

# API Leisure & Lifestyle Terms & Conditions Incorporating the Direct Debit Service Agreement

## 1. Conditions of use

- 1.1 This document contains the terms and conditions which apply to your use of the API Leisure & Lifestyle ('API' or 'we') web site ('web site') and the Smartphone application ('app'). In addition to these General Conditions, there are also specific and additional terms and conditions, which form part of the General Conditions and govern your use of API's web site, services and the app. Since you are also bound to these specific terms and conditions, you should review them before using our web site, services or the Smartphone app.
- 1.2 Your use of this web site, services and the Smartphone app is governed by these terms and conditions ('Terms').
- 1.3 By participating and continuing to use the API web sites, services or the Smartphone app you indicate your consent and agreement to these Terms.
- 1.4 API membership is available to individuals only. The services may be used by you and your dependent family only. The services may not be used by or for any other parties including but not limited to extended family, friends, groups, associations and companies.
- 1.5 You may make purchases up to the maximum amount of \$5,000 per month, for personal use only. You may be prevented from making purchases in excess of \$5,000 per month. If purchases are consistently at the maximum level, you may be requested to illustrate the purchases are for personal consumption.
- 1.6 You must be over the age of 18 years to become a member of API.

## 2. General Conduct

- 2.1 You must not use any API web site or the Smartphone app for any purpose that is unlawful or prohibited by these Terms. You agree to abide by all applicable laws and regulations and codes of conduct.
- 2.2 In particular, you agree not to:
  - 2.2.1 use this web site or the Smartphone app to disparage, defame, abuse, harass, stalk, threaten or otherwise offend others;
  - 2.2.2 publish, distribute, email, transmit or disseminate any material which is unlawful, obscene, defamatory, indecent, offensive or inappropriate;
  - 2.2.3 engage in or promote any surveys, contests, pyramid schemes, chain letters, unsolicited emailing or spamming employing the web site or the Smartphone app;
  - 2.2.4 impersonate any person or entity; or
  - 2.2.5 upload, post, email, transmit or otherwise make available using the web site or the Smartphone app any material that you do not have a right to make available under any law or contractual obligation or which contains viruses, or other computer codes, files or programs designed to interrupt, limit or destroy the functionality of other computer software or hardware.
- 2.3 API retains the right at all times to monitor, retain or disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request.

## 3. Trademarks and Copyright

- 3.1 All the material on this web site and the Smartphone app is subject to the copyright of API or its third-party licensors. You must not reproduce any of the material contained on the Smartphone app except that you may download a copy of the Smartphone app to your mobile device used to access the material available from the Smartphone app. You must not

reproduce any of the material contained on this web site except that:

- 3.1.1 You may download a copy of this web site to the local hard drive of the computer used to access the site; and
- 3.1.2. You may print extracts (hard copies) of this web site, but only for your personal use.
- 3.2 You may not copy any of the material on this web site or the Smartphone app or otherwise incorporate into or store in any other web site, electronic retrieval system, publication or other work in any form.
- 3.3 The API logo is a registered trade mark of API. Other trademarks may be displayed on the web site or the Smartphone app from time to time. These may belong to third parties. Nothing displayed on the web site or the Smartphone app should be construed as granting any licence or right of use of any logo or trade mark displayed on the web site or the Smartphone app, without the express written permission of the relevant owner.

## **4. Disclaimers**

- 4.1 The information contained on this web site and the Smartphone app is for general information purposes only. You must not rely on any statement contained in this web site or the Smartphone app without taking specialist advice. While we endeavour to ensure the accuracy and completeness of the information contained on this web site and the Smartphone app, we make no warranties and accept no responsibility for any loss or damage you may suffer as a result of your reliance on any part of it.
- 4.2 In particular, we make no representations or warranties and exclude all liability:
  - 4.2.1 in relation to any of the material of this web site or the Smartphone app (including any as to the quality, accuracy, completeness or fitness for any particular purpose of such material);
  - 4.2.2 in relation to any material, resources or content of any other web site included in, referred to on, or accessed by a hyperlink through this web site or the Smartphone app ('Third Party Web Site'). We do not endorse or approve the material of any Third Party Web Site, nor will we have any liability in connection with any of Third Party Web Site howsoever arising; or
  - 4.2.3 that this web site, the Smartphone app or any of their material is virus free. You should take your own precautions in this respect and we accept no responsibility for any harmful code that may be introduced into your system by using this web site or the Smartphone app.

## **5. Interruption**

Although we will do our best to provide constant, uninterrupted access to this web site and the Smartphone app, we cannot and do not guarantee this. We accept no responsibility or liability for any interruption or delay.

## **6. Privacy**

Use of any personal data that you provide to us is governed by our Privacy Statement.

## **7. Links and other third-party materials**

In this section 7, "Content" means any information that may be generated or encountered through use of any API web site or the Smartphone app. It includes data provided by or obtained from Third Parties.

Certain Content, components or features of API's web sites and the Smartphone app may include materials from third parties and/or hyperlinks to other web sites, resources or Content, including

web sites, Content and material which includes authorised or licensed API branding. Because API may have no control over such third party sites and/or materials, you acknowledge and agree that API is not responsible for the availability of such sites or resources, and that API does not endorse or warrant the accuracy of any such sites or resources, and shall in no way be liable or responsible for any Content, advertising, products or materials on or available from such sites or resources. You further acknowledge and agree that API shall not be responsible or liable in any way for any damages you incur or allege to have incurred, either directly or indirectly, as a result of your use and/or reliance upon any such Content, advertising, products or materials on or available from such sites or resources.

