

Terms of Service

LAST UPDATE: 29 April 2024

HIGHLIGHTS:

- Circlepay allows you to access a portion of your earned wages between pay periods. We do this by providing you with a cash advance equal to or less than your accrued wages ('Cashout'), which you repay on your next payday. The duration of the credit provided will not exceed 62 days, even with extensions.
- The credit provided is intended wholly or predominantly for personal, domestic, or household purposes.
- You must be over 18 years old, receive a regular salary and have an Australian bank account to apply (see clause 2.3 for eligibility criteria).
- All Cashouts are subject to Circlepay's approval process based on our assessment of your ability to make repayment on your next payday. For more information on assessment and checks, see clause 5.2
- Circlepay will automatically process payments on the scheduled date from your nominated account.
- If you unable to pay us on time, please contact us as soon as possible.

1. WELCOME

We set out below the terms and conditions of your use of, and access to, our Services. Please read these terms and conditions carefully, as they impose rules, obligations and other responsibilities on you in respect of your use of the Services.

Defined Terms:

1.1 Parties to this Agreement

This Agreement is a contract between you ('you' or 'your') and Circlepay Technologies Pty Ltd ACN 647 570 563 ('we', 'us', 'our'). It sets out the terms and conditions that apply to your use of our Services. You agree that your acceptance of these terms and conditions, and ongoing use of our Services, shall constitute your acceptance of this Agreement.

If you do not want to be bound by this Agreement, you must not use our Services.

1.2 Policies incorporated into this Agreement

Before you create an account with us or use any of our Services, you should read this Agreement, as well as Circlepay's Privacy Policy and any other policy found on the Website, which are incorporated into this Agreement by reference.

We recommend that you store or print a copy of this Agreement (including all policies) for your records. To the extent of any inconsistency between this Agreement and any incorporated policy, the incorporated policy will prevail.

1.3 Changes to this Agreement

(a) Circlepay may amend this Agreement at any time for any reason including, for example, if we change the functionality of our Services, introduce new services, or as required by law. We will post the amended Agreement on our Website. Each time you use our Services you will be asked to agree to the then current terms of this Agreement. Please read this Agreement carefully each

time you agree to its terms when using our Services. If you do not agree with the changes, you may close your Circlepay Account in accordance with clause 3.4.

(b) We will not change any terms and conditions for an existing Service Request that has been accepted by us; the terms and conditions that will apply to an accepted Service Request (and any steps taken in relation to such Service Request, e.g., cancellation, refunds, etc.) are the terms and conditions that applied at the time you made the Service Request.

2. OUR RELATIONSHIP

2.1 About us

(a) Our Services allow you to access a portion of your earned wages between pay periods. We do this by providing you with a cash advance equal to or less than your accrued wages ('Cashout'), which you must repay on your next payday, ensuring that the total period of any credit provided does not exceed 62 days (including any repayment extensions) under any circumstances. Our Services are intended wholly for personal, domestic, or household purposes, aligning with the requirement under s5(1)(b) of the National Consumer Credit Protection Act 2009 ("National Credit Code")

(b) By using our Services, you provide us with unconditional and irrevocable consent and direction to pay you a Cashout in exchange for your agreement and obligation to repay the Cashout by your next payday, plus any additional applicable Fees, as set out in clause 4. All fees and charges associated with the credit will not exceed 5% of the credit amount, as required under s6(1)(b) and s6(2) of the National Credit Code.

(f) Circlepay does not:

- (i) Enter into a partnership, joint venture, agency or employment relationship with you;
- (ii) Determine if you are liable for any taxes; or
- (iii) Collect or pay any taxes on your behalf that may arise from your use of our Services.

2.2 No warranty

(a) We do not give any express warranty or guarantee as to the suitability, reliability or availability of our Services, or of the content on our Website.

(b) Except as required by law, we do not guarantee continuous, uninterrupted or secure access to our Services, and we make no representations or warranties regarding the amount of time needed to complete processing of Service Requests or payment transactions.

