

The *Client* appoints Fast Track Debt Collection ("FTDC") as the *Client's* collection agent on the terms and conditions set out below. Words in *ITALICS* are defined at clause 17.1 below.

1. Appointment of Collection Agent

- 1.1 The *Client* appoints FTDC to act on behalf of the *Client* in relation to the collection of each *Referred Debt*.
- 1.2 The *Client* authorises and instructs FTDC to take such collection steps in pursuit of collection of a *Referred Debt* as FTDC considers appropriate in view of the *Approach* the *Client* has requested be taken, including by letters, emails, telephone, SMS messages, field calls, skip tracing and, subject to clause 9.1, Court action ("*the Collection Services*").
- 1.3 The *Client* acknowledges that:
 - (a) a *Debt* shall be deemed to be a *Referred Debt* upon:
 - (i) submission of an *Instruction Sheet* or other form of instruction to FTDC in relation to the *Debt*, and
 - (ii) the *Client* entering into a *Fast Track Payment Agreement* in relation to the *Debt*.
 - (b) for best results the *Client* should complete and submit an *Instruction Sheet* in relation to each *Referred Debt* before the *Debt* is 100 days overdue.
- 1.4 The *Client* authorises FTDC to instruct, at its cost, its Solicitors, *Roberts Legal*, to perform all or any part of the *Collection Services*.
- 1.5 Unless the *Client* advises otherwise in writing, the *Client* authorises FTDC to use its name, business type and logo to market FTDC's services and that the *Client* is or has been a client of FTDC including on FTDC's website or social media.
- 1.6 The *Client* acknowledges and *Roberts Legal* discloses that FTDC and *Roberts Legal* are associated companies and share common ownership and control.

2. FTDC Obligations & Warranties

- 2.1 FTDC warrants that it:
 - (a) will provide the *Collection Services* in a timely, proper and professional manner,
 - (b) will do all things reasonably practicable to collect a *Referred Debt* before recommending that Court action be taken,
 - (c) will obtain the *Client's* written or verbal authority before accepting from a *Debtor*:
 - (i) a compromise or settlement of a *Referred Debt* in an amount less than payment in full, or
 - (ii) a proposal for payment of a *Referred Debt* by instalments,
 - (d) it will make the *Payment Plan Offer portal* available to the *Client* to refer *Debtors*,
 - (e) will cease any action in relation to a *Referred Debt* upon receipt of the *Client's* written instruction.

3. Approaches

- 3.1 FTDC shall do everything reasonably practicable to follow the *Client's* instructions in relation to the desired *Approach* to the *Collection Services* for a *Referred Debt*.
- 3.2 Unless the *Client* specifies otherwise in an *Instruction Sheet* submitted in relation to a *Referred Debt*, FTDC will take the *Direct Approach*.
- 3.3 Where the *Client* requests in an *Instruction Sheet* that FTDC take the *Customised Approach* or the *Disputed Approach* in relation to a *Referred Debt* the *Client* shall, in addition to the commission payable pursuant to clause 6, pay FTDC a set up fee of \$250.00:
 - (a) for each different *Customised Approach* the *Client* instructs FTDC to take in relation to one (1) or more *Referred Debts*, and
 - (b) for each *Referred Debt* to which the *Disputed Approach* is to be taken.

4. Accounting for Money Collected

- 4.1 FTDC shall promptly pay all *Collected Debt* received by FTDC to the *Trust Account* on behalf of the *Client*.
- 4.2 Subject to clause 4.3, FTDC shall remit all *Collected Debt* to the *Client* monthly within seven (7) days of the end of each calendar month.
- 4.3 The *Client* hereby irrevocably authorises FTDC to deduct and pay to itself from the recovered monies, all commission, *Search Fees*, fees, charges, GST and any other amounts due and payable by the *Client* under this *Agreement*.
- 4.4 If a *Debtor* makes a payment to the *Trust Account* towards a *Referred Debt* via a Credit Card, the *Creditor* indemnifies FTDC for any transaction fees, charges and levies incurred by FTDC in connection with the payment provided that FTDC has recovered the transaction fee, charge and/or levy from the *Debtor*.

