

## **Newegg Seller App Terms of Use (U.S.)**

These Terms of Use (these “Terms”) govern your use of the Newegg Seller mobile application (“App”) owned or operated by Newegg, its subsidiaries and affiliates, where these Terms appear or are linked. These Terms are subject to change by Newegg, in its sole discretion, at any time, without prior written notice. Any changes to these Terms will be in effect as of the “Last Updated Date” referenced on the App. Therefore, you should review these Terms prior to using the App.

Additional terms and conditions may apply to some products or services offered by Newegg and to the use of the App and to specific portions or features on the App, including, but not limited to, promotional offers, contests, or other similar features (“Additional Terms”) all of which terms are made a part of these Terms by this reference. The Additional Terms will control to the extent of any inconsistency between the Additional Terms and these Terms.

When you use the App, or send e-mails, text messages, and other communications from your desktop or mobile device to us, you may be communicating with us electronically. You consent to receive communications from us electronically, such as e-mails, texts, mobile push notices, or notices and messages on the App or through the other Newegg services, such as our Newegg Seller Portal, and you can retain copies of these communications for your records. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

**You should carefully review the [Newegg Policy and Agreement](#) before using the App as it governs your use of the App and our services.**

**You should also carefully review our [Privacy Policy](#) before using the App as it also governs your use of the App and our services.**

**Please read these Terms carefully before using the App. If at any time you do not agree with any of these Terms, you must immediately stop using the App.**

### **1. About us**

We, along with our affiliates and subsidiaries, are Newegg. Our address is 17560 Rowland St., City of Industry, California 91748. You can contact us by mail at the above address, by email at [wecare@service.newegg.com](mailto:wecare@service.newegg.com) or by telephone at 1 (800) 390-1119.

### **2. Registering for an account**

To register for a Newegg account, you must provide us with your personal information, including your name, email address, and password. It is a condition of your use of the App that all the information you provide on the App is accurate, current and complete. Your user name and password are for your personal use only. To ensure that your user name and password remain confidential, DO NOT share this information with anyone. You are responsible for maintaining the confidentiality of your account information and for restricting access to your computer or mobile device, and you agree to accept responsibility for all activities that occur under your

account. **Remember to choose a strong password, including numbers, capital letters, special characters, etc., and is not typically found in a dictionary. In the event your password is lost or stolen it is your responsibility to notify Newegg at the address listed in the “Contact Us” section.**

Newegg may, in its sole discretion, at any time, for any reason, deactivate, block, or freeze your account.

### **3. Account Management**

The ownership of and all rights and interests in and to your account vest in us. You shall not transfer or otherwise make available to any other person the App account used by you, and any breach of this provision will entitle us to revoke the account immediately without notice and any damage caused by the removal or loss of all data or information as a result thereof shall be your sole responsibility.

You may cancel the account in the manner provided in the Privacy Policy for Newegg Seller App. Your cancellation of your account will result in the termination of your services. Upon cancellation, we will delete your personal information to keep it irretrievable and inaccessible or anonymize such information. Your account shall meet all of the following conditions in order to be cancelled:

- (1) There is no credit or debt outstanding with your account;
- (2) There is no outstanding order in your account;
- (3) Your account remains in normal use, and there is no record that your account is placed under restrictions; and
- (4) Your account is not involved in any dispute, including any complaints and whistleblowing by and against your account.

**If your account is involved in any dispute or controversy, including but not limited to complaint, whistleblowing, litigation, arbitration, or investigation by any governmental authority, after you submit the request for account cancellation, we will have the right to terminate the cancellation of your account in dispute without your consent.**

**Your account will not be recovered if cancelled, so please back up all information and data associated with your account before proceeding to cancel it.** If the account is cancelled, you may not be able to further use such account or retrieve any content or information contained in and relating to such account, including but not limited to being unable:

- (1) to log into or use the account; and
- (2) to retrieve any personal data or history records contained in the account.

**Your cancellation of your account will not relieve or discharge you from any responsibility arising out of or in connection with your use of the account prior to the cancellation.**

#### **4. Use of the App**

When you use the App or our services, you agree to use the App and our services only for purposes that are permitted by these Terms and any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions. In addition, you agree that you are solely responsible for any breach of your obligations under these Terms and for the consequences (including any loss or damage which Newegg may suffer) of any such breach. As a condition of your use of the App and our services, you warrant to Newegg that you will not use the App or our services for any purpose that is unlawful or prohibited by these Terms. Whether on behalf of yourself or on behalf of any third-party, you agree not to:

- Access or attempt to access the App other than through the interface that is provided by Newegg, unless you have specifically been permitted to do so in a separate written agreement signed by an authorized representative of Newegg;
- Access or attempt to access the App, or any portion thereof, through any automated means, including but not limited to the use of scripts or web crawlers;
- Engage in any activity that disrupts or otherwise interferes with the App (or the servers and networks which are connected to the App), or our services;
- “Scrape”, duplicate, reproduce, copy, republish, license, sell, trade or resell the App for any purpose;
- Divert or attempt to divert Newegg customers to another website, mobile application, or service;
- Send unsolicited or unauthorized emails on behalf of Newegg, including promotions and/or advertising of products or services;
- Restrict or inhibit any other person from using the App or our services;
- Modify, adapt, translate, reverse engineer, decompile, or disassemble any portion of the App;
- Attempt to do anything, or encourage, assist, or allow any third-party to do anything in violation of these Terms; or
- Use a false email address, impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with any person or entity in connection with the App or our services.

