

Terms of Service

Last Updated: 09/27/2023

Thank you for using MessagePay (ExpressPay). By using MessagePay, you agree to our Terms of Service, which is a legal agreement. If you are using MessagePay for an organization, you are agreeing on behalf of that organization. Our Terms of Service apply to your use of our Website and Services.

Definitions

When we say, “we,” “our,” or “us,” we’re referring to Spera, Inc., (dba MessagePay) a Delaware corporation, our employees, directors, officers, affiliates, and subsidiaries.

When we say “you” or “your,” we are referring to the person or entity that’s registered with us to use the MessagePay Services.

When we say “Terms,” we mean our Terms of Service, which includes our Privacy Policy.

When we say “Website,” we mean our website located at www.messagepay.com, including all subdomains and sites associated with those domains, and other Website that we operate now and in the future.

When we say “Services,” we mean our Website, Application Programming Interfaces (APIs), applications, our content, and various third-party services that make up MessagePay.

When we say “MessagePay,” we mean our Website and Services collectively.

When we say “information,” we mean all of the different forms of data that you provide us and that we collect from you from your use of the Services, your software, and your devices.

General Rules

To use MessagePay, you must

- (a) be at least eighteen(18) years of age;
- (b) complete the registration process;
- (c) provide current and accurate information;
- (d) agree to these Terms of Service; and
- (e) promise to follow these rules:

You are responsible for all content you provide and for all of your activities on MessagePay;

You will use MessagePay in compliance with all applicable laws, rules, and regulations;

You will not use MessagePay to solicit the performance of any activity which infringes our rights or the rights of others; and

You will not use MessagePay to upload, transmit, or otherwise distribute any objectionable content, as solely determined by us.

You will not use MessagePay to conduct any fraudulent and/or illegal activities.

If you violate any of the statements above or any of the rules in these Terms, we may terminate your account. Your actions may also subject you to legal consequences.

As long as you comply with our Terms of Service, we grant you a non-exclusive, non-transferable, limited license to use MessagePy. Your use of MessagePay is at your own risk.

Intellectual Property

You own your content. We do not represent any ownership or claim any intellectual property rights over the information that you provide or that is provided to us.

We own MessagePay and our Services. You may not copy, reproduce, alter, modify, resell, mirror, or create derivative works of MessagePay, our Services, or our content on MessagePay without our written permission.

You grant to us a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual license to incorporate into MessagePay or otherwise use any suggestions, enhancement requests, recommendations or other feedback that we receive from you or your agents.

Passwords and Accounts

You're responsible for keeping your account name and password confidential. You're also responsible for any account that you have access to. You agree to notify us immediately of

any unauthorized use of your account(s). We're not responsible for any losses due to stolen or hacked passwords. You will not represent that you are any other individual or entity unless such individual or entity has given you written permission to act on their behalf.

Payment Terms

If your use of our Services requires either a one-time payment or subscription payments, the following terms apply. This agreement also incorporates by reference and includes the order and payment terms provided to you on the Website for the Services.

Any payments will be billed in U.S. dollars. Your ability to use the Services starts as soon as your initial payment is processed.

All fees charged, if any, are exclusive of all taxes or duties imposed by governing authorities. You are solely responsible for payment of all such taxes or duties.

We reserve the right to change service fees consistent with terms of any agreement we may have with you.

We also reserve the right, but do not have any obligation, to refuse service to anyone and close your account(s) without notice for any or no reason at all.

Indemnification

You agree to indemnify and hold us harmless from any and all demands, loss, liability, claims or expenses (including attorneys' fees) made against us by any third party due to or arising out of or in connection with your use of MessagePay.

Representations and Warranties

To the maximum extent permitted by law, we provide MessagePay on an "as is" and "as available" basis, which means we don't provide warranties of any kind, either express or implied, including, but not limited to, warranties of merchantability and fitness for a particular purpose and to any warranties that:

- (i) MessagePay will meet your specific requirements,
- (ii) MessagePay will be uninterrupted, timely, secure, or error-free,
- (iii) the results that may be obtained from the use of MessagePay will be accurate or reliable,
- (iv) any errors in MessagePay will be corrected.

Limitation of Liability

To the fullest extent permitted by law, you assume full responsibility for and we disclaim liability to you for any indirect, consequential, exemplary, incidental, or punitive damages, including lost profits, even if we had been advised of the possibility of such damages.

We disclaim any and all liability for the acts, omissions, and conduct of any third parties related to your use of

MessagePay and any linked sites and services. Your sole remedy against us for dissatisfaction with MessagePay is to stop using MessagePay. This limitation of relief is a part of the bargain between you and us. The preceding disclaimer applies to any damages, liability, or injuries whether for breach of contract, tort, negligence or any other cause of action.

If, notwithstanding the other provisions of the Terms, we are found to be liable to you for any damage or loss which arises out of or is in any way connected with your use of the Website or any of our Services, our liability shall not exceed what you paid us for the Services in the previous month. Some jurisdictions do not allow limitations of liability, so the foregoing limitation may not apply to you.

Governing Law; Dispute Resolution

You agree that all matters relating to your access to or use of MessagePay, including all disputes, will be governed by the laws of the United States and by the laws of the State of Utah without regard to its conflicts of laws provisions. You agree to the personal jurisdiction by and venue in the state and federal courts in Salt Lake City, Utah, and waive any objection to such jurisdiction or venue. Any claim under these Terms of Use must be brought within one (1) year after the cause of action arises, or such claim or cause of action is barred.

No recovery may be sought or received for damages other than out-of-pocket expenses, except that the prevailing party will be entitled to costs and attorneys' fees. In the event of any

controversy or dispute between us and you arising out of or in connection with your use of the Website or Services, the parties shall attempt, promptly and in good faith, to resolve any such dispute. If we are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then either party may submit such controversy or dispute to mediation. If the dispute cannot be resolved through mediation, then the parties shall be free to pursue any right or remedy available to them under applicable law.

Force Majeure

You agree that we are not liable for any delays or failure in performance of any part of the Services, from any cause beyond our control.

Severability

If one or more sections of the Terms are held unenforceable, then those sections will be removed or edited as little as necessary, and the rest of the Terms will still be valid and enforceable.

Assignments

You may not assign any of your rights under this agreement to anyone else. We may assign our rights to any other individual or entity at our discretion.

No Waiver

Our failure to exercise or enforce any right or provision of the Terms shall not constitute a waiver of such right or provision.

Entire Agreement

These Terms and all documents incorporated into these Terms by reference constitute the entire agreement between you and us and govern your use of MessagePay, superseding

any prior agreements between you and us (including, but not limited to, any prior versions of the Terms of Service).

Amendments and Changes to MessagePay.

We reserve the right, at our sole discretion, to change, modify, add, or remove portions of the Terms, at any time.

Amendments or changes to these Terms won't be effective until we post revised Terms on the Website. Unless explicitly stated otherwise, any new features that augment or enhance MessagePay shall be subject to the Terms.

It is your responsibility to check the Terms periodically for changes. Your continued use of MessagePay following the posting of changes will mean that you accept and agree to the changes.

We reserve the right to do any of the following, at any time, without notice to you:

- (1) to modify, suspend or terminate operation of or access to MessagePay, or any portion of MessagePay for any reason;
- (2) to modify or change MessagePay, or any portion of MessagePay, and any applicable policies or terms; and
- (3) to interrupt the operation of MessagePay, or any portion of MessagePay, as necessary to perform routine or non-routine maintenance, error correction, or other changes.

Questions

If you have any questions or concerns about the Terms, please email us at team@messagepay.com