

Get My Refund

Client Agreement

Get My Refund Pty Ltd ABN 13 625 145 253

Get My Refund performs analysis and advocacy services on your behalf where you are entitled to a refund for products that were improperly sold to you, such as insurance attached to loans or where the irresponsible lending laws apply to your situation.

Those are our “Services”, which we provide to you on the basis of this agreement through our client portal which has been purpose built to manage your claims and help us advocate on your behalf for a refund.

When we talk about a “Refund” in this agreement, we mean the amount that may be paid to you by the relevant bank or insurance company, or through the Australian Financial Complaints Authority (**AFCA**), as the outcome of the Services. The Refund amount is unknown as at the date of this agreement, and it may be zero – you may not get a Refund. If we are not able to get a Refund for you, you will not pay us anything. If we do get a Refund for you, you will pay us our Fee of **30%** of the Refund.

This agreement will start, and becomes binding, when you tick the box to agree to these terms in order to access the Client Portal. This agreement will continue until our Fee is paid on your Refund (if any) or we otherwise notify you that we won't proceed further with your Claim.

By uploading any information or documents to the Client Portal, you consent to us using that information to proceed with your Claim in reliance on that information or those documents in accordance with the terms of this agreement.

1. KEY TERMS AND PROCESSES

1.1 PARTIES

The parties to this agreement are Get My Refund Pty Ltd ABN 13 625 145 253 and you, the person agreeing to these terms to access our Services. We refer to Get My Refund as “we”, “us” and “our”, and we refer to you as “you”.

1.2 MEANING OF CAPITALISED WORDS AND PHRASES

When we use the following words in this agreement, they have the following meaning:

Term	Definition
Advocacy Services	Mean the activities we undertake to advocate your Claim on your behalf for a Refund.
Applicable Products	Means any insurance policies held by you or loans that

Term	Definition
	were irresponsibly provided to you, against which we make a Claim for a Refund.
Claim	Means any and all claims you instruct us to make for a Refund in relation to any Applicable Products.
Client Portal	Means the web application designed by Get My Refund to allow you to provide any documents and information you provide to us, which we may provide to Providers, for the purpose of your Claim.
Document Review Services	Means the activities we undertake to determine if we should make a Claim for a Refund.
Fee	Means the amount payable to Get My Refund by you upon receipt of a Refund, being 30% of the Refund.
Provider	Means a bank or insurance provider.
Refund	Means any amount paid by a Provider to you in settlement of a Claim.

1.3 OVERVIEW OF PROCESS WE FOLLOW

You are agreeing to undertake the following process with us:

Step	Details
1. Sign Up	You will agree to this agreement when you create an account in the Client Portal.
2. Submit Documents and Information	The Client Portal will prompt you to provide all of the information we need to assess your potential success of making a Claim for a Refund. You just need to follow the prompts and provide the Documents and Information requested.
3. Document Review Services	We will assess the information you provide through the Client Portal to determine your prospects of making a successful claim for a Refund.
4. Advocacy Services	If we decide to proceed with your Claim, we will use the documents and information you provide to make your Claim to the relevant Bank, Insurer and / or AFCA, including drafting letters of complaint and sending them on your behalf. We'll keep you updated on progress and timeframes for your Claim through the Client Portal. Responses to correspondence will be provided to you.
5. Refund & Fee	If your Claim is successful and a Reward is awarded, you will be paid the Refund and you must pay us the Fee.

2. WHAT WE WILL DO FOR YOU

2.1 DOCUMENT REVIEW SERVICES

- (a) Get My Refund will undertake the Document Review Services in relation to the Applicable Products.
- (b) Get My Refund will rely on the information you provide for the purpose of the Document Review Services to assess whether to progress to the Advocacy Services in clause 2.2. Get My Refund not audit, test or check this information or documents except where required of Get My Refund by law.
- (c) If Get My Refund determines, in its discretion, that no Refund is likely to be obtainable, Get My Refund will notify the Client of this outcome and cease performing the Services.
- (d) If Get My Refund determines, in its discretion, that a Refund may be obtainable, Get My Refund will proceed to the Advocacy Services in clause 2.2.