Newegg reserves the right to refuse service, in its sole discretion, at any time, for any lawful reason, without notice. Newegg reserves the right to withdraw or amend the App, and any service or material we provide on the App, in its sole discretion, at any time, for any reason, without notice. NEWEGG WILL NOT BE LIABLE IF FOR ANY REASON ALL OR ANY PART OF THE SITE IS UNAVAILABLE AT ANY TIME OR FOR ANY PERIOD. FROM TIME TO TIME, WE MAY RESTRICT ACCESS TO SOME PARTS OF THE SITE, OR THE SITE ENTIRELY, TO USERS, INCLUDING REGISTERED USERS.

#### **5. Posting content on the App**

##### **a. Posting content on the App**

You may post content on the App, including, but not limited to, testimonial, feedback, reviews, and blogs. If you post content on the App, you agree to comply with our Privacy Policy, and these Terms. You acknowledge and agree that you are solely responsible for all content and the accuracy of all content you make available in connection with the App. You represent and warrant that:

- You and not someone else composed and posted the content on the App;
- You own or otherwise control all of the rights to the content that you post on the App;
- You have the authority to grant the rights in such content; and
- Such content, and the use of such content, will not violate these Terms.

#### **b. Right to use content**

Unless we indicate otherwise, you grant Newegg an irrevocable, perpetual, sublicensable, transferable, non-exclusive, and royalty-free worldwide right and license to use, copy, modify, adapt, publish, transmit, perform, and create derivative works, incorporate and imbed into other works, and distribute, and display such content throughout the world in any medium or form now existing or later created. You also agree to the following:

- We may use the content for any purpose;
- We may use the comment with or without any pseudo (pen) name credit;
- The reprint or use of the content will be at our discretion and without compensation; and
- We may use the content locally, nationally, or globally and such use may be made in any media, information or communication platform (including Internet advertising) currently in use or later developed.

#### **c. Right to monitor content**

Newegg has the right, but not the obligation, in its sole discretion, at any time, for any reason, to monitor, analyze, edit, move, remove, or refuse to make available any content made available through the App. Newegg takes no responsibility and assumes no liability for any content you post, upload, or otherwise make available through your use of the App. You are solely responsible for any content you post, upload, or otherwise make available through your use of the App.

#### **d. Restrictions on content**

Newegg may, in its sole discretion, at any time, remove or deny content for any reason, including, but not limited to, when the content contains any of the following:

- Hyperlinks/URLs;
- References to other stores/resellers;
- Comments on products that were either physically damaged or misused;

- Comparisons to competing brands/products of competing brands;
- References to aftermarket procedures or installation techniques not mentioned specifically in the original product documentation; such as overclocking, hacked drivers, tweaking/modding, and etc.; or
- Replies to existing customer reviews; please do not attempt to initiate discussions here.

#### **e. Prohibited content**

You are prohibited from posting content on the App that is:

- Offensive or abusive;
- Obscene, pornographic, or otherwise objectionable;
- Illegal;
- False, fraudulent, inaccurate, or misleading;
- Derogatory, defamatory, threatening, harassing, abusive, slanderous, hateful, or embarrassing to any person or entity;
- Violent or threatening, or promotes violence or actions that are threatening;
- Infringing the rights of others, including, but not limited to patent, copyright, trademark, trade secret, trade dress, right of privacy, or any other proprietary right;
- Intending to cause harm, damage, or otherwise interfere with the App and our services;
- Violating any of our policies;
- Violating any local, state, federal, or international laws;
- Injurious to third parties; or
- Containing software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of “spam” or unsolicited commercial electronic messages.

#### **6. Use of Third-Party Services**

When you use the Newegg Seller App, you may also be using the services of one or more third parties, such as a wireless carrier or a mobile software provider. Your use of these third-party services may be subject to the separate policies, terms of use, and fees of these third parties.

#### **7. App Updates**

We may offer automatic or manual updates to the Newegg Seller App at any time and without notice to you.

