

I-9 / E-Verify Terms of Service

Customer acknowledges that it has entered and is subject to the terms and conditions of the PrimePay Product Terms (the "Product Terms"), available to view at <https://primepay.com/terms/product-terms/>, and that, except as otherwise provided herein, the terms of such Product Terms are incorporated herein by reference and shall also apply to this I-9/E-Verify® Terms of Service (the "Terms of Service"). These Terms of Service, the Product Terms, and any associated price quote and proposal ("Quote") shall collectively be referred to as the Agreement. In the event of any conflict between this I-9/E-Verify® Terms of Service and the Product Terms, this I-9/E-Verify® Terms of Service shall control, but only with respect to the products and services covered hereby.

1. DEFINITIONS

"Content" means all information presented through the website, including by way of example and not limitation, text, graphics, logos, icons, images, software, illustrations, auditory and visual elements, and the arrangement and compilation of the foregoing, and any other materials pertaining to the I-9 Services which are furnished or accessed through the website.

"E-Verify" means the internet-based application operated by the Department of Homeland Security ("DHS") in partnership with the Social Security Administration ("SSA"), which allows electronic employment eligibility verification of newly hired employees.

"Form I-9" or "I-9 Forms or I-9 Form" means the U.S. Citizenship and Immigration Services ("USCIS") Employment Eligibility Verification Form.

"I-9 Service" means the web-hosted computer program(s) generally known as Form I-9 or other designation that PrimePay may use, which is proprietary internet-based employment eligibility verification processing and recordation storage tool, together with all features and functionality offered by PrimePay from time to time.

"M-274" means United States Citizenship and Immigration Services Handbook for Employers that provides for guidance and instructions for completing the Form I-9.

"MOU" means the Memorandum of Understanding ("MOU") that sets forth the points of the agreement between the Department of Homeland Security ("DHS") and Customer regarding the employer's participation in the Employment Eligibility Verification Program (E-Verify®).

2. THE E-VERIFY SERVICES:

2.1. The E-Verify Services provided by PrimePay hereunder include the following: once Customer successfully completes the Form I-9 through PrimePay I-9 process, PrimePay electronically transmits the applicable data to E-Verify/DHS if requested by Customer.

2.2. PrimePay will deliver to Customer the initial response from the DHS, subject to the availability of the DHS system. Responses include the following:

2.2.1. Authorization: If the response from E-Verify is "Employment Authorized," PrimePay will provide that information to Customer, and the case verification number and date will be recorded and stored electronically with the employee's Form I-9.

2.2.2. Tentative Non-Confirmation – If the response from E-Verify is "SSA Tentative Non-Confirmation," PrimePay will provide Customer with an electronic version of the Notice to Employee of Tentative Non-Confirmation. Customer will then determine if the employee wishes to contest and proceed accordingly. The case verification number and date will be recorded and stored electronically with the employee's Form I-9.

2.2.3. Verification in Process – If the response from E-Verify is “DHS Verification in Process,” Customer will check the PrimePay system periodically until E-Verify updates the status of the case and will then take appropriate actions on the case. The case verification number and date will be recorded and stored electronically with the employee's Form I-9.

2.3. Customer will have access to all Customer cases so that Customer can, at any time, search for updated status from E-Verify. From the I-9 Service, Customer’s users may take all applicable actions on the case as permitted by DHS’s E-Verify program. Customer is responsible for its activities in connection with any “SSA Tentative Non-Confirmation” Response. Customer may respond to a “SSA Tentative Non-Confirmation” response from the initial results screen and print the applicable documents to provide to its potential hire.

2.4. PrimePay will reasonably comply with all applicable federal laws, rulings and regulations in connection with its delivery of the E-Verify Services.

