



**RELAY PAYMENTS INC.
RELAYDIRECT™ MERCHANT TERMS AND CONDITIONS**

I. INTRODUCTION

Relay Payments Inc. (hereinafter, “Relay”), along with its affiliates and service providers, provides transaction processing and related services to companies in the logistics industry (Merchants) and their customers (Members). Relay’s RelayDirect product enables Members (such as Brokers) to pay Merchants (such as Carriers) via access to the Relay System for services rendered, pursuant to the terms and conditions set forth herein and in any additional terms specifically agreed to in writing between Merchant or Member and Relay as part of an applicable RelayDirect Member or Merchant Services Agreement (MSA) and order form. The terms and conditions set forth herein apply to RelayDirect Merchant Carriers.

II. DEFINITIONS

- A. “Member”** shall refer to a customer of Relay that utilizes a Relay to complete a payment transaction using the Relay System for services rendered. RelayDirect Members are typically Broker entities that pay Carriers for shipment services.
- B. “Merchant”** shall refer to You, a customer of Relay that accepts payment for a Transaction or otherwise utilizes the Relay System to receive payment for Your services provided to Members.
- C. “Carriers”** shall refer to a company that transports freight for another entity.
- A. “Broker”** shall refer to an entity that hires or arranges for Carriers to transport freight for others. Brokers use the Relay System to pay Carriers and other third parties for such arranged services.
- D. “Transaction”** shall refer to a request by a Member or Merchant to Relay for a transfer of funds, authorizing Relay to process the payment services, as further set forth in Section V below.
- E. “Relay Account”** shall refer to Merchant’s account that is set up with Relay pursuant to Section VI.E to settle payments transferred from Members.
- F. “Relay System”** shall refer to the proprietary payment processing software network offered by Relay. Members access the Relay System via the RelayDirect portal (web access), or custom integration (via Relay’s application programming interface “API”) to make payments or otherwise manage their Relay Account.
- G. “RelayDirect”** shall refer to the proprietary Relay product offering that allows Merchants to securely accept payments from Members for services provided.

III. RELAY PRODUCT LIMITED USE LICENSE

- A.** Relay hereby grants You a limited, nonexclusive, non-transferable, non-assignable limited license to access and use the Relay System and services pursuant to Your specific Relay Product(s) order form, MSA, or other Relay agreement.
- B.** Nothing herein shall be construed to provide You with a license to any third-party proprietary information or property outside of the Relay System.
- C.** No license or right to copy, reproduce, translate, rearrange, modify, enhance, display, sell, lease, sublicense or otherwise distribute, transfer or dispose of any of the

proprietary Relay System and related Relay Product offerings, in whole or in part, is granted herein except as expressly provided by these Terms and Conditions. Accordingly, You hereby agree that you shall not reverse engineer, decompile or disassemble any Relay System software or any other Relay Proprietary Information learned as a result of Your license and these Terms and Conditions.

IV. INTELLECTUAL PROPERTY OWNERSHIP, LIMITED LICENSE RIGHTS

- A. All computer software, trademarks, service marks, patents, copyrights, trade secrets, know-how, and other proprietary rights in or related to the Relay System, Relay Products, and related services (collectively, "Proprietary Information"), are and will remain the sole and exclusive property of Relay, subject to the limited license grant provided for herein.
- B. Relay hereby grants a limited nonexclusive, non-transferable, revocable, worldwide, royalty-free right pursuant to these Terms and Conditions to use the RELAY name and logo trademarks or the applicable Relay Product brand name to identify Relay as the provider of transaction processing services or the Relay Product being used by You. All goodwill generated from the use of Relay's name and trademark will inure to the benefit of Relay. Except as otherwise expressly provided in these Terms and Conditions, Relay grants no license, right or intellectual property right in any Relay trademark, trade name or service mark pursuant to these Terms and Conditions.
- C. Relay shall own all rights, title and interest, including all intellectual property rights, in and to any improvements to the Relay System, Relay Products, and related services and/or any new software, programs, upgrades, modifications or enhancements developed by Relay in connection with operating the Relay System or rendering any services to Members or Merchants (or any of its affiliates), even when refinements and improvements result from Your request. To the extent, if any, that ownership in such refinements and improvements does not automatically vest in Relay by virtue of these Terms and Conditions, You hereby agree to transfer and assign to Relay all rights, title, and interest which You or any of Your affiliates may have in and to such refinements and improvements.

