

## TodayPay User Agreement as at May 14, 2025

<https://legal.todaypay.tech/b2b/terms>

These TodayPay Terms of Service (the “User Terms”) are a legal agreement between you, as a current or prospective user of the Services and the TodayPay platform.

### Definitions.

1. An “Approved Merchant” is a Merchant that is identified or displayed in our Platform.
2. An “Available Amount” means the digital value displayed on the Platform. The Available Amount shall be equal to the gross face value amount of the Receivable.
3. A “Business Day” means a day other than a Saturday or Sunday on which banks are open for general interbank business in the United States of America.
4. A “Cashback” is any additional value that we, in our sole discretion, may apply to the Redemption amount that You may redeem from our Platform.
5. “Consideration” is the value received for the voluntary sale of a Receivable to TodayPay or its affiliates. For the avoidance of doubt, the Consideration is the instarefund™.
6. A “Convenience Fee” is the amount that may be deducted from the Redemption.
7. A “Gift Card” is a single-use prepaid card that can be used online, tokenized on a mobile device and/or in person. The card can be open loop or closed loop, which can determine where and how the card can be used. Open loop means the digital value can be spent anywhere Merchants accept the payment method. Closed loop means the digital value is only able to be spent at the specific Merchant that issues the card.
8. An “instarefund™” is a right to redeem digital value from the Platform and represents the final Consideration You receive for the sale of the Receivable to TodayPay or its affiliates.
9. A “Merchant Account” is Your online account or transactional relationship with an Approved Merchant.
10. An “Online Account” is the entity through which the User intends to access and have a consensual transactional relationship with the Platform.
11. A “Platform” is the digital product and software that provides the foundation for Users to run applications and use TodayPay.
12. A “Platform Balance” is the cumulative value of any unredeemed instarefunds™ in Your Online Account.
13. A “Providers” refers to third party service providers embedded, connected or integrated into the Platform.
14. A “Receivable” represents money owed for goods or services.
15. A “Redemption” is the movement of digital value from the Platform to an approved external destination.
16. A “Refund App” is the piece of software designed for a particular purpose that You can download onto a mobile device from the iOS and Android app stores, that is exclusively the intellectual property of TodayPay.
17. A “Services” refers to the functionalities, features and access provided by the Platform. The scope of these Services is non-exclusive, non-transferable and subject to the limitations and conditions outlined in this Agreement, and subject to change without notice.
18. A “Transaction” is the sale of the rights to a Receivable as defined in Appendix A “Transaction Agreement” of the Terms.
19. A “TodayPay” is TodayPay Inc or its affiliates, the company that makes the Refund App™, issues the instarefund™, operates the TodayPay Platform and owns the TodayPay website. For the avoidance of doubt, TodayPay may be referred to as Us or Our in the User Terms.

20. The “Transaction Agreement” means the Transaction Agreement as set forth in Exhibit A of the TodayPay User Terms.
21. A “User” is the individual or entity that accesses, registers or otherwise utilizes the Platform and uses Services, under the terms of these Terms. For the avoidance of doubt, a User may be referred to as You or Your in these Terms.

### **Use of the TodayPay Platform**

1. To create a qualified Online Account and be eligible to access the TodayPay Platform and utilize the Services, we may require the following information, including but not limited to: (i) Name, ii) email address, iii) mobile phone number, iv) valid mailing address, v) birthdate, and vi) government-issued identification number.
2. You authorize Us to retrieve information about You from our service providers and other third parties, including credit reporting agencies and information bureaus and You authorize and direct such third parties to compile and provide such information to Us. You acknowledge that this may include Your name, addresses, credit history, and other data about You or Your TodayPay Account Administrator. You acknowledge that We may use Your information to verify any other information You provide to Us, and that any information We collect may affect our assessment of Your overall risk to Our business.
3. TodayPay reserves the right to reassess Your eligibility for accessing the TodayPay Platform and Services at any time. TodayPay may immediately, at its sole discretion, suspend provision of any of the Services and/or access to the Platform in the event that TodayPay reasonably determines that You have become ineligible for any of the TodayPay Services.
4. TodayPay reserves the right to pause or suspend access the Platform or Services without notice and subject to these Terms for reasons including but not limited to: (i) to preserve the security of Your Online Account; (ii) to preserve the security of TodayPay’s Platform or systems; (iii) to manage risk to User or TodayPay; (iv) to prevent fraud against User, Approved Merchant, or TodayPay; (v) Your failure to comply with TodayPay, its affiliates or regulatory authorities reasonable request for information;; and (vi) failure to maintain eligibility for the accessing the TodayPay Platform or Services.

### **The Receivable, instarefund™ and Redemption**

1. An instarefund™ is the agreed upon and final Consideration You will receive from a Transaction for the voluntary sale of a Receivable to TodayPay or its affiliates, pursuant to the Transaction Agreement. For the avoidance of doubt, each time You request an instarefund™, You agree to the terms contained in the Transaction Agreement which shall constitute a separate Transaction Agreement in each instance.
2. You expressly agree and affirmatively consent to TodayPay or its affiliates exclusively making a purchase of the Receivable from You, by entering into the Transaction Agreement. For the avoidance of doubt, this Consideration will constitute the definitive, irrevocable and final purchase price for that Receivable from You, to TodayPay or its affiliates.
3. You acknowledge, agree and understand that the Redemption is a completely separate and unrelated transaction to the original purchase You made with the Approved Merchant.
4. You expressly agree, acknowledge and affirmatively consent that an instarefund™ is not a refund, nor is it a refund or payment from an Approved Merchant.
5. You expressly agree, acknowledge and affirmatively consent that for You to access the instarefund™ digital value You must perform a Redemption from the Platform.
6. You may request a Redemption using one of the approved Redemption methods, up to the Available Amount in Your Online Account, subject to the limitations and restrictions described in these Terms.
7. Subject to the terms of these Terms and the additional agreements, we may permit You to redeem the associated digital value from the Platform by any available payment method offered at the time of Redemption on the Platform. The payment methods offered on the Platform are determined at our sole discretion, may change from time to time without prior notice, and are the only valid payment methods available to use for Redemption. For the avoidance of doubt, Redemption from the Platform is only possible with the approved available payment methods on the Platform at the time of Redemption, and no others.