2.2 PROCEEDING TO ADVOCACY SERVICES

- (a) If Get My Refund believes, based upon the information you provide, that there is sufficient reason to seek a Refund from the Provider, Get My Refund will notify you that it intends to make a claim on your behalf and deal directly with the Provider to obtain the Refund.
- (b) If you agree to proceed to the Advocacy Services, you must provide a signed Letter of Authority for Get My Refund to act on your behalf in relation to each Provider, which will be provided to the Provider for their records and verification purposes.
- (c) Get My Refund will not progress to the Advocacy Services unless Get My Refund believes you have a reasonable chance of successfully obtaining a Refund.
- (d) However, Get My Refund makes no representation or guarantee by proceeding to the Advocacy Services that a Refund will in fact be recoverable. There are many factors beyond Get My Refund's control that determine whether or not the Refund will be successfully obtained.

2.3 PERFORMANCE OF ADVOCACY SERVICES AND OUTCOME

- (a) Get My Refund will make a claim to the Provider and request that the Provider investigates all of your accounts held with them, whether these remain active or have been settled or closed.
- (b) Get My Refund will endeavour to provide as swift a resolution to your claim as is reasonably possible within the constraints of the actions of your Provider and regulatory requirements.
- (c) If the Provider rejects your claim and Get My Refund considers this to be incorrect, Get My Refund will refer the Client's claim to the Australian Financial Complaints Authority on the Client's behalf.
- (d) If the Provider accepts your claim, Get My Refund will negotiate the Refund amount on your behalf. Get My Refund will not agree to a Refund amount with the Provider without your prior approval of that Refund amount.

2.4 KEY DATES AND TIMES

The Key Dates and / or Times set out in the Client Portal in relation to the Services are indicative only and are included as a guide for when the Services are expected to be performed. Get My Refund may, due to various reasons beyond its control, need to make reasonable adjustments to the Key Dates and / or Times.

2.5 DISCLAIMER

The Client acknowledges and agrees that:

- (a) while every effort will be made to obtain the Refund for the Client, for reasons beyond Get My Refund's control, it may not be possible to obtain any refund and Get My Refund makes no guarantee of any outcome of any Claim;
- (b) Get My Refund does not guarantee that a specific sum will be recovered in a claim or that any claim will be successful. Any estimate that the Client requests about possible levels of Refund is likely to be based on limited information and should not be relied upon in deciding whether or not to proceed;
- (c) any information provided to the Client as part of or in connection with the Services is general in nature and is not legal or financial advice; ~~and~~
- ~~(d)~~ it is the Client's responsibility to inform the ATO and any other interested parties in relation to any Refund paid to the Client;
- ~~(e)~~ Get My Refund is not a debt collection company and does not represent itself in any way as a debt collection company; and
- ~~(d)~~~~(f)~~ Get My Refund will not accept responsibility for any outcome or consequence that arises out of your, or any of your related parties', actions.

3. WHAT YOU NEED TO DO

3.1 PROVIDE INFORMATION

- (a) You must provide Get My Refund with any and all information that is relevant or potentially relevant to your Applicable Products.
- (b) All information that you provide to Get My Refund must be true, accurate, complete and not misleading.
- (c) You must inform Get My Refund of any historic or other arrears with your Provider.
- (d) During the Term, you must let us know immediately of any changes to the information you have provided to us.
- (e) Get My Refund will manage your claim. However, Get My Refund will, from time to time, require your instructions or further information. Get My Refund will need your co-operation and clear instructions as soon as possible to enable us to progress your claim.
- (f) You must sign and return required documentation as soon as possible. Any delay on your part could harm your chances of obtaining Refund or delay the process of seeking a Refund.

3.2 ONLY ALLOW GET MY REFUND TO ACT

- (a) You engage Get My Refund on an exclusive basis. During the Term, you must:
 - (i) not undertake any discussions or negotiations with any Provider in relation to any Claim;
 - (ii) not respond to any communications from any Provider in relation to a claim;
 - (iii) not pursue a simultaneous claim against your Provider by yourself or through any third party.
- (b) You must immediately provide to Get My Refund any direct communications from a Provider.

3.3 NOTICE OF OFFER REFUND

- (a) If you receive an offer for a Refund from a Provider, you must notify us in writing.
- (b) If we receive an offer for a Refund from a Provider on your behalf, you must

instruct us on whether or not to accept the offer, and we will act upon those instructions.

3.4 OTHER OBLIGATIONS

- (a) You must not ask Get My Refund to act in an inappropriate, improper or unreasonable way.
- (b) You represent and warrant that you do hold any form of legal expenses insurance or any other mechanism which would/could cover, fully or partially, the costs incurred for making a claim.
- (c) Should your Refund not have tax deducted, it is your responsibility to notify HMRC of any award received. you may be able to recover tax deducted from HMRC.