V. RELAY PRODUCT AND SYSTEM SUPPORT

- A. **Technical Support.** Relay will provide You with reasonable technical support services regarding the Relay System and Relay Products. Our Customer Service lines are open 24 hours, 365 days a year and can be reached by calling 1-877-735-2910.
- B. **System Availability.** From time to time, the Relay System servers may be unavailable as the result of planned or unplanned downtime, for reasons including technical issues, maintenance, compliance, security actions, business decisions, or any other cause that may result in service interruptions, delays, or errors. We will attempt to inform you if such downtime is planned and may interrupt Your use of the Relay System services. Relay, however, is under no obligation to provide such interruption information. *You hereby agree that Relay is not liable for any unavailability of Relay Products or Relay System services.*
- C. **System Modifications.** Relay may contact You in order to assist You with any Relay System service and obtain information needed to identify and fix any errors. Relay may, at its discretion, release enhancements, improvements or other updates to any software or to the Relay System. If Relay notifies You that such update requires an installation by You, You hereby agree to integrate, download, or install such update as necessary within 30 days of Your receipt of such notice. Failure to install any updates in a timely fashion may impair the functionality of Your Relay Products or use of or access to the Relay System. Relay shall have no liability for any failure to properly install the most current version of any software or any update, and Relay shall have no obligation to provide support or services for any outdated versions. Certain software can automatically install, download, and/or deploy updated and/or new

components, which may include a new version of the software itself.

VI. RELAY SYSTEM AND PRODUCT USE FEES

- A. **General.** You shall pay all accrued fees for use of the Relay System and any accompanying Relay Products as provided for in Your MSA, product order form, or otherwise set forth in a written agreement with Relay, or as further set forth in these Terms and Conditions.
- B. **Transaction Fees.** For any Transaction payment requested or accepted by You using the Relay System any applicable fees (“Transaction Service Fees”) shall be immediately due and payable to Relay upon Transaction completion, unless otherwise agreed upon between You and Relay. Transaction Service Fees will be deducted from Your Relay Account (see more information below) upon Transaction completion or shall be paid per invoice terms.
- C. All fees are payable in U.S. dollars.
- D. Credit card Transactions are processed by Stripe, Inc. as a Relay service provider in compliance with credit card network laws and regulations.
- E. **Your Relay Account.** Unless otherwise agreed between You and Relay, You hereby agree to open an account (Your Relay Account) for which Relay will facilitate the processing and settlement of Transactions at Your request as well as the payment of Transaction Service Fees.
 - 1. Your Relay Account shall reflect all Transactions and fees processed by Relay on your behalf.
 - 2. Other than for Relay administration purposes, Your Relay Account shall be used and accessed only by You, or by an individual authorized by You to access Your Relay Account as identified on Your applicable Relay agreement (hereinafter referred to as Your “Administrator”).
 - 3. Your Relay Account may be used by Relay to offset any fees or other obligations to Relay that Relay is unable to collect from You that are owed pursuant to these Terms and Conditions. Any such fee payments will be reflected in Your Relay Account and/or applicable invoice.
 - 4. Your Relay Account may be settled through ACH or direct check. You hereby authorize and agree to provide instruction to said financial institutions to honor requests made by Relay pursuant to these Terms and Conditions.
 - 5. If You do not submit a request for Transaction through your Relay Account for an extended period of time, Relay may be required to deem any remaining funds in Your Relay Account “unclaimed” or “abandoned” under applicable Rules, Regulations, or Laws. Relay shall provide You with notice as is required by law and instructions for how to redeem such unclaimed funds and how to transfer them to an account of Your choice. However, if funds remain in Your Relay Account after such notice for an extended period, Relay shall be permitted to escheat such funds as required by law.
 - 6. Unless otherwise agreed upon in writing between You and Relay, *Relay has the right to adjust any Transaction Service Fees and prices with thirty (30) days notice.*
 - 7. **Offset funds.** To the extent Your use of any Relay Product results in a return of funds or fees to You, Relay shall have the right to offset any amount payable by Relay to You pursuant to these Terms and Conditions by any amounts owed to Relay by You from such returned funds or fees.
 - 8. **Taxes.** You are responsible for the payment of any taxes (including sales or use taxes, transfer taxes, excise taxes, intangible taxes, property taxes, and similar taxes and duties) resulting from Your acceptance of the license granted hereunder and use of Relay’s Products and services, excluding, however, any taxes accessible against and/or payable by Relay as a result of income earned,

property owned, or employees hired by Relay. You shall reimburse Relay, should Relay be charged for any tax obligation arising from Your use of Relay Products. You shall hold Relay harmless from all claims and liability arising from Your tax obligations, including any failure to report or pay Your taxes.

