

Terms and Conditions for Customers of the ZipZap Mobile POS

These standard terms and conditions are to be read as incorporated with the Application form and terms relating thereto.

1 DEFINITIONS

To make this Agreement easy to read and understand, please take note of the following definitions which will be used throughout the Agreement:

- 1.1 "Agreement" means the Application Form and Standard terms and conditions, which include additional legal terms between yourself and EFTPOS, including the Application Form and The Terms and Conditions Governing Use of the Service (Annexure B) and where applicable, the Travel Industry Annexure as well as the full terms and conditions entered into between you and EFTPOS and the relevant acquiring bank ("Merchant Acquiring Agreement").
- 1.2 "Application Form" means the application form, and includes either a physical application form signed by the User or an online application completed by the User, as the case may be, and in which various information is contained relating to the terms of the Agreement;
- 1.3 "CPA" means the Consumer Protection Act, 68 of 2008;
- 1.4 "Commencement Date" means the date of signature of the Application Form by the User;
- 1.5 "Day(s)" means Business days, being Monday to Friday but excluding any regulated Public holiday or a Saturday or Sunday;
- 1.6 "Download and/or Transfer" means the download of a Voucher from EFTPOS's interface to the Merchant Terminal and is effective when the Merchant confirms the transaction by selecting the relevant option to accept the transaction on the Merchant Terminal. At no stage are Value Added Services and/or PINS housed on the Merchant Terminal
- 1.7 "EFTPOS" or "Eftpos" means EFTPOS, a division of Paycorp Group (Proprietary) Limited, Registration number 2013/077629/07, having its principal place of business at Sandhaven Office Park, 14 Pongola Crescent, Eastgate Ext. 17, Sandton 2199;
- 1.8 "EFTPOS Services" means the mobile point of sale services provided by EFTPOS to the User in terms of the Agreement, which are as follows:
- 1.8.1 Once the Merchant Terminal has been delivered to the User, and the Merchant Terminal is fully operational, EFTPOS will provide the User with the EFTPOS Services, which in summary will include the following services:
- 1.8.1.1 data processing services which are necessary for the correct functioning of the Merchant Terminal, the User acknowledging that it shall not be entitled to determine or select any specific data processing services as these will be selected by EFTPOS in its sole discretion;
- 1.8.1.2 routing the Merchant Terminal Transactions to the User's and/or the End User's bank for processing;
- 1.8.1.3 at its discretion and for good cause or out of necessity add, delete or change the Merchant Terminal network, any Service Provider and/or any bank affiliations as it deems appropriate and on due notice where applicable, to the User;
- 1.9 "electronic" means a transaction done through a Merchant Terminal which leads to electronic transfer of funds or a Transaction;
- 1.10 "electronic authorization function" means a facility through which authorisation for a transaction may be obtained from Absa bank through the Merchant Terminal;
- 1.11 "End User" means the cardholder utilising a card issued by a banking institution, which allows him or her to pay for goods or services or receive a refund, where applicable, in respect of goods or services purchased from the User using his or her own card and the Merchant Terminal, the EFTPOS Services;
- 1.12 "floor limit" means the total value which the User may permit an End User to spend on a card at any one time without prior authorisation from us;
- 1.13 "Including without limitation," means that the list is not an exhaustive listing;
- 1.14 "Merchant Acquiring Agreement" means an agreement between the User and a Merchant Bank of EFTPOS's choice in terms of which certain financial transactions using the Merchant

Terminal and EFTPOS Services are processed and a debit or credit acquired by the User and End User;

- 1.15 "Merchant Bank" means a merchant bank of EFTPOS's choice in terms of which certain financial transactions using the Merchant Terminal and EFTPOS Services are processed by the Merchant Bank and a debit or credit acquired by the User and End User in terms of a Merchant Acquiring Agreement;
- 1.16 "Merchant Terminal" means the electronic funds transfer point of sale terminal, comprising an electronic card based system used for processing transactions through a mobile terminal and used in conjunction with the User's mobile cellular phone and the EFTPOS Services, which terminal is more fully described in the Application Form;
- 1.17 "Merchant Service Fee Percentage" means the percentage payable by the User, calculated on the total value of the Transaction, upon settlement of any monies due to the User pursuant to the use of the Merchant Terminal, as specified in the Application Form ";
- 1.18 "Network Operator" means a company (e.g. Vodacom, MTN and Telkom) that owns an electronic communications network, and which makes such network and the electronic communications services conveyed over such network available to the EFTPOS and other industry players for commercial purposes;
- 1.19 "Our" or "us" refers to EFTPOS wherever the context so indicates.
- 1.20 "PIN/PIN Number" means a unique identification number, owned by and personal or unique to the End User which is used to activate and process transactions via the Merchant Terminal;
- 1.21 "PCIDSS" means the Payment Card Industry Data Security Standards in effect from time to time or any successor standards to those standards;
- 1.22 "Prepaid Products and/or Services" means any prepaid services such but not limited to cellular airtime, electricity as offered by EFTPOS from time to time;
- 1.23 "Premises" means the premises from where the User operates the Merchant Terminal from time to time, which may or may not be a fixed premises;
- 1.24 "Prime" means the publicly quoted basic rate of interest per annum at which EFTPOS's bankers will lend on overdraft, as certified by a manager of the said bankers, whose appointment it shall not be necessary to prove;
- 1.25 "Service Fee" means an amount levied by EFTPOS and payable by the User which amount is determined as a percentage of the value of each transaction processed through the Merchant Terminal, which amount is detailed in the Application form;
- 1.26 "Service Provider/SP" means any service provider and/or their direct agents, including but not limited to Telephony Networks, Electricity Suppliers, Postal Services, Municipalities, Merchant Banks and/or any other providers of services;
- 1.27 "Transaction(s)" means any successful transaction processed by the User on behalf of the End User using the Merchant Terminal and related EFTPOS Services provided that the card used by the End User has a PIN;
- 1.28 "Travel Industry Annexure" means the annexure to the this Agreement to be entered into where the User conducts business in the travel industry and which allows the User to process Transactions with End Users where the User is not in possession of the End User's card at the time when the Transaction is processed;
- 1.29 "Termination Date" means the date when the Agreement will end due to effluxion of time;
- 1.30 "User" means the person set out in the Application form, who will be using the Merchant Terminal and EFTPOS Services and to whom this Agreement applies;
- 1.31 "Uncontrollable Event" means including without limitation (in other words this is not an exhaustive listing), any fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, strikes, labour disputes, government regulations, rebellions or revolutions in any country, disruptions to the Merchant Terminal and/ or the EFTPOS Services as a result of

acts or omissions of the other party, any Service Provider, third party non-performance, Network failure or Network Operator failure, failure or malfunction of computer or telecommunications hardware, equipment or software, or any other cause beyond the reasonable control of EFTPOS including the termination or suspension of any service or product provided by a Service Provider that may result in a delay or a failure to provide the Merchant Terminal or the EFTPOS Services; and/or any and delay or a failure in or of the Merchant Terminal or the EFTPOS Services, whatever the case may be;

1.32 "Unique PIN" means a unique identification number, which upon input into a device, grants the End User a credit value for the use of the Value Added Services as offered by EFTPOS or a Service Provider, as the case may be.

1.33 "Value Added Services" or "VAS" means Prepaid Products and/or Services as well as any post-paid products (such as bill payments), which may be offered by EFTPOS from time-to-time.

1.34 "VAT" means Value Added Tax as provided for in the Value Added Tax Act, 1991.

1.35 "Voucher" refers to an electronic card or similar device purchased or held by an End User which allows the End User to redeem such voucher for gifts, commodities, services, or cash as may be offered by a participating vendor or a Service Provider from time to time.

1.36 "you" or "your" refers to the User, wherever the context so indicates.

2 DESCRIPTION OF THE SERVICES AND OBJECTIVES OF THE AGREEMENT

This clause sets out the objectives of the Agreement and summarises what EFTPOS will provide the User with and what the User will receive (i.e. the Merchant Terminal and related EFTPOS Services) as a result of the conclusion of the Agreement.

2.1 EFTPOS allows Users to use the Merchant Terminals and the EFTPOS Services on certain terms and conditions.

2.2 The User would like to make use of the Merchant Terminal and the related EFTPOS Services and has asked EFTPOS to deliver to the Premises being the address, selected as its delivery address, a Merchant Terminal, which EFTPOS has agreed to do, subject to the terms and conditions set out in this Agreement.

2.3 The terms and conditions pertaining to the use of the Merchant Terminal by the User and the provision of the related EFTPOS Services by EFTPOS are detailed in this Agreement.

2.4 In order to facilitate provision of the Merchant Terminal and EFTPOS Services, the User agrees to accurately complete all of the documentation which is reasonably required by EFTPOS to facilitate the installation of the Merchant Terminal and provision of the EFTPOS Services, which documentation includes the Merchant Acquiring Agreement, and the Addendum to the Merchant Acquiring Agreement.

2.5 Once the Merchant Terminal has been delivered to the User and the Terminal is fully operational, Eftpos shall provide the User with the Eftpos Service, which in summary will include the following services:

2.5.1 Data processing services which are necessary for the correct functioning of the Merchant Terminal, the User acknowledging that it shall not be entitled to determine or select any specific data processing services as these will be selected by EFTPOS in its sole discretion

2.5.2 Routing the Merchant Terminal Transactions to the User's and/or the End User's bank for processing; and

2.5.3 At its discretion and for good cause or out of necessity add, delete or change the Merchant Terminal network, any Service Provider and/or any bank affiliations as it deems appropriate and on due notice where applicable, to the User.

3 OPERATION AND AVAILABILITY OF THE MERCHANT TERMINAL AND USER'S RESPONSIBILITIES

This section sets out how the Merchant Terminal and EFTPOS Services operate and when they will be available for use. In addition this section sets out what the User has to do (its responsibilities) so that the Merchant Terminal operates efficiently.

