

Customer Terms and Conditions

Company: Stupay Pty Ltd
ABN: 11 652 992 768
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1. INTRODUCTION

- 1.1 These Terms and Conditions form part of the agreement between Stupay Pty Ltd (ABN: 11 652 992 768) (“**Stupay, we, us, our or ourselves**”) and you as the client (“**you, your or yourself**”). It governs our dealings with you in relation to all Transactions made using the Account and contains information we are required by law to give you. You should keep these Terms and Conditions for future reference.
- 1.2 The Agreement is constituted by the following documents:
- (a) these Terms and Conditions which include:
 - (i) the Payment Schedule in clause 19; and
 - (b) our fee information located on the Website.
- 1.3 You acknowledge and agree that:
- (a) you have carefully read and understood all documentation provided to you by us including these Terms and Conditions;
 - (b) all dealings in the Transactions and the performance by us of our obligations under the Agreement are subject to the Applicable Laws;
 - (c) we do not and will not provide legal, tax 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; and
 - (d) you accept the terms and conditions of the Agreement.

2. SUITABILITY

- 2.1 Stupay may conduct a credit check on you with a credit reporting bureau o at any time.
- 2.2 **Initial Assessment Process**
- (a) Prior to providing you with our services, you must be identified and verified in accordance with the AML/CTF Laws. Please refer to clause 3.11 for further information.
 - (b) As part of our initial assessment process, we also need to be reasonably satisfied that all of the following criteria are met before we can provide you with our services:
 - (i) you must:
 - (A) be an individual who is at least 18 years old;
 - (B) be capable of entering into a legally binding contract;
 - (C) have a valid and verifiable email address and telephone number;
 - (D) provide a valid address in Australia;
 - (E) be an International Student holding a valid student visa or temporary graduate visa (Subclass 485) for a minimum duration of thirteen (13) weeks;

- (F) provide confirmation of enrolment from a Service Provider;
 - (G) have access to a Payment Method; and
 - (ii) you are not a vulnerable client. Please refer to clause 3.9 for further information;
 - (iii) we are reasonably satisfied with the information we have obtained about you; and
 - (iv) the Payment Schedule is determined as suitable and is consistent with our Suitability Assessment and our internal risk management processes.
- (c) We will collect and use at least one indicative data source including (but not limited to) the following:
- (i) client data e.g. information about income and expenses that satisfy our internal risk management processes (e.g. this could be by using appropriate industry benchmarks); or
 - (ii) third-party sourced data such as a credit check or an equivalent check that provides us with information on your existing debts and liabilities.
- (d) We reserve the right to refuse your application should you not meet the relevant criteria outlined in clauses 2.1(b) and/or 2.1(c).
- (e) The outcome of our initial assessment process may be that we:
- (i) approve you for the full amount requested;
 - (ii) approve you for a lesser amount; or
 - (iii) decline to provide our services to you.

2.3 Existing Client Assessment Process

- (a) We assess all new Transactions for our existing clients to ensure our service remains suitable for you prior to providing a new Payment amount (such as an increase to an existing limit).
- (b) We reserve the right to refuse a new Transaction if you are in default at the time of undertaking the existing client assessment process.
- (c) As part of our existing client assessment process, the following criteria need to be met before we can approve a new Transaction:
 - (i) you are up to date with all Payments at the time of the existing client assessment process commencing;
 - (ii) you have shown appropriate payment ability, taking into account the amount and frequency of Payments;
 - (iii) the Payment Schedule is determined as appropriate for you and is consistent with our Suitability Assessment and our internal risk management processes;
 - (iv) you still meet our Suitability Assessment criteria;

- (v) you are not a vulnerable client at the time of undergoing the existing client assessment process. Please refer to clause 3.9 for further information;
- (vi) our internal in-life data shows that you are not using our service inappropriately;
- (vii) you are not exceeding the Transaction Limit;
- (viii) your Account is not in default;
- (ix) there has been no unsatisfactory Account performance or conduct;
- (x) there is no suspicious or fraudulent conduct;
- (xi) we are required to or instructed by a regulator, enforcement officer or court of law to not approve a Transaction;
- (xii) we are not aware of a change in your financial circumstances that may affect your ability to make Payments under the Agreement;
- (xiii) there is an active Nominated Payment Method;
- (xiv) we do not reasonably suspect or are not aware that you have breached or are likely to breach any the Agreement;
- (xv) there is no, has not been, and we are not aware of a potential business disruption or technology issue which affects a Transaction, your Account or the services we provide under the Agreement; and
- (xvi) an unsatisfactory credit check is not returned (where a credit check has been conducted by us).

2.4 By entering into this Agreement, you represent and warrant that you are eligible to use our services.

3. DEALINGS WITH US

3.1 Upon signing up on our Website ("**Acceptance Date**")::

- (a) you will be bound by the Agreement in all your dealings with us and it will be deemed that you have accepted the Agreement;
- (b) all Payments under the Agreement are legally binding and enforceable;
- (c) you will be required to enter your Nominated Payment Method via the online form; and
- (d) you will be provided with our Dispute Resolution Policy and Hardship Policy as well as information about our enforcement policies.

