



Terms and Conditions

This website is established and maintained by NexPay Pty Ltd, Level 4, 11 York Street Sydney NSW Australia 2000 (**NexPay**). Each reference to NexPay includes each related body corporate of NexPay. These terms set out the terms and conditions of a contract between you and NexPay governing your access to, and use of, the website at www.nexpay.com.au and any related sites owned or maintained by, or on behalf of, NexPay including www.nexpay.co.nz (**Site**) and any services provided by, or on behalf of, NexPay via or in respect of the Site (**Services**). Each reference to Site includes a reference to all information and content on these sites. By visiting, registering for, or using, this Site or the Services, you agree to be bound by and abide by these terms (as amended from time to time).

These terms, include, and are supplemented by, other terms and conditions contained within the Site that are more specific to the use of a particular part of this Site or a Services. In the case of any inconsistency the terms and conditions specific to a part of the Site or Services prevail.

NexPay reserves the right from time to time to change these terms without prior notice or your consent. You are responsible for informing yourself of any changes to these terms and any notices posted on the Site and should read them carefully before you use the Site or Services. A unilateral change to these services by NexPay will not apply to you to the extent applicable to the provision of a partly completed service like the processing of a payment but the change will apply to any new Services that you use.

If registering on behalf of a business you hereby declare that you have the authority to bind that business to these terms and conditions.

1 USE OF THE SITE AND SERVICES

1.1 Registration and processing payments

- (a) To use the Site and Services you must create an account and your use of the Site or Services is conditional on you verifying your identity and some other checks we need to complete to meet our regulatory obligations.
- (b) All users of the Site and Services are responsible for ensuring that their details recorded within the Site (generally or in respect of a payment) and any transaction details (including those entered by another party to the transaction) are correct. NexPay will process the payment in accordance with the details recorded in the Site and will not be responsible for incorrect payments as a result of incorrect data being entered by any user of the Site or Services.
- (c) Nexpay is not party to the underlying transaction between the users of the Site and Services. You and the other users of the Site and Services are responsible for recouping any funds paid to an incorrect party or addressing any other incorrect payments (including any under or over payments) as a result of the details provided the NexPay. NexPay cannot reverse payments and any adjustments between users of the Site and Services will need to be processed as new transactions if the Site or Services are used to process any such adjustments between the parties.
- (d) If you are making a payment using the Site and Services:
 - (i) you must transfer the exact amount of the funds in the payment currency shown on the transaction details to us as soon as practicable after the transaction is created on our Site;
 - (ii) you must make the payment in sufficient time to ensure that the funds are received by Nexpay within the period stated on your payment instructions (taking into account any bank processing periods);

- (iii) if you make a payment late Nexpay may require you to pay an additional amount to cover NexPay's additional costs of processing the transaction before the transaction will be processed;
- (iv) in most cases a transaction cannot be stopped once you have paid NexPay (Any request to stop a payment should be made in writing to support@nexpay.com.au and Nexpay will use reasonable endeavours to stop the payment if it has not already been processed. In the event NexPay is able to stop a payment, if you ask us to refund it to you we will do so but Nexpay will deduct an administration charge of AUD50 and if the amount has already been converted into a different currency Nexpay will deduct the cost of converting that payment back into the currency in which you paid;
- (v) while the recipient of a payment may use Nexpay to process any refunds (as a new and separate transaction), Nexpay is not responsible for obtaining refunds if the payment details entered are incorrect; and
- (vi) you will only be taken to have made a payment when Nexpay has received your money in Nexpay's bank account as cleared funds (You should keep a copy of your payment receipt issued by your bank. In the event that a payment is not received by Nexpay, we will use reasonable endeavours to assist you in identifying why we have not received that payment.)