2.3 Your eligibility

(a) To be eligible to use our Services you must:

- (i) be an individual who is at least 18 years old;
- (ii) be capable of entering into a legally binding contract;
- (iii) have a valid and verifiable email address and Australian mobile telephone number;
- (iv) have an Australian bank account; and
- (v) in connection with your use of your Circlepay Account and our Services, use your real name and true and correct 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 Circlepay Account.

(b) By entering into this agreement, you represent and warrant that you are eligible to use our Services.

2.4 Transfers or assignments

(a) You cannot transfer or assign any rights you may have under this Agreement without our prior written consent, which must not be unreasonably withheld.

(b) We may transfer or assign this Agreement, and any right under this Agreement, to a third party without notice to you or your consent unless the assignment will detrimentally affect your rights under the Agreement (in which case we will seek your consent prior to assignment, which consent must not be unreasonably withheld). You agree that we may appoint third party collections agencies to collect any amounts owing to us under this Agreement without your consent. For the avoidance of doubt, you acknowledge that no assignment by us to another person of any amount you owe to us will require your consent or notice to you.

3. YOUR CIRCLEPAY ACCOUNT

3.1 Creating your Circlepay Account

(a) We will create your Circlepay Account when you complete the signing up process through our Website.

(b) Once your Circlepay Account is created, you will be prompted to choose and enter a secure password. You may subsequently access your Circlepay Account, using your secure password, through our Website.

(c) You are responsible for maintaining the security of your Circlepay Account details. We will not take responsibility for unauthorised access and use of your Circlepay Account unless we have failed to take reasonable steps to prevent such unauthorised access or use.

(d) You acknowledge and agree that if a person places a Service Request by using your Circlepay Account (whether with or without your authorisation), that person will be deemed to be you for the purposes of this Agreement and that will not (subject to clause 3.1(c)) affect your obligations under this Agreement, regardless of whether we are or at any time become aware of that or the use of your Circlepay Account not being authorised by you; except to the extent any use of your Circlepay Account by such a person is due to our negligence, wilful misconduct or breach of this Agreement.

3.2 Your obligations to us as a holder of a Circlepay Account

By holding a Circlepay Account with us, you agree that you must:

(a) Pay any applicable Fees associated with your use of our Services and your Circlepay Account;

(b) Not provide us with any information that is false, inaccurate or misleading (including, without limitation, in relation to your identity or personal details or by using an alias or false identity, even with the consent of the person whose identity you are using or seek to establish a fake, untraceable or unverifiable Circlepay Account);

- (c) Ensure any information about you, including your contact details, is true, current and complete. If your information changes, you must update it through your Circlepay Account via our Website;
- (d) Provide to us in a timely manner all documentation relating to your identity, if requested by us;
- (e) Not use your Circlepay Account or our Services for any unlawful, fraudulent or improper activity , including for any experimental, testing or research purposes or otherwise in a manner for which they have not been designed;
- (f) Cooperate fully with us to investigate any suspected unlawful, fraudulent or improper activity on your Circlepay Account;
- (g) Be aware of and pay any taxes that may apply to your use of our Services;
- (h) Not permit others to use your Circlepay Account, or allow anyone else to have or use your account password details;
- (i) Not use any technology (device, software or hardware) to damage, intercept or interfere with our Services or Website;
- (j) Immediately contact us if you believe that your Circlepay Account may be subject to an unauthorised transaction, account takeover or other type of fraudulent activity or security breach;
- (k) Not open or use more than one Circlepay Account.

