

## RemitOne® Terms and Conditions of Use

1. **Introduction.** These Terms of Service (**Agreement**) apply as between you, including your authorized employees and agents, (**Customer**) and FDGS (defined below), and govern your access to and use of FDGS' RemitOne services (**RemitOne Services**). References in these Terms to FDGS means First Data Government Services, L.P. You or your shall mean Customer and we or ours shall mean FDGS.
2. **Accepting the Agreement; Use of the RemitOne Services**
  - 2.1 You accept this Agreement when you use any of the RemitOne Services or click to accept this Agreement (where this option is made available to you). Your acceptance of this Agreement creates a contract between you and FDGS. You cannot use the RemitOne Services if you do not accept the Agreement. When you accept the Agreement on behalf of your business, you represent to FDGS that you have the authority to use the RemitOne Services and to bind the business to the Agreement.
  - 2.2 After you accept the Agreement, you will continue to use your current credentials for your RemitOne Account. You shall provide FDGS with honest, accurate, current, and complete information about you and your business (**Account Information**) and update your Account Information promptly after any changes. FDGS may terminate your RemitOne Account and your access to the RemitOne Services if your Account Information is inaccurate or incomplete. You are responsible for any activity associated with your RemitOne Account. At any time, FDGS may change the applications and their functionality that make up the RemitOne Services.
3. **RemitOne Services.** FDGS shall provide the RemitOne Services to Customer as more particularly described in the attached Exhibit A. FDGS, in its discretion, may amend Exhibit A from time to time.
4. **Payment for RemitOne Services.**
  - 4.1 Customer will pay FDGS a fee in the amount of \$2.75 per transaction. The fee will be a second transaction debited from Customer's bank account set up to pay the taxes. FDGS may increase the fee upon notice to Customer no more than once annually.
  - 4.2 **Payment.** Customer will identify a bank account held in Customer's name at Bank of America that FDGS will use in connection with the RemitOne Services (**Account**). Customer authorizes FDGS to communicate with Bank of America about the Account in connection with the RemitOne Services. Customer authorizes FDGS to initiate debits to the Account for the tax payment amounts, fee amounts, and any amounts that may be owed or required to be paid under this Agreement. Customer shall at all times have sufficient funds in the Account to enable FDGS to make the debits. If insufficient funds are available, FDGS may immediately suspend RemitOne Services and may charge Customer for any costs or fees incurred due to any failed debit attempt. FDGS may end the suspension once sufficient funds have been deposited into the Account. FDGS is not responsible for failure to pay or timely pay taxes if the Account has insufficient funds.
  - 4.3 **Taxes.** Customer will pay, or reimburse FDGS for, any and all applicable sales, use, excise, franchise, or other taxes (**Taxes**), whether federal, state, or local, however designated, which are levied or imposed with respect to the RemitOne Services. Customer will not pay, or reimburse FDGS for, income or employment taxes imposed upon or separately payable by FDGS for its employees, agents, contractors, or affiliates.
5. **Term.** This Agreement is effective each time you use the RemitOne Services. FDGS has no obligation to continue to make this Agreement available to you in the future and may remove this Agreement at any time.
6. **System Access.**

- 6.1 Customer may access and use the RemitOne Services solely to receive the RemitOne Services. Customer will ensure that any access to and use of the FDGS system by Customer's employees and consultants is in accordance with the documentation and the terms of this Agreement.
- 6.2 Except as specifically provided in this Agreement, or except as authorized in writing by FDGS, Customer will not (and will not permit any employee or consultant to):
- (a) Disclose or distribute any software (in any format) or services to any third party;
  - (b) Permit any third party to access or use the FDGS system through any time-sharing service, service bureau, network, consortium, or other means;
  - (c) Rent, lease, sell, sublicense, assign, or otherwise transfer its rights under this Agreement to any third party, whether by operation of law or otherwise;
  - (d) Decompile, disassemble, reverse engineer, or attempt to reconstruct or discover any source code or underlying ideas or algorithms of any software or application by any means;
  - (e) Modify or alter any software or application in any manner;
  - (f) Create derivative works based on any software or application; or
  - (g) Directly or indirectly copy any software or application.
- 6.3 Customer will not remove (or allow to be removed) any proprietary rights notices from any software or application and will display the software or application name and any other copyright notice, and trademarks, of FDGS and FDGS's licensors, as reasonably requested by FDGS.

