

## Terms of Service

**(Effective as of March 10, 2022)**

Welcome to PayTile. The Terms of Service described herein constitute a legal agreement (“Agreement”) among you, PayTile LLC (“PayTile”) and Cross River Bank, Member FDIC (“Cross River Bank”) (collectively, PayTile and Cross River Bank shall be referred to as “we”, “us”, or “our”). These Terms of Service govern your use of the “Service.” For purposes of this Agreement, “Service(s)” means the payment transaction service, including all features and functionalities, App, and user interfaces, as well as all content and software associated therewith, provided by Cross River Bank through PayTile acting as a service provider to Cross River Bank. **THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES AND A WAIVER OF YOUR CLASS ACTION RIGHTS.** Please read this Agreement carefully before using the Services, which are provided through the PayTile App available in the Apple App Store and on Google Play (the “App”). In the future, we may decide to make the Services available through the PayTile Website located at [paytile.com] (the “Website”), in which case, if you access the Services through the Website, then all references to “App” in this Agreement include the Website.

### **Section A: The Service**

#### **1. Acceptance of Terms of Service**

These Terms of Service, which include Cross River Bank’s Privacy Policy, located at <https://www.crossriver.com/privacy-policy> and Paytile’s Privacy Policy, located at [paytile.com/privacy], govern your use of the Service. By using the Service, you accept and agree to these Terms of Service. If you do not agree to these Terms of Service, do not use the Service.

#### **2. Changes to Terms of Service**

We may, from time to time change these Terms of Service. Such revisions shall be effective immediately; provided however, for existing customers, such revisions shall, unless otherwise stated subject to any prior notice required under applicable law, be effective 30 days after posting.

#### **3. Privacy**

Personally identifying information is subject to Cross River Bank’s Privacy Policy for the Service located at [<https://www.crossriver.com/privacy-policy>], and PayTile’s Privacy Policy, located at [paytile.com/privacy], the terms of which are incorporated herein. Please review each Privacy Policy for an understanding of how we treat your data. You acknowledge that you have received, read in full, and agree with the terms of Cross River Bank’s Privacy Policy and PayTile’s Privacy Policy, linked to and incorporated into this Agreement by reference.

#### **4. USA Patriot Act Notice**

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. What this means for you: when you open an account with us or at certain other times after account opening, we will ask for your name, address, social security number, date of birth and other information that will allow us to identify you, such as a tax identification number. We may also ask to see a copy of your government-issued photo identification card or other identifying documents.

#### **5. Use of Service**

- a.** PayTile is a technology company that acts as a service provider of Cross River Bank in connection with the movement of funds by Cross River Bank. In other words, PayTile will provide technology to Cross River Bank so that Cross River Bank can provide the movement of funds for payment transactions. For the avoidance of doubt, Cross River Bank will provide the money transmission services to you. PayTile is not a money transmitter, does not receive, hold or control your funds, and is not responsible for the movement of funds in transactions. As described below, Cross River Bank holds your funds for your benefit, provides all money transmission services associated with transfers to or from you, and is the only entity authorized to initiate or execute payments and transfers on your behalf.
- b.** Except as set forth below, we do not charge you a fee for the App or the Service. If a transfer to or from your Linked External Account is returned, reversed or rejected for any reason, including, without limitation, due to insufficient funds, you agree to pay PayTile a \$25 fee for each such transaction. You authorize us to withdraw funds from your App Balance to pay for that fee. If you do not pay that fee or we are unable to withdraw funds from your App Balance to pay for that fee, we may suspend your use of the Service until the fee is paid. In addition, you may be liable for third party fees or charges in connection with transfers you make through the Service, which may be assessed by the issuer or provider of your Linked External Account, as well as certain charges, including, without limitation, third party fees, such as insufficient fund fees or reversal fees.

- c. By using the Service, subject to Section A.9(i) below and applicable law, you are completely and solely responsible for any and all activities which occur under your account whether authorized or unauthorized.
- d. By using our Service, you agree that any and all financial institution information, account number and routing number are true and correct.
- e. By using our Service, you are completely and solely responsible for any and all financial institution accounts information that is provided to us to perform the requested transaction. In no event shall we be liable for any non-sufficient fund fees or any other administrative or punitive fees incurred by any financial institution where a transaction has been returned due to insufficient funds.

## **6. Enrollment**

In order to enroll for the Services, you will need to apply for an account with us on the App. This process will include creation of a login ID and password to access the Services. We may verify your identity. You authorize us to make any inquiries we consider necessary to validate your identity, including upon enrollment or at other times, by requesting and verifying your name, address, date of birth, government issued identification, social security number and/or requiring you to take steps to confirm ownership of your email address and mobile phone number, or verifying information you provide against third party databases or through other sources. If you do not provide this information or we cannot verify your identity, we can refuse to allow you to use the Services and the App. You will need to activate your location permissions on your mobile device or tablet to apply for and use the Service. You may only use the Service in the United States.

## **7. Customer Support**

You may communicate with us by email at support@paytile.com. If you send us an email, you we are not responsible for the confidentiality, privacy or data security of any of your information or data (including personal information) or under other confidentiality, privacy or data security laws, rules, regulations, guidelines or obligations related to your information or data if such information or data is intercepted or monitored outside of our systems.

## **8. Periodic Statements and Transaction History**

We will provide periodic statements for the activity in your account. On the App, you will be able to view your account transaction history for the preceding twelve (12) months. The transaction history provided in the App will show each and every transaction in detail.

