

# eCatholic Payments

## Terms of Service Agreement

By signing up for or using the eCatholic Payments service, you agree to be bound by the terms and conditions of this agreement, which may be modified from time to time. If you do not agree to these terms and conditions, you may not use this Service.

### 1 - Agreement

This Terms of Service Agreement (the “**Agreement**”) is between you and WEBPRO PRODUCTIONS, LLC d/b/a eCatholic (“**eCatholic**”, “**eCatholic Payments**”, “**we**”, “**us**”, or “**our**”) and applies to your use of our payments and donations service (collectively the “**Service**” or “**Services**”). As used herein, “**You**” (and “**you**”) and “**Your**” (and “**your**”) refer to your organization (“**Organization**”) such as a Catholic parish, diocese, school, ministry, or other organization, and those using the Service on behalf of the Organization (“**Users**”).

In addition to the terms of this Agreement, you agree to the terms, features, and all other specifications on Our websites (eCatholic.com, eCatholicWebsites.com, and eCatholicPayments.com) (collectively, our “**Sites**”) and in the content management system of your website (“**Platform**”), collectively, the “**Policies**”.

We may modify the terms of this Agreement or the Policies of the Services, Sites, or Platform at any time. We will post the amended Agreement to our Sites and send an email notification to the user who signed up for the Service of any Material Changes. A “**Material Change**” is limited to any change that involves an increase in fees or liability to You. If you do not accept a change to this Agreement or the Services offered, your sole remedy is to contact us to cancel your use of the Service.

The date that this Agreement was last modified is listed at the bottom of the Agreement.

### 2 - Description of Service

eCatholic Payments enables your Organization to accept one-time and recurring online payments and donations (collectively, “**Payments**” or “**Donations**”) from donors (“**Donors**”) through your website that are then deposited into your Organization's bank account (“**Organization Bank Account**”). Payments and donations may be received via credit card, debit card, or bank account transfers (“**ACH**”).

eCatholic Payments exchanges information with a qualified payment processor (“**Merchant Account**”) to transfer funds from a Donor's credit card, debit card, or bank account to the Organization Bank Account. You must have an account with a qualified Merchant Account before you can use our Services. eCatholic Payments currently works with one payment processor, BluePay Processing LLC (“**BluePay**”). During our registration process, you will be directed to sign up for a Merchant Account with BluePay. BluePay is independent of eCatholic Payments and has its own eligibility requirements, terms of use, privacy policy, and payment schedule.

Payments received through your website using eCatholic Payments are processed almost instantaneously through BluePay but usually take a couple days (sometimes longer) to be deposited into your Organization Bank Account.

### **3 - Taxes**

You are responsible for determining, collecting, withholding, reporting, and paying any and all taxes related to Payments received by use of the Services to the appropriate tax authorities. We are not responsible for determining, collecting, withholding, reporting, or paying any taxes related to Payments received by use of the Services to the appropriate tax authorities. All transaction data from the use of the Services can be exported from your associated Merchant Account.

You are responsible for 1) determining whether Payments made by Donors qualify as tax-deductible and 2) by using the Platform, draft any text necessary to properly and accurately inform Donors accordingly. You are also responsible for reporting to Donors, as required by law, tax-deductible Payments that they make to your Organization using the Services and the amount of any goods or services provided in exchange for such Payments.

### **4 - Intellectual Property**

You may use the Services only for their intended purpose as outlined above under "Description of Service." Any other use is strictly prohibited.

Unless otherwise specified in this Agreement, eCatholic and/or its suppliers own all rights, title, and interest (including all intellectual property rights) in and to the Services, Sites, Platform, and software, technology, text, data, information, graphics, video, audio, documents, files, and web pages used to make available and in connection with the Service (collectively, "**Payments Software**"). The Service and Payments Software are protected to the maximum extent permitted by copyright laws, patent laws, trademark laws, and international treaty provisions. Any reproduction, modification, creation of derivative works from or redistribution of the Services or Payments Software is expressly prohibited. The Services and Payments Software, their structure, sequence and organization and source code are considered trade secrets of eCatholic and/or its suppliers and are protected by trade secret laws. You may not decompile or disassemble, reverse engineer or otherwise attempt to discover any source code contained in the Services or Payments Software.

"eCatholic", "eCatholic Payments", "WEBPRO PRODUCTIONS, LLC", and other related logos, graphics, designs, icons, scripts, and service names are trademarks, registered trademarks, or service marks of eCatholic and/or its suppliers (collectively, "**Trademarks**"), and may not be copied, reproduced, or distributed in any way without prior written consent from eCatholic. You will notify eCatholic of any violations of its intellectual property rights that you become aware of, in writing or by email.

## **5 - Payment Terms**

For use of the Services, You agree to pay an eCatholic Payments service fee (“**Service Fee**”) in the amount of 1% of all Donors' Payments processed through the associated Merchant Account. You agree that eCatholic will automatically debit the Organization Bank Account once a month for the Service Fee associated with the prior monthly total Payments. Should your bank or the Merchant Account charge us any fees such as, but not limited to, insufficient funds “NSF” or rejection fees or reversal fees, you will be responsible for these fees and we will include them in the following month’s Service Fee.