## **7. Customer Obligations; Compliance with Law.**

- 7.1 Audit and Inspection. FDGS may audit or inspect Customer's records related to its performance, duties, or obligations under this Agreement during Customer's normal business hours and upon reasonable advanced notice to Customer for a period of seven years after Customer uses the RemitOne Services.
- 7.2 Compliance with Law. Customer will comply with and will not use the RemitOne Services in violation of any, applicable federal, state or local laws, regulations, judicial or administrative decisions, executive orders, rules or interpretations (**Legal Requirements**) and will be solely liable for any violation of Legal Requirements. Customer will use the RemitOne Services in accordance with this Agreement, the FDGS system requirements and the written policies and procedures provided by FDGS from time-to-time. FDGS will comply with and will not provide the RemitOne Services in violation of any Legal Requirements applicable to it in its role as the RemitOne Services provider. For avoidance of doubt FDGS's compliance obligations do not include items for which Customer is responsible.

## **8. Representations and Warranties.**

- 8.1 Customer represents and warrants: (i) it has corporate authority to execute this Agreement; (ii) executing this Agreement does not constitute a material conflict with, breach or default under any applicable law, its respective charter or bylaws, or any documents, agreements or other instruments which are binding upon Customer; and (iii) this Agreement creates valid, legal and binding obligations that are enforceable against Customer.

- 9. Disclaimer of Warranties.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, FDGS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR

PURPOSE, OR IN RESPECT OF ANY THIRD PARTY PRODUCTS OR REMITONE SERVICES AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR USAGE OF TRADE WHICH RELATE TO THE REMITONE SERVICES PROVIDED UNDER THIS AGREEMENT. FURTHER, FDGS DOES NOT WARRANT THAT CUSTOMER'S USE OF THE REMITONE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. THIS AGREEMENT IS A SERVICE AGREEMENT AND THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE DO NOT APPLY TO THIS AGREEMENT.

**10. Limitation of Liability.**

- 10.1 Each of FDGS's total and aggregate and cumulative liability under this Agreement for any loss or damage related to this Agreement, from any cause whatsoever, will be limited to the amount of the Fees paid to FDGS for RemitOne Services performed in the preceding twelve months of the Claim. FDGS shall be relieved of all liability where FDGS performs any Service in accordance with instructions provided by Customer, and FDGS may rely on any information set forth in any such instructions for accuracy and compliance with Legal Requirements that pertain to Customer.
- 10.2 FDGS WILL NOT BE LIABLE TO CUSTOMER UNDER ANY THEORY FOR SPECIAL, REPUTATIONAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), EXEMPLARY OR PUNITIVE DAMAGES; REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 10.3 Neither party may bring an action (regardless of form) for breach of this Agreement more than two (2) years after such party first knew or should have known of such breach; provided, however, this time limitation will not apply to breaches of the confidentiality requirements herein. Each party will act to mitigate its damages.

**11. General Indemnity.**

- 11.1 Customer Indemnity. Customer will at its own expense, indemnify, defend and hold harmless FDGS, its directors, officers, employees, affiliates and agents against any losses, costs, fines, penalties or damages (including court costs and reasonable attorneys' fees) resulting from a third party claim (**Claims**) to the extent the Claims result from Customer's negligence, breach of this Agreement or willful misconduct. The provisions of this paragraph shall not be applicable in the case such Claim arises out of negligence or willful misconduct of FDGS or its assigns, agents, or employees.
- 11.2 FDGS Indemnity. Except for IP Infringement Claims, which are dealt with in Section 16, FDGS will, at its own expense, indemnify, defend and hold harmless Customer, its directors, officers, employees, affiliates and agents against any third-party Claims to the extent the Claims result from FDGS's gross negligence or willful misconduct. The provisions of this paragraph shall not be applicable in the case such Claim arises out of negligence or willful misconduct of Customer or its assigns, agents, or employees.

**12. Notice, Defense, and Resolution of Claims and Indemnification Claims.**

- 12.1 If a party receives notice of any Claim for which indemnification may be available under this Agreement, the party must promptly notify the indemnifying party in writing of the Claim (as applicable), including, if possible, the amount or estimate of the amount of liability arising from it. This notice must be given with reasonably sufficient promptness so that the rights of the indemnifying party are not materially prejudiced.
- 12.2 Within thirty (30) days (or within a shorter time if necessary to avoid prejudice), the indemnifying party must notify the other party of its intentions with respect to the notice.
- 12.3 If the indemnifying party elects to defend the Claim, the other party must cooperate with the indemnifying party in the investigation and defense (which will be conducted at the indemnifying party's sole expense). The indemnifying party will have the right to control the defense, select counsel, and direct the course of resolution, including settlement (but only if the settlement includes no admission of liability by the other party, does not involve more than the payment of money, and grants the other party a full and unconditional release from all

liability with respect to the Claim). However, the indemnifying party may not consent to the entry of any judgment with respect to a Claim without the written consent of the other party. In addition to the defense provided by the indemnifying party, the other party may elect to retain its own counsel, but the indemnifying party will not be responsible for any fees or expenses of such counsel.

