



# Application Form for Electronic Transactions Services

**PLEASE FAX/MAIL COMPLETED APPLICATION, RESALE CERTIFICATE, COPY OF ID AND VOIDED CHECK TO:**

**FAX #:** 1-800-670-0208 **ADDRESS:** Qpay, Inc., 16853 NE 2<sup>nd</sup> Avenue, Suite 302, North Miami Beach, FL 33162

**PLEASE CHECK THE FOLLOWING IF APPLICABLE AND FILL-IN THE APPROPRIATE INFORMATION**

<input type="checkbox"/>	I am an authorized Dealer/Distributor of Service Provider <u>  T-MOBILE  </u> (Name of Service Provider)
<input type="checkbox"/>	I am a Sub-Dealer of a Master Dealer/Distributor    Master Dealer/Distributor Name and Code: _____
<input type="checkbox"/>	I am not an authorized Dealer or Distributor of a Service Provider but am interested to process other approved product payments.

## COMPANY/STORE DETAILS

Company Name / Store Name:							
Company Doing Business As Name:							
Address:							
City:		County:		State:		Zip Code:	
E-mail Address:							
Telephone #:		Fax #:					
Date Business Established:			Federal Tax ID # (FEIN):				
Will payments be processed at this address?			T-Mo Sales Code:			Exclusive Retail Partner?	
Business Type:	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> LLC	<input type="checkbox"/> LLP	<input type="checkbox"/> Corporation	<input type="checkbox"/> S-Corporation	
Industry Type:	443112 Radio, Television, and Other Electronics Stores						
	443120 Computer and Software Stores						
	Other - List _____						

## OWNER(S) DETAILS

<b>Owner 1:</b> First Name:				Last Name:			
Date of Birth:				Social Security #:			
Driver's License #:				State of Issue:			
Home Address:							
City:		State:		Zip Code:			
Home #:				Mobile #:			
<b>Owner 2:</b> First Name:				Last Name:			
Date of Birth:				Social Security #:			
Driver's License #:				State of Issue:			
Home Address:							
City:		State:		Zip Code:			
Home #:				Mobile #:			

**If you have any questions, please contact Qpay's Application Department at 1-866-236-7733.**



# Application Form for Electronic Transactions Services

I (we) hereby authorize Qpay, Inc., a Florida corporation, or its representative, hereinafter called "COMPANY", to initiate RECURRING debit entries to my (our) **Business Checking** bank account indicated below and the depository/bank named below, hereinafter called "BANK", to debit the same to such account. This authorization is to remain in full force and effect until COMPANY has received written notification from me (or either of us) of its termination in such time and in such manner as to afford COMPANY a reasonable opportunity to act on it. The undersigned below warrant(s) and represent(s) that all information regarding the Bank Account and Account Owner is true and correct.

**BANK ACCOUNT INFORMATION - PLEASE INCLUDE: A clear photocopy of a voided check or Bank Letter (no deposit slips) for the bank account listed below.**

<b>BANK NAME:</b>			
<b>NAME ON THE ACCOUNT:</b>			
<b>BANK TRANSIT/ABA/ROUTING NUMBER:</b>			
<b>BANK ACCOUNT NUMBER:</b>			

### ACCOUNTS PAYABLE CONTACT(S)

Name:		Phone#:		Email:	
Name:		Phone#:		Email:	

### LOCATIONS

Please list additional store locations that will be debited using the above bank account. If you require debiting from different bank accounts, please print and submit this page for each bank account and corresponding store locations. In addition you must provide your T-Mobile Sales Code and checkmark if location is an ERP (Exclusive Retail Partner).

	Store Name/DBA	T-Mobile		Store Address City, County, State, Zip Code	Phone Number	STORE HOURS		
		Sales Code	ERP			M – F	Sat	Sun
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								



# Terms and Conditions

## 1.0 Introduction

- 1.1 We are a solution provider for all Service Providers and ET we offer you.
- 1.2 These are the Terms and Conditions referred to in the Application Form for Electronic Transaction Services (the "Application Form"). The Application Form and these Terms and Conditions form the entire Agreement between you and us (the "Agreement").
- 1.3 This entire Agreement including the Terms and Conditions are presented and delivered to you in electronic form. The Electronic law (ESIGN ACT) provides for the legal recognition of electronic records, electronic signatures, electronic contracts and notification to the consumer that such electronic means are being used for consumers to access information and provide information in the electronic format. You have the right or option to have the electronic record provided or made available to you in paper form upon request.
- 1.4 Qpay, Inc. reserves the right to amend, modify or make additions to the Agreement from time to time in its sole and absolute discretion. In the event the Agreement is amended or modified, Qpay will provide you with written notification of such amendments or modifications within a reasonable period of time after such changes are made.