3.2 On or after the Acceptance Date, we will open an Account for you to be used for making Transactions in accordance with the Agreement. Payments will be debited from your Nominated Payment Method in accordance with the Payment Schedule. You agree to make all Payments to us in accordance with the Agreement.

3.3 The Service Provider will provide an Invoice to you in respect of the services.

- 3.4 You must provide us with a copy of the Invoice. Stupay will confirm the Invoice with the Service Provider and once confirmed, Stupay will disburse the appropriate payment to the Service Provider and provide you with confirmation of the Transaction via your Account.
- 3.5 Stupay will update your Account to provide you with a Statement informing you of the total amount you must pay to Stupay. Refer to clause 8 for further information.
- 3.6 We incur costs in providing the services set out in the Agreement, including but not limited to: Account set up and Account management; creating, monitoring and maintaining secure account systems; approving, authorising and verifying Transactions; managing and processing your Payments through direct debit or credit card and reviewing unauthorised Transactions. Our Fees cover these costs incurred. Any dishonour fees will be incurred and payable by you.
- 3.7 You agree and acknowledge the Service Provider will notify Stupay of the following:
- (a) your academic progress upon completion of each academic term; and
 - (b) any circumstances of non-compliance by you in relation to your visa conditions including but not limited to minimum attendance, academic progress, confirmation of enrolment cancellation or withdrawal requests.

3.8 **Account Details and Security**

- (a) Upon opening an Account with us, you will be given a specific PIN number and/or password, which must be entered, together with your email address, when you wish to access your Account.
- (b) You will be deemed to have authorised all Transactions under your Account irrespective of whether the person using it is using it with your authority.
- (c) You are required to keep all security information relating to your Account confidential, including your PIN number. We will not, and are not required to, establish the authority of anyone using these details. You are responsible for all Transactions and for the accuracy of all information sent electronically using any such details. If you are aware or suspect that these details are no longer confidential, you should contact us as soon as possible so that they may be changed.

3.9 **Vulnerable Clients**

- (a) Stupay understands that you may experience hardship or vulnerability. Stupay ensures vulnerable clients are dealt with fairly and flexibly. Stupay recognises clients may experience vulnerability for a range of reasons, including but not limited to:
 - (i) the actions of the market or individual providers, e.g. being targeted by inappropriate products, or being given inadequate or overly complex documentation;
 - (ii) experiencing specific life events or temporary difficulties, e.g., an accident or sudden illness, relationship breakdown, family violence, job loss, having a baby or the death of a family member; and

- (iii) personal or social characteristics that can affect a person's ability to manage financial interactions, e.g. speaking a language other than English, having different cultural assumptions or attitudes about money, or experiencing cognitive or behavioural impairments due to intellectual disability, mental illness, chronic health problems or age.
- (b) You agree to inform us of your vulnerability as soon as reasonably practicable so that we are able to assist you. Stupay may become aware of your vulnerability by other means where it is reasonably practicable for us to do so.
- (c) You are entitled to request financial hardship assistance. You can inform us that you are in financial hardship in writing, electronically, or by telephone ("**Hardship Request**").
- (d) If we become aware that you are having trouble meeting your financial obligations with us, we will discuss your situation and the options available to help you, which may include negotiating a new Payment Schedule.
- (e) Within fourteen (14) days of receiving a Hardship Request from you, we may ask you for more information. In order for us to consider your Hardship Request, you must provide that information within fourteen (14) days of our request.
- (f) The outcome of your Hardship Request will be provided to you in writing within fourteen (14) days of either:
 - (i) you providing us with the additional information; or
 - (ii) if no additional information is requested, then within twenty-one (21) days of the Hardship Request.
- (g) Where we deny your Hardship Request we will give you reasons and you have the right to contact AFCA if you wish to lodge a complaint.
- (h) During our assessment of your Hardship Request:
 - (i) all Payments on your account will be ceased and fees will be frozen;
 - (ii) we consider the appropriateness of your Nominated Payment Method;
 - (iii) we consider waiving our fees and charges (including those already applied); and
 - (iv) your default will not be listed on your credit reference file.
- (i) Where we agree to enter into a financial hardship arrangement with you:
 - (i) the financial hardship arrangement will be agreed in writing and will include your obligations upon the expiry of the financial hardship arrangement;
 - (ii) you will remain our client and your matter will not be referred to a third-party debt collection agency; and
 - (iii) we will not charge you additional fees while you are meeting the conditions of the financial hardship arrangement.
- (j) If you breach the financial hardship arrangement, we reserve the right to take enforcement action and will provide you with at least five (5) days' notice of such action.

- (k) If we cannot agree a new Payment Schedule, we will give you information on how to contact AFCA. We will also refer you to financial support services, such as the National Debt Helpline.

