



Debitsuccess Terms and Conditions

The Debitsuccess Contract – Terms and Conditions

1. Introduction

This document outlines the rights and responsibilities you have with regard to the ability of Debitsuccess to directly debit your nominated bank account or credit card for any instalments or payments due by you under the terms and conditions of this Contract. All communication relating to this Contract are to be sent directly to Debitsuccess. All queries regarding the provision of the Goods should be directed to Cyclone. In the event of any inconsistency between the terms of this Contract and any terms, conditions and contractual agreements made between Cyclone and the Customer that specifically relate to payment, the terms of this Contract shall prevail.

2. Definitions

In this Contract, the words and phrases referred to below are defined as follows:

“CCCFA” means the Credit Contracts and Consumer Finance Act 2003;

“Commencement Date” means the date that Cyclone provides the Goods to the Customer or such other date as agreed by Cyclone and the Customer;

“Contract” means these terms and conditions together with the conditions of instruction to accept direct debits;

“Customer” or “you” means the person or party signing this Contract;

“Debitsuccess” means Debitsuccess Limited, a company incorporated in New Zealand – Phone: 09 4810400, Fax: 09 4811401, Email:

customerservice@debitsuccess.co.nz, Postal address: P.O. Box 34-770 Birkenhead, North Shore City 0746;

“Cyclone” means Cyclone Finance Limited, the entity providing the Goods to you;

“Minimum Term” means the period indicated on the front of this Contract;

“Goods” means the goods to be provided by Cyclone pursuant to which this Contract relates

3. Term

This Contract will commence on the Commencement Date and will continue until all instalments and payments due have been paid in full, unless terminated earlier in accordance with clause 4.

4. Termination

The Customer may terminate this Contract before the expiry of the Minimum Term if all the instalments and payments due under the Contract have been paid in full. The Contract may not be terminated before the Minimum Term if all payments are not paid. The customer shall not consider that this Contract has been terminated until such time as this is confirmed in writing to the Customer by Debitsuccess to the last advised address provided by the Customer.

Termination of this Contract will also terminate the instruction to accept direct debits.

5. Further customer agreements

The Customer agrees that:

- Change in Cyclone’s details, the ownership of Cyclone, or the name of Cyclone, does not affect the Customer’s obligations under this Contract except to the extent that such change disadvantages the Customer;
- Rights conditional - his or her rights to the Goods are conditional upon he or she making any payments required under this Contract when due.
- Electronic communications – Debitsuccess and/or Cyclone may communicate with the Customer electronically (including via email) where appropriate in relation to this Contract, understanding that at times these communications will contain confidential and or commercially sensitive information. Debitsuccess and/or Cyclone will take all reasonable steps to mitigate any risk of unauthorised access or disclosure of confidential information, but cannot guarantee that such communications will not be intercepted or read by an unintended recipient.

6. Payments

As consideration for receipt of the Goods, the Customer agrees to pay the instalment amount at the agreed payment frequency on the front of this Contract. The Customer may alter the payment frequency and/or day to debit by requesting a change with Debitsuccess. However, any changes shall not affect the total amount of money the Customer would otherwise be required to pay. Should there be any payments in arrears, the Customer authorises Debitsuccess to debit the outstanding balance in order to bring the account up to date. Where the day to debit falls due on a weekend or public holiday, the payment will be processed on the next business day.

The Customer may pay all amounts due during the Minimum Term at any time. Such payment in full will result in termination of this Contract

7. Late Payment Fee

A late payment fee of \$10.00 is payable by the Customer to Debitsuccess for each reversal of a payment initiated by Debitsuccess in accordance with this Contract. The Customer authorises Debitsuccess to add any fees owing under this clause to any future instalments paid by the Customer (as a separate payment or otherwise).

8. Privacy

The Customer acknowledges that:

- Debitsuccess is entitled to store his or her personal information (whether received from the Customer, Cyclone or otherwise) on its systems, and use it for the purposes of administering this Contract, providing its products and services, or offering alternative products and services;
- he or she has rights of access to, and correction of, his or her information under the Privacy Act 1993; and
- Debitsuccess (or Cyclone) may contact the Customer for any purpose related to the provision of its products and services.

Debitsuccess acknowledges that:

- it is responsible for the security of Customer information that it possesses or otherwise stores, processes, or transmits on behalf of the Customer; and
- it will maintain all applicable PCI DSS requirements to the extent that it handles, has access to, or otherwise stores, processes or transmits the Customer's cardholder data or sensitive authentication data.

9. Liability

The Customer agrees that under no circumstances will Debitsuccess be liable to the Customer for the provision of the Goods by Cyclone.

The parties agree that neither Cyclone, Debitsuccess (nor any of their related companies, directors or employees) nor the Customer will be liable for any injury, loss or damage that is not reasonably foreseeable, that arises out of or in relation to this Contract.

Nothing in this clause is intended to have the effect of contracting out of the Consumer Guarantees Act 1993, except to the extent permitted by law."

10. Debt Collection Action

The Customer:

- authorises the Debitsuccess to notify any debt collection or credit reporting agency upon default by the Customer in regard to any obligation to pay under this Contract;
- agrees to immediately pay the full outstanding balance of the remainder of the payments due, including any current arrears, should a default occur prior to this Contract terminating;
- authorises Debitsuccess to add \$50 to the outstanding debt as its fee for dealing with the default; and
- agrees to pay any and all costs incurred as a result of debt collection including the commission, fees and costs charged by any debt collection agency (approximately 25% of the outstanding debt).