- (e) If you are using the Site and Services to receive payments on your behalf or on behalf of third parties:
 - (i) you may only use the Site and Services to collect payments that are properly due and as permitted by law;
 - (ii) if you are processing payments on behalf of another party, you are required to verify the details of the payer and the beneficiary details; and
 - (iii) you may request that we cancel a transaction by sending a request via email to support@nexpay.com.au.
- (f) If you are creating links to the Site or Services, or otherwise integrating the Site or Services with any of your own products or services:
 - (i) you must comply with the most recent instructions and conditions set out in the Integration webpage available at: <https://www.nexpay.com.au/integration> and any other directions from NexPay;
 - (ii) you may only do so from countries in which NexPay operates;
 - (iii) if NexPay requests that you stop using the Site or Services, you must immediately remove any link or integration (and delete any materials provided by NexPay) and must not re-establish any link or connection with the Site or Services without the consent of NexPay (and you must ensure that anyone associated with you complies with this clause);
 - (iv) you may only use the Site and Services for processing payments for NexPay customers and not for any other commercial purpose;
 - (v) you are responsible for complying with any local laws regarding the linking or integration with the Site or Services including without limitation ensuring that you obtain the necessary consents of any person who's data is provided by you to NexPay and also ensuring that any relevant terms,

notices or disclaimers are provided to any person using your system or services; and

- (g) No person may use the Site or Services to make payment from or to a person or jurisdiction where doing so would be in breach of a law or sanctions.

1.2 Fees, charges and commissions

- (a) Your use of the Site and Services is conditional on the payment of fees and charges set out in this Site in relation to the relevant Service or as otherwise agreed with you.
- (b) The banks or other financial institutions that any use of the Site or Services use to make or receive payments may charge fees in relation to any transfer. NexPay is not responsible for those fees and charges and you should ensure that you are informed of any other fee or changes that you may incur.
- (c) NexPay may pay commissions to other users or third parties in respect of your use of the Site or Services.
- (d) NexPay may receive fees for advertising on the Website and in any email newsletters that might be sent to you. NexPay may have a financial interest in the outcome or success of the offers of financial products mentioned in the Site.

1.3 General conditions of use

- (a) You must:
- (i) comply with these terms at all times while using the Site and Services;
 - (ii) ensure that your contact and other details submitted to NexPay or stored on the Site are current and accurate; and
 - (iii) monitor any electronic system or address designated by you for the purpose of receiving communications (NexPay will not be liable for any delay or failure by you to do so);
 - (iv) ensure that all information you submit to NexPay, upload to the Site or provide to another user of the Site, is true and correct and does not infringe the rights (including intellectual property rights) of any other person (each time you submit or provide information to NexPay or another user of the Site (You represent and warrant to the recipient of that information that you have complied with this clause and are not infringing the rights (including intellectual property rights) of any other person));
 - (v) not use the Site or Services for any unlawful purpose;
 - (vi) not introduce any Harmful Code into the Site or use it in a manner that could damage, disable or impair the Site or Services. In these terms, Harmful Code means any computer code or routine that is harmful, destructive, disabling or which assists in or enables theft, alteration, denial of service, unauthorised disclosure or destruction or corruption of data, including viruses, worms, spyware, adware, keyloggers, trojans and any new types of programmed threats that may be classified in a similar way, but excluding passwords, software keys and like features that are security features or intended elements of software used to prevent unauthorised access and use;
 - (vii) not use any robot, scraper or other means to access the Site for any purpose;
 - (viii) maintain and safeguard the privacy and security of all personal or confidential information that you obtain access to in relation to the Site;

- (ix) not access information or perform services relating to any other person (unless expressly permitted by NexPay or by that other person to do so); or
- (x) not send or post any unsolicited messages or any offensive, inflammatory, defamatory, threatening, abusive, hateful, racist, obscene, fraudulent, deceptive or otherwise unlawful information.

- (b) You are responsible for, and bear all the costs of, installing and maintaining your own systems and equipment necessary to access and use the Site and Services. In the event that you request NexPay to provide additional services to you (including for example assisting you with integrating the Site or Services into your systems or providing support in addition to NexPay's standard support as described in NexPay's standard documentation) you will pay NexPay for the provision of those services at NexPay's standard hourly rates, and reimburse NexPay for its expenses, unless otherwise agreed with NexPay in writing.