## **8. API Smartphone App**

8.1 API, its partners and licensors may provide certain features or services through the Smartphone app that rely upon device-based location information. To provide such features or services, where available, API, its partners and licensors may collect, use, transmit, process and maintain your location data, including the real-time geographic location of your device, and you hereby agree and consent to API's and its partners' and licensors' collection, use, transmission, processing and maintenance of such location data to provide such services.

In addition, by enabling and/or using any location-based services or features within the Smartphone app, you agree and consent to API or its third party partners or suppliers collecting, using, processing and maintaining information related to your membership, and any devices using the location based services or features of the Smartphone app, for purposes of providing such location-based service or feature to you. Such information may include, but is not limited to, your membership number, device ID and name, device type and real-time geographic location of your device at time of your request. You may withdraw this consent at any time by not using the location-based features or by turning off the Location Services settings (as applicable) on your device.

When using third party services that use or provide location data as part of the Smartphone app, you are subject to and should review such third party's terms and privacy policy on use of location data by such third party services. Any location data provided by the Smartphone app is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate, time-delayed or incomplete location data may lead to death, personal injury, property or environmental damage. API, its partners and licensors do not guarantee the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Smartphone app.

The features of the Smartphone app using your location data are intended for your personal use only, to assist in identifying your approximate location and the availability of nearby businesses which may be of interest to you. The location-based services of the Smartphone app are not intended or suitable for use as an emergency locator system.

8.2 As part of the Smartphone app, you may, from time-to-time receive updates to the Smartphone app which may be automatically downloaded and installed to your device. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Smartphone app. You agree that API may automatically deliver such updates to you as part of the Smartphone app and you shall receive and install them as required.

8.3 Google Maps Service Use of the Google Maps service (which is included within the Smartphone app) is subject to the terms & conditions applicable to the respective service.

## 9. Advertising

Individual advertisers are solely responsible for the content of any advertising material which is submitted to us or obtained from them and which is published on the web site or the Smartphone app, including ensuring that it complies with relevant legislation. We accept no responsibility for the content of any advertising material published on this web site or the Smartphone app.

## 10. Liability and Indemnity

- 10.1 Certain State and Commonwealth legislation, including the Competition and Consumer Act 2010 (Cth), imply warranties or conditions or impose obligations which cannot be excluded, restricted or modified except to a limited extent. These General Conditions do not purport to exclude any statutory rights available to you and must in all cases be read subject to those statutory provisions.
- 10.2 You will indemnify us if we suffer any loss or damage or incur any costs in connection with your breach of these Terms or any other legal obligation by you or your use of or conduct on the web site or the Smartphone app.
- 10.3 To the extent permitted by law, our liability for breach of any implied warranty or condition which cannot be excluded is restricted, at our option, to:
  - a. in the case of services supplied or offered by us:
    - i. the re-supply of those services; or
    - ii. the payment of the cost of having those services re-supplied; and
  - b. in the case of goods supplied or offered by us:
    - i. the replacement of the goods or the supply of equivalent goods; or
    - ii. the repair of the goods; or
    - iii. the payment of the cost of having the goods replaced; or
    - iv. the payment of the cost of having the goods repaired.
- 10.4 You agree that in no circumstances will we be liable to you for any indirect, incidental, special and/or consequential losses or damages (including any loss of profits) in connection with:
  - a. the use of or access to, or any inability to use or access, the web site, the Smartphone app or any material on the web site or the Smartphone app;
  - b. unauthorised access to or alterations of your transmissions or data;
  - c. statements or conduct of any third party on the web site or the Smartphone app; or
  - d. any goods purchased through this web site or the Smartphone app.

## 11. General

- 11.1 Variations: These Terms may be varied from time-to-time.
- 11.2 Applicable law: These Terms will be governed by and construed in accordance with the laws of the state of New South Wales, Australia.
- 11.3 Contact Details: Please contact API should you have any technical issues regarding this web site or the Smartphone app.

## 12. DIRECT DEBIT SERVICE AGREEMENT

### Our commitment to you

API Leisure & Lifestyle will:

- arrange for funds to be debited from your nominated account as authorised in the Direct Debit Request;
- debit your account on the next working day when the due date of the debit falls due on a weekend or public holiday (if you are uncertain as to when the debit will be processed to your account, you should enquire directly with your financial institution);
- give you at least 14 days' notice of any changes we propose to make to these debiting arrangements, unless the changes are made at your request;
- not disclose information relating to your direct debit request except for processing a debit or dealing with a disputed transaction, or if we are required by law to disclose the information. We may disclose such information to our financial institution in connection with a claim made relating to an alleged incorrect or wrongful debit.

### Your responsibilities

It is your responsibility to:

- ensure your nominated account can accept direct debits;
- ensure all account holders on the nominated account agree to the debiting arrangement;
- ensure that the account details are correct (by checking them against a recent account statement) and if you are uncertain of the account details you should check with your financial institution before completing the Direct Debit Request;
- notify us if the nominated account is transferred or closed, or if the account details change;
- ensure there are sufficient funds to meet each debit on its due date (if there are insufficient funds, you may be charged a fee by us and/or your financial institution);
- check with your financial institution, before completing the Direct Debit Request, if you have any queries about how to complete the Direct Debit Request.

### Your rights

You may stop any debit or cancel the Direct Debit Request with us and such request may be directed to us or your financial institution.

Debits according to these arrangements may take place in the meantime.

When you consider that a debit has been initiated incorrectly, you should contact us. We will then investigate your query and:

- if we find that your account has been incorrectly debited, we will notify you and we will arrange for your financial institution to adjust your account;
- if we find that your account has not been incorrectly debited, we will tell you why;
- if you are dissatisfied with our finding, you can still refer the query to your financial institution, which may lodge a claim on your behalf.