

## **GENERAL TERMS AND CONDITIONS**

This Agreement (as defined below) is a legally binding agreement between PayFast (Pty) Ltd. with company registration number 1999/017441/07 (hereinafter referred as "PayFast", "us", "we" or "our") and the juristic or natural person mentioned in the Application ( "you", "your", "user" or, the "Merchant") and govern the Services offered and rendered by us and/or our Affiliates to you or your Affiliate(s) that has signed an Affiliate form. This Agreement will be binding on our successors and assigns.

**Please read all the terms and conditions carefully. Pay special attention to the clauses in bold as they may have implications on you or may limit our liability, to the extent permissible by law.**

### **1. THE SERVICES AND OUR OBLIGATIONS**

- 1.1 In consideration of the Fees related to the Services, we shall provide all Services in accordance with the terms and conditions of this Agreement, using reasonable skill and care and in compliance of the PCI DSS, Card Scheme Rules, and Applicable Laws.
- 1.2 If you experience any technical or other issue with the Services, you may contact us via telephone or in writing at the contact details as given on our website: <https://payfast.io/> or <https://www.network.ae>.

### **2. YOUR OBLIGATIONS**

**Please pay special attention to the clause below as it may have specific consequences for you and limits our liability.**

- 2.1 You shall at all times comply with the provisions of this Agreement as may be updated from time to time by us, the Card Scheme Rules and the Applicable Laws.
- 2.2 You agree that we shall provide you the Services on non-exclusive basis for the duration of the Initial Term and the Renewal Term.
- 2.3 You shall ensure that the Transactions carried out are relating to sale and purchase of your licensed good and/or services. You shall notify to us in writing before you make any changes to the nature of your licensed goods and/or services.
- 2.4 You shall ensure to pay the Fees and any Levies in a timely manner in accordance with the terms and conditions of the Agreement.
- 2.5 Where we are only providing Payment Gateway Services to you, you agree to sign a separate merchant agreement with the Bank setting out the terms and conditions between you and the Bank for merchant transaction acquiring services of the Bank. We reserve the right to suspend the Payment Gateway Services under this Agreement and or terminate this Agreement immediately should you fail to maintain an agreement with a Bank pursuant to this clause.
- 2.6 You agree that where you have signed a merchant agreement with the Bank, we shall only act as a provider of Payment Gateway Services . You acknowledge that we do not assume any liability or responsibility that you or the Bank may have under the agreement concluded between you and the Bank and all obligations under this Agreement that are not related to Payment Gateway Services (for e.g. settlement of funds) shall not apply to us.

### **3. FEES AND TAXES**

- 3.1 All Payment Transactions processed by us shall be subject to Fees payable by you to us in accordance with this Agreement. Fees once received shall not be refundable unless received in error by us.
- 3.2 You agree to pay and authorize us to charge the Fees, Levies, Refunds, Chargebacks and any Reversals together with any applicable taxes by adjustment of the Sale Proceeds or by debit to the Bank Account or any other mode in accordance with terms of this Agreement. All Fees and other amounts payable under this

Agreement are exclusive of any Value Added Tax (VAT) or any other taxes or levies under Applicable Laws and are payable by you. We shall where required by Applicable Law, provide an invoice in respect of such VAT or other taxes or levies.

- 3.3 All payments made by you to us under this Agreement, shall be free from any withholding or any other similar taxes levied under Applicable Laws. If you are required under Applicable Laws to withhold or deduct any tax out of the payments due to us ("WHT"), then the sum payable shall be increased to the corresponding amount as necessary, so that after making all such required deductions we receive an amount equal to the sum we would have received had no WHT or such deduction had been made.
- 3.4 In the event the monthly volume of Payment Transactions is ZAR 20,000 or less, you shall pay the Minimum Volume Fee stated in the Application.
- 3.5 The Fees may be increased by us, or we may introduce new Fees by giving thirty (30) days (a shorter or longer notice, if required by the Applicable Law) advance written notice to you, served in accordance with clause 25.

#### **4. YOUR BANK ACCOUNT**

- 4.1 You shall maintain a Bank Account with a bank licensed, registered and regulated by the South African Reserve Bank (SARB), and where the settlement is to a Bank Account with a bank outside the Territory, such bank shall be agreed in writing with us, and you shall maintain sufficient funds in the Bank Account to ensure timely payment of any Fees, Levies, Chargebacks, Refunds, Reversals and any other amounts payable to us under this Agreement.
- 4.2 You agree to provide us with at least fourteen (14) days advance written notice of any change in the Bank Account, or in case the Bank Account is outside the Territory, effect a change in the Bank Account only with our prior written agreement. You also agree to notify us immediately if there are any restrictions imposed on the Bank Account. We will not be held responsible for incorrect banking details being provided by you which may or may not lead to funds held in custody being transferred to the incorrect party. It is your responsibility to ensure the accuracy of the Bank Account details provided to us.
- 4.3 By signing the direct debit mandate attached with the Application and this Agreement, you represent, undertake and warrant that you have given written authorization to the Bank where the Bank Account is being maintained to accept and honor direct debit instructions from us.
- 4.4 We reserve the right to debit the Bank Account for any and all amounts owed by you to us under this Agreement and such amounts as determined by us to meet your obligations under this Agreement. If the balance in the Bank Account is not sufficient to meet your obligations under this Agreement including for payment of Fees, Chargebacks, Refunds, Reversals, Levies and any other amounts payable to us under this Agreement then we may recover such amounts and related expenses by deduction of the same from the Sale Proceeds and/or from any collateral held by us or send you an invoice which shall be payable immediately.
- 4.5 Where applicable, to withdraw funds/ Sales Proceeds that Payfast is holding in custody for you, you may make a payout request using Dashboard . The Sales Proceed funds will then be transferred electronically to your designated Bank Account. Each payout may incur a Fee as specified in your Application or notified by us.

#### **5. PAYMENT TRANSACTIONS AND CARDS**

- 5.1 Unless otherwise notified by us, you shall accept the Card types described in the Application and those notified by us from time to time, as a payment method for Payment Transactions.

- 5.2 You shall:
- (i) only accept Cards that have not expired at the time of presentation, as payment for goods and services sold by you; and
  - (ii) unless otherwise advised by us, not impose minimum or maximum financial limits on Payment Transactions.
- 5.3 You shall treat purchases by Card in the same way as cash purchases, including the offering the goods and/or services sold by you at the same price regardless of whether the payment is by Card or cash.
- 5.4 You will not use our Services to initiate any Payment Transaction for goods or services that is not in accordance with your licensed business and licensed activities.
- 5.5 You shall observe the permitted Floor Limit, you shall not impose a financial limit in respect of Payment Transactions or preset any rule to accept minimum or maximum values for a Payment Transaction.
- 5.6 You shall ensure to have the Card swiped into the POS Terminal or imprinted on the Manual Imprinter for all Payment Transaction at the time of initiating any Authorization. In case of EMV Card you shall insert the Card into the POS Terminal and if prompted shall request the Cardholder to enter the PIN.
- 5.7 It is understood that if a Payment Transaction is initiated using a Card which is issued by an Issuer outside the Territory for an amount as maybe informed by us from time to time, you shall verify the identity of the Cardholder, record details of the identification document on the POS Record / Manual Sale Draft, obtain a photocopy of such documents and retain such documents for presentation to us upon demand.
- 5.8 All details of Payment Transactions shall be made available to us within seven (7) days from our request.
- 5.9 The amount of Payment Transactions shall be reduced in accordance with any discount that is offered on sale of goods and services by you.
- 5.10 You shall not accept a Payment Transaction, which is made:
- (i) to advance Cash to the Cardholder unless previously authorized by us;
  - (ii) to refinance a debt for you, Representative or Cardholder;
  - (iii) to debit any additional charge, surcharge, or other charge which is not related to the acceptance of a Payment Transaction; and
  - (iv) for goods which are not sold or services which are not rendered to the Cardholder or your customer.
- 5.11 You should not initiate any Payment Transaction without:
- (i) verifying the format of the logo appearing on the Card with the approved format authorized by the relevant Card Schemes as provided by us;
  - (ii) verifying the validity date on the Card;
  - (iii) verifying the identity of the Cardholder;
  - (iv) using reasonable effort to verify the signature of the Cardholder on the back of the Card; and
  - (v) obtaining an Authorization.
- 5.12 For the purpose of clause 5.11 above, it is agreed that if you are unable to verify the validity of the Card or identity of the Cardholder, you shall immediately contact our Authorization Center for verification. If no sufficient information on the verification is provided, you shall not complete the Payment Transaction and shall use all reasonable means to recover the Card from the Cardholder and unless legally prohibited, to promptly send the same to us, and where so required, follow our instructions in this regard.
- 5.13 All Payment Transactions shall be processed for Authorization using the Equipment in the manner prescribed in your user guide or notified by us (as the case may). It is agreed that no Payment Transaction will be approved, accepted or processed by us and no Sale Proceeds will be credited to the Bank Account if the Payment Transaction is not processed through the Equipment or if processed by virtue of using third party point of sale, manual imprinter or otherwise.
- 5.14 Any incorrect Payment Transaction submitted by you that requires to give refund to the Cardholder shall be sent to us to initiate a Refund. You shall be liable for any incorrect or unauthorized Payment Transaction. If as a result of such incorrect or unauthorized Payment Transaction any losses or expenses are incurred by us, the same may be recovered by adjustment against your future Sales Proceeds or by a debit to your Bank Account.