5. Client Obligations & Warranties

- 5.1 The *Client* shall promptly provide FTDC with all information and assistance reasonably requested from time to time in relation to the collection of a *Referred Debt*.
- 5.2 If requested, the *Client* shall appoint a contact person within the *Client's* organisation in relation to one (1) or more *Referred Debts*, whereafter FTDC shall be authorised to take instructions from that contact person and to report to that person in relation to the *Collection Services*.
- 5.3 *Debt Warranties*: The *Client* warrants that:
 - (a) each *Referred Debt* is, at the time of the referral, due, owing and payable to the *Client*,
 - (b) the information supplied by it to FTDC in an *Instruction Sheet* or otherwise from time to time is true and correct and includes all information relevant to a *Referred Debt*,
 - (c) if the *Client* specifies in an *Instruction Sheet* that debt collection costs or interest are recoverable from a *Debtor*, those costs and/or interest are legally recoverable, and
 - (d) except as disclosed to FTDC in writing at the time of submitting a *Referred Debt*, the *Client* is not aware of any dispute or other circumstances that may give rise to a sustainable defence, counter-claim or set-off in relation to any *Referred Debt*.
- 5.4 *Recovery Warranties*: The *Client* warrants that:
 - (a) the *Client* will notify FTDC in writing within one (1) *Business Day* if the *Client* receives any:
 - (i) contact or correspondence from a *Debtor*, or
 - (ii) payment directly in relation to a *Referred Debt*,
 - (b) during the term of this *Agreement*, the *Client* will not, without FTDC's prior written consent which shall not be unreasonably withheld:
 - (i) negotiate directly with, or contact, a *Debtor*, or
 - (ii) accept a payment, other than an instalment payment, less than the full amount of a *Referred Debt*.
- 5.5 If the *Client* breaches a warranty in clause 5.3(d), the *Client* shall be liable to pay compensation to FTDC equal to the greater of \$250 and 20% of the commission that would have been payable if the *Referred Debt* had been paid in full on demand. The *Client* acknowledges that this is a genuine pre-estimate of FTDC's loss or damage based on the costs and resources likely to have been expended in providing the *Collection Services* prior to the discovery of the circumstances relating to the breach of warranty.