### 13. Confidential Information; Information Security.

- 13.1 Confidential Information. “*Confidential Information*” means all data or information that is competitively sensitive material and/or not generally known to the public; including, but not limited to, information which is marked confidential or proprietary, customer lists, technology, inventions, systems, operations, facilities, products, RemitOne Services, discoveries, ideas, concepts, research, development, processes, operating procedures, marketing, business and development plans, pricing, policies and financial information. Confidential Information does not include information which: (i) is or becomes part of the public domain; (ii) was already known to the receiving party prior to its disclosure; (iii) is lawfully obtained from a third party without obligations of confidentiality; (iv) is independently developed by the receiving party without the use of the other party’s Confidential Information; or (v) must be communicated in response to a valid law, regulation or court order, provided the disclosing party uses reasonable efforts to notify the other party prior to disclosure (unless such notification is prohibited by law, regulation or court order) so such party may seek a protective order or otherwise prevent or limit such disclosure.
- 13.2 Disclosure and Use Restrictions. Neither party will disclose, reproduce, transfer or use the other party’s Confidential Information; provided, however, that FDGS’s employees, affiliates, agents, advisors or subcontractors may access and use Customer’s Confidential Information or Personal Information (defined below) in connection with providing the RemitOne Services. FDGS’s employees, affiliates, agents, advisors or subcontractors with access to Customer’s Confidential Information or Personal Information will comply with the confidentiality provisions of this Agreement. Each party will take commercially reasonable steps to prevent disclosure of Confidential Information; including, at a minimum, such steps it would take to protect its own Confidential Information.
- 13.3 Information Security. Each party is responsible for: (a) the security of non-public or personally identifiable information (**Personal Information**) on the systems under its control; and (b) data security issues arising from its systems, or directly resulting from its use of third party vendors or subcontractors (if any) in connection with the RemitOne Services. Each party will maintain information security practices designed to prevent unauthorized or unlawful access to, use, disclosure, or alteration of Personal Information (collectively, a **Security Incident**). In the event of a Security Incident, the affected party will promptly (i) assess the nature and scope of the Security Incident; (ii) identify the Personal Information involved, if any; (iii) take appropriate steps to contain, control and stop the Security Incident; and (iv), in the event Personal Information was compromised, notify the other party of the Security Incident, subject to any request by law enforcement or other government agency to withhold such notice pending the completion of an investigation. FDGS is not responsible for and does not control third party telecommunication lines used to provide the RemitOne Services; and will not be responsible for the security of transmissions these lines.
- 13.4 Ownership. This Agreement does not provide either party with any right, title, or interest in or to the Confidential Information of the other party. Each party will, at the request of the other party, return or destroy (and certify the destruction of) the other party’s Confidential Information.
- 13.5 Equitable Relief. FDGS and Customer agree there is no adequate remedy at law for a breach of the confidentiality, disclosure, use, safeguarding and ownership requirements (collectively, the “*Confidentiality Requirements*”) related to Confidential Information and Personal Information under this Agreement. A breach of the Confidentiality Requirements will cause irreparable harm such that the non-breaching party will not have an adequate remedy at law; and, therefore, the non-breaching party will be entitled to seek injunctive relief (without posting a bond or other security) against the breaching party in addition to any other rights or remedies available at law or in equity.

**14. Intellectual Property Rights.**

- 14.1 FDGS IP shall mean (a) all Confidential Information of FDGS; (b) all intellectual property rights of FDGS related to the RemitOne services; (c) all filed or pending applications for patents or for any division, reissues, reexaminations, substitutes, continuations, continuations in part, or extensions of patents of FDGS related to the RemitOne Services.
- 14.2 Ownership. Customer acknowledges that, as between Customer and FDGS, all FDGS IP is the sole and exclusive property of FDGS and title to all FDGS IP will remain in FDGS. Except as set forth in Section 8, (a) this Agreement and any Statement of Work do not confer upon Customer any right, license or interest in or to FDGS IP; and (b) no license is granted to Customer by estoppel or otherwise, to any FDGS IP. Customer further acknowledges that it does not have any implied license to any FDGS IP, and FDGS disclaims any such implied license. FDGS may use the FDGS IP to perform any services (including services that are the same as or similar to those performed for Customer) for other FDGS customers. In addition, FDGS will retain sole and exclusive ownership in all ideas, concepts, know-how, works of authorship, inventions, and other intellectual property (whether or not patentable) created or conceived by FDGS in the course of providing Services.