Your failure to pay the Service Fee and/or any other amounts due at the time of collection will be a breach of this Agreement. eCatholic reserves the right to cancel your use of the Services due to unpaid fees and such cancellation will result in the suspension of all of your scheduled recurring Payments. You will be liable for our costs associated with the collection of any unpaid fees, including but not limited to attorneys’ fees, court costs, and collection agency fees.

In addition to the Service Fee, You will be responsible for all fees associated with your Merchant Account including transaction fees, monthly fees, and any noncompliance fees. Your Merchant Account will invoice you directly for these fees.

## **6 - Termination**

You may terminate this Agreement by canceling the Services and/or Payments Software at any time by contacting us. We may terminate this Agreement and cancel the Services and/or Payments Software for any reason at any time upon notice to you. You agree that any Service Fees or other amounts due to us as outlined in this Agreement, or that you have a legal obligation to pay us, will be due and payable upon termination of this Agreement and will be debited from your Organization Bank Account immediately or at the next regularly scheduled monthly interval. We may also suspend your use of the Services as outlined in the Payment Terms of this Agreement, or for any other reason, at any time. Upon termination or suspension of the Services, you agree that we will not be liable to you for any compensation, reimbursement, or damages - real or potential - related to the loss of Payments from current or potential Donors. Sections 3, 4, 14, 15, 16, and 17 of this Agreement will survive and remain in effect upon the termination of this Agreement.

## **7 - Communications**

By using the Services, you consent to receiving electronic communications from us. These electronic communications may include notices about applicable fees and charges, transactional information and other information concerning or related to the Services. You agree that any notices, agreements, disclosures or other communications that we send you electronically will satisfy any legal communication requirements, including that such communications be in writing. Your continued consent is required to use the Services. To withdraw your consent, you will need to cancel your use of the Services.

## **8 - Privacy**

eCatholic stores the Merchant Account login credentials (API keys) for the Organization in order to make available the functionality of the Services. All credit card, debit card, and ACH

information and transactions of Donors (collectively, “**Donor Financial Information**”) is stored by the Merchant Account and not by us. You agree that we may access, receive, process, and use the Donor Financial Information as is reasonably required for the functionality of the Services. You also agree that we may use, disclose, and transfer Donor Financial Information that we collect or process as part of the Service, during and after the term of this Agreement: (a) as required by applicable law; (b) to or at the request of the person to whom the information pertains; (c) in connection with an assignment of this Agreement; and (d) to operate, improve or modify the Services.

We may now or in the future provide Donors with access to their personal and/or financial information and transactions that they upload or process as part of the Services or that you manually enter through the Merchant Account interface. As part of the use of the Services, you will have access to personal information of Donors such as Donor names and contact information (collectively, “**Donor Personal Information**”), as well as Donor Financial Information. You agree that you will not use any Donor Personal Information or Donor Financial Information in any way inconsistent with your privacy policy or applicable law, and that you will not communicate with or contact a Donor who has requested the halt of such communication or contact.

Through the use of the Services, you may receive information or insight relating to us or to the Service that is not known to the general public (“**Confidential Information**”). You agree that all Confidential Information is the exclusive property of eCatholic and that you will not disclose Confidential Information to any individual, company, or other third party.

Upon signing up for the Services, you provide us with your Organization Bank Account and other information about your Organization (collectively, “**Organization Information**”). The Organization Bank Account information is stored by our merchant account and the other Organization Information is stored by us. You agree that we may access and use any and all of this information to process Service Fees and other amounts due to us by you as outlined in the Payment Terms of this Agreement as well as to contact you as outlined in our Privacy Policy.

## **9 - Security**

All Payments and other sensitive information submitted or accessed by you or your Donors is done using Transport Layer Security (TLS) or similar encryption technology. This technology prevents your information from being read as it is transmitted over the internet. In order to prevent unauthorized access or disclosure of information we gather and/or process, we have put into place suitable physical, electronic, and managerial procedures to safeguard and secure the information we collect, process, and/or store.

You are responsible for maintaining the secrecy, security, and confidentiality of your account and password information. You shall be responsible for any and all transactions conducted through your account and/or password, and for any consequences of the use or misuse of such account and password. You will notify eCatholic of any breach in security or unauthorized use of the Services that you become aware of within 24 hours of your awareness of such activities.

## **10 - Right to Refuse Services**

eCatholic reserves the right to refuse to provide the Service or any service to any party for any reason.

## **11 - Modification of Services**

eCatholic reserves the right, at its sole discretion, to, at any time, modify, or discontinue any Services, temporarily or permanently, including the imposition of limits on certain features or restriction of access to parts or all of the Services, with or without notice.

## **12 - Our Use of The Service on Your Behalf**

We may from time to time access the Service on your behalf using our master accounts, and at your request, perform operations within the Service on your behalf. Examples include, but are not limited to, assisting you in resolving an issue or correcting an error.