3. E-VERIFY TERMS AND CONDITIONS

3.1. General Terms

3.1.1 Customer shall use the I-9 Services only in accordance with the terms and conditions accompanying the Service, including those posted on the website through which the Service is accessed. Customer is responsible for all activity, occurring through Customer's account and its use of the I-9 Services, and shall abide by all applicable local, state, national, federal and foreign laws, treaties and regulations in connection with use of the I-9 Services, including those related to data privacy and transmission of personal data. Customer shall: (i) notify PrimePay immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to PrimePay immediately and use reasonable efforts to stop immediately any unauthorized copying and distribution of the Content; and (iii) not permit anyone other than its employees to gain access to or use of the I-9 Services through Customer’s account. Customer is solely responsible for designating its authorized users (“Users”), establishing and protecting passwords, and access to the Service, and will bear all risk of loss from unauthorized use of the Service or failure to protect personal confidential information. Customer shall bear all of its own expenses in connection with its activities under the Agreement and shall be solely responsible and liable for its employees and Users and for all of their acts or omissions.

3.1.2 Customer shall not: (i) modify or create improvements or derivative works based upon the I-9 Service or the Content; (ii) make or print copies of the I-9 Service and related Content; (iii) “mirror” any Content on any other server or wireless or Internet-based device; (iv) translate, reverse engineer or assemble, decompile or disassemble the I-9 Service. In addition, during the term of this Agreement and for a period of two (2) years thereafter, Customer shall not: (i) directly or indirectly build a competitive product or service or a product using similar ideas, features, functions, or graphics of the I-9 Service or the Content; (ii) copy any ideas, features, functions or graphics of the I-9 Service or the Content or replicate or attempt to replicate the constituent elements of the I-9 Service or Content; (iii) directly or indirectly contact, solicit or enter into any transaction with any vendor, service provider, contractor or supplier of PrimePay or its licensors in an effort to replicate or otherwise use constituent elements of the I-9 Service or Content; or (iv) solicit or encourage any employee, vendor or consultant of PrimePay and/or its licensors to leave their employment or terminate their relationship with PrimePay and/or its licensors, as applicable. PrimePay and/or its licensors retain all title and interest in and to the I-9 Service and its underlying technology and all Content, and all copies or modifications thereof, including all intellectual property rights therein. This license does not transfer any right, title, or interest in the I-9 Service or Content except for the license to use the I-9 Service on the terms contained herein. Customer is on notice that the I-9 Service and Content are protected by copyright and other laws.

Customer acknowledges that in order for PrimePay to provide the Service, Customer must necessarily agree to the MOU prescribed by E-Verify. Such MOU sets forth the terms by which the SSA and US Citizenship and Immigration Services (“USCIS”), with PrimePay as Customer's E-Verify Employer Agent (“EEA”), will confirm the employment eligibility of newly hired employees following completion and submission of the Form I-9 through the I-9 Service.

Customer further agrees that PrimePay may operate as EEA of Customer for purposes of providing the Service contemplated herein.

3.1.3 Customer acknowledges PrimePay bears no responsibility or liability for Customer's failure to comply with the federal Form I-9 completion, retention, correction and storage rules. In order for Customer to ensure its compliance with the Form I-9 and E-Verify, Customer should, and PrimePay strongly recommends that, Customer consult with its own legal counsel familiar with Customer's unique requirements and legal/regulatory obligations related to the use of PrimePay Form I-9, E-Verify and other, additional or third party services obtained pursuant to this Agreement. In regards to retention rules, Customer should periodically download and save the electronic Form I-9 records created through the use of the I-9 Service or input accurate termination dates into the I-9 Service to assist with the proper management and purging requirements for the Form I-9. Information, including Form I-9 records, downloaded and saved or otherwise retained on Customer's computers or servers are owned by, and remain the responsibility of Customer. Notwithstanding the foregoing, Customer is solely responsible for complying with all other laws, rules and regulations promulgated by DHS, Office of Special Counsel or USCIS or other government agencies regarding the proper completion, use, handling, remediation and correction of I-9 Forms, including by way of example and not limitation, timely completion of I-9 Forms, posting notices of its participation in E-Verify® and antidiscrimination provisions. Customer may print or download completed I-9 Forms processed through the I-9 Service and documents related thereto, such as employment eligibility verification case details, tentative non-confirmation notices and referral letters, and re-verifications.