#### **8. Ownership of Data and Programs**

Unless otherwise stated in writing, our websites, applications, source codes, logos, interface designs and APIs, as well as all content, graphics, layout designs, webpages, text, images,

colors, maps, icons, audios, videos, electronic files, data and materials and the infrastructure and platforms for developing, maintaining and operating the foregoing, including but not limited to all intellectual property rights to software, websites, applications and their source codes and system data (including but not limited to patents, copyrights, trademarks, trade secrets and other property rights to data), are the exclusive and proprietary property of us or our affiliates.

## **9. Intellectual Property Rights**

### **a. Newegg's Intellectual Property Rights**

All content included in or made available through the App, such as text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations, and software, is the property of Newegg or its content suppliers and protected by United States and international copyright and other applicable laws. The compilation of all content included in or made available through the App or other Newegg services is the exclusive and proprietary property of Newegg and protected by U.S. and international copyright laws.

### **b. Intellectual Property Complaints**

We respect the intellectual property of others. If you believe that your intellectual property rights are being infringed, please refer to the clause of Reporting Claims of Infringement of Intellectual Property Rights under the [Newegg Policy and Agreement](#).

## **10. Protection of User's Personal Information**

We are committed to using best efforts to safeguard the security of your personal information and data by taking organizational and managerial measures and will not make your personal information available to any disinterested third party.

If you would like to exercise your rights to personal information, or if you would like more information about our practices for processing your personal information, please read the Privacy Policy for Newegg Seller App carefully. We will collect, use, share, store and protect your personal information in accordance with these Terms and the Privacy Policy for Newegg Seller App. Matters not set forth in these Terms regarding the protection of personal information shall be governed by the Privacy Policy for Newegg Seller App.

**The Privacy Policy for Newegg Seller App forms an integral part of these Terms.**

## **11. Incorporated policies**

The following policies and terms and conditions have been incorporated into these Terms:

- [U.S. Payment Methods](#);
- [U.S. Shipping Policy](#);
- [Return Policy](#);
- [Newegg Marketplace Guarantee](#);

- [Newegg Price Match Guarantee](#);
- [Newegg's Premiere Membership](#);
- [Newegg's Subscription Program](#);
- [Terms and Conditions for Newegg Gift Cards, Newegg Promotional Gift Cards, Newegg Store Credit Gift Cards, and Newegg Customer Care Gift Cards](#); and
- [Promotions Policy](#).

## 12. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

**ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) AND OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE NEWEGG SELLER APP ARE PROVIDED BY US ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE APP SERVICES, OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE NEWEGG SELLER APP, UNLESS OTHERWISE SPECIFIED IN WRITING. YOU EXPRESSLY AGREE THAT YOUR USE OF THE NEWEGG SELLER APP IS AT YOUR SOLE RISK.**

**TO THE FULL EXTENT PERMISSIBLE BY LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THAT THE SERVICES, INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE NEWEGG SELLER APP, OUR SERVERS OR ELECTRONIC COMMUNICATIONS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. TO THE FULL EXTENT PERMISSIBLE BY LAW, WE WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THE NEWEGG SELLER APP, OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE NEWEGG SELLER APP, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING.**

## 13. Force Majeure and other Causes of Exemption of Liability

You understand and agree that when using the App, disruptions to the services of the App may occur as a result of force majeure or other risk factors. Force majeure means any objective events which are unforeseen, unavoidable or insurmountable and have material effect on a party or the parties hereto, including but not limited to flood, earthquake, epidemic, storm or other acts of God, war, civil disobedience, government act, pandemic or other social event. Upon the occurrence of any event of force majeure, we will endeavour to cooperate with the relevant person without delay to resolve such disruption in a timely manner; provided that we are not liable, to the extent permitted by law, for any losses suffered by you resulting therefrom.

To the full extent permitted by law, we assume no liability to you for any interruption or failure of the services of the App for an extended period of time because: (1) the App is damaged by any viruses, malware (commonly known as Trojan horses), spyware or other malicious programs, or is attacked by hackers; (2) any computer software, system, hardware or telecommunication line of yours or ours malfunctions; (3) you use the services of the App improperly or in a manner unauthorized by us; (4) the program version is outdated, device is degraded and/or incompatible; or (5) there is any other event or circumstance that is beyond our control or cannot be foreseen reasonably.

#### **14. Sanctions and Export Policy**

You may not use any this App or other Newegg products and/or services if you are the subject of U.S. sanctions or of sanctions consistent with U.S. law imposed by the governments of the country where you are using this App or other Newegg products and/or services. You must comply with all U.S. or other export and re-export restrictions that may apply to goods, software (including the App), technology, and services.