## 2.0 Definitions

- 2.1 "Qpay" or "we" means Qpay, Inc., its employees or agents, and "us" and "our" will be construed accordingly; "you" means the company, partnership or individual identified in Company/Store/Owner/Officer details of the Application Form, and "your" will be construed accordingly. All other terms defined in the Application Form for Electronic Transaction Services will apply to the rest of the Agreement unless the context requires otherwise.
- 2.2 "Service Provider(s)" means any provider of service such as wireless communications, utilities, electricity or other consumer services.
- 2.3 "ET" or "ETs" means (an) electronic transaction(s) involving a payment, or a balance inquiry, made at your store by a consumer/ subscriber of a Service Provider.
- 2.4 "Transaction / Convenience Fee" means a fee that you need to collect from consumers once performing an ET, as outlined in the Transaction Fee Schedule which is published from time to time by Qpay, and is available upon request.
- 2.5 "Total Daily Sum" means the combined sum of ETs in one business day, plus the total sum of Transaction Fees for the same period, for all transactions performed by you at all your store locations.
- 2.6 "Business PAD" or "Pre-authorized debit" or "PAD" is a withdrawal from your account at a Financial Institution (FI), related to a Business or commercial activity, that is initiated by a company or an FI that has your authority to do so. PADs are often used as a convenient way to make recurring payments to an organization on an ongoing basis.
- 2.7 A "Direct Debit" means a Pre-authorized debit (PAD) from your business bank account by us or any of our representatives for any sums in accordance with this Agreement. Direct Debits will be performed via Automated Clearing House (ACH), Automated Clearing Settlement System (ACSS), or a different method chosen by us. Authorization for Qpay to Direct Debit Your Bank Account is provided by you as per the detailed bank account information on the Application Form ("Bank Account Information"), or any future bank account change requests. You, Service Provider, and Qpay are regulated by the National Automated Clearing House Association (NACHA) and the

Canadian Payments Association (CPA), which are the primary regulatory oversight agencies addressing the rules and regulations for the commercial ACH/ACSS Network. Each participating depository financial institution agrees to comply with the rules and warrants that it is legally able to comply with all applicable requirements of the rules. You hereby also acknowledge abiding by the ACH/ACSS rules as published by NACHA/CPA, governing PAD/direct debits.

- 2.8 "Payor" means a person whose account is to be, or has been, debited with the amount of a PAD.
- 2.9 "Payee" means a person whose account is to be, or has been, credited with the amount of a PAD.
- 2.10 "Qpay Payment Center" shall mean the payment processing software, web application, and/or terminal installed at your location(s) by Qpay.

## 3.0 Electronic Payor's Business PAD Agreement

- 3.1 You (the Payor) agree to participate in this Business Pre-Authorized Debit Plan. You authorize Qpay (the Payee) to process Variable Business PADs through a Financial Institution on the Business Bank account(s) provided by you on the Agent Application, or on any future bank account change requests you provide. You authorize the Financial Institution to honor and pay such debits.
- 3.2 You (the Payor) warrant and guarantee that all persons whose signatures are required to sign on this account have signed the Authorization.
- 3.3 **For Canadian PAD agreements only : You (the Payor) agree that by signing this agreement and Us providing you with the ability to print this application, it will serve as your acknowledgement of receipt of Written Confirmation of the Electronic PAD Agreement and as such reduce the 15 day required period for advance delivery of the written confirmation, but no less than three days prior to the first pre-authorized debit. .**
- 3.4 You (the Payor) agree that by signing this agreement you have waived your right to receive pre-notification of the amount of the Business PAD and that you do not require advance notice of the amount of PADs before the variable debit is processed. Your business bank account will be debited for variable amounts every business day of the week except standard bank and US holidays. Top ups and adjustments are not permissible.
- 3.5 We will calculate for every calendar day Eastern Standard Time (EST) the amount of payments processed by your locations, identified by your Merchant (Branch) ID's assigned to you by Qpay. We will debit your account according to the debit schedule associated with your Service Provider(s) for the Total Daily Sum of these transactions plus the Transaction fees minus your applicable fees according to the debit schedule. Your exact debit schedule will be available on the Qpay On Line Payment Center or will be sent to you upon request, once your application has been approved. You acknowledge that a debit may take up to 24 hours to process and that in case banks are closed, debits will be made to your account the following business day.
- 3.6 We will provide you with a helpdesk service for any inquiries you may have related to the operation of the Qpay Payment Center. We will promptly and diligently respond to and attempt to resolve all inquires and complaints you may receive regarding Service Providers' customers arising out of any payment transaction. The Service Provider will promptly refer to us any such inquiries concerning any payment transaction. We will promptly refer to Service Provider any inquiries concerning Service Provider's operations or complaints arising from Service



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Provider's acts or omissions, in which case Service Provider will be primarily responsible for promptly and diligently responding to and resolving such Service Provider related inquires and complaints. The parties will cooperate in good faith to resolve such inquiries and complaints, and each party will interact with each Service Provider customer in a professional and courteous manner.

3.7 We may in our absolute discretion: (i) suspend or terminate this Agreement and / or your Qpay Payment Center Access without notice if any Direct Debit does not result in full payment according to this Agreement, (ii) suspend or terminate this agreement and / or your Qpay Payment Center Access upon request from any of the Service providers, (iii) **charge interest at the rate of prime + 5% or the maximum interest rate allowed by law (whichever is greater) on any overdue payments** not paid within one (1) business day of the notification to you that the amount is unpaid, (iv) Set a credit limit and suspend or terminate your ability to conduct ETs if you have exceeded your credit limit, and/or (v) Suspend or terminate this Agreement without notice if you remove the Qpay Payment Center from the authorized location, move the Qpay Payment Center to any location not authorized in the Application Form, provide unauthorized third parties access to the Qpay Payment Center, or give possession of the Qpay Payment Center to unauthorized stores and / or personnel.

