

GENERAL PROVISION AGREEMENT FOR DEBT COLLECTION

This is an Agreement between Australe Pty Ltd ACN 065 211 725 trading as BCA Debt ABN 31 151 123 223 (**BCA Debt**) and the entity named in Item 1 of the Reference Schedule (the **Client**).

1. Definitions

The following definitions shall apply to the terms and conditions set out below that form part of this Agreement:

Commission means the amount calculated in accordance with Items 4 or 5 of the Reference Schedule payable by the Client to BCA Debt for the provision of the Services in accordance with this Agreement;

Debt Amount means any debt that is referred by the Client to BCA Debt for recovery in accordance with this Agreement;

Fees means the administrative fees set out at Items 4 or 5 of the Reference Schedule payable by the Client in accordance with this Agreement;

Recovered Debt Amount means any amount of a Debt Amount actually recovered by either BCA Debt, the Client or a third party prior to, at the time of or after referral of an Debt Amount by the Client to BCA Debt in accordance with this Agreement;

Services means the services set out at clause 5 of this Agreement; and

Settlement means a situation where the Client agrees to settle a Debt Amount with its debtor, per clause 6 of this Agreement.

2. Commencement

This Agreement shall commence on the Commencement Date in Item 2 of the Reference Schedule and shall continue until terminated in accordance with the terms of this Agreement.

3. Engagement

- (a) The Client hereby engages BCA Debt and BCA Debt hereby agrees to recover debts owing to the Client by its debtor(s) from time to time.
- (b) The Client will provide BCA Debt with all such information and documentation as BCA Debt may reasonably deem necessary to collect any debt.
- (c) In any case handled by BCA Debt where the Client fails to provide BCA Debt with all such information and documentation requested within a reasonable time, then in each case, full Commission and Fees are payable to BCA Debt by the Client and will be charged accordingly.
- (d) The Client warrants that all information it provides BCA Debt concerning the debtor and/or the debt or any other information, written or otherwise, is true and correct.
- (e) The Client authorises BCA Debt the right to receive, endorse, and deposit all monies recovered into its trust account on behalf of the Client and to deduct all costs, Fees, legal costs, Commissions, or other expenses which the Client is liable to pay.
- (f) The Client authorises BCA Debt and any of its personnel to negotiate, make and accept offers on Debt Amounts for payment from the Client's debtors without consulting with the Client or any authorised person of the Client. The Client agrees that it duly accepts any offers BCA Debt agrees to on its behalf.
- (g) The Client agrees to meet on demand all necessary and incurred legal disbursements, including legal and court fees, search fees, and other incidental costs including GST, of attempting to effect recovery of the debt through

legal proceedings, even if the resultant recovery process is not at all or only partially successful, except where any portion of such disbursements are legally or practically able to be recovered from the debtor.

(h) The Client must notify BCA Debt of any payment made by a debtor directly to the Client within five (5) working days of receiving payment. Failure to inform BCA Debt will incur a non-notification fee of \$22.00 inclusive of GST.

(i) BCA Debt reserves the right to refuse any collection matter referred to it by the Client in its sole discretion.

4. Services

The Services that BCA Debt has agreed to provide to the Client include, but are not limited to, one or a combination of the following:

- (a) correspondence with the debtor;
- (b) issuing of demands;
- (c) liaising with the debtor's solicitors;
- (d) instructing third parties to conduct field calls;
- (e) negotiating with debtors;
- (f) instructing solicitors pursuant to clause 11 of this Agreement to commence legal proceedings; and
- (g) other services ordinarily provided by a mercantile debt recovery agent.

5. Commission and Fees

- (a) In consideration of BCA Debt providing the Services to the Client, the Client agrees to pay BCA Debt the Commission in accordance with the Payment Rules.
- (b) Applicable Fees are as follows:
 - (i) if "Standard Pay as You Go" is selected in Item 3 of the Reference Schedule, the Fees outlined in Item 4 of the Reference Schedule applies for each debt referred by the Client to BCA Debt; and
 - (ii) if "Annual Membership" is selected in Item 3 of the Reference Schedule, the Fee outlined in Item 5 of the Reference Schedule applies for the entire 12-month period, regardless of the number of debts referred by the Client to BCA Debt for that period.
- (c) The Client agrees to pay BCA Debt the Fees in accordance with the Payment Rules.
- (d) BCA Debt may, by (60) sixty days' notice in writing to the Client, vary the Fees payable in accordance with the terms of this Agreement.

