

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.

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 Not to display the Cardholder's Card number either online or on the Transaction receipt.

- 3.1.6 Not to split a Transaction into two or more Transactions on the same bank account to avoid breaching the agreed Transaction Limit.
- 3.1.7 To notify Ezidebit immediately You suspect or have reasonable knowledge or belief that a Customer has acted fraudulently.
- 3.1.8 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 14 or under clause 17) 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 or Claims has not been rectified in accordance with clause 18.4;
 - 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, 10.3, 10.5, 10.7, 14, 15, 19 to 22, 25 and 26 survive the termination of this Agreement.

7. EVENTS FOLLOWING TERMINATION

- 7.1 Subject to applicable law, internal policies, 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 may assist You in transferring Customer information (including Direct Debit Requests) from Ezidebit's systems to Your replacement service provider. Ezidebit reserves the right to charge the Client prevailing hourly market rates depending on the nature of assistance required by the Client to transfer Customer information to a 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 In circumstances where You have access to Customer information that would enable You to transfer Customer information (including Direct Debit Requests) to a replacement service provider, Ezidebit will not be under any obligation to provide assistance to You to facilitate transition to a replacement service provider.
- 7.3 Within a reasonable time period following the termination or expiry of this Agreement, Ezidebit will:
 - 7.3.1 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

7.3.2 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 New Zealand 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 New Zealand Banking System. Funds will be deemed 'cleared funds' within three (3) Banking Business 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 there are concerns about the Business' solvency;
 - 9.1.5 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
 - 9.1.6 where a Transaction Dispute occurs or there are reasonable concerns of future Transaction Disputes occurring in respect of the Customer Fees.
- 9.2 Ezidebit reserves the right to hold such monies for a period of 6 months, or 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.
- 9.5 You acknowledge and agree that You will pay on demand the amount of any debt you owe Ezidebit under this Agreement which remains unpaid. Should you fail to pay any debt which You owe Ezidebit, we may commence collections or enforcement action and report your default to a credit reporting agency. Ezidebit may also set-off any amount due for payment by You to Ezidebit against any amount due for payment by Ezidebit to You.
- 9.6 Ezidebit may debit or credit your Settlement Bank Account with the amount of any deficiencies or charges we establish are payable following an audit or check of your account.

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. WARRANTIES

- 13.1 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:
- 13.1.1 You are a duly incorporated company or registered business and conduct Your operations as a business;
 - 13.1.2 You have the capacity and authority to enter into this Agreement;
 - 13.1.3 Your Customers have provided all necessary authorities and approvals to enable You to authorise Ezidebit to collect fees or payments on Your behalf;
 - 13.1.4 All information provided by You to Ezidebit for the purpose of this Agreement are complete, accurate and not misleading; and
 - 13.1.5 There is no Insolvency Event existing in respect of You.

14. INDEMNITY

- 14.1 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:
- 14.1.1 the collection of Your Customers' payments by Ezidebit in accordance with this Agreement;
 - 14.1.2 the non-payment by You of any amounts payable to Ezidebit under this Agreement;
 - 14.1.3 a failure by You to comply with any obligation owed to Ezidebit under or in connection with this Agreement;
 - 14.1.4 the misuse of any Services by You;
 - 14.1.5 Your failure to provide full and correct information to Ezidebit in accordance with or for the purpose of this Agreement;
 - 14.1.6 Direct Debits conducted from an incorrect bank account or credit card where this information was supplied by You or Your Customers;
 - 14.1.7 a delay in any new or corrected information being received by Ezidebit from You;
 - 14.1.8 incorrect days, months, years being nominated by You or a Customer;
 - 14.1.9 the interpretation of a Direct Debit Request or any amendment to a Direct Debit Request being incorrect;
 - 14.1.10 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;
 - 14.1.11 any misuse or theft of the Direct Debit Request in Your possession, regardless of how such an event occurs; and

- 14.1.12 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.

15. LIABILITY

- 15.1 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.
- 15.2 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:
 - 15.2.1 any accident, neglect or misuse by You;
 - 15.2.2 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
 - 15.2.3 the input of any incorrect information in the direct debit facility by You.
- 15.3 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.
- 15.4 Following a Change of Control, Sale, or Purchase of the Business, the incoming owners or administrators of the Business will accept all Transaction Dispute and Chargeback liability for transactions processed by the previous owner of the Business for a period of up to 12 Months.
- 15.5 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:
 - 15.5.1 where the liability of Ezidebit relates to a default in the provision of the Services and:
 - 15.5.1.1 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
 - 15.5.1.2 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

- 15.5.2 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.
- 15.6 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.
- 15.7 Nothing in this clause limits a Party's liability for fraud.