- 5.15 We reserve the right to limit the volume of Payment Transactions we will accept from you where we consider it reasonably necessary to manage our credit risk. Where a limit is imposed we reserve the right to change the limit from time to time as may be considered necessary, and communicate the same to you.
- 5.16 You shall present all Payment Transactions to us within three (3) days of the date of completion of the Payment Transaction and in all events no later than seven (7) days of the date of completion of the Payment Transaction. For MO/TO and Online, Payment Transactions shall not be presented until the relevant goods and/or services ordered by the Cardholder have been dispatched or arrangements made for services to be provided.
- 5.17 You shall ensure that:
- (i) a previously disputed Card Transaction at your location is not accepted;
  - (ii) a Cardholder should not provide details, complete a postcard or similar device that includes any of the following in plain view when mailed: the Cardholder's account number, card expiration date, signature, or any other Card account data. Request the Card Verification Value 2 (CVV2) data on any paper order form;
  - (iii) any applicable tax to the Transactions is added only where it is expressly required by the Applicable Law that permits you to levy such tax on the Cardholder. Any tax amount, if allowed, shall be included in the Payment Transaction amount and mentioned in the invoice, and shall not be collected separately;
  - (iv) use your best efforts to assist us, if requested at any time, in preventing, and detecting fraud. In this respect you undertake to inform us, as soon as reasonably practicable, of any actual or suspected fraudulent activity you become aware of, or any actual or suspected, misrepresentation or any illegal activities in relation to a Card;
  - (v) an aggregated Payment Transaction is not made for multiple suppliers;
  - (vi) a Payment Transaction is not submitted for or on behalf of third party (i.e. other business entities or an entity that has not signed an Affiliate form); and
  - (vii) a Payment Transaction is not submitted that may in the sole discretion of the Card Scheme or us damage the goodwill or reflects negatively on the Card Scheme or our brand.
  - (viii) You agree that any Payment Transaction or presenting a POS Record/ Manual Sale Draft shall constitute warranties to us that (a) all statements of fact therein are true, (b) the Card or POS Record / Manual Sale Draft is valid and (c) the sales are not subject to any dispute, set-off and/or counterclaim.
- 5.18 **Other Types of Payment Transactions**  
Other types of Payment Transactions and the applicable additional terms and conditions are stated under Schedule 1 of this Agreement.

## **6. PRE- AUTHORIZATION AND AUTHORIZATION OF PAYMENT TRANSACTIONS**

### **Pre- Authorization**

- 6.1 You shall request Preauthorization to withhold the necessary funds on the Card to cover the anticipated provision of goods and/or services where the Payment Transaction is not being completed at the time of contracting for your services.
- 6.2 For the purpose of Pre-Authorization, you shall estimate the value of the Payment Transaction which would be concluded for the entire services to be rendered on the basis of the following:
- (i) type and duration of the services as may be anticipated at the time of the Pre-Authorization; and
  - (ii) the estimated price for such services during the intended period.
- 6.3 You shall swipe the Card through the POS Terminal, in case of EMV Cards you may insert the Card into the POS Terminal and if prompted, you shall request the Cardholder to enter the PIN, to obtain the required Pre-Authorization.
- 6.4 You shall inform the Cardholder of the amount for which the Pre-Authorization was obtained at the time of contracting for your services. You shall record the date, the amount and the Pre-Authorization approval code received or obtained on the POS Record or Manual Sale Draft as the case may be.
- 6.5 In order for you to complete a Payment Transaction on the basis of the earlier Pre-Authorization, you shall process a Payment Transaction for value not exceeding the Pre-Authorized Amount. The approval code entered by you for Payment Transaction shall be the same as the one obtained in the Pre Authorization.
- 6.6 If necessary, you may obtain Pre-Authorizations for additional amounts (not cumulative of previous amounts) at any time during the course of your services. It is understood that Pre-Authorization for additional funds

may be necessary if the value of your services to be rendered exceeds or would exceed the sum of the funds Pre-Authorized.

- 6.7 No Transaction shall be made for any additional services that are requested by the Cardholder unless charges in relation to those additional services are previously agreed by the Cardholder. You shall obtain the Cardholders written acceptance to such additional charges at the time of completion of the additional services and you shall process the Payment Transactions within seven (7) days from the date the services are completed. The POS Record and/or Manual Sale Draft used as a result of Payment Transaction for additional services may not be accepted unless noted with statement advising Cardholder consent is obtained; such as "Signature on File" or otherwise.

## **7. AUTHORIZATION**

- 7.1 The authorized Floor Limit for all Payment Transactions will be zero unless otherwise agreed by us and communicated in writing to you. You must not split the value of a Payment Transaction by initiating multiple authorization requests to avoid obtaining Authorization. You acknowledge that splitting a Payment Transaction into multiple authorizations may result in Chargebacks and we shall be entitled to recover the values of the rejected Payments Transactions plus all associated expenses from you in accordance with the terms of this Agreement.
- 7.2 You shall obtain an Authorization code from us before completing any Payment Transaction, you acknowledge and agree that an Authorization code does not guarantee that the Payment Transaction is being authorized by the person whose card number and name appears on the Card presented for Authorization.
- 7.3 An Authorization code does not guarantee that a Payment Transaction will not be subject to a Chargeback at a later date.
- 7.4 If you do not make a request for Authorization or if Authorization is refused you shall not complete the Payment Transaction. If you resubmit a Payment Transaction for Authorization and subsequently relies upon an Authorization which is then granted, you will still be liable for any Chargeback in relation to such Payment Transaction.
- 7.5 You shall not submit an Authorization request in order to validate a Card where there is no associated Payment Transaction. You shall process such requests as 'account status inquiry' if you wish to validate a Card.
- 7.6 You shall obtain the Cardholder's authority for each Payment Transaction. Unless a Card is previously reported lost or stolen or compromised, Cardholder authority will be deemed given:
- (i) for Card Present Transactions when Cardholder correctly enters a PIN into the POS Terminal and the PIN is successfully verified or where you obtain the Cardholder signature on the Payment Transaction Receipt and the signature matches the Cardholders' signature written on the panel on the reverse side of the Card;
  - (ii) (for Mail Order Transactions by obtaining the signed written authority of the Cardholder and for Telephone Order Transactions by keeping written evidence of the Cardholder's authority to debit the Card;
  - (iii) for Online Transactions by obtaining the CVV/CVV2/CVC2 number from the Cardholder's Card, and authentication via 3D Secure.
- 7.7 If an Authorization attempt generates messages such as "referral", you shall obtain Authorization through the Authorization Center. If the Authorization Center approves the Payment Transaction, you shall then use the same Authorization code that will be given by the Authorization Center to complete the Payment Transaction. Alternatively, where the Payment Transaction is declined, or the Cards categorized as "pick-up" you shall comply with the instructions that may be issued by us or the Authorization Center with regard to the said Payment Transaction.
- 7.8 You shall comply with this Agreement, Applicable Law and/or any mandates relating to "Double Swiping of Payment Cards" and ensure that Card at POS terminals is swiped only once to obtain authorization of transactions from the Issuers. You shall not double swipe cards or capture and store Cardholder information to create any secondary record to support in-house accounting, reporting or for the purpose of managing other programs such as loyalty and rewards.

## **8 TRANSACTION RECEIPTS**

- 8.1 A Transaction Receipt may be generated electronically or manually.

- 8.2 A Transaction Receipt is invalid if it is not generated in accordance with the terms of this Agreement and/or Card Scheme Rules.
- 8.3 For Card Present Transactions you shall provide a complete and legible copy of the Transaction Receipt to the Cardholder at the time of the Payment Transaction. For Card Not Present Transactions the Transaction Receipt shall be presented to the Cardholder no later than seven (7) days following the completion of the Payment Transaction.
- 8.4 You shall retain and produce on demand, a copy of the Payment Transaction Receipt for at least five (5) years following the date of completion of the Payment Transaction or following delivery of the goods and/or services whichever is the later. All Transaction Receipts shall be kept in a secure manner in accordance with PCI DSS. You agree to provide all reasonable assistance to us and to provide all such documents as may be required by us and share the information with the Card Schemes and / or the Issuer to resolve any disputes raised by an Issuer and/or Cardholder. Failure to provide the requested documentation within timeframe specified will result in a Chargeback for which you will be liable.

**9. SALE PROCEEDS AND SETTLEMENT**

- 9.1 Where applicable and other than any payout request submitted by you pursuant to clause 4.5, we shall settle the Sale Proceeds by a credit to the Bank Account, in accordance with the funding frequency set out in the Application. We reserve the right to change the funding frequency period upon notice to you.
- 9.2 We may from time to time, consolidate any or all of your funds and other accounts with us if any; and set off, apply or transfer any and all such sums to satisfy any debt or liability that you and/or your Affiliate owe to us , including any debt or liability incurred to effect any required currency conversions.
- 9.3 You agree that the Payment Transactions processed, or any collateral held under this Agreement shall not constitute a deposit with us, and shall not bear any interest.
- 9.4 We may record or store information related to settlement of funds in any form or by any means as we may deem appropriate however, we are under no obligation to retain original documents, instruments or vouchers belonging to you.
- 9.5 You hereby authorize us to apply or deduct from the Sale Proceeds, or if the Sale Proceeds are already credited to the Bank Account, then you agree to refund and/ or if considered appropriate by us set off against any collateral held, in the order of priority mentioned below:
- (i) Refunds ;
  - (ii) Reversals;
  - (iii) Applicable taxes;
  - (iv) Chargebacks;
  - (v) Levies;
  - (vi) Manual adjustments;
  - (vii) Fees; and
  - (viii) any amount that you may request in writing in accordance with clause 10 of this Agreement.

