

Samsung Pay - Terms of Service

Effective Date: 19 November 2018

PLEASE READ THESE SUPPLEMENTARY TERMS OF SERVICE FOR SAMSUNG PAY (“**ToS**”) CAREFULLY BEFORE USING SAMSUNG PAY. IF YOU DO NOT AGREE TO THESE ToS, YOU MAY NOT USE SAMSUNG PAY.

“**Samsung Pay**” is a mobile application and related services provided in the Republic of South Africa through Samsung Electronics South Africa (Pty) Ltd. and/or its group companies (“**Samsung**”, “**We**” or “**Us**”) which enables users of certain Samsung mobile and wearable devices (“**Device**”) to (i) enroll credit, cheque or debit cards (each a “**Card**”) and make payments or facilitate other transactions (“**Transactions**”) using the Device; and (ii) receive notifications and details of Transactions made using the Device.

In order for a particular Card to be eligible to be used in Samsung Pay, your bank or issuer (the “**Card Issuer**”) must have agreed with Samsung to participate in Samsung Pay and approved the type of Card for use with Samsung Pay. You must comply with your Card Issuer’s terms and conditions in respect of your holding and using a Card, generally and (if applicable) specifically in respect of Samsung Pay (“**Cardholder Agreement**”).

Certain Cards may not be eligible for use with Samsung Pay. Your Card Issuer, as well as Samsung, each reserves the right to change or exclude certain Cards from participating in Samsung Pay from time to time. In Samsung’s case, Samsung may add, withdraw or change the eligibility of particular Cards for reasons related to, amongst other things: (i) Samsung’s agreements with Card Issuers and payment networks; or (ii) in response to security, fraud or other risks to Samsung, Card Issuer, You or any third party. If Samsung removes eligibility of Your Card once you have enrolled it, Samsung will give You notice electronically via push message and in the Samsung Pay app.

These ToS may be updated by Samsung from time to time, for example to reflect changes to Samsung Pay features or for regulatory reasons. If You continue to access or use Samsung Pay after these ToS have been updated, You will be deemed to have read, understood and unconditionally agreed to such changes. If you do not agree to the changes then you must stop using Samsung Pay. To stop using Samsung Pay at any time please remove Your Cards from the Samsung Pay application.

1. The Scope and Your Acceptance of these ToS

1.1 These ToS only govern the legal relationship between Samsung and You related to Your use of the Samsung Pay application and services provided by Samsung that allow You to store tokens representing Your Card in Your Device and communicate such tokens to a merchant for the purpose of initiating a payment transaction with Your Card, and to receive notifications and details of Transactions made using Your Device. Other than as set forth above, Samsung neither conducts nor has control over any commercial activities in connection with your use of Samsung Pay, including, without limitation, credit assessment, card issuance, payment processing, chargebacks, purchases, returns, and refunds. Samsung does not have any control over your bank's cardholder authentication activities. You acknowledge and agree that Samsung is not responsible for any of these activities nor for Your relationship with any Card Issuer or merchant in connection with those activities. You acknowledge that Your use of Cards on Samsung Pay will remain subject to the terms of any Cardholder Agreement(s) You may have with the relevant Card Issuer, and neither these ToS nor Your use of Samsung Pay shall alter Your existing relationship with Card Issuers with respect to Your Cards.

1.2 You agree that you will use Samsung Pay in accordance with the laws of the country of the Republic of South Africa in which you reside and (if applicable) the country that you are in when using Samsung Pay and that you will not use Samsung Pay for any illegal or fraudulent purposes, or purposes that are prohibited by the Service Terms and Conditions (defined below) or these ToS. SAMSUNG PAY IS NOT INTENDED FOR USE BY ANY PERSON OTHER THAN THE CARD HOLDER AUTHORISED TO USE THE CARD PURSUANT TO THE CARDHOLDER AGREEMENT BETWEEN YOU AND THE CARD ISSUER THAT ISSUED YOU YOUR CARD. IF YOU ARE NOT THE AUTHORISED CARD HOLDER, YOU MAY NOT USE SAMSUNG PAY. BY USING SAMSUNG PAY, YOU INDICATE TO SAMSUNG THAT YOU ARE THE AUTHORISED CARD HOLDER. Persons under the age of eighteen (18) (each, a "**Minor**") may not use Samsung Pay unless their parent or legal guardian has reviewed and agreed to these ToS. If you are a parent or guardian permitting a Minor to use Samsung Pay, you agree to: (i) exercise supervision over the Minor's use of Samsung Pay; (ii) assume all risks associated with the Minor's use of Samsung Pay, including the transmission of materials, content or other information to and from third parties via the Internet; (iii) assume all liabilities resulting from the Minor's use of Samsung Pay, including applicable payment obligations; and (iv) ensure the accuracy and truthfulness of all information submitted by the Minor. UNDER NO CIRCUMSTANCES MAY MINORS UNDER THE AGE OF FOURTEEN (14) USE SAMSUNG PAY.