3.1.4 Support for the operation of the I-9 Service shall be provided by PrimePay. Customer may contact PrimePay for support services by phone or email.

3.1.5 Access to, or use of, the I-9 Service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications, as well as delays or unavailability of DHS facilities from time to time. PrimePay is not responsible for any delays, delivery failures, or other damage resulting from such problems. PrimePay will schedule routine maintenance at times when it is least likely to disrupt use of the Service.

4. Remediation. In connection with document imaging and data collection activities, PrimePay will use commercially reasonable efforts to correctly identify and categorize Form I-9 (including historical Form I-9) supporting documentation, but PrimePay shall not be responsible for and not limited to correction, categorization errors due to omission, or poorly formed, illegible, or ambiguous words or characters. In instances where there are omissions, significant ambiguities or other areas where the operator is unable to correctly categorize supporting documentation, PrimePay will endeavor to flag the data record in question for Customer follow-up. Customer also acknowledges that while PrimePay will use commercially reasonable efforts to check for obvious errors, such activities will not constitute an audit of the Form I-9 and PrimePay shall not be responsible whatsoever for and not limited to correction, audits, results of audits or approvals of Form I-9s.

5. Governmental Audits. In the event that the Form I-9 or E-Verify activities or any other activities of Customer based on or using PrimePay Products are subject to an audit, investigation or fine by one or more governmental agencies, including the DHS, ICE (U.S. Immigration and Customs Enforcement), USCIS, SSA, Department of Justice, Office of Special Counsel or other state or federal agencies, Customer shall provide reasonable notice to PrimePay (and in any case no less than 24 hours after receiving notice of such audit, investigation or fine). PrimePay and/or its licensor(s) shall be entitled to participate in such process and respond to all questions directed at the I-9 software, I-9 related services, and its automation or operational processes and to conduct all demonstrations. Failure to comply with this section is a material breach of these Terms of Service and the Product Terms by Customer and Customer acknowledges that it may be liable for damages to PrimePay business and reputation resulting from such failure.

6. Legal Support Services. If PrimePay (including any of its licensors, affiliates and subsidiaries) assists Customer or is otherwise required to participate for, defense of, or responding to any legal or regulatory proceedings involving or related to Customer, including, without limitation, subpoenas, depositions, hearings and trials (collectively

“Legal Support Services”), Customer shall reimburse PrimePay for all costs and expenses that PrimePay reasonably Incurs therewith, including, without limitation, reasonable attorney’s fees and disbursements. Except to the extent required by law, PrimePay, its licensors, affiliates and subsidiaries are under no obligation to provide Legal Support Services to Customer and will evaluate such matters on a case-by-case basis.

7. Compliance; No Legal Advice. Customer acknowledges that PrimePay will not render any opinions regarding Form I-9 compliance, E-Verify® or Form I-9 content or submitted images or documents, and Customer shall base its processes, guidelines and decisions on its own policies and procedures. Any consultation, training, information, support and forms provided by PrimePay are provided for informational purposes only, and not for the purpose of providing legal advice.

PRIMEPAY STRONGLY RECOMMENDS THAT CUSTOMER CONSULT WITH ITS OWN LEGAL COUNSEL FAMILIAR WITH CUSTOMERS UNIQUE REQUIREMENTS AND LEGAL/REGULATORY OBLIGATIONS RELATED TO THE COMPLIANT PROCUREMENT AND USE OF THE FORM I-9 AND OTHER SERVICES OBTAINED PURSUANT TO THE PRODUCT TERMS.