**Please pay special attention to the clause below as it may have specific consequences for you and limits our liability**

- 9.6 We, in addition to our other rights under this Agreement, may delay, withhold, or retain settlement of funds and/or amounts otherwise payable to you under this Agreement and/or adjust the same against any collateral amount, and/or against Chargebacks, Fees, Refunds, Reversals, and Levies payable by you. Further, you irrevocably grant us a lien over the Sale Proceeds and authorize us at any time, upon written notice to you, to exercise such rights in relation to the above.
- We may exercise the rights set out in this clause 9.6 where:
- (i) the Agreement is terminated;
  - (ii) you are in breach of this Agreement, the Card Scheme Rules and/or the Applicable Law;
  - (iii) we reasonably believe that you are or are likely to experience an adverse change or deterioration in your financial standing, including but not limited to you are being the subject of insolvency proceedings, or where we reasonably believe that insolvency proceedings are likely to be initiated against you;

- (iv) there are changes to your business activities or practices which we reasonably believe will expose us to higher financial risk;
  - (v) you fail to maintain a direct debit mandate in our favor;
  - (vi) you fail to provide any information reasonably requested by us;
  - (vii) you do not provide any security document to us as requested under clause 20 or where security is terminated or otherwise not honored;
  - (viii) you (or your employees or agents) are suspected of or reported for fraud or any other criminal activity;
  - (ix) you exceed or are likely to exceed the Excessive Chargeback threshold;
  - (x) the value of Refunds, Levies or Chargebacks exceeds the value of Payment Transactions;
  - (xi) any sanction is imposed upon us due to your actions or omissions or on you by the Card Schemes or a regulatory authority; and
  - (xii) in the event 3D secure authentication is disabled at any time other than as a result of gross negligence or willful misconduct by us.
- 9.7 Our rights and actions pursuant to clauses 4.4, 9.5 and 9.6 shall be legally binding on you and continue until we are satisfied that all sums due and payable by you under this Agreement have been fully paid.
- 9.8 We may retain any amounts held by us in accordance with clause 9.6 for a period of up to five hundred forty (540) days following the date of delivery of goods or performance of Services that are the subject of Payment Transactions or following the date of termination of this Agreement or until the Chargeback and/ or Refund window has ended in accordance with the Card Scheme Rules, whichever is earlier, following which any remaining funds will be transferred to the Bank Account.
- 9.9 We reserve the right to set off any outstanding amounts owed by you to us, both before and after demand and whether such liabilities are actual or contingent, against any settlement of Sale Proceeds due under this Agreement to you or any of your Affiliates and/or any amounts held as a collateral. We shall notify you as soon as practically possible to do so upon exercising our rights under this clause 9.9.
- 10. THIRD PARTY SETTLEMENT AND ASSIGNMENT OF SALE PROCEEDS**
- 10.1 For settlement of the Sale Proceeds to a third-party bank account including a bank account of your Affiliate entity, shall be subject to our discretion to process such request and where applicable may require submission of any documents and/or information that we may reasonably require from you. We under no circumstances shall be liable for settlements made to such third-party bank account or your Affiliate bank account including but not limited to any hypothecation of Sale Proceeds by such third-party account holder/ beneficiary.
- 10.2 Where you have buy-now-pay-later ("BNPL") payment method enabled and the Cardholder has opted for BNPL, such Payment Transaction shall be settled to you by the BNPL service provider and we shall not be liable for settlement of Sale Process relating to BNPL Payment Transactions to you.
- 10.3 Where you have procured any financial solutions including a loan or any cash advance from a Lender that is secured against your future Sale Proceed receivables then we may upon your written request, at our sole and absolute discretion, mark a lien on all or a part of the Sale Proceeds in favor of the Lender.
- 10.4 If you take an advance from the Lender against your future Sale Proceeds receivables, we shall after a lien is marked on your Sale Proceeds in favor of the Lender and till such time that the Lender has provided you or us in writing that the lien be released:
- (i) deposit the Sales Proceeds to your Bank Account that is mentioned in your notice sent in accordance with clause 10.3 above; and/or
  - (ii) deposit all or a proportion of the Sale Proceeds to your designated bank account with the Lender; and
  - (iii) that such payment to your Bank Account or your designated account with the Lender (as the case may be) shall be full and final settlement of our obligation to transfer the Sale Proceeds to you under this Agreement.
- 10.5 You agree that marking of such lien as requested by you in writing, and transfer of Sales Proceeds to a third party bank account, Affiliate bank account, your or your designated bank account with the Lender shall be without prejudice to our rights under this Agreement including right to withhold, retain, deduct and/or apply the Sale Proceeds in accordance clause 9 and other applicable provisions of this Agreement without our undertaking of any liability or obligation towards the Lender or any third party in this regard.

**11 CHARGEBACKS AND REFUNDS**

**Please pay special attention to the clause below as it may have specific consequences for you and limits our liability.**

- 11.1 A Chargeback may arise for any reason described in the Card Scheme Rules (as updated from time to time) and may include the following:
- (i) a Payment Transaction recorded is illegal;
  - (ii) an authorization for a Card Transaction is not obtained in accordance with the Agreement;
  - (iii) payment Transaction data is issued or presented in violation of the procedures set out in the Agreement;
  - (iv) the particulars inserted in the POS Record or Manual Sale Draft are not identical with the particulars inserted in the copy given to the Cardholder;
  - (v) the Card relating to Payment Transaction is not valid;
  - (vi) the Payment Transaction is not authorized by the Issuer or by the Card Schemes;
  - (vii) the POS Record or Manual Sale Draft is incomplete or illegible;
  - (viii) you fail to produce to us within 7 days of our request information including, for example, the evidence of the Cardholder approval to process the Payment Transaction and /or copy of the signed POS Record or Manual Sale Draft and other supporting documents related to the Payment Transaction;
  - (ix) the signature on the POS Record or Manual Sale Drafts is not reasonably similar to the signature on the Card or is a forged signature;
  - (x) payment Transaction is processed via multiple fraudulent Authorizations;
  - (xi) you have processed a fictitious, suspicious, or counterfeit Payment Transaction or otherwise defrauded or attempted to defraud us or the Cardholder;
  - (xii) the "Chargeback" period is open as per Card Schemes Rules for fraudulent or chargeback Payment Transactions;
  - (xiii) the sales transaction is not a valid sales Transaction;
  - (xiv) the Payment Transaction relates to goods, services not rendered in respect of which the Cardholder disputes liability for any reason and/or the Cardholder makes a claim for set-off, or a counterclaim;
  - (xv) a Payment Transaction has been conducted on a compromised card used through online transaction "MOTO" without cardholder authorization. In such cases, we shall not be under any obligation to investigate or challenge the validity of a Chargeback;
  - (xvi) cardholder has initiated a Chargeback with its Issuer or the Card Scheme;
  - (xvii) the amount of the Transaction was a Pre-Authorized Recurring Transaction or involved a Card but the Transaction was not authorized; or
  - (xviii) the Transaction is a Card Not Present Transaction or involves cashback and is disputed by the Cardholder and/or the Issuer.
- 11.2 Where you wish to dispute a Chargeback, you shall prove to our satisfaction that the Payment Transaction was authorized by the Cardholder in accordance with this Agreement and promptly provide us with any additional credible evidence that we or the Card Schemes may require. We shall not be under any obligation to investigate or challenge the validity of a Chargeback.
- 11.3 You agree that we shall be entitled to recover Chargebacks and/or Refunds that are raised in relation to Payment Transactions acquired during the Term of this Agreement even after termination of this Agreement for any reason.
- 11.4 Where your Chargeback levels exceed the Excessive Chargeback threshold, in any month from you, we may impose additional conditions on you to assist you to reduce the level of Chargebacks, alternatively we may suspend your right to accept Payment Transactions and/or the Services in accordance with provisions of this Agreement.
- 11.5 You shall disclose to Cardholders at the time a Payment Transaction is processed a fair policy for the return of goods or cancellation of services including any restrictions. The terms and conditions of the purchase shall be displayed on the same screen view as the checkout screen that presents the total purchase amount, or within the sequence of website pages the cardholder accesses during the checkout process and should not be in a separate hyper link.
- 11.6 To evidence a Refund, you shall issue a Refund receipt and provide the Cardholder with a copy.

- 11.7 The value of a Refund shall not exceed the amount of the original Payment Transaction and you may only process a Refund to the same Card which was used for the original Payment Transaction.
- 11.8 You will be liable for the exchange difference incurred in a Chargeback or a refund Transaction made in error by you.
- 11.9 The amount of each Chargeback and / or Refund represents a debit immediately due and payable to irrespective of whether a demand for this same is made and we may debit the Bank Account the amounts due or withhold Sales Proceeds to cover the value of Chargebacks, Refunds and Fees associated with their processing.
- 11.10 We may at our sole discretion, decide not to process a Refund unless amount to be so refunded has been deposited by you into the Bank Account for refund to the Cardholder. We may at our sole discretion, refuse to accept any Refund and in such circumstances we will, where possible, inform you of the reasons for refusal.

## **12. MERCHANT INDUSTRY SPECIFIC TERMS**

- 12.1 Based on your industry type including car rental, hotel accommodation, the additional terms and conditions may apply as set forth in Schedule 2 of this Agreement.
- 12.2 In the event you are classified as a marketplace in accordance with your trade license issued by a regulatory authority and/or under Card Scheme Rules, you agree to comply with provisions of the Card Scheme Rules applicable specifically to marketplace including the additional terms and conditions stipulated under Schedule 2 of this Agreement.
- 12.3 Where you are involved in dispatching of goods in Online Transactions or MO/TO transactions, you are responsible for verifying the Cardholder's address and ensuring the goods are dispatched to this address. We cannot provide name and address verification as part of the Authorization process. In relation to the dispatch of goods, you undertake not to raise a Transaction Record prior to the goods being dispatched. You shall advise the Cardholder of the time it will take to dispatch the goods and if, for any reason, you do not have the goods available for dispatch to the Cardholder within such advised time period, then the Cardholder shall be notified of that fact and the order re-confirmed by the Cardholder.

