

## Ecommerce Checkout Terms of Use

### Key Points

Before you check out with your trade account, here is some key information you need to know:

### Using this Service

1. Keep your account and information safe by not sharing your login details as you will be liable for transactions made using your credentials
2. You are purchasing from a third-party and Capricorn is not responsible for any goods or services purchased from Preferred Suppliers or Ecommerce Partners.
3. Always check that any link you click on is to a secure web page that starts with https://
4. Remember that the safest way to access your Member information is via myCAP using your secure log in.
5. If you ever have any concerns, please contact us via the enquiry form on myCAP or calling 1800 327 437 in Australia or 0800 401 444 in New Zealand.

### Legal Terms apply to this Service

The Service is subject to our Terms of Use [<https://capricorn.coop/ecommerce-checkout-terms>]. We've summarised some key points for you below. If you don't agree to any of the above tips, or the Terms of Use, please complete your purchase using an alternative method.

#### 1. Risk in the Service

The nature of the Service means we can't guarantee that the service will operate error-free or be secure (clause 5). We also don't provide any warranties regarding the availability of the service (clause 5). We may need to collect and share personal information to provide the Service (clause 10).

#### 2. Capricorn has limited liability and requires indemnity from you

Our liability is limited (to the extent permitted by law) for any loss that you may incur from using the Service (clause 11), and, where we are liable under the Australian Consumer Law, we limit that liability to the extent permitted (clause 13). By using the Service, you agree to indemnify us for liability arising from your breach of this agreement or use of the Service (clause 12).

#### 3. Preferred Suppliers

We are not responsible for any goods or services you purchase from a Preferred Supplier (clause 2), or for any issues or loss arising from use of Preferred Supplier Sites (clause 7).

#### 4. Securing Your access

You are responsible for maintaining the confidentiality of your login details, and will be liable for transactions made using your credentials (clause 8).

Document published on 17/10/2024

# Ecommerce Checkout Terms of Use

## Terms of Use

### 1. General

These Terms of Use ("**Terms**") are a legal agreement between Capricorn Society Limited (ACN 008 347 313) ("**Capricorn**") and you, the individual using the service we offer under these Terms ("**You**"). Your access to and use of the service is subject to these terms and conditions and Capricorn's Privacy Policy (located [here](#)). Prior to using our product or service, You must agree and accept the Terms of Use. By accessing, viewing or otherwise using the Service, You agree to be subject to these Terms of Use.

These Terms may change from time to time and we will ensure the current Terms are available when You access the Service. By using the Service, You accept the then current version of the Terms.

### 2. Service

Checkout with Capricorn is a service which enables You to make online purchases with preferred suppliers who Capricorn has entered into agreements (as principal) with to pay for goods and/ or services ordered using Your Authorised Purchaser's Number ("**Preferred Suppliers**"), and use Your Capricorn trade credit account for that online purchase (the "**Service**"). "**Authorised Purchaser's Number**" is defined in Your Authorised Purchaser Agreement ("**APA**") Terms and Conditions.

Any purchase You make from a Preferred Supplier is using the Service is a transaction between You and the Preferred Supplier and Capricorn is not liable for any goods or services You purchase from a Preferred Supplier.

For the purposes of Your APA, any purchases You make using the service will constitute a purchase made with Your Authorised Purchaser's Number. Your APA remains in place and unaffected by these Terms, and for the avoidance of doubt, nothing in these Terms removes any obligations You have under that agreement.

### 3. Eligibility

You may only use the Service if You are a Capricorn Authorised Purchaser Number holder, or are expressly authorised by a Capricorn Authorised Purchaser Number holder to transact and make purchases on their behalf.

### 4. Licence and right to access the Service

Capricorn grants You a limited, non-exclusive, revocable licence to the Service for the sole purpose of transacting with Preferred Suppliers online (the "**Licence**"). You are not otherwise granted any other rights to our Service. Except as permitted by the Licence, no part of our Service may be reproduced in any form or incorporated into any information retrieval system, electronic or mechanical without the prior written consent of Capricorn. You may not access or use the Service in any way that could or is intended to damage or impair the Service or any server or network underlying the Service, or interfere with anyone else's use and enjoyment of the Service.

Document published on 17/10/2024

## Ecommerce Checkout Terms of Use

You may not use automated systems (eg- robots, spiders, etc) to access the Service. You agree not to collect personally identifiable information of other users of the Service or to sell or otherwise exploit that information. Except for the limited rights expressly granted under these Terms of Use, all right, title and interest in and to the Service and is reserved and owned by Capricorn.

***Capricorn retains the right to deny access to the Service to anyone without notice at its absolute discretion for any reason whatsoever, including but not limited to for violation of any of these Terms of Use.***

### 5. Disclaimer of warranties

Capricorn will use reasonable efforts to ensure the Service functions correctly. Function however, cannot be guaranteed and neither Capricorn nor any other company in the Capricorn Group nor any of the officers, employees, representatives or agents of Capricorn or any other company in the Capricorn Group guarantees the security of the Service, gives any warranty of reliability or completeness nor accepts any responsibility arising in any other way including but not limited to by reason of negligence for errors in, or omissions from, the Service.