### 3.8 PAD Cancellation

You may revoke or cancel the PAD Agreement at any time provided you give a written notice to us at our registered office: 16853 NE 2nd Ave Suite 302, North Miami Beach, FL. 33162 at least ten (10) business days prior to your desired termination date. If more than one person has signed the Application/Authorization, written notice of cancellation signed by one such person shall act to cancel the Application/Authorization. In such event, you will cease accepting payments as of the date set forth in your notice of termination letter. On termination of this Agreement for whatever reason all sums due to us by you shall become immediately due and payable. It is important to note that cancelling your PAD Agreement or seeking recourse through your financial institution does not negate your contractual obligations to the Payee. By cancelling your PAD Agreement, you are simply notifying the Payee that you no longer wish to pay by PAD. You understand that you can obtain sample cancellation form, or further information on your rights to cancel PAD Agreement at your FI or at [www.NACHA.org](http://www.NACHA.org) for US or [www.cdnpay.ca](http://www.cdnpay.ca) for Canada.

### 3.9 Recourse, Reimbursement

You have certain recourse rights if any debit does not comply with this agreement.

In the event that you disagree with any PAD amount, within forty-eight (48) hours of such Direct Debit, you must send us a written notification of such dispute by mail, email or fax. We will send you all documentation supporting the debit within five (5) business days. For every dispute notification you send Qpay, you must attach the relevant "End of the Day Summary" reports from the Qpay Payment Center, as defined in clause 4.6. Regardless of a dispute, you must pay Qpay the total daily sum.

We will provide you a monthly statement via email, mail or facsimile or provide you online access to such reports consisting of a transaction summary and the monthly debits from your accounts.

In Canada, you may dispute a Business PAD by providing a signed written declaration to your FI up to and including but

no later than ten (10) business days after the date on which the disputed Business PAD was posted to your Account. In order to be reimbursed you must acknowledge within the signed declaration that any of the following conditions took place:

- a) The Business PAD was not drawn in accordance with this Agreement; or
- b) This agreement was revoked or cancelled; or
- c) Any pre-notification or waiver was not received.

You acknowledge that after this ten (10) business day period, you shall resolve any dispute regarding a Business PAD solely with Us.

### 4.0 Rights and Obligations

4.1 The Qpay Payment Center which you have been provided may only be used for the sole purpose of conducting ETs under the terms of this Agreement to prevent transaction errors. You should be diligent in and responsible for maintaining the Qpay Payment Center in good working order.

4.2 You will enable ETs for consumers of the Service Providers in accordance with the terms of this Agreement, collect the money for all ETs and allow us to Direct Debit Your Bank Account and transfer these amounts to the Service Providers.

4.3 You may use the Qpay Payment Center to conduct consumers' balance inquiries only for users that come to your store to make a payment. You must verify the identity of such customer, which will include at a minimum reviewing government issued photo identification of the customer to confirm that he or she is the individual identified in the payment data, and upon such verification submit an electronic request to Service Provider for such customer's current account balance, you in turn will inform the Service Provider customer of the balance. If you are unable to verify that the customer is the person named on the Service Provider account, or otherwise are unable to retrieve the customer's account information from Service Provider, you are to advise the Service Provider customer that the account information could not be retrieved and suggest that the customer contact the Service Provider's Customer Care to obtain his or her account balance.

4.4 You will (a) promptly direct to us any inquires or complaints you may receive from Service Provider customers arising out of any Services; (b) except to the extent Qpay is responsible for such compliance, comply with all applicable Financial Services Laws and all Network Rules in connection with the acceptance and processing of any payment transactions from Service Provider customers; (c) indemnify and hold harmless the Service Provider Indemnitees from and against any claims, losses, liabilities, costs or expenses (including reasonable attorney's fees) arising out of or relating to your failure to comply with any applicable Financial Services Law or Network Rule; and (d) comply with Qpay's and Service Provider's instructions and procedures related to the acceptance and processing of any payment transactions from Service Provider customers.

4.5 You will ensure that at all times there are sufficient funds in your Bank Account to meet any Direct Debit that we will attempt to make in accordance with this Agreement. In addition, you must ensure a daily reserve of at least \$500 in your Bank Account to accommodate for any bank or related processing fees.

4.6 At the end of each business day, (or if ETs are made available 24 hours a day, at least once in each 24 hour period) you will print or otherwise retrieve and store from the Qpay Payment Center an "END OF THE DAY SUMMARY", which will provide you with the total value of ETs and the number of transactions. You will keep the receipts of the End of the Day Summary for at



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least 24 months for reconciliation purposes, and allow us to inspect them during business hours.

You agree that the billing records of Qpay shall be the sole source to determine the amounts owed by you to Qpay. In case you are using a point of sale software (POS) or a POS integrated with Qpay's system, or any other software or tool to track and reconcile receivables / payables, no source other than the information at Qpay servers, shall be used to determine amounts owed by you to Qpay per this contract. Qpay shall not be responsible for any discrepancies between any POS or other tools / services and the Qpay billing statements.

