

Pepper Pay

Terms of Service

Pepper Pay, LLC (“PP”, “we” or “us”), has developed and provides certain software and services, including, without limitation, a web portal and mobile device based applications, which provide Resellers and Merchants (“**End Users**”) a platform to manage the set-up, use, management, maintenance, connectivity and reporting of card payment terminals and/or pin pad devices (“**Terminals**”), including, without limitation: handling various Terminal operations, submission of transaction batches, receiving notifications on various Terminal events, reviewing and tracking transaction details, electronic copies of receipts and customer signatures, access to point of banking ATM terminal protocols, and connecting to third party vendors, (collectively, the “**Services**”). Some Services may be accessed through our websites or mobile applications (the “**Sites**”). The Services also include any other features, content, or applications offered from time-to-time by us in connection with the Sites or the Services.

In addition to the Services, we may introduce additional services or programs, as part of the Services or integrated into the Services, that a Merchant may decide to offer to its customers (such as: customer feedback and customer retention programs) (the “**Expanded Services**”). Such Expanded Services may require an additional registration process and additional terms of service.

These Terms of Services (these “**Terms**”) are a legally binding agreement between PP and any visitor, user or others who wish to access or use the Sites or the Services (“**you**” or “**your**”) and govern your use of the Sites and the Services. If you are entering into these Terms on behalf of a company, institution or other legal entity, you represent that you have the authority to bind such entity and its affiliates to these Terms as its authorized representative, in which case the terms “you” or “your” will refer to such entity and its affiliates as well as you. If you or the legal entity that you represent do(es) not agree with these Terms, you must not accept these Terms, or register for, use or access the Sites or the Services.

PLEASE READ THESE TERMS CAREFULLY BEFORE USING OUR SITES OR SERVICES, AND CHECK THEM PERIODICALLY FOR CHANGES. BY REGISTERING FOR, USING OR ACCESSING THE SITES OR SERVICES OR ANY PART THEREOF, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO BE FULLY BOUND BY ALL OF THESE TERMS, YOU SHOULD NOT ACCESS OR USE THE SITES OR SERVICES.

PLEASE NOTE THAT WE RESERVE THE RIGHT, IN OUR SOLE DISCRETION, TO REVISE OR REPLACE THESE TERMS AT ANY TIME. AMENDMENTS WILL BE EFFECTIVE UPON POSTING ON ONE OF THE SITES. YOU AGREE TO VISIT THE SITES PERIODICALLY TO REVIEW ANY SUCH REVISIONS. CONTINUING TO ACCESS OR USE THE SITES OR SERVICES FOLLOWING SUCH POSTING MEANS THAT YOU ACCEPT AND AGREE TO BE BOUND BY THE TERMS AS AMENDED.

1. ELIGIBILITY

1.1 PP reserves the right, in its sole discretion, to refuse to provide you with the Services. You are solely responsible for ensuring that these Terms are in compliance with all laws, rules, and regulations applicable to you, and the right to access the Sites or the Services is revoked where these Terms or use of the Sites or the Services is prohibited or materially restricted, or to the extent the offering, sale or provision of the Sites or the Services conflicts with any applicable law, rule or regulation. By creating an Account (defined below), you represent and warrant that you will not use the Sites or Services in connection with activities that violate applicable laws.

2. THE SERVICES, REGISTRATION AND ACCESS

2.1. The Sites or the Services provide you with various management and/or administration interfaces that enable you to effectively manage your Terminals, offer your customers various customer facing services, and may be complemented by various communication channels allowing you to connect with your customers regarding information and offers and/or any other services that may be made available from time to time by you or your affiliates (such as special offers, announcements, discounts etc. (collectively “**Promotions**”).

2.2. In order to access and use the Sites or the Services, you must register for an account (the “**Account**”), either directly through one of the Sites, by installing the applicable mobile application, by contacting our Customer Service at: support@pepperpaycom, through one of our resellers, or through

a sales representative, agent, affiliate, partner or other authorized representative of ours, or through another sign up means which we may make available from time to time (a “**Sign Up Process**”).

2.3. Please note that we reserve the right to decline to provide the Services to any person or entity for any or no reason, and to suspend, change or terminate the Services, in our sole discretion, with or without prior notice.

