

# Terms and conditions

Aug 2023

## **Terms and conditions**

These terms and conditions ("Agreement") set forth the general terms and conditions of your use of the [nebulapayments.com.au](https://nebulapayments.com.au) website ("Website" or "Service") and any of its related products and services (collectively, "Services"). This Agreement is legally binding between you ("User", "you" or "your") and Nebula Payments Pty Ltd ("Nebula Payments Pty Ltd", "we", "us" or "our"). If you are entering into this Agreement on behalf of a business or other legal entity, you represent that you have the authority to bind such an entity to this Agreement, in which case the terms "User", "you" or "your" shall refer to such entity. If you do not have such authority, or if you do not agree with the terms of this Agreement, you must not accept this Agreement and may not access and use the Website and Services. By accessing and using the Website and Services, you acknowledge that you have read, understood, and agree to be bound by the terms of this Agreement. You acknowledge that this Agreement is a contract between you and Nebula Payments Pty Ltd, even though it is electronic and is not physically signed by you, and it governs your use of the Website and Services.

## **Accounts and membership**

You must be at least 18 years of age to use the Website and Services. By using the Website and Services and by agreeing to this Agreement you warrant and represent that you are at least 18 years of age. If you create an account on the Website, you are responsible for maintaining the security of your account and you are fully responsible for all activities that occur under the account and any other actions taken in connection with it. We may, but have no obligation to, monitor and review new accounts before you may sign in and start using the Services. Providing false contact information of any kind may result in the termination of your account. You must immediately notify us of any unauthorised uses of your account or any other breaches of security. We will not be liable for any acts or omissions by you, including any damages of any kind incurred as a result of such acts or omissions. We may suspend, disable, or delete your account (or any part thereof) if we determine that you have violated any provision of this Agreement or that your conduct or content would tend to damage our reputation and goodwill. If we delete your account for the foregoing reasons, you may not re-register for our Services. We may block your email address and Internet protocol address to prevent further registration.

## **Billing and payments**

You shall pay all fees or charges to your account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. Sensitive and private data exchange happens over a SSL secured communication channel and is encrypted and protected with digital signatures, and the Website and Services are also in compliance with PCI vulnerability standards in order to create as secure of an environment as possible for Users. Scans for malware are performed on a regular basis for additional security and protection. If, in our judgement, your purchase constitutes a high-risk transaction, we will

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require you to provide us with a copy of your valid government-issued photo identification, and possibly a copy of a recent bank statement for the credit or debit card used for the

purchase. We reserve the right to change products and product pricing at any time. We also reserve the right to refuse any order you place with us. We may, in our sole discretion, limit or cancel quantities purchased per person, per household or per order. These restrictions may include orders placed by or under the same customer account, the same credit card, and/or orders that use the same billing and/or shipping address. In the event that we make a change to or cancel an order, we may attempt to notify you by contacting the e-mail and/or billing address/phone number provided at the time the order was made.

## **Accuracy of information**

Occasionally there may be information on the Website that contains typographical errors, inaccuracies or omissions that may relate to promotions and offers. We reserve the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information on the Website or Services is inaccurate at any time without prior notice (including after you have submitted your order). We undertake no obligation to update, amend or clarify information on the Website including, without limitation, pricing information, except as required by law. No specified update or refresh date applied on the Website should be taken to indicate that all information on the Website or Services has been modified or updated.

## **Links to other resources**

Although the Website and Services may link to other resources (such as websites, mobile applications, etc.), we are not, directly or indirectly, implying any approval, association, sponsorship, endorsement, or affiliation with any linked resource, unless specifically stated herein. We are not responsible for examining or evaluating, and we do not warrant the offerings of any businesses or individuals or the content of their resources. We do not assume any responsibility or liability for the actions, products, services, and content of any other third parties. You should carefully review the legal statements and other conditions of use of any resource which you access through a link on the Website. Your linking to any other off-site resources is at your own risk.

## **Prohibited uses**

In addition to other terms as set forth in the Agreement, you are prohibited from using the Website and Services or Content: (a) for any unlawful purpose; (b) to solicit others to perform or participate in any unlawful acts; (c) to violate any international, federal, provincial or state regulations, rules, laws, or local ordinances; (d) to infringe upon or violate our intellectual property rights or the intellectual property rights of others; (e) to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability; (f) to submit false or misleading information; (g) to upload or transmit viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Website and Services, third party products and services, or the Internet; (h) to spam, phish,

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pharm, pretext, spider, crawl, or scrape; (i) for any obscene or immoral purpose; or (j) to interfere with or circumvent the security features of the Website and Services, third party products and services, or the Internet. We reserve the right to terminate your use of the Website and Services for violating any of the prohibited uses.

