

ONTOP Systems, Inc. Terms of Use, Privacy Policy, and Merchant Agreement Addendum

Prepared for Legal Review

Effective Date: April 11, 2011

TERMS OF USE

1. Acceptance of Terms

By accessing or using the Services provided by ONTOP Systems, Inc. (“Company”), including payment processing technology, APIs, onboarding tools, and integrations, you agree to be bound by these Terms. If you do not agree, you must discontinue use immediately.

2. Nature of Services

Company provides payment technology services and merchant onboarding assistance. Company is not a bank, money transmitter, or card network. All payment processing is performed by third-party acquiring banks and processors.

3. Merchant Representations and Warranties

Merchant represents and warrants that: (a) all information provided is accurate and complete; (b) Merchant complies with all applicable laws, PCI-DSS standards, and card network rules; (c) Merchant will not engage in fraudulent, deceptive, or unlawful conduct; and (d) Merchant maintains adequate internal controls to prevent misuse of the Services.

4. Enhanced Indemnification

Merchant shall indemnify, defend, and hold harmless Company, its officers, directors, employees, and affiliates from any and all claims, losses, fines, chargebacks, penalties, regulatory actions, assessments, or liabilities arising from: (a) Merchant’s business practices; (b) customer disputes; (c) data breaches caused by Merchant; (d) violation of law or card network rules; or (e) fraudulent or rogue employee actions within Merchant’s organization.

5. Strict Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY LAW: (A) COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION; (B) COMPANY SHALL NOT BE LIABLE FOR PROCESSOR OR BANK DECISIONS, FEE INCREASES, ACCOUNT HOLDS, TERMINATIONS, OR NETWORK ASSESSMENTS; (C) COMPANY’S TOTAL AGGREGATE LIABILITY SHALL NOT EXCEED THE GREATER OF (i) \$25,000 OR (ii) THE TOTAL FEES PAID TO COMPANY IN THE PRECEDING SIX (6) MONTHS; (D) CLAIMS MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE EVENT GIVING RISE TO THE CLAIM.

6. No Fiduciary Duty

Company does not act as a fiduciary, advisor, or financial guarantor. Merchant acknowledges it is independently responsible for business decisions.

7. Dispute Resolution

Any dispute shall first be subject to mediation in Oregon. If unresolved, disputes shall be resolved through binding arbitration in Oregon under the rules of the American Arbitration Association. Class actions are expressly waived.

PRIVACY POLICY

1. Information Collected

Company collects merchant application data, transaction metadata, business contact information, banking details, and limited technical usage data. Full cardholder data is not stored unless within PCI-compliant architecture.

2. Use of Information

Information is used for merchant onboarding, fraud monitoring, regulatory compliance, service improvement, and customer support. Company does not sell personal data.

3. Data Security

Company maintains commercially reasonable administrative, technical, and physical safeguards, including encryption and role-based access controls. No system can guarantee absolute security.

4. Regulatory Compliance

Data may be retained as required by law, card network regulations, or acquiring bank rules. Retention periods may extend multiple years.

MERCHANT AGREEMENT ADDENDUM

1. Chargeback Liability

Merchant is solely responsible for all chargebacks, retrieval requests, fraud losses, and network assessments associated with its transactions. Company may offset such amounts against future settlements if permitted.

2. Fraud Monitoring and Reserves

Company reserves the right to require rolling reserves, delayed funding, or enhanced monitoring if Merchant's risk profile changes or chargeback thresholds are exceeded.

3. Processor Independence

Merchant acknowledges that pricing, approvals, and funding decisions are controlled by acquiring banks and processors. Company does not guarantee approval, rates, or uninterrupted processing availability.

4. Immediate Suspension Rights

Company may suspend or terminate Services immediately if fraud, excessive chargebacks, regulatory risk, or rogue employee misconduct is suspected.

5. Personal Guaranty (Optional Clause)

If required by the acquiring bank, Merchant principals may be required to execute a personal guaranty for processing obligations.