2.4. When you register for an Account or otherwise use the Sites or Services, you represent and warrant that: (i) you are of legal age and capacity to form a binding contract; (ii) you have provided us with accurate, current and complete information (including, but not limited to, your name, address, email address, phone number, payment method if required, and contact details) and you undertake to keep such information updated at all times while obtaining the Services; (iii) to the extent you represent merchants or other third parties, that you are acting as their authorized representative, and that you agree to be responsible for their compliance with these Terms; and (iv) your registration and your use of the Sites or the Services will be consistent with these Terms, is not prohibited by any applicable law and will not infringe or violate the rights of any other party. In addition, you agree that you will comply with any laws applicable to the use of the Sites or Services by you and any merchants or other third parties that you represent, and that you will not engage in any fraudulent conduct attempting to unlawfully use or take advantage of the Sites or Services.

2.5. We reserve the right to suspend or terminate, in our sole discretion and without providing any prior notice, your registration or access to the Sites or the Services (including access provided to your customers), in the event that you breach any of these Terms, including without limitation, by failure to timely pay us any fees for the Services, if applicable.

2.6. You are solely responsible for your Account activity. We urge you to keep your account password secure and to always log-off from the Sites and Services when leaving the device through which you accessed the Sites or Services unattended.

2.7. In addition, you are aware that the responsibility for obtaining and maintaining any hardware, facilities, connections or equipment required for the use of the Sites or the Services (such as computer, tablet, cash register, payment processing terminal, mobile device, internet connection and/or telecommunications), as well as any payments associated therewith, is yours alone. We are not and will not bear any liability for any cost, expense, loss or other damage you may suffer with respect to such hardware, facilities, connections or equipment.

3. OWNERSHIP

3.1. The Sites and the Services, including any enhancements, derivatives and improvements thereof, are the sole property of PP. Without limitation of the foregoing, all of the text, images, sound, music, marks, logos, compilations (meaning the collection, arrangement and/or assembly of information) and other content on the Sites or the Services, and all software embodied in the Sites or the Services or our servers or otherwise used by us to deliver the Services (collectively, the “**Service Content**”), are the proprietary property of PP and/or its affiliates or licensors and are protected by copyright and other intellectual property laws.

3.2. Any rights with respect to the Sites, Services, or Service Content (collectively, the “**PP Property**”) which are not expressly granted herein are reserved by us.

3.3. Any rights in the specific content provided by you, including your trade names, trademarks, and logos, shall at all times remain with you (“**User Property**”). By registering for the Services, you grant us a non-assignable, non-exclusive right to use the User Property solely for the purpose of providing the Services and as a reference on our Sites and communication materials. You hereby represent that you have the full right to use the User Property as contemplated by the Services, and that User Property does not and will not infringe upon the copyright or any other proprietary right of any third-party.

4. LICENSE, RESTRICTIONS, MAINTENANCE

4.1. Subject to these Terms, we grant you a non-exclusive license to access and use the Sites and the Services. You may not rent, lease, lend, sell, redistribute or sublicense the Sites or the Services or any part thereof, or any other part of the PP Property. You may not copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Sites or the Services or any other part of the PP Property or in any other way manipulate the Sites or the Services. You may not remove any copyright, trademark or other proprietary notices that have been placed on PP Property.

4.2. You may not exploit the Sites or the Services in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity, and you may not use the Sites or the Services for any illegal purpose, or in violation of any applicable law, including, without limitation, laws governing intellectual property and other proprietary rights, data protection and privacy.

4.3. We reserve the right to apply limits on the use of the Sites or the Services in our sole discretion. By way of example and not of limitation, we may limit the available features or the number of supported customers based on the Services package you select. We further reserve the right to publish such limitations, have them differ from user to user, or change such limitations at will, in each case in our sole discretion.

4.4. You may not access the Sites or the Services other than by the interfaces provided by us, and you may not interfere with or disrupt the proper operation of the Sites, Services or the interfaces we provide.

4.5. We will maintain the Sites and the Services, and we will provide you with technical support for your Terminals during our standard technical support hours.

5. RESPONSIBILITY FOR OFFERINGS

5.1. Any customer facing service, Promotion or other offering communicated by or on behalf of you to your customers through the Sites or the Services (by whomever created), as well as any other communication between you and your customers (collectively, "**Customer Communication**") are made at your own risk and expense. For avoidance of doubt, we do not and will not assume any responsibility or liability with respect to any Customer Communication, even if we have assisted you in planning or conducting such Customer Communication.