6. Payment Rules

The following Payment Rules apply:

- (a) If the Client refers a Debt Amount to BCA Debt for recovery and payment is at any time made to the Client, BCA Debt or a third party, the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Items 4 or 5 of the Reference Schedule, as applicable.
- (b) If the Client refers a Debt Amount to BCA Debt for recovery and the debtor is entitled to a reduction on the Debt Amount and:

- (i) if the amount of the reduction is equal to or exceeds the Debt Amount, the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Item 4 or 5 of the Reference Schedule on the full Debt Amount; or
- (ii) if the total of the reduction is less than the Debt Amount, the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Item 4 or 5 of the Reference Schedule on the full Debt Amount.
- (c) If the Client have referred a Debt Amount to BCA Debt for recovery and the Client have settled with the debtor (a **Settlement**), the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Item 4 or 5 of the Reference Schedule on the full Debt Amount.
- (d) If the Client accepts goods in lieu of payment from the debtor, the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Item 4 or 5 of the Reference Schedule on the full Debt Amount.
- (e) If the Client becomes aware that their debtor has paid the full Debt Amount prior to referring the matter to BCA Debt, the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Item 4 or 5 of the Reference Schedule on the full Debt Amount.
- (f) If the Client is aware that the debtor is bankrupt at the time the Client referred the matter to BCA Debt, the Commission and Fees payable by the Client to BCA Debt shall be calculated in accordance with Item 4 or 5 of the Reference Schedule on the full Debt Amount.
- (g) If BCA Debt elects to lodge a Client's debtor's details on any credit reporting agency as a mercantile enquiry and five (5) years lapses, the Client agrees to pay BCA Debt the Commission and Fees calculated in accordance with Item 4 or 5 of the Reference Schedule on the Full Debt Amount.
- (h) In the event that any case handled by BCA Debt for collection is discontinued in any way, including but not exclusive to the process being compromised, within 12 months of the debt being referred to BCA Debt by the Client, the Client Agrees that the full Commission and Fees calculated in accordance with Items 4 or 5 of the Reference Schedule apply. A debt is deemed compromised when a Client interferes with BCA Debt's ability to collect a Debt Amount through their normal processes and procedures.
- (i) The Payment Rules and BCA Debt's right to recover unpaid Commission and Fees as a debt due and owing from the Client shall survive the termination of this Agreement and/or withdrawal of your instructions.

7. Disbursements

The Client agree that you are liable to reimburse BCA Debt for all disbursements incurred by BCA Debt in the course of BCA Debt providing the Client with the Services under this Agreement.

8. Invoices

- (a) All invoices issued by BCA Debt are payable within (14) fourteen days from the date of invoice (the **Due Date**).
- (b) The Client agrees that if payment is not made by the Due Date, a debt collection fee will be included into the total amount owing and interest at the rate of ten (10) percent

per annum shall accrue on any outstanding amount compounded on a daily basis from the Due Date and the total amount shall be payable by the Client to BCA Debt as a debt due and owing.

- (c) The Client agrees that if the Client have failed to pay an invoice issued to the Client by BCA Debt by the Due Date, then all Fees owed by the Client to BCA Debt that have not been invoiced shall be immediately due and payable upon the issue of an invoice.

- (d) Per clause 8(c), the Client agrees and authorises BCA Debt to debit the credit card held on file to pay for any outstanding invoices.

9. Trust Account

- (a) The Client agrees that any Recovered Debt Amount will not be paid out by BCA Debt until seven (7) days after the last day of the calendar month.
- (b) Any Recovered Debt Amounts recovered by BCA Debt on Your behalf shall be disbursed in accordance with the Client Guide provided to the Client which you acknowledge and agree shall form part of this Agreement.
- (c) The Client agrees that BCA Debt may allocate any funds its holds in its trust account on your behalf to offset any invoices that the Client have failed to pay to BCA Debt by a Due Date or that are otherwise due and payable.

10. Trust Monies on Account

BCA Debt may from time to time request that you place money in its trust account on account of professional costs and disbursements.

11. Legal Service

- (a) For the purposes of commencing legal action against a debtor to recover a Debt Amount, the Client authorises BCA Debt to exclusively engage the services of its firm of appointed solicitors.
- (b) The firm of appointed solicitors will charge according to the scaled legal cost rates set by the State and Federal Courts of Australia as amended from time to time, where the scale rates do not apply to a legal service, the firm of appointed solicitors charge you in accordance with its ordinary hourly rates.
- (c) The Client will be liable for all legal costs regardless of whether or not a Debt Amount is successfully recovered, either in whole or in part.
- (d) If legal action is defended by a debtor, the firm of appointed solicitors will provide the Client with a cost agreement and cost disclosure document.

12. Warranties

The Client make the following warranties:

- (a) All Debt Amounts are due and owing to the Client by the debtor;
- (b) the Client have provided BCA Debt with true and accurate details of the debtor;
- (c) All information the Client provide to BCA Debt is true and accurate; and
- (d) the Client shall indemnify BCA Debt for any damage arising from any information the Client provide which may be incorrect, false and/or misleading and/or a breach of this clause 12 by the Client.