#### **15. Governing Law and Jurisdiction**

Any dispute arising out of or related to these Terms or the sales transactions between you and Newegg shall be governed by the laws of the State of California, without regard to its conflict of laws rules. Specifically, the validity, interpretation and performance of these Terms shall not be governed by the United Nations Convention on the International Sale of Goods. Except for claims for injunctive relief by either party, you and Newegg agree that any dispute or controversy arising out of, in relation to, or in connection with these Terms or your use of the App including without limitation, any and all disputes, claims (whether in tort, contract, statutory or otherwise) or disagreements concerning the existence, breach, interpretation, application or termination of these Terms, shall be resolved by final and binding arbitration pursuant to the Federal Arbitration Act in Los Angeles, California or, at the option of the party seeking relief, by telephone, online, or via written submissions alone, and be administered by JAMS under the then current rules of JAMS (formerly known as Judicial Arbitration & Mediation Services) by one (1) arbitrator appointed in accordance with such rules and such arbitrator shall be independent and impartial. If the parties fail to agree on the arbitrator within twenty (20) calendar days after the initiation of an arbitration hereunder, JAMS shall appoint the arbitrator. The arbitration shall be conducted in the English language. The decision of the arbitrator will be final and binding on the parties. Judgment on any award(s) rendered by the arbitrator may be entered in any court having jurisdiction thereof. Nothing in this Section shall prevent either party from seeking immediate injunctive relief from any court of competent jurisdiction, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate. The parties undertake to keep confidential all awards in their arbitration, together with all confidential information, all materials in the proceedings created for the purpose of the arbitration and all other documents produced by the other party in the proceedings and not otherwise in the public domain, save and to the extent that disclosure may be required of a party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in legal proceedings before a court or other judicial authority. The arbitrator shall award all fees and expenses, including reasonable attorney's fees, to the prevailing party. Any judgment rendered by the arbitrator may be entered in any court of competent jurisdiction.



You may choose to opt out of the agreement to arbitrate by mailing a written opt-out notice (“Notice”) to Newegg. The Notice must be postmarked no later than thirty (30) days after the date you accept these Terms for the first time. The Notice must be mailed to Newegg at 17560 Rowland St., City of Industry, California 91748 to the attention of Newegg Legal Department. This procedure is the only mechanism by which you can opt out of the agreement to arbitrate. Opting out of the agreement to arbitrate has no effect on any other parts of these Terms, or any previous or future arbitration agreements that you have entered into with Newegg.

ANY DISPUTE RESOLUTION PROCEEDING ARISING OUT OF OR RELATED TO THESE TERMS OR THE SALES TRANSACTIONS BETWEEN YOU AND NEWEGG, WHETHER IN ARBITRATION OR OTHERWISE, SHALL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION, AND YOU AND NEWEGG EXPRESSLY AGREE THAT CLASS ACTION AND REPRESENTATIVE ACTION PROCEDURES SHALL NOT BE ASSERTED IN NOR APPLY TO ANY ARBITRATION PURSUANT TO THESE TERMS.

Finally, you also agree not to bring any legal action, based upon any legal theory including contract, tort, equity or otherwise, against Newegg that is more than one year after the date of the applicable invoice.

Information published on the App may contain references or cross-references to goods or services that are not available in your state or country.

#### **16. Waiver**

The failure of either party to require performance by the other party of any provision of these Terms shall not affect in any way the first party’s right to require such performance at any time thereafter. Any waiver by either party of a breach of any provision of these Terms shall not be taken or held by the other party to be a continuing waiver of that provision unless such waiver is made in writing.

#### **17. Severability**

If any provision contained in these Terms is or becomes invalid, illegal, or for any reason unenforceable in whole or in part, such invalidity, illegality, or unenforceability shall not affect the remaining provisions and portions of these Terms, and the invalid, illegal, or unenforceable provision shall be deemed modified so as to have the most similar result that is valid and enforceable under applicable California law.

#### **18. Third Party Rights**

These Terms are between you and us. No other person shall have any rights to enforce any of its terms with the exception of manufacturers and Marketplace Sellers referred to in the Terms – such manufacturers and Marketplace Sellers will only have right to enforce any terms against you (and not against Newegg), including any limitation or exclusion of liability in favor of Newegg under these Terms.

Notwithstanding the preceding paragraph of this section 18, neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these Terms.

## **19. Entire Agreement**

These Terms, together with Newegg's invoice regarding the products and/or services ordered by you, constitute the entire agreement between Newegg and you and supersede all oral or written, prior or contemporaneous arrangements, proposals, understandings, representations, conditions, warranties, and all other communications between Newegg and you relating to the subject matter of any contract to the fullest extent permitted by law. These Terms may not be explained or supplemented by any prior course of dealings or trade by custom or usage.

## **20. Children**

We do not sell products for purchase by children. We sell children's products for purchase by adults. If you are under the age of majority pursuant to applicable law, you may only use Newegg with the involvement of a parent or guardian. If you order a product to which a minimum age requirement applies, by ordering that product you confirm that you and, if different, the recipient of the product, are of the required age necessary to buy that product.