

# TERMS OF USE

**License.** Subject to the terms and conditions of these Terms, during the Term (as defined below) CALYPSO PAY LTD hereby grants you a limited, non-exclusive, non-transferable, non-sublicensable, license to use the Solution Code together with related documentation, solely in order to integrate the Solution Code into your proprietary Internet site, application or systems (collectively, the “Application”), and to distribute such Solution Code as integrated into the Application or in order to provide payment services to your end users through the Solution. You acknowledge that you specify which payment processor(s) and/or payment solution(s) (“Processor”) you elect to work with, by configuring the Solution accordingly. CALYPSO PAY LTD shall integrate the Solution provided to you with such Processor on your behalf and provide such Processor with all information and data provided by you for provision of the services and the Solution. You hereby undertake to ensure that any Processor you elect complies with applicable law and you shall be liable to CALYPSO PAY LTD for any of breach by a Processor. Aside from the Solution Code, the Solution is provided by CALYPSO PAY LTD as a service over the Internet, and you shall not be entitled to any other code (whether source code, script or executable code) or software of the Solution. Solution Code shall not be distributed on a stand-alone basis. CALYPSO PAY LTD may choose to modify the Solution (including changing functionality or modifying the look and feel of the Solution) or cease provision of the Solution at any time, in its sole discretion.

**Account.** CALYPSO PAY LTD may require you to create an account. Use of the Solution is void where prohibited. By using the Solution, you represent and warrant that (a) all registration information you submit is truthful and accurate; (b) you will maintain the accuracy of such information; (c) you are 18 years of age or older or, if you are under 18, you have your parent’s or guardian’s permission to enter into these Terms, or otherwise have the ability to form a binding contract; (d) your use of the Solution does not violate any applicable law or regulation, or any obligation you may have to a third party; and (e) you shall notify CALYPSO PAY LTD immediately if there is a security breach of your account.

**Payment Schemes.** You must comply with all rules and regulations of all applicable card and other payment schemes (such as, but not limited to, Visa and MasterCard), and all other applicable laws and regulations in respect of the use of the Solution. You are responsible for obtaining accurate payment information from your customers and end users. You are responsible for all credits, returns, disputes and chargebacks and all costs

associated with the foregoing. CALYPSO PAY LTD is not

a payment service provider (PSP) or payment “acquirer” and shall have no liability or responsibility for the foregoing or in respect of the actions or omissions of any third party payment scheme, including the failure of any third party payment scheme to complete a transaction.

Representations and Warranties. You represent that: (A) the Application and any Customization Materials (as defined below) do not (i) infringe the intellectual property, privacy, publicity or moral rights of any third party; (ii) contain any defamatory, libelous, racist, obscene, pornographic or otherwise offensive content; (iii) violate any applicable law, regulation or rule, including applicable privacy and data protection laws and regulations; or (iv) contain any virus, worm, adware, spyware or otherwise malicious software or functionality; (B) the use of the Solution in the Application will not breach any other contracts or agreements you may have with other parties; (C) the Application complies with all applicable law and regulations, including applicable data protection law and the Application shall display a privacy policy in compliance with applicable law, which includes a description of how CALYPSO PAY LTD and the Processor will collect, process and store Customer Data; (D) you shall not provide CALYPSO PAY LTD with (access to) personal data not strictly necessary for provision of the Solution and the services provided thereunder, as determined by the Processor and advised to you and CALYPSO PAY LTD by such Processor. You will use commercially reasonable efforts to ensure that only bonafide transactions are submitted via the Solution. You are responsible for all communications with your customers and shall resolve all disputes or complaints directly with such customers.

Fraudulent, Deceptive or Unfair Business Practices. You may only use the Solution for lawful purposes and activities. You may not use the Solution for restricted activities that CALYPSO PAY LTD may designate from time to time in writing. You agree that CALYPSO PAY LTD may make inquiries to verify your identity and determine the ongoing creditworthiness and character of your business, including by verifying all provided information against third party databases. You shall cooperate with all such efforts of CALYPSO PAY LTD and shall provide information as reasonably requested by CALYPSO PAY LTD . To manage risk, CALYPSO PAY LTD reserves the right to monitor your transactions and processing activity for high-risk practices and compliance with these Terms.