3.4 Closing your Circlepay Account

- (a) You may request to close your Circlepay Account by contacting us directly. You may only request to close your Circlepay Account if all amounts owing to us by you (including any Fees) have been paid in full to us.
- (b) You may not close your Circlepay Account to evade investigations of any nature.
- (c) We may close your Circlepay Account for any reason, within our reasonable discretion. This Agreement will continue to apply to any Service Requests accepted prior to such closure until all amounts owing are received in full (including any Fees).
- (d) Except as otherwise stated, this Agreement will be terminated once your Circlepay Account is closed. However, you will remain liable for all outstanding obligations related to the Circlepay Account even after it has been closed.
- (e) We may immediately limit your access to our Services or suspend or close your Circlepay Account where we have reasonable cause to do so including, without limitation, where:
 - (i) we reasonably consider it necessary to do so in order to:
 - (A) protect the integrity of our systems or the Services;
 - (B) prevent fraud;
 - (C) limit the risk of money laundering or terrorism financing; or
 - (D) otherwise protect us against legal, regulatory or non-payment risk;
 - (ii) you do not pass our verifications or checks;

(iii) we reasonably suspect, or are aware, that you have breached this Agreement in a material respect (including by failing to make any payment due under this Agreement by the payment due date or by providing us with false, inaccurate or misleading information or using your Circlepay Account or our Services in breach of this Agreement); or

(iv) we otherwise reasonably consider the activity associated with the Circlepay Account to be suspicious.

(f) We will use our best efforts to provide written notice to you before closing your Circlepay Account, in the circumstances described in clause 3.4(e) above, except where doing so may compromise any investigation related to your breach of this Agreement or unlawful or improper conduct. Where we close your Circlepay Account in accordance with clause 3.4(e), this Agreement will be terminated, and all amounts owed by you to us will immediately become payable to Circlepay.

4. SERVICE REQUESTS, PAYMENTS AND BILLING

4.1 Service Request Confirmation and Payment Schedule

(a) All Service Requests which you place with Circlepay are subject to approval by Circlepay, in our reasonable discretion. We may choose not to approve a Service Request if:

(i) we reasonably consider this necessary in order to:

(A) protect the integrity of our systems or the Services;

(B) prevent fraud;

(C) limit the risk of money laundering or terrorism financing; or

(D) otherwise protect us against legal, regulatory or non-payment risk;

(ii) you do not pass our verifications or checks;

(iii) we reasonably suspect, or are aware, that you have breached this Agreement in a material respect (including by failing to make any payment due under this Agreement on the payment due date); or

(iv) we otherwise reasonably consider the Service Request to be suspicious.

(b) You agree to ensure that payment(s) are made in accordance with the Payment Schedule. Circlepay will automatically process payments in accordance with the due dates stated on the Payment Schedule. Circlepay will automatically process payments in accordance with the due dates stated on the Payment Schedule, which shall not exceed 62 days from the date of the Cashout. You authorise Circlepay to process such payments using Automatic Payment. If an Automatic Payment fails on any of the dates specified in your Payment Schedule, Circlepay reserves the right to re-attempt to process the payment at a later time or date, provided that the total duration of the credit does not exceed 62 days.

4.2 Automatic Payments

(a) An 'Automatic Payment' is a payment that we will automatically charge directly to your Nominated Bank Account on a one-time or regular basis in agreed upon amounts as outlined in your Payment Schedule. You will have the option to select a Nominated Bank Account when your Circlepay Account is being created. You can update or change your preferred Nominated Bank Account at any time via your Circlepay Account.

(b) Subject to the other terms of this Agreement, you hereby expressly consent to, authorise and instruct Circlepay to deduct Automatic Payment amounts from your Nominated Bank Account for the amounts and on those scheduled dates set out in your Payment Schedule. You acknowledge that you are giving us the ability to collect or reverse variable payment amounts from or to your Nominated Bank Account, in accordance with your Payment Schedule and the terms of this Agreement.

(c) You are responsible for ensuring that you have sufficient funds in your Nominated Bank Account available to make Automatic Payments on the dates specified in your Payment Schedule. You are liable for any fees or charges imposed by your Nominated Bank Account, 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.