## **9. Cross River Bank Money Transmission Services**

- a. Through the Service, you can direct Cross River Bank to send funds in peer-to-peer transactions to other users of the App. For purposes of this section, a sender means an App user ("Sender") who sends (or who intends to send) funds to another App user (the "Receiver"). For the avoidance of doubt, the Receiver includes the App user that is requesting to receive funds. Your "App Balance" refers to the amount held for your benefit in a pooled deposit account at Cross River Bank (which may be combined with the funds of other users of the App at Cross River Bank). That pooled deposit account is not subject to FDIC insurance and does not accrue interest. In addition, the pooled deposit account does not provide overdraft protection. "Business Day" means Monday through Friday, excluding federal holidays.. In addition to the peer-to-peer transaction functionality described above, certain monetary and non-monetary rewards may be made available to you on the App by us and by other companies, in each case in our sole discretion and subject to the conditions of the rewards stated on the App. These rewards will be placed at physical locations and users of the App may redeem the rewards by going to the designated location at the designated time. There will be a finite number of each reward, such that not every user who satisfies the conditions of the reward will receive the reward. Monetary rewards will be made available as funds in the App Balance that the user may transfer to the Linked External Account, subject to the automatic transfer feature described below, or use as part of the App's peer-to-peer service.
- b. In order to send or receive funds through the Service, on the App you must link your external bank account (the "Linked External Account") at a U.S.-based financial institution. You represent that you are the legal owner of the Linked External Account and that you are fully authorized to utilize the Linked External Account as outlined herein in connection with the Service. Please note that the terms associated with this account may vary from the terms governing your Linked External Account. In order to send or receive funds through the Service, you will provide additional identifying information that we request and we may obtain certain identifying information from third parties, such as Plaid, Inc., in each case so that we can verify your identity.
- c. To send funds to another App user using the App, a Sender may select a nearby Receiver and specify the amount to be transferred. The Sender can choose to share their PayTile display name (located in the user profile) or

withhold their display name and profile photo from the Receiver. Alternatively, on the App, a Sender may specify the amount to be transferred and a location (a "money drop") for retrieval by a designated Receiver, and that Receiver must go on the App to retrieve the money drop before it expires and the funds are returned to Sender.

- d. When you use the Service to send funds, Cross River Bank will debit the amount from your App Balance (to the extent of such App Balance) and debit any funds in excess of the App Balance from the Linked External Account. In the event that you have no App Balance when sending funds, only the Linked External Account would be debited. By originating a transaction to send funds, you represent and warrant that you have sufficient funds available in the Sender's App Balance and Linked External Account to complete requested payment transactions. When you receive funds, the amount will be credited to your App Balance by Cross River Bank. A Receiver may transfer the funds from the Receiver's App Balance to the Receiver's Linked External Account through the App. If a Receiver does not manually transfer funds within seven (7) days after receiving them, those funds will be automatically transferred from the Receiver's App Balance to the Receiver's Linked External Account on the seventh (7<sup>th</sup>) day without further action by the Receiver. The funds that a Sender transfers through the Service are immediately available to the Receiver, provided that the Receiver claims the funds in accordance herewith. If a Receiver is not eligible to receive a payment (for example, because the Receiver has exceeded or as a result of such transfer would exceed limits applicable to the Receiver) and the Receiver does not take necessary steps to become eligible by providing the information requested by us within the time period that we designate, those funds will be returned to Sender.
- e. Cross River Bank will process each transfer of funds to and from your Linked External Account through electronic transfers utilizing the Automated Clearing House ("ACH") network. You agree that by making such requests you authorize PayTile to instruct Cross River Bank to make those transactions on your behalf, and acknowledge that you will not be able to cancel the transaction. You hereby authorize Cross River Bank to electronically initiate through the ACH network a debit or credit entry to your Linked External Account for your receipt or payment of funds through the Service as described above and further authorize your Linked External Account provider to debit/credit the same to your Linked External Account. You understand that the above authorization will remain in full force and effect until you notify us in writing at [10290 Alliance Road, Cincinnati, OH 45242] that you wish to revoke this authorization in such time and such manner as to afford us and your Linked External Account provider a reasonable opportunity to act on it. We reserve the right to terminate the services to you under this Agreement if you revoke this authorization. Your authorization remains in effect while you are a customer and for a period of ninety (90) days following termination or cancellation of the Services. You also authorize Cross River Bank to initiate an adjustment or reversal transaction to the Linked External Account for transactions credited/debited in error, as we determine is necessary in our sole discretion.
- f. We reserve the right to impose limits on the maximum amount that you can send and receive on any day and in total for the lifetime of your account with us, as well as limits on the number of transactions you may make during a day or other time period. Different limits may apply depending upon the identifying information that we have for you. We may ask for additional identifying information from you so that you may qualify for a higher limit. We reserve the right to change these limits at any time. We may also limit how many electronic transfers you can initiate from the App to your Linked External Account. We reserve the right to delay or further limit such transfers while we screen transfers for risk. The limits referenced herein will be made available to you on the Website.
- g. We will utilize reasonable efforts to complete each payment transaction you initiate under this Agreement. If we fail to complete a transaction, we may be liable for your losses or damages. Notwithstanding the foregoing, you agree that we shall incur no liability if we are unable to complete any transaction if: (i) through no fault of us, you do not have sufficient funds in your App Balance and Linked External Account to perform the transaction; (ii) a failure of the Receiver to retrieve funds within the applicable amount of time provided herein; (iii) a malfunction of the App or Services due to circumstances beyond our control or due to circumstances of which you were aware of at the time you requested the transaction; (iv) the funds in your App Balance or Linked External Account are subject to legal process or are otherwise not available; (v) if your access to the Service has been blocked after you reported your App credentials lost or stolen; (vi) if we have reason to believe the transaction is connected to fraud or unauthorized; (vii) your Linked External Account that you have provided is invalid or closed; (viii) the transaction exceeds any limits established by us or violates any policies adopted by us in connection with the Service, or (viii) any other exception set forth in this Agreement.
- h. In certain situations, funds may take up to seven (7) Business Days to settle in your Linked External Account. If the applicable funds are not posted to your Linked External Account within seven (7) Business Days, an error may have occurred. In such event, please contact our support team at support@paytile.com.
- i. Notify us at support@paytile.com as soon as you can, if you think that there are any errors or omissions by us related to funds held in your App Balance or if you need more information about any electronic transfers listed in your account or Linked External Account related to the Service. We must hear from you no later than sixty (60) days after the date you were FIRST delivered the statement on which the error or problem appeared. When you

