

HANDS FREE AI REPRESENTS SERVICE

TERMS AND CONDITIONS (T&C)

Definitions

- 1.1. “**Chargeback**” means the reversal of a credit card payment by a Payment Processor, debiting the Merchant with respect to a transaction with a Merchant End-User.
- 1.2. “**DPA**” means the data processing addendum, available at <https://www.shift4.com/s4i-dpa>, as amended and restated from time to time.
- 1.3. “**Merchant End-User**” means a third-party purchaser of products or merchandise or subscriber of services from a Merchant.
- 1.4. “**Disclaimed Transaction**” means a Chargeback with respect to which you have notified Shift4 Technology Limited either directly or via acquirer.
- 1.5. “**Disclaimed Transaction Information**” means information that you possess with respect to a Disclaimed Transaction, including, where available, all Merchant efforts at resolution or settlement, and all other records related to any Chargeback dispute. The Disclaimed Transaction Information includes all information regarding the Disclaimed Transaction, including: *(i)* any Chargeback details provided by the Payment Processor, including, among other items, Chargeback amount, transaction amount, transaction date, Chargeback reason code and description, *(ii)* transaction number; *(iii)*, Merchant’s End-User(s)’s information that may be available, like phone numbers, email addresses, IP addresses, ID cards, proof of address (utility bill), or selfies (e.g. picture of the cardholder holding their credit card or other identifiers); *(iv)* End-User Data , *(v)* available support tickets between the Merchant’s End-User(s) and the Merchant’s support teams, and *(vi)* copies of the Merchant’s terms and conditions, privacy policy, or any other policies that the relevant Merchant’s End-User(s)’s has agreed to.
- 1.6. “**End-User Data**” means all relevant information in your possession or control identifying the Merchant End-User that is the subject of a Disclaimed Transaction, including: *(i)* any chargeback details provided by the Payment Processor, which may include, among other items, ARN number (card scheme chargeback ID), chargeback amount, transaction amount, transaction date, card scheme name (Visa, MasterCard, etc.), issuing bank name, MID number, MCC code, descriptor and additional security measures used like CVV, AVS, and 3DS), *(ii)* any email correspondence with the Merchant End-User (including any automatic email sent to the Merchant End-User by the Merchants systems (for example: email confirming the details of the transaction and any sales receipts), *(iii)* any form of proof of delivery that the Merchant may have on each Disclaimed Transaction (by way of example: screenshots of the Merchant End-User(s)’s account online, signed delivery receipt, or any other form of electronic proof that the product or service underlying the Disclaimed Transaction was received by the Merchant End-User, *(iv)* Merchant End-User information that may be available, such as phone numbers, email addresses, IP addresses, ID cards, proof of address (utility bill), or selfies (e.g. picture of the cardholder holding their credit card or other identifiers), and *(v)* available support tickets between the Merchant End-User and the Merchant’s support teams.
- 1.7. “**Merchant**” means you or a business that is your customer.
- 1.8. “**Payment Processor**” means each third-party payment processor, bank or financial institution that processes a transaction between Merchant and a Merchant End User.
- 1.9. “**Services**” means efficient, accurate and easy-to-use Chargeback mitigation services that enables the return of lost funds to a Merchant.

2. THE SERVICES

2.1. Subject to the terms of these Terms and Conditions, we will use commercially reasonable efforts to provide you with the Services

2.2. We shall use and retain such End User Data collected in accordance with applicable laws, including without limitation the European General Data Protection Regulation (“**GDPR**”) applicable to personal data “processed” (as defined in the GDPR) regarding data subjects in the European Union. We will use best efforts to safeguard End User Data, including adhering with all applicable and then-current legal obligations and security measures required by applicable law. We warrant that we have taken such precautions required by law or as are commercially reasonable to ensure that End User Data is protected from unauthorized disclosure, processing, or use, and that our electronic systems are secure from breach, intrusion or compromise by any unauthorized third parties. In the performance of the Services, we shall use and maintain the Disclaimed Transaction Information in accordance with the DPA.

3. YOUR OBLIGATIONS

You hereby represent, warrant, and undertake as follows:

3.1. You are a company duly organized, and validly existing under the laws of its respective jurisdiction of incorporation, authorized to do business with the full legal right, power and authority to execute and perform these Terms and Conditions under any applicable law.

3.2. There are no limitations, obligations or restrictions whatsoever which restrict or prevent you from fulfilling all of its obligations or grant the rights and/or licenses granted to us under these Terms and Conditions. In addition, you have and shall maintain the required licenses, consents, permits, authority, approvals and ability to perform all its obligations in accordance with these Terms and Conditions, including without limitation the obligation to furnish and/or make available to us any Disclaimed Transaction Information and End-User Data as requested by us for the performance of our obligations herein.

3.3. The execution and performance by you of these Terms and Conditions does not and will not conflict with, violate or result in a breach of any law or governmental regulation applicable to you, or any order, judgment or decree, or any contract, agreement or instrument to which you are a party or by which you are and/or will be bound.

3.4. You shall furnish and/or make available to us any Disclaimed Transaction Information in your possession or the possession of your agents or Merchants. You hereby grant us a license to use and exploit the Disclaimed Transaction Information solely for the purpose of providing the Services.

3.5. You will provide us with assistance, as we shall reasonably request from time to time allowing us to make inquiries and requests and provide information with respect to any Disclaimed Transaction in your name and on your behalf and/or the Merchants.

4. RESTRICTIONS AND RESPONSIBILITIES

4.1. You will not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services or to any of our intellectual property and all improvements, enhancements or modifications thereto, software, documentation or data related thereto (the “**Software**”); (ii) modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly and in writing permitted us or authorized within the Services); (iii) use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third-party; or (iv) remove any proprietary notices or labels.