8. You understand and expressly agree that You may be offered one or more ways to redeem the associated digital value. Upon the definitive selection of the Redemption method, You may not cancel or otherwise change or modify Your chosen Redemption method selection. The Redemption method is final and irrevocable.
9. You understand and expressly agree that Redemption methods are provided by approved partners of the Platform, and TodayPay at its sole discretion, reserves the absolute right to display the Redemption payment methods of its choice on the Platform without notice.
10. You expressly agree and acknowledge that TodayPay and its affiliates are not responsible for any lost or delayed Redemption value arising from any incorrect, incomplete or inaccurate personal or payment information You provide the Platform.
11. You expressly agree and acknowledge that a Convenience Fee may be deducted based on Your choice of preferred Redemption payment method. If You choose a Redemption payment method where it applies, a Convenience Fee may be deducted from the amount You receive to Your preferred choice of payment method. For the avoidance of doubt, any deduction of a Convenience Fee is entirely at Your discretion based solely upon Your choice of preferred Redemption payment method.
12. If the Redemption has not been completed by You within a reasonable time period of our choosing, we may decide in our sole discretion, to issue You the associated digital value in the payment method of our choosing and immediately resolve the instarefund™.
13. In selling TodayPay a Receivable in exchange for Consideration, You understand and expressly agree that the Approved Merchant will pay TodayPay or its affiliates, and not You, any amounts owed by the Approved Merchant in the Receivable for the transaction made with the Approved Merchant.
14. You acknowledge, affirmatively consent, expressly agree and fully understand that the instarefund™ we may provide to You irrevocably resolves any claim against the Approved Merchant. For the avoidance of doubt, that means You have no further refund claim relating to the original transaction with the Approved Merchant.

### **Unclaimed Property**

If you do not log in to your Online Account for two or more years, we may close your Online Account and send any of your Platform Balance held in our possession to your primary address (if we have verified the required identifying information that you have provided to us) or, if required, escheat (send) any of your funds held in our possession to your state of residency. We will determine your state of residency based on the information provided for your Online Account. If your address is unknown, any of your funds held in our possession will be escheated to the State of Delaware. Where required, we will send you a notice prior to escheating any of your funds. If you fail to respond to this notice, your funds held in our possession will be escheated to the applicable state. If you would like to claim any escheated funds from the applicable state, please contact the applicable state's unclaimed property administrator.

### **Third Party Platform Providers**

1. TodayPay may use certain third party providers ("Providers") to facilitate the Services provided by the Platform. We reserve the right to select, change, add and remove the Providers connected with the Platform, at any time and without notice.
2. You expressly agree and acknowledge that TodayPay and its affiliates are not responsible for services delivered by Providers, including but not limited to any information request, delay, limitation, restriction, service, closure, outage, failure or error of the Providers.
3. You agree to the any and all terms and conditions of the Providers by including but not limited to, opening an Online Account, accessing the Platform, using the Services, requesting an instarefund™ and performing a Redemption.
4. You expressly agree and acknowledge that TodayPay and its affiliates are not responsible for any fees or other costs outside of our Platform that Providers may charge, deduct or recoup for using their services. These may include, but are not limited to, gift card usage fees and fees charged by your bank for the receipt of payments.
5. Your Account to Card transactions may be processed by Astra, Inc. By using such redemption methods, you agree to Astra's [terms](#) and [privacy](#) policy

### **Your Representations and Warranties when submitting a request for an instarefund™ and Redemption.**

Each time You submit a request to the Platform for an instarefund™, You represent and warrant to us that each of the following is true as of when You make such request:

1. That each of the representations and warranties that You made to us when You agreed to the terms to use the TodayPay Platform, were true and correct, and without any material omission, and that each such representation and warranty is true, correct, and without any material omission as of when You submit a request for an instarefund™.
2. That You are the original party to the initial transaction and valid recipient of the Receivable with the Approved Merchant.
3. That You have fulfilled, or intend to fulfill, the Approved Merchant's transaction requirements in full, to be eligible to claim the Receivable from the Approved Merchant.
4. That You are not currently subject to any legal obligations that prohibit You from claiming the Receivable from the Approved Merchant and/or selling the Receivable to TodayPay.
5. That You are the legal owner of the Receivable, of sound mind, and voluntarily and exclusively agree to sell the Receivable to TodayPay, and to whom the Receivable will be paid by the Approved Merchant.
6. That You have the legal right and authority to request an instarefund™, and to be bound by the terms of this Agreement.
7. That You will not use the proceeds of a Redemption from the Platform, directly or indirectly, for any illegal purpose or in any manner that violates any contractual or legal obligation You may have to us or to any third party (including, but not limited to, the applicable policies and terms of any Approved Merchant, Authorized Bank Account, payment service provider and any vendor affiliated with or supporting the TodayPay™ that You use in connection with the Services).
8. That You satisfy the reputational risk requirements of using the Platform that we, or any of the partners supporting the TodayPay, may in our sole discretion, determine that You comply to use the Platform and be eligible to redeem an instarefund™.
9. That You are a U.S. citizen or a permanent resident of the United States, and that You are a U.S. resident above the age of eighteen (18) years old.