8. Disclaimer.

8.1. ANY ADVICE, TRAINING OR INFORMATION GIVEN BY PRIMEPAY IN THE COURSE OF OFFERING THE I-9 SERVICE OR E-VERIFY® IS FOR INFORMATIONAL PURPOSES, IS NOT INTENDED AS LEGAL ADVICE FOR ANY PURPOSE, AND SHOULD NOT BE CONSIDERED AS LEGAL ADVICE OR A LEGAL OPINION. USE OF THE SERVICE DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, ANY ATTORNEY CLIENT RELATIONSHIP. EMPLOYMENT ELIGIBILITY INFORMATION COMMUNICATED THROUGH THE SERVICE IS RECEIVED THROUGH THE DHS E-VERIFY PROGRAM. PRIMEPAY MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OF INFORMATION RECEIVED FROM THE E VERIFY PROGRAM AND DISCLAIMS ALL LIABILITY RELATED THERETO, INCLUDING FOR DAMAGES RESULTING FROM CUSTOMER’S RELIANCE THEREON.

8.2. Notwithstanding anything to the contrary in the Product Terms, PrimePay and its licensor(s) shall have no liability whatsoever for any damages or financial penalty resulting from: (i) acts or omissions of Customer or their personnel, including but not limited to user error, omissions of required documentation, fraudulent documentation, user process or data input error or omission in use of the I-9 Services, correction (i.e. remediation) of historical or current I-9 Forms, upload or input of historical Form I-9 data or I-9 Forms; (ii) failure to abide by timing requirements and discrimination or other unlawful hiring practices by Customer; (iii) any claim where PrimePay or its licensor reasonably relies on M-274; (iv) any claim where guidance under M-274 is subject to interpretation and PrimePay or its licensor reasonably relies on advice of legal counsel or enforcement agency personnel in determining employer requirements under M-274; (v) any claim due to or resulting from an integration that pre-populates employee data into the PrimePay products, software, services or databases created through the I-9 Services; (vi) any claim due to or resulting from retroactive application of Form I-9 requirements by any enforcement agency not known to PrimePay or its licensor at the time of providing the I-9 Services; (vii) any violation of Customer’s compliance obligations under an MOU, M-274 or E-Verify®; (viii) any acts or omissions of third parties providing optional Form I-9 related services, including, but not limited to and specifically third party notaries. It is Customers sole responsibility and at Customer’s sole discretion to elect to use or not use any third party or additional services offered or not offered by PrimePay; (ix) any claim where a process used by Customer in connection with the I-9 Services is disclosed to Customer and undertaken with the knowledge and consent of Customer; and (x) an action, claim or legal proceeding, regardless of form, arising in connection with this Agreement more than one (1) year after the date such cause of action shall have arisen.

9. Pricing for the following I-9 Services is set forth on the Quote.

9.1. Form I-9/E-Verify® Form I-9s with automated driven data collection and real-time data validation. Automatically secure, store, and submit to E-Verify. Provide retrieval and printing of Form I-9s and audit trails. Receive email notifications on expired work authorizations, and Tentative Non-confirmation (“TNC”) notices.

Expired Form I-9s will be purged in accordance with federal regulations if accurate termination dates are inputted by Customer.

10. Optional Add-on services - Additional fees apply for each item below and must be listed as a separate line item on the Quote.

10.1. Remote Hire Form I-9/E-Verify® Remote new hires receive an email and/or a text message to securely complete Section 1 and instructions how to complete Section 2 [in the presence of employer representative]. The automated and cloud based remote hiring system utilizes technology assisted by mobile and dynamic routing technology with mouse to sign (electronic signature) to complete remote Form I-9s.

10.2. Data Migration. Import archived Form I-9 data into system and access existing paper Form I-9s for retrieval.

10.3. Notary Network (Remote Hire Third Party Service Add-On). The remote hire notary service is an add-on that is to be used in conjunction with the Remote Hire Software Module (I-9 Remote). Customer has access to a nationwide network of notaries (authorized agents), who are trained on the completion of the Form I-9. A Separate Statement of Work must be signed.

10.4. Remediation. Scan, electronically convert and possibly correct archived paper Form I-9s to achieve compliance.