

Affirm Merchant Portal Terms of Service

Last Updated: June 28, 2024

These Merchant Portal Terms of Service (the “Terms”) are entered into between Affirm, Inc. or Affirm Canada Holdings Ltd., as applicable (including its subsidiaries, affiliates, agents, and assigns) (“Affirm”) and You (“You” or “Your”) (each, a “Party” and collectively, the “Parties”), as the authorized agent of a merchant (“Merchant”) who partners with Affirm to offer Affirm’s Services (as defined below).

These Terms are to be read in conjunction with the respective Order Form, Merchant Agreement and/or similar agreement with respect to Affirm’s Services, as entered into by and between Merchant and Affirm (the “Agreement”). Capitalized terms used but not defined herein are defined in the Agreement.

1. Overview. The Affirm Merchant Portal (the “Portal”) provides Merchant with information about Merchant customers who purchase Merchant products using the products and services offered through Affirm’s proprietary platform and related application programming interfaces, virtual card networks, and other technology and access solutions (collectively, the “Services”).

2. Merchant Representations and Warranties.

2.1. By creating an account to use the Portal, You represent that (i) You are the authorized agent of Merchant with authority to agree to these Terms on behalf of Merchant; (ii) all information that You provide to Affirm in connection with Your access to and use of the Portal is true, accurate and complete to the best of Your knowledge and belief; and (iii) You have all rights and authority necessary to provide any data or other information You provide hereunder.

2.2. You agree that, for each person with access to the Portal, Merchant will: (i) take reasonable measures to ensure at all times that each such person is an authorized agent of Merchant; (ii) take such actions as are necessary to maintain the confidentiality of, and prevent the unauthorized use of, each password and, if applicable, user account used to access the Portal; (iii) immediately notify Affirm in writing if Merchant determines, or has reason to believe, that an unauthorized party has gained access to a password or, if applicable, user account used to access the Portal; and, (iv) that Merchant is solely responsible for all activity arising from access to, use of, or any other act or omission with respect to the Portal, whether or not authorized by Merchant.

3. Use of the Merchant Portal

3.1. Portal Access. The credentials You use to access the Portal are for Your use only as the authorized agent of Merchant and may not be provided to any third party. Credentials must be kept confidential, uniquely associated with an individual who is an authorized agent of Merchant, and may not be shared between individuals. Access to the Portal as well as actions performed via the Portal may be monitored or logged by Affirm. Affirm requires the use of two-factor authentication when accessing the Portal where available.

3.2. Privacy. You agree:

(a) to comply with all applicable laws regarding the processing of information about individuals who have purchased or applied to purchase Merchant products using Affirm’s Services (“Customer Information”);

(b) to access and use Customer Information in compliance with the Agreement, Merchant’s privacy policy, and any other commitments or disclosures that Merchant has made regarding the privacy of Customer Information;

(c) to keep confidential all Customer Information viewed or accessed through Portal;

(d) to protect the Customer Information with the same degree of care that You use to protect the confidentiality of Merchant's own confidential information (but not less than reasonable care); and

(e) to export or download information from the Portal only where necessary to achieve a purpose for which You are authorized to act by Affirm and Merchant.

3.3. Prohibitions. You will not:

(a) engage in any activities in connection with the Portal that violate any applicable law, statute, regulation, or ordinance or breach these Terms or any other agreement or policy that Merchant has with Affirm;

(b) provide false, inaccurate, fraudulent, or misleading information through the Portal;

(c) use any device, software, routine, file, or other tool or technology, including but not limited to any viruses, trojan horses, worms, time bombs, or cancelbots, intended to damage or interfere with the Portal or to surreptitiously intercept or expropriate any data from the Portal;

(d) use any robot, spider, scraper or other automated means to access the Portal for any purpose without Affirm's express written permission;

(e) use the Portal without authorization from Merchant and Affirm, or misuse passwords or credentials, including sharing Your credentials with any other individual user(s);

(f) attempt to disable or circumvent any security controls of the Portal;

(g) take any action that imposes an unreasonable or disproportionately large load on Affirm's infrastructure, including but not limited to denial of service attacks, "spam," or any other such unsolicited overload technique; or

(h) use the data accessible via the Portal for any other purpose than to administer the Customer relationship as foreseen by these Terms and the Agreement.

3.4. Security. You agree to notify Affirm promptly (but in no event later than 48 hours) upon becoming aware of any suspected compromise of Your access credentials or other suspected unauthorized access of the Portal or of Your accounts used to access the Portal. You furthermore agree to cooperate in any reasonable effort, action or proceeding to reasonably mitigate and/or remediate the impact of the Security Incident and come into compliance with Applicable Law. All notices to Affirm under this Section 3.4 will be sent to infosec@affirm.com.