### **Information Sharing.**

To maintain Your eligibility for an instarefund™, we may require certain information from You or about You. You therefore agree to each of the following:

1. By opening an Online Account with TodayPay, You also automatically open an Online Account with TodayPay. Closing Your TodayPay account does not automatically close Your Online Account, nor divorce You from any outstanding obligations, financial commitments, payments or monies owed to TodayPay, its affiliates or the Platform. By maintaining an Online Account and requesting an instarefund™, You expressly and knowingly appoint us to be Your agent to obtain the information described in this Section, and You authorize us to take such steps as we believe are reasonably necessary in order to access such information, from each entity or third-party that has possession or control of such information, and that we may do so ourselves or through a third-party service provider. We shall not be obligated to review any information that we receive about You or from You for any purpose, including, but not limited to, its accuracy, legality, or non-infringement. You agree that we, our third-party service providers, and each entity or third party from which we obtain information will be entitled to rely on the foregoing appointment as Your agent and/or the authorization granted by You, and on the information obtained hereunder.
2. When You request an instarefund™, we may, at our sole discretion, require You to provide to us with any information or documentation that we request to protect You and us from fraud, fraudulent activity or potentially illicit activity that violates these Terms. Our service provider may collect the following information including but not limited to, mobile device information, which are signals relating to an individual's hardware information about the device (e.g., Device ID, Device OS, model and browser), IP address (if You use our services via a computer or mobile device), or if GPS is turned on - GPS (if You access our service via a computer or mobile device). Our Service Provider will also port scan to determine if You are using a remote desktop. Our Service Provider does not share any of its port scanning results to us and only uses the port scan results for fraud prevention and detection purposes only. Our Service Provider may also scan for behavioral biometrics these are signals relating to an individual's behavior or use of a device access our services, including any user behavioral traits, interactions and gestures (e.g., how an individual types on a keyboard, moves a mouse, holds a phone or taps a touch screen or otherwise interacts with a device). Our Service Provider does not collect any data You input on the website page or mobile application.

3. We retain Your Personal Information for as long as needed or permitted in context of the purpose for which it was collected and consistent with applicable law.
4. Personal Information used for the ongoing relationship between You and the TodayPay and TodayPay, is stored for the duration of the relationship plus a period of 10 years, unless we need to keep it longer including any legal or compliance obligations with laws to which we are subjected including but not limited to Anti-Money Laundering, Know Your Customer, Sanctions, litigation, investigations, audit, or to protect against any claims.

### **Our Rights.**

Although You are not required to repay any amounts that we provide to You in connection with these Terms, note the following important information about our rights:

1. Important: We reserve the right to require You to reimburse us for any losses that we incur as a result of any fraud that You have committed, whether against us or against any third-party, or due to Your intentionally, knowingly, or recklessly making any materially false or misleading representations or warranties to us, or through Your intentional, knowing, or reckless failure provide us with timely, complete, and accurate information upon our reasonable request.
2. We reserve the right to enforce all claims against You for any unpaid amounts in relation to the purchase of a Gift Card.
3. We reserve the right to deny, modify, or only agree to only a portion of any instarefund™ request You submit to us, for any reason or for no reason, at our sole and absolute discretion.
4. We may limit the maximum amount of an instarefund™ that You may request from us or that we may agree to provide to You. We may also limit the aggregate amount of all instarefund™/s that You may request or receive from us in any given timeframe or in total.

### **Tax Implications of an instarefund™.**

You acknowledge and understand that any potentially applicable tax laws, rules, and regulations may deem Your receipt from us of an instarefund™ as a taxable event or as taxable income to You. If an instarefund™ is deemed to be income to You, You may incur additional tax liabilities, lose access to certain means-tested public benefits, be subject to higher periodic payments in connection with income-based student loans, or otherwise be subject to unexpected or unwelcome costs, fees, payments, or effects.

If we reasonably believe that we are required to do so under any applicable law, we may (1) require You to provide us with any additional information that we believe is necessary or appropriate to enable us to comply our legal obligations; and (2) submit information returns or forms, or otherwise provide to any applicable tax authorities information about You and about any instarefund™ or services we may have provided to You. You acknowledge and agree that we are not responsible for, and You will hold us harmless from any tax or other liabilities that You may incur because of Your receipt of an instarefund™ or any other product or service we provide to You. You agree that we have not provided You with any legal or tax advice and that You have had the opportunity to consult with a legal or tax advisor regarding the tax treatment of Your receipt of an instarefund™ from us.

### **Disputes And Complaints.**

All disputes or complaints relating to these Terms must be submitted to us by [support@todaypay.me](mailto:support@todaypay.me). Such disputes, include, but shall not be limited to, disputes relating to any of the following: the amount or delivery of the instarefund™, any information that we require from You, any determination or decision we make with respect to Your eligibility for any instarefund™, or if You believe that You or we are or may have been the victim of any fraud or identity theft arising from or relating to these Terms. All disputes or complaints You may have relating to the Authorized Merchant, the applicable and respective Authorized Merchant's returns policy, or the Refund Amount from the Authorized Merchant shall be directed exclusively to the Authorized Merchant, or Your credit card, debit card or payment service provider.