3.1 The User is aware and acknowledges that the Merchant Terminal does not operate in isolation but instead relies on functionalities which are provided by a number of Service Providers who provide separate but interrelated and connected services which as a whole, allow the Merchant Terminal to function. The Service Providers operate as independent Service Providers who are not necessarily contracted by EFTPOS. User shall be responsible for the payment of any charges or extra charges by any Service Provider or any other Governmental or non-Governmental body that has the authority to control the use of the Merchant Terminal and any connections required for the proper functioning of the Merchant Terminal.

3.2 EFTPOS will use its best endeavours to ensure that the Merchant Terminal remains operational at all times. However, due to the nature of the Merchant Terminal and the EFTPOS Services, which are dependent on a number of independent Service Providers over whom EFTPOS has no direct control, EFTPOS expressly stipulates and the User acknowledges that EFTPOS provides the Merchant Terminal and the EFTPOS Services "as is" and "as available", save and except where the Merchant Terminal itself (determined independently) is defective and hence un-operational.

3.3 EFTPOS, accordingly cannot and does not warrant or guarantee that the Merchant Terminal and/or the EFTPOS Services:

3.3.1 will at all times be free of errors or interruptions, or

3.3.2 that the EFTPOS Services will always be available, or

3.3.3 will not infringe on any third party rights, or

3.3.4 will be secure and reliable,

BUT subject always to the provisions of the CPA where applicable and in particular where the Merchant Terminal is defective and the User is able to show that the reason for the inoperativeness or un-availability of the EFTPOS Services is solely attributable to such defect.

3.4 Notwithstanding the above and under all circumstances, EFTPOS will use its best endeavors to notify the User in advance of any failure of, or interruption to the Merchant Terminal or the EFTPOS Services and where applicable any required maintenance and repairs which may have to be carried out or be performed as a result of such failure, interruption or unavailability of the EFTPOS Service, where it is in a position to do this.

3.5 EFTPOS will at a conveniently agreed time, either itself or through a Service Provider acting on its behalf deliver the Merchant Terminal to the User's selected delivery address, at the User's risk and cost, which costs are set out in the Application form. In the event that the User is not available to accept delivery at the pre-arranged time and place, EFTPOS shall be entitled to charge and recover from the User all costs incurred by EFTPOS as a result thereof.

3.6 The Merchant Terminal will be operated at the User's cost and controlled only by the User.

3.7 The User must comply with the specification, instructions and recommendations for the operation, service and maintenance of the Merchant Terminal or any part thereof which EFTPOS will provide the User with from time to time.

3.8 In instances where the User conducts business in the travel industry it is acknowledged that it is often necessary for the User to process Transactions at times where the End User's card is not presented to and accordingly in the possession of the User at the time when the Transaction is processed. In the circumstances and in order to assist such a User and to facilitate Transactions for such a User, the User shall be required to enter into and sign the Travel Industry Annexure with EFTPOS and to comply with the terms thereof.

3.9 The User must further comply with the User Guide and all updates thereto, as provided by EFTPOS from time to time, which will furthermore be available at www.zipzap.co.za

3.10 The User shall simultaneously with completing the Application Form within 48 (Forty Eight) hours of receipt of request to do so, provide EFTPOS with any documentation required in terms of the Financial Intelligence Centre Act ("FICA"), any other statute, regulation or as is reasonably required by either EFTPOS or the Merchant Bank, failing which EFTPOS shall not process the Application Form and will not enter into this Agreement.

3.11 The User undertakes to accept each valid card that is presented to it by the rightful End User in payment of goods and/or services.

3.12 The User undertakes to supply the goods and/or services at a price which is no more than its usual cash price for the goods and/or services, not to discriminate against any End User by

- adding any surcharge or by setting a minimum or maximum transaction amount as a condition of honouring any card.
- 3.13 A zero floor limit shall apply to all Transactions.
- 3.14 The User shall not process a Transaction that did not result from a transaction between the User and the End User and all Transactions shall take place only in South Africa.
- 3.15 By presenting an electronic Transaction to us, the User guarantees the following:
- 3.15.1 all statements of fact contained therein, are true;
- 3.15.2 goods and/or services were delivered or supplied at the User's normal cash price and the price contains no extra charges or element of credit whatsoever;
- 3.15.3 the said Transaction between the User and the End User is legal;
- 3.15.4 there has been proper compliance with all the terms of this Agreement;
- 3.15.5 EFTPOS is protected from any claim or liability that may arise between the User and the End User about goods and/or services delivered or supplied. The User shall have to give evidence that satisfies EFTPOS that the debiting of the End User's account was authorised by the End User;
- 3.15.6 The User actually supplied the goods and/or services referred to in the electronic Transactions between the User and the End User.
- 3.16 The User will make sure that it and its agents and subcontractors (where applicable) comply with the PCI DSS and all obligations relating to data security, data compromises and the steps necessary to demonstrate compliance with the PCI DSS. The User can access full detail of the applicable obligations and processes at the PCI DSS website (<http://www.pcisecuritystandards.org>).
- 3.17 Due to the nature of the Merchant Terminal and the EFTPOS Services, which are dependent on a number of independent Service Providers over whom EFTPOS has no direct control, EFTPOS expressly stipulates and the User acknowledges that EFTPOS provides the Merchant Terminal and the EFTPOS Services "as is" and "as available", save and except where the Merchant Terminal itself (determined independently) is defective and hence un-operational.

4 VALUE ADDED SERVICES AND PREPAID SERVICES

This clause describes what the User must do if he will sell Value Added Services and Prepaid Services such as prepaid airtime from the Merchant Terminal,

- 4.1 Where the User makes use of any Value Added Services supplied by EFTPOS, the following terms and conditions shall be applicable:
- 4.1.1 Payment for Prepaid Products and/or Services shall be made:
- 4.1.1.1 In advance by way of:
- 4.1.1.1.1 a cash deposit to EFTPOS's banking account, in which event the User shall be liable to make payment of a fee to EFTPOS in an amount equivalent to the cash deposit fee as levied by EFTPOS's Bankers from time-to-time, in respect of the deposit in question and for which, acceptance hereof by the User shall constitute authorisation for EFTPOS to deduct the amount of such administration fee from the User's credit balance, which amount shall reflect on the User's statement from time-to-time; or
- 4.1.1.1.2 electronic funds transfer into EFTPOS's banking account.
- 4.1.2 The Prepaid Products and/or Services' credit balance will be updated on the Merchant Terminal, within 1 (one) Day of the funds reflecting in EFTPOS's bank account.
- 4.1.3 User shall ensure that EFTPOS's bank statement clearly references the User's merchant number in order for EFTPOS to correctly allocate such funds. Failure to do shall result in the funds not being allocated to the User's account within the period as set out in clause 4.1.2 above.
- 4.1.4 The risk and liability in and to any Prepaid Products and/or Services and/or the Unique Pin, that are administered by EFTPOS for and on behalf of the User, shall lie with the User.
- 4.1.5 Such risk shall pass from EFTPOS to the User immediately upon the Download and/or Transfer of such Prepaid Products and/or Services to the Merchant Terminal, whether in the possession or under the control of the User;

- 4.1.6 EFTPOS shall in its exclusive opinion determine and provide reports confirming the date and time that such Download and/or Transfer by User has occurred, which reports shall be regarded as prima facie evidence of receipt of the Prepaid Products and/or Services and/or the Unique Pin by the User, unless evidence to the contrary is submitted and proved in a Court of law
- 4.1.7 The User hereby indemnifies and holds EFTPOS harmless in respect of any claim of whatsoever nature that may be made against EFTPOS, pursuant to the damage, loss, destruction or theft of the Prepaid Products and/or Services and/or Unique PIN, howsoever caused;
- 4.1.8 Without derogating from the generality of clause 4.1.6, EFTPOS shall under no circumstances provide refunds or replacements in respect of amounts prepaid or Unique Pin Downloaded or Transferred, as the case may be.
- 4.1.9 The User shall ensure that all Unique PIN that are in the possession or under the control of the User are adequately insured against all risks including but not limited to damage, loss or theft howsoever caused, including any destruction, damage or loss pursuant to the damage to or loss of the Terminal.
- 4.2 Discount Rates
- 4.2.1 Where it is applicable or allowable, the User shall be entitled to purchase Prepaid Products and/or Services at a discount rate, which discount rate shall be determined in accordance with the discount rates as recorded on the schedule hereto headed "Discount Rates on VAS Transactions".
- 4.2.2 EFTPOS shall be entitled to vary any/all of the discount rate/s recorded in the schedule hereto headed "Discount Rates on VAS Transactions" and/or to discontinue the supply of any pre-paid denominations it deems necessary, subject only to 10 (ten) Days prior written notice to the User of such variation in the event that:
- 4.2.2.1 the rate/s at which EFTPOS obtains Unique PIN from Service Providers, is changed for any reason whatsoever,
- 4.2.2.2 EFTPOS deems it to be necessary to vary such rates, in its sole and absolute discretion.
- 4.3 EFTPOS shall not be liable to the User pursuant to the expiry of any Prepaid Services and/or Products and/or the Unique Pin, while such Prepaid Products and/or Services and/or the Unique Pin are in the End User's possession or under the End User's control and the User hereby indemnifies EFTPOS in respect of any such claim made against EFTPOS pursuant hereto.

5 DURATION

This clause sets out how long the Agreement will operate for, commonly known as the duration or term of the Agreement. Please look at the Application Form to find out when the Agreement starts and when it will end.