(d) If an Automatic Payment fails, you authorise us to satisfy any monetary liability you owe us by:

- (i) debiting your Nominated Bank Account at a later time or date;
- (ii) Offsetting the payment amount against any amounts we may owe to you; or
- (iii) Any other legal means.

4.3 Fees

(a) Charges or Fees, if any, payable by you for the use of our Services or your Circlepay Account will be set out on our Website. However, the maximum amount of fees and charges that we may impose will not exceed 5% of the amount of credit, as required under s6(1)(b) and s6(2) of the National Credit Code.

4.4 Interest

(a) No interest is charged on any advances provided by Circlepay . However, Circlepay may amend these terms of on this point in the future and apply a maximum amount of interest charges that may be imposed or provided for with prior notice provided those charges do not exceed an amount equal to the amount payable if the annual percentage rate were 24% per annum.

4.5 No set off

Notwithstanding any other provisions of this Agreement, you must make all payments in accordance with the Payment Schedule and pay all other amounts in full to us under this Agreement without any set-off, withholding or reduction for any reason whatsoever, including any existing or future act, omission or default by us.

5. ASSESSMENT AND CHECKS

5.1 Assessment

(a) We reserve the right to assess, and determine whether to accept or decline each Service Request in accordance with clause 4.1.

5.2 Repayment capability and identity checks

(a) We reserve the right to verify your identity, including if required under the Anti-Money Laundering and Counter-Terrorism Financing Act. Verifying your identity does not mean we will approve your Service Request (see clause 4.1(a) for other variables that are considered).

(b) You agree to provide any information or documentation reasonably requested by Circlepay to verify your identity in connection with your Circlepay Account or Service Requests.

(c) You authorise us to make, directly or through third parties, any enquiries we consider necessary to verify your identity and assess your capability to make payments according to the Payment Schedule in relation to all Circlepay Service Requests. This may include ordering a credit report, performing other repayment capability checks and verifying information you provide against third party databases.

(d) All information that Circlepay collects about you, including information collected in connection with the verification of your identity, will be collected, used and stored in accordance with the Circlepay Privacy Policy.

(e) You authorise Circlepay (or any third parties providing services on behalf of Circlepay) to disclose to third parties, to the extent required by any applicable laws or regulations, any information in relation to you or your Circlepay Account. In addition, you acknowledge that Circlepay reserves the right to report any negative activity on your Circlepay Account (including late payments, missed payments, defaults or chargebacks) to credit reporting agencies.

(f) As part of our approval process and our assessment as to whether or not you have the means to fulfil your obligation to make payments to Circlepay according to the Payment Schedule, you authorise us to access and analyse past transactions of your Nominated Bank Account.

6. OUR INTELLECTUAL PROPERTY

(a) Our Website and all content on our Website are the exclusive property of Circlepay. The information on our Website is for information purposes only and is subject to change without notice.

(b) You must not copy, imitate, modify, alter, amend or use without our prior written consent any URLs representing our Website, or any of our content, logos, graphics, icons or other content published on our Website or in our printed media.

7. COMPLAINTS AND DISPUTES

7.2 Disputes between you and us

(a) We aim to:

(i) Acknowledge receipt of all complaints within 5 business days; and

(ii) Resolve all complaints within 21 days.

(b) If you wish to raise a dispute or submit a complaint to us, you should do so by contacting us using at info@circlepay.com.au. Disputes should be raised with us as soon as possible.

(c) We may request additional documentation from you to assist us in resolving any complaints or disputes, and you must provide all reasonable assistance to us to facilitate us in resolving any complaints or disputes.

(d) Where we cannot resolve a dispute within 21 days, we will notify you of the reason for the delay as well as an indication of when we expect to resolve the complaint or dispute.

(e) If you are not satisfied with the outcome of your complaint after it has been through our internal disputes process above, you can contact the Australian Financial Complaints Authority (AFCA) using the contact details listed below.

