

TERMS OF USE

This Terms of Use Agreement (“Agreement”) is a legal agreement between Frost-Arnett, a Tennessee company whose notice address is contained below and any of its affiliates (“Company”) and each user who has completed the registration process, provided information and/or is using the Company’s website (“User/You”), including, but not limited to the website located at www.facpayments.com (“Website”).

By using this Website or utilizing any service or business offered by Company; you accept these conditions and agree to be bound by the terms of this Agreement. Please read them carefully. You may print up this Agreement at any time by clicking on the link on the Website.

TERMS

Company provides the Website and various services subject to User’s compliance with this Agreement, any specifically referenced documents contained herein and any posted guidelines, rules, or other documents applicable to such services or materials posted on the Website that are all incorporated by reference (collectively referred to herein as “Terms of Use”).

ACKNOWLEDGEMENT

BY COMPLETING THE REGISTRATION PROCESS AND/OR USING THIS WEBSITE, USER AGREES TO BE BOUND BY THESE TERMS OF USE. IF USER DOES NOT WISH TO BE BOUND BY THESE TERMS OF USE, PLEASE EXIT THE WEBSITE NOW. USER’S REMEDY FOR DISSATISFACTION WITH THIS WEBSITE, OR ANY PRODUCTS, SERVICES, CONTENT, OR OTHER INFORMATION AVAILABLE ON OR THROUGH THIS WEBSITE, IS TO STOP USING THE WEBSITE AND/OR THOSE PARTICULAR PRODUCTS OR SERVICES. USER’S AGREEMENT WITH COMPANY REGARDING COMPLIANCE WITH THESE TERMS OF USE BECOMES EFFECTIVE IMMEDIATELY UPON COMMENCEMENT OF USER’S USE OF THIS WEBSITE.

Company reserves the right to change the Terms of Use from time to time and without notice to User. User acknowledges and agrees that it is User’s responsibility to review this Website and the Terms of Use periodically and to be aware of any modifications. User’s continued use of this Website after such modifications will constitute User’s acknowledgement of the modified Terms of Use and agreement to abide and be bound by the modified Terms of Use. If any of these conditions are deemed invalid, void, or for any reason unenforceable, that condition is deemed severed and does not affect the validity and enforceability of any remaining condition.

Company reserves the right to modify or discontinue the Website, including any features included, at any time with or without notice to User. Company shall not be liable to User or any third party if Company chooses to exercise such right. Any new features that augments or enhances the services on the Website are also subject to the Terms of Use. The Website is provided “AS IS” with no warranty of any kind associated with the performance of the Website or the Content provided.

PRIVACY

Subject to any applicable Company’s Privacy Policy located on the Website that is hereby incorporated, User is solely responsible for the contents of any of User’s communications submitted, transmitted, displayed, posted, or shared through the Website or to Company, whether by electronic mail or other means, for any reason (“User Data”). All User Data will be treated as non-confidential and non-proprietary. Unless otherwise established, User retains all rights in the User Data and grants Company and its designated licensees a non-exclusive, royalty free perpetual, and worldwide right to copy, distribute, display, perform, publish, translate, adapt, modify, and otherwise use such User Data for any purpose, regardless of the form or medium, whether now known or later developed, in which it is used. User is responsible for ensuring no User Data is confidential, proprietary, or in any way related to an unsolicited idea or proposal and User waives any allegation claiming otherwise.

User represents and warrants that User owns or otherwise controls all of the rights to the User Data; that the User Data is accurate; that use of the User Data does not violate this Terms of Use and will not cause injury to any person or entity; and that User will indemnify Company for all claims related to the User Data.

By providing your email address to Company, User consents to receive electronic communications from Company. Company will communicate with User by email or by posting notices on this Website. User agrees that all agreements,

notices, disclosures, and other communications that Company provides to User electronically, satisfies any legal requirement that such communications be in writing. User further agrees that by supplying the User's email to Company, User consents to receiving email communication from Company.

CONDUCT

User's use of the Website is subject to all applicable laws and regulations. User agrees not to upload, share, post, or otherwise distribute or facilitate distribution of Content (defined below) or User Data that is or is used in a manner that is "Objectionable," including, without limitation, displaying any Content or posting any User Data that is illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third parties, consists of or contains software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of "spam," includes a false e-mail address, impersonates any person or entity or otherwise misleads as to the origin of a card or other content. Company reserves the right, but has no obligation, to remove or edit such Objectionable User Data.

Company, at its sole discretion, may (a) immediately terminate the Services and the Terms of Use or otherwise restrict User's Services and/or (b) immediately remove any Objectionable User Data, with or without notice if User posts Objectionable User Data.

INTELLECTUAL PROPERTY

"Content" is defined as including, without limitation, information, materials, products, content, design, compilation, magnetic translation, digital conversion organization, communications, software, photos, video, graphics, music, sounds and other material and services that relate to the Website or that can be viewed by Users on the Website including, without limitation, message boards, chat, other original content, text, communications, software, images, sounds, data, User Data, Registration Data or other information.