9. **Suspension for delinquent account.** To the extent any fees or other payments due Relay are in arrears, Relay hereby reserves the right to suspend any and all Relay System and services access by You until such time as those amounts are paid in full.
10. **Legal process.** If Relay is notified of a court order or other legal process or regulatory requirements, Relay shall be permitted to take certain actions as required in Relay's sole and absolute discretion. Relay does not have an obligation to contest or appeal any court order or legal process regarding Your Relay Account.

VII. TRANSACTION PROCESSING

- A. **Authorization.** You hereby agree that Your use of the Relay System or any Relay Product to accept payment for services constitutes proper and full authorization by law for Relay to process the Transaction on Your behalf as directed by You using the Relay System. You accordingly authorize Relay to transfer funds from the Member's Relay Account to Your requested Merchant account.
- B. **Transaction Process Time.** Unless otherwise agreed upon in writing between You and Relay, Relay shall process Transactions on a 24 hour basis, with each Transaction posting to Your Relay Account on the date authorization was received by the Relay System.
- C. **Processing Limits.** The Parties may set processing limits that will apply to Your Relay Account as set forth in any applicable MSA.
- D. **Modified Transactions.** To the extent Transactions need to be modified, for example for chargebacks, Relay will use industry standard processes to reverse, modify, or delete a Transaction pursuant to Your authorization. Such Transaction modifications must be requested and approved by the individual identified on your Relay Account with proper authority (e.g. You or Your Administrator). You may be required to provide Relay with additional information or documentation to verify the modification request. Relay, however, shall not be responsible for any losses, directly or indirectly, incurred by You or other third parties as a result of any inability to modify a Transaction properly authorized by You and processed by Relay, except to the extent the reason for the requested modification or deletion was due to the negligence, willful act or omission, or breach by Relay, or the malfunction of the Relay System.
- E. **Transaction reports.** All Transactions are recorded in the Relay System. Transaction reports may be available depending on Your MSA or as requested directly by You from Relay. A history of transactions processed under Your Relay Account is also available in Your applicable Relay Account.

VIII. RELAYDIRECT SPECIFICS (MERCHANT CARRIERS AND FACTORS)

- A. RelayDirect Merchants receive payment as processed by the Relay System pursuant to Merchant's invoice or other form of payment request for Merchant services performed to satisfaction.
- B. You hereby agree to establish a Relay Account as a RelayDirect Merchant to receive payment from one or more Relay Members via the Relay System by applicable financial settlement.

- C. Your acceptance of payment serves as explicit authorization for Relay to process the Transaction and direct funds to Your Relay Account settlement source (ACH, direct bill, or paper check).
- D. **Third Party Payments (Factors)**
1. To the extent any payment is directed or assigned by You, the Merchant Carrier, to a third party entity (e.g., a “factor”), Relay will facilitate payment by Member to factor on your behalf pursuant to the following:
 - a) Factor shall establish a Relay Account as a RelayDirect Merchant to receive payment. Relay may request a copy of the relevant UCC 9-406 Notice of Assignment documentation (hereinafter, “Notice”), assigning right of payment to the factor on behalf of a Merchant Carrier, for proof of proper payment.
 - b) Relay may in its sole and exclusive discretion refuse to pay a factor.
 2. Merchant hereby acknowledges and agrees that Relay is not governed by UCC 9-406 and is not an account debtor. **Responsibility to the factor remains with Merchant, not Relay.**
 3. Relay shall not be responsible or liable for incorrect Notice documentation or factor information. In the event payment is improperly made due to such incorrect information, Member remains responsible to Relay and Relay shall be permitted to take appropriate action with respect to Member’s Relay Account (ie. chargeback) to settle proper payment accordingly.