**15. General.**

- 15.1 Governing Law. New York law will govern the interpretation, validity, and enforcement of this Agreement, without regard to its conflicts of law statutes.
- 15.2 Severability. Any provision of this Agreement that is determined to be illegal, invalid or unenforceable will be deemed void; and the remainder of this Agreement will continue in full force and effect. The parties will substitute a valid provision approximating the intent and economic effect of any invalidated provision.
- 15.3 Headings. The headings in this Agreement are for reference only.
- 15.4 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Customer and FDGS, and supersedes all prior agreements, written or oral, related to the RemitOne Services. This Agreement includes, and incorporates, the attached schedules or exhibits. Any Amendment to this Agreement must be in writing and signed by FDGS and Customer.
- 15.5 Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original, and all of which together constitute one and the same instrument.
- 15.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement and it will not be construed to create such rights, benefits or remedies.
- 15.7 Assignment. Neither party may assign this Agreement, voluntarily or by operation of law, without prior written consent from the other party, which will not be unreasonably withheld. Consent, however, is not needed for either party to assign this Agreement to an affiliate or subsidiary, or in connection with a merger, acquisition or sale of all or substantially all of the assignee's assets or of a controlling equity interest. Any assignment in violation of this subsection will be deemed null and void. This Agreement will extend to and be binding upon any permitted successors and assigns.
- 15.8 RAKTL Acknowledgement. FDGS represents and warrants that an affiliate of FDGS has a limited, minority, non-controlling, equity interest in Ronald A. Katz Technology Licensing L.P., an entity owning certain patent applications and patents which may apply to interactive or automated voice response products or services provided by FDGS.
- 15.9 Subcontractors. FDGS may subcontract all or any part of the RemitOne Services, but FDGS will remain solely responsible for the performance of all RemitOne Services.

15.10 Notices. All notices or other communications under this Agreement will be deemed given when mailed by (i) first class registered or certified mail, postage prepaid, return receipt requested; or (ii) by nationally recognized courier service to the address below or such other address as such party may designate in writing. All notices or other communications will be effective upon receipt.

If to FDGS:

First Data Government Solutions, LP  
Attn: SVP, Government Solutions  
600 Vel R Phillips Avenue  
Milwaukee, WI 53045

With a copy to:

First Data Government Solutions, LP  
Attn: General Counsel's Office  
3975 NW 120<sup>th</sup> Avenue  
Coral Springs, FL 33065

If to Customer:

At the address provided when creating an Account

- 15.10 Survival of Obligations. Sections 4 and 6 through 15 will survive termination of this Agreement.
- 15.11 Independent Contractors. FDGS and Customer are independent contractors. Nothing in this Agreement will be deemed to create a joint venture, partnership, employment or similar relationship between the parties. Except as specifically provided for herein, neither party is an agent or representative of the other; and neither party will represent otherwise.
- 15.12 Waiver. No delay or single, partial, failure, abandonment or discontinuance of either party to exercise any right, power or privilege hereunder will affect such right, power or privilege. The parties' rights and remedies under this Agreement are cumulative and not exclusive. Any waiver, consent, or approval of any failure to comply, breach or default under this Agreement must be in writing, will be effective only to the extent set forth in such writing and will not continue to apply to additional failures to comply, breaches or defaults.
- 15.13 Force Majeure. Neither party will be in default under this Agreement, and will be excused from performing its obligations, if its performance is prevented, restricted, delayed or interfered with due to a Force Majeure Event, whether foreseen or not. A "*Force Majeure Event*" includes (i) labor disputes, strikes, riot or other civil unrest; (ii) flood, hurricane, tornado, lightning, severe weather, earthquake or other natural disaster; (iii) rationing or other shortage of materials; (iv) utility failures, electronic transmission failures or other electronic or communication failures or delays; (v) pandemic, terrorism, embargo, blockade, revolution or other acts of war; (vi) any change in laws, orders, rules, regulations, ordinances or other governmental or judicial acts impairing performance, or (vii) other acts of God, all of which are beyond the parties' reasonable control.
- 15.15 Export/Import/Re-Export. Customer acknowledges that the export, import, and use of certain hardware, software, and technical data provided hereunder is regulated by the United States and other governments and agrees to comply with all applicable laws and regulations. Customer agrees not to export or re-export directly or indirectly any equipment, software, or related technical data or information without first obtaining any required license(s) or other governmental approvals.