By accepting the Terms of Use, User acknowledges and hereby agrees that unless expressly stated otherwise, all Content is solely owned and the property of Company and protected by copyrights, trademarks, service marks, patents and/or other proprietary rights and laws including, without limitation the domain www.frost-arnett.com, the service mark Frost-Arnett Company and its design, and all other names, trademarks, service marks, logos, commercial symbols and styles used by Company in providing its products and/or services (collectively referred to as "Intellectual Property Rights").

User is granted a nonexclusive revocable limited license to access and make personal use of the Website and not to download (other than page caching) any Content provided on the Website, except with prior written consent of Company. User is granted a limited, revocable, and nonexclusive right to create a hyperlink to the Website so long as the link does not portray Company, or its products or services in a false, misleading, derogatory, or otherwise offensive matter. User may not use any of Company's Intellectual Property Rights, specifically any Company service mark, logo or other proprietary graphic without Company's express written permission. This license does not include any resale or commercial use of this Website or its contents; any derivative use of this Website or its Contents; or any use of data mining, robots, or similar data gathering and extraction tools. Notwithstanding the foregoing, User may not copy, commercialize, reproduce, modify, republish, upload, post, transmit, or distribute any of the Content from the Website in any form or by any means without prior written permission from Company or the specific content provider. User may not frame or utilize framing techniques to enclose any Intellectual Property Rights of Company without express written consent of Company. User may not use any meta tags or any other "hidden text" using Intellectual Property Rights without the express written consent of Company. User does not acquire ownership rights to any Content. Any unauthorized use of the Content is strictly prohibited and is a violation of Company's Intellectual Property Rights that may result in criminal or civil penalties and immediately terminates the permission or license granted by Company.

Neither Company nor the Affiliates warrant or represent that User's use of the Content or any other materials displayed on, or obtained through, the Website will not infringe the rights of third parties.

USE OF MATERIALS

User acknowledges the value of both Company's Intellectual Property Rights and the intellectual property rights of others. If at any time the User believes its copyright, trademark or other property rights have been infringed by a posting on the Website, the User shall immediately send notification to Company's "Designated Agent" that is identified below.

DESIGNATED AGENT

Pursuant to the Digital Millennium Copyright Act, 17 U.S.C. Sec. 512(c), Company' Designated Agent for notice of claims of copyright infringement can be reached as indicated below. Service of repeat infringers of copyright or of users about who repeat claims of copyright infringement are received will be terminated.

Designated Agent for Claimed Infringement
General Counsel
2105 Elm Hill Pike, Suite 200
Nashville, TN 37210

User acknowledges and agrees that upon receipt of a notice of a claim of copyright infringement, Company may immediately remove the identified materials from the Website without liability to User or any other party and that the claims of the complaining party and the party that originally posted the materials will be referred to the United States Copyright Office for adjudication as provided in the Digital Millennium Copyright Act.

PRODUCT DESCRIPTIONS

Company attempts to be as accurate as possible; however, Company does not warrant that product descriptions or other Content of this website is accurate, complete, reliable, current, or error-free. If a product offered by Company itself is not as described, User's sole remedy is to return the product in unused condition.

THIRD PARTY SITES AND INFORMATION

The Website Content may link User to other sites on the Internet or include third party User Data, commentary, posts, blogs or otherwise include information, documents, software, materials and/or services provided by other parties ("Third Party Content"). Third Party Content may contain information or material that some people may find inappropriate or offensive. User Data and Third Party Content are not under Company's control and Company has no affiliation, does not endorse or take responsibility for any User Data or Third Party Content and User acknowledges that Company is not responsible for the accuracy, copyright compliance, legality, decency or any other aspect of the Third Party Content nor is Company responsible for errors or omissions in any references to other parties or their products and services. The inclusion of such Third Party Content does not imply endorsement of, or association with, the Third Party Content by Company.

DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

THIS WEBSITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) AND SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE ARE PROVIDED BY COMPANY ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THIS WEBSITE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE, UNLESS OTHERWISE SPECIFIED IN WRITING. USER EXPRESSLY AGREES THAT THE USER'S USE OF THIS WEBSITE IS AT USER'S SOLE RISK.

TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT THIS WEBSITE, INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE, THE SERVERS, OR E-MAIL SENT FROM COMPANY ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. COMPANY WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS WEBSITE OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

Through User's use of the Website, User may have the opportunities to engage in commercial transactions with other users and vendors. User acknowledges that all transactions relating to any merchandise or services offered by any party, including, but not limited to the purchase terms, payment terms, warranties, guarantees, maintenance and delivery terms relating to such transactions, are agreed to solely between the seller or purchaser of such merchandise and services and User.

COMPANY MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED THROUGH, OR IN CONNECTION WITH THE WEBSITE, AND USER UNDERSTANDS AND AGREES THAT SUCH TRANSACTIONS ARE CONDUCTED ENTIRELY AT USER'S OWN RISK. ANY WARRANTY THAT IS PROVIDED IN CONNECTION WITH ANY CONTENT, PRODUCTS, SERVICES, MATERIALS, OR INFORMATION AVAILABLE ON OR THROUGH THE WEBSITE IS PROVIDED SOLELY BY SUCH THIRD PARTY OR THROUGH A SEPARATE ACKNOWLEDGEMENT. COMPANY DOES NOT INCLUDE ANY EXPRESS PRODUCT WARRANTY WITHIN THE TERMS OF USE.

