

## Fiona Pay Terms of Use

These Terms of Use (Terms) apply to your use of Fiona Pay. Fiona Pay is a payment tool by which you can instruct your financial institution to make payments using your internet banking facility where payments may be authorised in advance. Fiona Pay is provided by Malabina Capital Pty Ltd ABN 17 616 715 612 referred to as "we" or "us" in these Terms.

We may amend these Terms from time to time in order to reflect product developments and improvements to Fiona Pay, to recover additional costs of providing Fiona Pay or to comply with regulatory requirements or changes to industry practices. We will notify you of any amendments through posting an updated version on [www.fionapay.com.au/terms-of-service](http://www.fionapay.com.au/terms-of-service) or by writing to you. Your continued access and use of Fiona Pay after notice of the changes represent your agreement to be bound by the amended Terms.

1. Fiona Pay: When we are providing a service to you through Fiona Pay, we are:
  - (a) providing a means by which you authorise us to give payment instructions to your financial institution through your internet banking facility; and
  - (b) using your logon credentials to access your account information of your nominated bank account held with your financial institution to check your account balance or available funds balance before giving a payment instruction.
2. User Authentication: When you first set up Fiona Pay with us, you will be asked to deposit \$0.01 into our account to authenticate and verify your access to your nominated bank account with your financial institution. We may from time to time request information from you to verify your nominated bank account.
3. User restrictions: You agree that when using Fiona Pay, you will not:
  - (a) permit any other person to use Fiona Pay for their benefit;
  - (b) interfere with or circumvent any copyright or other technical protection mechanism or reverse engineer, decompile, disassemble, or otherwise in any manner deconstruct all or any part of Fiona Pay or any software or technology or content forming part thereof;
  - (c) take any action or use any program or device that may result in or is intended to interfere with the operation and functioning of Fiona Pay or to shut down, overload or overwhelm our website;
  - (d) copy, republish or redistribute any part of Fiona Pay, including by caching, framing or similar means;
  - (e) send it to anyone else or copy or modify any part of it in any way;
  - (f) attempt to extract any source code from Fiona Pay, disassemble it or make any derivative versions, or attempt to interrupt or decipher the transmissions between Fiona Pay and our systems; or
  - (g) use Fiona Pay for anything:
    - i. unlawful or illegal or which is fraudulent or malicious or which promotes any criminal activity or provides information about the same;
    - ii. defamatory, harassing or threatening or which otherwise infringes or violates the rights of others;
    - iii. that interferes in any way with any other user of the Fiona Pay;
    - iv. that knowingly introduces viruses or other malicious or harmful material; or
    - v. that is connected with unsolicited communications.
4. Your obligations: You must:
  - (a) provide us with certain current, complete, and accurate information or other data that we may request to effect a payment through Fiona Pay;
  - (b) advise us if you change your details of your nominated bank account from which payments will be authorised and made;
  - (c) comply with any minimum system requirements specified by us from time to time including the use of web browsers, Chrome, Safari, Firefox and Internet Explorer;
  - (d) protect the security of your logon credentials to your internet banking facility and it is your responsibility to comply with the terms of your internet banking facility including in relation to the reporting of any

unauthorised transaction or breach of security. We are not liable for any loss or damage arising from your failure to do this;

- (e) notify us promptly if you change your access details including your logon credentials to your internet banking facility or if you suspect the security of your internet banking facility has been breached; and
  - (f) satisfy yourself that you are permitted to use Fiona Pay under your internet banking facility terms and conditions.
5. By using Fiona Pay, you warrant that your nominated bank account(s) held with your financial institution from which you are initiating the payment is an account held under your name in Australia, and that you are authorised to make payments from that account using your internet banking facility without the authority of any other person.
6. Risk: You acknowledge and agree that:
- (a) you use Fiona Pay at your own risk and that you will be responsible for any transactions you have authorised through the use of Fiona Pay; .
  - (b) once you have authorised a transaction, you may not be able to withdraw your authorisation if we have already acted upon it;
  - (c) without limiting our obligation to provide Fiona Pay with due care and skill, we have no liability to you for any claims for losses arising directly or indirectly from a failure to make any payments using Fiona Pay due to a failure in the system or any part thereof;
  - (d) corruption, loss of data, errors or interruptions occurring in the course of using, or as part of, Fiona Pay;
  - (e) any suspension or discontinuance of Fiona Pay, or any part thereof;
  - (f) any use of Fiona Pay by other users, including any use of Fiona Pay by other users in manner which contravenes these Terms; or
  - (g) any breach or alleged breach of the terms governing the use of your internet banking facility by using Fiona Pay, where such event is reasonably beyond our control.
7. For the avoidance of doubt, you will not be liable for any loss or damage arising out of or caused by, in full or in part, any wilful or negligent act; or any fraudulent act, by us or our directors, officers, employees and agents.
8. IP Rights: We retain all right, title and interest to all intellectual property rights subsisting in Fiona Pay including any system updates, and any part thereof including any and all present and future intellectual and industrial property rights anywhere in the world including copyright, know-how, designs, patents and trade marks, and any application or right to apply for registration of those rights.
9. Privacy: Our Privacy and Data Collection Policy (available on [www.fionapay.com.au/privacypolicy](http://www.fionapay.com.au/privacypolicy)) describes how we collect, use and disclose personal information.
10. Fees: You agree that the use of Fiona Pay is subject to the payment of fees and charges in the amounts and at times specified below:

Description of Fee	Amount	When Payable
Dishonour fee	\$0	N/A

11. General: These Terms are governed by and construed in accordance with the law in force in New South Wales, Australia. You unconditionally submit to the non-exclusive jurisdiction of the courts having jurisdiction there. Although Fiona Pay may be accessed outside of Australia, we make no representation that the Fiona Pay complies with the laws of any other country. If you access Fiona Pay from outside Australia you are solely responsible for ensuring compliance with your local laws.

Contact details: You can contact us at [support@fionapay.com.au](mailto:support@fionapay.com.au).

January 2019