## **13 - Customer Support**

Customer support is limited to issues related directly to the delivery of the Services. Customer support is not provided for third party programs, products, software or services. Customer support is available 8:00 a.m. to 5:00 p.m. CST, Monday through Friday, via phone or email.

## **14 - Disclaimer of Warranties**

THE SITES, THE PAYMENTS SOFTWARE, AND THE SERVICE ARE PROVIDED "AS IS", "AS AVAILABLE", "WITH ALL FAULTS", AND WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING (BUT NOT LIMITED TO) THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. eCatholic DOES NOT WARRANT THAT THE SITE, THE PAYMENTS SOFTWARE, OR THE SERVICE WILL MEET YOUR REQUIREMENTS; WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, OPERATE WITHOUT ERROR; THAT DEFECTS WILL BE CORRECTED; OR WILL CONTAIN ANY PARTICULAR FEATURES OR FUNCTIONALITY.

## **15 - Limitation on Liability**

eCatholic AND OUR EMPLOYEES, OWNERS, SUPPLIERS, AGENTS AND REPRESENTATIVES WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DAMAGES ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT, OUR SITES, THE PAYMENTS SOFTWARE, THE SERVICE (INCLUDING THE INABILITY TO USE THE SERVICE), ANY APPLICATION USING OUR SERVICE, OR ANY SERVICES OR GOODS PURCHASED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE. IN NO EVENT WILL AGGREGATE LIABILITY OF US OR OUR EMPLOYEES, OWNERS, SUPPLIERS, AGENTS AND REPRESENTATIVES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR OTHER THEORY), WARRANTY, OR OTHERWISE, EXCEED THE AMOUNT OF SERVICE FEES EARNED BY US IN CONNECTION WITH YOUR USE OF THE SERVICE DURING THE MONTH OF THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY. In no event will we be liable to you for any

failure or delay by us (or our employees, owners, suppliers, agents, or representatives) in performing our obligations under this Agreement, regardless of whether the failure or delay is caused by an event or condition beyond our control.

#### **16 - Indemnity**

You agree to indemnify and hold harmless eCatholic and its employees, owners, suppliers, agents, and representatives (collectively, the "**Indemnified Parties**") from any and all claims and demands, losses, costs, damages, judgments, tax assessments, interest, and expenses (including, but not limited to, reasonable attorneys' fees), incurred by an Indemnified Party arising out of or related to (i) Your breach of this Agreement; (ii) your wrongful or improper use of the Services; (iii) any transaction submitted by you through the Service; (iv) any transaction that you submit to our Service; (v) any dispute or litigation between an Indemnified Party and a third party caused by your actions; or (vi) your negligence or violation or alleged violations of any rights of another. These obligations will survive any termination of this Agreement or the Services. To the fullest extent permitted by law, the foregoing indemnity will apply regardless of any fault, negligence, or breach of warranty or contract of eCatholic or its employees, owners, suppliers, agents, and representatives.

#### **17 - Governing Law**

This Agreement shall be governed by the laws of the State of Texas without regard to its choice of law provisions. For any non-arbitral action or proceeding, the parties submit to the exclusive jurisdiction and venue of Brazos County, Texas. If any term or provision of this Agreement should finally be construed as unenforceable, then the remaining provisions shall remain in full force and effect and shall be binding upon the party to be charged.

#### **18 - Force Majeure**

Neither party shall be deemed in default hereunder, nor shall it hold the other party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, or boycott, provided that the party relying upon this section shall take all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based; provided further, that in the event a force majeure event described in this Section extends for a period in excess of thirty (30) days in the aggregate, eCatholic may immediately terminate this Agreement and shall have no liability therefore.

#### **19 - No Waiver**

Our failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

#### **20 - No Agency**

You agree that nothing in this Agreement is intended to or creates any type of joint venture, agency, partnership, employee-employer, creditor-debtor, escrow, or any fiduciary relationship between you or us.

**21 - Severability**

If any provision of this Agreement is found invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect as the original provision; the remainder of this agreement will remain in full force and effect.

**22 - Modification of Agreement**

You agree that eCatholic may modify this Agreement, as well as any additional rules or policies that are or may be published by eCatholic, as necessary to comply with agreements with third parties now or in the future or for any other reason. Your sole and exclusive remedy if you do not agree with any modification of this Agreement shall be to stop using the Services. If you continue to use the Services, you are bound by any modifications to this Agreement.

**23 - Entire Agreement**

This Agreement contains the entire policy between the you and eCatholic Payments with respect to the use of the Services. It supersedes all prior or contemporaneous representations, understandings, and any other oral or written agreements between the parties with respect to such subject matter.

**24 - Our Contact Information**

Please direct all correspondence and notices related to this Agreement to the following:

eCatholic  
PO Box 9901  
College Station, TX 77842  
877-932-1776  
support@eCatholic.com

**Agreement Last Modified:** November 12, 2015