**ON EACH BUSINESS DAY BY 12:00 PM EST YOU WILL HAVE IN YOUR BANK ACCOUNT THE TOTAL DAILY SUM OF THE LAST BUSINESS DAY (OR BUSINESS DAYS, AS DESCRIBED IN CLAUSE 3.5). THE TOTAL DAILY SUM INCLUDES TRANSACTION FEES MINUS YOUR FEES EARNED. (PLUS THE \$500 RESERVE AS DESCRIBED IN CLAUSE 4.5)**

- 4.7 YOU ACKNOWLEDGE AND AGREE THAT THE TOTAL SUM OF THE ETs ARE SUMS COLLECTED BY YOU FOR AND ON BEHALF OF THE SERVICE PROVIDERS AND THAT QPAY'S ROLE IS TO TRANSFER THESE SUMS FROM YOUR BANK ACCOUNT TO THE BANK ACCOUNTS OF THE SERVICE PROVIDERS. YOU UNDERSTAND THAT IN CASE OF FAILURE TO DEBIT YOUR BANK ACCOUNT, ANY SERVICE PROVIDER MAY DIRECTLY OR INDIRECTLY CLAIM FROM YOU THE TOTAL AMOUNT DUE TO THEM, IN ADDITION TO QPAY'S RIGHT TO DO SO. YOU ALSO ACKNOWLEDGE THAT ANY FAILURE TO DEBIT YOUR BANK ACCOUNT MAY RESULT IN SERVICE PROVIDERS SANCTIONS AGAINST YOU, AND MAY AFFECT YOUR TRADING AND OTHER RELATIONSHIPS WITH THEM.
- 4.8 Any attempt by us to debit your bank account which results in failure, due either in whole or in part to insufficient funds, will result in automatic suspension of Your Account and an assessment of an administrative fee in the amount of Seventy Dollars (\$70.00). You are to immediately secure funds in order to avoid any further fees and penalties. To re-activate your account we may request a security deposit in a form to be determined by us at our sole discretion.
- 4.9 Inability to collect funds: In the event that we are unable to successfully debit your account after one (1) attempt, you agree to pay all costs of collections, including but not limited to all court costs, attorney fees, and interest as stated above. Qpay's bank records showing one debit return from Your Bank Account will serve as definite and final proof of non payment. Qpay shall pursue every action available by law to collect such amounts from owners individually and / or all entities listed on the agent application form.
- 4.10 You represent and warrant that all information provided to us in relation to this Agreement including the information on the Application is true and accurate and you will promptly inform us in writing if any of that information changes during the time period of this Agreement.
- 4.11 The parties acknowledge that Qpay relies upon the creditworthiness of owners to approve or reject agent applications, as such, the owners will at all times be **personally** responsible for any amount owed by them or their entity under which agent business is conducted to us per the Terms and Conditions set forth in this Agreement. Owners will at all times be **personally** responsible for payment to us for all ETs and will at all times be **personally** responsible for ensuring that you or your entity shall receive full payment from each consumer for any ETs enabled. You and your entity will bear the risk of fraud, under payment or payment failure by any of your customers and will remain responsible for payment to us for all ETs enabled whether or not you receive any or full

payment from the customer, and whether or not the person performing the ET at your store(s) was authorized or not authorized to do so.

- 4.12 Change of ownership: In case of a change of ownership in your business, you shall notify Qpay immediately in writing, with at least five (5) business days advance notice of such change. You shall be responsible for all ET's processed out of locations registered under your business even if these stores or locations were sold, unless you have notified Qpay as set forth above and Qpay has acknowledged receipt of your request.
- 4.13 You will handle the Qpay Payment Center with the appropriate care, and will include it as an insured asset in your business inventory insurance policy. In case of theft of the Payment Center you will notify us immediately so we can disable the Payment Center from processing ETs.
- 4.14 You shall at all time keep the Qpay Payment Center at the store location(s) described in the Application Form(s) and shall be prohibited from conducting ETs at any locations not listed in the Application Form.
- 4.15 You shall be responsible for being in compliance with any and all applicable state and federal laws and will be responsible for paying all applicable state and local taxes imposed on the distribution/sales of any applicable products. Qpay shall not be responsible for those taxes that you are legally required to pay or collect from such consumers at the point of sale. You shall provide Qpay with valid and appropriate resale or tax exemption certificates and other similar documentation to demonstrate under applicable law that Products delivered under the Agreement to you or your customers are delivered for resale in the ordinary course of business and therefore not subject to sales or other applicable tax, if any, at the time of sale from Qpay to you. You will provide this resale or tax exemption certificate within three (3) business days following execution of this Agreement, and annually (or as required by State Law) thereafter, throughout the term of this Agreement, on or before January 31 of each year. Qpay reserves the right to pass on to you any federal excise tax and any and all government recovery fees which may be imposed or payable by virtue of the transactions hereunder. In such event, you will be responsible for the payment of same.