- (c) To the extent permitted by law, you are liable for and must compensate NexPay on demand for all losses, costs, expenses (including legal costs on a full indemnity basis), claim or damage suffered or incurred (or agrees to pay by way of settlement or compromise) in connection with or arising out of:

- (i) a breach of these terms (including a representation or warranty);
- (ii) fraudulent or dishonest conduct of you or any person you have permitted to use this Site on your behalf;
- (iii) a failure to obtain, maintain, and comply with required consents and applicable laws;
- (iv) personal injury, death or loss of or damage to real or tangible personal property;
- (v) claims, actions or proceedings by a third party and any investigations by a government body; and
- (vi) failure to comply with any obligations of confidence or privacy under these terms, arising out of any of your acts or omissions or any of your related parties whether accidental or not,

except to the extent any such loss, cost or expense was caused by the fraud or negligence NexPay or its related parties.

- (d) You agree to report any misuse of the Site or Services that you become aware of to NexPay.

2 SOCIAL MEDIA

Parts of this Site has social media functionality. In addition NexPay has a number of social media accounts including Facebook, Twitter, YouTube and LinkedIn accounts. Any social media site that is provided by a third party (for example Facebook, Twitter, YouTube, LinkedIn, blogs and forums) is subject to the relevant 3rd party provider's terms and conditions (even if you access that site via any link from this Site).

NexPay encourages you to participate in any social media. If you do participate in any social media, you do so under these terms. Without limiting any other provision in these terms you must:

- (a) act responsibly and be respectful of other users;
- (b) not submit any content:
 - (i) advertising or endorsing any products or services of any other organisation;
 - (ii) that personally identifies any other person; and
 - (iii) that NexPay considers inappropriate.

NexPay may remove any content submitted by you which NexPay (in its absolute discretion) considers in breach of these terms.

While NexPay will monitor the content submitted on any of its social media sites, it may not monitor all content at all times. Accordingly, you should notify NexPay of any inappropriate content and you should ignore any content that may be offensive to you until it is removed by NexPay.

You acknowledge that NexPay owns any content submitted by you.

Without limiting any other provision in these terms, NexPay disclaims all liability, is not responsible for, and does not endorse any content submitted by any user on a social media site (even if NexPay does not remove that content). In addition any content submitted by NexPay or any of its personnel is subject to any disclaimers in these terms (including under clause 8) and is not intended to be a substitute for professional advice provided by an appropriately qualified professional.

3 ELECTRONIC COMMUNICATIONS

NexPay may send you electronic communications which relate to your use of the Site or Services or other information that may be of interest to you as a visitor of the Site, including information relating to NexPay's other products and services. As a condition of your registration for use of this Site, you consent to receive commercial electronic messages from NexPay using your email address or the messaging system within the Site. You may withdraw your consent at any time, but this may disable your access to any secure areas of the Site. Please contact NexPay if you wish to disable (or re-enable) your access to any part of the Site.

Despite your consent to electronic communications, NexPay reserves the right to communicate with you, or require you to communicate with NexPay, in person, by post or fax in order for NexPay to meet its legal obligations, or where NexPay considers electronic communication to be impracticable, inadequate or inappropriate.

4 SECURITY

4.1 Security generally

While NexPay uses reasonable endeavours to implement security controls and prevent unauthorised access to, or use of, the Site or Services, you acknowledge that the internet is an insecure public network where there is a risk that your use of, and interactions with, this Site may be viewed, intercepted or modified by third parties and that this Site and any information on this Site may contain Harmful Code. To the extent permitted by law, NexPay does not guarantee that there will not be, or accept any liability for, any Harmful Code on the Site or a breach of security by a third party or any interference with or damage to your computer system, software or data occurring in connection with or relating to this Site.

4.2 Login ID and password

Access to parts of the Site may be controlled using a login ID and password. You must keep your login ID and password (or any other access code) secure at all times and change your password regularly as you are responsible for any action performed on the Site using your login ID (which will be assumed to be actions by you). If you think someone else may know your password, you should change your password immediately. NexPay and other users of this Site or Services will never ask you for your login ID or password (if anyone does please let NexPay know).