Email: info@afca.org.au

Website: www.afca.org.au

Phone: 1800 931 678 (free call)

In writing to:

Australian Financial Complaints Authority

GPO Box 3, Melbourne VIC 3001

8. NOTICES AND COMMUNICATIONS

8.1 How we will communicate with you

(a) This Agreement and any other agreements, notices or other communications regarding your Circlepay Account and/or your use of our Services may be provided to you electronically.

(b) You agree to receive all communications from us in electronic form. Communications will be posted on our Website (where permitted under this Agreement) and/or sent to your email address.

(c) Alternatively, we may choose to give notice to you by:

(i) serving it personally at, or sending it by post to, your nominated contact address listed on your Circlepay Account; or

(ii) sending it to you via other electronic methods of communication using contact details listed on your Circlepay Account (including text messages).

(d) Where a notice is served personally, service of the notice is taken to be effected when delivered. Where a notice is sent by post, service of the notice is taken to be effected on the fourth day after the date of postage. Where a notice is sent by electronic mail, or through other electronic means, service of the notice is taken to be effected on the day after the day on which it is sent, unless we receive notification that delivery has failed.

(e) You consent to us using the contact details you have provided to us to:

(i) contact you on an ongoing basis for marketing purposes whether by email, SMS, phone or otherwise (unless you have notified us that you do not wish to receive such communication); and/or

(ii) contact you in relation to your Circlepay Account, our Services.

(f) You acknowledge that we (or any third party providing services on behalf of us) may monitor or record telephone conversations or electronic communication for quality control and training purposes or for Circlepay's own protection. Circlepay does not provide any guarantee that any such monitoring or recording will be retained or retrievable.

8.2 How you can communicate with us

If you wish to contact us, you can do so by emailing us at info@circlepay.com.au.

9. GENERAL

9.1 System Outages

(a) Access to our Services or our Website may occasionally be unavailable or limited due to hardware or software failure or defects, overloading of system capacity, damage from natural events or disasters or disruptive human activity, interruption of power systems, labour shortages or stoppages, legal or regulatory restrictions as well as other causes outside of our control.

(b) To the extent permitted by law, Circlepay will not be liable for any loss or damage which you may incur as a result of our Services or our Website being unavailable.

9.2 Governing Law and Jurisdiction

(a) This Agreement is governed by the law in force in Queensland, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Queensland, Australia.

9.3 Limitation of Liability

(a) To the full extent permitted by law:

(i) Circlepay's liability for all claims arising under or related in any way to this Agreement no matter how arising, and whether in contract, tort (including negligence), or otherwise, will not exceed the total value of any affected Service Request(s), including any payments and Fees;

(ii) Except for claims arising in respect of clause 9.5, your liability for all claims arising under or related in any way to this Agreement no matter how arising (including the indemnity in clause 9.4), and whether in contract, tort (including negligence), or otherwise, will not exceed the total value of any affected Service Request(s), including any payments and Fees; and

(ii) Neither party (including in relation to Circlepay, its related bodies corporate, or any third party providing services on behalf of Circlepay), will be liable for any Consequential Loss arising under or related in any way to this Agreement no matter how arising and whether in contract, tort (including negligence) or otherwise.

(b) To the extent permitted by law, a party's liability to the other party under or in connection with this Agreement is reduced to the extent, if any, to which the other party's acts or omissions cause or contribute to its own loss or damage.

(c) The parties will take all reasonable steps to mitigate any loss incurred by them under this Agreement.

9.4 Indemnification

(a) You are responsible to Circlepay for any loss, costs (including reasonable legal fees), expense or damage Circlepay suffers or incurs: (i) in connection with any claim or demand made by any third party due to or arising out of your breach of this Agreement, or your breach of any law or of the rights of a third party relating to your use of our Services or Website; and (ii) as a direct or indirect consequence of unauthorised users accessing your account as a result of your negligence. To the extent that clause 9.4(a) gives a non-party rights, Circlepay contracts as trustee of the rights given under that clause.