3.10 Financial Product Advice

- (a) Any information or advice that we provide to you is generic in nature and does not take into account your financial situation, needs or personal objectives. In particular, you acknowledge that we do not provide personal advice or give you advice about whether you should utilise our services. You must consider the appropriateness of our services having regard to your own financial situation, needs or personal objectives and obtain your own independent financial advice.
- (b) Stupay does not complete an assessment of your financial situation, needs or personal objectives pursuant to the responsible lending requirements as set out in the *National Consumer Credit Protection Act 2009* (Cth). Stupay does not provide credit products or credit assistance and therefore is not bound by the responsible lending provisions.
- (c) Stupay does not and will not provide any advice to you on any tax related matters. Stupay encourages you to obtain independent advice from a financial advisor, auditor and/or legal counsel.

3.11 Anti-Money Laundering Legislation and Know Your Client

- (a) You acknowledge and agree that we may require information from you from time to time to comply with the AML/CTF Laws. You undertake to provide us with all information and assistance that we may require to comply with the AML/CTF Laws.
- (b) We may pass on information collected from you and relating to dealings under this Agreement as required by the AML/CTF Laws or other Applicable Laws and regulations and are under no obligation to inform you we have done so. We may undertake all such anti-money laundering and other checks in relation to you (including restricted lists, blocked persons and countries lists) as deemed necessary or appropriate by us, and we reserve the right to take any action with regard thereto with no liability whatsoever.
- (c) You also warrant that:
 - (i) you are not aware and have no reason to suspect that the moneys used to fund your dealings under this Agreement have been or will be derived from or related to any money laundering, terrorism financing or other illegal activities, whether prohibited under Applicable Laws, international law or convention or by agreement; and
 - (ii) you are not a politically exposed person as the term is used in the AML/CTF Laws.

3.12 Documents

- (a) You can access copies of the following documents from us via your online Account:
 - (i) this Agreement;

- (ii) copies of our Dispute Resolution and Hardship Policy as well as information about our enforcement policy;
 - (iii) any notices we have sent you (for example, a collections notice informing you that you are behind in Payments and need to make a Payment);
 - (iv) Statements for the whole period of your contract; and
 - (v) a payout figure and how it was calculated.
- (b) If you are unable to access these documents via your Account, you can request this information from us, and we will provide you with the relevant document(s) within seven (7) days of your request.

4. TRANSACTIONS

4.1 In accordance with clause 3.4, we will make a Transaction on your Account upon receiving an Invoice from you or via any other method as we may authorise from time to time. We do not accept any Transaction requests and/or instructions via any other means unless we agree with you to do so in advance. We have no liability to you if any communication is interrupted before we receive an Invoice from you.

4.2 We are not liable for the quality, performance or any other matters in relation to services paid for with Transactions on the Account unless required by law or a code or is covered by these Terms and Conditions.

4.3 A Transaction limit of AUD2,000.00 ("**Transaction Limit**") over a period of ten (10) weeks, applies on the value of Transactions on your Account. We may also impose a limit on the number of Transactions on your account. If we apply or vary any daily or periodic Transaction Limit, we will advise you.

4.4 Compliance with the Law

- (a) Despite any provisions of these Terms and Conditions, in providing the services under these Terms and Conditions, we will be entitled to take any action as we consider necessary in our absolute discretion to ensure services provided under these Terms and Conditions are in compliance with all Applicable Laws.
- (b) You agree strictly to comply with all Applicable Laws. If we consider you have not so complied, we may terminate these Terms and Conditions immediately without notice.

4.5 Australian Dollars

- (a) All payments made by you to us and by us to a Service Provider or to you will be in Australian dollars unless otherwise agreed.

5. PAYMENTS

5.1 How to make Payments

- (a) Payments must be by an accepted Payment Method.

5.2 Automatic Payment

- (a) Subject to the other terms of the Agreement, you expressly consent to, authorise and instruct us to deduct Payment amounts from your Nominated Payment Method in accordance with the Payment Schedule. You acknowledge that you are giving us the ability to collect variable Payment amounts from or to your Nominated Payment Method, in accordance with the Payment Schedule and the terms of the Agreement. You can update or change your Nominated Payment Method at any time by contacting us. Fees and charges may apply.
- (b) You are responsible for ensuring that you have sufficient funds available in your Nominated Payment Method available to make Payments on the dates specified in your Payment Schedule. You are liable for any fees or charges imposed by your Nominated Payment Method (e.g. interest charges on a nominated credit card), except to the extent that such fees or charges arise as a result of our error or system failure. If any fees or charges are imposed as a result of our error or system failure, please provide us with a copy of the relevant records, and we will reimburse you for the relevant fees or charges.
- (c) If an automatic Payment fails (for example, if your Nominated Payment Method is a credit or debit card which has expired), fees may apply unless you otherwise make the scheduled Payment on or before the relevant due date. You authorise us to satisfy any amount you owe us by:
 - (i) debiting your Nominated Payment Method at a later time or date;
 - (ii) debiting any other card which you have provided us with details of;
 - (iii) offsetting the Payment amount against any amounts we may owe to you; or
 - (iv) any other legal means.