13. Privacy Authority and Consent

- (a) The Client agrees and expressly consents to BCA Debt undertaking the following activities to the extent permitted by law:
- (i) provide any items of the Client's and its debtor's personal information described in section 18E of the Privacy Act 1988 to a credit reporting agency;
 - (ii) obtain a consumer credit report about the Client and its debtor from a credit reporting agency to assess the Credit Application or proposed guarantee or collect overdue payments;
 - (iii) give credit worthiness information about the Client with other service providers to assess the Client's credit worthiness or applications for credit or to notify defaults or the status of the credit.
- (b) The Client acknowledges and agrees that they are aware that they may request access to their personal information held by BCA Debt. The Client expressly consents to BCA Debt accessing its personal information in order to complete the Services.
- (c) The Client warrants that all debtor information referred to BCA Debt is correct, accurate, and current. The Client further warrants that they have obtained express permission from its debtors to refer debtor information, which may include personal information, to BCA Debt or any other Credit Reporting Agency. The indemnification under clause 17 applies to this clause.
- (d) The Client agrees and expressly consents to BCA Debt sharing its personal information to BCA Debt's related companies and services, which may engage in direct marketing activities to Clients from time to time. The Client may choose to unsubscribe to such direct marketing activities directly with the related companies and services.

14. Continued Services

- (a) The parties agree that the terms of this Agreement shall apply to any Debt Amount referred by the Client to BCA Debt for recovery from time to time unless the parties agree, in writing, that another agreement shall be entered with respect to a particular Debt Amount.
- (b) The Client agrees that BCA Debt may, in its sole discretion, choose to keep a debt recovery matter open or to close a debt recovery matter, regardless of whether this Agreement is expired or terminated until such a time the Debt Amount is fully paid.

15. Automatic Renewal

- (a) This Agreement shall automatically renew for a further 12 months on the most current Commission and Fee levels prior to the expiration of the current term of the Agreement if the Client does not give BCA Debt written notice at least 30 days' prior to this Agreement expiring that it does not intend to renew.
- (b) If the Client does give such written notice, all matters held with BCA Debt shall be completed and BCA Debt shall be entitled to full Commission and Fees on the full Debt Amount as first instructed by the Client.

16. Termination

- (a) BCA Debt may terminate this Agreement upon the happening of any of the following events:

- (i) the Client fails to pay the invoices by the Due Date and BCA Debt has issued the Client with a letter of demand which the Client have not complied with; or
 - (ii) the Client have been placed into administration or are the subject of bankruptcy or winding up proceedings.
- (b) The Client may terminate this Agreement immediately if BCA Debt, by notice in writing to the Client, varies its Fees in accordance with clause 5(d) above.
- (c) This Agreement shall terminate upon either party giving the other party one (1) month's written notice.

17. Indemnity

The Client indemnifies and will keep BCA Debt indemnified (on a full indemnity basis) from and against any and all claims, liabilities, obligations, expenses or damages which BCA Debt may suffer or incur as a result or in connection with the Services and this Agreement, generally.

18. Limitation of Liability

BCA Debt expressly excludes any liability for consequential loss, incidental or indirect damages (including but not limited to damages for loss of business profits, business interruption and loss of opportunity) due to or arising from the Services. Where the law precludes such exclusion and implies certain conditions and warranties into this Agreement, the liability of BCA Debt for breach of such condition or warranty shall be limited, to the amount paid by the Client in respect of the Services with respect to the specific case referred to BCA Debt.

19. Goods and Services Tax

If any amounts payable by the Client are subject to Goods and Services Tax (GST), then the Client are liable to pay the GST on that amount.

20. Waiver

A party's failure or delay to exercise a power or right does not act as a waiver of that power or right.

21. Variation

This Agreement may not be varied except by written document signed by or on behalf of each of the parties.

22. Notices

Any notices under this Agreement must be in writing which may be given by personal delivery, pre-paid postage or facsimile to the party's business address or registered office.

23. Survival

Termination of this Agreement will not release either party from any liability or right of action which at the time of expiry or termination has already accrued to either party or which may thereafter accrue in respect of any act or omission prior to such expiry or termination. Such rights may include but not be limited to the recovery of any money due.

24. Counterparts

This Agreement may be executed in any number of counterparts each of which shall be an original but such counterparts together shall constitute one and the same instrument and the date of the Agreement will be the date on which it is executed by the last party.

25. Entire Agreement



Licensed debt collectors (License No. 5025)

Bouvard Collection Agency

Box 462, Bunbury WA 6231

Phone: 1300 136 917

Fax: 08 9791 2112

admin@bcadebt.com

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This Agreement constitutes the entire agreement between the parties in relation to its subject matter and the parties agree that all prior representations, agreements, statements and understandings, whether verbal or in writing, have not been relied upon and are expressly excluded.

26. Relationship of the Parties

The legal relationship of the parties to this Agreement is that of principle and contractor, nothing in this Agreement shall be construed as constituting a relationship of agency or partnership.

27. Severance

If any provision of this Agreement is wholly or partly invalid or unenforceable in any jurisdiction, that provision will be severed from this Agreement and will not affect the validity or enforceability of the remaining provisions which will continue in full force.

28. Governing Law and Jurisdiction

This Agreement is governed by the laws of Western Australia and each party irrevocably submits to the exclusive jurisdiction of the courts of Western Australia. Each party irrevocably waives any right to any claim of forum *non conveniens*, inconvenient forum, or transfer or change of venue.