. ASSUMPTION OF RIGHTS

If We pay out any claim, Reversal or Chargeback that You file against a recipient of Your payment, You agree that We may assume Your rights against the recipient and third parties related to the payment and may pursue those rights directly or on Your behalf, in Our discretion.

FRANCHISE PAYMENT SERVICES SERVICE AGREEMENT

Last updated 6 March 2024

40. GENERAL TERMS

40.1 Subcontracting: We may assign or subcontract certain of Our rights or responsibilities to independent contractors or other third parties at Our discretion.

FRANCHISE PAYMENT SERVICES SERVICE AGREEMENT

Last updated 6 March 2024

Schedule 2

DISCLOSURE OF YOUR CREDIT INFORMATION

NOTICE OF DISCLOSURE OF YOUR CREDIT INFORMATION TO A CREDIT-REPORTING AGENCY. (SECTION 18E (1) OF THE ACT 1988)

Franchise Payment Services Pty Limited ACN654 054 823 ("FPS") may give information about you to a credit reporting agency, for the following purposes:

- To obtain a consumer and/or commercial credit report about the Service Provider;
- provide all information required by FPS to comply with its obligations under the Anti-Money Laundering & Counter – Terrorism Finance Act 2006 (Cth); and/or
- To allow the credit reporting agency to create or maintain a credit information file containing information about you.

Words defined in the FPS Fee Service Agreement have the same meanings in this notice. The information is limited to:

- Identity particulars - your name, sex, address (and previous two addresses) date of birth, name of employer, and drivers licence number.
- Your application for credit or commercial service - the fact that you have applied for credit and the amount.
- The fact that FPS is a current credit provider to you.
- Loan repayments which are overdue by more than 60 days, and for which debt collection action has started.
- Advice that your loan repayments are no longer overdue in respect of any default that has been listed.
- Information that, in the opinion of FPS you have committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with your credit obligations).
- Dishonoured cheques - cheques drawn by you for \$100 or more which have been dishonoured more than once.
- That credit has been paid or otherwise discharged.

PERIOD TO WHICH THIS UNDERSTANDING APPLIES

This information may be given before, during or after the provision of service to you.

STATEMENT BY APPLICANT(S)

Please read carefully before signing. Where there is more than one applicant, each applicant must sign.

1. Giving information to a Credit Reporting Agency

FPS has informed me that it may give certain personal information about me to a credit- reporting agency.

2. Access to Commercial Credit Information

I/we agree that FPS may obtain information about me/ us from a business, which provides information about the commercial credit worthiness of persons for the purpose of assessing my/our application to use the FPS service.

3. Access to Consumer Credit Information

I/we agree that FPS may obtain a consumer credit report containing information about me from a credit-reporting agency for the purpose of assessing my/our application to use the FPS service and for FPS to comply with its obligations under the Anti-Money Laundering & Counter – Terrorism Finance Act 2006 (Cth)..

4. Exchange of Credit Worthiness Information

I/we agree that FPS may exchange information with those credit providers named in this application or named in a consumer credit report issued by a credit reporting agency or with a credit assessor engaged by FPS for the following purposes;

- to assess an application by me/us for credit
- to notify other credit providers of a default by me/us
- to exchange information with other credit providers as to the status my/our account with FPS where I am in default with other credit providers
- to assess my/our credit worthiness.

I/we understand that the information exchanged can include anything about my/our credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act.

5. Agreement to a credit provider being given a consumer credit report by a credit reporting agency to assess a guarantor

I/we agree the FPS may obtain from a credit-reporting agency a consumer credit report containing information about me/us for the purpose of assessing whether to accept me/us as a guarantor of the Practice. I/we agree that this agreement commences from the date of this agreement and continues until the service being provided to the Practice ceases.

Executed by Franchise Payment Services Pty Limited in accordance with the section 127 of the Corporations Act:



Bruce Coombes
Director



Simon Yeandle
Secretary