(b) Your liability under clause 9.4(a) will be reduced proportionately to the extent that Circlepay, its contractors or agents: (i) caused or contributed to the relevant claim, demand, loss or

damage; or (ii) failed to take reasonable steps to mitigate the relevant claim, demand, loss or damage.

9.5 Breach relating to misuse of the Services

(a) You acknowledge that it is imperative that Circlepay be able to rely on:

(i) the information you provide to us;

(ii) the identity that you use; and

(iii) that your use of your Circlepay Account and our Services be for the intended purpose.

(b) You acknowledge that a breach by you of any obligation in this Agreement in relation to the matters in clause 9.5(a) (including, without limitation, a breach of clauses 2.3 or 3.2(b) and 3.2(e) of this Agreement) would cause significant detriment to Circlepay and its related bodies corporate. You agree that monetary damages will not be sufficient to remedy that detriment, or may otherwise be incapable of being ascertained, and irrevocably consent to Circlepay or any of its related bodies corporate seeking and obtaining injunctive relief to obtain relevant documents from you and to prevent such breach, or orders of specific performance to compel compliance, in addition to any other remedies available at law or in equity.

(c) If Circlepay reasonably considers that you have breached an obligation under this Agreement in relation to your identity, the information you provide to us and/or your use of your Circlepay Account and our Services, you agree, on request from Circlepay, to provide Circlepay with copies of all documents, notes or communications in relation to such alleged breach.

(d) This clause 9.5 survives termination of this Agreement.

DEFINITIONS

In this document unless the context otherwise provides:

“Agreement” or **“Terms of Service”** means this document, which outlines the terms and conditions governing your use of our Services, together with any policies and documents incorporated by reference.

“Automatic Payment” has the meaning given in clause 4.2.

“Circlepay Account” means an account that Circlepay creates to uniquely identify you and to enable you to use our Services.

“Consequential Loss” means any loss, damage or costs incurred that is:

(i) indirect or consequential; and

(ii) any loss of revenue; loss of income; loss of business; loss of profits; loss of production; loss of or damage to goodwill or credit; loss of business reputation, future reputation or publicity; loss of use; loss of interest; losses arising from claims by third parties; loss of or damage to credit rating; loss of anticipated savings and/or loss or denial of opportunity other than in respect of any such losses incurred by Circlepay directly in respect of this Agreement.

“Fees” has the meaning given in clause 4.3.

“Nominated Bank Account” means the bank account nominated by you during the creation of your Circlepay Account or subsequently updated via your Circlepay Account, for the purpose of Automatic Payments.

“Service Request” means a request submitted by you to us, to use a Circlepay Service through our Website.

"Payment Schedule" means a schedule or list of payment amounts that you owe to Circlepay in connection with a Cashout, including the principal amount, any applicable fees, and the relevant due dates for each payment. The Payment Schedule will be provided to you upon approval of your Service Request and will specify the dates on which Circlepay will automatically deduct payments from your Nominated Bank Account. The total duration of the Payment Schedule shall not exceed 62 days from the date of the Cashout.

"Services" means the services provided by Circlepay through its Website or App, which primarily involve providing users with early access to a portion of their earned wages between pay periods in the form of Cashouts. The Services include the processing of Service Requests, the provision of Cashouts, the creation of Payment Schedules, and the automatic processing of payments in accordance with the Payment Schedules. The Services are intended wholly or predominantly for personal, domestic, or household purposes and are subject to the terms and conditions outlined in these Terms of Service.

"Service Request" means a request submitted by you through the Circlepay Website or App to receive a Cashout, which is a cash advance equal to or less than your accrued wages. Each Service Request is subject to approval by Circlepay, and if approved, will result in the creation of a Payment Schedule detailing the amounts and due dates for repayment.

"Website" or **"App"** means circlepay.me and any other website or mobile application operated by Circlepay through which the Services are provided.