## **Intellectual property rights**

“Intellectual Property Rights” means all present and future rights conferred by statute, common law or equity in or in relation to any copyright and related rights, trademarks, designs, patents, inventions, goodwill and the right to sue for passing off, rights to inventions, rights to use, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, rights to claim priority from, such rights and all similar or equivalent rights or forms of protection and any other results of intellectual activity which subsist or will subsist now or in the future in any part of the world. This Agreement does not transfer to you any intellectual property owned by Nebula Payments Pty Ltd or third parties, and all rights, titles, and interests in and to such property will remain (as between the parties) solely with Nebula Payments Pty Ltd. All trademarks, service marks, graphics and logos used in connection with the Website and Services, are trademarks or registered trademarks of Nebula Payments Pty Ltd or its licensors. Other trademarks, service marks, graphics and logos used in connection with the Website and Services may be the trademarks of other third parties. Your use of the Website and Services grants you no right or licence to reproduce or otherwise use any of Nebula Payments Pty Ltd or third party trademarks.

## **Disclaimer of warranty**

You agree that such Service is provided on an “as is” and “as available” basis and that your use of the Website and Services is solely at your own risk. We expressly disclaim all warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement. We make no warranty that the Services will meet your requirements, or that the Service will be uninterrupted, timely, secure, or error-free; nor do we make any warranty as to the results that may be obtained from the use of the Service or as to the accuracy or reliability of any information obtained through the Service or that defects in the Service will be corrected. You understand and agree that any material and/or data downloaded or otherwise obtained through the use of Service is done at your own discretion and risk and that you will be solely responsible for any damage or loss of data that results from the download of such material and/or data. We make no warranty regarding any goods or services purchased or obtained through the Service or any transactions entered into through the Service unless stated otherwise. No advice or information, whether oral or written, obtained by you from us or through the Service shall create any warranty not expressly made herein.

## **Limitation of liability**

To the fullest extent permitted by applicable law, in no event will Nebula Payments Pty Ltd, its affiliates, directors, officers, employees, agents, suppliers or licensors be liable to any

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person for any indirect, incidental, special, punitive, cover or consequential damages (including, without limitation, damages for lost profits, revenue, sales, goodwill, use of

content, impact on business, business interruption, loss of anticipated savings, loss of business opportunity) however caused, under any theory of liability, including, without limitation, contract, tort, warranty, breach of statutory duty, negligence or otherwise, even if the liable party has been advised as to the possibility of such damages or could have foreseen such damages. To the maximum extent permitted by applicable law, the aggregate liability of Nebula Payments Pty Ltd and its affiliates, officers, employees, agents, suppliers and licensors relating to the services will be limited to an amount no greater than one dollar or any amounts actually paid in cash by you to Nebula Payments Pty Ltd for the prior one month period prior to the first event or occurrence giving rise to such liability. The limitations and exclusions also apply if this remedy does not fully compensate you for any losses or fails of its essential purpose.

## **Dispute resolution**

The formation, interpretation, and performance of this Agreement and any disputes arising out of it shall be governed by the substantive and procedural laws of Victoria, Australia without regard to its rules on conflicts or choice of law and, to the extent applicable, the laws of Australia. The exclusive jurisdiction and venue for actions related to the subject matter hereof shall be the courts located in Victoria, Australia, and you hereby submit to the personal jurisdiction of such courts. You hereby waive any right to a jury trial in any proceeding arising out of or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

## **Changes and amendments**

We reserve the right to modify this Agreement or its terms related to the Website and Services at any time at our discretion. When we do, we will revise the updated date at the bottom of this page. We may also provide notice to you in other ways at our discretion, such as through the contact information you have provided.

An updated version of this Agreement will be effective immediately upon the posting of the revised Agreement unless otherwise specified. Your continued use of the Website and Services after the effective date of the revised Agreement (or such other act specified at that time) will constitute your consent to those changes.

## **Acceptance of these terms**

You acknowledge that you have read this Agreement and agree to all its terms and conditions. By accessing and using the Website and Services you agree to be bound by this Agreement. If you do not agree to abide by the terms of this Agreement, you are not authorised to access or use the Website and Services.

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## **Contacting us**

If you have any questions, concerns, or complaints regarding this Agreement, we encourage you to contact us using the details below:

[support@nebulapayments.com.au](mailto:support@nebulapayments.com.au)

This document was last updated on August 10, 2023