



Nvoicepay Vendor Terms of Use v4

1. Nvoicepay Terms of Use

- a) We want to make it easy for you to receive electronic payments. In order to receive electronic payments from customers using Nvoicepay, you must register with Nvoicepay and accept the terms and conditions of this Terms of Use Agreement (“Terms of Use”).
- b) By accepting these Terms of Use you are entering a legal agreement between your organization (“you”, “your”) and Nvoicepay, Inc. (“Nvoicepay”); and acknowledging that you have authority to do so.
- c) Nvoicepay Software and Services and all intellectual property rights embodied therein remain the exclusive property of Nvoicepay.

2. Nvoicepay Account Profile

You must register with Nvoicepay in order to receive payments from customers using Nvoicepay Services. You are responsible for keeping all information in your Nvoicepay account profile accurate and up-to-date, including the proper identification of the bank account(s), where you will receive deposits from your customers, your authorized contact, e-mail addresses, and mailing address(es). Nvoicepay will have no liability for relying on any information you provide. If the wrong bank account is credited in reliance upon information you provided, Nvoicepay will cooperate with you to attempt to recover the payment from the actual recipient(s), but you acknowledge that recovery may not be possible. We reserve the right to suspend or terminate the service use for any organization that provides inaccurate, incomplete information or fails to comply with Nvoicepay registration requirements.

3. Nvoicepay Services

Nvoicepay enables you to receive payments from Nvoicepay customers. We are not a bank or a money service business (“MSB”) and we do not offer banking or MSB services as defined by the United States Treasury. Nvoicepay does not guarantee or have control over or liability for: i) your products, services, or other consideration that you provide to any Nvoicepay customer; ii) the accuracy of any invoice payment delivered to you.

Nvoicepay will electronically deposit funds in to your Bank Account(s), on behalf of Nvoicepay customers. All funds electronically deposited to your account are originated in accordance with the rules of the National Automated Clearing House Association, as amended from time to time (“NACHA Rules”) and Article 4A of the Uniform Commercial Code. You will also comply with the NACHA Rules and Article 4A.

Additionally, Nvoicepay enables you to receive card payments from your customers. You choose the card products you will accept given the rates offered by Nvoicepay. You will then receive VISA or American Express Card Payments directly through Nvoicepay’s Network without having to enter these transactions locally. You can also choose to receive Nvoicepay’s private label Payment Card. Nvoicepay will only process cards that receive an authorization from the applicable Network or card issuer. Card Payment Products used by customers through our network do not require any special equipment. Funds



for Card Payments received through our Network will be deposited electronically into your Bank Account on behalf of your customer, net our agreed upon card fees. If you wish to accept card payment from your customers through Nvoicepay but do not have a Bank Account where funds can be deposited, you may request a physical check. Check requests will be subject to an additional fee.

Nvoicepay may remove or add Cards that can be used within our Payment Network at anytime without prior notice.

You will promptly notify Nvoicepay if you know or suspect any errors or inaccuracies in any payment or information related to any payment, and cooperate with Nvoicepay to correct any payments made to you that are misdirected, unauthorized, overpayments, or duplicate payments.

4. Nvoicepay Fees

If you choose to accept Card Payments from your customers directly through Nvoicepay's Network, you will be charged the fees you were presented with and electronically accepted during your sign up process. We reserve the right to change our fees. If we change our fees, we will give you thirty (30) days notice of any change. All payments and fees collected or paid through Nvoicepay are denominated in US dollars.

5. Access to Funds

When Customers pay you using Nvoicepay Services, funds are electronically deposited into your account 2 business days after the transaction is deemed complete. Transactions will be deemed complete when we have confirmed the customer has made an authorized transaction and customer funds are available to Nvoicepay.

6. Unauthorized or Illegal Use

You may receive payments using Nvoicepay Services only to the extent that you obey all laws, rules and regulations applicable to your use of the Service. If we reasonable suspect that your Nvoicepay Account has been used for an unauthorized, illegal, or criminal purpose, you give us express authorization to share information about you, your Nvoicepay Account, and any of your transactions with law enforcement.

7. Your Liability for Chargebacks

The amount of the transaction may be reversed or charged back to you if the transaction is a) is reversed for any reason by the processor or the customer's financial institution, c) was not authorized or we have any reason to believe was not authorized or d) is unlawful, suspicious or in violation of the terms of this agreement. We will deduct the amount of any chargeback and any associated fines or penalties the card association or our processor from any proceeds due to you. If you have pending chargebacks, we may delay payouts to you. If we are unable to recover funds related to a chargeback for which you are liable, you will pay us the full amount of the chargeback immediately upon demand

8. Taxes

You are solely responsible for determining any and all taxes incurred or required to be collected or paid in connection with the sale of your products or the use of our Services. We are not obligated to collect, report, or remit taxes on your behalf arising from any transaction.

9. Privacy and Confidential Information

Protecting the privacy of Nvoicepay Customers and Vendors is important to Nvoicepay. All information collected by Nvoicepay is subject to Nvoicepay's Privacy Policy.