5.3 Early Payments

- (a) You are required to provide us with seven (7) days' notice if you wish to make an early payment and terminate your Agreement with us. Early payments can be made without incurring any additional fees.

6. FEES AND CHARGES

6.1 Our Fees

- (a) You must pay us the fees and charges set out on the Website, as varied or updated from time to time. We will debit the fees and charges from your Account when they are payable and they will appear on your Statement.
- (b) You agree that prior to awarding your completed qualification, the Service Provider will confirm with Stupay that no amounts are outstanding and payable to Stupay.

6.2 Late Fees

- (a) Late fees will apply where you do not make Payments in accordance with the Payment Schedule. Details of late fees are set out on the Website.

- (b) If you are unable to make Payments in accordance with the Payment Schedule, or the fees and charges applicable to your Account, please contact us as soon as possible. Please refer to our Hardship Policy for further information.
- (c) We will reverse any late fees that we have charged you if you make a catch-up payment within two (2) days of the missed Payment.

6.3 Dishonour Fees

- (a) Dishonour fees will be incurred by you. A maximum of two (2) dishonour Payments will be accepted by us. In circumstances where there are more than two (2) dishonoured Payments, we will terminate this Agreement in accordance with clause 9.2.

6.4 Government Fees and Charges

- (a) You must pay all Government duties, rates, taxes and charges now, or in the future, charged on or otherwise payable in relation to your Transactions. You must pay us the amounts in accordance with the relevant legislation, whether or not you are liable for them under that legislation. We may debit these to your Account and they will appear on your Statement.

7. REFUND

- 7.1 You must contact the Service Provider directly should you wish to withdraw from an educational service that is the subject of a Transaction.
- 7.2 The Service Provider is solely responsible for determining whether to offer a refund of your Invoice amount (or other amount) ("**Refund Amount**").
- 7.3 Stupay will credit the Refund Amount to your Account within seven (7) calendar days of receipt of the Refund Amount from the Provider.

8. STATEMENTS

- 8.1 Statements can be accessed via your Account at any time. Statements will show the Transactions and Outstanding Balance of your Account as at the time of access.
- 8.2 The first Statement will be available for your Account within three (3) Business Days of us processing a Transaction.
- 8.3 All Statements are provided via your Account. It is your responsibility to check your Statement carefully and immediately notify us of any errors or unauthorised Transactions.
- 8.4 If you are unable to access your Statement via your Account, you can request this information from us and we will direct you on how to find it or provide you with it within seven (7) days of your request.

9. AMENDMENT AND TERMINATION OF THIS AGREEMENT

9.1 Amending the Agreement

- (a) We may amend, change, revise, add, modify or replace the Agreement without your consent by giving:
 - (i) thirty (30) business days' written notice of changes to our fees, including the introduction of a new fee or an increase to an existing fee; and
 - (ii) thirty (30) business days' written notice of changes which are material or to your detriment, including changes in relation to:
 - A. Payments;
 - B. Transaction Limits;
 - C. functionality of our services; or
 - D. introduction of new services or removal of existing services.
- (b) When any amendments to the Agreement are made, we will make the most recently updated Agreement available on our Website. If at any time you would like to receive the latest copy of the Agreement, please email us.
- (c) Where the variation is not material or to your detriment, we may notify you after we have made the change or not give you any notice.
- (d) If you object to any changes, you must notify us within fourteen (14) days of the date the notice is deemed to be received under clause 16. If you do not do so, you will be deemed to have accepted the changes. If you give us notice that you object, then the changes will not bind you; but we may require you to (and you must) exit your Agreement with us as soon as reasonably practicable.
- (e) You understand that the Agreement cannot be modified by you via any verbal statements or written amendments without written acceptance or confirmation by us.

9.2 Termination

- (a) If you request information from us about how to terminate your Agreement with us, we will provide this information to you within seven (7) days.
- (b) You may terminate your Agreement with us by giving us thirteen (13) weeks written notice . On termination of the Agreement:
 - (i) no further Transactions will be permitted under the Agreement; and
 - (ii) your obligations under the Agreement will continue until you pay all amounts owed to us, including any Outstanding Balance or applicable fees and charges.

- (c) We may also terminate your Agreement with us with immediate effect by notice in writing to you if:
 - (i) you are persistently in default in the performance or observance of any obligation on its part arising under the Agreement;
 - (ii) you assign these Terms and Conditions in breach of clause 17.1(b);
 - (iii) there is fraudulent or suspicious conduct;
 - (iv) any of the representations or warranties given by you in these Terms and Conditions are, or become, untrue; or
 - (v) your Account is in default.
- (d) Nothing in this clause 9.2 affects our other rights in the Agreement. Further, indemnity and limitations in clause 12 provided by you in these Terms and Conditions survives termination.