### **Arbitration Agreement.**

Notice and Cure. Prior to initiating any lawsuit or arbitration against us or against any other person that relates to or arises from these Terms, You must first provide to us written notice of Your claim (a "Claim Notice") and a reasonable opportunity, not less than 60 days, to resolve Your claim. Prior to initiating any lawsuit or arbitration against You, we will provide You with a Claim Notice and a reasonable opportunity, not less than 30 days, to resolve our claim. If we are sending You a Claim Notice, we will send it to You at the most recent email and/or physical mail address appearing in our records or, if You are known to be represented by an attorney, to Your attorney's office address. Any Claim Notice must explain the nature of the Claim and the relief that is demanded. You and we agree to

reasonably cooperate in providing to each other any information or documentation relevant to the allegations described in the Claim Notice and to act in good faith to resolve the allegations before filing any lawsuit or arbitration.

1. Notice and Cure. Prior to initiating any lawsuit or arbitration against us or against any other person that relates to or arises these Terms, You must first provide to us written notice of Your claim (a "Claim Notice") and a reasonable opportunity, not less than 60 days, to resolve Your claim. Prior to initiating any lawsuit or arbitration against You, we will provide You with a Claim Notice and a reasonable opportunity, not less than 30 days, to resolve our claim. If we are sending You a Claim Notice, we will send it to You at the most recent email and/or physical mail address appearing in our records or, if You are known to be represented by an attorney, to Your attorney's office address. Any Claim Notice must explain the nature of the Claim and the relief that is demanded. You and we agree to reasonably cooperate in providing to each other any information or documentation relevant to the allegations described in the Claim Notice and to act in good faith to resolve the allegations before filing any lawsuit or arbitration.
2. Except as expressly provided in this Arbitration Agreement, You and we agree that any past, present, or future claim, dispute, or controversy, regardless of the legal theory on which it is based, arising out of, relating to, or in connection with these Terms, or that arises from or is related to any relationship resulting from these Terms (a "Claim"), may be submitted to and resolved on an individual basis by binding arbitration under the Federal Arbitration Act, 9 U.S.C. §§1 et seq. (the "FAA"), before the American Arbitration Association (the "AAA") under its Consumer Arbitration Rules (the "AAA Rules"), in effect at the time the arbitration is brought, unless we and You agree in writing to arbitrate before a different party. If the AAA is unable to serve as administrator—and we and You cannot agree on a replacement—a court with jurisdiction will select the administrator or arbitrator. The AAA Rules are available online at <http://www.adr.org> or You can contact the AAA at 800-778-7879. If a Claim is arbitrated, it will be resolved by a neutral third-party arbitrator, and not by a judge or a jury, and You and we knowingly and voluntarily waive the right to a jury trial on such Claim.
3. The party bringing the Claim may elect arbitration of the Claim by initiating an arbitration in accordance with the AAA Rules. The other party may elect arbitration by giving written notice of an election to arbitrate. This notice may be given after a lawsuit has been filed and may be given in papers or motions in the lawsuit. If such a notice is given, the Claim shall be resolved by arbitration under this Arbitration Agreement and the AAA Rules then in effect. It will be up to the party bringing the Claim to commence the arbitration proceeding. Even if all parties have opted to litigate a Claim in court, we or You may elect arbitration with respect to any Claim made by a new party or any Claim later asserted by a party in that or any related or unrelated lawsuit (including a Claim initially asserted on an individual basis but modified to be asserted on a class, representative, or multi-party basis). Nothing in that litigation shall constitute a waiver of any rights under this Arbitration Agreement. The arbitrator will be selected under the AAA Rules.
4. "Claim" has the broadest possible meaning and includes initial claims, counterclaims, cross-claims, and third-party claims. It includes disputes based upon contract, tort, consumer rights, fraud, and other intentional torts, constitution, statute, regulation, ordinance, common law, and equity (including any claim for injunctive or declaratory relief). For purposes of this Arbitration Agreement the term "we" or "us" includes (a) TodayPay Inc; (b) any successor, successor-in-interest, transferee, assignee, affiliated fund, agent, designee, service provider, or any person or entity acting at our request or on our behalf in connection with these Terms; (c) any affiliates, subsidiaries, and/or parent of the persons and entities referenced in (a) or (b); (d) the officers, directors, employees, stockholders, members, affiliates, subsidiaries, and parents of all of the foregoing in (a) through (c); and (e) any party named as a co-defendant with us in a Claim asserted by You.
5. Notwithstanding the above, if a Claim that You or we wish to assert against the other is cognizable in a small claims court (or Your state's equivalent court) having jurisdiction over the Claim and the parties, You or we may pursue such Claim in that small claims court; however, if the Claim is transferred, removed, or appealed to a different court, it may be resolved by arbitration as described herein. Nothing in that small claims court lawsuit shall constitute a waiver of any party's rights under this Arbitration Agreement with respect to Claims asserted in any related or unrelated lawsuits.
6. Any dispute concerning the validity or enforceability of this Arbitration Agreement or any part thereof (including, without limitation, the class action waiver below) must be decided by a court; any dispute concerning the validity or enforceability of this Agreement as a whole is for the arbitrator. Any arbitration hearing that You attend will take place in a location that is reasonably convenient for You. If You cannot obtain a waiver of the AAA's or arbitrator's filing, administrative, hearing, and/or other fees, we will consider in good faith any request by You for us to bear such fees. Each party will bear the expense of its own attorneys, experts, and witnesses, regardless of which party prevails, unless applicable law or these Terms gives a right to recover any of those fees from the other party. The arbitrator shall follow applicable substantive law to the extent consistent with the FAA, applicable statutes of limitation, and privilege rules that would apply in a court proceeding, and shall be authorized to award all remedies available in an individual lawsuit under applicable substantive law, including, without limitation, compensatory, statutory, and punitive damages (which shall be governed by the constitutional standards applicable in judicial proceedings), declaratory, injunctive, and other equitable relief, and attorneys' fees and costs. Upon the timely request of either party, the arbitrator shall write a brief explanation of the basis of his or her award. The arbitrator's award will be final and binding, except for any appeal right under the FAA. Any court with jurisdiction may enter judgment upon the arbitrator's award. No arbitration