IX. IMPERMISSIBLE TRANSACTIONS AND COMPLIANCE

- A. **Illegal transactions.** You are hereby restricted from using any Relay Product or access to the Relay System outside of the United States or for any illegal purposes, including but not limited to the funding of terrorists organizations, involvement in human trafficking, or money laundering schemes. *The use of Your Relay Account shall be limited to the exchange of payment for goods and services for legal business or commercial purposes only.* See also Appendix A for a list of additional impermissible Transactions and use of the Relay System.
- B. **Suspension or termination.** Improper use of any Relay Product may result in (i) delayed, blocked or canceled Transactions; (ii) Relay Account limitation, restriction, suspension or termination; (iii) money in Your Relay Account or other payments being seized to comply with a court order, warrant or other legally mandated process; and/or (iv) money or payments returned to its original source.
- C. **Rejected Transactions.** Relay reserves the right to reject, delay or return any Transaction for any reason permitted or required under any applicable Rules, Regulations, or laws or if Relay has reasonable belief that any such Transaction is fraudulent, illegal, or unauthorized. Relay shall have no liability to You by reason of such rejection, delay, or return of Transaction. Relay shall make available to You the details for any such Transaction decision and the bases therefore upon Your request.
- D. **Account monitoring.** Pursuant to Relay’s Anti-Money Laundering Compliance Program and Security protocols, Relay reviews Your Relay Account and Transaction activity at various times for suspicious or illegal activity as well as compliance with rules, regulations, and the Terms and Conditions herein. Relay reserves the right to request additional information regarding Your information at any time to process any Transaction in the event Relay finds suspicious activity or suspects non-compliance. Relay further

reserves the right to limit Your activity, Transactions, or RelayAccount until verification of information is completed to Relay's satisfaction.

- E. Proper Use.** You agree to comply with the reasonable and acceptable use policies, rules, regulations, terms and conditions of any networks You access through the Relay System. Investigative or Consumer Reports may be made in connection with the Terms and Conditions herein to ensure proper use of the Relay System. You authorize Relay, any Credit Bureau, Credit Reporting Agency directed by Relay, or any of Relay's agents to investigate the references given or any other statements or data obtained from You in connection with your use of the Relay System.
- F. Compliance with Laws.** In performing its duties under these Terms and Conditions, each Party agrees to comply with all applicable Rules, Regulations, and Laws. You further agree to cooperate, at Your own expense, and provide information requested by Relay to facilitate Relay's compliance with any applicable Rules, Regulations, and Laws relating to Transactions. For purposes of these Terms and Conditions, the term Rules, Regulations, and Laws shall mean any and all applicable federal, state, local or municipal laws, rules, statutes, ordinances, codes, decrees, orders or regulations, including, without limitation, any permit or license requirements. Anti-money laundering and counter-terrorism financing laws may require that Relay verify any identifying information. Relay reserves the right to close, suspend, or limit access to Your Relay Account and/or the Relay System in the event that, after reasonable enquiries, Relay is unable to obtain information about You or any of Your Transactions required to verify the identity of any party to a Transaction or the validity and legality of the transaction.
- G. Know Your Customer.** Merchants acknowledge and understand that Relay and its affiliates who help operate the Relay System may be subject to various so-called "know your customer" Laws, including, without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) ("USA PATRIOT Act"). Relay hereby notifies its customers that, pursuant to the requirements of the USA PATRIOT Act and 31 C.F.R. § 1010.230 (the "Beneficial Ownership Regulation"), Relay may be required to obtain, verify, and record information that will allow Relay and its affiliates to identify a Merchant in accordance with the USA PATRIOT Act, the Beneficial Ownership Regulation, and other similar Laws, and Merchant hereby agrees to provide such information from time-to-time to Relay upon request. For Relay's continued compliance with banking and credit underwriting standards, Merchant shall provide Relay with advance written notice of (i) any change in legal structure or legal name; (ii) any consolidation, merger, or sale of business or all or a substantial part of assets; or (iii) any change in control as well as if an employee who has provided a guaranty of payment has terminated their relationship with Merchant. Relay reserves the right to make any modifications to this Agreement Relay deems necessary in the event of any of the changes made by a Relay customer.

X. PRIVACY AND SECURITY

- A. Security Measures.** Relay has implemented technical, administrative, physical and organizational measures and controls (in compliance with SOC requirements) designed to secure Your Relay Account information from accidental loss and from unauthorized access, use, alteration, or disclosure. Unauthorized third parties (or hackers) may still defeat security measures or find a way to improperly access Your Relay Account. In such instances, Relay will follow and implement best practices for breach protocol and

customer notification as set forth in Relay's Security Policy, available upon request, which is hereby incorporated as if set forth in full herein