10. DEFAULT

10.1 You are in default if:

- (a) you are in breach of any obligation, warranty or representation made under these Terms and Conditions (whether by act or omission);
- (b) any information provided to us in connection with these Terms and Conditions is or has become untrue or misleading;
- (c) we believe, on reasonable grounds, that we were induced by fraud on your part to enter into these Terms and Conditions or any Transaction; or
- (d) we consider that you may be in breach of or have failed to comply any Applicable Law.

10.2 If you are in default we will send you a default notice in writing specifying the details of the default, how it may be corrected, and advise you that you have seven (7) days have to correct it.

10.3 If you do not remedy the default within seven (7) days:

- (a) all amounts you owe us (including amounts which have been accrued but not yet debited to your Account) will be immediately due and payable. We may exercise our rights under this Agreement at law including taking enforcement action; and
- (b) we reserve our rights to notify the Service Provider that your Account is in default and that no Transactions will be entered into.

10.4 Where we exercise our rights to take enforcement action, we use as agents, and sell our debts to, debt collectors that:

- (a) have a good track record of complying with the ACCC's and ASIC's *Debt collection guideline: For collectors and creditors* and the Code of Operation: Recovery of Debt published by the Australian Federal Government;

- (b) are members of AFCA; and
- (c) have a complaint process.

10.5 Enforcement expenses may be payable if you are in default. You must pay to us all reasonable enforcement expenses incurred by us or our agents in exercising our rights in relation to your default. Enforcement expenses when charged will be debited to your Account and will form part of the Outstanding Balance.

10.6 Enforcement expenses include collection expenses, reasonable solicitors' legal costs and the reasonable expenses of our staff incurred in relation to any enforcement.

11. YOUR CONSUMER RIGHTS

11.1 Nothing in this Agreement is intended to exclude, restrict or modify any consumer rights under the Australian Consumer Law which may be applicable to you, including by limiting our liability or imposing liability on you in a manner which would be considered unfair under the relevant consumer protection laws.

12. LIMITATION OF LIABILITY AND INDEMNITY

12.1 Limitation of Liability

- (a) Subject to any laws restricting us from limiting our liability, and to the maximum extent permitted by those laws, we are not liable for:
 - (i) any defects in the services acquired by you through the use of the Account. You acknowledge and accept that all complaints about these services must be addressed to the Service Provider who provided or sold those services. Even if you make a complaint or dispute regarding a Transaction to the Service Provider you must still pay us all amounts and charges charged to your Account;
 - (ii) any error or inaccuracy in, or unsuitability of, or omission from the Agreement, or any other information provided by us, whether negligent or otherwise;
 - (iii) any action we may take under these Terms and Conditions, so long as we act within the terms of its provisions and in particular act reasonably where required to do so;
 - (iv) anything which is beyond our control and the effect of which is beyond our control to avoid;
 - (v) any government restriction, computer or telephone failure, unlawful access to our Website, theft, sabotage, war, earthquakes, strike, and, without limitation, any other conditions beyond our control; and
 - (vi) any claim, loss, expense, cost or liability suffered or incurred by you (claims) except to the extent that such a loss, expense, cost or liability is suffered or incurred as a result of our gross negligence or wilful default.

- (b) Unless we are prohibited from excluding such liability by law (for example, for losses relating to death or personal injury or caused by our fraud), we will not be liable for any direct, indirect, special, incidental, punitive or consequential damages (including, without limitation, loss of business, loss of profits, failure to avoid a loss, loss of data, loss or corruption of data, loss of goodwill or reputation) caused by any act or omission of ours under this Agreement.

Regardless of whether we, our employees or agents, knew of the possibility of the claim being incurred, the limitations of liability in this clause 12 shall apply.

12.2 Indemnities

- (a) Subject to the Applicable Laws, you agree to continuously indemnify us, and keep us indemnified on demand, in respect of all losses (including consequential losses), taxes, expenses, damages, charges, receipts, demands and expenses of any nature and on any account and liabilities present, future, contingent or otherwise and including legal fees and administrative costs on a full indemnity basis which may be suffered or incurred or brought against us or in connection with or caused by:

- (i) your breach of this Agreement;
- (ii) any representation or warranty given by you being incorrect, misleading or untrue,

unless and to the extent only such is suffered or incurred as a result of our gross negligence or wilful default.

- (b) To the extent permitted by law, you will indemnify, protect and hold us harmless from and against all loss, liabilities, judgements, suits, actions, proceedings, claims, damages or costs resulting from or arising out of any act or omission by any person obtaining access to your Account whether or not you authorised such access.