## **13. EQUIPMENT**

### **Lease of Equipment**

- 13.1 We agree to grant you a non-proprietary, non-transferable limited period license valid during the Term of this Agreement to use the Equipment and the software loaded on the Equipment for the sole purpose of availing the Services.
- 13.2 You agree that the title to the Equipment, software programs, manuals and/or other materials provided by us shall remain our exclusive property and/or of our licensors at all times. You covenant and undertakes not to sell, lease, charge, pledge or otherwise dispose or encumber the Equipment, software programs, manuals and/or other materials provided by us to any third party. In the event the Equipment has been sold by us to you, the ownership of the Equipment (excluding ownership of any software or APIs) shall be transferred to you after we are in receipt of full payment from you.
- 13.3 The Equipment shall be installed at such points in your premises as described in the Application or as otherwise agreed between you and us.
- 13.4 You acknowledge that the Equipment will be exclusively maintained and serviced by us or our duly authorized agents. We shall have unrestricted access to the Equipment during normal working hours for the purpose of maintenance, replacement, or any other services.
- 13.5 You shall not move, alter, adjust or in any manner tamper with the Equipment. The Equipment shall at all times be operated solely by the authorized Representatives and in compliance with the user manual provided by us or such other manual or guidelines that may be provided by us to this respect from time to time.
- 13.6 You shall keep the Equipment in good condition and shall be responsible for any damage to the Equipment other than the normal use wear and tear.

- 13.7 You shall maintain and pay for all power and telecommunication connections necessary to operate the Equipment. You shall not use or permit to be used the SIM card from any GPRS Equipment for any purpose other than the transmission and receipt of data in connection with the Services. If you are in breach of this clause, you shall be liable for all additional voice call and or data transmission charges incurred plus an administration charge to cover all costs incurred by us in recovering those additional charges from you.
- 13.8 You shall ensure your authorized Representatives are trained and following any guidance provided by us to you from time to time to enable them to operate the Equipment correctly. You shall also ensure there are appropriate procedures and controls in place to ensure:
- (i) the identity of any individual claiming to be our appointed repair or maintenance personnel properly verified before are allow any access to Equipment; and
  - (ii) your employees are regularly trained to be made aware of suspicious behavior in and around Equipment and to report suspicious behavior and any indication of device tampering to appropriate personnel within your management team, and to us.
- 13.9 You shall be liable for fraudulent Payment Transactions that are processed which could have been prevented if you had been compliant with Chip and Pin and/or any other requirements set forth in this Agreement.
- 13.10 Except where otherwise allowed by Card Scheme Rules, you shall use the Equipment to process every Payment Transaction and shall request every Cardholder to insert the Card through the Equipment. No Chip and PIN Payment Transaction shall be processed by you without the Cardholder being physically present.
- 13.11 If one or more of the Equipment sustain an error or malfunction, you shall immediately notify us on our contact details as set forth on our website <https://payfast.io/>, and we will, upon such notification, arrange for the necessary repair or replacement provided that such error or malfunction was not caused by misuse, abuse or your negligence and/or your Representatives. Where the error or malfunction was caused by misuse, abuse or your negligence and/or your Representatives, the repair and/or replacement will be carried out by us at your sole cost and expense.
- 13.12 You shall return all Equipment to us within ten (10) Business Days following the date of termination of the Agreement and forthwith pay any outstanding rental payments due to us. In case you fail to return the Equipment within the said ten Business Day period, we shall be entitled to recover the replacement value of the Equipment from you by debit from the Bank Account or adjustment against the collateral and/or any Sale Proceeds.
- 13.13 If the Equipment does not function correctly, you will follow the user manual or other back up procedures specified by us to you from time to time.
- Please pay special attention to this clause below as it may have specific consequences for you and limits our liability**
- 13.14 You agree that we shall have no liability to you, the Representatives, the Cardholders or to any other person for any costs, losses, expenses, claims, damages whether caused directly or indirectly by the Equipment or by any system malfunction, failure in connection or communication links or error in the design or manufacture of any Equipment, and in the event of an error and design of the Equipment, and all warranties, if any, with regard to the Equipment shall be as provided by the respective manufacturers of the said Equipment. Our obligation shall be limited to replacement of the Equipment at our own cost and expense. You agree to indemnify us for any losses, expenses, or damages that we may suffer as a result of any direct or indirect claim, legal proceeding, order or judgment made against us in connection to any failure or malfunction by any system, software or Equipment used by you in relation to Services.
- 14. USE OF THIRD PARTIES BY YOU**
- Please pay special attention to the clause below as it may have specific consequences for you and limits our liability.**
- 14.1 Where you use a third-party service provider, you shall:
- (i) immediately notify us if the said service provider will have any access to and/or use of the Services;
  - (ii) be responsible for the fee and other liabilities that may arise due to or towards the said third party service provider and their acts or omissions, and compliance of the Card Scheme Rules and the Applicable Law including Data Protection Laws;
  - (iii) validate the service providers are certified and are compliant with the PCI DSS or a similarly established data security standard to our satisfaction;

- (iv) provide us with full information on any other service providers you use or intends to use.

**15. INTELLECTUAL PROPERTY AND USE OF MARKS**

- 15.1 You acknowledge that you are familiar with the names, logos, symbols and trademarks (collectively, the “Marks”) as published by us and or the Card Issuer and agrees to display Card Schemes names and service marks of the Card types accepted by you at or near the POS terminals, mobile applications, and/or websites (as applicable). Your use of the Marks must comply with the Card Scheme Rules and/or our policies including those communicated by us from time to time. You agree to prominently display standard decals, signs, service marks and other promotional materials as required by us and or the Card Scheme.
- 15.2 You shall ensure that any display or use of Card Scheme’s name, brand or logo shall be limited for the purpose of this Agreement to the extent permissible in accordance the guidelines and extent of use stated under the Card Scheme Rules and as may be communicated by us from time to time. For avoidance of doubt, any limited use of Card Scheme’s name, brand or logo by you under this Agreement shall not constitute grant of any license or rights of any nature whatsoever to you.
- 15.3 You shall ensure that any display and/or use of our name, brand or logo shall not be without prior our written consent (including any press releases or public announcements) and upon receiving such consent from us, the use of our name, brand or logo by the You shall be limited for the purpose of this Agreement and to the extent permissible in accordance with our guidelines and extent of use that is communicated by us from time to time. For avoidance of doubt, any limited use of our name, brand or logo by you under this Agreement shall not constitute grant of any license or rights of any nature whatsoever to you.
- 15.4 You warrant that you shall not infringe upon our mark or logo and/or the Card Schemes, nor otherwise use the mark or logo of Cards in such a manner as to create the impression that your goods or services are sponsored, produced, affiliated with, offered, or sold by us and /or any of the Card Schemes.
- 15.5 You acknowledge that all right, title and interest in and to all patents, copyrights, trade secret, trademark and other Intellectual Property Rights of PayFast and/or its licensors of the technology and software used in the Products and Services rendered to you, and at all times will remain, the sole and exclusive property of PayFast and/or its third-party licensors. Nothing contained in this Agreement may directly or indirectly be construed to assign or grant to you or any third party any license, right, title or interest in or to the technology or software in the Products and Services except as necessary to use the Products and Services or as otherwise expressly provided in this Agreement.
- 15.6 You hereby authorize and grant us the right to use your Intellectual Property for the limited purpose set forth in this Agreement including inclusion of your company name and logo in our reports, announcements and/or publications.

**16 DATA PROTECTION AND CONFIDENTIALITY**

- 16.1 You agree to comply with the applicable Data Protection Laws and Privacy Notice. You are solely liable for the lawful collection, storage, transmission, and use of your Data.
- 16.2 In relation to this Agreement, you, acting as a Responsible Party, shall only give lawful instructions to us (in capacity of your Operator) and ensure to obtain consents from and including Data Subjects.
- 16.3 You agree and consent that we shall act as the Responsible Party in relation to your Personal Data (including your corporate information).
- 16.4 You agree and consent that we or any third party authorized by us (including Card Schemes, the Bank, SARB and/or any other regulatory entity) may collect, use, access, store, reproduce, transfer (in electronic or other form), modify, aggregate with other information, analyze, license and/or otherwise process information and data including Transaction data and/or Personal Data relating to you and the Cardholder and, may disclose or transfer such data including Transaction data and/or Personal Data of you or your personnel or your clients to our Affiliates and/or third parties, whether inside or outside the Territory, for the following purposes:
  - (i) to comply and permitted under the Card Scheme Rules, Card Scheme programs, Privacy Notice and/or Applicable Law;
  - (ii) to offer, enable and provide our existing and new Products and Services to you;