- 5.1 Where the Merchant completes the online application, this Agreement shall commence on the date on which the Merchant Terminal is delivered to the User.
- 5.2 Where the Merchant is on-boarded on the instant activation service (on-Site sign-up), notwithstanding delivery of the Terminal and the Terminal being fully operational, this Agreement will be subject to the EFTPOS' final approval following its conducting standard credit checks and regulatory procedures. During this period:
- 5.2.1 EFTPOS will retain all settlements to the User pending final approval in terms of 5.2.
- 5.2.2 Failing final approval by EFTPOS, this Agreement will terminate and EFTPOS will:
- 5.2.2.1 release all held settlements due to the User; and
- 5.2.2.2 refund the purchase price of the Terminal to the User. The terminal should be made available for collection by EFTPOS within 5 (five) days of notice of termination.
- 5.3 The Agreement shall endure
- 5.3.1 in the case of application in terms of clause 5.1 or 5.2 for so long as a party has rights accruing or obligations to fulfil in terms of this Agreement, alternatively until such time as the agreement is validly terminated as provided for herein. Notwithstanding same, EFTPOS shall be entitled to terminate this Agreement on no less 30 (thirty) days written notice to the User.
- 5.3.2

in the case of the rental option being selected, for a minimum initial period of 24 (Twenty Four) months, calculated from date of delivery and shall thereafter continue on a month to month basis for so long as a party has rights accruing or obligations to fulfil in terms of this Agreement, alternatively until such time as the agreement is validly terminated as provided for in this Agreement.

6 FEES

This clause details what the User will pay to EFTPOS in respect of the rights to use of the Merchant Terminal and the EFTPOS Services as well as our right to debit your banking account.

- 6.1 The once-off purchase price or rental of the Merchant Terminal is set out in the Application Form.
- 6.2 User agrees to pay the amount reflected on EFTPOS's invoice and shall not be entitled to claim set off or deduction in respect of any payment due by the User to EFTPOS for goods supplied or services rendered.
- 6.3 Payment of the once-off purchase price is strictly in advance and shall be due upon receipt of invoice and before delivery of goods.
- 6.4 Payment of the rental is in arrears on the 1st of every month for the duration of the agreement by way of debit order and the User expressly authorises EFTPOS to process such amount through the bank account as provided in the Application form.
- 6.5 All payments including but not limited to Service Fees, which may become due and owing by the User to EFTPOS will be paid by way of debit order. In order to give effect to this undertaking, the User by its acceptance of the Agreement provides EFTPOS with the necessary authority to process debit orders as provided for in the Agreement. The User's bank account which may be debited for all purposes set out in the Agreement shall be detailed in the Application Form).
- 6.6 The User shall make payment to EFTPOS of all amounts in the Application form. All payments due and owing to EFTPOS as set out shall be paid by the User monthly in arrears, if by way of debit order and if on a net settlement basis then same shall be paid as set out in 6.5, below, as at the time of effecting settlement to the User.
- 6.7 Notwithstanding the foregoing EFTPOS shall, within its discretion be entitled to effect a net settlement to the User in respect of all amounts owing to the User under this Agreement. In this regard EFTPOS shall pay to the User the amount due to the User less an amount equivalent to the Merchant Service Fee Percentage plus VAT thereon.
- 6.8 The User shall be liable for payment immediately upon demand, of an amount equivalent to the amount charged by EFTPOS's Bankers in respect of any of the User's cheques, debit orders or other forms of payment, which may be dishonoured by the User's Bankers, where applicable.
- 6.9 Any amount which the User may owe to EFTPOS at any time shall be determined and proved by a certificate signed by a manager or director of EFTPOS, the User agreeing that such certificate will:
 - 6.9.1 until the contrary is proved be prima facie proof of the amount of the User's indebtedness to EFTPOS (prima facie means correct on first presentation and unless rebutted or proved to the contrary, would be sufficient to prove a particular proposition or fact)
 - 6.9.2 be valid as a liquid document against the User in any competent court for the purpose of obtaining provisional sentence or judgment against the User.
 - 6.9.3 The amounts payable by the User to EFTPOS at the commencement of the Agreement will escalate annually on the 1 March by an amount equivalent to the Consumer Price Index ("CPI") as published by Statistics South Africa (or its successor in title).
- 6.10 EFTPOS reserves its right to amend the Service Fees. If EFTPOS changes the Service Fees, it shall first give the User thirty (30) days' notice of any change, after which the fees will automatically be changed. To withdraw your consent, you will need to close your Merchant Account. All balances and all Fees, charges, and payments collected or paid through the EFTPOS Services are denominated in South African Rand.
- 6.11 Payment in respect of call outs and/or repairs and/or replacements at EFTPOS' usual rates on a time and materials

basis, shall be made, at the discretion of EFTPOS, either as part of a net settlement/s or by way of debit order.

- 6.12 The User agrees that if any amount owed by it is not settled in full (a) on demand; or (b) within the period agreed above EFTPOS will be entitled to, without notice to cancel the sale and, subject to EFTPOS fulfilling any requirements imposed by law, take possession of any goods delivered to the User, including goods sold and disposed of by the User, which have not been paid for in full, and claim damages, with all other rights remaining strictly reserved.
- 6.13 EFTPOS shall have the right to debit the User's bank account at whatever bank this is conducted, with:
 - 6.13.1 the value of reversals of invalid electronic Transactions;
 - 6.13.2 any refund due to a End User and not rectified by the User;
 - 6.13.3 any overpayments due to clerical or electronic errors by either party;
 - 6.13.4 the value of Transactions about which a disagreement exists as raised by the End User. In this regard EFTPOS shall have a right of full recourse to the User should any disagreement arise between the User and the End User;
 - 6.13.5 interest at the prime overdraft rate charged by Absa Bank, payable by the User to EFTPOS on any amount due;
 - 6.13.6 its reasonable cost for the processing of any chargeback/s;
- 6.14 The User will pay all debits upon presentation, and the User will be responsible for the costs of any cheques drawn by EFTPOS.
- 6.15 The User will pay an administration fee for each payment due by the User to EFTPOS, which is returned unpaid by the User's bank.
- 6.16 The User will pay an administration fee for clerical errors that happen because electronic Transactions were incorrectly processed, as may be stated from time to time on the User's statements.
- 6.17 The User hereby irrevocably authorises EFTPOS to debit the User's nominated bank account number at the bank and branch specified in the Application Form.
- 6.18 The User undertakes to immediately inform EFTPOS in writing of any changes in the User's bank account details.

7 FAILURE OF THE MERCHANT TERMINAL AND EFTPOS SERVICES

This clause describes the results of any failure of the Merchant Terminal to operate and what EFTPOS and the User must do to rectify such failure.

- 7.1 Notwithstanding the provisions of 3 above, should the Merchant Terminal fail, stop working, become inoperative or where any other problem is experienced which renders the Merchant Terminal less useful or not useful at all, then the User must without exception notify EFTPOS within twenty-four (24) hours of first becoming aware of the problem, which will include a detailed breakdown of the problem and the date and time when the problem was first experienced.
- 7.2 On receipt of a complaint from the User that the Merchant Terminal has failed, stopped working, or has become inoperative, EFTPOS will provide the User with a reference number which must be quoted by the User in all and any subsequent follow up communications with EFTPOS. Failure to quote the reference number will result in EFTPOS not being able to provide the User with any feedback relating to the complaint.
- 7.3 Once a complaint has been formally logged, an EFTPOS representative will contact the User and attempt to resolve and troubleshoot the complaint. Where this is unsuccessful, EFTPOS will send a representative to an agreed location at the User's cost, alternatively the User may deliver to an EFTPOS for the purposes of examining the Merchant Terminal
- 7.4 If EFTPOS establishes that the Merchant Terminal has failed due to User fault, neglect or abuse or simply as a result of wear and tear, then EFTPOS will charge the User for the call out and the cost to replace the Merchant Terminal (EFTPOS shall not be obliged to repair the Merchant Terminal), subject to the warranty provisions as set out in clause 9, below, which amount the User shall pay by way of electronic funds transfer to EFTPOS on presentation of an invoice alternatively the User authorises EFTPOS to recover same by way of debit order.