- 5.6 FTDC shall be entitled to charge commission as if the *Referred Debt* had been paid in full if:
 - (a) the *Client* fails or refuses to provide information or assistance reasonably requested in relation to the collection of a *Referred Debt* within 14 days of a written request, or
 - (b) the *Client* breaches a warranty in clause 5.4(b).
 - 5.7 If FTDC suffers any loss, damage or expense due to any false, misleading, inaccurate or insufficient information supplied by the *Client*, the *Client* shall indemnify FTDC in full for such loss, damage or expense.
- ### 6. Commission
- 6.1 FTDC shall not be entitled to any commission if a *Referred Debt* is not collected, unless otherwise stated in this *Agreement*.
 - 6.2 All commissions referred to in this *Agreement* shall be determined in accordance with this clause and the *Commission Schedule*, unless the parties agree otherwise in writing.
 - 6.3 The *Client* shall pay FTDC a commission where:
 - (a) a *Referred Debt* becomes a *Collected Debt*,
 - (b) *Interest* on a *Referred Debt* becomes *Collected Interest*,
 - (c) goods, stock or services are received in lieu of payment of a *Referred Debt*,
 - (d) the *Client* sells or assigns a *Referred Debt*, and
 - (e) the *Client* terminates this *Agreement* generally or in relation to one (1) or more *Referred Debts*.
 - 6.4 For the purpose of determining FTDC's entitlement to commission, all amounts received from a *Debtor* shall be deemed to be applied as follows:
 - (a) as *Collected Debt*,
 - (b) towards any other amount(s) payable by a *Debtor* pursuant to a *Fast Track Payment Agreement*, and
 - (c) as *Collected Interest*.
 - 6.5 Where a commission becomes payable under:
 - (a) clause 6.3(a), the commission shall be calculated on the amount collected or paid,
 - (b) clause 6.3(b), the commission shall be calculated on the amount of interest collected or paid,
 - (c) clause 6.3(c), the commission shall be calculated on the value of the goods, stock or services accepted by the *Client*,
 - (d) clause 6.3(d), the commission shall be calculated on:
 - (i) the sale price, where the sale or assignment is pursuant to an arm's length transaction, or
 - (ii) in all other cases, the balance owing in relation to the *Referred Debts* to which the sale or assignment relates, and
 - (e) clause 6.3(e), the commission shall be calculated on the balance owing in relation to the *Referred Debts* to which the termination relates.
 - 6.6 Notwithstanding any other clause of this *Agreement*, FTDC shall not be entitled to commission in relation to any *Referred Debt* in respect of which FTDC has given notice in writing that the *Referred Debt* is an *Uncollectable Debt*.
- ### 7. Searches
- 7.1 Subject to clause 7.2, the *Client* authorises FTDC to order such *Searches* in connection with a *Debtor* and/or a *Referred Debt* as FTDC considers reasonably necessary to perform the *Collection Services*.
 - 7.2 The *Client* shall not be liable for *Search Fees* in excess of \$60.00 in total in connection with a *Referred Debt*, unless FTDC has obtained the *Client's* prior consent to the ordering of a relevant *Search*.
 - 7.3 Where FTDC orders any *Searches* in accordance with clause 7.1, the *Client* shall pay the *Search Fee* corresponding to the *Searches*:
 - (a) from *Collected Debt* in accordance with clause 4.3, or
 - (b) where there is no *Collected Debt* at the time, within 14 days of the *Client's* receipt of an invoice for the *Search Fees*.
 - 7.4 FTDC is not liable for any claim, loss or damage suffered by the *Client* as a result of the use of the information contained in any *Search* supplied by FTDC to the *Client*.
- ### 8. Fast Track Payment Agreements
- 8.1 If a *Debtor* wishes to pay a *Referred Debt* by instalments or one (1) or more delayed payments, FTDC shall endeavour to cause the *Debtor* to enter into a *Fast Track Payment Agreement* in relation to any agreed payment arrangement.
 - 8.2 Subject to clause 8.3, where the *Client* enters into a *Fast Track Payment Agreement* with a *Debtor*, the *Client* shall pay FTDC the fee, if any, recoverable from the *Debtor* for the processing and handling of instalment payments received to its *Trust Account*, for responding to a payment default or for responding to a request for a statement of the balance owing.
 - 8.3 No amount shall be payable by the *Client* under clause 8.2 unless:
 - (a) FTDC has collected the full amount of a *Referred Debt*, or where the *Client* has agreed to accept a lesser amount, that lesser amount, and
 - (b) the corresponding fee amount has been collected from the *Debtor*.
- ### 9. Court Action
- 9.1 FTDC will not initiate any Court proceedings on behalf of the *Client* without the *Client's* prior instructions.
 - 9.2 Where the *Client* instructs FTDC to initiate Court action in relation to a *Referred Debt*:
 - (a) the *Client* shall provide FTDC, or its appointed Solicitors, with all original documents, statements, records and information reasonably required to conduct the Court action proceedings and will cooperate fully with any enquiries undertaken by FTDC or its solicitors;
 - (b) the *Client* authorises FTDC to instruct *Roberts Legal* to sign Court related documents on behalf of the *Client* as required,
 - (c) FTDC or its Solicitors shall notify the *Client* as soon as practicable after receiving notification of any defended matter, or request for further and better particulars, in relation to a Statement of Claim;
 - (d) the *Client* shall pay amounts on account of Court filing fees, process service fees and scale legal fees on a Statement of Claim and Application for Default Judgment in advance and shall indemnify FTDC for all reasonable legal costs and disbursements incurred by FTDC, unless FTDC has agreed otherwise,
 - (e) the *Client* authorises FTDC and its Solicitors to take such enforcement action as FTDC considers reasonable or necessary in relation to a Judgment debt provided that the *Client* shall not be liable for any legal costs or disbursements of such enforcement action unless the *Client* has given its prior instructions to the action being taken, and
 - (f) unless pre-paid by the *Client*, FTDC shall be entitled to deduct from monies recovered from a *Debtor* the Court filing fee and service fees in connection with the Statement of Claim and/or any other Court process and all reasonable legal costs and disbursements incurred by FTDC, in addition to commissions or other amounts payable under this *Agreement*, and in the event that such costs and disbursements exceed the *Collected Debt* the subject of the Court action the *Client* shall be liable to FTDC for that excess.