16. REFUNDS

- 16.1 You acknowledge and agree that:
- 16.1.1 it is Your obligation to determine the circumstances in which a refund will be made to a Customer; and
- 16.1.2 Unless otherwise specifically agreed, Ezidebit is under no obligation to (whether under this Agreement or otherwise), transfer funds to a Customer as a refund.

17. TRANSACTION DISPUTES AND DISHONOURS

- 17.1 In the event that one of Your Customers raises a Transaction Dispute or has a dishonour:
- 17.1.1 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;
- 17.1.2 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;
- 17.1.3 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;
- 17.1.4 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 rules and procedures of the New Zealand Banking system;
- 17.1.5 You acknowledge that Ezidebit may, in certain circumstances in accordance with applicable law, not notify You of a Claim made by a Customer;
- 17.1.6 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;
- 17.1.7 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; and

17.1.8 unless You advise Ezidebit otherwise, Direct Debits that have been returned unpaid will be reprocessed on the 3rd Business Day

18. CHARGEBACKS

18.1 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.

18.2 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.

18.3 Where a Chargeback occurs:

18.3.1 Ezidebit will notify You by email of the Chargeback that has occurred.

18.3.2 Ezidebit will not enter into any Transaction Dispute between You and a Customer.

18.3.3 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.

18.3.4 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.

18.3.5 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.

18.4 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.

18.5 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 facility by name/code which includes all or part of Your business/trading name.

19. GST

19.1 Terms used in this clause that are not otherwise defined in this Agreement have the meanings given to them in the GST Law.

19.2 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:

19.2.1 the date when any consideration for the taxable supply is first paid or provided; and

19.2.2 the date when the Supplier issues a tax invoice to the Recipient.

19.3 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 19.1. The Supplier will issue an adjustment note to the Recipient within ten (10) Business Days of becoming aware of the adjustment event.

19.4 If the GST payable in relation to a supply is less than the amount that the Recipient has paid the Supplier under clause 19.1, 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 19.4 does not apply in relation to adjustment events.

19.5 Clauses 19.1, 19.3 and 19.4 do not apply in relation to a particular supply where either of the following apply:

19.5.1 the consideration for the supply is expressed to be GST-inclusive; or

19.5.2 the GST is payable on the supply by the Recipient.

Other GST matters

19.6 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.

20. CONFIDENTIALITY AND NON DISCLOSURE

20.1 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:

20.1.1 the other Party has consented to the disclosure of the relevant Confidential Information;

20.1.2 the disclosure is specifically contemplated and permitted by this document;

20.1.3 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;
- 20.1.4 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;
- 20.1.5 the disclosure is required by a court or governmental or administrative authority or by applicable law or regulation;
- 20.1.6 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
- 20.1.7 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.

21. DISPUTES

- 21.1 Subject to clause 17, 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.
- 21.2 If the dispute cannot be resolved within ten (10) Business Days of the receipt of the notice under clause 21.1, the dispute shall be referred to a senior officer of each Party, who will endeavour to resolve the dispute.
- 21.3 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.

22. PRIVACY

- 22.1 Each Party acknowledges that it has obligations under the Privacy Act 1993 (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 New Zealand Privacy Principles and agrees to comply with the Privacy Act, the New Zealand Privacy Principles and Ezidebit's Privacy Policy (which can be found at: www.ezidebit.com/nz/privacy-policy) in respect of any Personal Information collected in connection with this Agreement.
- 22.2 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: www.ezidebit.com/nz/privacy-policy).

23. NOTICES

- 23.1 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.co.nz

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

- 23.2 Communication is taken to be received by the recipient of the communication:
- 23.2.1 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
 - 23.2.2 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.
- 23.3 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.

24. PPSA

- 24.1 You undertake solely for the purposes of section 177 of the Personal Property Securities Act 1999 (**PPSA**) not to disclose information of the kind referred to in section 177(1) of the PPSA, including by uploading to the Personal Properties Securities Register established or by otherwise making available a copy of this Agreement or any part of it; and not to authorise the disclosure of any information of a kind referred to in section 177(1) of the PPSA, without the prior written consent of Ezidebit.