- (c) To the fullest extent permitted by law, you release, discharge and indemnify and agree to keep Stupay and its respective officers, employees, agents and representatives indemnified from and against all claims arising out of:

- (i) any default, whether by your act or omission under these Terms and Conditions;
- (ii) any breach by you of any Applicable Laws;
- (iii) any representation or warranty made or given by you under these Terms and Conditions proving to be untrue or incorrect;
- (iv) any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by you;
- (v) anything lawfully done by us in accordance with, pursuant or incidental to these Terms and Conditions;
- (vi) any instruction, request or direction given by you; or

- (vii) by reason of Stupay complying with any direction, request or requirement of any Applicable Laws, any government body or any regulatory body having jurisdiction over Stupay.

13. WARRANTIES AND REPRESENTATIONS

13.1 Your Warranties

- (a) You undertake, warrant and represent to us, with the intention that the following undertakings, warranties and representations are repeated each time you provide instructions to us:
 - (i) **personal information:** you will use your real name and true personal details and not use an alias or false identity (even with the consent of the person whose identity you are using) or provide false, inaccurate or misleading personal details or seek to establish a fake, untraceable or unverifiable Account;
 - (ii) **legal disability:** you are not under any legal disability and are not subject to any law which prevents you from entering these Terms and Conditions;
 - (iii) **compliance with laws and valid obligations:** you are complying with all laws to which you are subject, and the obligations expressed to be assumed by you under these Terms and Conditions are your legal, valid, binding and enforceable obligations;
 - (iv) **able to pay debts:** you are able to pay your debts as and when they fall due and are not otherwise insolvent or presumed to be insolvent under any law; and
 - (v) **information accurate:** at all times the information provided by you to us will be complete, accurate and not misleading.

13.2 Notification of Changes

- (a) You undertake that throughout the term of these Terms and Conditions you will promptly notify us of any change to your details including but not limited to:
 - (i) your contact details;
 - (ii) your name, either first or last name;
 - (iii) instances where you have been declared bankrupt or commit an act of bankruptcy; or
 - (iv) your Nominated Payment Method).
- (b) You must also tell us if you think there is any information that we should be aware of about your ability to comply with this Agreement.

13.3 Statutory Warranties

- (a) Where any Applicable Law implies in these Terms and Conditions any term, condition or warranty, and makes void or prohibits excluding or modifying the application of or exercise of, or liability under such term, condition or warranty, such term, condition or warranty will be deemed to have been included in these Terms and Conditions. However, our liability for any breach of such term, condition or warranty will be limited, at our option, to any one or more of the following:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

14. DISPUTE RESOLUTION

14.1 Informing Us About Disputes

- (a) You should inform us immediately in writing of any dispute or difference whatsoever in connection with these Terms and Conditions. We will investigate and endeavour to resolve any dispute or difference in accordance with our internal dispute resolution processes.
- (b) You can contact us by:
 - (i) **Email:** info@stupay.com.au
 - (ii) **Telephone:** 02 9222 4113
 - (iii) **Website:** www.stupay.com.au

14.2 How Disputes Are Dealt With

- (a) Any dispute or difference in connection with this Terms and Conditions must be dealt with by you in Australia, in accordance with our procedures from time to time for handling disputes.
- (b) We will:
 - (i) acknowledge all complaints within one (1) day (or as soon as reasonably practicable);
 - (ii) provide you with an initial response within ten (10) days; and
 - (iii) provide you with a final written response within forty-five (45) days.
- (c) There may become circumstances where we will not provide a written response (unless we are required to do so) to you because we have:
 - (i) resolved the dispute to your satisfaction within five (5) days; or
 - (ii) given you an appropriate explanation and/or apology and there are no further actions we can take to reasonably address the dispute.

- (d) Where the event the dispute or difference is unable to be resolved by us to your satisfaction in accordance with our Dispute Resolution Policy you may refer the dispute or difference to AFCA for determination in accordance with their rules:

Phone: 1800 931 678

Internet: www.afca.org.au

Email: info@afca.org.au

Mail: GPO Box 3, Melbourne VIC 3001

- (e) If the dispute or difference does not fall within AFCA's rules:
- (i) the dispute or difference may be submitted by us to arbitration in accordance with and subject to the Institute of Arbitrators and Mediators of Australia Expedited Commercial Arbitration Rules, and to the extent permitted under those rules the Arbitrator will be a person recommended by the New South Wales Chapter of the Institute of Arbitrators and Mediators of Australia; or
 - (ii) you may request us to refer the dispute to arbitration in accordance with clause 14(e)(i) above, and:
 - A. we may decide in our absolute discretion whether to agree to any such request; and
 - B. without agreement by us in accordance with this paragraph, you will not be able to refer the dispute or difference to arbitration but will have to submit for the benefit of us only the dispute or difference to the exclusive jurisdiction of the Courts of New South Wales.
- (f) You and we agree to accept any determination of the arbitrator under sub-paragraphs (b) or (c) above as final and binding and submit for the benefit of us only, to the exclusive jurisdiction of the Courts in New South Wales for the enforcement of any such determination. For the avoidance of doubt, this clause will not prevent us from commencing proceedings in any other jurisdictions for the enforcement of any such determination.
- (g) You can access our Dispute Resolution Policy on the Website. If you are unable to our Dispute Resolution Policy, you can request a copy from us, and we will provide it to you within seven (7) days of your request.