8 OWNERSHIP AND RISK

8.1	All risk in and to the Merchant Terminal and related services shall pass to User on delivery to the User, however, ownership in the Merchant Terminal:		intercept and steal personal details and /or information or cash from the User, End User or their Merchant Bank accounts;
8.1.1	shall remain vested in EFTPOS at all times in the event that User has elected to rent the Merchant Terminal; or	11.1.2	the risk of any loss or damage, suffered due to the theft of the End Users Merchant Banking details;
8.1.2	shall remain vested in EFTPOS until the full purchase price has been paid in the event that User elected to purchase the Merchant Terminal.	11.1.3	risk of any loss or damage arising from or to the Merchant Terminal;
8.2	EFTPOS shall have the right to conduct physical inspections and investigations at the Premises or at any other place that EFTPOS may consider relevant to the investigation while handling claims of End Users and when EFTPOS investigates suspected fraud. If EFTPOS suspects any irregularities during such investigations, it shall have the right to deactivate the Merchant Terminal.	11.1.4	the risk of any loss or damage, suffered by the User or the End User due to any unauthorised interception and/or monitoring of information by a third party of the End User or User's Merchant Bank or financial institution information;
		11.1.5	the risk of any loss or damage, suffered due to any unauthorised transaction(s) that were submitted after the End User's Pin Number and/or any other passwords or access codes were entered into the Merchant Terminal;
		11.1.6	the risk of any loss or damage incurred as a result of the User or the End User failing to take reasonable steps to safeguard their Merchant Bank account and details, their access codes, PIN numbers and/or any failure to follow the steps recommended by their Merchant Bank or by EFTPOS, from time to time;
9	WARRANTY		
	Standard Warranty:		
9.1	EFTPOS warrants that the Merchant Terminal will be free from apparent defect as far as workmanship is concerned.	11.1.7	the risk of any loss or damage, suffered by the User or End User due to any failed, late or delayed transactions, save where either the User or the End User can show that any loss or damage was due to the gross negligence of EFTPOS and /or a defect in the Merchant Terminal which has been caused solely by EFTPOS and subject always to the provisions and defences permitted under the CPA;
9.2	If a defect arises within 90 (Ninety) days from date of delivery, and is proven by way of a written report, then EFTPOS will replace the Merchant Terminal, with the User to pay any amounts that may be due in law.		
9.3	EFTPOS shall in no way be liable for any damage caused to the Merchant Terminal through misuse, negligence, misconduct.	11.1.8	the risk relating to payment of any charges or extra charges by any Cellular Service Provider or any other Governmental or non-Governmental body that has the authority to control the use of the Merchant Terminal and any connections required for the proper functioning of the Merchant Terminal;
	Warranties in terms of the Consumer Protection Act 68 of 2008		
9.4	EFTPOS warrants that the Merchant Terminal is suitable for its intended purpose, free from defects and will operate the way it was designed if the User carries out all of its obligations in terms of the agreement.	11.1.9	the risk of any damage in the case of a network breakdown, system failure or equipment malfunction or damage to facilities caused by power failures or similar events or loss or damage caused by events beyond our control and/or the fact that the User or the End User is not able to gain access to the mobile networks or to utilise it. Including the risk of any loss, damage or claims arising out of any transactions other than electronic transactions or transactions not prescribed in the agreement, suffered by the User in the event that the User processes manual transactions (regardless of whether the card is present or not present). For the avoidance of any doubt, the User indemnifies EFTPOS against all risk, loss, damage or claims arising out of processing of manual transactions. Should the User, for any reason, process or have the ability to process manual transactions, the User assumes all liability and all risk associated with such manual transactions.
9.5	If the Merchant Terminal is unsuitable for its intended purpose, of poor quality, not in good working order, defective, sub-standard, EFTPOS will:		
9.5.1	Replace the Merchant Terminal; or		
9.5.2	Refund the purchase price.		
9.6	When the Merchant Terminal has been accepted for return, the following terms apply, subject to the User being liable for collection and/or delivery costs:		
9.6.1	if the original packaging is unopened, there will be no charge;		
9.6.2	if the Merchant Terminal is in its original condition and repacked in the original packaging, a reasonable amount may be charged for:		
9.6.3	use of the Merchant Terminal; and		
9.6.4	Necessary costs associated with restoration of the Merchant Terminal for restocking.	11.2	For the avoidance of doubt, EFTPOS will under no circumstances be liable for any damage, costs or expenses incurred by the User, or an End User, Service Provider or third party, regardless of when or how such loss/damage arose and whether in contract, delict or otherwise and regardless of whether the loss/damage was foreseen or reasonably foreseeable by EFTPOS, unless the User or the End User can show that any loss or damage was due to the gross negligence of EFTPOS and /or a defect in the Merchant Terminal which has been caused solely by EFTPOS and subject always to the provisions and defences permitted under the CPA.
9.7	EFTPOS will provide purchaser's with the above remedies only as far as is provided for in the Consumer Protection Act 68 of 2008 as far as the warranties in this clause 6) are concerned.		
10	RETURNED GOODS AND ORDER CANCELLATIONS		
10.1	EFTPOS is under no obligation to accept the return of goods, which it may do so within its own discretion and upon terms and conditions to be agreed upon between the parties, except if User has a right in terms of any consumer law to return goods.	11.3	The User agrees to indemnify EFTPOS, its officers, employees, associates, and assigns, against any claims brought by the User, End User or third parties, or any Merchant Bank or financial institution which arises from the use of the Merchant Terminal or the EFTPOS Services, regardless of the kind of loss or damage the party attempting to claim may suffer, including direct, indirect, special, incidental or consequential damages, and whether due to the use of, or inability to use, the Merchant Terminal and EFTPOS Services, save where such loss has been incurred by the User or a an End User as a result of the gross negligence of EFTPOS and/or as a result of a defective Merchant Terminal which defect has been caused solely by EFTPOS as envisaged under section 61 of the CPA, and subject always to the provisions and defences permitted under the CPA, and in particular those permitted under section 61 of the CPA.
11	LIABILITY AND INDEMNITIES		
	This clause sets out that the Merchant Terminal is used by the User and the End User at their own risk, unless the loss is caused by EFTPOS's gross negligence or as a result of a defective Merchant Terminal which has been caused solely by EFTPOS and is to be read in conjunction with clause 10 of the Application terms and conditions.		
11.1	The User acknowledges that such risk will include and that it shall be liable for:		
11.1.1	the risk of any loss or damage, suffered as a result of using the Merchant Terminal and which loss is occasioned as a result of any theft, attempted theft, fraudulent tampering, attempted tampering, vandalism, theft of and/or attempts to access,	11.4	In addition to and without prejudice to any other limitations of liability provided for in the Agreement and to the fullest extent permitted by applicable law, EFTPOS will not be liable to the

	<p>User for any direct damages howsoever arising including in respect of any special, indirect, incidental, consequential or punitive damages arising out of or relating to this Agreement, whether resulting from negligence, breach or any other cause. To the extent that a competent court or tribunal or other competent dispute resolution body or authority finally determines, notwithstanding the exclusion contained in this clause, that EFTPOS is liable to the User for any damages, EFTPOS's liability to the User for any damages howsoever arising shall be limited to the amounts paid by the User under this Agreement in consideration for the EFTPOS Services during the immediately preceding 12 (twelve) month period.</p>	12.4.5	at the time when the transaction was done, any term of this Agreement has been violated;
	<p>11.5 Notwithstanding the foregoing, due to the nature of the Merchant Terminal, its uses and the risks attaching to it, which fall completely outside the control of EFTPOS, the User acknowledges and accepts that it uses the Merchant Terminal at its own risk and that it agrees to pass such conditions of usage on to the End Users, who too will be compelled to accept that any use of the Merchant Terminal will be at their own risk, and regardless of when or how such loss/damage arose and whether in contract, delict or otherwise and regardless of whether the loss/damage was foreseen or reasonably foreseeable by EFTPOS.</p>	12.4.6	the supplied goods and/or services paid for by the End User were received broken or otherwise not suitable for the purpose for which they were sold, and the End User returned the goods;
	<p>11.6 EFTPOS excludes all liability as set out in the Standard terms and conditions and the User agrees to indemnify EFTPOS, its officers, employees, associates, and assigns, against any claims brought by the User, End User or third parties, or any Merchant Bank or financial institution which arises from the use of the Merchant Terminal or the EFTPOS Services, regardless of the kind of loss or damage the party attempting to claim may suffer, including direct, indirect, special, incidental or consequential damages, and whether due to the use of, or inability to use, the Merchant Terminal and EFTPOS Services, save where such loss has been incurred by the User or an End User as a result of the gross negligence of EFTPOS and/or as a result of a defective Merchant Terminal which defect has been caused solely by EFTPOS as envisaged under section 61 of the CPA, and subject always to the provisions and defences permitted under the CPA, and in particular those permitted under section 61 of the CPA</p>	12.5	EFTPOS may, in its sole discretion, choose to treat any of the abovementioned Transactions in 12.4 as valid but without prejudice to its right in any following transaction to treat any defect of a similar kind as invalid.
	<p>11.7 Due to the nature of the Merchant Terminal, its uses and the risk attaching to it, which fall completely outside the control of EFTPOS, the User acknowledges and accepts that it uses the Merchant Terminal at its own risk and that it agrees to pass such conditions of usage on to the End Users, who too will be compelled to accept that may use of the Merchant Terminal will be at their own risk, and regardless of when or how such loss/damage arose and whether in contract, delict or otherwise and regardless of whether the loss/damage was foreseen or reasonably foreseeable by EFTPOS.</p>	12.6	In the case of an invalid Transaction as set out above, EFTPOS shall have the right to charge back the said transaction as described in clauses 21, 22, 23, 24 and 25 of annexure B to the Application Form (The Terms and Conditions Governing Use of the Service).
	<p>12 IRREGULAR, INVALID AND FRAUDULENT TRANSACTIONS</p>	12.7	In clauses 12.7 to 12.10, the term "fraudulent transactions" means any transaction which would be fraud (regardless of whether an electronic authorisation code number has been issued by EFTPOS to the User) in terms of the common law or statute. This will include any purchase and/or transaction made by someone who is not the authorised End User or the use of a card which has not been issued by a bona fide (in good faith) card issuer.
	<p>This clause sets out the procedure, which must be followed when a Transaction irregularity is experienced.</p>	12.8	The User shall not process electronic Transactions that it knows or should have known were fraudulent or unauthorised by the End User. The User agrees that it shall be responsible for the actions of its employees at all times.
	<p>12.1 When a User raises a transaction dispute, the User must make immediate contact with EFTPOS and provide EFTPOS with the details of the dispute and a copy of the receipt issued from the Merchant Terminal. EFTPOS will then take up the matter on behalf of the User with the acquiring Merchant Bank.</p>	12.9	EFTPOS has the right to debit the User's bank account at any time with the value of all fraudulent transactions electronically posted by the User.
	<p>12.2 When an End User raises a transaction dispute, the User must make immediate contact with the User's transacting Merchant Bank who is responsible for the End User's account, which parties will be solely responsible for the determination and administration of the dispute.</p>	12.10	EFTPOS reserves the right to immediately end this Agreement if fraud is committed or if within its sole and absolute discretion it determines that excessive fraudulent Transactions or Transaction values have been processed by the User
	<p>12.3 The User warrants that it will not, directly or indirectly, be a party to, or allow or authorise any transaction to be effected through the Merchant Terminal, by any person who is not an End User and warrants that it will implement and keep in place all necessary security precautions and checks to prevent the above from occurring.</p>		
	<p>12.4 An electronic Transaction will be invalid if:</p>		
	<p>12.4.1 the begin date on the card has not yet been reached or the card has expired;</p>		
	<p>12.4.2 The transaction does not comply with any warranty contained in Clause 3.14 above;</p>		
	<p>12.4.3 a mutilated, defaced, blank or illegible card was accepted;</p>		
	<p>12.4.4 the User does not present the electronic Transaction within the agreed period;</p>		
		13	INSURANCE
			<p>This clause states that the User should take out insurance to cover all the risks, excluding reasonable wear and tear, which it may be exposed to under this Agreement, including the costs to insure and where necessary to replace any stolen or damaged Merchant Terminal which EFTPOS refuses to replace and/or repair.</p>
		13.1	<p>The User acknowledges and accepts the various risks which it may be exposed to in consequence of this Agreement and which may arise in consequence of its use of the Merchant Terminal and the EFTPOS Services. The User should where possible to take out insurance, with a reputable insurance service provider acceptable to EFTPOS, to cover all or any of these risks, which cover should include public liability cover, loss of cash where it's shown to be solely at fault, the costs which may have to be incurred to repair and or replace any Merchant Terminal, excluding reasonable wear and tear and to implement any additional security measures that may be required by the User's insurers from time to time.</p>
		14	INDEPENDENT CONTRACTORS
			<p>This clause records that both parties are independent and will never be seen as employees or partners of each other.</p>
		14.1	<p>Both EFTPOS and the User are acting independently as independent service providers and not as partners, and under no circumstances will their respective employees be deemed to be employees of the other for any purpose.</p>
		14.2	<p>EFTPOS may not, as agent or in any other capacity contract on behalf of or make any commitments of any kind on behalf of the User except to the extent and for the purposes expressly provided for under the Agreement.</p>
		14.3	<p>The User may not, as agent or in any other capacity contract on behalf of or make any commitments of any kind on behalf of EFTPOS except to the extent and for the purposes expressly provided for under the Agreement.</p>
		15	RESTRICTIONS

This clause prohibits the User from using any competitive Merchant Terminal, EFTPOS Services or Service Provider which provision EFTPOS confirms is not anti-competitive but is designed to protect the interests of both the User and EFTPOS.