contact us, you must provide: (i) your name; (ii) the mobile telephone number related to your account; (iii) a description of the suspected error or omission, including, without limitation, an explanation of why you believe it is an error or why you need more information; and (iv) the dollar amount of the suspected error. If you provide this information orally, we will require that you also send written notification of your complaint or question within ten (10) Business Days.

We will determine whether an error occurred within ten (10) Business Days of receipt of your written notification (or your oral notification, if no written notification is requested). However, if necessary, we may take up to forty-five (45) days to complete our investigation into your question or complaint regarding the suspect error. If we do so, we will credit your account within ten (10) Business Days for the amount you think is in error, so that you will have the use of the funds during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within ten (10) Business Days, we may not credit your account.

For errors involving new accounts, we may take up to ninety (90) calendar days to investigate your complaint or question. For new accounts, we may take up to twenty (20) Business Days to credit your account for the amount you think is in error.

We will tell you the results within three (3) Business Days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

- j. Contact us AT ONCE at [support@paytile.com](mailto:support@paytile.com) or (513) 375-5450 if you believe your password to your mobile device, your mobile device containing the App, or other means to access your account has been lost or stolen, or if you believe that a transaction has been initiated without your permission (an “unauthorized transaction”). Contacting us at [support@paytile.com](mailto:support@paytile.com) or at (513) 375-5450 is the best way of keeping your possible losses down. You could lose all the money in your App Balance or Linked External Account. If you notify us within two (2) Business Days after you learn of the loss or theft of your password to your mobile device, your mobile device containing the App, or other means to access your account you can lose no more than \$50.00 if someone used your password or your mobile device containing the App without your permission.

If you do not notify us within two (2) Business Days after you learn of the loss or theft of your password to your mobile device, your mobile device containing the App, or other means to access your account and we can prove we could have stopped someone from using your password to your mobile device, your mobile device containing the App, or other means of access to your account without your permission if you had told us, you could lose as much as \$500.00.

Additionally, if your account details or transaction history reflects transactions that you did not authorize, notify us immediately. If you do not notify us within sixty (60) days after the transaction details were transmitted to you (whether electronically or by mail in a written statement), you may not get back any money you lost after the sixty (60) days if we can prove that we could have stopped someone from taking the money if you had notified us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods described in this section.

- k. We may use various means for identifying you, such as electronic or mechanical confirmation, two-factor authentication to ensure you are the one accessing the password or your mobile device containing the App or comparison of your mobile devices’ security pin or fingerprint. You hereby authorize us, directly or through third parties, to make any inquiries we consider necessary to validate your identity and/or authenticate your identity and account information. This may include asking you for further information and/or documentation about your account usage or identity, or requiring you to take steps to confirm ownership of your email address, wireless/cellular telephone number or financial instruments, and verifying your information against third party databases or through other sources.
- l. To the extent required by law for the period of time set forth by your state of residence or other governing body in its unclaimed property laws, if you discontinue your use of the Service and leave a balance of funds, or if we deactivate your account and you do not meet the conditions necessary to reinstate it, we may close your account and escheat (send) your funds to the jurisdiction associated with the most current home address you have provided to us. Where required, we will send you a notice prior to escheating any funds in your account. The specified period of time to report and send funds in an inactive or closed account to such jurisdiction varies, but usually ranges between two and five years.
- m. In the event that you are liable for any amounts to us, we may remove such amounts from your App Balance. If you do not have sufficient funds in your App Balance, we may remove the funds that you have in your App Balance, and you will continue to owe us the balance of any amounts for which you are liable.

- n. We will disclose information to third parties about your account or the EFTs you make: (1) where it is necessary for completing transactions; (2) in order to verify the existence and condition of your account for a third party; (3) in order to comply with government agency or court orders; or (4) if you give us your written permission.
- o. **Preauthorized Transfers.** To the extent described elsewhere in this Agreement, you may set payments to be made from your App Balance on a regular, recurring basis (“preauthorized transfers”).
  - a. If you have told us in advance to make preauthorized transfers out of your account, you can stop any of these payments. Here’s how: Email us at [support@paytile.com](mailto:support@paytile.com) in time for us to receive your request 3 Business Days or more before the payment is scheduled to be made. If you contact us to stop a payment, please have the following information ready: your account number or mobile number associated with the account, the date the transfer is to be made, to whom the transfer is being made, and the amount of the scheduled transfer.
  - b. If you order us to stop one of these payments three (3) Business Days or more before the transfer is scheduled and we do not do so, we will be liable for your losses or damages.
  - c. If these regular EFT payments may vary in amount, the person you are going to pay will tell you, 10 days before each payment, when it will be made and how much it will be.
  - d. We reserve the right to refuse to pay a preauthorized transfer debiting your account, for example, if your account has insufficient funds to cover such transfer or if we are unable to verify the ownership of or other information about the account to which the funds will be transferred.