award involving the parties will have any preclusive effect as to issues or claims in any dispute involving anyone who is not a party to the arbitration, nor will an arbitration award in prior disputes involving other parties have preclusive effect in an arbitration between the parties to this Arbitration Agreement.

7. This Arbitration Agreement shall survive the termination of these Terms, Your fulfillment or default of Your obligations under these Terms, and/or Your or our bankruptcy or insolvency (to the extent permitted by applicable law). In the event of any conflict or inconsistency between this Arbitration Agreement, the AAA Rules, or any other provisions of any of the additional agreements, this Arbitration Agreement will govern.
8. Nothing in these Terms preclude You from filing a complaint, or a charge with any governmental agency, or from participating in an administrative investigation of a charge before any appropriate government agency.
9. **CLASS ACTION WAIVER: NEITHER YOU NOR WE WILL HAVE THE RIGHT TO PARTICIPATE IN A CLASS ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE ACTION IN COURT OR IN ARBITRATION, EITHER AS A CLASS REPRESENTATIVE OR CLASS MEMBER.**
10. Further, unless both You and we agree otherwise in writing, the arbitrator may not join or consolidate Claims with claims of any other persons. The arbitrator shall have no authority to conduct any class, private attorney general, or other representative proceeding, and shall award declaratory or injunctive relief only in favor of the party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. The arbitrator shall have no authority to issue any relief that applies to any person or entity except You or us individually. If any portion of this Arbitration Agreement cannot be enforced, the rest of the Arbitration Agreement will continue to apply, except that (a) if a determination is made in a proceeding involving us and You that the class action waiver is invalid or unenforceable with respect to a claim that does not seek public injunctive relief, only this sentence of this Arbitration Agreement will remain in force and the remainder of this Arbitration Agreement shall be null and void, provided that the determination concerning the class action waiver shall be subject to appeal, and (b) if a Claim is brought seeking public injunctive relief and a court determines that the restrictions in the class action waiver prohibiting the arbitrator from awarding relief on behalf of third parties are unenforceable with respect to such Claim (and that determination becomes final after all appeals have been exhausted), the Claim for public injunctive relief will be determined in court and any individual Claims seeking monetary relief will be arbitrated. In such a case, the parties will request that the court stay the Claim for public injunctive relief until the arbitration award pertaining to individual relief has been entered in court. In no event will a Claim for public injunctive relief be arbitrated.
11. **Right To Opt-Out of Arbitration:** You may opt-out of this Arbitration Agreement by [support@todaypay.me](mailto:support@todaypay.me) within 30 calendar days after the effective date of these Terms. Any rejection notice must include Your name, address, email address, telephone number, and account or contract number. If You reject this Arbitration Agreement, no other provision of these Terms will be affected.
12. **Waiver of Jury Trial. YOU ACKNOWLEDGE AND AGREE THAT, INASMUCH AS THE PURPOSE OF THIS ARBITRATION AGREEMENT IS TO REQUIRE THAT ALL CLAIMS MAY BE RESOLVED BY BINDING ARBITRATION, EXCEPT TO THE EXTENT THAT THIS WAIVER IS PROHIBITED BY ANY APPLICABLE LAW, NO PARTY TO THIS RETAIL INSTALLMENT CONTRACT SHALL BE ENTITLED TO A TRIAL BY JURY IF SUCH ARBITRATION AGREEMENT IS IN EFFECT. MOREOVER, TO THE EXTENT YOU TIMELY AND ADEQUATELY REJECT THIS ARBITRATION AGREEMENT, OR IF FOR ANY OTHER REASON A CLAIM IS NOT ARBITRATED, WE AND YOU KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY CLAIM, EXCEPT TO THE EXTENT THAT THIS WAIVER IS PROHIBITED BY APPLICABLE LAW.**

## **Miscellaneous**

### **1. Disclaimer of Representations, Warranties, and Limitations of Liability**

Each instarefund™, and any other services that we may provide to You pursuant to the terms of these Terms (the "Services"), are provided as-is. To the fullest extent permitted by any applicable law, we do not make any express or implied guarantees, representations, or warranties to You or to any third parties in connection with any of the Services. To the fullest extent permitted by any applicable law, we hereby expressly disclaim all representations or warranties of any kind, express or implied, as to the Services. We expressly disclaim all guarantees, warranties, conditions, and representations of any kind, either express or implied, whether arising under any statute, law, commercial use or otherwise, including implied warranties of merchantability, fitness for a particular purpose, and title or non-infringement. In no event shall we or any of our owners, officers, employees, agents, service providers, or affiliates (the "Parties") be liable, directly or indirectly, under any theory of law (contract, tort, negligence or otherwise), to You or anyone else, for any claims, losses or damages, direct, indirect special, incidental, punitive or consequential, resulting from or occasioned by the creation, use of or reliance on, our Services, this website (including information and other content) or any third party websites or the information, resources or material accessed through any such websites.