4.2. You will not: (i) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein; (ii) attempt to gain unauthorized access to the Services or its related systems or networks; (iii) use the Services in order to build a competitive product or service or to benchmark with any products or services offered by us.

5. CONFIDENTIALITY; PROPRIETARY RIGHTS

5.1. Each party (the “**Receiving Party**”) understands that the other party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s or its business associates’ business (the “**Proprietary Information**”). Our Proprietary Information includes non-public information regarding processes, know how, features, functionality and performance of the Service. Your Proprietary Information includes non-public data provided by you to us to enable the provision of the Services, including any Disclaimed Transaction Information, but excluding any Derivative Data (as defined below), which may be freely used by us for our own internal purposes. The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document: (a) is or becomes generally available to the public through no fault of the Receiving Party, or (b) was in its possession or known by the Receiving Party prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to the Receiving Party without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party.

5.2. The Receiving Party may disclose Proprietary Information of the Disclosing Party to the extent compelled by law to do so, *provided, however*, that the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (if and to the extent legally permitted) and provide reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Proprietary Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Proprietary Information.

5.3. As between you and us, you or the Merchants, as applicable, shall own all right, title and interest in and to the End User Data. You shall own all right, title and interest in and to your Proprietary Information. We shall own and retain all right, title and interest in and to: (i) the Services and Software, all improvements, enhancements or modifications thereto, (ii) all Derivative Data, and (iii) all intellectual property rights related to any of the foregoing.

5.4. Notwithstanding anything to the contrary, we shall have the right to collect and analyze anonymous, aggregated, technical and unidentified data and information relating to the provision, use and performance of various aspects of the Services and related systems and technologies, which does not contain any specific data and information relating to your Proprietary Information (the “**Derivative Data**”), and we will be entitled to: (i) use such Derivative Data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services, and/or (ii) disclose such Derivative Data solely in aggregate, or any other de-identified form, in connection with its business. No rights or licenses are granted except as expressly set forth herein. For avoidance of doubt, we will ensure that the Derivative Data does not include identifiable Proprietary Information of yours.

6. WARRANTY AND DISCLAIMER

6.1. WE DO NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND ON AN “AS-AVAILABLE” BASIS, AND WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, *INCLUDING, BUT NOT LIMITED TO*, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

6.2. WITHOUT DEROGATING FROM THE FOREGOING, IN NO EVENT WILL WE BE LIABLE FOR ANY LIABILITY (INCLUDING ANY MONETARY LIABILITY) IMPOSED ON YOU (OR ON A MERCHANT) BY ANY PAYMENT PROCESSOR IN CONNECTION WITH ANY TRANSACTION INQUIRY.

7. **INDEMNIFICATION**

7.1. Notwithstanding anything to the contrary in these Terms and Conditions or any other agreement, you shall indemnify, hold harmless, and at our first request, defend us, our affiliates, and our and their officers, directors, agents and employees, against all claims, liabilities, damages, losses and expenses, including attorneys' fees, arising out of or in any way connected with or based on (i) any claim of any kind by a Merchant, Merchant End User, third party or supervisory authority related to Disclaimed Transaction Information and/or End-User Data, or arising from, or related to, violation of applicable law; (ii) an End-User Data breach occurring in your, your affiliates' and/or their subprocessors' systems; and/or (iii) breach of any of your obligations, warranties, representations and/or undertakings under these Terms and Conditions.

7.2. In the event of any indemnification claim, the party seeking indemnification (the "**Indemnitee**") shall promptly notify the other party (the "**Indemnifying Party**"), allow the Indemnifying Party control of the defense of the claim, and provide at the Indemnifying Party's expense any assistance reasonably requested by the Indemnifying Party with respect to the defense of such claim. The Indemnitee will have the right to participate, at its own expense, in the defense of any such claim with counsel of its choosing. No settlement or compromise that imposes any liability or obligation on any Indemnitee will be made without the Indemnitee's prior written consent (not to be unreasonably withheld). If the Indemnifying Party fails to defend an Indemnitee as provided in this Section 7.2 after reasonable notice of an indemnified claim, the Indemnifying Party will be bound to indemnify and reimburse any Indemnitee for any losses incurred by the Indemnitee, in its sole discretion, to defend, settle or compromise such claim.

8. **LIMITATION OF LIABILITY**

8.1. NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, NEITHER YOU NOR US, OR OUR SUPPLIERS (*INCLUDING, BUT NOT LIMITED TO*, ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THESE TERMS AND CONDITIONS OR TERMS AND CONDITIONS OTHER AGREEMENTS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (I) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA (INCLUDING, FOR REMOVAL OF DOUBT, ANY END USER DATA) OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; OR (II) FOR ANY INDIRECT, DIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, IN EACH CASE, WHETHER OR NOT WE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. **MISCELLANEOUS**

9.1. These Terms and Conditions are not assignable, transferable or sub-licensable by a party except with the other party's prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign these Terms and Conditions, without the other party's prior written consent, in connection with a merger, acquisition, reorganization of all or substantially all of its assets. No agency, partnership, joint venture, or employment is created as a result of these Terms and Conditions and neither party has any authority of any kind to bind the other in any respect whatsoever.

9.2. These Terms and Conditions shall be governed by the laws of England and Wales without regard to its conflict of laws provisions. The competent courts located in London, England, shall have exclusive jurisdiction in any conflict or dispute arising out of these Terms and Conditions. These Terms and Conditions shall be binding upon the successors and assigns of the respective parties.