10. Termination

- 10.1 This Agreement shall continue until terminated in accordance with this clause.
- 10.2 FTDC may terminate this Agreement to the extent that it relates to one (1) or more Referred Debts at any time if it considers that the Referred Debt is an Uncollectable Debt.
- 10.3 Either party may terminate this Agreement wholly or in relation to one (1) or more Referred Debts by 14 days notice in writing at any time. However, if the Client terminates this Agreement pursuant to this clause FTDC shall be entitled to charge commission on the Referred Debt(s) to which the termination relates on the date of termination as if the Referred Debt(s) had been paid in full.
- 10.4 FTDC reserves the right to cease action on any Referred Debt where FTDC or its Solicitors have a conflict of interest in relation to the Debtor or if FTDC otherwise considers it appropriate to do so.

11. Privacy Protection

- 11.1 Personal information about the Client and other sources is protected under the Privacy Amendment (Private Sector) Act 2000. Disclosure of such information may be compelled by law. The Client authorises FTDC to disclose such information where necessary to others in furtherance of the collection of a Referred Debt (eg. to the Court, the other party or parties to litigation etc).

12. Confidential Information

- 12.1 Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party ("the Confidential Information"). For avoidance of doubt the terms of FTDC's written demands and the Fast Track Payment Agreement are Confidential Information.
- 12.2 Each party shall hold and maintain in strict confidence all Confidential Information and shall not:
- use the Confidential Information, and
 - disclose the Confidential Information to any third party except as may be required by a Court or governmental authority,
- without the prior written consent of the other party.
- 12.3 The parties shall be responsible for ensuring that their respective officers and employees do not cause the party to breach clause 12.2.

13. Guarantee

- 13.1 In consideration for FTDC agreeing to provide the Collection Services for the Client, the Guarantor guarantees to FTDC the performance by the Client of all of the Client's obligations under this Agreement.
- 13.2 If the Client does not pay any money due under this Agreement the Guarantor must pay that money to FTDC on demand without deduction, set-off or counterclaim even if FTDC has not first tried to recover payment from the Client.
- 13.3 Even if FTDC gives the Client extra time to comply with an obligation under this Agreement or does not insist on strict compliance with the terms of this Agreement the Guarantor's obligations will not be affected.
- 13.4 If there is more than one Guarantor, this guarantee shall be binding on each of them jointly and severally and the release by FTDC of any Guarantor from this guarantee does not affect the liability of any other Guarantor.
- 13.5 This guarantee is a continuing guarantee. The Guarantor's liability under this clause is unlimited.

14. Limitation of Liability

- 14.1 FTDC's liability to the Client (and any party claiming through the Client against FTDC) for any claim for loss or damage (including legal expenses), whether arising in contract, tort or otherwise, in connection with this Agreement shall be limited to the lesser of the costs of:
- supplying the services again, or
 - payment of the costs of having the services supplied again.
- 14.2 FTDC shall not be liable for any indirect, special or consequential loss or damage of any nature whatsoever resulting from or caused in any way by the carrying out of the Works.