- B. Privacy.** Relay has implemented controls and procedures for protecting Your data. For more information on Relay's Privacy Policy, visit relaypayments.com/privacy. You hereby consent to Relay collecting and using Your data for purposes of enabling use of the Relay System and Relay Products, including providing necessary data to Relay service providers for Transaction processing purposes. You hereby consent to Relay's use of Your name, address, phone number, and financial information to process Transactions on your behalf and contact You regarding such transactions.
- C. Login Credentials.** You are solely responsible for safeguarding Your password and other login credentials for Your Relay Account and for restricting access to Your Relay Account and any Relay Product for Your own protection. You agree to immediately notify Relay of any unauthorized use of Your Relay Account login information, lost RelayGo card, or any other breach of security. If You believe Your Relay Account login information has been lost or stolen or if you believe a fraudulent Transaction has occurred in connection with Your Relay Account, it is Your responsibility to contact Relay customer service or call 1(877) 735-2910 IMMEDIATELY. Relay is not liable for lost funds that are not caused by the Relay System, but rather due to compromised login credentials, lost payment cards or Your employees.
- D. Regular Use.** To protect Your Relay Account from unauthorized activity, You agree to regularly log into Your Relay Account and review Your Relay Account activity. You hereby agree to allow Relay to notify You of each Transaction by sending an email or text message to the primary email address or Administrator email address or phone number associated with or identified as authorized on Your MSA and/or order form. You agree to review Your Transaction notifications to ensure that each Transaction was authorized and accurately completed.
- E. Approvals.** You hereby acknowledge and agree that any and all officers, employees, agents, representatives and others having access to Your username and/or password to access Your Relay Account shall be vested by You with the authority to use the Relay System and services as binding on Your behalf. You shall be responsible for any and all actions by current and former officers, employees, agents, representatives and others, regardless of whether authorized by You, that access the Relay Account. YOU HEREBY ASSUME ALL RISK FOR ANY FRAUDULENT, UNAUTHORIZED OR OTHERWISE IMPROPER USE OF YOUR RELAY ACCOUNT USERNAME AND/OR PASSWORD INFORMATION. RELAY SHALL BE ENTITLED TO RELY ON THE GENUINENESS AND AUTHORITY OF ALL INSTRUCTIONS RECEIVED BY US WHEN ACCOMPANIED BY SUCH USERNAME AND PASSWORD, AND TO ACT ON SUCH INSTRUCTIONS, EXCEPT TO THE EXTENT SUCH FRAUDULENT, UNAUTHORIZED OR IMPROPER USE WAS AN ACT OF RELAY OR ITS CURRENT AND FORMER OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES OR WAS IN CONNECTION WITH A DATA OR SECURITY BREACH FOR WHICH RELAY IS LEGALLY RESPONSIBLE.

XI. REPRESENTATIONS AND WARRANTIES

- A. Merchant.** None of the activities for which You have engaged the services of Relay shall violate any international, federal, state, or local law or regulation. Neither You nor any of Your affiliates will use the Relay Products and/or services for any unlawful, fraudulent, libelous, defamatory, threatening, abusive or otherwise objectionable usage of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, national or foreign law, including without limitation the U.S. export control laws and

regulations. You also represent that Your use of Relay Products and access to the Relay System shall not violate any intellectual property rights of another.

- B. Relay.** Relay warrants that it shall provide its products and services in a professional manner pursuant to standard in the industry. Relay further warrants that its products services, as provided, shall not infringe upon the intellectual property rights of another; such warranty, however, does not apply in any instance in which Relay Products or services are: (i) used in conjunction or combination with one or more products or services not provided or approved by Relay; or (ii) used in a fashion other than as outlined in these Terms and Conditions.
- C. Limited Warranty.** You also acknowledge and understand that Relay does not warrant that its services will be uninterrupted or error free and that Relay may occasionally experience delays or outages due to disruptions that are not within Relay's control. Any such interruption shall not be considered a breach of the MSA by Relay. Relay shall use its best efforts to remedy any such interruption in service as quickly as possible.