## **EXHIBIT A**

### **Product Description**

The RemitOne Service is an outsourced service for Customer to provide electronic payment processing to its clients who purchase the service from Customer.

#### **Application:**

The application is comprised of a hosted site for use by the Customer.

#### **Payment Initiation via:**

- Hosted Website

#### **Product Features Include but not be limited to:**

- ACH file creation
- Indirect remittance of Federal and State tax payments
- Monthly or Quarterly Activity Statements (for fee if requested)
- Transaction receipts via email
- Hard charge file on transaction date
- Customer Service via phone (TBD) or email via (TBD)
- Enables delivery of payment files Bank of America for funds transfer
- Each transaction will have unique transaction ID

#### **Federal Payments**

- Federal payments are processed in several ACH files. FDGS will initiate an ACH Debit file on behalf of the Taxpayer that debits the Taxpayer account and credits the bank's impound account. A separate debit file containing individual debits is also sent to the Electronic Tax Payment System ("EFTPS") that will come through the FED on settlement date debiting the impound account and crediting the taxpayers tax account at IRS.
- Files are processed in accordance with Customer's arrangement with Bank of America.
- The Taxpayer FED statement reflects all RemitOne file activity.

#### **State Payments**

- State payments are transacted as ACH credits initiated by the Customer with offsetting individual debits to Customer's customer accounts and an outgoing credit to the government authority.
- Taxpayers will be required to separately enroll with the respective state authority to make ACH credit payments prior to initiating a payment through RemitOne.
- FDGS transmits state ACH CR files to Bank of America to be processed by Bank of America in accordance with Customer's agreement with Bank of America.
- Payment records and addenda information will be formatted to comply with the requirements of the respective government authority.

#### **Customer Service**

RemitOne Customer Service Representatives (CSR) are available to provide support to Customer's use of the hosted site. CSR responsibilities include:

- On-going support to Customer
- Coverage 5 days a week (except for holidays) from 8:00 A.M. EST to 6:00 P.M. EST
- Distributing correspondence to Customer

- Managing Customer relationships and overall satisfaction

### **Settlement Options**

- The payment settlement will be determined by Customer's arrangement with Bank of America
- Federal transactions are debited from Taxpayer DDA account and funds are credited to the Customer impound account. EFTPS sends a debit to the impound account on the Taxpayer defined due date.
- State and local payments are debited from the Taxpayer DDA account and credited to the bank's impound account. The bank then sends the funds to the individual state or local tax agency by Bank of America ACH transfer to be credited to the taxpayer account.
- Customer, not the Taxpayer, defines the settlement options. Multiple Customer settlement options may be established, however, separate categories or groupings are required for each option on the system.

### **RemitOne Risk Control - Uncollected Funds Federal Only**

- RemitOne Services facilitate the movement of funds from your Account to the Bank of America's impound account. In the event that Customer has insufficient funds, Bank of America will charge the impound account to reverse the original movement of funds. After Bank of America receives the EFTPS debit into the impound account, the debit may be returned to EFTPS.

### **Payment Cancellations**

- Cancellations of payments are dependent on the settlement options being used; payments may be cancelled one or two Business Days prior to due date and before the daily file cutoff time in accordance with your arrangement with Bank of America.
- Cancellations may not be made once the payment has been transmitted by Bank of America on your behalf.

### **Customer Receipts and Monthly/Quarterly Reports**

The following reports are available to you as optional services for an additional fee:

- FDGS will be responsible for generating receipts at the Customer's request based upon information provided to FDGS.
- Monthly or Quarterly Activity Reports showing all payments initiated may be generated monthly or quarterly.

### **Hard Charge Files**

- Customer will receive an ACH hard charge to its DDA account for RemitOne Services.
- The hard charge will be posted to your DDA account the day the tax payment transaction is transmitted to the bank.

### **System Cut-Off and Data Transmissions**

- FDGS will continue the current daily transmission processing schedule with a processing cut-off time of 3:00 PM Pacific time.
- FDGS and the Customer will continue to use the current process and protocol used by Bank of America for all RemitOne data transmissions.

Exhibit B  
Data Elements Exchanged/Stored

FDGS will receive the following data for each agency from Customer to use the RemitOne services and FDGS will retain if for future transactions:

- State Tax ID
- State Tax Code
- Bank Acct
- Routing number

FDGS will retain the following data on its system:

- State Tax ID
- State Tax Code
- Bank Acct
- Routing number
- A unique transaction identifier
- A unique ID (FEIN) that represents Customer
- Customer contact information
- Transaction history