You are responsible for maintaining adequate security and control of any and all user IDs, passwords, and other access credentials used to access Nvoicepay Services. You agree to promptly notify Nvoicepay by telephone, confirmed in writing, if the confidentiality of any user ID or password is compromised.

10. Termination

You may terminate your use of Nvoicepay Services at any time. Nvoicepay may terminate your use of Nvoicepay Services at any time for any reason. Each party's rights and obligations under these Terms of Use that accrued with respect to Nvoicepay payments or services, provided prior to termination, shall survive termination.

11. Ownership of our Service

Nvoicepay grants you a non-exclusive, revocable, non-transferable, license to accept and receive payments using our Service. Our Service is licensed and not sold. Nvoicepay reserves all rights not expressly granted to you in this agreement. Nvoicepay Services are protected by copyright, trade secret, and other intellectual property laws. Nvoicepay owns all title, copyright and other intellectual property rights to Nvoicepay Services and web site. This agreement does not grant you rights to Nvoicepay's trademarks or service marks

12. Notices

Nvoicepay may provide notices to you by: i) posting the notice on the Nvoicepay Web site; ii) e-mailing it to the e-mail address of each of your authorized contacts designated in your Nvoicepay profile, or iii) by mailing it to your postal address designed in your Nvoicepay profile. Notices sent by posting on the Nvoicepay Web site shall be deemed received on the earlier of: i) the date that you next access the Nvoicepay Web site, or ii) five (5) business days after it is posted. Notices sent by e-mail will be effective 24 hours after e-mailing unless Nvoicepay receives notice that the e-mail was not delivered. Notices sent by courier or mail will be effective upon receipt.

Notices to Nvoicepay must be sent by mail or courier to Nvoicepay, Inc., Attention: Vendor Services, 10250 SW Greenburg Road, Suite 112, Portland, OR 97223

13. Indemnification

You will defend, indemnify and hold Nvoicepay harmless from any claim or demand (including attorney fees) made by any third party arising out of any Underlying Transaction, your breach of these Terms of Use, or any payment made to you, including any claim against Nvoicepay under bankruptcy or similar insolvency laws to recover a payment made to you.

14. Representations, Warranties, and Disclaimers



You represent and warrant that your use of Nvoicepay Services has been duly authorized and does not contravene any law, regulation or governmental rule.

You represent and warrant that all information you provide to Nvoicepay is true, complete and not misleading. You authorize Nvoicepay, directly or through third parties, to make any inquiries Nvoicepay considers necessary to validate your identity and any information provided.

Nvoicepay warrants to you that Nvoicepay will perform the Payment Services in accordance with the applicable user documentation. If you notify Nvoicepay of a material failure of Nvoicepay to perform to the foregoing warranty, Nvoicepay will use reasonable efforts to resolve the failure in accordance with its then-current customer support policies as your exclusive remedy.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION, NVOICEPAY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE. NVOICEPAY DOES NOT WARRANT THAT NVOICEPAY SERVICES, OR ACCESS TO THE NVOICEPAY WEB SITE WILL BE UNINTERRUPTED OR OPERATE ERROR-FREE.

15. Limitation of Liability

Nvoicepay will be liable only for actual direct damages incurred by you as a direct result of Nvoicepay's gross negligence, willful misconduct, or failure to exercise reasonable care in providing the Nvoicepay Services. In no event will Nvoicepay be liable for: i) any indirect, consequential or punitive loss, damage, or expense, including any loss of business profits, revenue, or goodwill; or ii) loss or corruption of data, even if advised of the possibility of such loss or damage.

Nvoicepay will not be liable for, and will be excused from performing Nvoicepay Services in the event of, any failure or delay caused by: i) circumstances beyond Nvoicepay's control, including any natural disaster, emergency conditions (such as war, riot, fire, theft or labor dispute), legal constraint or governmental action or inaction, or breakdown or failure of equipment, ii) any Nvoicepay's customer act, omission, negligence or fault; or iii) Nvoicepay having reasonable belief that performing would violate any law, rule or regulation.

16. Miscellaneous

You may not assign, transfer, or sublicense any of your rights or obligations under these Terms of Use without Nvoicepay's prior written consent. Nvoicepay may assign these Terms of Use by providing you with notice of the Assignment.

Nothing contained in these Terms of Use creates any agency, fiduciary, joint venture or partnership relationship between the parties. These Terms of Use are for the benefit of the parties only. No other person has any right under the Terms of Use against either party.

Nvoicepay may amend the Terms of Use at any time by posting a revised version on the Nvoicepay Web Site and such revised Terms of Use will become effective fifteen (15) days after such posting. Your continued use of Nvoicepay Services after the effective date of any such revised Terms of Use shall be deemed acceptance thereof.

These Terms of Use are governed by the laws of Oregon, without reference to the principles of conflicts of law principles. Any dispute regarding these Terms of Use or the Nvoicepay Services will be resolved by

binding arbitration conducted in accordance with the United States Arbitration Act under the Commercial Arbitration Rules of the American Arbitration Association and conducted in Portland, Oregon.