- 15.1 The User is not allowed to subscribe to or use any data processing service for processing the Transactions on the Merchant Terminal other than the data processing service determined by EFTPOS from time to time.
- 15.2 The User is not allowed to make use of the services of another acquirer of Transactions, Merchant Bank or financial institution for the purpose of acquiring Transactions other than the institution(s) used by EFTPOS from time to time.
- 15.3 The User shall not display any signage on the Merchant Terminal of whatsoever nature, relating to the Merchant Terminal other than signage prescribed by EFTPOS.

16 UNCONTROLLABLE EVENTS PREVENTING PERFORMANCE

Where any EFTPOS Service cannot be provided or the Merchant Terminal accessed and used as a result of an event beyond the party's control, the parties will be excused from such performance.

- 16.1 Where either party is unable to perform their obligations as set out under the Agreement and the non-performance is wholly or partly due to an Uncontrollable Event then, for so long as the Uncontrollable Event in question remains in place, the party who is unable to perform will be excused from such performance and from any liability in consequence of its inability to perform. The existence of an Uncontrollable Event shall not amount to a breach of this Agreement.

17 THE SERVICE OF LEGAL NOTICES AND OTHER DOCUMENTS

This clause details where various notices and communications by one party to the other must be sent to.

- 17.1 The User will send all communications, and any legal notices to EFTPOS by either post, fax, e-mail, SMS or other similar technology at the selected addresses detailed below which addresses the User chooses as its domicile citandi et executandi. (place where documents may be served)

- Invoices and statements and general communication:
- EFTPOS, a division of Paycorp Group (Pty) Ltd
- ATT: Financial Manager
- Sandhaven Office Park
- 14 Pongola Crescent
- Eastgate Extension 17
- Sandton
- 2199

- Legal Notices:
- EFTPOS, a division of Paycorp Group (Pty) Ltd
- ATT: Legal Manager
- Sandhaven Office Park
- 14 Pongola Crescent
- Eastgate Extension 17
- Sandton
- 2199

- 17.2 EFTPOS will send all communications, including EFTPOS's monthly invoice, statement and any legal notices to User by either post, fax, e-mail, SMS or other similar technology at the selected addresses detailed below which addresses User chooses as its domicilium citandi et executandi. (place where documents may be served)

- Invoices and statements and general communication:

- Postal Address - see Application form
- Legal Notices:
- Physical Address - see Application form

- 17.3 Should the addressees reflected above change, the respective party will have a duty to update the details and give written notice to the other of such change.

- 17.4 Any notice given and any payment made by either party to the other ("the addressee") which is delivered:

- 17.4.1 by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be deemed, until the contrary is proved, to have been received by the addressee at the time of delivery;

- 17.4.2 by pre-paid registered post at the addressee's domicilium for the time being shall be deemed, until the contrary is proved, to have been received by the addressee on the next but 7 (seven) days after the posting thereof;

- 17.4.3 by facsimile during the normal business hours of the addressee at the addressee's domicilium (facsimile number recorded in 17.1 or 17.2 above) for the time being shall be deemed, until the contrary is proved, to have been received by the addressee on the date of transmission;

- 17.4.4 electronically, simultaneously with the sender initiating the electronic delivery of that notice (email address recorded in 17.1 or 17.2 above) unless the sender's machine receives a report indicating the notice was not delivered.

18 PERSONAL INFORMATION

The parties are under a legal duty to protect the others personal information.

- 18.1 EFTPOS undertakes to treat the User's personal information as confidential and will take all reasonable steps to ensure such protection.

- 18.2 EFTPOS will only disclose the User's personal information if it is under a legal duty to do so or where the User gives its consent to such disclosure.

- 18.3 The User undertakes to treat EFTPOS's personal information as confidential and will take all reasonable steps to ensure such protection.

- 18.4 The User will only disclose EFTPOS's personal information if it is under a legal duty to do so or where EFTPOS gives its consent to such disclosure.

- 18.5 In order to maintain a relationship with the User, the User expressly agrees that EFTPOS as part of their credit rating and account maintenance processes may obtain or check the User's personal information using another parties' information such as a credit bureau or a government agency and to this end disclose to any of these parties the User's personal information.

19 BREACH

This clause details the party's' respective rights when the one party does not comply with the terms of the Agreement.

- 19.1 Breach of the Agreement will include:

- 19.1.1 where the User or EFTPOS do not comply with any of the terms and conditions of this Agreement;

- 19.1.2 where the User or EFTPOS do not perform, when due, their respective obligations under the Agreement;

- 19.1.3 where the User commits any act of insolvency, or being a natural person, assigns, surrenders or attempts to assign or surrender his estate; or allows a default judgment to remain unsatisfied for a period of seven Days from date of grant, or be refused rescission within twenty court Days of any default judgment; or is sequestrated or placed under judicial management or wound up, whether provisionally or finally;

- 19.1.4 where the User abandons or fails to secure the Merchant Terminal;

- 19.1.5 where the User or EFTPOS compromises with any of its creditors or endeavour or attempt to do so;

- 19.1.6 where the User or EFTPOS makes any incorrect or untrue statement or representation in connection with the Agreement or its financial affairs or any particulars relevant thereto;

- 19.1.7 where the User or EFTPOS breaches any warranty given in terms of the Agreement;
- 19.1.8 where the User does or allows to be done anything that might prejudice EFTPOS' rights under the Agreement.
- 19.2 Should the User breach the Agreement, EFTPOS will have the right, without prejudice to any other rights, which it may have in law, to inform the User of the breach and give the User 20 (twenty) Days to rectify the breach and failing rectification, EFTPOS will have the right to cancel the Agreement immediately;
- 19.3 In addition, EFTPOS will have the right to suspend the EFTPOS Services for the period of the breach.
- 19.4 Should EFTPOS breach the Agreement, the User will have the right, without prejudice to any other rights which it may have in law, to inform EFTPOS of the breach and give EFTPOS 20 (twenty) Days to rectify the breach and failing rectification, the User will have the right to cancel the Agreement immediately.

20 CONSEQUENCES OF A TERMINATION BY EFTPOS

This clause details what will happen when EFTPOS cancels the Agreement.

- 20.1 In the event of the Agreement being terminated by EFTPOS as a result of a breach by the User, EFTPOS will have the right to:
- 20.1.1 retain all amounts already paid by the User;
- 20.1.2 claim all arrear amounts, which are due and owing to EFTPOS by the User up to date of termination;
- 20.1.3 claim in the alternative to the right under clause 20.1.1 and 20.1.2, payment of all direct and indirect damages resulting from the breach by the User, including but not limited to loss of revenues by EFTPOS, all legal costs and disbursements incurred by EFTPOS as a result of the breach, including legal costs on the attorney and own client scale, costs incurred in collecting or endeavouring to collect all or any amounts payable by User; collection commissions, storage charges, all of which will be payable on demand.
- 20.1.4 Where the User rents the Merchant Terminal or where the User has not paid the full purchase price for the Terminal, upon termination of the Agreement for whatever reason EFTPOS will be allowed to access the User's premises for purposes of removing the Merchant Terminal.

21 JURISDICTION AND APPLICABLE LAWS

This clause tells you which Court must be approached should the party elect to sue the other.

- 21.1 In the event of the Parties not utilising the dispute resolution forums available to them under the CPA (where applicable), and one of the parties instead elects to avail itself of its common law rights, then in such an event, the parties both consent and submit to the jurisdiction of the Magistrates' Court having jurisdiction over their person in respect of all proceedings in connection with the Agreement, notwithstanding that the amount claimed or the value of the matter in dispute exceeds such jurisdiction.
- 21.2 Notwithstanding the provisions of clause 15.1, either party may at their election institute any proceedings in connection with the Agreement in any division of the High Court of South Africa having jurisdiction.

22 CESSION AND DELEGATION

This clause prevents the Parties from transferring this Agreement to another.

- 22.1 The User may not sell, cede, assign, delegate or in any other way alienate or dispose of any or all of its rights and obligations under the Agreement including the Merchant Terminal without the prior written approval of EFTPOS.
- 22.2 EFTPOS shall be entitled to sell, cede, assign, delegate, alienate, dispose or transfer any or all of its rights and obligations under the Agreement to any of its affiliates or to any third party without first obtaining the consent of the User, save that it undertakes to give the User reasonable notice of any such cession, assignment or transfer, whatever the case may be.

23 SURETYSHIP

This section states that where the User is a company or legal entity, the person who signs the agreement on behalf of the legal entity will be held responsible for the payment of all amounts due to EFTPOS, should the User fail to pay these amounts. This is known as a surety undertaking.