- (iii) where required, to detect or monitor any illegal Transaction or activity including fraud, anti-money laundering or terrorism financing;
  - (iv) to monitor performance, analyze and/or develop our business operations, Products and Services;
  - (v) to contact you and/or include you in corporate, marketing and similar reports or publications that may be made available to third parties;
  - (vi) where required, to a third party that has referred you to us and/or is engaged by you for any third party products and services;
  - (vii) where required, for us to obtain advice from professional advisors who are under duty of confidentiality to us;
  - (viii) (to an actual or potential investor(s), financier, sale, merger, assignee or transferee who are under duty of confidentiality to us, and/or stock exchanges where we are listed (if applicable);
  - (ix) where required, to conduct identity or credit checks on you or your principals and where we are required or permitted to do so by the Applicable Laws or the Card Scheme Rules including MATCH and VMAS listing; and
  - (x) for any other legitimate reason in accordance with the applicable Data Protection Laws.
- 16.4 You shall implement appropriate technical and organizational measures to ensure, and to be able to demonstrate, that the processing of data including Personal Data is performed in accordance with Data Protection Laws and PCI DSS, including but not limited to, taking reasonable steps to ensure that the Data is accurate, complete and current; adequate, relevant and limited to what is necessary in relation to this Agreement, as appropriate complying with the principles of data protection, implement measures to safeguard rights of Data Subjects, train staff to understand their responsibilities under the Data Protection Laws.
- 16.5 You shall forthwith inform us of any Data breach but in any case, not beyond 24 hours of the occurrence of such an incident and shall cooperate with us in complying with our any reasonable requests. You shall take steps to resolve the cause of the security breach and act upon any reasonable instructions of us (which may include the procurement at your cost and within timescales prescribed by us of a forensic report recommended by us or the Card Scheme and comply with all recommendations in any such report to improve your data security environment.
- 16.6 Notwithstanding anything to the contrary contained in this Agreement, you agree that we shall own all right, title and interest (including any Intellectual Property rights) in any Anonymized Data, reports or analysis generated under this Agreement whether by use of the Data, and irrespective obtained or generated prior to, during, or after the term of the Agreement. and that we may at our discretion, use, access, store, reproduce, transfer, publish, distribute, modify, aggregate with other information, other customer data, analyze, transmit, sell, license, distribute and disclose the Anonymized Data to provide Products, improve the Services, develop, and provide, any new services to our existing or new clients.
- 16.7 Subject to 16.8 below, you agree to keep in strict confidence and not to disclose to any person or entity any information in relation to the Agreement, the Cards, any Payment Transaction and to use such information solely for the purpose of initiating legitimate Payment Transactions.
- 16.8 Subject to the provisions of this Agreement, we and you shall keep in strict confidence all technical and business information including but not limited to the information which may be disclosed or confided to it by the other party or which it may obtain from the other party during the course of performance of the Agreement, and shall not disclose the same to any third party unless if so required by a court order, government or competent authority.
- PCI DSS COMPLIANCE**
- 16.9 You shall at all times comply with the requirement of (a) PCI DSS as published by the PCI Security Standards Council at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org) including signing of any requisite forms such as SAQ-D form; (b) Visa Payment System Risk program); and (c) the MasterCard Site Data Protection Program as amended or updated from time to time or any other Card Scheme Rules.

- 16.10 You shall ensure not to retain or store magnetic stripe or CVV/CVV2/CVC2/iCVV/PVV data after obtaining an Authorization for any purpose. If you store Card data or any personal information relating to a Cardholder you shall do so in accordance with the Applicable Law and in accordance with the applicable data security standards.
- 16.11 You shall ensure that whenever you are using a Wifi connection it is secure, and you shall be responsible for any issue arising from such Wifi connection including use or misuse or non-secure Wifi connection.

**18. AUDIT**

- 18.1 You agree to provide us or our authorized agents (and/or the Card Schemes or their authorized agents) or applicable regulator to perform an onsite audit of your business, which in our reasonable view is relevant to the fulfillment of your obligations under this Agreement and/or in the event of any data breach. As part of any of your audit shall:
- (i) give access to your business locations in order to examine records facilities, systems, data and stock of your business which we and / or the Card Scheme(s) reasonably believe(s) required in relation to this Agreement and for which the Services have been obtained;
  - (ii) provide copies of relevant records;
  - (iii) provide any reasonable assistance requested by us or our authorized agents (and/or the Card Schemes or their authorized agents); and
  - (iv) obtain and submit a copy of an audit report (at your sole expense) from a third party certified by Card Scheme(s) of the physical, operational, financial and information security aspects of your business if reasonably requested by us or the Card Schemes.
- 18.2 During the course of any forensic investigation, you shall fully cooperate with the investigation until completed.

**19. REPRESENTATIONS AND WARRANTIES**

- 19.1 Each party represents to the other party that throughout the Term of the Agreement:
- (i) it is duly organized and validly existing under the Applicable Law in their country of incorporation with power to enter into the Agreement and to exercise their rights and perform their obligations hereunder and all corporate and other actions required to authorize the execution of the Agreement and the performance of its obligations hereunder have been duly taken;
  - (ii) the execution and delivery of, the performance of their obligation under, and compliance with the provisions of, the Agreement will not (a) contravene any existing Applicable Law, to which it is subject, (b) conflict with, or result in any breach of any terms of, or constitute a default under, any agreement or other instrument to which it is party or is subject or by which it or any of their property is bound or (c) contravene or conflict with any provision of their constitution documents (where relevant);
  - (iii) it has not taken any corporate action and no legal proceedings or other steps have been started or threatened against it for their winding-up, dissolution, administration or reorganization or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any all of their assets or revenues; and
  - (iv) it is and will at all times remain duly authorized or otherwise permitted under any relevant Applicable Laws to perform all or our Services hereunder and it has obtained and will maintain in force all requisite government and other regulatory consents, exemptions, licenses and approval related thereto;
- 19.2 We warrant that:
- (i) we shall process data, including Personal Data, in accordance with the terms of this Agreement;
  - (ii) we will implement appropriate technical and organizational measures to ensure, and to be able to demonstrate, that the processing of data including Personal Data is performed in accordance with the terms of this Agreement;
  - (iii) we shall retain the Data, including Personal Data, at least in accordance with the Applicable Law or our data retention policies, whichever is longer; and
  - (iv) we shall inform you of any data breach, including Personal Data breach as soon reasonably possible on the occurrence of such an incident and shall take commercially reasonable steps to cooperate with you in complying with the Applicable Law.
- 19.3 No implied warranties. Except as expressly set forth herein, we make no representations or warranties, express or implied, as to any Products or Services. All implied warranties, including but not limited to implied warranties of merchantability, fitness for a particular purpose and non-infringement, are hereby disclaimed. We further disclaim any liability for loss, damage or injury to you or third parties as a result of any defect,

latent or otherwise, in the Products, Equipment and/or Services whether arising from the application of the laws of strict liability or otherwise. We do not warrant that Services will be uninterrupted or error free.

19.4 No Warranties for Third-Party Services. We make no representations or warranties, express or implied, as to any third-party products, solutions and/or services that we enable or provide to you, including but not limited to fraud protection, 3-D Secure, MCP, loyalty or discount programs and/or any other ancillary services enabled or provided by us in the future.

19.5 You represent and warrant that:

- (i) You comply with:
  - (a) all Applicable Laws;
  - (b) applicable local and international Data Protection Laws, Sanctions and Anti-Money Laundering (AML) laws and regulations; and
  - (c) Card Schemes Rules, PCI DSS and business risk assessment & mitigation requirements (BRAM).
- (ii) the information provided to us in connection with this Agreement (including the Application) is true accurate and complete as of the date it was given and properly reflects the nature of your licensed business, principal owners and or your officers and that any changes to such information have been or will be promptly notified to us.
- (iii) the authorized signatory signing the Agreement on behalf of you has the legal power to execute the Agreement and legally bind you to all provisions of this Agreement.
- (iv) you are not aware of any material facts or circumstances that have not been disclosed to us and which might, if disclosed, adversely affect the decision of a person considering whether or not to provide the Services pursuant to the terms of the Agreement; and
- (v) you are obtaining Services under this Agreement for legitimate business purposes and only to facilitate lawful Payment Transactions between you and Cardholders.
- (vi) the Bank Account into which debits and credits are made is only being used for lawful business purposes.
- (vii) as of the Effective Date no security breach in respect of any data processed by you or on your behalf has previously occurred.
- (viii) at any time throughout the Term (even before services are provided) You agree to provide any information as may be required by us for underwriting purposes including (a) audited financial statements, (b) balance sheet and profit and loss statement for any fiscal year, (c) any information required by us to comply with your obligations under Applicable Law or by order of any competent authority, and (d) any information to identify you and your beneficial owners for anti-money laundering purposes.
- (ix) throughout the Term, you shall keep your know-your-customer (KYC) details, trade license information, shareholders' information (including ultimate beneficial owner), updated with us, failing which we shall have a right to withhold settlements into your Bank Account.
- (x) you shall notify us of any sale, restructuring, acquisition, merger or any other material change in nature or size of your business, or the nature of your business activities.
- (xi) except as expressly authorized by us in writing, neither you nor any Representative shall have any power to:
  - (a) bind, make any commitment, or give any instructions on our behalf;
  - (b) borrow on behalf of us or in any way pledge the Equipment;
  - (c) settle any claims, demands or actions against us; or
  - (d) contract on our behalf.
- (xii) to use only PCI-certified Qualified Integrator and Reseller (QIR) professionals from companies that are included on the PCI SSC's QIR Companies.
- (xiii) not to use the Licensed Materials for unlawful or prohibited purposes or at any site located in any country designated by the United States(US) as a country with which it is prohibited to do business including, without limitation, any country on the Office of Foreign Assets Control of the US Department of Treasury List ("OFAC List") or any other country; or export, resell or otherwise transfer the Licensed Materials to any countries, entities or individuals designated by (a) the US as a country, entity or individual with which it is prohibited to do business including, without limitation, any country, entity or individual on the OFAC List or any entities or individuals which are owned or controlled by any countries, entities or individuals on the OFAC List, as amended from time to time; (b) any other country which has imposed sanctions against such countries, entities or individuals.

- (xiv) You will be responsible for confirming that any of your customers, vendors, or agents are not designated as such an entity or individual (and is not owned or controlled by a prohibited country, entity or individual) and such you will not be doing business in any prohibited country and must ensure that any agreement with such client terminates immediately in the event such you become resident or commences to do business in any prohibited country or is listed on or becomes owned or controlled by a prohibited country, entity or individual.

## **20. SECURITY COLLATERAL**

- 20.1 We may from time to time require you to provide collateral by way of a cash deposit or a bank guarantee with a bank licensed by SARB in a form as we reasonably require to secure your performance of obligations under this Agreement. All costs associated with procuring, entering and maintaining the security arrangements shall be incurred at your sole expense. The collateral shall be released to you after expiry or earlier termination of the Agreement i.e., upon completion of the applicable Chargeback period of either 180 days or 540 days, as the case may be.
- 20.2 The security may be increased by us where we reasonably require, from time to time based on the risk assessment done by us on you.