4. COMMUNICATIONS BETWEEN US AND YOU

- (a) Get My Refund will communicate with you through the Client Portal.
- (b) Transmission of information through the Client Portal, being an online service, has inherent risks. Get My Refund will not have any responsibility or liability to you where any communication through the Client Portal is lost, delayed, intercepted, corrupted or otherwise altered, rendered incomplete.
- (c) Get My Refund will accept instructions from you in writing, by telephone or email, or through the Client Portal. However, we will need some instructions in writing in respect of the conduct of your claim and may ask for written confirmation where you have given us a verbal instruction.
- (d) To enable us to provide the optimum service to you, there may be occasions when we need to contact you by phone without your express invitation. Wherever possible, we will only contact you between 09:00 and 20:00 Monday to Saturday.
- (e) We will not accept instructions from third parties, including your spouse.

5. FEES AND PAYMENT

5.1 NO FEE UNLESS REFUND OBTAINED

If Get My Refund does not succeed in obtaining a Refund from your Provider, you will not be liable to pay any amount to Get My Refund.

5.2 FEE AMOUNT

- (a) Unless otherwise stated in the Client Portal, we charge 30% (plus any applicable GST) of your Refund amount (**Fee**).
- (b) Your Refund is the total financial benefit to you including repayment of premiums, all interest incurred, statutory interest at 8% on the money recovered and other refunded amounts, but before any deduction of income tax on statutory interest awarded.

5.3 PAYMENT UPON REFUND OBTAINED

- (a) If you accept an offer for a Refund from a Provider, you must immediately notify us.
- (b) If Get My Refund:
 - (i) receives a notice from you under clause 5.3(a); or
 - (ii) otherwise becomes aware that a Refund is to be paid to you,Get My Refund will send you a request for payment of the Fees (**Invoice**).
- (c) You must pay the Fees in accordance with the remittance method set out in an Invoice.

- (d) If you receive your Refund in the form of cash, you must notify Get My Refund and pay our Fee when you receive your cash from the Provider.
- (e) If your Refund is given in another way, not in the form of cash, payment is due 14 days after the date on the Invoice.
- (f) You acknowledge and agree that, if your Refund is paid as a reduction of existing debt, or other form of redress, you remain responsible for the payment of our Fees.

5.4 FAILURE TO PAY FEE

- (a) If you do not pay our Fees on time, the costs of any telephone calls and invoice reminders may be added to the outstanding debt at the following amounts:
 - (i) second and subsequent written reminder \$10+GST,
 - (ii) second and subsequent telephone reminder \$5+GST,
 - (iii) solicitors Letter Before Action (LBA) \$50+GST.
- (b) If you continue to not pay our Fees after the above reminders, we may, at your cost:
 - (i) refer the matter to third party debt collectors; and / or
 - (ii) institute court proceedings.

5.5 GST

Unless otherwise indicated, amounts stated in the Client Portal do not include GST. In relation to any GST payable for a taxable supply by Get My Refund, the Client must pay the GST subject to Get My Refund providing a tax invoice.

5.6 CARD SURCHARGES

Get My Refund reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).

6. CONFIDENTIALITY & PRIVACY

6.1 PRIVACY

- (a) The parties must comply with:
 - (i) if applicable, their respective obligations under the *Privacy Act 1988* (Cth); and
 - (ii) Get My Refund's privacy policy as in force from time to time.
- (b) Get My Refund will keep the Client informed of any changes to its Privacy policy during the Term.

6.2 CONFIDENTIAL INFORMATION

The parties will not, during, or at any time after, the Term, disclose Confidential Information directly or indirectly to any third party, except:

- (a) with the other party's prior written consent;
- (b) as required by Law; or
- (c) to their Personnel or other third parties, including the Personnel of Providers, on a need to know basis for the purposes of performing its obligations under this agreement (**Additional Disclosees**).

6.3 BREACH

If either party becomes aware of a suspected or actual breach of clause 6.2 by that party or an Additional Disclosee, that party will immediately notify the other party and take

reasonable steps required to prevent, stop or mitigate the suspected or actual breach. The parties agree that damages may not be a sufficient remedy for a breach of clause 6.2.

6.4 PERMITTED USE

A party may only use the Confidential Information of the other party for the purposes of exercising its rights or performing its obligations under this agreement.

6.5 RETURN

On termination or expiration of this agreement, each party must immediately return to the other party, or (if requested by the other party) destroy, any documents or other Material in its possession or control containing Confidential Information of the other party.