5.2. You represent and warrant that Customer Communication: (i) will not infringe upon the intellectual property rights, moral rights, contractual rights, privacy rights or any other right of a third party; (ii) will not contain material that is obscene, defamatory, libelous, racially or ethnically insensitive, harassing, threatening or otherwise offensive; (iii) will not contain pornography or material that may be harmful to a minor; (iv) will not contain any virus, worm, Trojan horse, or other harmful or disruptive component; (v) will not be misleading, deceptive or unlawful; (vi) will be managed by you in a fair and non-abusive manner, in compliance with any applicable law (including without limitation any law regarding advertising, marketing and promotional content and services) and in a respectful manner towards the customer; and (vii) will not include any offerings which are prohibited by law, associations, banks or network regulations.

5.3. You shall remain at all times solely responsible for the full accuracy, reliability, integrity, quality and validity of all aspects of your Customer Communication, including without limitation the terms and conditions of Customer Communication and the quality of the goods or services offered by you. You and your customers are jointly and severally responsible for compliance with applicable laws and regulations with respect to any customer facing services, Promotions or other offerings, as well as any tax implications. We shall not be liable for any failure by you or a customer to comply with the terms and conditions of any customer facing service, Promotions or other offerings made by you. In any event, you shall be fully and solely responsible for any liabilities, injuries, losses or damages caused to any customer in connection your customer facing services, Promotions, other offerings and Customer Communications, and we shall not assume any responsibility or liability with respect thereto.

5.4. We reserve the right (but not obligation), in our sole discretion, to remove without prior notice, or require you to do so, any customer facing service, Promotion, other offering, or Customer Communication that is reasonably likely, in our opinion, to violate these Terms.

5.5. You grant us a non-exclusive, royalty-free, worldwide right to use, edit, modify, include, incorporate, adapt, record and reproduce any customer facing service, Promotion, other offering, or Customer Communication, directly or indirectly, in order to provide the Services.

6. DATA COLLECTION

6.1. You agree that we may periodically collect, store and use data (including but not limited to technical information) in connection with your registration or use of the Sites or the Services ("**Usage Data**"). We may also collect information about customers who access the customer facing services, Promotions or other offerings offered through the Sites or the Services ("**Customer Data**"). In addition, our systems may automatically collect other data about your operations or customers, depending on the specific technology used by you for the implementation of the Services; however, we do not make

use of and will keep confidential any such information regarding your business or your customers that does not relate to the use and operation of the Services.

6.2. Usage Data and Customer Data is our property. We may use such data to provide the Sites or the Services to you and to others; to improve the Sites or the Services; to personalize and enhance the use of the Sites or the Services; to determine those areas which are useful or popular and those that are less so; to keep a record of Customer Communications and correspondence with you; to address any issues that you are having with the Sites or the Services; to evaluate your use, preferences and trends for internal statistical and analytical purposes which we may share with our partners for general marketing purposes and in respect of operations and product development. Such information will be shared in an aggregated format that will not include personally identifiable information or will be used anonymously, with no specific references to you. We may also use Usage Data and Customer Data to offer cross-promotions to other merchants or customers, i.e., present customers of one merchant with offers and customer facing services of another merchant, provided such references will be made among merchants in non-competing categories, as defined by us.

6.3. During the term of these Terms, upon request and subject to our discretion, we may provide you with Usage Data and/or Customer Data regarding your customers that participate in your customer facing services, Promotions or other offerings. Any such information is provided to you solely for your internal use. You hereby undertake to keep all such information in strict confidence.

7. SUPPORT.

7.1. Support services shall be provided in accordance with the specific terms agreed between us or our resellers and you in the Sign-Up Process.

8. FEEDBACK

8.1 We are pleased to hear from you and welcome your feedback about the Services. If you submit ideas or suggestions for the Services ("**Service Comments**"), the Service Comments will be deemed, and will remain, our sole property. Service Comments are not subject to any obligation of confidence on our part, and we will not be liable for any use or disclosure of Service Comments. Without limiting the foregoing, we will be entitled to unrestricted use and other exploitation of Service Comments for any purpose whatsoever, commercial or otherwise, by any means, by any media, without compensation to the provider, author, creator or inventor of the Service Comments.

9. NO WARRANTIES; DISCLAIMER.

9.1 Production of reports and other deliverables in connection with the deployment of the Services is dependent on the data captured from Terminals being reliable, accurate and complete. We will not be responsible for the consequences of any such data being incomplete, inaccurate, not current or otherwise deficient during the course of providing the Services. The Services should not be solely relied on and are not a substitute for confirming settlement amounts and card transactions from the card payment processor or other third party processors.