- 23.1 By signing the Application Form, the person doing so on behalf of the User ("the Surety") acknowledges that s/he binds himself jointly and severally as surety/ies and co-principal debtors in solidum for all amounts which are now or might in the future become payable by User, including its successors-in-title, assigns, to EFTPOS or its cessionary in the event of a cession in terms of the said Agreement arising out of or incidental to this Agreement, both current and future and from any other cause howsoever arising.
- 23.2 The Surety hereby expressly renounces the benefits of the following legal exceptions:
- 23.2.1 Excussion: the right to require EFTPOS to proceed first against the User for payment of any debt owed to EFTPOS before proceeding against the Surety.
- 23.2.2 Division of accounts: the defense that the accounts were not examined by the Surety.
- 23.2.3 Cession of action: the right to require EFTPOS to give cession of the action for payment of debts to the Surety before any action against the Surety is taken.
- 23.2.4 The right to an accounting from EFTPOS.
- 23.2.5 No cause of debt: the defense that there are no grounds for a debt.
- 23.2.6 Error in calculation: the right to dispute the manner in which the indebtedness has been calculated or that it has been calculated incorrectly.
- 23.3 The Surety consents to the jurisdiction of the Magistrates' Court provided that EFTPOS shall be entitled to institute action at a division of the High Court of South Africa having jurisdiction.
- 23.4 For the purpose of proving any amount due by the Surety to EFTPOS, a certificate issued by a person who describes himself as a manager/credit manager of EFTPOS and whose position need not be proved, shall constitute prima facie evidence of the amount owing by myself/us to EFTPOS arising from this Suretyship executed by the Surety for purposes of judgment.
- 23.5 The Surety agrees to make payment of any legal costs that may be awarded against the Surety on an attorney and own client scale.
- 23.6 The Surety choose as his domicilium citandi et executandi for all purposes arising out of this suretyship as the address/es set out for the User in the Application Form. Clause 17 hereof shall apply hereto.
- 23.7 The Surety warrants and represents that he has received and will continue to receive adequate value for the granting of this suretyship.
- 23.8 The Surety agrees that his obligations in terms of this suretyship shall not be affected by any waiver, compromise or other variation of the User's indebtedness to EFTPOS, from time to time.
- 23.9 The Surety agrees that no termination, cancellation, limitation or variation of his obligations in terms of this suretyship shall be of any force or effect unless it is in writing and signed by User and EFTPOS or its cessionary in the event of a cession in terms of the Agreement.

24 WHOLE AGREEMENT

The general clauses, which are important, are found under this section, so read them carefully.

- 24.1 The Agreement as defined in clause 1.1 constitutes the entire Agreement between parties, which Agreement shall supersede all previous agreements, negotiations, commitments and writings.
- 24.2 The Agreement including this clause may not be changed or modified unless the change is negotiated and is acceptable to both parties, which change is to then be reduced to writing and signed by both parties.
- 24.3 All documents to which these terms and conditions are attached, including but not limited to the Schedule

s, shall form part of and shall be integral to the Agreement.

24.4 Should EFTPOS supply the User with an additional or a replacement Merchant Terminal, the Agreement and all its terms and conditions will apply equally (mutatis mutandis) to any additional or replacement Merchant Terminal.

25 WAIVER

A waiver is the voluntary relinquishment or surrender of some known right or privilege. While a waiver is often in writing, sometimes a person's actions can act as a waiver. This clause allows a party where he has surrendered a right, to still rely on that right later on.

25.1 No indulgence, leniency or extension of time which either party may grant or show to the other (the waiving party) will prejudice or preclude the waiving party from exercising any of its rights, even where waived, in the future.

(Explanation - While EFTPOS may give you extra time to comply with your obligations or decide not to exercise some of its rights, the User must not assume that this means that EFTPOS cannot apply its rights at a later stage or vice versa).

26 REPRESENTATIONS

This clause states that no promises or legal statements were made which induced the User to conclude the agreement with EFTPOS.

26.1 EFTPOS has not made any representations or given any legal statements to the User other than those contained in the Agreement and the User has not relied on any representations in entering into the Agreement other than those contained in the Agreement.

27 INTERPRETATION AND SEVERABILITY

This sets out how the Agreement will be interpreted and where certain clauses can be separated from the main agreement which have been found to be unlawful.

27.1 All words and phrases referring to one gender include each of the other genders and the singular includes the plural and vice versa where the context requires. A reference to natural persons shall include a reference to bodies corporate and other legal personae and vice versa.

27.2 Each phrase, sentence, paragraph and clause in the Agreement is severable, notwithstanding the manner in which they may be linked together or grouped grammatically and if in terms of any judgment or order any phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason the remaining phrases, sentences, paragraphs and clauses as the case may be will nevertheless be and continue to be of full force and effect.

27.3 Where figures are referred to in numerals and words, if there is any conflict between the two, the words shall prevail

28 VAT

This clause states that all amounts are exclusive of VAT.

28.1 All amounts reflected in the Agreement and the Schedules will exclude Value Added Tax (VAT).

29 COMPLIANCE WITH APPLICABLE LAWS

This clause states that the User and EFTPOS must comply with all the laws of South Africa.

29.1 The User will comply all respects with the laws of the Republic of South Africa, including but not limited to the Financial Intelligence Centre Act 38 of 2001, the Prevention of Organised Crime Act 121 of 1998, the Consumer Protection Act, 2008 and the Prevention of Counterfeiting of Currency Act 16 of 1965, and any other law, enactment or statute relevant to the business of the User.

Annexure B

Terms Governing Use of the EFTPOS Service

1 Merchant Account Registration

- 1.1 You must open an account with Eftpos (a "Merchant Account") in order to use the EFTPOS Services. Our registration process will ask you for information including your name and other personal information. You must provide accurate and complete information in response to our questions. You must also keep the information that you provide up-to-date.

2 Software

- 2.1 The software associated with Eftpos Card Reader is part of the EFTPOS Services. Among other things, the software enables you to access and use the EFTPOS Services. When you install the software, you will be asked to create your user profile and you will be required to establish a Merchant Account. You must complete this and other processes in order to access any funds that you accept through the EFTPOS Services. You must install any and all software updates to continue to use the EFTPOS Services.

3 Verification and Inspection

- 3.1 If your request to open a Merchant Account is approved, Eftpos may request additional information from you at any time. Eftpos may ask you to present invoices from your suppliers, a government issued identification such as a passport or driver's license, or a business license, or any FICA related documentation. This is a non-exhaustive list. Eftpos may also ask for permission to inspect your business location. If you refuse any of these requests, your Merchant Account may be terminated. We reserve the right to suspend or terminate the Merchant Account of any User who provides inaccurate, untrue, or incomplete information, or fails to comply with the account registration requirements.

4 Compatible Mobile Devices

- 4.1 Your Merchant Account permits you to accept payment card transactions on a compatible mobile device. Devices modified contrary to the manufacturer's software or hardware guidelines, including but not limited to disabling hardware or software controls-sometimes referred to as "jail breaking"-are not compatible mobile devices. You acknowledge that the use of a modified device to use the EFTPOS Services is expressly prohibited, constitutes a violation of the terms of this agreement, and is grounds for termination of your Merchant Account. Eftpos does not warrant that the EFTPOS Services will be compatible with your mobile device or third party carrier.
- 4.2 Your use of the EFTPOS Services may be subject to the terms of your agreements with your mobile device manufacturer. The EFTPOS Services are currently available on Blackberry, Android and iOS devices. Older versions of software/handsets may not be supported. New versions of software/handsets will be supported as soon as is reasonably possible.

5 Your Merchant Account

- 5.1 By creating a Merchant Account, you confirm that you are either a legal resident of the Republic of South Africa, a South African citizen, or a business entity authorized to conduct business by the state in which it operates. The Services and your Merchant Account may only be used in South Africa. You may not export the Services directly or indirectly.
- 5.2 By creating a Merchant Account, you also confirm that you will not accept payments in connection with the following businesses or business activities: (1) any illegal activity, (2)

buyers or membership clubs, (3) credit counseling or repair agencies, (4) credit protection or identity theft protection services, (5) direct marketing or subscription offers or services, (6) infomercial sales, (7) internet/mail order/telephone order pharmacies or pharmacy referral services (where fulfillment of medication is performed with an internet or telephone consultation, absent a physical visit with a physician including re-importation of pharmaceuticals from foreign countries), (8) multi-level marketing businesses, (9) inbound or outbound telemarketers, (10) prepaid phone cards or phone services, (11) rebate based businesses, (12) up-sell merchants, (13) bill payment services, (14) betting, including lottery tickets, casino gaming chips, off-track betting, and wagers at races, (15) financial institutions offering manual or automated cash disbursements, (16) financial institutions offering merchandise and services, (17) sales of money-orders or foreign currency by non-financial institutions, (18) wire transfer money orders, (19) high-risk merchants, including telemarketing merchants, (20) service station merchants, (21) adult entertainment oriented products or services (in any medium, e.g., internet, telephone or printed material), (22) internet/mail order/telephone order firearm or weapon sales, (23) internet/mail order/telephone order cigarette or tobacco sales, (24) drug paraphernalia, (25) occult materials, (26) hate products, (27) escort services, and (28) bankruptcy attorneys (29) purchase of shares on the Johannesburg Stock Exchange.

- 5.3 By accepting this Agreement you confirm that you will satisfy these requirements.

- 5.4 Your Merchant Account permits you to offer loyalty programs to your customers. If you offer such a loyalty program, you (and not Eftpos) are responsible for ensuring that your program and any associated rewards are compliant with applicable laws, including consumer laws including laws governing prepaid cards and special offers such as rebates and coupons. You agree to make available to your customers any terms and conditions applicable to your loyalty program.

6 Our Role

- 6.1 The EFTPOS Services allow you to accept payments, including card-based payments initiated with cards bearing the trademarks of MasterCard International Inc. and Visa Inc. and from time to time Diners Club and American Express, which shall be accepted in the sole and absolute discretion of Eftpos (collectively, the "Card Associations"). We are not a bank, and we do not offer banking services as defined by the South African Reserve Bank.
- 6.2 Eftpos processes payments you receive from your customers. This means that we collect, relay information generated in connection with these payments.
- 6.3 In order to serve in this role, we must enter into agreements with certain Merchant Banks (also known as acquiring banks). Such banks require that you enter into an agreement with them as well as Eftpos. By accepting these terms and conditions you have agreed to the terms of the Merchant Acquiring Agreement.