To the fullest extent permitted by applicable law, You hereby knowingly and voluntarily waive any and all rights, claims, damages, or actions, including for any attorneys' fees, against each of the Parties that may arise from any of our Services or from these Terms.

Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. In such states liability is limited to the extent permitted by law. Accordingly, some of the above limitations of this Section and the previous section may not apply to You.

To the fullest extent permitted by law, You agree to indemnify, defend and hold harmless each of the Parties from and against any and all claims, losses, expenses, demands or liabilities, including reasonable attorneys' fees arising out of or relating to:

- i. Your access to, use of, or alleged use of the Services;
  - ii. Your violation of these Terms or any representation, warranty, or agreements referenced herein, or any applicable law or regulation;
  - iii. Your violation of any third party right, including any intellectual property right, publicity, confidentiality, property or privacy right; or
  - iv. any disputes or issues between You and any third party.
2. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by You, and in such case, You agree to cooperate with our defense of such claim. You shall cooperate as fully as reasonably required in the defense of any such claim. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter subject to indemnification by You. You agree not to settle any matter without our prior written consent if such settlement does not release us from all present or future, and known or unknown, liabilities that each of the parties thereto has or could come to have in the future with respect to any of the Services.
3. Conflicts. In the event of any conflict between these Terms and any of the additional agreements, the terms of this Agreement shall be controlling.
4. Automatic Communications. By providing us with a mobile number and/or email address, either when you sign up for an Account or update the contact information associated with your Account, you consent to receiving SMS messages, phone calls, and emails via automated telephone dialing, text messaging systems, and electronic mail. Such communications may include, but are not limited to requests for secondary authentication, receipts, reminders, notifications regarding updates to your account or account support, and marketing or promotional communications. You acknowledge that you are not required to consent to receive promotional texts or calls as a condition of using the Services. Call and text message communications may be generated by automatic telephone dialing systems. The telephone messages may be played by a machine automatically when the telephone is answered, whether answered by You or someone else. These messages may also be recorded directly in Your voicemail without causing Your telephone to ring or otherwise notify or alert You of an incoming telephone call. You give us Your permission to call or send text messages to any telephone number You provide us now or in the future and to play pre-recorded messages or send text messages over the phone. You also give us permission to communicate such information to You via electronic mail. You agree that we will not be liable to You for any such calls or electronic communications, even if information is communicated to an unintended recipient. You understand that, when You receive such calls or electronic communications, You may incur a charge from the company that provides You with telecommunications, wireless, and/or internet services. You agree that we have no liability for such charges. You agree that this authorization constitutes a bargained-for exchange. To the extent You have the right under applicable law to revoke this authorization, You may opt-out of receiving promotional email communications we send to you by following the unsubscribe options on such emails. You may opt out of any promotional phone calls by informing the caller that you would not like to receive future promotional calls. You may opt-out of text messages from the Company by replying STOP or by changing your notification preferences in your Online Account. You acknowledge that opting out of receiving communications may impact your use of the Services.
5. Telephone and Screen Recording. You understand and agree that we may monitor and/or record any of Your phone conversations with us. You understand and agree that we may monitor and/or record Your interactions with our website. You understand and agree that, with Your prior consent, we may monitor and/or record Your interactions with the websites of certain Authorized Online Merchants as described herein.
6. Amendments. We may update or amend these Terms or any of the additional agreements at any time and for any reason by posting updated versions of any of the agreements on our website. Such amendments or updates will become effective immediately unless we expressly describe a later effective date in such updated agreement. If we make material changes to these

Terms, we will provide You notice of such changes before they become effective. By continuing to maintain Your Account after the effective date of any such amendment or update, You expressly agree to be bound by the updated terms. You must terminate each of Your accounts with us immediately if You do not agree to be subject to any updated agreements or Terms.