15. GST

- 15.1 Commission, Search Fees and all other monies payable by the Client pursuant to this Agreement are exclusive of GST unless otherwise stated.
- 15.2 Subject to clause 15.3, if FTDC incurs a liability to pay GST in connection with a supply to the Client pursuant to this Agreement, the consideration that the Client must pay for the supply is increased by an amount equal to the GST liability that FTDC incurs in making the supply and the amount of the GST liability is payable at the same time and in the same manner as the consideration in respect of which the supply is payable.
- 15.3 FTDC shall provide the Client with a tax invoice for any GST payable by the Client pursuant to this Agreement.

16. General

- 16.1 In the event that any commissions, Search Fees, fees, expenses or other amounts payable by the Client under this Agreement exceed or are not deducted out of the monies collected on behalf of the Client, the Client shall pay such amounts to FTDC within 14 days of its receipt of a tax invoice.
- 16.2 If the Client fails to pay any money under this Agreement within seven (7) days of the due date for payment:
- FTDC shall be entitled to interest on the outstanding amount at the rate of 2.5% per calendar month calculated daily from the due date for payment until payment is received,
 - the Client shall indemnify FTDC from and against all costs and disbursements incurred or payable by FTDC in connection with the recovery of monies owing by the Client (including, without limitation, legal fees on a solicitor-client basis, collection agency costs and bank dishonour fees).
- 16.3 The parties agree that email shall be the primary method of contact and communication in relation to any matters arising under this Agreement.
- 16.4 This Agreement embodies the whole agreement between the parties relating to the subject matter of this Agreement and supersedes any and all oral and written negotiations and communications by or on behalf of any of the parties.
- 16.5 Each of the Client and the Guarantors (if any) hereby charge all of their right, title and interest in any land or other property of any kind that they, or either of them, presently or hereafter own solely or jointly with the performance of the Client's obligations under this Agreement and hereby irrevocably consent to the registration by FTDC of a Caveat against the title to such land in the event of any default under this Agreement.

- 16.6 The terms in this Agreement may not be varied, waived, discharged or released, except with the prior written consent of the parties.
- 16.7 This Agreement shall be governed by the laws of New South Wales. The parties irrevocably submit to the jurisdiction of the Courts of New South Wales in connection with any dispute relating to this Agreement.
- 16.8 The parties agree that a construction of this Agreement that results in all provisions being enforceable is to be preferred to a construction that does not so result.
- 16.9 if, despite the application of clause 16.8, a provision of this Agreement is illegal or unenforceable:
- if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
 - in any other case, the whole provision is severed,
- and the remainder of this Agreement continues in force.
- 16.10 Either party may assign the benefit of this Agreement, however, such assignment will not release the Client or the Guarantor from any existing or contingent liability.