XII. LIMITED LIABILITY AND INDEMNIFICATION

- A. Disclaimer.** Except as otherwise specifically provided herein, Relay Products and services are provided hereunder "As Is" without warranty of any kind, and to the maximum extent permitted by law. Relay shall not be held responsible for errors, acts or failures to act of others, including, and among other entities, banks, communications carriers or clearing houses through which Transactions may be originated or through which Relay may receive or transmit information, and no such entity shall be deemed an agent of Relay. Relay expressly disclaims any and all warranties, conditions, representations, and guarantees with respect to Relay Products and the Relay System, whether express or implied, arising by law, custom, prior oral or written statements, or otherwise, including without limitation, any warranty of merchantability or fitness for a particular purpose. No representation or other affirmation of fact, including, without limitation, statements regarding capacity, suitability for use or performance of the Relay System, whether made by employees of Relay or otherwise, which is not contained in these Terms and Conditions, shall be deemed to be a warranty by Relay for any purpose, or give rise to any liability of Relay whatsoever.
- B. Liability.** **EXCEPT AS EXPLICITLY SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY LOSS, LIABILITIES, INJURY, OR DAMAGE RESULTING FROM OR ARISING OUT OF ANY MISTAKES, ERRORS, OMISSIONS, DELAYS, OR INTERRUPTIONS IN THE RECEIPT, TRANSMISSION, OR STORAGE OF ANY INFORMATION ARISING OUT OF OR IN CONNECTION WITH these Terms and Conditions, AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, LOST PROFITS, LOST SAVINGS, LOST DATA, OR ANY OTHER FORM OF CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION, EVEN IF SUCH PARTY SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COULD HAVE FORESEEN SUCH DAMAGES.** With the exception of claims for breach of the confidentiality provisions hereof, claims by Relay for improper use of Proprietary Information, or a Party's indemnification obligations, either Party's maximum liability hereunder for any claims whatsoever shall not exceed the total amount of all fees paid or payable by You to Relay during the twelve-month period preceding the origination of the claim giving rise to liability.

C. Indemnification.

1. **Third-Party Disputes.** All disputes between You and a third party related to any Transaction or use of the Relay System will be settled by and between You and the third party unless the dispute is caused by Relay's gross negligence, recklessness, or breach of these Terms and Conditions. You hereby acknowledge and agree that Relay bears no responsibility for the acts or omissions or alleged acts or omissions of others. Accordingly, You agree to indemnify, defend, and hold harmless Relay and its respective employees, directors, agents, affiliates and representatives from and against any and all claims, costs, losses, damages, judgments, tax assessments, penalties, interest, and expenses (including without limitation reasonable attorneys' fees) arising out of any claim, action, audit, investigation, inquiry, or other proceeding instituted by any other third party that arises out of or relates to a Transaction or use of the Relay System, unless such claim, action, audit, investigation, inquiry, or other proceeding is caused by Relay's gross negligence, recklessness, or willful wrong act or omission.
2. **Indemnification by Relay.** Relay shall indemnify, defend, and hold harmless You and Your employees, directors, agents, affiliates and representatives from and against all claims arising out of the following: (i) a third party claim that Your use of the Relay System infringes or misappropriates a third party's intellectual property rights; (ii) Relay's breach of any confidentiality obligations; and (iii) Relay's failure to comply with any applicable law.
3. **Notice, Defense and Settlement.** The indemnifying Party's indemnification obligations shall be subject to (i) indemnifying Party being promptly notified in writing of such claim or suit and (ii) the indemnifying Party having the sole control of the defense and/or settlement thereof.

XIII. CONFIDENTIALITY

You hereby acknowledge that the Relay Products, services and information relating thereto contain confidential and proprietary information developed by, acquired by, or licensed to Relay ("Relay Confidential Information"). You agree to take all reasonable precautions necessary to safeguard the confidentiality of Relay Confidential Information. Neither You nor any of Your affiliates will make any unauthorized use of Relay Confidential Information or disclose, in whole or in part, Relay Confidential Information to any individual or entity, except to Your employees or affiliates who require access to enable Your authorized use of the products or services and agree to comply with the use and nondisclosure restrictions applicable to Relay Confidential Information. You further acknowledge that any unauthorized use or disclosure by You or any of Your affiliates of Relay Confidential Information may cause irreparable damage to Relay. As such, if Relay becomes aware of Your breach or threatened breach of this Section, Relay may suspend any and all rights granted to You under the Agreement and shall be entitled to injunctive relief, without the need of posting a bond, in addition to all legal or equitable relief that may be available to Relay. Upon termination of these Terms and Conditions, You agree to return or destroy any and all Relay Confidential Information in Your possession, custody, or control.

XIV. AUDIT RIGHTS

You hereby agree to cooperate fully with Relay in conducting a review of Your use of the Relay System to verify that such use is in compliance with these Terms and Conditions and any applicable rules, regulations, and laws. You further authorize Relay to audit Your use of the Relay System (including Your transactions) in order to comply with Relay's annual or regulatory audit requirements.