7 Your Authorization

- 7.1 By accepting the terms of this Agreement, you authorise us to hold, receive, and disburse funds on your behalf. Your authorization permits us to generate a paper draft or an electronic funds transfer to process each payment transaction that you authorize. Your authorizations will remain in full force and effect until your Merchant Account is closed or terminated.

8 Restricted Use

- 8.1 You may use the EFTPOS Services only to the extent that you obey all laws, rules, and regulations applicable to your

use of the EFTPOS Services. You may not act as a payment intermediary, aggregator or service bureau or otherwise resell our services on behalf of any third party. This means that you may not use the EFTPOS Services to handle, process or transmit funds for any third party. You also may not use the EFTPOS Services to process cash advances.

9 Unauthorized or Illegal Use

9.1 We may decide not to authorize or settle any transaction that you submit to us if we believe that the transaction is in violation of any Eftpos agreement, or exposes you, other Eftpos users, our Merchant Banks or Eftpos to harm. Harm includes fraud and other criminal acts. If we reasonably suspect that your Merchant Account has been used for an unauthorized, illegal, or criminal purpose, you give us express authorization to share information about you, your Eftpos Account, and any of your transactions with law enforcement.

10 Accepted Cards

10.1 Eftpos works with any South Africa issued and most non-South African issued credit, debit, pre-paid, or gift cards with a Visa, MasterCard and from time to time Diners Club and American Express logo's, which shall be accepted in the sole and absolute discretion of Eftpos. We may remove or add Cards that we accept at any time without prior notice. We will only process Cards that receive an authorization from the applicable Card Association or card issuer. The person who presents the card to you ("the Payer"), may not be authorized to use the card or otherwise contest the transaction through the Chargeback process (described below).

11 Applicable Card associations Rules - MasterCard, Visa, Diners, American Express

11.1 The Card Associations require that you and Eftpos comply with all applicable bylaws, rules, and regulations ("Card Association Rules"). The Card Associations have historically reserved the right to amend their rules and regulations. Eftpos may be required to change this agreement in connection with amendments to the Card Association Rules. Significant portions of the Card Association Rules are available to the public at www.visacamea.com and www.mastercard.com.

11.2 Card Association Rules currently prohibit you from (a) adding a surcharge for the use of a Card in connection with any transaction, or (b) dispensing cash on any Card transaction. The Card Association Rules also restrict your use of Card Association logos to indicating your acceptance of the Card Association cards and to other uses expressly authorized by the Card Associations.

12 Underwriting

12.1 Eftpos will review some or all of the information that you submit in connection with your request to sign up for the EFTPOS Services. Eftpos may forward such information on to its Merchant Bank. In order to be eligible to use the EFTPOS Services, you must agree that Eftpos may share information about you and your Merchant Account to its Merchant Bank. After you submit your application, Eftpos or its Merchant Bank may conclude that you will not be permitted to use the EFTPOS Services.

12.2 By accepting the terms of this Agreement, you specifically authorize Eftpos to request identity verifying information about you, including a consumer report and/or credit check that contains your name and address. Eftpos may periodically obtain additional reports to determine whether you continue to meet the requirements for a Merchant Account.

12.3 You agree that Eftpos is permitted to contact and share information about you and your application (including whether you are approved or declined), and your Merchant Account with your bank or other financial institution. This includes sharing information (a) about your transactions for regulatory

or compliance purposes, (b) for use in connection with the management and maintenance of the service, (c) to create and update their customer records about you and to assist them in better serving you, and (d) to conduct Eftpos's risk management process.

13 Access to Merchant Account Funds

13.1 Merchant Account Funds for any given transaction will not be deposited until the transaction is deemed complete. Transactions will be deemed complete when we have received or sent the funds and when we or the designated financial institutions have accepted the transaction or funds. You are responsible for monitoring your transactions and ensuring that our payments to you are correct. You must notify us of any errors in payments made to you within sixty (60) days of the error first appearing on your electronic transaction history. Failure to notify us of such an error will be deemed a waiver of any right to amounts owed to you.

14 Payout Schedule

14.1 Once Eftpos validates your South African bank account, Eftpos will automatically initiate a payout to your bank account at the end of every business day. Payouts to your bank account will normally register within 1-2 business days, or as per the payment schedule agreed with you and as recorded in the Application Form, and depending on which bank you hold your account.

15 Availability of Funds

15.1 Should Eftpos need to conduct an investigation or resolve any pending dispute related to your Merchant Account, we may defer payout or restrict access to your funds for the entire time it takes for us to do so. We may also defer payout or restrict access to your funds as required by law or court order, or if otherwise requested by law enforcement or governmental entity.

16 Reserve

16.1 At any time and from time to time, we may temporarily suspend or delay payments to you and/or designate an amount of funds that we must maintain Merchant Account in a separate reserve account (a "Reserve") to secure the performance of your payment obligations under this Agreement. We may require a Reserve for any reason, including if you have a high rate of Chargebacks (described in Section 24), refunds, or other indications of performance problems related to your use of the EFTPOS Services.

16.2 The Reserve will be in an amount as reasonably determined by us to cover anticipated Chargebacks, returns, unshipped merchandise and/or unfulfilled products or services or credit risk based on your processing history or such amount designated by our Merchant Bank.

16.3 The Reserve may be raised, reduced or removed at any time by Eftpos, in its sole discretion, based on your payment history, a credit review, the amount of any arbitration award or court judgment against you in Eftpos's favor, or otherwise as Eftpos or its Merchant Bank may determine or require.

16.4 If you do not have sufficient funds in your Reserve, we may fund the Reserve from any funding source associated with your Eftpos Account, including but not limited to any funds (a) deposited by you, (b) due to you under this Agreement, or (c) available in your bank account, or other payment instrument registered with us.

16.5 You grant us a security interest in and lien on any and all funds held in any Reserve, and also authorize us to make any withdrawals or debits from the Reserve, without prior notice to you, to collect amounts that you owe us under this Agreement, including without limitation for any reversals of deposits or transfers made to your Eftpos Account. You will execute any additional documentation required for us to perfect our security interest in any funds in the Reserve. This

security interest survives for as long as we hold funds in your Reserve.

17 Receipts

- 17.1 You may only process transactions when your customer is present at the time of the transaction and enters their card PIN. You agree to request that your customer personally enter the PIN for all transactions. You may give your customers the option to receive or decline a written receipt. As a convenience, but not in lieu of a written receipt, you may also offer Eftpos electronic receipts for delivery through SMS or email to your customers.
- 17.2 We may, in our discretion allow you to process transactions where your customer's card is not present however this is subject to our prior written approval and the signature by you of additional documentation.

18 Taxes

- 18.1 You are responsible for determining any and all taxes assessed, incurred, or required to be collected, paid, or withheld for any reason in connection your use of our software and services ("Taxes"). You also are solely responsible for collecting, withholding, reporting, and remitting correct Taxes to the appropriate tax authority. We are not obligated to, nor will we determine whether Taxes apply, or calculate, collect, report, or remit any Taxes to any tax authority arising from any transaction.

19 Customer Service

- 19.1 You are solely responsible for all customer service issues relating to your goods or services, including pricing, order fulfillment, order cancellation by you or customer, returns, refunds and adjustments, rebates, functionality and warranty, technical support, and feedback concerning experiences with your personnel, policies or processes. In performing customer service, you will always present yourself as a separate entity from us. As between you and us, we are solely responsible for customer service issues relating to any Eftpos Account, payment, card processing, debiting or crediting.

20 Refunds and Returns

- 20.1 By accepting payment card transactions with a Merchant Terminal, you agree to process returns of, and provide refunds and adjustments for, your goods or services through your Merchant Account in accordance with this Agreement and Card Association Rules. Card Association Rules require that you will (a) maintain a fair return, cancellation or adjustment policy; (b) disclose your return or cancellation policy to customers at the time of purchase, (c) not give cash refunds to a customer in connection with a Card sale, unless required by law, and (d) not accept cash or any other item of value for preparing a Card sale refund (d) give refunds for goods purchased by way of cash or other method of payment (e) only process a refund to the credit card account that was utilized to process the original transaction.
- 20.2 The amount of the refund/adjustment must include any associated taxes required to be refunded and cannot exceed the amount shown as the total on the original sales data except by the exact amount required to reimburse the customer for postage that the customer paid to return merchandise. If you accept returns and are making an uneven exchange of merchandise (e.g., the sales price is not the same), you must issue a credit for the total amount of the merchandise being returned and complete a new sale for any new merchandise. Please be aware, if your refund policy prohibits returns or is unsatisfactory to the buyer, you may still receive a Chargeback relating to such sales.
- 20.3 If your Eftpos balance (the balance in your Merchant Account) is insufficient to cover the refund, Eftpos will withdraw up to the requested refund amount from your bank account. Eftpos will then withdraw the amount you were paid (the sale amount minus the initial transaction fee) from your

bank account, and credit it back into your customer's card. The Fees are also refunded by Eftpos, so the full purchase amount is always returned to your customer. Eftpos has no obligation to accept any returns of any of your goods or services on your behalf.

- 20.4 An SMS or emailed version of the credit voucher must be provided to the Cardholder.

21 Your Liability for Chargebacks

- 21.1 The amount of a transaction may be reversed or charged back to your Merchant Account (a "Chargeback") if the transaction (a) is disputed, (b) is reversed for any reason by the Card Association, our Merchant Bank, or a Payer's or our financial institution, (c) was not authorized or we have any reason to believe that the transaction was not authorized, or (d) is allegedly unlawful, suspicious, or in violation of the terms of this Agreement.