## 10. Restricted Use

As a condition of your use of the Services, you agree not to provide any information that is unlawful, illegal, harmful, threatening, abusive, harassing, degrading, defamatory, libelous, infringing, discriminatory, prejudice, invasive and/or exploitive to any other persons or entities in any way. You agree not to obtain or attempt to obtain any materials and/or information through and by any means non-intentionally made available, disclosed or provided through Services. You agree to use the Services for its sole intended purposes. In no event shall you use the Services in a manner that will violate any local, state, federal or international law, rules and regulations, including, without limitation, in regards to unauthorized disclosure of any third party personal private information, such as name, address, SSN, DOB or financial information, etc. You will not use the Service in support of or in connection with any marijuana-related business, any money service business, or any business engaged in the defense sector or the manufacture or production of arms, military equipment or weapons of mass destruction. In addition, you shall not resell or make any commercial use of the Service without our express written consent.

The Service is controlled and operated from facilities in the United States. The Service is not available for use outside of the United States. We may limit the Services or the App’s availability at any time, in whole or in part, to any person, geographic area, or jurisdiction that we choose. You may not create more than one account with PayTile. Each unique mobile device may not be associated with more than two accounts with PayTile. Further, you shall not interfere with the proper functioning of the Service; make any = automated use of the system, or take any action that we deem to impose or to potentially impose an unreasonable or disproportionately large load on our servers or network infrastructure; bypass any robot exclusion headers or other measures we take to restrict access to the Service or use any software, technology, or device to scrape, spider, or crawl the Service or harvest or manipulate data; or publish or link to malicious content intended to damage or disrupt another user’s browser or computer.

In addition to all other legal rights, we reserve the right to remove any content at any time with or without notice to you or others. Further, we may suspend or terminate your use of the Service at any time with or without notice.

## 11. Fraud Controls

We will protect the security of data in our possession and will maintain commercially reasonable administrative, technical, and physical procedures to protect all the personal information regarding you and your customers that is stored in our servers from unauthorized access and accidental loss or modification. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use such personal information for improper purposes. You acknowledge that you provide your personal information at your own risk. We recommend that you review our Privacy Policy for the Service located at <https://www.crossriver.com/privacy-policy> and [[paytile.com/privacy](https://paytile.com/privacy)] which will help you understand how we collect, use and safeguard the information you provide to us.

## 12. Passwords & Account Access

You agree to keep confidential your password to your mobile device or other means to access your account. Subject to Section 9(i) and 9(j) of Section A above, you are responsible for any and all transactions on or under your account, and for all uses of the Service with your password. If you believe that your password to your mobile device or other means to access your account has been lost or stolen or that someone may attempt to use the Service without your consent or has transferred money without your permission, you must notify us at [support@paytile.com](mailto:support@paytile.com).

### 13. Copyright Complaints and Copyright Agent

**(a) Termination of Repeat Infringer Accounts.** Cross River Bank and PayTile respect the intellectual property rights of others and request that the users do the same. We have adopted and implemented a policy that provides for the termination in appropriate circumstances of users of the Service who are infringers. We may terminate access for participants or users who are found to provide or post protected third-party content without necessary rights and permissions.

**(b) DMCA Take-Down Notices.** If you are a copyright owner or an agent thereof and believe, in good faith, that any materials provided on the Service infringe upon your copyrights, you may submit a notification in writing to [legal@paytile.com], including:

1. The date of your notification;
2. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
3. A description of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online website are covered by a single notification, a representative list of such works at that website;
4. A description of the material that is claimed to be infringing or to be the subject of infringing activity and information sufficient to enable us to locate such work;
5. Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and/or email address;
6. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
7. A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

### 14. Commercially Reasonable Effort and No Guarantee

Due to circumstances beyond our control, particularly delays in handling and posting by the payee or financial institutions, some transactions may take longer to be credited to your Linked External Account. We will bear no responsibility for any late payment related charges due to the actions of others or that are outside of our direct or indirect control. You agree that our Service is being offered as a service only. You acknowledge and agree that we will take commercially reasonable steps to ensure the validity of each transaction you enter through our Service. We do not guarantee funds and if funds are not available when processed through your financial institution it is your sole responsibility to collect said funds. In addition, we do not guarantee that once funds have been verified that the status of your bank/financing account will not change prior to the withdrawal or depositing of funds.

### 15. NACHA Compliance

You agree to comply with all rules at the time each entry is initiated by you with respect to NACHA's most recent guidelines and that each entry shall in no way breach any federal, state, or local statute of regulation pertaining to and for electronic funds transfers and/or electronic check re-presentment, including the Electronic Funds Transfer Act and Regulation E, and all such other laws and regulations including the Operating Rules of NACHA.

### 16. Disclosures and Notices

You agree that PayTile can provide disclosures and notices regarding the Service to you by posting such disclosures and notice to our App, emailing them to the email address listed in your PayTile account, or by mailing them to the address listed in your PayTile account. You also agree that electronic disclosures and notices have the same meaning and effect as if we had provided you with a paper copy. Such disclosures and notices shall be considered to be received by you within 24 hours of the time it is posted to our App or emailed to you unless we receive notice that the email was not delivered.