XV. NOTICE AND ASSIGNMENT

- A. Notice.** Any notice required to be given by either Party hereunder, excluding notice of changes in fees (each a “Notice”), shall be in writing and delivered to the other designated Party by any commercially reasonable means of delivery, including email, addressed to that Party at the address identified in Your MSA and/or Order Form. Either Party may change the address to which notice is to be sent by written notice to the other by an authorized employee (Your Administrator) or Relay account executive.
- B. Consent to Electronic Notices.** Electronic notices shall have the same meaning and effect as if Relay had provided You with paper copies of such notice. Any such notice is deemed received by You within twenty-four (24) hours of the time the notice is posted to Relay’s website, or within twenty-four (24) hours of the time the notice is emailed to You, unless Relay receives notice that the email was not delivered.
- C. SMS and Text Messages.** You hereby agree to receive and authorize Relay to provide Notices via text message regarding Your Relay Account and use. Standard text or data charges may apply. You may disable such messages by replaying “STOP” or following the instructions provided in the message or in the Relay mobile app, however, such opt out shall not excuse missed invoices and payments thereof.
- D. Assignment.** You shall not assign any rights granted herein to another without the express, written consent of Relay, which shall not be unreasonably withheld or delayed. Relay may assign its rights and obligations under these Terms and Conditions without the approval of any Merchant, but shall provide notice of such assignment to You.

XVI. AMENDMENT AND REVISIONS

- A. Right to Amend.** From time to time, it may be required for Relay to amend, modify, or change the requirements set forth in these Terms and Conditions due to Product or Relay System changes or rules and regulations. Relay accordingly has the right to change, modify, amend, or add to these Terms and Conditions at any time, and to change, delete, discontinue, or impose conditions on Your continued use of the Relay System and services by posting such changes via Electronic Notice. Relay shall also provide You with a courtesy copy of such Electronic Notice of changes via email or through other reasonable, public means, such as posting on Relay’s website.
- B. Effect.** Any such changes shall come into effect ten (10) days after Relay publishes the changes to its website and/or provides You with official notice of such changes pursuant to this Section. Your continued use of the Relay System more than ten (10) days after Relay publishes such changes constitutes Your acceptance of the changed, modified, amended, and/or additional terms of the Terms and Conditions.

XVII. TERM AND TERMINATION

- A. Term.** These Terms and Conditions shall commence on the Effective Date and shall remain in effect until either Party terminates any MSA or agreement as set forth herein.
- B. Termination.** These Terms and Conditions shall be terminated by either Party for any reason upon thirty (30) day notice to the other Party, unless the Parties have otherwise agreed in writing.
- C. Immediate Termination.** Relay may immediately terminate the MSA or any agreement with prompt written notice under the following conditions: (i) in the event You are or

become bankrupt or unable to pay Your debts as they become due hereunder; (ii) if Relay determines that You have violated any term, condition, covenant, or warranty of these Terms and Conditions; (iii) Relay determines that the type of business in which You are engaged is an industry or business that Relay is prohibited from providing its services to; or (iv) if You are using the Relay System for a purpose other than a permissible use.

- D. Effect of Termination.** Upon the effective date of termination of the MSA, Your rights hereunder to use the Relay System or applicable Relay Products shall cease. Relay shall process all Transactions authorized prior to and including the day of termination. Relay shall invoice You for, collect from, or arrange any return of obligations to You in connection with any Transaction processed by Relay up to and including the termination date, to the extent Your Relay Account is not in arrears or suspended.

XVIII. GENERAL

- A. Jurisdiction/Venue.** These Terms and Conditions shall be governed by and construed in accordance with the laws of the state of Georgia, without regard for the conflict of law provisions. The Parties agree that any litigation or lawsuit arising under or related to the MSA, the Relay System, the Relay mobile app, or any Transaction, shall be solely and exclusively brought in the federal or state courts sitting in Atlanta, Georgia. The Parties further consent to the personal jurisdiction and venue of the federal and state courts sitting in Cobb County, Georgia. TO THE EXTENT ALLOWED BY LAW, THE PARTIES AGREE TO IRREVOCABLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY OR TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT, ARBITRATION OR OTHER PROCEEDING RELATING TO THESE TERMS AND CONDITIONS, ANY TRANSACTION, OR THE RELAY SYSTEM.
- B. Fees and Costs.** In the event that an action of any kind is brought or an attorney is retained by either Party to enforce the terms of these Terms and Conditions or to collect any money due hereunder or to collect any money damages for breach hereof, the prevailing Party shall be entitled to recover, in addition to any other remedy, the reimbursement of reasonable attorneys' fees, court costs, costs of investigation and other related fees and expenses incurred in connection therewith.
- C. Force Majeure.** Neither party shall be liable for, or be considered in breach of or default under these Terms and Conditions on account of any delay or failure to perform its obligations hereunder as a result of any causes or conditions that are beyond such party's reasonable control and that such party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected party shall give prompt written notice to the other party and shall use all commercially reasonable efforts to minimize the impact of the event.
- D. Severability.** Should any term, clause or provision hereof be found invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be construed to most closely reflect the original intent of the parties.
- E. Waiver.** The waiver of any breach or default of these Terms and Conditions will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.
- F. Improper Conduct.** You agree not to (1) take any action that imposes an unreasonable or disproportionately large load on the Relay System or on Relay's websites or mobile application (including any networks and servers used to provide any of the Relay