22 Our Collection Rights for Chargebacks.

- 22.1 **For any transaction that results in a Chargeback, we may withhold the Chargeback amount in a Reserve. We may deduct the amount of any Chargeback and any associated Fees, fines, or penalties listed in the Fee Schedule or assessed by the Association or our Merchant Bank from your Merchant Account (including without limitation any Reserve), any proceeds due to you, your bank account, or other payment instrument registered with us. For the avoidance of any doubt we point that it is possible that the value of Chargeback might be more than the original transaction amount if for example the Chargeback was processed on an international Card. You shall be liable for any fluctuation in exchange rates on and Chargebacks.**

- 22.2 If you have pending Chargebacks, we may delay payouts from your Merchant Account. Further, if we reasonably believe that a Chargeback is likely with respect to any transaction, we may withhold the amount of the potential Chargeback from payments otherwise due to you under this Agreement until such time that: (a) a Chargeback is assessed due to a customer's complaint, in which case we will retain the funds; (b) the period of time under applicable law or regulation by which the customer may dispute that the transaction has expired; or (c) we determine that a Chargeback on the transaction will not occur.

- 22.3 If we are unable to recover funds related to a Chargeback for which you are liable, you will pay us the full amount of the Chargeback immediately upon demand. You agree to pay all costs and expenses, including without limitation attorneys' fees on an attorney/client scale, interest and other legal expenses, incurred by or on behalf of us in connection with the collection of all Merchant Account deficit balances unpaid by you.

23 Excessive Chargebacks

- 23.1 If we determine that you are incurring an excessive amount of Chargebacks, we may establish controls or conditions governing your Merchant Account, including without limitation, by (a) establishing new processing fees, (b) creating a Reserve in an amount reasonably determined by us to cover anticipated Chargebacks and related fees, (c) delaying payouts, and (d) terminating or suspending the Services.

24 Contesting Chargebacks

- 24.1 You agree to assist us when requested, at your expense, to investigate any of your transactions processed through the EFTPOS Services. To that end, you permit us to share information about a Chargeback with the payer, the payer's financial institution, and your financial institution in order to investigate and/or mediate a Chargeback. We will request necessary information from you to contest the Chargeback.

24.2 If the Chargeback is contested successfully, we will release the reserved funds to your Merchant Account. If a Chargeback dispute is not resolved in your favor by the Card Association or issuing bank or you choose not to contest the Chargeback, we may recover the Chargeback amount and any associated fees as described in this Agreement.

24.3 You acknowledge that your failure to assist us in a timely manner when investigating a transaction, including providing necessary documentation within fifteen (15) business days of our request, may result in an irreversible Chargeback. We reserve the right, upon notice to you, to charge a fee for mediating and/or investigating Chargeback disputes.

25 Our Set-off Rights

25.1 To the extent permitted by law, we may set off against the Balances for any obligation you owe us under this Agreement, including without limitation any Chargebacks and Fees.

25.2 All Fees are charged at the time we process a transaction and are deducted first from the transferred or collected funds.

26 Dormant Merchant Accounts

26.1 If there is no activity in your Merchant Account (including access or payment transactions) for at least:

26.1.1 Ninety (ninety) days our Merchant Bank will mark this account as inactive. You will be required to a) contact Eftpos to have the account made active b) on the same day process a transaction of any value. Should you fail to follow these two steps, the account will remain inactive.

26.1.2 two (2) years, consecutively, and you have a Balance, we will notify you by sending an email to your registered email address and give you the option of keeping your Merchant Account open and maintaining the Balance, withdrawing the Balance, or requesting a cheque. If you do not respond to our notice within thirty (30) days, we will automatically close your Merchant Account and distribute your funds in accordance with applicable law, and if permitted, to Eftpos.

27 Eftpos Processing Errors

27.1 We will attempt to rectify processing errors that we discover. If the error resulted in your receipt of less than the correct amount to which you were entitled, Eftpos will credit your Merchant Account for the difference. If the error results in your receipt of more than the correct amount to which you were entitled, Eftpos will debit the extra funds from your bank account.

27.2 Eftpos will only correct transactions that you process incorrectly if and when you notify us of such an error. Your failure to notify us of a processing error within thirty (30) days of when it first appears on your electronic transaction history will be deemed a waiver of any right to amounts owed to you.

28 Disclosures and Notices

28.1 You agree that Eftpos can provide disclosures and notices required by law and other information about your Merchant Account to you electronically by posting it on our website, or by emailing it to the email address listed in your Merchant Account. You also agree that electronic disclosures and notices have the same meaning and effect as if we had provided you with paper copies. Such disclosures and notices are considered received by you within 24 hours of the time posted to our website, or within 24 hours of the time emailed to you unless we receive notice that the email was not delivered.

29 User Content

29.1 In connection with registration for a Merchant Account, users may upload photos or other materials or information to the EFTPOS Services ("User Content"). You agree that you will

not upload User Content to the EFTPOS Services unless you have created that content yourself, or you have permission from the copyright owner to do so.

29.2 For any User Content that you upload to the EFTPOS Services, you grant us and our subsidiaries, affiliates, and successors a worldwide, non-exclusive, royalty-free, fully-paid, transferable, and sub licensable right to use, reproduce, modify, adapt, publish, prepare derivative works of, distribute, publicly perform, and publicly display that User Content throughout the world in any media in order to provide and promote the EFTPOS Services and Eftpos's business. You retain all rights in your User Content, subject to the rights granted to Eftpos in this Agreement. You may modify or remove your User Content via your Merchant Account or by terminating your Merchant Account.

29.3 You agree not to upload to the EFTPOS Services or otherwise post, transmit, distribute, or disseminate through the EFTPOS Services any material that: (a) is false, misleading, unlawful, obscene, indecent, lewd, pornographic, defamatory, libelous, threatening, harassing, hateful, abusive, or inflammatory; (b) encourages conduct that would be considered a criminal offense or gives rise to civil liability; (c) breaches any duty toward or rights of any person or entity, including rights of publicity or privacy; (d) contains corrupted data or any other harmful, disruptive, or destructive files; (e) advertises products or services competitive with Eftpos's or its partners' products and services, as determined by Eftpos in its sole discretion; or (f) in Eftpos's sole judgment, is objectionable, restricts or inhibits any person or entity from using or enjoying any portion of the EFTPOS Services, or which may expose Eftpos, its affiliates, or users to harm or liability of any nature.

29.4 Although Eftpos has no obligation to screen, edit, or monitor any User Content, Eftpos reserves the right, and has absolute discretion, to remove, screen, edit, or disable any User Content at any time and for any reason without notice. You understand that by using the EFTPOS Services, you may be exposed to User Content that is offensive, indecent, or objectionable. We take no responsibility and assume no liability for any User Content, including any loss or damage to any of your User Content.

30 Copyright Infringement

30.1 Eftpos respects the intellectual property rights of others and asks you to do the same. It is Eftpos's policy to terminate the access privileges of those who repeatedly infringe the copyright rights of others. If you believe that your work has been posted on the EFTPOS Services in a way that constitutes copyright infringement, please contact Eftpos's copyright agent at the address below and provide the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (b) a description of the copyright-protected work that you claim has been infringed; (c) the location on the EFTPOS Services of the material that you claim is infringing; (d) your address, telephone number, and email address; (e) a statement by you regarding your good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and (f) a statement by you, made under penalty of perjury, that the information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. By submitting a copyright infringement notice, you acknowledge and agree that Eftpos or its copyright agent may forward the information you provide in this notice to the person who uploaded the allegedly infringing material. You may write to Eftpos's designated agent for notice of copyright infringement at:

- EFTPOS a division of Paycorp Group (Pty) Ltd
- ATT: Group Legal Manager
- Sandhaven Office Park
- 14 Pongola Crescent
- Eastgate Extension 17
- Sandton

31 Security

- 31.1 We have implemented technical and organizational measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration or disclosure. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

32 Termination

- 32.1 If your Merchant Account is terminated for any reason or no reason, you agree: (a) to continue to be bound by this Agreement, (b) to immediately stop using the EFTPOS Services, (c) that the license provided under this Agreement shall end, (d) that we reserve the right (but have no obligation) to delete all of your information and account data stored on our servers, and (e) that Eftpos shall not be liable to you or any third party for termination of access to the EFTPOS Services or for deletion of your information or account data.

33 Your Right to Terminate

- 33.1 You may terminate this Agreement and other Eftpos agreements by closing your Merchant Account at any time. Upon closure of a Merchant Account, any pending transactions will be cancelled.
- 33.2 Any funds that we are holding in custody for you at the time of closure, less any applicable Fees, will be paid out to you according to your payout schedule, assuming all payout-related authentication requirements have been fulfilled (for example, you may not close your Merchant Account as a means of evading your payout schedule).
- 33.3 If an investigation is pending at the time you close your Merchant Account, we may hold your funds as described

herein. If you are later determined to be entitled to some or all of the funds in dispute, we will release those funds to you.

34 Suspension or Termination by Us

- 34.1 We may terminate this Agreement and close your Merchant Account for any reason or no reason at any time upon notice to you. We may also suspend the EFTPOS Services and access to your Merchant Account (including the funds in your Eftpos Account) if you (a) have violated the terms of this Agreement, any other agreement you have with Eftpos, or Eftpos's policies, (b) pose an unacceptable credit or fraud risk to us, or (c) provide any false, incomplete, inaccurate, or misleading information or otherwise engage in fraudulent or illegal conduct.

35 Effect of Termination

- 35.1 We will not be liable to you for compensation, reimbursement, or damages in connection with your use of the EFTPOS Services, or in connection with any termination or suspension of the EFTPOS Services. Any termination of this Agreement does not relieve you of any obligations to pay any Fees or costs accrued prior to the termination and any other amounts owed by you to us as provided in this Agreement.

36 Applicable for finance and rental models

- I / We declare that to the best of my/our knowledge and belief, the particulars set out in this application are true and correct, and that no additional information was withheld. I / We consent to Activos Capital (Pty) Ltd or nominated company to do enquiries about my/our credit record with any reference agency and any other party to confirm details on this application. I / We consent to carrying out identity and fraud prevention checks and sharing information relating to this application with the South African Fraud Prevention Services.
- 36.1