4.3 Basic online security – your obligations

While you are ultimately responsible for your own online security, NexPay recommends that you:

- (a) ensure that you are using the most recent version of your operating system and software (including web browser) with the latest patches and updates applied;
- (b) when using secure areas of the Site, check that you are using a secure site by making sure the site address starts with "https" and looking for the padlock icon in the lower right of your browser window;

- (c) ensure that you have anti-virus software installed and working on your computer, that its definitions are up to date and that it is configured to scan and inbound and outbound emails and files;
- (d) ensure your browser is configured to minimise the likelihood of your computer or privacy being affected by Harmful Code;
- (e) if you are using a public or shared computer, ensure that you log out properly and close the browser window when you have finished;
- (f) be suspicious of strange emails, attachments or hyperlinks; and
- (g) if you suspect your computer has been affected by Harmful Code you should contact your IT service provider or anti-virus vendor.

5 INTELLECTUAL PROPERTY

5.1 Ownership of data and other Intellectual Property

- (a) The Site and Services and any content made available by or on behalf of NexPay (including without limitation the software on which it is based, any documentation regarding its use, text, graphics, video, audio, information, data and the design and layout of the Site) are owned by NexPay or its third party licensors, and are protected by Australian and international copyright and other intellectual property laws.
- (b) You acknowledge and agree that NexPay owns all other data and information uploaded onto, or created by or using, the Site. Without limiting clause 5.1(a), NexPay retains all rights in relation to any online documents and forms completed and other information submitted by you and you assign any rights you may have in those materials to NexPay. You agree that NexPay can use and adapt any ideas, concepts, techniques, words or images contained in any of those materials for any purpose and without restriction or compensation.

5.2 Intellectual Property Licences

NexPay grants you a revocable licence to download, copy and print the content on the Site for your personal use. To the extent permitted by law, you must not:

- (a) otherwise download, modify, copy, reproduce, republish, store, frame, upload, post, transmit, sell, lease, rent, sub-licence or disclose or distribute any part of this Site (or any content on it) in any way, except as otherwise expressly stated on the Site or with NexPay's prior written consent;
- (b) tamper with any copyright notice, or tamper with or commercially use any trade mark, logo or names (including business names and domain names) appearing on the Site or in materials accessed via the Site (You must include NexPay's copyright notice in any copies of the information obtained from the Site); or
- (c) re-engineer, create derive works from, reverse engineer, disassemble, or decompile any part of the Site, and to the extent any right for you to do so is preserved by law, then only in strict accordance with the provisions or terms under that law.

5.3 Use of NexPay's trade marks and related IP

NexPay® is a registered trademark of NexPay. You agree not to use the name, trade name, service marks, trademarks, trade dress or logo of NexPay (or its related parties, suppliers or licensors) (**Branding**) in publicity releases, advertising, promotional materials, direct mail, seminars, on your web site, or in other communications without the express prior written consent of NexPay. All uses of Branding will inure to the benefit of the owner of such logos, trademarks, trade names and/or other branding devices.

Trade marks belonging to other parties may be displayed on the Site. Nothing displayed on the NexPay website should be construed as granting any license or right of use of any logo or trademark displayed on the website of another party, without the express written permission of the relevant owner.

6 CONFIDENTIALITY

You agree to maintain any information that is confidential or proprietary in nature or is designated as such (including without limitation the software, source code, technology, tools, processes, functional specifications and technical materials on which the Site is based) which you access via the Site in strict confidence at all times. You may not disclose, use, transmit, inform or make available to any person any of that information except as necessary to perform your obligations or exercise your rights under these terms. This clause does not apply to any confidential information which you can demonstrate:

- (a) is or becomes known to the public through no breach of these terms;
- (b) was previously known by you, or subsequently provided to you, without any obligation to hold it in confidence;
- (c) is independently developed by you without the use of confidential information; or
- (d) is approved for release by written authorization of NexPay, but only to the extent of such authorization.

7 PRIVACY

NexPay will treat any personal information provided by you or collected in relation to in accordance with its privacy policy which is available at: <https://www.nexpay.com.au/privacy>. NexPay may use cookies in relation to accessing and using this Site.

