

Accela SecurePay™ Supplemental Product Terms

1. SecurePay™ Supplemental Product Terms. These SecurePay™ Supplemental Product Terms (“SecurePay Terms”) set forth the terms and conditions under which Accela will provide Accela SecurePay to Customer to (i) access Payrix Solutions, LLC, (“Payrix”) payment processing services to enable Customer to accept and manage electronic user payments (e.g. credit/debit cards, ACH), and (ii) access Accela reconciliation of user payments. Accela may update these SecurePay Terms from time to time to the extent required to comply with applicable law or regulation or with changes to the Payment Network Rules or NACHA Rules; updated SecurePay Terms will be posted at www.accela.com/terms and will be effective upon posting.
2. Incorporation. These SecurePay Terms are supplemental to the agreement that governs Customer’s Subscription Services from Accela (“SaaS Agreement”) and are incorporated into, and made a part of the SaaS Agreement. The SecurePay Terms include the terms and conditions of the SaaS Agreement unless otherwise a specific exception is set forth herein. Defined terms not otherwise defined in the SaaS Agreement will have the meaning set forth at the end of these SecurePay Terms. If there is a conflict between terms defined herein and terms defined in the SaaS Agreement, the defined term in these SecurePay Terms will take precedence for purposes of using and interpreting these SecurePay Terms.
3. Rules. The use of SecurePay by Customer is also subject to the Sub-Merchant Agreement entered into by and between Customer and Payrix, and the NACHA Rules and Payment Network Rules (“Rules”). Customer’s compliance with the Rules is included as “applicable laws” for purposes of these SecurePay Terms as set forth in the SaaS Agreement. Customer acknowledges and agrees to abide by the terms and conditions of the Payrix Sub-Merchant Agreement.
4. Application. Prior to providing access to SecurePay, Customer must: (i) complete the Application and receive Payrix and Accela acceptance of the Application, (ii) agree in writing to the terms and conditions of the Payrix Sub-Merchant Agreement, (iii) agree in writing to the terms and conditions set forth in the SaaS Agreement and these SecurePay Terms and (iv) receive Accela’s written acceptance of Customer’s order.
5. Acknowledgements. Customer acknowledges and agrees that, notwithstanding anything to the contrary:
 - 5.1. The Sub-Merchant Agreement is solely between Payrix and Customer, and Accela is not a party to the Sub-Merchant Agreement; Accela has no liability to Customer or its users for any Payrix Services, Bank, or Payment Network services, or other activities under the Sub-Merchant Agreement; Customer represents and warrants that it will not seek any redress from Accela for Payrix Services or other activities occurring under the Sub-Merchant Agreement, including, but not limited to, any Security Incidents, and Customer will inform its users of the foregoing obligations.
 - 5.2. Customer will at all times maintain its Payment Obligation Webpage according to any updates required by the Rules, Payment Network, Bank, Payrix, Accela, and applicable law, including, but not limited to, updating its Policies.
 - 5.3. Customer will pay all Fees to Payrix. Payrix will deduct and withhold Fees as set forth in the Sub-Merchant Agreement.
 - 5.4. Fees may be changed upon notice to Customer for changes in fees and costs charged to Payrix by Banks, Payment Networks, or other third parties imposing additional fees on Payrix for the supply of the Payrix Services, or amendments to applicable law that require Payrix to amend the Fees, or other increases in fees charged to Accela by Payrix.
 - 5.5. Accela has no visibility or access to any Customer data entered into the Payment Obligation Webpage, including users’ information and other Customer data. All Customer data goes directly to Payrix servers for payment processing.