Payment. The fees for use of the Solution, in accordance with the fees specified and, in the manner, detailed on our website, or as communicated by CALYPSO PAY LTD to you (the “Fees”). CALYPSO PAY LTD may update the Fees at any time upon 30 days written notice. You shall make payment of the Fees within 10 days of the conclusion of the calendar month in which the applicable transactions



occurred. Amounts due hereunder are exclusive of VAT and applicable taxes. You shall make payments hereunder free and clear, and without deduction or withholding, except as required by law. If you are required by law to make any deduction or withholding, you shall make payment of such additional amounts as is necessary such that CALYPSO PAY LTD shall receive the amounts due hereunder without any such deduction or withholding. Late payments shall bear interest at the rate of 18% per month or, if lower, the maximum amount permitted under applicable law. All Fees are non-refundable.

**Customization.** CALYPSO PAY LTD may agree to customize the Solution for you pursuant to a separate, written statement of work executed by both you and CALYPSO PAY LTD , which may require the payment of fees in consideration for such customization work. In the context of such customization, you may provide CALYPSO PAY LTD with certain materials (including trademarks, logos or brands) for incorporation in the Solution (“Customization Materials”). You represent and warrant that you have all right, title and ownership in the Customization Materials, and you hereby grant CALYPSO PAY LTD a non-exclusive license to incorporate such Customization Materials in the Solution for provision of such customized Solution to you and your customers and end users. The work product of any customization of the Solution performed by or on behalf of CALYPSO PAY LTD (except the Customization Materials) shall be deemed part of the Solution, owned by CALYPSO PAY LTD and (provided that all applicable Fees are duly paid by you) licensed to you according to the terms and conditions of these Terms. If the foregoing is not sufficient to grant CALYPSO PAY LTD all right, title and interest in the work product of any customization of the Solution performed by or on behalf of CALYPSO PAY LTD , you hereby assign to CALYPSO PAY LTD all right, title and interest in the work product of such customization work.

**Intellectual Property.** CALYPSO PAY LTD and its licensors have all right, title and interest in the Solution, the Solution Code and all documentation in respect thereof, all enhancements and improvements thereto and any intellectual property rights in the foregoing. No licenses are granted by estoppel or implication. Any reference in these Terms or other marketing material to the “sale” of the Solution or the Solution Code means only the license of the Solution or Solution Code pursuant to these Terms. You are not obligated to provide CALYPSO PAY LTD with any feedback in respect of the Solution, Solution Code or applicable documentation. Notwithstanding the foregoing, if you do provide CALYPSO PAY LTD with any such feedback, CALYPSO PAY LTD may use such feedback without any obligations to you (including any obligations of confidentiality or attribution) notwithstanding



anything in these Terms or in the course of dealing between you and CALYPSO PAY LTD. You shall have all right, title and ownership in the Customization Materials.

**Restrictions.** Except as set forth expressly herein, you shall not, and shall not permit any third party, to (a) reverse engineer or attempt to find the underlying code of the Solution Code or the software used to provide the Solution; (b) circumvent, disable, or otherwise interfere with security-related or access control features of the Solution or the Solution Code; (c) modify the Solution or Solution Code, or insert any code or product, or in any other way manipulate the Solution or Solution Code; (d) modify, reproduce, sell, lease, rent, create derivative works from, publish by hard copy or electronic means, sublicense, disseminate, retransmit, circulate to any third party or on any third-party web site, make the Solution or Solution Code available to any third party, or otherwise use the Solution or Solution Code except as expressly permitted by these Terms or (e) use the Solution to compete with the services provided by CALYPSO PAY LTD through the Solution. You may not remove or obscure any proprietary or copyright notice from the Solution, Solution Code or applicable documentation. To the extent any of the restrictions set forth in this Section are not enforceable under applicable law, you shall inform CALYPSO PAY LTD in writing in each instance prior to engaging in the activities set forth above. You undertake that your end user license agreement shall contain contractual provisions with substantially similar effect to those set forth in this Section 9.