8 ACCESS, SUSPENSION AND TERMINATION

- (a) NexPay reserves the sole right to determine your eligibility for access, the extent of your access, and the level of information or services available to you via the Site or parts of the Site. Unless expressly agreed otherwise with NexPay, NexPay may suspend or terminate your access to or use of all or part of the Site or Services at any time for any reason (other than in respect of partly completed transactions unless you are in breach of these terms).
- (b) If your use of the Site or Services is suspended or terminated you are no longer authorised to access or use the Site or Services and you will continue to be subject to and bound by all restrictions imposed on you by the terms.

9 LIABILITY

- (a) To the extent permitted by law, the Services and this Site are made available to you on an "as is" and "as available" basis and are used by you at your own risk. To the maximum extent permitted by law, NexPay makes no representation, provides no express warranty or guarantee, and excludes all liability and any implied warranties (whether implied by statute or otherwise) in connection with:
 - (i) the provision and availability of, or your use of, the Site or Service;
 - (ii) the functionality, features and performance of the Site or Service (NexPay may withdraw, suspend or discontinue any functionality or feature at any time);
 - (iii) legality or suitability of the Site or Services;
 - (iv) title and non-infringement of third party rights;
 - (v) the security of Site or Services, or the safety of any file or software associated with them (such as safety from any virus or defects including those

which could damage or interfere with your data, hardware or software);

- (vi) merchantability, fitness for a particular purpose and non-infringement of the Site;
 - (vii) the Site or Services being provided error-free or without interruption (including without limitation the availability of internet connections or other telecommunications systems); or
 - (viii) the accessibility, accuracy, quality, currency or reliability of Site or Service, or of any NexPay or third party materials, information, products or services promoted or accessed via Site, the Site or any linked site.
- (b) Despite any provision in these terms to the contrary and to the extent permitted by law, NexPay shall not be liable for any consequential, special, incidental, indirect or punitive losses, costs, expenses or damages, whether in contract, tort or otherwise (including negligence) arising out of or in connection with the Site or NexPay performance or non-performance of its obligations under these terms, even if NexPay has been advised of the possibility of that damage.
 - (c) To the extent permitted by law, in the event of any problem in connection with the Site or Services, you agree that:
 - (i) your sole remedy is to cease using the Site or Services or any information, materials, goods or services provided to, or accessed by, you in connection with the Site; and
 - (ii) you release NexPay and hold NexPay harmless from any and all claims, demands, and damages of every kind and nature (including, without limitation, actual, special, incidental and consequential), known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with your use of the Site.
 - (d) If, despite these terms, a court determines that NexPay is responsible for loss or damage arising from your access to or use of this Site, to the extent permitted by law, NexPay's liability is limited in any event to resupplying the relevant part of the Site or the reasonable cost of having it resupplied, and NexPay reserves its options at law as to how it may discharge NexPay's obligations in relation to liability that cannot be lawfully excluded under these terms.
 - (e) The limitations of liability in this document will not exclude NexPay's liability for fraud by NexPay or NexPay's liability to the extent that it may not be excluded by law.

10 REFERENCE MATERIAL

The materials on this Site have been provided for general information only and does not constitute either general or personal financial product advice. While NexPay has used reasonable endeavours to ensure the quality of the information:

- (a) it is provided "as is" and NexPay does not warrant that it is accurate, complete, reliable, current, of a particular quality or suitable for your particular circumstances;
- (b) it is not intended to be a substitute for professional advice provided by an appropriately qualified person (Before making any financial decision on the basis of any reports or information provided, you must read any relevant disclosure document and make your own investigations regarding the accuracy, reliability and completeness of this information. You should also seek expert professional advice about the Services in light of your particular circumstances and needs);