14.3 Where We May Commence Legal Proceedings

- (a) Clause 14.2 is for the benefit of us only, and it does not prevent us from commencing proceedings against you in any relevant jurisdiction, in addition to submitting any dispute or difference whatsoever with you in connection with this Terms and Conditions to arbitration in accordance with clause 14.2(e)(i) of this Terms and Conditions.

15. PRIVACY

15.1 Personal Information

- (a) In the course of opening your Account and providing services to you under these Terms and Conditions, it will be necessary for us to obtain and hold personal information that we will obtain from you in accordance with Applicable Laws. You agree that we can rely on, hold and process personal information for the purpose of performing our services and obligations under these Terms and Conditions and for the purpose of improving those services.
- (b) If you do not provide the information requested by us or agree to our information handling practices detailed in these Terms and Conditions, we may not be able to provide our services to you.
- (c) We collect, use, hold, handle and/or disseminate your information in a way that is at all times compliant with the *Privacy Act 1988* (Cth) and its provisions. You can access our Privacy Policy on the Website.

15.2 Access to Information

- (a) You may contact us if you wish to request access to any personal information that we hold about you.

15.3 Marketing

- (a) We take all reasonable steps to ensure that our services are not used or suggested in relation to unlawful unsolicited marketing or selling.
- (b) We may send you marketing materials from time to time when permitted to do so. We may send marketing materials about updates, announcements and targeted offers from us.
- (c) We take all reasonable steps to exclude you from receiving marketing materials whilst you are experiencing financial hardship. Please refer to our Hardship Policy for further information.

16. NOTICES

16.1 Notices Must be in Writing

- (a) Subject to clause 16.2, any notice or other communication given or made under or in connection with the matters contemplated by these Terms and Conditions will, except where oral communication is expressly provided for, be in writing and will be sent to the address below:

Stupay Pty Ltd

Address: info@stupay.com.au

Phone 02 9222 4113

Email Address: www.stupay.com.au

You: The address and/or email address provided by you for this purpose.

16.2 Provision of Notice

- (a) A notice in writing can be provided by email or post.

16.3 When Notices are Received

- (a) Any such notice will be deemed to have been received:
 - (i) if posted, within three (3) Business Days of posting;
 - (ii) if oral, whether by telephone or face to face, when actually given; or
 - (iii) if sent by email, on sending.

16.4 Change of Notice Details

- (a) You may alter the address (including email address) to which communications are issued to you, by written notice to us and we may notify you of a change to any of our details as stated above, provided in either case that such alteration will only be effective on the later of the date specified in the notice and the time of deemed service under clause 16.3 of this Terms and Conditions.
- (b) You agree and acknowledge that you are solely responsible for ensuring that we have your current address, telephone number and email address.

16.5 Deemed Notice

- (a) You agree and acknowledge that any written notices will be deemed to have been properly given or made available if sent to the address (including email address) last notified to us by you.

17. MISCELLANEOUS

17.1 Governing Law and Jurisdiction

- (a) These Terms and Conditions will be governed by and construed in accordance with the law of New South Wales, Australia.
- (b) You and we submit, for the benefit of us only, to the exclusive jurisdiction of the law of New South Wales, Australia. For the avoidance of doubt, this clause 17.1 will not prevent us from commencing proceedings in any other relevant jurisdiction.

17.2 Assignment and Delegation

- (a) The following provisions apply in relation to assignment and delegation:
 - (i) You may not assign or deal with any of your rights or delegate any of your obligations under these Terms and Conditions to any person without our prior written consent.

- (ii) We may assign or deal with our rights or delegate any of our obligations under these Terms and Conditions to any person, without the need to obtain consent to you, subject to obtaining regulatory approval where, and to the extent that such approval is required by law.
- (iii) You agree that we may appoint third party collections agencies to collect any amounts owing to us under these Terms and Conditions without your consent. You consent to us disclosing on a continuous basis any information or documents relating to you we consider necessary to assign such rights, manage the assigned Terms and Conditions and assess your total liabilities to us and any related entity.

17.3 Cumulative Rights and Remedies

- (a) The rights, powers, authorities, discretions and remedies of a party under these Terms and Conditions are cumulative and not exclusive of any rights or remedies provided by law.

17.4 Rights of Third Parties

- (a) Nothing in these Terms and Conditions is intended to confer on any person other than us or you any right to enforce any term of these Terms and Conditions.

17.5 Illegality

- (a) If at any time any provision of these Terms and Conditions is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Terms and Conditions under the law of that jurisdiction nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction will be in any way affected.