### 5.0 General Terms and Conditions

- 5.1 You will at all reasonable times allow us access to your store (s) for the purposes of this Agreement and for the purposes of fulfilling any of our obligations to any of the Service Providers. You will allow us a right to audit your books, records, computer files, data and figures relating to the enabling of ETs and the performance of this Agreement at any time during normal business hours without notice.
- 5.2 "**Confidential Information**" means any and all financial data, customer lists, methods, processes, procedures, trade secrets, vendor lists, service provider lists, proprietary information and/or other information relating to Qpay's business, which is not in the public domain. You, and your agents, employees, directors, officers and representatives must not during this Agreement or at any time thereafter use, divulge or communicate to any person, directly or indirectly, except to your professional advisers or as maybe required by law, any Confidential Information which may at any time come into your knowledge. You will use your best endeavours to prevent the disclosure or use, other than in the ordinary course of business, of any Confidential Information. Upon termination of the Agreement for any reason you must return to us all written Confidential Information and confirm in writing that you have done the same.



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- 5.3 You will ensure that all your obligations under this Agreement are performed in a secure manner, which minimizes all possibilities of fraud, deception or breaches of confidentiality, by you, your employees, agents, representatives or customers. You will perform your obligations under this Agreement in a timely manner, with all due skill and care and in accordance with current industry standards and all applicable laws, regulations or similar rules. You will ensure that at all times you have all permissions, licenses, waivers, consents, registrations and approvals which are necessary to perform your obligations under this Agreement
- 5.4 You will not do or omit to do anything, which could reasonably bring the Service Providers, our or their services for us into disrepute.
- 5.5 If you suspect that a breach of security or confidentiality has occurred or is reasonably likely to occur you will inform us immediately and will take such steps as may be necessary to avoid and/or mitigate the effects of the breach.
- 5.6 You are entitled to describe yourself as an authorized retailer of ETs and / or a Qpay payment center. The Agreement does not authorize you to make any representation on behalf of any Service Provider and you shall obtain any such authorization as may be required from each Service Provider directly.
- 5.7 This Agreement is personal to you and you may not assign, transfer, sub-contract or create a trust in respect of any of your obligations under this Agreement.
- 5.8 IMPORTANT. Unless otherwise specified in this Agreement, we shall not be liable for any special, direct, indirect or consequential loss including loss of revenue, profit, business or data or increased costs or expenses incurred by you in connection with this Agreement. Our entire liability under this Agreement whether in contract, tort or misrepresentation (except fraudulent misrepresentation) shall be a maximum aggregate amount of \$1000.
- 5.9 Any right or remedy conferred upon us by this Agreement shall be without prejudice to and shall be in addition to all other rights and remedies as may be available to us at law. The failure to exercise or delay in exercising any rights or remedies shall not constitute a waiver by us. No waiver or variation of any part of this Agreement shall be effective unless made in writing and executed by an officer of Qpay. This Agreement sets out the entire agreement between you and us and supersedes all previous agreements, representations or negotiations between you and us. This agreement does not create any partnership or employment relationship between you and us.
- 5.10 You may display Qpay collateral in your store to make customers aware of the possibilities to make ETs in your store. Collateral will be provided by Qpay. Any other use of Qpay logos or Qpay trademarks is not authorized unless requested in writing and pre-approved by an officer of Qpay in writing.
- 5.11 This Agreement and any issues relating to its formation, performance or otherwise shall be governed by and construed in accordance with the State of Florida law and the courts of the state of Florida shall have exclusive jurisdiction to settle any dispute which may arise out of, under or in connection with this Agreement. Venue shall remain in Miami-Dade County, Florida.
- 5.12 We may terminate this Agreement at any time in its entirety by sending / faxing / emailing / handing to you a written notice if: (i) we reasonably believe you are insolvent or unable to pay your debts; (ii) you commit a material breach of this Agreement; (iii) we are required to do so by any Service Provider for any reason; (iv) any of our agreements with any of the Service Providers is terminated for any reason. (v) You fail to pay us any amount due according to this agreement or if a Direct Debit fails due to insufficient funds in your bank account.
- 5.13 You may terminate this Agreement at any time in its entirety only by sending a written notice to us at our registered office: 16853 NE 2nd Ave Suite 302, North Miami Beach, FL. 33162 at least ten (10) days prior to your desired termination date and only if: (i) we enter into formal insolvency proceedings; (ii) we commit an irremediable material breach of this Agreement, which has not been cured after you provide us with at least thirty (30) days advance written notice of your desire to terminate; or (iii) you would like to stop accepting payments for the Service Providers. In such event you will cease accepting payments as of the date set forth in your notice of termination letter.
- 5.14 On termination of this Agreement for whatever reason all sums due to us by you shall become immediately due and payable.
- 5.15 The term of the Agreement is 12 months. The Agreement will be automatically renewed for additional consecutive periods of 12 months each unless either party terminates this Agreement by providing the other party with at least sixty (60) days prior written notice of their intention to terminate the Agreement at the end of the current term unless otherwise terminated in accordance with the provisions set forth herein.
- 6.0 **Warranty Disclaimers and Limitations of Liability**  
**YOU AGREE THAT THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY PROVISIONS SET FORTH IN THIS SECTION 6 ARE REASONABLE AND ARE FUNDAMENTAL ELEMENTS OF THE AGREEMENT BETWEEN YOU AND QPAY. YOU ACKNOWLEDGE THAT QPAY WOULD NOT BE ABLE TO PROVIDE THE SERVICES ON AN ECONOMIC BASIS WITHOUT SUCH DISCLAIMERS AND LIMITATIONS.**
- 6.1 QPAY PROVIDES THE SERVICES, INCLUDING THE QPAY PAYMENT CENTER TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS. QPAY MAKES NO EXPRESS WARRANTIES OF ANY KIND AND DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT REGARDING ANY SERVICES OR ANY EQUIPMENT THAT QPAY MAY PROVIDE TO YOU. QPAY DOES NOT WARRANT THAT THE SERVICES AND EQUIPMENT OR THE USE OF EITHER WILL BE WITHOUT INTERRUPTION, ERROR-FREE OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. QPAY MAKES NO WARRANTIES AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR EQUIPMENT OR AS TO THEIR ACCURACY OR RELIABILITY. QPAY IS NOT LIABLE, AND EXPRESSLY DISCLAIMS ANY LIABILITY, FOR THE CONTENT OF ANY DATA TRANSFERRED EITHER TO OR FROM YOU OR STORED BY YOU OR ANY OF YOUR CUSTOMERS VIA THE SERVICES PROVIDED BY QPAY. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY QPAY, ITS EMPLOYEES, REPRESENTATIVES, AGENTS, AFFILIATES OR CONTRACTORS WILL CREATE A WARRANTY, EXPRESS OR IMPLIED, NOR MAY YOU RELY ON ANY SUCH ADVICE OR INFORMATION. SOME STATES (UNITED STATES ONLY) DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES. CONSEQUENTLY, THE ABOVE EXCLUSION MAY NOT APPLY TO YOU TO THAT LIMITED EXTENT. YOU AGREE THAT, IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SERVICES OR ANY EQUIPMENT THAT QPAY MAY PROVIDE TO YOU, ALL SUCH WARRANTIES WILL BE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE THE SERVICE COMMENCED OR THE LICENSED MATERIAL IS INSTALLED.
- 6.2 YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS QPAY AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS AND