## **21. TERM AND TERMINATION**

- 21.1 You agree that this Agreement shall be valid and legally binding on you and us for a period of thirty-six (36) months commencing from the Effective Date (the "Initial Term"), unless is terminated earlier by either Party in accordance with clause 21 of this Agreement. Upon expiry of the Initial Term, the Agreement shall automatically renew for a further period of thirty-six (36) months each (the "Renewal Term (s)") unless you send a notice of non-renewal in writing to us no later than three (3) months before expiry of the Initial Term or the applicable Renewal Term.

### **21.2 Suspension or Termination by us:**

- (i) In the event Payment Transactions are not submitted for processing from the Effective Date and your account remains inactive for a period of six (6) months, we reserve the right to suspend the Services and charge the applicable Fees.
- (ii) Without prejudice to other rights set out in this Agreement, Card Scheme Rules or Applicable Law, we shall have the right to terminate the Agreement without the requirement of a court order:
  - (a) for convenience by giving sixty (60) days written notice to you;
  - (b) with immediate effect, if you are in material breach of the Agreement provided we first provide you with at least thirty (30) days written notice of the alleged breach requiring it to be remedied, and such breach remains un-remedied within such notice period of thirty (30) days;
  - (c) with immediate effect, if any event or circumstance becomes known to us, which in our reasonable opinion is a suspected fraud, or is considered an act of deception, dishonesty, fraud, willful misrepresentation or you are engaged in selling any Undesirable Products, or that would result in losses or damages or reputational risk or any other criminal activity, breach of laws or regulatory requirements, whether within or outside of the Territory;
  - (d) with immediate effect, if you enter into any act of bankruptcy or compromise with your creditors or a petition or receiving order in bankruptcy is presented or made against you or a petition for an administration order is presented in relation to you or a resolution or petition to wind up such party is passed or presented (otherwise than for reconstruction or amalgamation) or a receiver or administrative receiver is appointed;
  - (e) with immediate effect, if you fail to comply with PCI DSS and other applicable data security standards; or
  - (f) with immediate effect, if we are required to do so by any Card Scheme or a regulator;
  - (g) with immediate effect, if the number of Chargebacks in relation to your business in our reasonable opinion, are excessively high; or
  - (h) pursuant to any event of Force Majeure as described in clause 25 of this Agreement; or
- (iii) If your account continues to be inactive for a period of twelve (12) months, the Agreement shall automatically terminate without the requirement to obtain a court order or any further notification from us and a Termination Fee set forth in clause 21.3(ii) may be charged by us at our discretion.

**21.3 Termination by you**

- (i) You shall have the right to terminate the Agreement or any product offered under this Agreement, without the requirement of obtaining a court order or any penalty for such termination, (a) for convenience by giving sixty (60) days written notice to us; or (b) if we are in material breach of the Agreement provided you first provide us with at least thirty (30) days written notice of the alleged breach requiring it to be remedied, and such breach remains un-remedied within such notice period of thirty (30) days following receipt of such notice by us.

**22. INDEMNITY**

22.1 You shall at all times indemnify us and shall keep us and our respective directors, officers, employees, agents and Affiliates indemnified against all losses, claims, damages, costs, expenses and liabilities arising out of or in connection with:

- (i) any Chargeback, Refund or Reversals;
- (ii) the Payment Transactions including any secured, unsecured Transactions, MO/TO, Mobile Wallet Transactions such as Apple Pay, Samsung Pay;
- (iii) the use, misuse or malfunction of any of the Equipment in relation to any issue arising out of the Equipment in your possession or in connection with maintenance or modification made to your Equipment, or tampering, hacking, modifying or otherwise corrupting the security of functionality of Equipment or due to inadequate security measures or;
- (iv) marking of lien on Sale Proceeds or settlement of Sale Proceeds to a third-party bank account including your Affiliate bank account;
- (v) any failure by you to observe or abide by your obligations under the Agreement including breach of any Intellectual Property Rights;
- (vi) breach or noncompliance of the Applicable Laws, including the applicable Card Scheme Rules, Data Protection Regulations, and the transfer of any Personal Data to us including our agents, sub-contractors, and/or the Affiliates.
- (vii) any security breach or loss of Data held by you or any breach of PCI DSS by you or any of your appointed third-party vendors, subcontractors, or agents;
- (viii) the Levies or any other fee or penalty of any nature levied by a third party against us due to a breach attributable to you, your employees, Affiliates, Cardholder, customers, agents, and/or subcontractors;
- (ix) use, misuse or breach of any Services (e.g., any value-added services) and the applicable terms of use of such Services of third-party service providers that may include and as applicable, our Affiliates, agents, sub-contractors and/or partners.

**23. LIABILITY AND EXCLUSIONS OF LIABILITY**

**Please pay special attention to this clause below as it may have specific consequences for you and limits our liability.**

- 23.1 You agree to communicate with us through medium of emails at your own risk. You are aware that computer viruses can be transmitted via email. You shall ensure that the recipient of electronic messages shall check the message and any attachments for the presence of viruses. We and our affiliates accept no liability for any damage caused by any virus transmitted by an electronic message. Further, the integrity and security of data or information communicated over internet, including through e-mail, cannot be guaranteed to be secure or error-free as information can be intercepted, corrupted, lost, destroyed, arrive late or contain viruses. We hereby disclaim any liability for the correct and complete transmission of information and data via internet either through e-mail or otherwise, or for any delay in its receipt. If verification of the content of any online or e-mail communication is required, you shall request for a printed version of the e-mail from the original sender;
- 23.2 Notwithstanding anything to the contrary contained in this Agreement, but subject to the terms of clauses 23.1 and 23.3, our liability for any action or inaction, or direct Losses arising out of or related to this Agreement and / or Services provided pursuant to this Agreement, except in case of gross negligence and willful misconduct on part of us or our employees, shall not in aggregate in a calendar year exceed the Fees

earned by us from your Payment Transactions during the immediately preceding two (2) calendar months, or the cost of reprocessing the related Transaction, whichever is lower;

- 23.3 We shall not be liable to you for any indirect, special, incidental, punitive or consequential Losses or damages of any kind including any loss of profits, loss of business, loss of good will, arising from or in connection with this Agreement.
- 23.4 You agree that subject to the terms of this Agreement, we shall only be liable for our own acts or omissions and not for the acts or omissions of any third parties, including the Card Schemes, the Bank, any third party Payment Gateway Service provider(s) and/or the Card Issuer banks. Without prejudice to clause 23, we shall not be liable for any events or activities originating outside our systems (such as infrastructure failure, internet disturbances or malfunctioning in third party systems), except where such events are caused by our willful misconduct or gross negligence.
- 23.5 The Parties agree that the provisions of clause 22 (indemnity) and clause 23 (liability and exclusions of liability) respectively, shall survive termination of this Agreement.

## **24. RIGHT TO AMEND**

- 24.1 We may upon giving thirty (30) days' prior written notice to you, amend the terms of the Agreement. A shorter or longer notice may be given if required by the Applicable Law or Card Schemes to give effect to the change, and/or in accordance with clause 20 (Security Collateral) or clause 21 (Termination). The amendments and / or updated Agreement applicable from time to time or in case of shorter notice requirements stated above, shall be posted at our website <https://payfast.io/> and/or <https://www.network.ae> and/or shall be sent through an updated link via an e-mail and/or posted at your merchant Dashboard (as applicable).
- 24.2 Notice of any changes may be given by sending an email to you at your e-mail ID available in accordance with our records, or by placing the message on merchant portal, or through other reasonable means including posting it on our website. You confirm that you have high speed internet access and the email id is a valid official email account to receive notices, communications and information relating to this Agreement.
- 24.3 A notice sent by us to your e-mail provided by you, shall be deemed to have received by you upon its delivery at the email on record. You are obliged to inform us in writing of any changes to your e-mail address reasonably in advance, and you assume sole liability for your non-receipt of a notice of a change or amendment to the Agreement in the event that you have failed to inform us of a change in your e-mail address.
- 24.4 Your continued use of the Services, API, or Data after a change or amendment or removal has taken effect, constitutes your acceptance of the amended Agreement unless you, acting prior to the date of change notified to you, inform us your concern on the amended terms or if you do not wish to be subject to the amended terms of the Agreement, in which case both Parties may amicably agree to resolve and should no resolution is agreed upon between the Parties within 60 days of your first notification to us, you shall have the right to terminate the Agreement by giving thirty (30) days advance written notice to us and the amended terms and conditions shall not be applicable during such notice period.

## **25. GENERAL**

### **25.1 Miscellaneous**

- (i) The Agreement shall remain valid and enforceable notwithstanding any change in its constitution or ownership, merger or amalgamation of you or us.
- (ii) Unless expressly mentioned otherwise, in the event of any conflict or inconsistency in the provisions of these terms and conditions, Application, Terms and Conditions, and the Schedules attached hereto the following order of precedence shall apply:
- (a) these General Terms and Conditions;
  - (b) Application;
  - (c) Schedules; and
  - (d) any other document provided by us and referencing this Agreement

- (iii) No failure or delay or omission of us in exercising or enforcing (whether wholly or in part only) any right, power, privilege or remedy hereunder or no course of dealing with the you, shall impair such our right or remedy and shall not be construed as a waiver of such right or remedy.
- (iv) The Parties intend for every provision of this Agreement to be severable. The invalidity or unenforceability of one or more provisions of this Agreement shall not affect the validity or enforceability of the other provisions which shall continue to be valid and enforceable.
- (v) The headings contained in these Terms and Conditions are so employed for convenience of reference only and are not intended to define, construe, limit, expand or describe the scope or intent of the Agreement.
- (vi) In the event of a conflict between the English and Arabic text, the English text shall supersede.