## Section B: License, Termination, and Other General Legal Terms

### 1. License to Use the App & Trademarks

PayTile grants you a personal, limited, revocable, non-exclusive, non-transferable license, without the right to sublicense, to electronically access and use the App for transactions in a manner consistent with this Agreement and any other relevant documentation provided to you. The Service includes the App, software, documentation, tools, internet-based services, components, images, and any updates thereto provided to you by PayTile. PayTile may terminate this license at any time.

### 2. Ownership

We reserve all rights not expressly granted to you in this Agreement. The Service is protected by copyright, trade secret and other intellectual property laws. We own all interest, title, and other worldwide IP Rights (as defined below) in the App and the Service and all copies thereof. All content included or available on PayTile's App, including site design, text, graphics, illustrations,

interfaces, and the selection and arrangements thereof is the property of PayTile, with all rights reserved with respect to copyrights and trademarks. Any use of materials on PayTile's App, including reproduction for purposes other than those noted above, modification, distribution, or replication, any form of data extraction or data mining, or other commercial exploitation of any kind, without prior written permission and consent from PayTile is strictly prohibited. You agree that you will not use any robot, spider, or other automatic device, or manual process to monitor or copy PayTile's web pages or the content contained therein without prior written permission and consent from PayTile. You may not republish PayTile content or other content from the Services or the App, on another website or app or use in-line or other linking to display such content without our permission. You may not introduce viruses, spyware, or other malicious code to the Services or the App. You represent and warrant that you use frequently updated, commercially standard virus protection software to ensure that the system you use to access the App is virus free. You will not attempt to gain unauthorized access to any other user's account. You will not modify or attempt to modify or in any way tamper with, circumvent, disable, damage or otherwise interfere with the Services. You will not modify, adapt, translate or create derivative works based upon the Services or any part thereof, except and only to the extent the foregoing restriction is expressly prohibited by applicable law, or copy, distribute, transfer, sell or license all or part of the Services. You will not use the Services to access, copy, transfer, retransmit or transcode information, PayTile or Cross River Bank logos, marks, names or designs or any other content in violation of any law or third party rights, or remove, obscure, or alter PayTile's (or any third party's) copyright notices, trademarks, or other proprietary rights notices affixed to or contained within or accessed through the Services.

For the purposes of this Agreement, "IP Rights" means all patent rights; copyright, including rights in derivative works; trademark, trade dress and service mark rights; goodwill; trade secret rights; and other intellectual property rights that now exist or may hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory, or other jurisdiction.

### **3. Term**

The Agreement is effective upon the date you agree to it (by electronically indicating acceptance and/or by actually using the Service) and continues so long as you use the Service or until terminated by you (as permitted herein) or us.

### **4. Termination**

If you request to delete your account by emailing us at support@paytile.com, you will have deemed to terminate this Agreement. We may terminate this Agreement and close your PayTile account at any time and for any reason.

### **5. Effects of Termination**

Upon termination, we will immediately discontinue your access to the Service. You will not be refunded or credited for partially used credits if your access to or use of the Service is terminated or suspended. After payment of any amounts you owe to us, your App Balance will be transferred to your Linked External Account. Termination does not relieve you of your obligations as defined in this Agreement.

Upon termination you agree to immediately cease your use of the Service. In addition, upon termination, you understand and agree that (i) we reserve the right to delete all of your information and account data, (ii) we will not be liable to you for compensation, reimbursement, or damages in connection with your use of the Service, or any termination or suspension of the Service or deletion of your information or account data, and (iii) you are liable to us for any fees or other amounts incurred by you through your use of the Service prior to termination.

### **6. Your Liability**

Any use of the Services or the App is at your own risk. Except as expressly provided in Sections 9(g), 9(i) and 9(j) of Section A above and subject to applicable law, you are responsible for all claims, demands, fines, fees, penalties and other liability arising out of or relating to your use of the Service and your breach of this Agreement. Except as expressly provided in Sections 9(g) and 9(i) of Section A above, you are responsible for any fraud and lost or stolen information caused by you or by your customers.

Without limiting the foregoing, except as expressly provided in Sections 9(g), 9(i) and 9(j) of Section A above, you agree to defend, indemnify, and hold harmless PayTile, Cross River Bank and their respective employees, affiliates, members, representatives and agents from and against any claim, suit, demand, loss, liability, damage, action, or proceeding arising out of our relating to (i) your breach of any provision of this Agreement; (ii) your use of the Service; (iii) all acts or omissions, including negligence or willful misconduct, of your employees or agents; and (iv) all third-party indemnity obligations we incur as a direct or indirect result of your acts or omissions. In no event shall we assume any liability of any kind in connection to or arising out of any misrepresentation, misleading, deceptive or false information provided or disclosed by you. You agree to protect, defend, indemnify and hold harmless, PayTile and Cross River Bank from and against any and all loss, damage, injury, liability, judgments, violations and claims thereof arising out of, connected with, incident to, or otherwise directly or indirectly resulting from (i) any inaccurate, unreliability or incompleteness of any service(s) provided by any financial institution and (ii) any inaccurate, incorrect, misleading, misrepresenting, deceptive or false information provided or disclosed by you.

## **7. Representation and Warranties**

You represent and warrant to us that: (a) you are at least 18 years of age; (b) you are eligible to register and use the Service and have the right, power, and ability to enter into and perform under this Agreement; (c) the name identified by you when you registered is your full legal name; (d) any and all information provided or disclosed to us is accurate and current, (e) that you have the full legal power, authority and capacity to provide or disclose such information to us; . ; and (g) you are not a shell bank (an entity that has no physical existence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effect consolidated supervision as contemplated by Section 313 of the USA PATRIOT Act. Any and all warranties herein shall survive the termination of this Agreement.