9.2 YOU ACKNOWLEDGE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES, INCLUDING WITHOUT LIMITATION THE SITES AND OTHER MATERIALS PROVIDED TO YOU BY US, ARE PROVIDED ON AN "AS IS" BASIS. USE OF THE SERVICES, SITES AND OTHER MATERIALS AND RELIANCE ON THE CONTENT AVAILABLE THEREFROM IS DONE SOLELY AT YOUR OWN RISK. WE DISCLAIM ANY AND ALL WARRANTIES RELATING TO THE SERVICES, SITES, THEIR CONTENT AND OTHER MATERIALS, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9.3 ANY RELIANCE ON THE SERVICES, SITES OR OTHER MATERIALS IS AT YOUR OWN RISK. WE DO NOT WARRANT THAT THE SERVICES, SITES OR OTHER MATERIALS WILL MEET YOUR REQUIREMENTS, AND DO NOT GUARANTEE THAT THE USE OR OTHER EXPLOITATION OF THE SERVICES, SITES OR OTHER MATERIALS (INCLUDING ANY CUSTOMER FACING SERVICE, PROMOTION OR OTHER OFFERING MADE BY YOU THROUGH THE SERVICES) WILL LEAD TO CERTAIN RESULTS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE SERVICES, SITES OR OTHER MATERIALS, WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

9.4 WE DO NOT WARRANT THAT ANY CONTENT OR THE SERVICES, SITES OR OTHER MATERIALS PROVIDED WILL BE ACCURATE OR ERROR-FREE, THAT ACCESS THERETO WILL

BE UNINTERRUPTED, THAT ANY DEFECTS WILL BE CORRECTED, OR THAT THE SERVICES, SITES OR OTHER MATERIALS, OR THE CONTENT AVAILABLE THEREFROM, IS OR WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

9.5 We may pause or interrupt the Sites or the Services at any time, and you as well as your customers should expect periodic downtime for updates to the Sites or the Services.

10. LIABILITIES AND INDEMNITIES

10.1. You shall defend, indemnify and hold us and our directors, officers, employees, representatives and agents (“**Our Indemnified Parties**”) harmless from and against any and all suits, proceedings, assertions, damages, costs, liabilities or expenses (including court costs and reasonable attorneys’ fees, at all levels and in all tribunals) which an Indemnified Party may suffer or incur in connection with any claim, demand, action or other proceeding arising from or relating to: (i) any Customer Communication, customer facing service, Promotion or other offering; (ii) use of any Customer Data in violation of applicable law, rule or regulation; (iii) any other breach of these Terms, including the representations and warranties set forth hereunder; (iv) your use and access of the Sites or the Services; (v) your violation of the rights of any third party; (vi) your violation of any applicable law, rule or regulation; (vii) any information that is submitted via your Account; or (viii) any other party’s access or use of the Sites or Services with your unique login and password.

10.2 We shall defend, indemnify and hold you and your directors, officers, employees, representatives and agents (“**Your Indemnified Parties**”) harmless from and against any and all suits, proceedings, assertions, damages, costs, liabilities or expenses (including court costs and reasonable attorneys’ legal fees) which a Licensee Indemnified Party may suffer or incur in connection with any actual claim, demand, action or other proceeding by any third party arising from or relating to (i) any use by us of any Customer Data in violation of applicable law, rule or regulation; (ii) any other breach of these Terms, including the representations and warranties set forth hereunder; (iii) our violation of the rights of any third party; or (iv) our violation of any applicable law, rule or regulation.

10.3. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF DATA, LOSS OF GOODWILL, OR ANY OTHER DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE SITES OR THE SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.4. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION AND ELSEWHERE IN THESE TERMS APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10.5. ALL OF THE ABOVE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND ARE FUNDAMENTAL ELEMENTS OF THE BARGAIN BETWEEN US AND YOU.

10.6. IN ANY EVENT, A PARTY’S ENTIRE LIABILITY UNDER ANY PROVISION OF THESE TERMS SHALL NOT EXCEED IN THE AGGREGATE THE AMOUNT OF SERVICE FEES RECEIVED FROM YOU FOR THE SIX MONTHS PRIOR TO ANY CLAIM.

10.7. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF WARRANTIES OR OF LIABILITY FOR CERTAIN TYPES OF DAMAGES, SO SOME OF THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

11. TERM, TERMINATION, SURVIVAL

11.1. These Terms, including any revisions, will remain in effect as long as you continue to access and/or use the Site or the Services.