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DIRECTORS, AND SERVICE PROVIDERS, THEIR AFFILIATES, RESPECTIVE OFFICERS, DIRECTORS, CONTRACTORS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, RELATED TO OR ARISING FROM: (I) YOUR AND YOUR END USERS' USE OF THE SERVICES AND/OR EQUIPMENT; (II) YOUR FAILURE TO COMPLY WITH ANY FINANCIAL SERVICES LAW OR NETWORK RULE AND COMPLY WITH QPAY'S AND SERVICE PROVIDER'S INSTRUCTIONS AND PROCEDURES RELATED TO THE ACCEPTANCE AND PROCESSING OF ANY PAYMENT TRANSACTIONS FROM SERVICE PROVIDER CUSTOMERS; (IV) ANY VIOLATION OF THE AGREEMENT; (V) ANY BREACH BY YOU ANY PROVISION OF THIS AGREEMENT; AND/OR (VI) ANY ACTS OR OMISSIONS BY YOU.

- 6.3 YOU AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU WILL NOT UNDER ANY CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, HOLD QPAY LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, COST SAVINGS, REVENUE, BUSINESS, DATA OR USE, OR ANY OTHER PECUNIARY LOSS BY YOU, ANY OF YOUR END USERS OR ANY OTHER THIRD PARTY. YOU AGREE THAT THE FOREGOING LIMITATIONS APPLY WHETHER IN AN ACTION IN CONTRACT OR TORT OR ANY OTHER LEGAL THEORY AND APPLY EVEN IF QPAY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES; YOU AGREE THAT IN THOSE JURISDICTIONS QPAY'S LIABILITY WILL BE LIMITED TO THE EXTENT PERMITTED BY LAW.
- 6.4 YOU AGREE THAT YOU WILL NOT HOLD QPAY OR ITS LICENSORS LIABLE UNDER ANY CIRCUMSTANCE FOR ANY DAMAGES THAT YOU SUFFER THAT RESULT FROM (I) THE USE OF OR INABILITY TO USE THE SERVICES OR EQUIPMENT, (II) MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, LOSS OR CORRUPTION OF DATA AND/OR BACK-UP DATA, FAILURE TO PERFORM DATA BACK-UP FUNCTIONS (OTHER THAN THOSE EXPRESSLY AGREED TO BY QPAY AND CURRENTLY PAID FOR BY YOU), ERRORS, VIRUSES, DEFECTS, DELAYS IN OPERATION OR TRANSMISSION, NON-DELIVERIES, MISDELIVERIES OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT CAUSED BY QPAY'S NEGLIGENCE, ACTS OF GOD, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO QPAY'S RECORDS, PROGRAMS, EQUIPMENT OR SERVICES; (III) YOUR ACTS OR OMISSIONS; OR (IV) THE ACTS OR OMISSIONS OF THIRD PARTIES.
- 6.5 YOU AGREE THAT QPAY'S MAXIMUM LIABILITY TO YOU UNDER THIS AGREEMENT FOR ALL DAMAGES, LOSSES, COSTS AND CAUSES OF ACTIONS FROM ANY AND ALL CLAIMS (WHETHER IN CONTRACT, TORT OR OTHER LEGAL THEORY) SHALL BE LIMITED TO THE LESSER OF (A) THE TOTAL AMOUNT OF ET FEES ACTUALLY PAID BY YOU TO QPAY FOR THE THIRTY DAY PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE DAMAGE OR LOSS OCCURRED OR THE CAUSE OF ACTION AROSE, (B) PROVEN DIRECT DAMAGES, OR (C) ONE THOUSAND DOLLARS (\$1,000.00).
- 6.6 THE TERMS OF THIS SECTION SHALL SURVIVE ANY TRANSMISSION OF THIS.
- 7.0 [Website License](#)
- 7.1 IMPORTANT -- READ CAREFULLY BEFORE USING OR OBTAINING ANY CONTENT, PRODUCT, OR SERVICES THROUGH OUR WEBSITE(S) AND OR AS THE RESULT OF