1.3 These ToS supplement the Samsung Service Terms and Conditions ("**Service Terms and Conditions**") available at <https://account.samsung.com/membership/terms> that apply to registered User accounts with Samsung (the "**Samsung Account**"). You must have a Samsung Account to use Samsung Pay. If You do not have a Samsung Account yet, please read the Service Terms and Conditions provided through this link <https://account.samsung.com/membership/terms> and create a new Samsung Account before using Samsung Pay. The Service Terms and Conditions form an integral part of these ToS. In case of any inconsistency or conflict between the ToS and the Service Terms and Conditions, the terms of these ToS shall prevail. These ToS may be assigned to any of Samsung's group companies at any time.

2. Grant of License and Restrictions

2.1 Samsung hereby grants You a non-exclusive, non-transferable, limited, personal and revocable right and license to access and use Samsung Pay for Your personal use only, provided that You comply fully with these ToS. You acknowledge and agree that some of the functionalities or services offered by Samsung Pay may be provided by Samsung's affiliates or subcontractors on behalf of Samsung.

2.2 Use of Samsung Pay requires Your Device to have access to Internet via mobile network or WiFi (fees may apply), and requires obtaining updates or upgrades from time to time. Because use of Samsung Pay involves hardware, software, Internet access and applicable updates, Your ability to use Samsung Pay (including without limitation to receive transaction notifications) may be affected by the performance of these factors. You acknowledge and agree that complying with such system requirements, which may be changed from time to time, is Your responsibility.

2.3 You shall not interfere or attempt to interfere with the operation or use of Samsung Pay in any way through any means or device including, but not limited to, spamming, hacking, and uploading computer viruses or time bombs, or any other means. You may not use Samsung Pay for commercial purposes or for any purpose that is unlawful or prohibited by the ToS. You are specifically prohibited from using Samsung Pay in connection with any contents, services, programs or applications that (i) are in violation of any third party's rights, including but not limited to intellectual property rights; or (ii) contain viruses or other harmful software, code or other malwares that impact or limit the functions or services provided by Samsung Pay or the devices supporting Samsung Pay. Samsung Pay is not permitted to be used on, and may not function on, Devices which have had security measures removed ("rooted").

2.4 You may not reverse-engineer, copy, decompile, disassemble, derive the source code of, modify, adapt, capture, reproduce, publicly display, publicly perform, transfer, sell, license, create derivative works from or based upon, republish, upload, edit, post, transmit, distribute, exploit, circumvent or otherwise translate (or encourage or assist any other person to do any of the foregoing) Samsung Pay in whole or in part except as such right cannot be restricted by the applicable law of the Republic of South Africa.

2.5 If You fail to comply with, or Samsung suspects that You have failed to comply with any provisions of these ToS, and in particular (without limitation) clauses 1.2, 2.3, 2.4, and 3, Samsung, in its sole discretion and without notice to You, may immediately (i) suspend or terminate Your use of Samsung Pay; (ii) terminate the licenses granted hereunder; and/or (iii) preclude access to Samsung Pay. This paragraph does not affect Samsung's other rights and remedies, all of which are expressly reserved.

2.6 The features of Samsung Pay may vary based on your location, Device model and Card, and may change from time to time, for example to make improvements to security, carry out technical updates, develop new functionality or improve the Samsung Pay user experience. Samsung expressly reserves the right to, in its sole discretion, change, modify, update, add, discontinue, remove, revise, delete or otherwise change any portions of Samsung Pay at any time.

3. Offers, Promotions, Enrolment and Use of Loyalty Cards through Samsung Pay

3.1 Offers and promotions, including coupons, tickets, deals, discounts and vouchers (“**Offers**”) and registration and utilization of certain third party loyalty or membership cards and similar programs (each, a “**Loyalty Program**”), may be provided from time to time via Samsung Pay. If You encounter difficulty in enrolling a Loyalty Program using Samsung Pay or registering the Loyalty Program up for use within Samsung Pay, please call 0860 726 623.