6.6 ADDITIONAL DISCLOSEES

Each party will ensure that Additional Disclosees keep the Confidential Information confidential on the terms provided in this clause 6. Each party will, when requested by the other party, arrange for an Additional Disclosee to execute a document in a form reasonably required by the other party to protect Confidential Information.

7. COMPLAINTS POLICY

- (a) If at any time you wish to make a complaint about any aspect of the advice or service you have received, you can submit your complaint to:
complaints@getmyrefund.com.au
- (b) Your complaint will be dealt with in accordance with our internal complaints handling procedure.

8. WARRANTIES

- (a) To the maximum extent permitted by applicable law, all express or implied representations and warranties not expressly stated in this agreement are excluded.
- (b) Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Client may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.
- (c) However, to the maximum extent permitted under applicable law, the Client acknowledges and agrees that:
 - (i) **(on refunds)** given the nature of the Fee structure, there will be no “refunds” to the Client, because no Fees are payable unless a Refund from a Provider is obtained by the Client. If:
 - A. a Fee is payable, then that is because a Refund was obtained for the Client, and therefore the Services have been successful in respect of the Consumer Guarantees under the ACL; and
 - B. if no Fee is payable, this fact in and of itself will not be considered evidence that Get My Refund has not met its obligations under the Consumer Guarantees;
 - (ii) **(on replacement)** the Client may instruct Get My Refund to perform the Services again, provided that Get My Refund has not advised the Client that there is no prospects of successfully obtaining a Refund from the Provider; and
 - (iii) **(on repair)** this is not applicable to the nature of the Services.

9. LIABILITY

- (a) **(Limitation of liability)** To the maximum extent permitted by applicable law, the maximum aggregate liability of Get My Refund to the Client in respect of loss or damage sustained by the Client under or in connection with this agreement is limited to the total Fees paid to Get My Refund by the Client as at the date of the first event giving rise to the relevant liability.
- (b) **(Indemnity)** The Client agrees at all times to indemnify and hold harmless Get My Refund and its officers, employees and agents ("**those indemnified**") from and against any loss (including reasonable legal costs) or liability incurred or suffered by any of those indemnified where such loss or liability was caused or contributed to by the Client or the Client's officers', employees' or agents':
 - (i) breach of any term of this agreement; or
 - (ii) negligent, fraudulent or criminal act or omission.
- (c) **(Consequential loss)** Get My Refund will not be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this agreement or any goods or services provided by Get My Refund, except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth) or any other applicable law.

10. DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.

11. TERMINATION

11.1 TERMINATION RIGHTS

- (a) Get My Refund may terminate this agreement at any time by providing one (1) week's written notice to the Client.
- (b) Either party (**Non-Defaulting Party**) may terminate this agreement immediately by written notice to the other party (**Defaulting Party**) if the Defaulting Party:
 - (i) is in breach of this agreement and either:
 - A. fails to remedy such breach within 14 days of receiving notice from the Non-Defaulting Party requiring it to remedy such breach; or
 - B. that breach is not capable of remedy; or
 - (ii) ceases, suspends or threatens to cease or suspend to conduct its business; or
 - (iii) becomes subject to any form of insolvency or bankruptcy administration.

11.2 CONSEQUENCES OF EXPIRATION OR TERMINATION

Upon expiration or termination of this agreement:

- (a) each party must return all property of the other party to that other party;
- (b) any unpaid Fees will be recoverable by Get My Refund from the Client; and
- (c) each party must immediately return to each other party, or (if requested by that party) destroy, any documents in its possession or control containing Confidential Information of the other party.

11.3 SURVIVAL

Any clause that by its nature would reasonably be expected to be performed after the termination or expiry of this agreement will survive and be enforceable after such termination or expiry.

12. NOTICES

- (a) A notice or other communication to a party under this agreement must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent; or
 - (ii) when replied to by the other party,whichever is earlier.

13. GENERAL

13.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in New South Wales, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

13.2 BUSINESS DAYS

If the day on which any act is to be done under this agreement is a day other than a Business Day, that act must be done on or by the immediately following Business Day except where this agreement expressly specifies otherwise.

13.3 AMENDMENTS

This agreement may only be amended in accordance with a written agreement between the parties.

13.4 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

13.5 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

13.6 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

13.7 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

13.8 COUNTERPARTS

This agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this agreement and all together constitute one agreement.

13.9 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

13.10 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

13.11 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (i) **(includes)** the word "includes" and similar words in any form is not a word of limitation; and
- (j) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.