17.6 Delay, Omission and Waiver

- (a) The following provisions apply to any delay, omission and waiver:
 - (i) No delay or omission on our part in exercising any right, power or remedy provided by law or under this Terms and Conditions, or partial or defective exercise thereof, will:
 - A. impair or prevent further or other exercise of such right, power or remedy; or
 - B. operate as a waiver of such right, power or remedy.
 - (ii) No waiver of any breach of any term of these Terms and Conditions will (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of the particular breach.

18. INTERPRETATION AND DEFINITION

18.1 Interpretation

- (a) The defined terms used in these Terms and Conditions are capitalised and set out in this clause.
- (b) If there is any conflict between the terms of these Terms and Conditions and any Applicable Law, the Applicable Law (to the extent it cannot be excluded or modified by this Terms and Conditions) will prevail.
- (c) In these Terms and Conditions any reference to a person includes bodies corporate, unincorporated associations, partnerships and individuals.
- (d) In these Terms and Conditions, all references to times of the day are to the time in Sydney, New South Wales, Australia, unless otherwise specified.
- (e) Headings and examples in these Terms and Conditions are for reference only and do not affect the construction of the Agreement.
- (f) In these Terms and Conditions any reference to any enactment includes references to any statutory modification or re-enactment of such enactment or to any regulation or order made under such enactment (or under such a modification or re-enactment).
- (g) The terms and expressions in these Terms and Conditions have defined meanings, these meanings and the rules of interpretation, are set out in clause 18.2.

18.2 Definitions

In this Terms and Conditions, the following terms and expressions have, unless the context otherwise requires, the following meanings:

ACCOUNT	means an account we have opened for you in respect of your Transactions, Payments and dealings with us.
AFCA	means the Australian Financial Complaints Authority.
AGREEMENT	means these Terms and Conditions, the Payment Schedule and any information on our Website (including fee information), as amended, varied, or replaced from time to time, which together govern our relationship with you.
AML/CTF LAWS	means the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> and all regulations, rules and instruments made under that Act.

APPLICABLE LAWS	means all: <ul style="list-style-type: none"> (a) applicable provisions of laws and regulations, including all relevant rules of government agencies, and self-regulatory organisations, that apply to the parties, the Agreement and the transactions contemplated by the Agreement; and (b) applicable Australian law.
BUSINESS DAY	means any day other than a Saturday, Sunday or public holiday on which banks are open for business in Sydney, New South Wales, Australia.
INTERNATIONAL STUDENT	means a student who is not an Australian citizen, Australian permanent resident, New Zealand citizen or a holder of an Australian permanent resident humanitarian visa.
INVOICE	means an Invoice provided by you to Stupay as confirmation of educational services provided to you by the Service Provider.
NOMINATED PAYMENT METHOD	means the Payment Method selected by you in the online application in accordance with clause 3.1(c).
OUTSTANDING BALANCE	means the difference between all amounts credited to and all amounts debited from your Account.
PAYMENT	means a payment made, or required to be made, in accordance with the Payment Schedule.
PAYMENT METHOD	means any payment method accepted by Stupay from time to time including but not limited to direct debit from a nominated bank account, debit card or credit card.
PAYMENT SCHEDULE	means, in relation to a Transaction, a list of Payment amounts that Stupay is entitled to receive from you. For the avoidance of doubt, the applicable time zone for all dates provided as part of a Payment Schedule shall be the applicable time zone in Sydney, New South Wales, Australia.
SERVICE PROVIDER	means an education provider who is registered with us to accept payment for their services via Stupay's instalment payment facility.
STATEMENT	means a statement of account issued by us in respect of your Account.
SUITABILITY ASSESSMENT	means the assessment process outlined in clause 2.1 and 2.3 as appropriate.

TERMS AND CONDITIONS	means this Terms and Conditions document which forms part of the Agreement.
TRANSACTION	means a payment made by us to your Service Provider, upon receiving an Invoice, accepted and authorised by us under these Terms and Conditions.
TRANSACTION LIMIT	means the limit defined in clause 4.3 of these Terms and Conditions.
WEBSITE	means www.StuPay.com.au

19. PAYMENT SCHEDULE

- 19.1 Upon entering into a Transaction, we will debit the establishment fee from your Account.
- 19.2 Where you have been provided with services by a Service Provider on the Acceptance Date, a weekly Payment will be debited from your Nominated Payment Method ("**Weekly Payment**"), commencing on the Acceptance Date.
- 19.3 The Weekly Payment will cease where you have repaid in full the Outstanding Balance and all applicable fees and charges. This means that your final payment will be equal to the Weekly Payment or the remaining amount owing (where this amount is less than Weekly Payment).
- 19.4 All fees and charges as outlined in clause 6 are due and payable within one (1) Business Day of the fee and/or charge be incurred.

Execution: Executed as an agreement.

EXECUTED by **StuPay Pty Ltd** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of Director

Signature of Director

Name of Director

Name of Director

EXECUTED by:

Signature of Witness

Signature of Student

Name of Witness

Name of Student