- (c) some of the information has been provided or made available by third parties (or derived from that information) and does not necessarily reflect any policies, procedures, standard or guidelines of NexPay, any other users of this Site;
 - (d) you use it at your own risk, should not act (or fail to act) on the basis of the materials on this Site and you are solely responsible for all acts or omissions carried out in connection with, or in reliance on, the materials (Nothing relating to the provision of the information by Nexpay shall be construed as creating a fiduciary, financial or other advisory relationship between NexPay and you or any other third party); and
 - (e) to the extent permitted by law NexPay accepts no responsibility and disclaims all liability in relation to use of those materials. While NexPay may do so, NexPay has no obligation to review the information on the Site to ensure it is current nor, to correct any error, omission or inaccuracy on the Site.
- (b) NexPay may seek urgent injunctive relief in order to protect the confidentiality of its information or prevent the misuse of its Intellectual Property.
 - (c) The failure or delay of NexPay to exercise any right or remedy under these terms will not operate as further waiver of such right or remedy in the future or any other right or remedy. No waiver of any default, condition or breach of these terms shall be deemed to imply or constitute a waiver of any other default, condition or breach of these terms, whether of a similar nature or otherwise.
 - (d) If any one or more of the provisions of these terms are invalid or otherwise unenforceable, to the extent possible the provision should be read down to reflect the intent of the parties and the enforceability of remaining provisions shall be unimpaired. To the extent a provision cannot be read down, it will be severed and the remaining terms will continue to apply.

11 LINKS TO 3RD PARTY SITES

This Site contains links to other 3rd party services and sites which are not under the control of NexPay. Those links are only provided for your convenience and NexPay does not warrant:

- (a) the accuracy of any hypertext links provided on the Site or the suitability, accuracy completeness, currency, merchantability, fitness for purpose or any other aspect of any content located at those links;
 - (b) that the linked site does not infringe the intellectual property or other rights of any person;
 - (c) the physical location at which that site is hosted (or the location of any person accessing or controlling that site);
 - (d) the confidentiality and privacy practices of that site; and
 - (e) the security and safety of that site or any file on it (including the existence of Harmful Code);
 - (f) unless specifically stated otherwise, do not constitute any association of NexPay with, or any endorsement or approval by NexPay of, those other websites, their content, or the people who run or contribute to them; and
 - (g) any omission of links to any site or organisation does not constitute any non-endorsement or disapproval of those sites or organisations.
- (e) NexPay shall not be liable for any non-performance in connection with the Site or under these terms if it is prevented from performing that obligation by a circumstance beyond its reasonable control.
 - (f) You may not assign any of your rights or obligations without the prior written consent of NexPay.
 - (g) All rights and obligations under:
 - (i) any provision regarding privacy, confidentiality, intellectual property, waivers, indemnities, representations and warranties (including without limitation clauses 5, 6, 7 and 8;
 - (ii) accrued rights or obligations existing at the time of termination or expiry; and
 - (iii) any indemnities and any representations and warranties,
 - (h) These terms (including any supplementary terms within the Site) set out the entire agreement between the parties and supersedes all previous and contemporaneous agreements, understandings and arrangements with respect to their subject matter.

Your use of the links, and use or reliance on the content on any linked site, is at your own risk and to the extent permitted by law, NexPay disclaims any liability in relation to those links or sites. NexPay recommends you take care when accessing and using third party sites and that you read the terms and conditions and privacy policy of any third party site as they may be different to NexPay's terms and policies.

11.2 Changes to this Site

NexPay may, in its absolute discretion, make changes to any part of this Site or any content on it (subject to express right set out in these terms) without your consent or providing notice to you.

11.3 NexPay's related parties, personnel, suppliers and contractors

Each disclaimer is given on behalf of, and each indemnity, waiver, exclusion or limitation of liability is held for the benefit of, NexPay, NexPay's related bodies corporate, licensors and contractors (and each of their officers, employees, agents and contractors).

12 GENERAL

- (a) These terms are governed by and are to be construed in accordance with the laws of New South Wales, Australia. You agree to the non-exclusive jurisdiction of the courts of New South Wales, Australia and any courts which may hear appeals from those courts in respect of any

- proceedings in connection with these terms or this website.

13 QUESTIONS AND FEEDBACK

If you have enquiries or wish to provide feedback about this policy, please email support@nexpay.com.au

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