## **8. Third-Party Liability**

In delivering the Services to you, we may engage third parties. We are not affiliated or employed with such third parties whatsoever. In no event shall we be liable or held responsible under the use of any of the Services for any acts or omissions caused by any third party for any consequential, special, indirect or other damages, whether based in contract, tort or otherwise, even if we have been advised of the possibility of such damages and notwithstanding any failure of essential purpose of any limited remedy.

## **9. No Warranties**

The Service is provided are on an “as-is” and “as available” basis without any warranty of any kind, express or implied, except to the extent set forth herein. To the fullest extent permitted by applicable law, we do not represent, warrant or guarantee that the Service will be free from any delay, failure, interruption, corruption or otherwise from any financial institution or delivery carrier. THE FOREGOING IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

## **10. Limitation of Liability and Damages**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PAYTILE OR CROSS RIVER BANK BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, OR DAMAGES IN CONNECTION WITH RELIANCE ON, USE OR MISUSE OF INFORMATION CONNECTION WITH THE USE OF OUR SERVICES OR FOR LOST PROFITS, LOSS OF REVENUE, OR LOSS OF USE OR DATA, ARISING OUT OF OR RELATED TO THE APP OR THE USE OF THE SERVICES, WHETHER SUCH DAMAGES ARISE IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, UNDER STATUTE, IN EQUITY, AT LAW, OR OTHERWISE, EVEN IF WE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the App or this Agreement must be filed as provided above in the Arbitration Provision within one (1) year after such claim or cause of action arose or be forever barred.

Notwithstanding anything to the contrary (except as provided in Sections 9(g) and 9(i) of Section A), if PayTile or Cross River Bank is found to be liable, their cumulative liability to you or to any third party is limited to the lesser of (i) \$50 or (ii) the amount of any funds improperly transferred from your App Balance reduced by the amount, which even with our exercise of ordinary care, would have been lost.

You may have greater rights, or some of the foregoing provisions may be prohibited, by virtue of state or federal consumer protection laws. In such a case, to such extent, the subject provisions shall not apply to you.

## **11. Choice of Law**

This Agreement shall be governed by, construed and interpreted according to, the laws of the State of New Jersey, without regard to its conflict of law principles.

## **12. Arbitration**

This Arbitration Provision sets forth the circumstances and procedures under which Claims (as defined below) may be arbitrated instead of litigated in court.

You may choose to opt out of the Arbitration Provision, but only by following the process set-forth below. If you do not wish to be subject to this Arbitration Provision, then you must notify us in writing within sixty (60) calendar days of the opening of your account at the following address:

[10290 Alliance Road, Cincinnati, OH 45242]

Your written notice must include your name, address, and a statement that you wish to opt out of this Arbitration Provision.

As used in this Arbitration Provision, the term "Claim" means any claim, dispute or controversy between you and us arising from or relating to the App, the Services, or this Agreement, including the validity, enforceability or scope of this Arbitration Provision or this Agreement. "Claim" includes claims of every kind and nature, including but not limited to initial claims, counterclaims, cross-claims and third-party claims and claims based upon contract, tort, fraud and other intentional torts, statutes, regulations, common law and equity. The term "Claim" is to be given the broadest possible meaning that will be enforced and includes, without limitation, any claim, dispute or controversy that arises from or relates to (i) use of the App, (ii) our provision and your receipt of the Services, (iii) advertisements, promotions or oral or written statements related to the App or the Services; (iv) the benefits and services related to the App or the Services; and (iv) your enrollment for the App and the Services. As used in the Arbitration Provision, the terms "we" and "us" shall for all purposes mean PayTile, Cross River Bank, and their respective affiliates, successors, and assigns, and all of their respective agents, employees, directors and representatives. In addition, "we" or "us" shall include any third party providing any product, service or benefit in connection with the App or the Services (including, but not limited to, third parties who provide services, and all of their agents, employees, directors and representatives) if, and only if, such third party is named as a co-party with us (or files a Claim with or against us) in connection with a Claim asserted by you.

IF ARBITRATION IS CHOSEN BY ANY PARTY WITH RESPECT TO A CLAIM, NEITHER YOU NOR WE WILL HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR HAVE A JURY TRIAL ON THAT CLAIM, OR TO ENGAGE IN DISCOVERY EXCEPT AS PROVIDED FOR IN THE CODE OF PROCEDURES OF THE JAMS OR AAA, AS APPLICABLE (THE "CODE"). FURTHER, YOU WILL NOT HAVE THE RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION. EXCEPT AS SET FORTH BELOW, THE ARBITRATOR'S DECISION WILL BE FINAL AND BINDING. NOTE THAT OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.

If either party elects to resolve a Claim by arbitration, that Claim shall be arbitrated on an individual basis. There shall be no right or authority for any Claims to be arbitrated on a class action basis or on bases involving Claims brought in a purported representative capacity on behalf of the general public, other cardholders or other persons similarly situated. The arbitrator's authority to resolve Claims is limited to Claims between you and us alone, and the arbitrator's authority to make awards is limited to you and us alone. Furthermore, Claims brought by you against us or by us against you may not be joined or consolidated in arbitration with Claims brought by or against someone other than you, unless otherwise agreed to in writing by all parties. We shall not elect to use arbitration under this Arbitration Provision for any Claim that you properly file and pursue in a small claims court of your state or municipality so long as the Claim is individual and pending only in that court.