7. **Governing Law.** The validity, interpretation, construction, and performance of these Terms, and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto and thereto shall be governed, construed, and interpreted in accordance with the laws of the State of New York, without giving effect to principles of conflicts of law. Notwithstanding the foregoing, federal law shall govern the Arbitration Agreement portions of these Terms.
8. **Entire Agreement.** These Terms, together with the additional agreements, sets forth the entire agreement and understanding of the parties relating to the subject matter herein and supersedes all prior or contemporaneous discussions, understandings, and agreements, whether oral or written, between You and us relating to the subject matter hereof.
9. **TodayPay Offers.** From time to time we may present You with promotional offers from including but not limited to, third parties, Approved Merchants, TodayPay or its affiliates, if Your TodayPay account is in good standing. Such offers may be subject to agreeing additional terms and conditions at or prior to Redemption, are non-transferrable, may have no cash value, and may not be combined. Any such offers may be modified or withdrawn at any time prior to Redemption without express notice. Participation in any such offers is at the sole discretion of TodayPay or its affiliates.
10. **Successors And Assigns.** Except as otherwise provided in these Terms or any of the additional agreements, the rights and obligations of the parties hereunder, will be binding upon and inure to the benefit of their respective permitted successors, assigns, heirs, executors, administrators, and legal representatives. We may sell, assign, or otherwise transfer any of our rights, economic benefits, or obligations under these Terms. You may not assign, whether voluntarily or by operation of law, any of Your rights, economic benefits, or obligations under these Terms, except with our prior written consent.
11. **Notices.** Any notice, demand, or request required or permitted to be given under these Terms shall be in writing and, except as otherwise provided, shall be deemed sufficient when sent by email or 2 Business Days after being deposited in the U.S. mail as certified or registered mail with postage prepaid. Notices to us shall be sent to us at [support@todaypay.me](mailto:support@todaypay.me) or in accordance with such other notification requirements that we may provide to You in writing. Notices to You will be sent to the email and/or physical mail addresses You provided in Your application for an Online Account or to any other email and/or physical address that You provide to us, unless You have subsequently informed us that such email or physical address is invalid and have provided us with an updated email and/or physical address.
12. **Severability.** Except as set forth in the Arbitration Agreement, if 1 or more provisions of these Terms are held to be unenforceable under applicable law, the parties agree to renegotiate such provision(s) in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision(s), then (i) such provision(s) shall be excluded from these Terms, (ii) the remaining portions of these Terms shall be interpreted as if such provision(s) were so excluded, and (iii) the remaining portions of these Terms shall be enforceable in accordance with their terms.
13. **Execution; Electronic Transactions.** These Terms may be executed electronically or manually. Execution may be completed in counterparts (including both counterparts that are executed on paper and counterparts that are electronic records and executed electronically), which together constitute a single agreement. Any copy of these Terms (including a copy printed from an image of these Terms that has been stored electronically) shall have the same legal effect as an original.
14. **Independent Decision to Enter Into these Terms.** You agree that we are not an agent or fiduciary or advisor in Your favor in connection with the execution of this Agreement. You agree that we have not provided any legal, accounting, investment, regulatory, or tax advice with respect to these Terms.

## **Payment Authorization**

This Payment Authorization agreement will apply to any payment(s) You voluntarily choose make to TodayPay Inc, our service providers, and our payment processors (together, referred to as “us,” “our,” or “we”) and authorizes us to process any payment(s) that You agree to make. After You enter the details regarding any payment(s) You choose to make, we will display the date and amount of the payment(s) that You are authorizing on a payment confirmation page on our website. The payment confirmation page is subject to, and shall be part of, this Payment Authorization Agreement.

The payment confirmation page will have an “I Agree” button. By clicking “I agree” on the payment confirmation screen, You will be electronically signing this Payment Authorization and authorizing us to electronically withdraw funds from the bank account on the dates and in the amounts described on the payment confirmation page. You also authorize us to (a) make any withdrawals or other adjustments that we reasonably believe are necessary to ensure that each authorized withdrawal is free from any error; and (b) deposit into Your authorized account any electronic credits that we may initiate to You. This Payment Authorization is subject to the terms of

Your E-SIGN Consent. Your authorization will remain in effect until You cancel it, which You can do at any time via the Settings section of Your account or by sending us a written cancellation notice. Cancellations may take up to three days to be processed, so You must notify us at least three days before any scheduled payment if You wish Your cancellation to apply to that upcoming payment. We may cancel this Authorization if we are unable to complete any withdrawal when scheduled. You represent and warrant that You are the owner or authorized user of the bank account from which You are authorizing us to withdraw the funds specified in this authorization.

## **Appendix A: Transaction Agreement**

1. This Section of these Terms shall be referred to as the “Transaction Agreement”. This Transaction Agreement contains the terms, conditions and obligations that apply to Your request for an instarefund™ from TodayPay or its affiliates (“Us,” “Our,” and “We”). For the avoidance of doubt, each time You request an instarefund™, You agree to the terms contained in this Transaction Agreement which shall constitute a separate Transaction Agreement in each instance.
2. This TodayPay Transaction Agreement is a sale of Your right, title, and interest in a Receivable to TodayPay or its affiliates, and the instarefund™ represents the final and agreed purchase price that TodayPay or its affiliates is paying to purchase the Receivable from You. The final sale of the Receivable(s) to TodayPay or its affiliates is without recourse in the event the Approved Merchant does not pay TodayPay, pays TodayPay less than the Refund Amount, except as specifically provided in this this TodayPay Transaction Agreement or TodayPay User Agreement. Notwithstanding this, we may at our sole discretion demand that You repurchase any Receivable that You sold to TodayPay or its affiliates in the event that (i) TodayPay or its affiliates determine in our sole discretion, that You breached Your representation that the Receivable satisfied all instarefund™ and Transaction eligibility requirements at the time TodayPay issued You an instarefund™; (ii) You have breached any other representations, warranties, covenants, or terms of this this TodayPay Transaction Agreement or the Terms, or (iii) a Receivable that TodayPay or its affiliates purchased is, or becomes subject to, a dispute, in which case You must promptly repurchase the Receivable from TodayPay. The purchase price that You expressly agree You must pay TodayPay to repurchase the Receivable will equal the instarefund™ that TodayPay issued You for that Receivable. You affirmatively agree and consent that TodayPay shall retain all rights, title, and interest in the Receivable until TodayPay or its affiliates have received the repurchase payment in full, from You.
3. You violate this TodayPay Transaction Agreement if we determine, at our sole discretion, that You provided untrue, misleading, inaccurate, or incomplete information, or You otherwise tried to commit fraud or provide material misrepresentations to an Approved Merchant, and/or their or a TodayPay service providers, or if You do not comply with any term of this this TodayPay Instarefund™ Agreement or the Terms. If You violate this TodayPay Transaction Agreement, TodayPay or its affiliates may demand that You repurchase the Receivable by paying TodayPay a purchase price equivalent to the instarefund™ value issued.
4. If any provision of this Transaction Agreement is deemed unlawful, void or unenforceable for any reason, then that provision will be severed from the TodayPay Transaction Agreement and will not affect the validity and enforceability of any remaining provision of the TodayPay Transaction Agreement. This TodayPay Transaction Agreement represents the entire agreement between You and TodayPay or its affiliates in relation to the instarefund™ requested by You, or issued to You. TodayPay or its affiliates will not have any duties, obligations, or responsibilities to You that are not specified in this TodayPay Transaction Agreement. You acknowledge and agree that nobody who is not a party to this TodayPay Transaction Agreement will be a third party beneficiary of this TodayPay Transaction Agreement. TodayPay or its affiliates, at our sole discretion, may assign, transfer, or grant security over any of our rights to payment under this TodayPay Transaction Agreement to any other person, affiliate or entity. Subject to the sole discretion of TodayPay or its affiliates, we may agree to allow You to repurchase the Receivable from TodayPay, provided that TodayPay shall retain all rights, title, and interests in the Receivable until TodayPay has received the full repurchase payment in an amount equal to the instarefund™ from You.
5. This TodayPay Transaction Agreement and all matters arising out of, relating to, or in compliance with this TodayPay Transaction Agreement, including any disputes involving You and TodayPay, will be governed by the laws of the State of Delaware without regard to its conflicts of law provisions.
6. The TodayPay Transaction Agreement right to Arbitrate contained in the Terms applies to this TodayPay Transaction Agreement and any interactions or disputes between You and TodayPay or its affiliates under this TodayPay Transaction Agreement. Please refer to the Arbitration provisions that You expressly agreed and affirmatively consented to, when You agreed to the Terms