The Service is provided "as is", selectively and without warranty of any kind (be it either express or implied) including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose, title, non-infringement, security or accuracy.

Capricorn disclaims all warranties regarding the availability of the Service, that the Service will operate error-free, that defects will be corrected or that the Service is free of viruses or other harmful components. Your use of the Service is at Your own risk, any content downloaded or otherwise obtained through the Service is provided at Your own risk and You are solely responsible for any damage to Your computer system or any data loss that may result from Your use of the Service including, without limitation, damage resulting from computer viruses.

Capricorn makes no warranty in respect of and is not responsible or liable for:

- any content provided on a "Preferred Supplier Site" (as defined below); or
- the capabilities or reliability of any products or services obtained from a Preferred Supplier Site.

It is Your responsibility to evaluate the accuracy, completeness or usefulness of any opinion, advice or other content obtained from a Preferred Supplier Site.

### 6. Intellectual Property Rights

All text, formatting (including, without limitation, the selection, coordination and arrangement of materials on the Service), and the images, graphics, animation, tools, widgets, applications, commercials, videos, music, sounds, articles, copy, creative materials, photos, trademarks, service marks, trade names, logos and other materials and information contained within the Service (collectively,

Document published on 17/10/2024

## Ecommerce Checkout Terms of Use

"**Service IP**") are subject to the intellectual property rights of Capricorn, other companies in the Capricorn Group and affiliates, and their respective licensors and licensees.

You agree, other than as permitted by the Licence, that the Service IP may not be copied, reverse engineered, decompiled, disassembled, modified, altered, used to create derivative works, reposted to other websites, publicly displayed (except for Your own personal information), framed, deep linked to, changed, or otherwise distributed, redistributed, licensed, sublicensed or transferred in any form by You. The trademarks, logos, trade names and service marks, whether registered or unregistered (collectively, the "**Trademarks**") are Trademarks of Capricorn. Nothing should be construed as granting, by implication or otherwise, any licence or right to use any Trademark displayed in the Service without the written permission of Capricorn.

Any unauthorised use of the Service IP including but not limited to the Trademarks will violate Capricorn's intellectual property rights and Capricorn reserves the right to exercise and enforce any and all legal rights or remedies in respect of the same.

### 7. Preferred Supplier Sites

The Service may be accessed via, or provide or facilitate links to, other websites belonging to Capricorn Preferred Suppliers (each, a "**Preferred Supplier Site**") by allowing You to move between the Service and the Preferred Supplier Site. Capricorn has no discretion or ability to alter, update, draft or control the content on a Preferred Supplier Site.

There are inherent risks in relying upon using or retrieving any information found on the internet and Capricorn urges You to make sure You understand these risks before relying upon, using, or retrieving any such information on a Preferred Supplier Site. Access to a Preferred Supplier Site is strictly at Your own risk.

### 8. Logins, Security and Liability

While the password protected/secure area of the Service allows You to transact in a simple and convenient manner, it also involves special risk. **If someone else has Your login details, they can transact using the Service as if they were You. You may be liable for such transactions.**

*Take care with Your login details*

You should take special care of any login details and keep them secret and should not disclose them to any third-party including family, friends or professional advisers. You should do everything You reasonably can to prevent Your login details becoming known to any other person including by having up to date antivirus, antimalware and firewall software on any device that You use to access the Service. You should not keep a record of Your login details. You should not choose login details that represent Your date of birth or are otherwise easy to guess.

Document published on 17/10/2024

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### *Your liability for electronic communications, transactions and agreements*

#### You **are liable for**:

- All transactions received by us through the password protected/secure areas of the Service from any person logged in using Your login details unless You can prove that:
  - The person gained access to Your login details without Your approval and despite You taking all reasonable precautions to prevent such access and You did not unreasonably delay in reporting to us the loss, theft or misuse of Your login details; or
  - Without Your knowledge the device that You use to access the Service had, despite You having up to date antivirus, antimalware and firewall software, been taken over by malware and You did not unreasonably delay in reporting to us that the device had been compromised.
- Transactions carried out by You or with Your knowledge and consent. You are also liable for transactions carried out by any other person with or without Your knowledge or consent if You have shared Your login details or if You have not taken reasonable precautions to protect Your login details and prevent unauthorised access.
- Transactions where You have entered incorrect information. If You inform us that You have entered incorrect information, we will act reasonably to try and correct or cancel that transactions but we are not liable if we are unable to do so.

#### You **are not liable for**:

- A transaction that resulted from the fraud or gross negligence of Capricorn or any of its employees; or
- Loss resulting from an expired, forged or faulty security key.