#### 25.2 Notices

All notices, notifications, requests, demands, consents, approvals, agreements or other communications (Notices) to or by a party to this Agreement shall be in writing (including e-mails) addressed to the recipient at the address set out below or at such other address as such party may specify from time to time in writing: If to you, to your contact and address stated in the Application or to the e-mail address as updated from time to time on your portal or to the e-mail address where we send the Transaction statements from time to time. If to PayFast:

ATTN: MD, Payfast

240 Main Road Great Westerford Building Second Floor, Rondebosch, Cape Town, 7700

Email: legal@network.global

Notices shall be deemed to be duly given or made:

- (i) when delivered to the recipient at such address;
  - (ii) when sent to the e-mail of a Party;
  - (iv) on receipt by the sender of confirmation of receipt by registered mail service.
- If such receipt is later than 3.00 p.m. ( as per local time in the Territory) on a day on which business is generally carried on in the place to which such Notice is sent, it shall be deemed to have been given or made at the commencement of business on the next day in that place.

#### 25.3 Force Majeure

We shall not be liable for any failure or delay in performance or loss suffered by you due to circumstances beyond our control which leads to services provided being wholly or partially unavailable for reasons including a technical failure, connectivity failure with Card Schemes, systems upgrades , industrial dispute, communications , water or power interruption or failure, if government passes or imposes restriction orders within the country or on certain countries, act of God, epidemic, pandemic, or as a result of our obligations under any applicable law or rulings of administrative boards, government authorities.

#### 25.4 Binding Agreement

- (i) The Agreement as amended from time to time constitutes a single binding agreement and supersedes all prior representations understandings and agreements (whether written or oral) except for any security instrument entered into in favor of us which shall remain separate from the Agreement.
- (ii) We and you agree that this Agreement is legally binding upon the Parties, their heirs, successors and assigns and some of the Services in connection with this Agreement may be provided by third Parties as and when notified by us to you in writing.

#### 25.5 Assignment

- (i) You may not assign or transfer any rights or obligations under this Agreement. You may with prior our written consent subcontract the performance obligations under this Agreement to an approved third party provided that you remain at all times responsible and liable for the performance and/or nonperformance of any such third party including liability for fraud, Refunds and /or Chargebacks.

- (ii) We may transfer this Agreement and their rights and obligations in whole or in part in relation to this Agreement to any of their affiliates and/ or any third party under notification to you but without obtaining any consent from you , and in particular but without limitation, thereafter any amounts owing by you hereunder will be owed to any such transferee, free from any rights of set-off or other defenses you may have, all of which you waive. You also authorize and agree that we may delegate their duties in whole or in part hereunder to any subcontractors (whether based inside or outside of the Territory) without notice to you.

**26. GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION**

- (i) This Agreement shall be governed by and shall be construed in accordance with the laws of Republic of South Africa.
- (ii) All disputes related to or arising out of this Agreement shall be first settled through conciliation between CEOs of the Parties or a senior executive delegated by the CEOs, and where no mutually acceptable outcome is achieved within thirty (30) days of reference of the matter to the CEOs or their nominated delegates, each of the Parties agrees to irrevocably and unconditionally submit their disputes to the exclusive jurisdiction of the courts of Cape Town, South Africa.

**27. ELECTRONIC SIGNATURES**

The Parties agree that this Agreement may be signed using wet signature, and/or transmitted by an electronic mail (which may include an original or scanned .pdf document) or electronic signature (e.g., DocuSign or similar electronic or digital signature technology) and thereafter maintained in an electronic form, and that such electronic record shall be valid and effective to bind the Party so signing as a paper copy bearing such Party's hand-written signature. The Parties further consent and agree that the electronic signatures appearing on this Agreement shall be treated, for purpose of validity, enforceability and admissibility, the same as wet signatures and the Parties warrant that the electronic signatures are valid, enforceable, legally binding on each Party and admissible before the court of law.

**28. DEFINITIONS**

**In this Agreement the following words shall have the meaning ascribed to them:**

"Affiliates" means in respect of any party, its subsidiary, holding company or a company which is a subsidiary or subsidiary undertaking of that holding company; provided that in all circumstance an Affiliate shall be controlled by the party or shall control the party or under common control of the party. For this purpose, the term 'control' or 'controlled' refers to the power of a person or entity to acquire, take directly or indirectly a legally binding decision for and on behalf of the controlled person or entity.

"Additional Services" means additional Services including new Products, payment acceptance methods, and/or other value-added services provided by us to you from time to time.

"Agreement" means the Application, these General Terms and Conditions, Exhibits, schedules, Card Scheme Rules, user manuals, each addendum, statement of work, and/or any other document referencing this Agreement that is signed by the Parties.

"Alternate Payment Provider" means provider of alternate payment methods (other than Card) enabled by us and/or otherwise notified by us in writing.

"Anonymized Data" means any data including Personal Data shared under this Agreement that has been stripped of all Personal Data and therefore the Data Subject is not or no longer constitutes identifiable. The term, "Anonymized Data" includes Transaction data and other bank transaction data, including but not limited to date and amount of a particular Transaction, that has been stripped of: (i) all Personal Data of the Data Subject; and (ii) information identifying you as the source.

"Application Programming Interface (API)" means a set of routines, protocols and tools developed by us to provide the Services to you via a secure internet connection between your system and our system.

"Applicable Laws" means the federal laws and regulations, orders, decrees, rules, circulars, notices or guidelines (including the requirements of any Supervisory Authority) of the jurisdiction of Payfast as amended and issued by a regulatory authority from time to time, including but not limited to anti-money

laundering, anti-bribery, anti-terrorist financing, sanctions, tax, consumer protection laws (as applicable) and Data Protection Laws applicable in the Territory.

“Application” means an online account login or online form available at <https://payfast.io/>; or a physical or a digital application form made available by PayFast, which the Merchant has to submit to PayFast in order to open an Account with PayFast and receive PayFast Services.

“Authorized Representative” means the persons legally authorized to sign the Application and the Agreement for and on behalf of you.

“Authorization” means the electronic process by which a Payment Transaction is transmitted for approval, referral or decline by us Issuer or any Card Scheme.

“Authorization Center” means the center dedicated by us to process Payment Transaction.

“Bank” means a bank licensed, registered and regulated by the South African Reserve Bank (SARB), with which you have a Bank Account and where applicable, have signed a merchant agreement for Bank’s merchant transaction acquiring services.

“Bank Account” means the designated bank account (South African banks only) opened and held by you as described in the Application or notified to us in writing subject to and in accordance with terms and conditions of this Agreement.

“Business Day” means a day, other than Saturday or Sunday or official public holiday in South Africa, where we, the Bank or Card Schemes are open for business.

“Card” means a valid payment card issued by licensed Issuer which bears any of the international recognized logos of the Card Schemes or any of such other cards (including contactless and virtual cards) and/or Mobile Wallet as described in the Application.

“Card Scheme” means any of the respective local and/or international recognized licensing companies such as Visa International, MasterCard International, Diners, American Express, Alternate Payment Providers or any other Cards sponsorship organization or others that supported by us and notified to you from time to time.

“Card Scheme Rules” means rules, regulations and guidelines of Card Scheme available on each of the Card Schemes’ official website and which contain necessary instructions, rules and regulations in connection to each Card Scheme including any updates and/or that may be notified by us to you from time to time.

“Cardholder” means an individual who is the lawful holder and authorized to use the Card or Mobile Wallet or any other alternate payment method.

“Card Not Present Transaction” means a Transaction which is completed when neither the Cardholder nor the Card is present at your point of sale including but not limited to mail orders, telephone orders, online or e-commerce (Internet) orders, and/or a Pre-Authorized Recurring Transactions.

“Chargebacks” means either: (i) any circumstances where Issuers, Card Schemes, regulator and/or other financial institutions either refuse to settle a Payment Transaction or demand payment from us in respect of a Payment Transaction that has been settled and/or in respect of which settlement of Sale Proceeds have been made to you; or (ii) any other circumstance where any Card Schemes and/or other financial institutions either refuses to make a payment to us or demands payment from us in respect of a fraudulent and/or a disputed Payment Transaction or other payment made to us in respect of a Payment Transaction, or in respect of which Payment Transaction or other payment has been made to you; in each case notwithstanding any Authorization.

“Payfast” means PayFast (Pty) Ltd. (company registration number 1999/017441/07 and VAT registration number 4450189560).

“Responsible Party” means the person or entity which, alone or jointly with others, determines the purposes and the means of the Processing of Personal Data.

“Operator” means the person or entity which Processes Personal Data on behalf of a Responsible Party.

“Data Protection Laws” means any law, enactment, regulation, regulatory policy, by law, ordinance or subordinate legislation around the world relating to the processing, privacy, transfer and/or use of data, as applicable to the Parties, including (a) all applicable privacy and data protection laws including Protection of Personal Information Act (POPIA) in the Territory and any applicable national implementing laws, regulations and secondary legislation relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time; or (b) any current or future judicial or

administrative interpretation of any of the above, and any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant Supervisory Authority, in each case, as in force and applicable, and as may be amended, supplemented, consolidated or replaced from time to time.

“Dashboard” means dashboard access provided by us for use of our Dashboard Service and other features available in the dashboard and updated by us from time to time.

“Dashboard Service” means your analytics dashboard service provided by us to you, as amended from time to time.

“Data” means and includes without limitation data relating to Cardholder, Transactions and/or Personal Data.

“Data Subject” means any identified or identifiable natural person whose Personal Data is processed in the context of this Agreement.

“Digital Wallet Operator” means and includes the definition described in the Card Scheme Rules and/or Applicable Law of the Territory.