## **E-SIGN Disclosure.**

1. Scope of Disclosure. This disclosure (“Disclosure”) applies to all notices, disclosures, statements, and other communications that TodayPay or its affiliates (“TodayPay”) provide to you regarding TodayPay products and services (“Services”). It also applies to

agreements governing your use of the Services, and communications under them. All these communications and agreements are collectively referred to as “Communications.”

By submitting an application or opening an account to use the Services, you agree to this Disclosure and confirm your consent to (a) receive Communications electronically; and (b) the use of electronic signatures. If you choose not to consent to this Disclosure or if you withdraw your consent, you may be unable to use the Services.

2. Communications that are covered. Examples of Communications include:

- Any disclosure statement governing your use of the Services;
- Any disclosure required by Law;
- Billing statements, receipts and account history reports;
- Letters, notices and alerts regarding the Services and any changes to the Services;
- Federal and state tax statements and documents; and
- Other disclosures, notices and communications in connection with (a) your application for the Services; (b) your TodayPay Account; (b) account maintenance; or (d) servicing and collection of funds.

3. Methods of Providing Communications. Unless Law otherwise requires, or TodayPay otherwise agrees, TodayPay may provide Communications to you by (a) posting them on the TodayPay Website; (b) notifying you through the Services or any TodayPay application; (c) sending a text message to the mobile phone number listed in the applicable TodayPay Account; (d) sending an email to the email address listed in the applicable TodayPay Account; or (e) delivering them in another electronic format. Charges may apply to Communications sent by text or other electronic means and message frequency varies. Carriers are not liable for any delayed or undelivered messages. Messages and data rates may apply. View TodayPay Privacy Policy <https://legal.todaypay.tech/privacy>

4. Electronic Signatures. TodayPay may execute Communications electronically. If TodayPay requests, you will execute Communications electronically. You also agree that Communications you or Stripe sign electronically will have the same legal effect as a signed physical document.

5. Hardware and Software Requirements. In order to access, view, sign and retain electronic Communications that TodayPay provides to you, you must have:

- An up-to-date device (e.g., computer, tablet, or mobile phone) which has internet access;
- A current, compatible web browser, including the current or immediately preceding version of Chrome, Internet Explorer, Firefox, Safari and Edge;
- A valid email account;
- An operating system on your device capable of receiving, accessing and displaying Communications in electronic form via text-formatted email or gaining access to the TodayPay Website using a supported browser, including any necessary software (e.g., Adobe to read PDF documents); and
- If you wish to store or print any Communications, a device capable of storing and printing Communications.
- If you use a spam filter that blocks or re-routes emails from senders not listed in your email address book, you must add relevant TodayPay email accounts to your email address book.

6. Accessibility. If you are having problems viewing or accessing any Communications, please contact [support@todaypay.me](mailto:support@todaypay.me)

7. How to Withdraw Your Consent. Where offered, you may disable electronic Communications on TodayPay websites and applications, by responding to the Communication with “STOP”, or by following instructions in the Communication. TodayPay will confirm when you have successfully unsubscribed. Your withdrawal of consent to receive electronic Communications will be effective after Stripe has had a reasonable period of time to process your withdrawal.

By disabling or withdrawing your consent to electronic Communications, you will no longer receive them from TodayPay, but you may be disabling important security controls on your TodayPay Account, you may increase the risk of loss to you, and your ability to use the Services may be adversely affected or terminated.

9. Updating Contact Information. It is your responsibility to keep your contact information, including your primary email address, current. You can update your primary email address and other contact information by logging into TodayPay services or apps.

10. U.S. Federal Law. If you are located in the U.S., you acknowledge and agree that the Services are subject to the federal Electronic Signatures in Global and National Commerce Act (“E-SIGN Act”), and that you intend that the E-SIGN Act will apply to validate your ability to engage electronically in transactions related to the Services.