17. Definitions & Interpretation

- 17.1 In this Agreement, unless expressed otherwise:
- "Agreement" means these terms and conditions and the Appointment;
- "Appointment" means the Collection Service Agreement (Appointment of Collection Agent) and/or each Instruction Sheet signed by the Client;
- "Approach" means the Direct Approach, the Customised Approach or the Disputed Approach to be taken in relation to the collection of a Referred Debt as stated in the Instruction Sheet or failing the selection of such approach, the Direct Approach;
- "Business Day" means any day other than Saturdays, Sundays or public holidays;
- "Client" means the party named as the Client in the Appointment;
- "Collected Debt" means all payments or part payments received by FTDC or the Client directly in respect of a Referred Debt;
- "Collected Interest" means all payments or part payments received from a Debtor on account of interest that has accrued on a Referred Debt;
- "Commission Schedule" means the schedule of commission rates at the end of these terms and conditions;
- "Collection Services" has the meaning attributed to it at clause 1.2;
- "Customised Approach" means a written or verbal approach to requesting or demanding payment of a Referred Debt developed in conjunction with and approved by the Client with the aim of preserving the Client's relationship with the Debtor as far as reasonably possible;
- "Debt" means a tax invoice, invoice, account, statement or other document containing the details of a debt owing to the Client by a Debtor and includes any compromise of an original amount;
- "Debtor" means the party or parties named as a debtor in any Instruction Sheet or Debt provided by the Client in relation to a Referred Debt;
- "Direct Approach" means FTDC's usual direct approach to demanding payment of a Referred Debt;
- "Disputed Approach" means a detailed written demand or verbal approach as determined best by FTDC following the consideration and evaluation of the dispute and obtaining of legal advice from Roberts Legal, if considered necessary;
- "Fast Track Debt Exchange" and "FTDX" mean the online market place hosted at www.fasttrackdebt.com.au where business related debts can be bought and sold;
- "Fast Track Payment Agreement" means an agreement in writing between the Client and a Debtor for the payment of a Referred Debt by instalments or one (1) or more delayed payments and incorporating terms and conditions to the effect of those set out in the Fast Track Payment Agreement Terms (11 October 2012) as varied from time to time;
- "FTDC" means Fast Track Debt (Australia) Pty Limited ACN 152 989 672 trading as Fast Track Debt Collection;
- "GST" has the same meaning as given to it in the A New Tax System (Goods and Services Tax) Act 1999;
- "Guarantor" means the person or persons who have signed this Agreement as guarantor and includes their executors, administrators, successors and assigns;
- "Payment Plan Offer portal" means the online portal hosted by FTDC where Debtors can offer to enter into a Fast Track Payment Agreement in relation to a Debt;
- "Interest" means any and all interest that has or may accrue on a Debt;
- "Instruction Sheet" means the Fast Track My Debt Instruction Sheet as varied by FTDC from time to time whether submitted to FTDC by post, facsimile, email, online portal or otherwise;
- "Referred Debt" means a Debt owed to the Client and which is referred to FTDC for collection;
- "Roberts Legal" means Roberts Legal Pty Limited ACN 128 628 599, an incorporated legal practice in the State of New South Wales;
- "Searches" means one (1) or more of the searches listed in the Table of Searches & Search Fees below and any other paid search available in connection with a person, company or property;
- "Search Fees" means the fee corresponding to a Search as set out in the Table of Searches & Search Fees below as varied by FTDC by notice in writing to the Client from time to time;
- "Trust Account" means the trust account maintained by FTDC in accordance with Schedule 2 of the Commercial Agents and Private Inquiry Agents Act 2004 (NSW); and
- "Uncollectable Debt" means a Referred Debt which FTDC determines in its absolute discretion to be not commercially collectable.
- 17.2 In this Agreement, unless otherwise indicated by the context:
- the singular includes the plural and vice versa;
 - a reference to one gender includes a reference to all other genders;
 - headings to clauses are included for the sake of convenience only and will not affect the interpretation of the clauses to which they relate;
 - references to any statute or statutory provision include that statute or statutory provision as amended, extended, consolidated or replaced by subsequent legislation and any orders, regulations, instruments or other subordinate legislation made under the relevant statute;
 - the word person means and includes a natural person, a company, a firm or any other legal entity whether acting as a trustee or not;
 - this Agreement will bind each party's legal personal representatives, successors and assigns; and
 - where a party comprises two (2) or more persons the rights and obligations of such persons pursuant to this Agreement will ensue for the benefit of and bind each of them jointly and severally.

Commission Schedule

Amount of Referred Debt	Commission Rate*
< \$1,000	\$300
\$1,001 to \$3,000	30.0%
\$3,001 to \$20,000	25.0%
\$20,001 to \$50,000	20.0%
\$50,001 to \$100,000	15.0%
\$100,001 and above	12.5%
Collected Interest	The Commission Rate corresponding to the Referred Debt

Table of Searches & Search Fees

Search	Search Fee*
TICA (Tenancy Enquiry)	\$5.00
Street Address Enquiry, Reverse Street Address Search	\$10.00
Owner Enquiry Search	\$25.00
Title Search (Current), Title Search (Historical)	\$25.00
Company Search – Current	\$25.00
Company Search – Historical	\$35.00
Bankruptcy Search, Bankruptcy Extract;	\$35.00
ASIC Personal Name Search	\$55.00

* Exclusive of GST