EXECUTING THIS AGREEMENT: This License Agreement ("License Agreement") is a legal agreement between you (either an individual or an entity) and Qpay, Inc. and its suppliers and licensors (collectively "Qpay") for Qpay Online Payment Center ("WEBSITE(S)" or "SITE").

- 7.2 Access to and use of these website(s) is subject to acceptance of the terms and conditions below ("Terms"). By accessing, using or obtaining any content, products, or services through these website(s), you agree to be bound by these terms. If you do not accept all of these terms, then please do not use these aforementioned website(s).
- 7.3 These Terms govern your use of all Content, Products or Services available through the Site. You agree to be bound by these Terms, and to use the Site in strict compliance with all applicable laws, rulings and regulations, and in a manner that does not negatively reflect on the goodwill or reputation of Qpay.
- a) You may not: (i) permit other individuals to use the Site except under the terms listed above; (ii) modify, translate, reverse engineer, decompile, disassemble (except to the extent that this restriction is expressly prohibited by law) or create derivative works based upon the Site or its Documentation; (iii) copy the Site or its Documentation (except for back-up or archival purposes); (iv) rent, lease, transfer, or otherwise transfer rights to the Site or its Documentation; (v) remove any proprietary notices or labels on the Site or its Documentation. Any such forbidden use shall immediately terminate your license to the Site.
- You are responsible for maintaining the secrecy of your User ID(s) and password(s). This is essential to protect the confidentiality of any information that may be stored or generated as a result of using any of the contents, products, or services of the Site. In addition, you will be financially accountable for all use of our Site by you and anyone using your password(s) and login information including any users assigned by you with passwords and login information.
- b) You agree that you shall only use the Site and Documentation in a manner that complies with all applicable laws in the jurisdiction in which you use the Site and its Documentation, including, but not limited to, applicable restrictions concerning copyright and other intellectual property rights.
- c) The Site is for private use only.
- d) You may not use the Site in conjunction with any device or service designed to circumvent technological measures employed to control access to, or the rights in, a content file or other work protected by the copyright laws of any jurisdiction.
- 7.4 Title, ownership, rights, and intellectual property rights in and to the Site and its Documentation shall remain in QPAY and/or its suppliers. The Site is protected by the copyright laws of the United States and international copyright treaties. Title, ownership rights and intellectual property rights in and to the content accessed through the Site including the content contained in the Site media demonstration files shall be retained by the applicable content owner and may be protected by applicable copyright or other law. This license gives you no rights to such content.
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- 7.6 This License Agreement shall terminate automatically (a) if you fail to comply with the limitations described in this license and (b) when your term as a Qpay agent shall terminate in accordance with the Agreement. No notice shall be required from QPAY to effectuate such termination. Upon termination, you must destroy any and all copies of the Site and its Documentation including login information and passwords.
- 7.7 U.S. GOVERNMENT RESTRICTED RIGHTS: This Site and its documentation are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Site--Restricted Rights at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Site clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR supplement, as applicable. Owner is Qpay, Inc. 16853 NE 2nd Ave # 302. North Miami Beach FL 33162. You are responsible for complying with all trade regulations and laws both foreign and domestic. You acknowledge that no content, products, or services available on the Site or underlying information or technology may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Iraq, Libya, Sudan, North Korea, Iran, Syria or any other country subject to a U.S. embargo; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Denied Parties List or Entity List. By using the Site you are agreeing to the foregoing and are representing and warranting that (i) no U.S. federal agency has suspended, revoked, or denied you export privileges, (ii) you are not located in or under the control of a national or resident of any such country or on any such list, and (iii) you will not export or re-export the Site to any prohibited country, or to any prohibited person, entity, or end-user as specified by U.S. export controls.