3.2 Offers and Loyalty Programs may be subject to additional terms and conditions established by the relevant third party provider. For example, Offers may have expiration dates, one-time Offers may only be used once only and Offers must not be shared. Where any Offer or Loyalty Program is provided by a third party provider, Samsung will not be liable for any errors or omissions contained within any such Offer or Loyalty Program and You agree to look solely to the third party provider to resolve any questions or disputes relating to such Offer or Loyalty Program, including, without limitation, the receipt and redemption of any Offer.

3.3 Loyalty Programs may be accessed or used in Samsung Pay with or without biometric authentication or PIN verification. Loyalty Programs added to Your Device may be stored by Samsung allowing for accessibility on other Samsung devices which you use to log into your Samsung Account.

3.4 All Loyalty Program information displayed within Samsung Pay belongs to respective third party entities. Samsung does not claim to be endorsed, associated or affiliated with such third party entities in any way.

3.5 By providing consent you may receive marketing communications and info about products, services, and promotions from Samsung Pay and/or its partners. Samsung may contact you through Samsung Pay Push Notifications or by Email.

4. Security

4.1 You must register either your Fingerprint, PIN, Iris (if available) or Intelligent scan (if available) to prevent others from accessing or using Samsung Pay on your Device. You agree to keep Your PIN confidential at all times, and to notify Samsung immediately if Your Samsung Pay Application PIN is stolen, becomes known to an unauthorized third party or is otherwise compromised. If you allow your device to be used by a third party, you must ensure that you remove any Cards from Samsung Pay. If You lose Your Device, then You can lock the Samsung Pay application and wipe the data off Samsung Pay via the Find My Mobile service to prevent use of Samsung Pay by others.

4.2 Use of Samsung Pay for Your wearable devices may require access to or pairing with Your mobile device, and obtaining updates or upgrades made available by Samsung from time to time. You acknowledge and agree that: (i) Your wearable device or accessory may access Your mobile device anytime; and (ii) certain data and information that you have supplied to Samsung (including encrypted Card information), may be transferred to Your wearable device; and (iii) when deleting or resetting the Samsung Pay application from Your wearable devices, certain Card information will be preserved in Your mobile device; (iv) deleting a Card and/or Loyalty Program from Your wearable device may not automatically delete such Card and/or Loyalty Program from Your Samsung Pay account; (v) it is Your sole responsibility to apply a security function (e.g., pattern lock, pin number, etc.) to Your Device; and (vi) Samsung is NOT liable for any losses or damages suffered by You due to Your lost, stolen or damaged Device.

5. Warranties and Disclaimers

5.1 If you are a consumer, Samsung will use reasonable care and skill in providing Samsung Pay to you in accordance with these ToS, and Samsung warrants to you that the Samsung Pay app will be of satisfactory quality and fit for the purpose of enrolling Your eligible Cards, initiating Transactions and receiving Transaction history, and using such other functionality made available in Samsung Pay from time to time, subject to clause 5.2 below.

5.2 Samsung does not provide the undertaking and warranties set out in clause 5.1 in respect of any actor omission connected to: (i) the processing of your Transaction(s) once they have been initiated by Samsung Pay, which shall be the responsibility of Your Card Issuer(s); (ii) the acceptance of payments using Samsung Pay by the merchant or third party receiving the payment or the performance, security or availability of their systems including without limitation their point of sale terminals; (iii) the performance, security or availability of the payment networks or independent intermediaries such as merchant acquirers; (iv) any unavailability, delay, vulnerability, failure, or error of or caused by any system, process or other element outside of Samsung's control; (v) any factor set out in clause 2.2 above; and (vi) Your use of Samsung Pay otherwise than in accordance with these ToS and your relevant Cardholder Agreement(s). Further, you acknowledge that Samsung Pay is not provided according to your specific circumstances whether or not you have made Samsung aware of those circumstances. **YOU ARE SOLELY**

RESPONSIBLE FOR ANY DAMAGE OR LOSS IF YOU ALLOW ANYONE (SUCH AS ANOTHER USER OR A MERCHANT) TO USE OR HANDLE YOUR DEVICE OR SAMSUNG PAY.