If any provision of these Terms of Use are invalid, unlawful, or unenforceable, the remainder of these Terms of Use, is not impaired or otherwise affected and continues to be valid and enforceable to the fullest extent permitted by law. No delay or failure to exercise any right or remedy under these Terms of Use is deemed to be a waiver thereof. No waiver of any breach or default is a waiver of any other breach or default. Any waiver must be in writing.

CARD PROCESSING LANGUAGE: VENDOR PARTICIPATION AGREEMENT

This Vendor Participation Agreement is in connection with the Nvoicepay Terms of Use Agreement No. (the "Agreement") entered into by and between Nvoicepay, Inc. an Oregon corporation ("Nvoicepay") and [Institution] (the "Vendor ") dated _____. In the event of any conflict between this Vendor Participation Agreement and the Agreement, this Vendor Participation Agreement shall take precedence. The purpose of this Vendor Participation Agreement is to comply with MasterCard International and VISA, USA requirements that the Vendor be a signatory to an agreement for credit card processing ("Vendor Participation Agreement") with Global Payments Direct, Inc. ("Global Direct") and Comerica Bank ("Member").

Vendor, through its relationship with Nvoicepay, agrees to comply with and be bound by the rules and regulations of Visa, MasterCard and any other card association or network organization related to cardholder and transaction information security, including without limitation, Payment Card Industry (PCI) Data Security Standards, Visa's Cardholder Information Security Program and MasterCard's Site Data Protection Program, which may be modified from time to time. Vendor will not present for purchase any indebtedness that does not arise out of a transaction between a cardholder and Vendor. Vendor may elect to accept credit cards or debit/prepaid cards or both. Global Direct and Member will fund the daily card transactions from the Nvoicepay system to the designated depository account which will include the financial institution's name. Nvoicepay will transfer fully settled funds to the Vendor's pre-determined financial institution on a semi-weekly basis. Vendor represents and warrants that no one other than Vendor has any claim against such indebtedness except as authorized in writing by Member and Global Direct. Vendor hereby assigns to Member and Global Direct all of its right, title, and interest in and to all funds payable by the applicable card association or network organization ("Interchange Fees") in connection with the transactions submitted hereunder and agrees that Member and Global Direct have the sole right to receive payment from the applicable card association or network organization in connection with such transactions.

If a cardholder disputes a transaction, if a transaction is charged back for any reason by the card issuing institution, or if Global Direct or Member has reason to believe a transaction is unauthorized or is otherwise unacceptable, the amount of such transaction may be charged back and debited from the Vendor.

Neither Member nor Global Direct shall be liable for failure to provide the Services if such failure is due to any cause or condition beyond such party's reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, breakdowns, operational failures, electrical power failures, communication failures, unavoidable delays, the errors or failures of third party systems, or other similar causes beyond such party's control.

The liability of Global Direct and Member for any loss arising out of or relating in any way to this Vendor Participation Agreement, the unavailability or malfunction of the Services, personal injury, or property damage, shall, in the aggregate, be limited to actual, direct, and general money damages in an amount not to exceed the greatest one (1) month's charge paid by Nvoicepay hereunder on account of Vendor's merchant activity (exclusive of interchange fees, assessments, and any other fees or costs that are imposed by a third party in connection with Vendor's payment processing) for Services during the

previous twelve (12) months or such lesser number of months as shall have elapsed subsequent to the effective date of this Vendor Participation Agreement. This shall be the extent of Global Direct's and Member's liability arising out of or relating in any way to this Vendor Participation Agreement, including alleged acts of negligence, breach of contract, or otherwise and regardless of the form in which any legal or equitable action may be brought against Global Direct or Member, whether contract, tort, or otherwise, and the foregoing shall constitute Vendor's exclusive remedy. Under no circumstances shall Global Direct or Member be liable for any lost profits, lost interest, or for special, consequential, punitive or exemplary damages arising out of or relating in any way to this Vendor Participation Agreement, including but not limited to, damages arising out of placement of a Vendor's name on any terminated merchant list for any reason, even if Global Direct or Member has been advised of the possibility of such damages. Under no circumstances shall Global Direct or Member be liable for any settlement amounts pertaining to Switched Transactions; Vendor's recourse therefore shall be to the applicable card issuer. Notwithstanding anything to the contrary contained herein, Global Direct and Member shall be jointly and severally liable for any lost profits, lost interest or for special, consequential, punitive or exemplary damages arising out of or relating to the Vendor Participation Agreement caused as the result of any gross negligence or fraud.

With the exception of gross negligence and willful misconduct, it is agreed that in no event will Global Direct or Member be liable for any claim, loss, billing error, damage, or expense arising out of or relating in any way to this Vendor Services Agreement which is not reported in writing to Global Direct by Vendor within 120 days of such failure to perform. Vendor expressly waives any such claim that is not brought within the time periods stated herein.

Nothing in this Vendor Participation Agreement shall be construed to amend the rights or remedies Nvoicepay and Vendor have against each other under the Agreement.