Services); (2) facilitate any viruses, trojan horses, malware, worms or other computer programming routines that attempts to or may damage, disrupt, corrupt, misuse, detrimentally interfere with, surreptitiously intercept or expropriate, or gain unauthorized access to any Relay System, data, information; (3) use an anonymizing proxy; (4) use any robot, spider, other automatic device, or manual process to monitor or copy Relay's websites or the Relay System, or use any device, software or routine to bypass any element of the Relay System; (5) interfere or disrupt or attempt to interfere with or disrupt the Relay System (including any networks and servers used to provide any of the Relay Services); (6) take any action that may cause Relay to lose any of services from its internet service providers, payment processors, or other suppliers or service providers; (7) circumvent any of Relay's policies or determinations about the Your Relay Account such as temporary or indefinite suspensions or other account holds, limitations or restrictions; or (8) harass and/or threaten our employees, agents, or other users.

- G. Electronic Signatures and Consents.** Under the Electronic Signatures in Global and National Commerce Act (E-Sign), these Terms and Conditions and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature when (1) You or Your Party's authorized representative(s)' electronic signature is associated with these Terms and Conditions and related documents, (2) You consent and intend to be bound by these Terms and Conditions and related documents, and (3) these Terms and Conditions are delivered in an electronic record capable of retention by the Parties hereto at the time of receipt (i.e., print or otherwise store the electronic record).
- H.** Merchant acknowledges and agrees that this Agreement is for business or commercial purposes and that with respect to this Agreement, and any and all related transactions, Merchant is not a "consumer" as that term is defined in the Uniform Commercial Code, Georgia Code Annotated, §§ 11-1-101, et seq. Merchant further acknowledges and agrees that it does not and shall not have any rights under the U.S. Fair Debt Collection Act (FDCA), the U.S. Fair Credit Reporting Act (FCRA), any state or local analogues to these laws, or any other law intended to provide protections to consumers who enter into financial transactions for non-commercial purposes. Merchant agrees to indemnify Relay for all costs, expenses, and fees, including legal fees (up through any appeal) in the event of any action commenced against Relay by any consumer protection lawsuit or other proceeding commenced with respect to this Agreement.

Appendix A

Impermissible Transactions

You acknowledge and agree not to use Your Relay Account or the Relay System to fund or participate in activities that:

- (1) violate any Rules, Regulations, or Laws (as hereinafter defined);
- (2) relate to transactions involving
 - (a) illegal narcotics, steroids, certain controlled substances or other products that present a risk to consumer safety,
 - (b) illegal drug paraphernalia,
 - (c) items that encourage, promote, facilitate or instruct others to engage in illegal activity,
 - (d) stolen goods including digital and virtual goods,
 - (e) the promotion of hate, violence, racial or other forms of intolerance that is discriminatory or the financial exploitation of a crime,
 - (f) items that are considered obscene,
 - (g) items that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction,
 - (h) illegal sexually-oriented materials or services or human trafficking, or
 - (i) illegal trafficking in ammunition, firearms, weapons, or certain firearm parts or accessories, or
 - (j) certain weapons or knives regulated under applicable law;
- (3) relate to transactions that
 - (a) show the personal information of third parties in violation of applicable law,
 - (b) support illegal pyramid or ponzi schemes, matrix programs, other illegal financial schemes,
 - (c) are associated with off-shore banking or transactions to finance or refinance debts funded by a credit card,
 - (d) are by payment processors to collect payments on behalf of merchants,
 - (e) are associated with the sale of traveler's checks or money orders,
 - (f) involve currency exchanges or check cashing businesses,
 - (g) involve certain credit repair, debt settlement services, credit transactions or insurance activities, or
 - (h) involve offering or receiving payments for the purpose of bribery or corruption; or
- (4) involve the sales of products or services identified by government agencies as fraudulent or which have a high likelihood of being fraudulent.