Claim shall be resolved, upon the election by you or us, by arbitration pursuant to this Arbitration Provision and the code of procedures of the national arbitration organization to which the Claim is referred in effect at the time the Claim is filed. Claims shall be referred to either the Judicial Arbitration and Mediation Services ("JAMS") or the American Arbitration Association ("AAA"), as selected by the party electing to use arbitration. If a selection by us of one of these organizations is unacceptable to you, you shall have the right within thirty (30) days after you receive notice of our election to select the other organization listed above to serve as arbitrator administrator. For a copy of the procedures, to file a Claim or for other information about these organizations, contact them as follows: (i) JAMS at 1920 Main Street, Suite 300, Los Angeles, CA 92614; website at [www.jamsadr.com](http://www.jamsadr.com); (ii) AAA at 335 Madison Avenue, New York, NY 10017; website at [www.adr.org](http://www.adr.org).

This Arbitration Provision is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. Sections 1-16, as it may be amended (the "FAA"). The arbitration shall be governed by the applicable Code, except that (to the extent enforceable under the FAA) this Arbitration Provision shall control if it is inconsistent with the applicable Code. The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statutes of limitations and shall honor claims of privilege recognized at law and, at the timely request of either party, shall provide a brief written explanation of the basis for the decision. In conducting the arbitration proceeding, the arbitrator shall not apply the Federal or any state rules of civil procedure or rules of evidence. Either party may submit a request to the arbitrator to expand the scope of discovery allowable under the applicable Code. The party submitting such a request must provide a copy to the other party, who may submit objections to the arbitrator with a copy of the objections provided to the request party, within fifteen (15) days of receiving the requesting party's notice. The granting or denial of such request will be in the sole discretion of the arbitrator who shall notify the parties of his/her decision within twenty (20) days of the objecting party's submission. The arbitrator shall take reasonable steps to preserve the privacy of individuals, and of business matters. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator's decision will be final and binding, except for any right of appeal provided by the FAA. However, any party can appeal that award to a three-arbitrator panel administered by the same arbitration organization, which shall consider anew any aspect of the initial award objected to by the appealing party. The appealing party shall have thirty (30) days from the date of entry of the written arbitration award to notify the arbitration organization that it is exercising the right of appeal. The appeal shall be filed with the arbitration organization in the form of a dated writing. The arbitration organization will then notify the other party that the award has been appealed. The arbitration organization will appoint a three-arbitrator panel which will conduct an arbitration pursuant to its Code and issue its decision within one hundred twenty (120) days of the date of the appellant's written notice. The decision of the panel shall be by majority vote and shall be final and binding.

Any arbitration hearing that you attend shall take place in the federal judicial district of your primary residence. At your written request, we will consider in good faith making a temporary advance of all or part of the filing administrative and/or hearing fees for any Claim you initiate as to which you or we seek arbitration. At the conclusion of the arbitration (or any appeal thereof), the arbitrator (or panel) will decide who will ultimately be responsible for paying the filing, administrative and/or hearing fees in connection with the arbitration (or appeal). If and to the extent you incur filing, administrative and/or hearing fees in arbitration, including for any appeal, exceeding the amount they would have been if the Claim had been brought in the state or federal court which is closest to your billing address and would have had jurisdiction over the Claim, we will reimburse you to that extent unless the arbitrator (or panel) determines that the fees were incurred without any substantial justification.

This Arbitration Provision is binding upon and benefits you, your respective heirs, successors and assigns. This Arbitration Provision is binding upon and benefits us, our successors and assigns, and related third parties. This Arbitration Provision shall survive termination of this Agreement or your account, as well as voluntary payment of any debt in full by you, any legal proceeding by us to collect a debt owed by you, and any bankruptcy by you or us. If any portion of this Arbitration Provision is deemed invalid or unenforceable under any principle or provision of law or equity, consistent with the FAA, it shall not invalidate the remaining portions of this Arbitration Provision or this Agreement, each of which shall be enforceable regardless of such invalidity.

### **13. Right to Amend**

We have the right to change or add to the terms of this Agreement at any time, and to change, delete, discontinue, or impose conditions on any feature, aspect of, or eligibility related to, the Service or software that we in our sole discretion deem to be reasonable in the circumstances, such as the Services and/or our website or any other website maintained or owned by us. Any use of the Service or software after our publication of any such charges shall constitute your acceptance of this Agreement as modified. We will not be responsible for the loss of any personal settings, dropped connections, disabled features, disabled or suspended alert messages, or service interruptions resulting from an upgrade, maintenance or any reason. It is your responsibility to review your account to confirm the balance and the status of all transactions.

### **14. Assignment**

This Agreement, any rights and licenses granted hereunder, may not be transferred or assigned by you without our prior written consent, but may be assigned by us without consent or other restriction. Your right to access and use the Services and the App is personal to you and is not transferable by you to any other person or entity.