### *Suspension of Your access*

We may suspend Your access to the Service or otherwise limit Your ability to use it if we believe that Your online security or the security of the Service is at risk. For example, if Your login details are entered incorrectly more than once. If Your access is suspended, they You will not be able to access functions normally available until we re-enable Your access. We may require You to reconfirm Your identity and/or change Your login details before re-enabling Your access.

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### 9. Use of "cookie" file features

Capricorn reserves the right to store information on Your computer in the form of a "cookie" as required to enable the Service. Capricorn's Privacy Policy (located [here](#)) provides additional information regarding Capricorn's use of cookies as well as procedures for disabling cookies.

### 10. Privacy Policy and transmission of personal data

Capricorn respects Your privacy and takes treatment of Your personal and proprietary information seriously. Capricorn's Privacy Policy (located here) provides an overview of what personal information Capricorn collects and holds, the purposes for which Capricorn holds personal information and use and disclosure of personal information collected by Capricorn, amongst other things.

We will receive your transaction data if you use the Service. This may include your name and contact information and, where such personal information is received, it is because We cannot provide the Service without this information. We rely on non-Capricorn parties to provide us with technology or integrations necessary for the Service to work. We will disclose Your data which may include Your personal information to non-Capricorn parties that help us provide the Service. These providers include Spenda Limited and any preferred suppliers You choose to transact with. Non-Capricorn parties have their own privacy policies which will apply if You share personal information directly with them.

You acknowledge and agree that by providing Capricorn with any personal or proprietary user information through the Service, You consent to the transmission of such personal or proprietary information to: (a) the non-Capricorn parties specified above; and (b) over international borders; as necessary for processing (where applicable) in accordance with Capricorn's standard business practices and Privacy Policy.

### 11. Limited Liability

To the extent permitted by law, and subject to clause 13, Capricorn, Preferred Suppliers, any company within the Capricorn Group or any of the officers, employees, representatives or agents of Capricorn or any other company in the Capricorn Group will not be liable (and all liability is hereby disclaimed), whether in contract, tort, strict liability or how so otherwise arising, for any loss or damage including but not limited to direct, punitive, special, consequential, incidental or indirect damages (including without limitation lost profits, cost of procuring substitute service or lost opportunity) arising out of or in connection with Your use of the Service.

### 12. Indemnity

Subject to clause 13, You agree to indemnify, defend and hold Capricorn, any company within the Capricorn Group and any of the officers, employees, representatives or agents of Capricorn or any other company in the Capricorn Group harmless from and against any and all liability, loss, claim, demand, proceeding, damage (actual, special and consequential) and expense (including

Document published on 17/10/2024

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legal fees on a solicitor and own client basis) related to or arising from any breach of this agreement by You, or Your use of the Service.

### **13. Consumer Law Provisions**

Nothing in these Terms are intended to exclude application of the Australian Consumer Law ("**ACL**"), including any mandatory, non-excludable guarantees that may apply to the provision of the Services.

Where the Services are not of a kind ordinarily acquired for the purpose of personal, domestic or household use, Capricorn limits any liability it may have to supplying the services again or the payment of having the services supplied again.

### **14. Variation and Waiver**

Capricorn's failure to enforce any provision of these Terms of Use or any additional terms shall not be deemed a waiver of such provision nor of its right to enforce such provision.

### **15. Governing Law**

These Terms of Use shall be governed, interpreted and construed in accordance with the laws of Western Australia, Australia. In any action or other legal process with respect to any matter or thing in connection with these Terms of Use, You and Capricorn irrevocably and unconditionally submit to the exclusive jurisdiction of the State of Western Australia, Australia.

### **16. Notices**

If You wish to contact or otherwise provide notice to Capricorn with respect to any matter relating to these Terms of Use, any such notice must be sent to Capricorn by registered ordinary post or, if posted to or from a place outside Australia, by registered airmail (post to Locked Bag 3003, West Perth WA 6872) or by email ([info@capricorn.coop](mailto:info@capricorn.coop)).

### **17. Miscellaneous**

To the extent that any one or more of the provisions of these Terms of Use are prohibited by any applicable law, such provisions or the offending part thereof and each of them, shall to such extent only be ineffective without invalidating or modifying the remaining parts of that provision or otherwise the provisions of these Terms of Use, which shall continue in full force and effect as if the provisions or part thereof so prohibited had not been included in these Terms of Use.

A reference to You includes Your successors, executors, administrators, personal representatives, permitted substitutes and permitted assigns (and, where applicable, Your legal personal representatives) and if You comprise two or more persons, Your successors, executors, administrators, personal representatives, permitted substitutes and permitted assigns (and, where applicable, Your legal personal representatives).

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Lawful termination under these Terms of Use shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to any party and all provisions which are to survive these Terms of Use or impliedly do so shall remain in force and in effect including but not limited to sections No Liability, Intellectual Property Rights, Governing Law, Indemnity and this Miscellaneous Clause.

Except as provided in these Terms of Use, these Terms of Use constitute the entire agreement between You and Capricorn pertaining to the Service.