INDEMNIFICATION

Upon a request by Company, User agrees to indemnify, defend and hold Company harmless from all liability, loss, claim and expense, including attorney's fees, related to User's violation of the Terms of Use or misuse of the Website. Company hereby reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by User, in which event User will cooperate with Company in asserting any available defenses.

PRIVACY POLICY

Company's Privacy Policy, as it may change from time to time, is a part of the Terms of Use. User is solely responsible for reviewing any privacy policy incorporated into the Terms of Use.

INTERNATIONAL USE

Although the Website may be accessible worldwide, Company makes no representation that materials on the Website are appropriate or available for use in locations outside the United States and accessing them from territories where their contents are illegal is prohibited. Users who access the Website from other locations do so on their own initiative and are responsible for compliance with local laws. Any offer for any product, services and/or information made in connection with this Website is void where prohibited.

TERMINATION OF USE

User agrees that Company may, in Company's sole discretion, terminate or suspend User's access to all or part of the Website with or without notice and for any reason, including, without limitation, breach of the Terms of Use. Any suspected fraudulent, abusive or illegal activity may be grounds for terminating User's relationship and may be referred to appropriate law enforcement authorities. Upon termination or suspension, regardless of the reasons therefore, User's right to use the Content available on the Website immediately cease and User acknowledges and agrees that Company may immediately deactivate or delete User's account and all related information and files in User's account and/or bar any further access to such files or the Website. Company is not liable to User or any third party for any claims or damages arising out of any termination or suspension or any other actions taken by Company in connection therewith.

ASSIGNMENT

The Terms of Use may be automatically assigned by Company in its sole discretion. User may not resell, assign or transfer any of its rights or obligations under the Terms of Use, in whole or in part, without Company's prior written consent and any attempt to so resell, assign or transfer will be null and void.

ATTORNEYS' FEES

In any action, formal or informal, initiated by Company to enforce the Terms of Use, Company will be entitled to costs and attorneys' fees.

INSUFFICIENT FUND FEES (NSF)

The Company reserves the right to charge NSF fees where not prohibited by law and to the extent legally allowable.

INTERPRETATION

If a court finds any provision of the Terms of Use invalid or unenforceable, the remainder of the Terms of Use shall be interpreted so as to best affect the intent of the Parties or the Parties agree that the maximum period or scope legally

permissible under such circumstances will be substituted for the period or scope stated herein.

AMENDMENT

The Terms of Use may be amended at any time by Company without specific notice to User. The latest Terms of Use will be posted on the Website, and User takes sole responsibility to periodically review the Terms of Use prior to using the Website.

APPLICABLE LAW

By using the Website, User agrees that the laws of the state of Tennessee, without regard to principles of conflict of laws, will govern these Terms of Use and any disputes relating in any way to Company or to products or services sold or distributed by Company and both Company and User submit to the exclusive personal jurisdiction and venue of the state or federal court in Tennessee.

PAYMENT OF FEES

Fees due by the User for using certain services or purchasing products are either set out in a separate agreement or described elsewhere in the Website and are the sole responsibility of the User ("Fee"). Any such agreement is incorporated by reference. If User incurs a Fee, User agrees to pay all Fees. Company will bill all Fees to User's credit card or other automatic payment option available and provided to Company by User. User agrees to provide Company with accurate and complete billing information, including valid credit card information, User's name, address and telephone number, and to provide Company with any changes in such information within five (5) calendar days of the change. If, for any reason, User's credit card company refuses to pay the Fee, User agrees that Company may require User to pay any unpaid amount due upon demand ("Default") by other means acceptable to Company. If legal action is necessary to collect any Fees due, User agrees to reimburse Company for all expenses incurred to recover Fees due, including collection fees, attorney's fees and other expenses.

REGISTRATION DATA

In order to access some of the services on the Website, User will require an account, password and/or other information and data provided to Company in connection with the use of the Website ("Registration Data"). By providing Registration Data, User agrees that all information provided in the Registration Data is true and accurate, the User is at least eighteen (18) years of age and that User will maintain and update this information as required to keep it current, complete and accurate. User grants Company the right to disclose to third parties certain Registration Data about User in accordance with any privacy policy.

User is solely responsible for maintaining the confidentiality of User's password and account and for any and all statements made and acts or omissions that occur through the use of account associated with the Registration Data ("Account") and agrees to abide by the Terms of Use available on the Website and incorporated herein as part of the Terms of Use. User must take steps to ensure that others do not gain access to the Registration Data or the Account. User may not transfer or share User's Account with anyone and Company reserves the right to immediately terminate User's Account in the event of any unauthorized transfer or sharing.

Each Account is for User's personal use only and not on behalf of any other person or entity. Company does not permit (a) any other person to utilize the User's Content and/or Account or (b) access to the Account to be made available to multiple users on a network. User is responsible for preventing such unauthorized use.