25. GENERAL

- 25.1 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).
- 25.2 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.
- 25.3 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.
- 25.4 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.
- 25.5 This document is governed by the law of Queensland, Australia. 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.
- 25.6 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.
- 25.7 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.

- 25.8 You acknowledge that you have read, understood, and agree to the Terms and Conditions set out by the Acquiring Bank, located at <http://ezidebit.com/wp-content/uploads/2015/09/bnz-termsand-conditions.pdf>
- 25.9 You acknowledge that Ezidebit will continuously monitor your processing history and account to identify potential financial risk. We reserve the right to implement measures to reduce any financial risk to an acceptable level. We will discuss these measures in advance of implementation to your account.
- 25.10 Ezidebit reserves the right to vary the terms and conditions of the Agreement at any time by providing You at least fourteen (14) days' notice.

26. DEFINITIONS

26.1 In this Part the following definitions apply:

Agreement means 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;

Banking Business Day means any day on which banks in Auckland or Wellington are able to effect settlement through the Reserve Bank of New Zealand. These days are determined by public holidays which are gazetted by the New Zealand Governments;

Business, also referred to as "You", means you, the client, as outlined in the Ezidebit Client Service Agreement;

Business Day means a Banking Business Day;

Card means a debit, charge, credit or financial transaction card, issued by a New Zealand 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 a New Zealand 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 New Zealand Banking 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 Companies Act 1993;

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, also referred to as "We", means Ezidebit (NZ) Limited (NZBN 9429035266310, FSP No. FSP38321), the provider of the Services described in this Agreement;

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 The Goods and Services Tax Act 1985;

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).

Fees and charges

The fees and charges that we will charge you for our services will be set out in your registration or application form which forms part of your Customer Services Agreement. These will be based on and will be for an amount up to the standard fees and charges set out in the fee schedule below. You can choose to pay these fees and charges or you may pass some or all of these fees and charges on to your customers. Ezidebit may vary your current fees and charges to an amount up to and including the amount specified in the table below in accordance with the Terms and Conditions, which form part of your Customer Services Agreement.

Ezidebit will deduct the fees and charges from amounts paid by customers using our Direct Debit or eCommerce services.

Transaction Services	Fee (including GST)
Administration Fees (Once only per Direct Debit Form)	Up to \$5.50
Direct Debit Transaction Fee - from bank account, credit union or building society	Up to \$2.50
Direct Debit Transaction Fee* - Credit Cards (Domestic Visa or MasterCard)	Up to 4.6%*
Direct Debit Transaction Fee* - Charge Cards (Domestic Amex or Diners)	Up to 5.7%*
eCommerce Transaction fee (Online Payments)	Up to \$1.50
eCommerce fee (Visa Mastercard)	Up to 4.6%*
eCommerce fee (Amex or Diners)	Up to 5.7%*
Other Services	
SMS (Short Message Service) Notification Reminders	Up to \$0.60
Minimum Monthly Fee (an exemption period may apply) **	Up to \$29.90
eCommerce Monthly Access Fee	Up to \$20.70
Client Dishonour Fee***	Up to \$4.40
Failed payment fee	Up to \$2.50
Refund Fee	Up to \$5.50
Settlement Fee	Up to \$2.50
Gift Receipt	Up to \$1.50
Chargeback Fee or Claim Fee	Up to \$44.00

- All fees are in New Zealand Dollars and inclusive of GST.
- Businesses accepting international credit card transactions may have their rate reviewed and increased up to 5.00% for each transaction.
- If a direct debit is returned unpaid, a failed payment fee is payable by your customer to Ezidebit for each failed transaction. The usual failed payment fee is \$14.95. In some circumstances a fee up to \$25.00 may be applied. .
- *Calculated on total amount of payment. Minimum transaction fee of up to \$2.50 may apply.
- **The minimum monthly fee amount will be calculated at the end of a calendar month. If the total amount of fees paid by you or your customers (including SMS, transaction and setup fees) is less than the minimum monthly fee then the difference will be applied to your account.
- ***Also referred to as Re-debit Dishonour Fee on subsequent failed direct debit attempts.



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