- 5.6. Accela is not responsible for, nor makes any representations regarding Payrix Services and systems. To the extent Accela and Payrix systems are integrated, Accela shall use commercially reasonable efforts to obtain and maintain its connection to Payrix, however Accela is not responsible or liable to Customer for any downtime and/or latency of the Payrix Services and systems, Security Incidents, or Customer data loss as a result of Customer data entered into Customer's Payment Obligation Webpage.
- 5.7. Customer is wholly responsible for the protections and legalities of Customer's Policies, Accela bears no responsibility or liability for the legality or completeness of Customer's Policies, and Accela is not responsible or liable for any actions brought by a user or third-party under Customer's Policies. Customer further acknowledges that, as the merchant of record for payment transactions processed through SecurePay, Customer bears sole legal responsibility for obtaining proper payment authorizations from each payer prior to initiating any Card Transaction or ACH Transaction.
6. Prohibitions.
- 6.1. Customer is prohibited and may be suspended or terminated from using SecurePay if a Customer user: (i) appears on any list of designated or prohibited terrorist entities maintained by a governmental authority under applicable law, (ii) is subject to sanctions associated with terrorist activity or a prohibition relating to financial services under applicable United Nations Acts, (iii) is subject to a prohibition on financial or related services under applicable Special Economic Measures Acts, (iv) appears on the U.S. Department of the Treasury, Office of Foreign Assets Control, Specially Designated Nationals List; (v) is less than 18 years of age; (vi) or its Affiliates have been previously terminated from receiving card processing services from Payrix or its Affiliates for cause; (vii) engages in a Prohibited Activity as defined in the Sub-Merchant Agreement; or (viii) is not both domiciled and resident in the United States or Canada.
- 6.2. Customer will not engage in any Prohibited Activities (as defined in the Sub-Merchant Agreement).
7. SUPPLEMENTAL LIMITATION OF LIABILITY. THE PARTIES ACKNOWLEDGE AND AGREE THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE SAAS AGREEMENT, ANY ACCELA LIABILITY FOR DAMAGES TO CUSTOMER OR ITS USERS ARISING OUT OF OR IN CONNECTION WITH THESE SECUREPAY TERMS OR THE USE OR INABILITY OF CUSTOMER OR ITS USERS TO USE SECUREPAY, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, IS LIMITED TO THE NET AGGREGATE RESIDUALS RECEIVED BY ACCELA FROM PAYRIX THAT ARE ATTRIBUTABLE TO THE FEES COLLECTED BY PAYRIX UNDER THIS ORDER FORM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE INCIDENT, AS REASONABLY SUBSTANTIATED BY ACCELA'S BUSINESS RECORDS. THE FOREGOING EXCLUSIONS APPLY WHETHER OR NOT A PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED IN ITS ESSENTIAL PURPOSE.
8. Survival. In addition to those sections in the main body of the SaaS Agreement, Sections 5.1, 5.3, 5.5, 5.6, 5.7, 7, 8 and 9 of these SecurePay Terms will survive any expiration or termination of these SecurePay Terms.
9. **Definitions**
- "ACH Transaction"** means any transaction originated by or on behalf of Customer that debits or credits a user's bank account through the automated clearing house network governed by the NACHA Rules and conducted utilizing Payrix Services.
- "Application"** means the application submitted by Customer for approval by Payrix and Accela to use SecurePay and Payrix Services.
- "Bank"** means a member of a Payment Network that has sponsored Payrix as a payment services provider, payment facilitator or otherwise to supply the Payrix Services and that acquires Transaction funds through Payment Networks.

"Card Transaction" means any transaction, other than an ACH Transaction, originated by or on behalf of Customer, that is processed through a Payment Network and conducted utilizing Payrix Services.

"Customer Services" means the services that Customer provides to users for a fee that may be paid for by users through the Payment Obligation Webpage.

"Fees" means the transaction fees explicitly indicated in the Order Form, consisting of one or more of the following: A percentage of a user's total payment for Customer Services, a Card Transaction fee, and/or an ACH Transaction fee, in each case collected by Payrix at the time of the applicable Card Transaction or ACH Transaction.

"NACHA" means the National Automated Clearinghouse Association.

"NACHA Rules" means operating rules and guidelines promulgated by NACHA and governing ACH Transactions, as amended from time to time.

"Payment Network" means Visa, Mastercard, Discover, American Express, NACHA and such other payment networks as Payrix indicates are compatible with the Payrix Services.

"Payment Network Rules" means, collectively, the by-laws, operating regulations and all other rules, policies and procedures, including but not limited to the PCI DSS, the Visa Cardholder Information Security Program, the Mastercard Site Data Protection Program, and any other program or requirement published and/or mandated by any Payment Network applicable to the Payrix Services and Card Transactions, as amended from time to time. Payment Network Rules do not include the NACHA Rules.

"Payment Obligation Webpage" means the Customer webpage where Customer and its users begin the process of payment for Customer Services which includes Customer's Policies in compliance with the Sub-Merchant Agreement.

"Payrix" means Payrix Solutions, LLC, a New York limited liability company, and its successors and assigns.

"Payrix Services" means the payment processing services of Payrix and its processor and acquiring bank, Payrix's websites and online portals, any software, programs, services, documentation, tools, hardware, internet-based services, and components thereto provided directly or indirectly to Customer by Payrix as set forth in the Sub-Merchant Agreement.

"Policies" means Customer's Privacy Policy, Secure Check-out Policy, Refund Policy, Delivery Policy, Terms of Service, and other required notices, terms and conditions that comply with Payment Network Rules, NACHA Rules, and all applicable laws, that Customer posts on the Payment Obligation Webpage or otherwise makes accessible to users prior to the user's transaction being submitted.

"Residuals" means the amounts paid by Payrix to Accela under the separate agreement between Accela and Payrix governing Accela's participation as a platform partner, as such agreement may be amended, restated, or replaced, calculated by reference to and attributable to the fees collected by Payrix in connection with transactions of a Sub-Merchant, including the Fees.

"Security Incident" means any confirmed actual breach, intrusion, or other unauthorized access to or use of Customer Data in the possession or control of Payrix, or Third-Party Servicers.

"Sub-Merchant" means a customer of Accela, including Customer, that has entered into a written agreement with Payrix for the provision and receipt of Payrix Services.

"Sub-Merchant Agreement" means a written agreement between Payrix and Customer for the provision and receipt of Payrix Services. For purpose of clarity, for each Sub-Merchant Agreement there is a Customer (aka, Sub-Merchant" as defined in the Sub-Merchant Agreement) account created by Payrix where one or more MIDs is/are assigned to each type of account (e.g., brick and mortar and e-commerce) through which the Customer receives the Payrix Services. Depending on the setup of the Customer account, one or more MIDs may be issued for each location where the Customer Services are received.

"Third-Party Servicers" means a third party of Accela, including Payrix, and Payrix's third parties

that provides a product or service that Accela or Payrix uses in providing SecurePay to Customer.