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## 8.0 CREDIT CHECK RELEASE

- 8.1 I hereby authorize Qpay, Inc. to conduct a periodic review of my background causing a consumer/commercial report and/or an investigative consumer/commercial report to be generated for purposes of becoming an authorized Qpay agent. I understand that the scope of the consumer/commercial report/investigative consumer/commercial report may include, but is not limited to, the following areas: Verification of social security/insurance number\*; current and previous residences; current and previous places of business; credit history and reports;
- 8.2 I further authorize any individual, company, firm, corporation, or public agency (including the Social Security/Insurance

Administration and law enforcement agencies) to divulge any and all information, verbal or written, pertaining to me to Qpay, Inc. or its agents. I further authorize the complete release of any records or data pertaining to me which the individual, company, firm, corporation, or public agency may have, to include information or data received from other sources.

- 8.3 I hereby release Qpay, Inc., the Social Security/Insurance Administration, and its agents, officials, representatives, or assigned agencies, including officers, employees, or related personnel both individually and collectively, from any and all liability for damages of whatever kind, which may, at any time, result to me, my heirs, family, or associates because of compliance with this authorization and request to release. You may contact me as indicated below.
- 8.4 I understand that this authorization to conduct a review of my credit history as detailed above will remain in effect until I revoke said authorization in writing to Qpay.
- 8.5 The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age; (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, and Washington D.C. 20580.
- 8.6 If Qpay declines your credit application, you have the right to a written statement of the specific reasons for the denial. Upon such request from you in writing within 60 days of being notified of the adverse action, Qpay commits to notify you in writing within 30 days from your original request with a written statement of the reasons for the adverse action.

\*As permissible by Federal and/or State law.

## 9.0 OWNERS DECLARATION: I/we:

- (A) Agree to become a Qpay, Inc. agent (if approved by Qpay, Inc.) and to abide by the Terms and Conditions as annexed hereto and to any other rules, regulations and business requirements that may be set forth by Qpay, Inc. while I am an agent.
- (B) Agree that Qpay will debit my/our bank account in accordance with the Terms and Conditions and the debit schedule and I will ensure funds availability for such debits from my bank account(s).
- (C) Represent and warrant that the information given in this application is true and accurate.
- (D) Confirm that the signers of this document are authorized to sign on behalf of the store / company detailed in Section 1.
- (E) ACKNOWLEDGE THAT ALL PERSON(S), HAVING EXECUTED THIS APPLICATION AND ITS APPENDICES, HAVE EXECUTED SAME IN THEIR CORPORATE CAPACITY AND IN THEIR INDIVIDUAL CAPACITY AND AS SUCH ARE PERSONALLY LIABLE AND RESPONSIBLE FOR ALL AMOUNTS OWED TO QPAY, INCLUDING, BUT NOT LIMITED TO THE COST OF COLLECTION, ATTORNEY FEES, AND INTEREST AND OTHER SUMS IN ACCORDANCE WITH THE TERMS AND CONDITIONS IN THE EVENT OF A FAILURE OF THE ENTITY TO PAY QPAY IN A TIMELY FASHION.**
- (F) ACKNOWLEDGE AND AGREE THAT THE QPAY BILLING SYSTEM, CONSISTING OF REPORTS FOUND AT QPAY'S WEB SITE FOR THE STORE(S) LISTED ON THIS APPLICATION WILL CONSTITUTE A FINAL PROOF OF PURCHASE FOR SERVICES PURCHASED FROM QPAY BY US, AND THAT WE AGREE TO PAY THE AMOUNTS**



SHOWN BY THE QPAY BILLING SYSTEM IN FULL AND, IN CASE OF DISPUTE, WE WILL NOT WITHHOLD ANY AMOUNTS OWED TO QPAY AS DETERMINED BY THE QPAY BILLING SYSTEM.

(G) WE ARE AWARE THAT COLLECTING CUSTOMERS' MONEY FOR A BILL PAYMENT OR A SERVICE PAYMENT AND NOT REMITTING THE COLLECTED FUNDS TO THE SERVICE PROVIDER THROUGH QPAY MAY CONSTITUTE A BREACH OF CRIMINAL AND/OR CIVIL LAWS/STATUTES AND MAY BE REPORTED TO THE AUTHORITIES BY QPAY. QPAY SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES, CAUSES OF ACTION OR CLAIMS WITH REGARDS TO THE REPORTING OF ANY SUCH ACTIVITY.

10.0 **SIGNATURE ACKNOWLEDGEMENT:**

If you are a partnership, PLEASE NOTE that by signing this application you are confirming that you and all your partners agree to be bound by the signature(s) on this document.

You hereby certify that you have read and fully understood the Terms and Conditions of this Agreement as set forth herein, and that you fully understand any and all financial responsibilities that may result from your execution of this Agreement.

**You agree that by signing this agreement and Us providing you with the ability to print this application, it will serve as your acknowledgement of receipt of Written Confirmation of the Electronic PAD Agreement.**

By affixing your electronic signature to this agreement, you are acknowledging that you have entered into a legally binding agreement and that you have read, understand and agree to all of the provisions of this agreement including; the legal recognition of electronic records, electronic signatures and electronic contracts and your right or option to have a copy of the electronic record provided or made available in paper form. You also acknowledge, agree and understand that any misrepresentation or omission of the facts requested will constitute sufficient reason to cancel this application, or if approved as a dealer, to terminate the relationship.

Please sign in the space provided confirming your acknowledgement.

**Authorized Officer (1):**

Company Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Authorized Officer (2):**

Company Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_