4. Copyright, Trademark, and Ownership. All of the content displayed on the Portal including, without limitation, text, graphics, photographs, images, moving images, sound, and illustrations ("Content"), is owned by Affirm, its licensors, agents or its content providers. All elements of the Portal, including, without limitation, the general design, Affirm's trademarks, service marks, trade names (including Affirm's name, logos, website name, mobile application name, website design and mobile application design), and other Content, are protected by trademark, copyright, moral rights, trademark and other laws relating to intellectual property rights. You may not use, copy, reproduce, republish, upload, post, transmit, distribute, or modify the Content or Affirm's trademarks in any way, including in advertising or publicity pertaining to distribution of materials on the Portal, without Affirm's prior written consent. The Portal, its Content, and all related rights shall remain the exclusive property of Affirm or its licensors unless otherwise expressly agreed in writing. You will not remove any copyright, trademark or other proprietary notices from material found on the Portal.

5. Disclaimers.

5.1. THE INFORMATION, MATERIALS, PRODUCTS AND THE PORTAL CONTENT PROVIDED ON, THROUGH, OR IN CONNECTION WITH THE PORTAL OR OTHERWISE PROVIDED BY US ARE PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SECURITY, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, FREEDOM FROM COMPUTER VIRUS, OR WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AFFIRM HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PORTAL. AFFIRM DOES NOT REPRESENT OR WARRANT THAT THE PORTAL OR ANY INFORMATION AFFIRM PROVIDES THROUGH THE PORTAL WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE PORTAL IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. AFFIRM DOES NOT MAKE ANY WARRANTIES OR REPRESENTATIONS REGARDING THE COMPLETENESS, CORRECTNESS, ACCURACY, ADEQUACY, USEFULNESS, TIMELINESS OR RELIABILITY OF THE PORTAL OR ANY INFORMATION AFFIRM PROVIDES THROUGH THE PORTAL. THE INFORMATION, MATERIALS, PRODUCTS AND PORTAL CONTENT PROVIDED ON OR THROUGH THE PORTAL WEBSITE MAY BE OUT OF DATE, AND NEITHER AFFIRM NOR ANY OF ITS AFFILIATES MAKES ANY COMMITMENT OR ASSUMES ANY DUTY TO UPDATE SUCH INFORMATION, MATERIALS, PRODUCTS OR PORTAL CONTENT. THE FOREGOING EXCLUSIONS OF IMPLIED WARRANTIES DO NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

5.2. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM AFFIRM OR THROUGH THE PORTAL, PRODUCTS AND PORTAL WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

6. Limitations of Liability

AFFIRM DOES NOT ASSUME ANY RESPONSIBILITY FOR AND WILL NOT BE LIABLE, FOR ANY DAMAGE TO OR ANY VIRUS THAT MAY INFECT YOUR COMPUTER, EQUIPMENT, OR OTHER PROPERTY CAUSED BY OR ARISING FROM YOUR ACCESS TO, USE OF, OR BROWSING THE PORTAL, OR YOUR DOWNLOADING OF OR ACCESSING ANY MATERIALS FROM THE PORTAL. IN NO EVENT WILL AFFIRM, OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AFFILIATES, AGENTS, SUCCESSORS OR ASSIGNS, NOR ANY PARTY INVOLVED IN THE CREATION, PRODUCTION OR TRANSMISSION OF THE PORTAL, BE LIABLE TO YOU OR ANYONE ELSE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOST PROFITS, LOST DATA OR BUSINESS INTERRUPTION) ARISING OUT OF THE USE, INABILITY TO USE, OR THE RESULTS OF USE OF THE PORTAL, ANY WEBSITES LINKED TO THE PORTAL, OR THE MATERIALS, INFORMATION, PRODUCTS CONTAINED ON OR PROVIDED IN CONNECTION WITH THE PORTAL, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR ANY OTHER LEGAL THEORY AND WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY DO NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. THIS LIMITATION OF LIABILITY WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING THE FAILURE OF ANY LIMITED REMEDY. EACH PARTY ENTERS INTO THESE TERMS IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION, THAT THE SAME REFLECT AN ALLOCATION OF RISK BETWEEN THE PARTIES (INCLUDING THE RISK THAT A CONTRACT REMEDY MAY FAIL OF ITS ESSENTIAL PURPOSE AND CAUSE CONSEQUENTIAL LOSS), AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

IN THE EVENT OF ANY DISSATISFACTION OR PROBLEM WITH THE PORTAL OR ANY CONTENT AVAILABLE VIA THE PORTAL, YOU AGREE THAT YOUR SOLE REMEDY IS TO CEASE USING THE PORTAL OR SUCH CONTENT. IN NO EVENT SHALL AFFIRM'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE EXCEED THE GREATER OF TWENTY FIVE DOLLARS U.S. DOLLARS (U.S. \$25.00).