11.2. If you are a reseller of PP, then you may terminate the Services by logging into your Account and selecting to terminate the Services, which termination shall be effective as provided in your reseller agreement. If you are a merchant, you may terminate the Services by providing written notice thereof to PP or contacting merchant support at support@pepperpaycom, which termination shall be effective as provided in your merchant agreement. Once terminated, you will no longer have access to your back-office Terminal data and no new uploads will take place, which means that new data will no longer be registered and available for any future needs. Should we decide for whatever reason to continue to

upload data, accessing such data by you may require a payment of all outstanding fees and other obligations incurred by us from the time of termination until the requested date.

11.3 The license granted herein for use of the Sites and the Services may be co-dependent on other products and services provided by PP or one of its affiliates for your use or the use of your customers. For example, if an affiliate of PP provides Terminal support to you or for your customers, there may be additional fees that are incurred related to those other products and services until the applicable agreements are terminated (i.e., termination of the rental agreement or support or services agreement, the expiration of any warranty purchased on equipment, etc.). You acknowledge and agree that, notwithstanding any termination of the Services or these Terms, you will continue to be responsible for any fees or costs related to such other products and services until they are fully terminated.

11.4 Notwithstanding any termination of the Services or these Terms, you acknowledge and agree that you will remain responsible for all charges and fees related to third party connections to the Sites or the Services that may continue to upload files or receive updates therefrom.

11.5. Upon termination of your Account, these Terms, or if you violate any term or condition of these Terms, you must immediately stop using the Sites and the Services and all rights and licenses granted hereunder shall terminate. All provisions of these Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

12. INFRINGEMENT CLAIMS

12.1 If you believe that your copyrights or other intellectual property rights have been violated, please notify us immediately at:

Pepper Pay, LLC
Attention: Legal Department
21550 Biscayne Blvd., Suite 400 Aventura, FL 33180

12.2 You must include in your notice a: (1) description of the copyrighted work that is the subject of claimed infringement, (2) description of the infringing material and information sufficient to allow us to locate the alleged material, (3) contact information for you, including your address, telephone number and email address, (4) statement by you that you have a good faith belief that the material in the manner complained of is not authorized by the copyright owner, or its agent, or by the operation of any law, (5) statement by you, signed under penalty of perjury, that the information in the notification is accurate and that you have the authority to enforce the copyrights that are claimed to be infringed, and (6) physical or electronic signature of the copyright owner or a person authorized to act on the owner's behalf.

12.3 We will only respond to any claims involving alleged copyright infringement of us. Notwithstanding this section, we reserve the right at any time, and in our sole discretion, to remove content which in our sole judgment appears to infringe the intellectual property rights of another person.

13. MISCELLANEOUS

13.1 No joint venture, partnership, employment, or agency relationship exists between you or us as a result of these Terms or use of the Sites or the Services. These Terms represent the entire agreement between the parties regarding the subject matter hereof and supersedes any and all other agreements between the parties, whether written or oral, regarding the subject matter hereof. We may assign our rights or obligations pursuant to these Terms. You agree not to assign any rights under these Terms without our explicit written consent, which shall not be unreasonably withheld. If any part of these Terms shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other part or provision of these Terms which shall remain in full force and effect. No waiver of any provision of these Terms shall be deemed a further or continuing waiver of such provision or any other provision, and any failure to assert any right or provision under these Terms shall not constitute a waiver of such provision. The section titles in these Terms are solely used for convenience and have no legal or contractual significance. These Terms may be executed electronically, and your electronic assent or use of the Sites or the Services shall constitute execution of these Terms. You agree that the electronic text of these Terms constitutes a writing and your assent to the terms and conditions hereof constitutes a "signing" for all purposes.

13.2 The laws of the State of Nevada, excluding its conflicts of law rules, govern these Terms and your use of the Sites and the Services. Any controversy, claim, or dispute in connection with, arising under, or related to these Terms shall be settled exclusively in the state or federal courts located in Nevada.

14. ELECTRONIC COMMUNICATIONS

14.1 When you visit the Sites and/or use the Services or send emails to PP, you are communicating with PP electronically. You consent to receive communications from PP electronically. PP may communicate with you by email or by posting notices on the Sites or through the Services. You agree that all agreements, notices, disclosures and other communications that PP provides to you electronically satisfy any legal requirement that such communications be in writing. You may give notice to PP by email at the email address listed below under "For More Information".

15. FOR MORE INFORMATION

If you have any questions regarding these Terms, please contact PP by sending an email to 15.1 ***support@pepperpaycom***, or writing to Pepper Pay, LLC, 21550 Biscayne Blvd., Suite 400 Aventura, FL 33180