11. Contracts (Privity) Act

The Customer acknowledges that Debitsuccess has been contracted by Cyclone to collect the instalments due under this Contract and, for the purposes of the Contracts (Privity) Act 1982, the Customer acknowledges that all rights of Cyclone pursuant to this Contract are able to be enforced by Debitsuccess as if it were Cyclone, without any involvement on the part of Cyclone or the consent of the Customer.

12. Severability

If any provision of this Contract is prohibited, invalid or unenforceable, that provision will be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Contract or affecting the validity or enforceability of that provision, unless it materially alters the nature or material terms of this Contract.

13. Dispute Resolution

If you have any dispute or complaint regarding the terms of this Contract you should, in the first instance, contact Debitsuccess by email to customerservices@debitsuccess.co.nz, and Debitsuccess will attempt to respond within 7 days of you making contact. If your dispute has not been resolved within 14 days of you contacting Debitsuccess, you may wish to make a complaint to the independent dispute resolution scheme that Debitsuccess is a member of:

Financial Services Complaints Limited

Phone: 0800 347 257

Website: www.fscl.org.nz

Business address: Financial Services Complaints Limited
Level 4, 101 Lambton Quay
Wellington 6145

This scheme can help you to resolve any disagreements you have with Cyclone and/or Debitsuccess. However, you should first attempt to resolve your dispute with Debitsuccess.

14. Statement of Right to Cancel

You have a right under section 27 of the CCCFA to cancel this Contract by giving written notice of the cancellation to Cyclone or Debitsuccess within 5 working days of the date of this Contract or the date that disclosure is made under section 17 of the CCCFA, whichever is the latter.

If you cancel this Contract under section 27 of the CCCFA, you may be charged an amount equal to any reasonable expenses the creditor had to pay, or may be expected to pay, in connection with the Contract and its cancellation.

16. Unforeseen Hardship

If you suffer illness, injury, loss of employment, the end of a relationship or other reasonable cause, that results in you being unable to reasonably keep up with your payments, and you have not made a similar application in the last 4 months, you may apply to change the terms of this Contract by:

- extending the term of this Contract and reducing the amount of each payment;
- postponing payments for an agreed period; or
- extending the Term of this Contract and postponing payments for an agreed period.

CONDITIONS OF THIS INSTRUCTION TO ACCEPT DIRECT DEBITS

1. Debitsuccess:-

- Has agreed to give written advance notice of the net amount of each Direct Debit and the due date of the debiting at least two calendar days before the date that the Direct Debit will be initiated. This notice will include the following message:-
 "Unless advice to the contrary is received from you by the billing start date*, the amount stated on the front of this form will be directly debited from your bank account on (initiating date)."
 * this date will be at least two (2) days prior to the initiating date to allow for amendment of Direct Debits.
- May, upon the relationship which gave rise to this Instruction being terminated, give notice to the Bank that no further Direct Debits are to be initiated under the Instruction. Upon receipt of such notice, the Bank may terminate this Instruction as to future payments by notice in writing to the Customer.

2. The Customer may:-

- At any time, terminate this Instruction as to future payments by giving notice of termination to the Bank and to Debitsuccess.
- Stop payment of any Direct Debit to be initiated under this Instruction by Debitsuccess by giving written notice to the Bank prior to the Direct Debit being paid by the Bank.
- Request the Bank to reverse any Direct Debits initiated by the Debitsuccess under the Instructions by debiting the amount of the Direct Debits back to Debitsuccess through Debitsuccess' bank, to the extent that Debitsuccess cannot produce a copy of the Instructions and/or confirmation that reasonably demonstrates the Customer's authorisation to the Bank to accept Direct Debits from Debitsuccess against the Customer's account, PROVIDED the request is made not more than nine months from the date when the first Direct Debit was debited to the Customer's account by Debitsuccess under the Instructions.

3. The Customer acknowledges that:-

- This Instruction will remain in full force and effect in respect of all Direct Debits passed to the Customer's account in good faith notwithstanding the Customer's death, bankruptcy or other revocation of this Instruction until actual notice of such an event is received by the Bank.
- In any event, this Instruction is subject to any arrangement now or hereafter existing between the Customer and the Bank in relation to the Customer's account.
- Any dispute as to the correctness or validity of an amount debited to the Customer's account shall not be the concern of the Bank (except in so far as the Direct Debit has not been paid in accordance with this Instruction), and should be referred to Debitsuccess. Any other dispute lies between the Customer and Debitsuccess.
- The Bank accepts no responsibility or liability for the accuracy of information on bank statements relating to any Direct Debits.
- The Bank is not responsible for, or under any liability in respect of:-
 - any variations between notices given by Debitsuccess and the amounts of Direct Debits;
 - Debitsuccess' failure to give written advance notice correctly, or for the non-receipt or late receipt of notice by the Customer for any reason whatsoever. In any such situation, the dispute lies between the Customer and Debitsuccess.

4. The Bank may:-

- At its absolute discretion, conclusively determine the order of priority payment by it of any monies pursuant to this or any other instruction, cheque or draft properly executed by the Customer or given to or drawn on the Bank.
- At any time, terminate this Instruction as to future payments by notice in writing to the Customer.
- Charge its current fees for this service in force from time-to-time.