7. Indemnity. Merchant shall indemnify and hold harmless Affirm from any and all liabilities, costs, and expenses, including reasonable attorneys' fees, related to or in connection with (i) Your use of the Portal; (ii) Your violation of any term or condition of these Terms, including without limitation, Your breach of any of the representations and warranties; and (iii) any other party's access and use of the Portal with Your unique username, password or other appropriate security code.

8. Confidential Information and Privacy.

8.1. Confidential Information. In connection with Your access to and use of the Portal, either Party (“Recipient”) may receive or have access to confidential or proprietary information of the other Party (“Discloser”), whether received or disclosed by such Parties or their respective employees, personnel, contractors, representatives or agents (each, a “Representative”). “Confidential Information” means the information provided by Discloser in connection with Your access to and use of the Portal that should be reasonably understood to be confidential or proprietary in nature, regardless of whether such information was provided subject to a nondisclosure agreement between the Parties, any proprietary information, technical data, demographic information, trade secrets, or know-how, including research, product plans, products, services, customers, customer lists, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, or other business information disclosed by either Party either directly or indirectly in any form, but excluding information that: (a) was lawfully, and not otherwise as a result of any violation of confidentiality obligations, in Recipient’s possession before receiving it from Discloser; (b) is rightfully received by Recipient from a third party without restriction, and, to Recipient’s knowledge, without a breach of a confidentiality obligation imposed on such third party; (c) is or becomes generally available to the public other than through a breach of the Agreement; or (d) was or is independently developed by Recipient without use of or reference to any Confidential Information. For avoidance of doubt, Affirm’s proprietary financial platform, including any solution designs, specifications, enhancements, or improvements made thereto, is Affirm’s Confidential Information.

8.2. Nondisclosure of Confidential Information. Recipient will: (a) keep the Confidential Information of Discloser confidential and not use or copy such Confidential Information other than as expressly authorized by Discloser and as permitted under the Agreement; (b) protect the Confidential Information of Discloser from unauthorized use or disclosure by using at least the same degree of care as Recipient employs to avoid such unauthorized use or disclosure of its own Confidential Information, but in no event any less than reasonable care; and (c) limit access to Confidential Information to those of its Representatives who need such access for purposes consistent with the Agreement and will be liable for any breach of this Section by such Representatives. It is understood that Discloser’s Confidential Information will remain the sole property of Discloser. In the event that Recipient or any of its Representatives are legally compelled by Applicable Law, subpoena, or similar court process to disclose any Confidential Information of Discloser, Recipient will, to the extent legally permissible, provide Discloser with notice of such circumstances and will limit such disclosure to only what legal counsel for Recipient advises is specifically required by Applicable Law, subpoena, or similar court process. This provision will supersede and replace any previous agreement, whether written or oral, between the Parties hereto regarding Confidential Information.

9. Miscellaneous.

9.1. General. Affirm does not guarantee continuous, uninterrupted or secure access to the Portal, and operation of the Portal may be interfered with by numerous factors outside of Affirm’s control. If any provision of these Terms is held to be invalid or unenforceable, such provision will be struck and the remaining provisions will be enforced. You may not assign these Terms or any of your rights or obligations, by operation of law or otherwise, without Affirm’s prior written approval and any attempted assignment will be void. These Terms may be assigned by Affirm in its sole discretion. Subject to the foregoing, these Terms of Service will be binding upon and inure to the benefit of you and us, their successors and permitted assigns. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Affirm’s failure to act with respect to a breach by You or others does not waive Affirm’s right to act with respect to subsequent or similar breaches. These Terms do not confer any rights, remedies or benefits upon any person other than You. Possible evidence of use of the Portal for illegal purposes will be provided to law enforcement authorities. These Terms are the entire agreement between You and Affirm with respect to the subject matter hereof and supersede any prior understandings or agreements (written or oral). Any provision that is reasonably inferable to have been intended to survive or must survive in order to give proper effect to its intent (e.g., indemnity, general, limitations on liability, disclaimers, representations and warranties, confidentiality, etc.) will survive the expiration or termination of these Terms.

9.2. Changes to the Portal and Terms. Affirm may make changes or updates to the Portal and these Terms at any time without notice. Your initial use of the Portal constitutes Your agreement to be bound by these Terms, as they are amended from time to time.

9.3. Termination of Access. Affirm may suspend or terminate Your account or Your use of the Portal at any time, for any reason or for no reason. We may also block Your access to the Portal in the event that (a) Affirm suspects that You breach these Terms; (b) Affirm is unable to verify or authenticate any information You provide to Affirm; (c) Affirm believes that Your actions may cause financial loss or legal liability for Affirm or its customers; (d) Affirm is notified by Merchant that You are no longer acting as its authorized agent; or (e) or as otherwise provided herein or in another incorporated policy. You understand that any termination of Your account, by You or Affirm, may involve the permanent deletion of Your data. Affirm will not have any liability whatsoever to You for any suspension or termination.

9.4. Governing Law. Governing law will be set forth in the Agreement. Any disputes will be governed according to the terms set forth in the Agreement.