**Privacy.** CALYPSO PAY LTD collects, processes and transfers Merchant's data in accordance with its Privacy Policy, available at <https://gate.express>. The Solution collects information and data (including Personal Information, as such term is defined in the Privacy Policy) in respect of customers and transactions processed through the Solution ("Customer Data"). CALYPSO PAY LTD shall comply with the Payment Card Industry Data Security Standard ("PCI DSS") in respect of such Customer Data. CALYPSO PAY LTD shall transmit all Customer Data to the applicable payment processor or scheme, in accordance with Merchant's instructions, for processing and may provide certain Customer Data or other payment information relating to your customers to you, subject to applicable law, rules and regulations. Solution may share information with any third party that Merchant instruct Solution to provide such information to ("Merchant Third Party"). Merchant hereby warrant that any such instructions and transfer shall be in accordance with applicable law, including regarding international transfer. Solution shall not be liable for any such transfer to a Merchant Third Party and Merchant hereby represent and warrant that solely Merchant (and not PaymentsOS) shall be responsible and liable for any such (international) transfer of data, including





Personal Information to a Merchant Third Party. In addition, CALYPSO PAY LTD may use aggregate, anonymous information that does not itself identify any specific individual or user for its own commercial purposes, including for improving its services, statistical information and analytics, and providing such information to its commercial partners. CALYPSO PAY LTD takes commercially reasonable measures and uses industry-standard security methods to protect the information it collects, but you understand that no method of electronic communication or security can be guaranteed. CALYPSO PAY LTD will provide Customer Data as required by law or in compliance with a request from law enforcement authorities. Subject to applicable law, CALYPSO PAY LTD may use subcontractors, service providers and processors located in any jurisdiction, that comply with applicable law. You shall ensure that the Application shall display a privacy policy in compliance with applicable law and which includes a description of how CALYPSO PAY LTD will process Customer Data on your behalf, and how CALYPSO PAY LTD will use, collect and store Customer Data - all, in accordance with CALYPSO PAY LTD 's Privacy Policy.

**Confidentiality.** Either party (the "Receiving Party") may receive certain confidential and proprietary information related to the technology or business ("Confidential Information") of the other party (the "Disclosing Party"). The Receiving Party agrees to keep such information confidential during and after the termination of these Terms and not use it except for purposes of using the Solution or Application or in performance of its obligations or exercise of its rights under these Terms. Confidential Information shall not include information (i) already lawfully known to or independently developed by the Receiving Party without access to the Confidential Information of the Disclosing Party, as shown by contemporaneous documentary evidence (ii) disclosed in published materials, (iii) generally known to the public, (iv) lawfully obtained from any third party without restrictions, or (v) required to be disclosed by law, provided that the Receiving Party shall provide the Disclosing Party, at the reasonable cost and expense of the Disclosing Party, with prior written notice of such requirement and reasonably cooperate with the Disclosing Party to minimize or challenge such requirement. The terms and conditions of these Terms shall be deemed the Confidential Information of CALYPSO PAY LTD .

**Indemnification.** You will indemnify, hold harmless and, at the option of CALYPSO PAY LTD , defend CALYPSO PAY LTD (and its affiliates, employees, officers, directors, partners and agents) from and against any and all third party allegations asserted in any claim, action, lawsuit, investigation or proceeding, whether actual or alleged, arising out of or related in any way to (i) a breach by you of these Terms, including your representations and warranties herein; (ii) your use of the Solution



in a manner that breaches any of your legal or contractual obligations, including privacy and data protection laws; (iii) your marketing or promotion of the Application not in compliance with applicable law; (iv) any claims resulting from the Application not presenting a privacy policy in which end users consent to the provision and use of data as set forth herein, as required under applicable law; or (v) any acts or omission of a Processor relating to this Agreement and/or the Solution. CALYPSO PAY LTD may participate in the defense of any such claim with counsel of its own choice.