### **15. Third Party Product Terms**

We may, from time-to-time and subject to this Agreement, make a third party's products and services available to you through the Services (the "Third Party Products"). The Services may provide Third Party Product listings, descriptions, and images of goods or services or related coupons or discounts, as well as references and links to such Third Party Product. Third Party Products may be made available for any purpose, including general information purposes. We do not control or endorse, nor are we responsible for, any Third Party Product, including the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness, or safety of any Product, or any intellectual property rights in any Third Party Product. Nothing in this Agreement shall be deemed to be a representation or warranty by us with respect to any Third Party Product. We have no obligation to monitor Third Party Products, and we may block or disable access to any Third Party Products through the Services at any time. In addition, the availability of any Third Party Products through the Services does not imply our endorsement of, or our affiliation with, any provider of such Third Party Product, nor does such availability create any legal relationship between you and any such provider. YOUR USE OF ANY THIRD PARTY PRODUCT IS AT YOUR OWN RISK AND IS SUBJECT TO ANY ADDITIONAL TERMS, CONDITIONS AND POLICIES APPLICABLE TO SUCH THIRD PARTY PRODUCT (SUCH AS TERMS OF SERVICE OR PRIVACY POLICIES OF THE PROVIDERS OF SUCH THIRD PARTY PRODUCTS).

### **16. Link to Third Party Sites**

The App may contain hyperlinks to websites or applications operated by parties other than us. Such hyperlinks are provided for your reference only. We do not control such websites or applications and are not responsible for their content. Your access to and use of such websites or applications, including information, material, products and services on such websites or applications, is solely at your own risk. Furthermore, because our Privacy Policy is applicable only when you are on the App, once linked to another website or application, you should read that site's privacy policy before disclosing any personal information.

### **17. Use of Submissions**

Should you respond with information including feedback or data such as questions, comments, suggestions, or the like regarding the content of the Services or the App, such information will be deemed to be non-confidential. We will have no obligation of any kind with respect to such information and will be free to reproduce, use, disclose, and distribute the information to others

without limitation. We will be free to use any ideas, concepts, know-how, or techniques contained in such information for any purpose whatsoever including but not limited to developing, manufacturing, and marketing products incorporating such information.

#### **18. System Outages, Slowdowns, Capacity Limitations, and Updates**

Any computer system, service or electronic device, whether it is yours, an internet service provider's, a mobile network operator's or ours, can experience unanticipated outages, slowdowns and/or capacity limitations. As a result of high internet traffic volume, transmission problems, systems capacity limitations, and other problems, you may, at times, experience difficulty accessing the Services or the App, or communicating with us through the internet or other electronic and wireless services. The Service and the App may be unavailable during system maintenance, for security precautions or when interrupted by circumstances beyond our control.

#### **19. Operation of Mobile Device**

We do not represent or warrant the performance or operation of any mobile device. You select a mobile device and any issues relating to the operation, performance, and costs associated with the device are among you, your wireless telecommunications provider, and the person or entity who sold or provided you with the device. Your wireless telecommunications provider for your mobile device and other third-party service providers that you use may charge fees, including fees for data storage, to transmit data between your mobile device and the App and browsers, and roaming.

#### **20. Accessibility**

We are committed to making the Services and the App accessible to our customers and the public, including individuals with disabilities. Please direct accessibility-related inquiries to our Americans with Disabilities Act ("ADA") coordinator by email at [support@paytile.com](mailto:support@paytile.com) to learn more about our accessibility support services. We use reasonable efforts to comply with WCAG 2.0 standards.

#### **21. Confidential Information**

You agree that you will not disclose Confidential Information to any person and you will not use any Confidential Information except as necessary in connection with the Services and except as required by court order. You will use at least the same degree of care in safeguarding the Confidential Information as you use in safeguarding your own confidential information, but in no event will you use less than ordinary care. "Confidential Information" means all information or material which: (i) is obtained from password protected portions of the App, or (ii) which is (A) marked "Confidential," "Restricted," or other similar marking, (B) known by you to be considered confidential, or (C) which should be known or understood to be confidential or proprietary by an individual exercising reasonable judgment.

#### **22. Parties**

This Agreement binds you and your respective heirs, representatives, and permitted and approved successors or any permitted assigns.

#### **23. Severability; No Waiver**

If any of the provisions herein are found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the terms and conditions as a whole. Failure by us to insist upon strict enforcement of any provision of this Agreement will not be construed as a waiver of any provision or right.

#### **24. Entire Agreement**

This Agreement and all policies and procedures that are incorporated herein by reference constitute the entire agreement between you and us with respect to the provision of the Service. In the event of a conflict between this Agreement and any other agreement or policy relating to the subject matter herein, this Agreement shall prevail. Except as expressly provided herein, these terms and conditions describe our entire liability and define your access and use of the Service. If any provision of this Agreement (or any portion thereof) is held to be invalid or unenforceable under applicable law, then it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue to be in full force and effect.

#### **25. Email May Not Be Used to Provide Notice**

Communications made through the Service's e-mail and messaging system will not constitute legal notice to PayTile, Cross River Bank or any of their officers, employees, agents or representatives in any situation where notice to us is required by contract or

any law or regulation. All legal notices to us shall be sent in writing to the following address: PayTile, [10290 Alliance Road, Cincinnati, OH 45242].

YOU ACKNOWLEDGE THAT YOU HAVE READ THESE TERMS OF SERVICE, UNDERSTAND THE TERMS OF SERVICE, AND WILL BE BOUND BY THESE TERMS AND CONDITIONS.

Cross River Bank and other logos, product and service names are trademarks and service marks owned by or licensed to Cross River Bank or its affiliates ("Cross River Marks"). Without the prior written permission of Cross River Bank, or its appropriate affiliates, you agree not to display or use in any manner, the Cross River Marks PayTile and other logos, product, and service names are trademarks and service marks owned by or licensed to PayTile or its affiliates (the "PayTile Marks"). Without the prior written permission of PayTile, or its appropriate affiliates, you agree not to display or use in any manner, the PayTile Marks.

All other trademarks are the property of their respective owners.

© Copyright 2021 PayTile, LLC. All rights reserved.