5.3 Disclaimer of Warranties. EXCEPT AS SET OUT IN CLAUSE 5.1, SAMSUNG PAY IS PROVIDED "AS IS", "WHERE IS" AND "AS AVAILABLE", AND WITHOUT WARRANTIES OF ANY KIND. SAMSUNG AND ITS AGENTS, EMPLOYEES, LICENSORS AND SUBCONTRACTORS MAKE NO REPRESENTATIONS OR WARRANTIES OR GUARANTEES OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, RELATING TO SAMSUNG PAY, AND SPECIFICALLY DISCLAIMS ALL SUCH WARRANTIES. WITHOUT LIMITING THE PREVIOUS DISCLAIMER, SAMSUNG AND ITS AGENTS, EMPLOYEES AND SUBCONTRACTORS DO NOT REPRESENT, WARRANT OR GUARANTEE THAT SAMSUNG PAY WILL (i) OPERATE IN AN UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE MANNER, (ii) ALWAYS BE AVAILABLE OR FREE FROM ALL HARMFUL COMPONENTS OR ERRORS OR (iii) BE SECURE AGAINST OR IMMUNE FROM (INCLUDING THE CONTENT DELIVERED TO YOU OR THE INFORMATION YOU PROVIDED) ANY UNAUTHORIZED ACCESS.

5.4 Disclaimer of Certain Damages. THIS ENTIRE CLAUSE 5.4 IS SUBJECT TO CLAUSE 5.6 BELOW. IN NO EVENT SHALL SAMSUNG OR ITS OR THEIR AGENTS, EMPLOYEES OR SUBCONTRACTORS BE LIABLE TO YOU FOR ANY LOSSES THAT WERE NOT FORESEEABLE BY THE PARTIES WHEN ENTERING INTO THESE TOS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE DAMAGES, LOST PROFITS, OR ANY LOSSES THAT WERE NOT CAUSED BY ANY BREACH ON THE PART OF SAMSUNG OR ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS EVEN IF SAMSUNG OR ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (IN ALL CASES, WHETHER IN CONTRACT, TORT, OR OTHERWISE).

5.5. Limitation of liability. THIS ENTIRE CLAUSE 5.5 IS SUBJECT TO CLAUSE 5.6 BELOW. CLAIMS FOR DIRECT LOSSES AGAINST SAMSUNG OR ITS GROUP COMPANIES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF SAMSUNG PAY OR ANY THIRD PARTY APPLICATION, ITS CONTENTS OR FUNCTIONALITY, INCLUDING BUT NOT LIMITED TO DAMAGES CAUSED BY OR RELATED TO ERRORS, OMISSIONS, INTERRUPTIONS, DEFECTS, DELAY IN OPERATION OR TRANSMISSION, NETWORK CHARGES AND ALL OTHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES EVEN IF SAMSUNG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE AFOREGOING, SAMSUNG'S TOTAL LIABILITY TO YOU FOR ALL LOSSES, DAMAGES, CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO THOSE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING OUT OF YOUR USE OF SAMSUNG PAY SHALL NOT EXCEED ONE TIMES THE MONEARY AMOUNT OF THE RELEVANT TRANSACTION(S) INITIATED BY SAMSUNG PAY.

5.6 NOTHING IN THESE TOS SHALL EXCLUDE OR LIMIT LIABILITY FOR ANY LIABILITY WHERE IT WOULD BE UNLAWFUL FOR SAMSUNG TO SO EXCLUDE OR LIMIT SUCH LIABILITY, INCLUDING SAMSUNG'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE OF SAMSUNG, SAMSUNG'S EMPLOYEES, AGENTS OR SUBCONTRACTORS, OR ANY LIABILITY FOR SAMSUNG'S FRAUD OR FRAUDULENT MISREPRESENTATION.

6. Third party rights

This is a contract between You and Samsung Electronics South African (Pty) Limited. Samsung group companies may take the benefit of these ToS but do not need to consent to any variations or termination. No other party has any rights under these ToS.

7. Governing Law

These ToS are governed by South African law and you can bring legal proceedings in respect of the products in the South African courts having jurisdiction. Notwithstanding the foregoing, Samsung may apply for injunctive remedies (or and equivalent type of urgent legal relief) in any jurisdiction.

8. Alternative Dispute Resolution

Samsung takes customer complaints very seriously and has comprehensive procedures in place to resolve customer complaints fairly. As such, Samsung does not submit to any ADR procedure operated any ADR provider.

Samsung Electronics South African (Pty) Limited is a company registered in the Republic of South Africa under registration number 1994/003872/07 with its registered address at 2929 William Nicol Drive, Bryanston, Johannesburg 2021. For support or to contact please call **0860 726 623**.