**Warranty; Disclaimer.** CALYPSO PAY LTD represents and warrants that the Solution and Solution Code will operate in material compliance with documentation provided by CALYPSO PAY LTD . Except as expressly set forth herein, the Solution, Solution Code and documentation are provided “as-is”. CALYPSO PAY LTD disclaims any implied or statutory warranties in respect of the foregoing and without limitation, implied or statutory warranties of merchantability, fitness for a particular purpose, title or non-infringement. CALYPSO PAY LTD does not warrant that the operation of the Solution will be uninterrupted or error-free.

**Limitation of Liability.** In no event shall CALYPSO PAY LTD be liable in the aggregate to You or any other third party in excess of amounts CALYPSO PAY LTD has received from you in respect of the license of the Solution in the 12-month period preceding any claim. In no event shall CALYPSO PAY LTD be liable to you or any other third party for indirect, special, incidental or consequential damages (including, but not limited to, loss of profits, loss of data or loss of use damages), even if it has been advised of the possibility of such damages or losses. CALYPSO PAY LTD shall have no responsibility or liability for any third-party products or services including, without limitation, the reliability or availability of any telecommunications or internet service or the services provided by any third-party payment processor.

**Term and Termination.** These Terms shall be in effect commencing as of the date of acceptance of these Terms by you and shall remain in effect for a period of one year (the “Initial Term”). Following the Initial Period, these Terms shall automatically renew, until terminated by either party with forty-five (45) days prior written notice. CALYPSO PAY LTD may terminate this Agreement at any time with written notice if you have materially breached any provision hereof. CALYPSO PAY LTD may upon written notice suspend your access to the Solution if (a) CALYPSO PAY LTD detects suspicious or unusual activity in your account, such as material changes to the average transaction amount or processing pattern or (b) CALYPSO PAY LTD determines, or has reason to believe, that you are engaging in any illegal activities or in fraudulent, deceptive and/or unfair business practices. Upon termination of these Terms, you shall cease all

use of the Solution. Sections 3 - 17 and your accrued

and unpaid payment obligations shall survive the termination or expiration of these Terms for any reason.

Publicity. Either party shall have the right to include a reference to the other party, its logo and Internet website on the website, marketing literature, labeling and promotional materials of the first party. Either party may re-publish information contained in a previously approved press release, including on a party's website and in marketing materials, subject to its prior written consent.

Miscellaneous. These Terms represent the entire agreement between the parties regarding the subject matter hereof. All waivers must be in writing and any waiver shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition. You and PaymentOS are independent contractors, and you may not obligate CALYPSO PAY LTD by contract or otherwise or make any representation or warranty on behalf of CALYPSO PAY LTD . You shall not assign any of your rights or obligations hereunder without the prior written consent of CALYPSO PAY LTD , and assignments in violation of the foregoing shall be void. CALYPSO PAY LTD may assign all of its rights or obligations hereunder to a purchaser of all or substantially all of its assets or share capital, or to any successor to CALYPSO PAY LTD ' business. CALYPSO PAY LTD may transfer Customer Data to a purchaser of its assets, share capital or business in respect of the Solution. If any provision of these Terms shall be deemed invalid or unenforceable, such term shall be interpreted to give maximum effect to its provisions, and any such invalidity or unenforceability shall not affect the validity or enforceability of any other part or provision of these Terms which shall remain in full force and effect. These Terms shall be governed by the laws of the State of Israel, and the competent courts in the State of Israel shall have exclusive jurisdiction to hear any disputes arising hereunder, provided that either party may seek an injunction or other equitable relief in any jurisdiction to prevent a breach or stop a continuing breach of these Terms. CALYPSO PAY LTD may provide any notices required hereunder to the contact information you provided in your account registration, and such notices shall be deemed received on the day that they are provided.