“Effective Date” means the date the Application is signed or submitted through our website <https://payfast.io/> (as applicable) by you provided that your Application has been accepted by us.

“EMV Card” means a Card that carries an electronic chip for authenticating and processing Payment Transactions.

“Equipment” means Manual Imprinter, cash register, the POS Terminal, the PIN Pads, the software programs and all accessories, connections and peripherals provided by us to you.

“Excessive Chargeback” means the threshold based on such number of transactions in a month, or the percentage ratio of Chargeback to Sales in a month, as may be prescribed by the Card Schemes from time to time.

“Fees” means all fees, and other charges set out in the Fees and all costs incurred by us in processing Payment Transactions, Chargebacks and Refunds, Reversals, Levies and / or as otherwise stipulated in this Agreement.

“Floor Limit” means the maximum value permitted by us for you to accept for a single Payment Transaction without obtaining Authorization.

“fraud” or “fraudulent” means any act of the Merchant, its employees, agents, vendors, or Cardholder or any third-party entity or individual, or a Payment Transaction that is informed as fraudulent by us, the Card Schemes, Issuer, regulator and/or is a fraud under the Applicable Law.

“Gateway” means our Transaction processing platform through which it provides services that enable you to connect with multiple users, third party processors, and payment networks in order to process Transactions. The Gateway includes the Payment Gateway Services and the Licensed Material.

“Gateway Documentation” means shall mean collectively, the operating instructions, user manuals, and help files, in written or electronic form, made available to the Merchants either by download at <https://payfast.io/> or provided by us that are intended for use in connection with the Payment Gateway Services and incorporated into this Agreement by reference.

“Issuer” means a bank, financial institution or other company, which issued the Card to the Cardholder with the prior approval of the respective Card Scheme or a regulatory authority.

“Intellectual Property Rights” means and includes any interests or related rights whether or not any such interests or rights are registered in copyright, trademark, design, database, knowhow, confidential

information, trade secrets, license interests, patents or any other rights or interests in any data including Personal Data, services, software or hardware provided by us.

“KYC Details” means the know your customer information that is required to be furnished by you from time to time with regard to your ownership, business and operations.

“Lender” means a bank or other financial institution from which you have obtained a loan against security of the Sale Proceeds or has sold and/or assigned your future Sale Proceeds to such bank or other financial institution.

“Levies” means any tax, assessments or fine, charges, fee and penalties of any nature which a Card Scheme or a regulatory authority may levy on us or you in relation to the Payment Transactions and / or Services provided to you under this Agreement.

“Losses” means any liabilities, losses, damages, charges, fines, costs, and/or expenses (including reasonable incurred legal fees and /or expenses).

“Licensed Material” means all software and documentation provided by us to you hereunder, including the Gateway API, the Gateway Documentation, and all updates, updates, revisions and derivative works of all of the foregoing.

“Manual Imprinter” means the device supplied to you by us to produce an imprint of the embossed characters of the Card on all copies of the Manual Sale Draft.

“Manual Sale Draft” means a clear sale record (in the form provided by us) used to obtain the Card imprint from a manual Imprinter.

“Merchant Transaction” means a Transaction made by you to complete a Payment Transaction following a Pre-Authorization.

“MCP” or Multi-Currency Pricing means A service provided by us that enables eligible international Cardholders to pay for goods or services in their card currency. MCP is described in detail in Schedule 1.

“MCP Cardholder” means a Cardholder who pays using an MCP-supported currency via their credit card.

“MCP Currency” means Currencies configured for use within the MCP list, which merchants can enable for display to buyers. This excludes currencies within the Common Monetary Area (CMA) and the Nigerian Naira (NGN).

“MCP Transaction” means a card-not-present e-commerce transaction where a buyer pays using an MCP currency. The transaction is processed using the selected exchange rate provided by us, and the merchant receives settlement in ZAR.

“Minimum Volume Fee” means a monthly fee (as stipulated in the Application form) that shall be applied and payable in the event your Sale Proceeds is ZAR 20,000 or less in a calendar month.

“Mobile Wallet” means a digital wallet application which either has a method to link various funding sources or contains stored value which has been funded through a variety of funding sources and enables the Cardholder to make payment for goods and services;

“Payment Client Software” means software that connects you to payment gateway application through an information technology known as secure socket layer.

“Payment Gateway Services” means the provision of Gateway related services by us to you as specifically set forth in the Application form.

“PCI DSS” means information security standards and policies set by the payment card industry data security standard, and for organizations that handle Cards from the major Card Schemes.

“Personal Data” means any data that is considered as personal data under the Data Protection Laws, specifically information relating to an identified or identifiable natural person. For the purpose of this Agreement, an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“Pre-Authorization” means an electronic or voice process used by you to block or freeze certain funds on the Card for a subsequent Payment Transactions.

“Pre-Authorized Recurring Transactions” means a Transaction that has a Pre Authorization by the Cardholder to be debited from the Cardholder account at the agreed intervals or on agreed dates and for goods and services that are to be delivered or performed by you in the future without you having to obtain approval from the Cardholder each time.

“Privacy Notice” means the privacy notice published on our website <https://payfast.io/> (or <https://www.network.ae>) and updated from time to time.

“Program” means our Dynamic Currency Conversion Service.

“POS Record” means the printed receipt produced on POS Terminal recording an approved, referral or declined Payment Transaction.

“POS Terminal” means the point-of-sale machine supplied by us to you for the purpose of obtaining electronic Authorization, whether fixed, moveable, or mobile including but not limited to Soft POS, and smart mobile payment devices.

“Payment Transaction” means a Transaction made by your customer/Cardholder using payment methods enabled by us for acceptance and/or notified by us from time to time including Card, to pay for the goods or services supplied by you, and includes Refunds, Chargebacks and/or Reversals.

“Products” means products and payment solutions and/or consulting services (including but not limited to benchmarking), developed from time to time by us, our Affiliates or third parties including those based on data (such as Personal Data, your information, Transaction data), by us for your benefit and our other clients (or potential clients) or to conduct market and investment research, data analytics, or statistical computation.

“PIN Pad” means the device to be used in conjunction with a POS terminal which enables the Cardholder to enter a PIN.

“Refund” means a payment made by you to a Cardholder and / or Card Issuer for the credit of a Cardholder’s account to wholly or partially reverse a Payment Transaction.

“Representatives” means in relation to you, your officers, directors, employees or owners who are authorized to act for and your behalf.

“Reversal” means a reversal of a Payment Transaction, for any reason whatsoever.

“Sale Proceeds” means any and all funds resulting out from the Payment Transactions.

“Secure EFT” means a SiD secure EFT payment functionality operated by us, where we being the authorised agent to conclude contractual relations with you on the Bank’s behalf, deliver a secure payment mechanism to you including, inter alia, a platform through which a Customer is able to make payments for goods and services purchased via your online website, mobile platform or a service operated by you, and by Customer securely using their existing internet banking facility.

“Services” means the Products and services provided by us to you as described in the Agreement, which to the extent applicable and subject to terms of this Agreement shall include processing Payment Transaction, settling Sale Proceeds, providing necessary Equipment, Secure EFT, and other Additional Services including Payment Gateway Services.

“Smart Bundle” means a bundle of services that is provided to the merchant for a fixed lumpsum fee per month payable in the same manner as the Transaction Fee. The Smart Bundle includes services such as a sleeker, smarter all-in alternative to multiple fees and charges. With Smart Bundle, you will get GPS data for POS connectivity, and all POS accessories like standard chargers, cables, batteries and POS rolls. All these will be provided free of charge. Products or Services may be added to or removed from this Smart Bundle from time to time by us at our sole discretion.

“Supervisory Authority” means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws.

“Transaction” means the acceptance of a Card or information embossed on the Card, for payment of goods and services provided to the Cardholder by you on a card present transaction, a Card Not Present transaction and/or account funding transaction (“AFT”), buy-now-pay-later and includes all credits, refunds, errors, returns and adjustments.

“Transaction Receipt” means a transaction receipt that documents all details of a Payment Transaction.

“Territory” means the Republic of South Africa.

“Terms and Conditions” mean these terms and conditions being annexed to the Application or published at our website or updated on the merchant portal, as updated from time to time.

“Transaction Fee” means either the percentage fee per Payment Transaction including processing of Refunds, Reversals, payable by you to us, or the lump sum fee per Payment Transaction payable by you to us, or both, as the context may require.

“Undesirable Products” means any products offered for sale by you which we, in its sole discretion, considers undesirable for any reason, including ethical or moral reasons or factors which may have an adverse effect on the reputation of Payfast.

“USD” means United States Dollars and is the official currency of the United States of America.

“ZAR” means the South African rand and is the official currency of the South Africa.

## **SCHEDULE 1**

### **Other Types of Transactions:**

#### **E-commerce or Online Transactions**

1.1 You shall install and maintain the software Payment Client Software that is provided, updated or otherwise revised by us. It is agreed that Payment Client Software shall be used in the manner and according to the terms of this Agreement and instructions communicated by us from time to time.

1.2 You shall choose an acquiring mode for accepting online Payment Transactions as confirmed in the Application. If 3Party SSL+ is used as an acquiring mode for accepting online Payment Transaction then Card details will not be disclosed to you as we will store and maintain such data. However, if 2Party (MO/TO) is used, you accept full responsibility for storing and protecting the Card and the Cardholder Information. You shall provide Cardholders with a Transaction Receipt containing all of the following information:

Your name and online address;  
payment Transaction amount;  
payment Transaction currency;  
payment Transaction date and shipping date;  
unique Payment Transaction ID;  
authorization code;  
card expiry date; and/or  
description of services, products or merchandise.

1.3 You shall only use the online payment order form in the format prescribed and approved by us for initiating online Payment Transactions. You shall include the order reference number on the Transaction Receipt for each Payment Transaction made online.

1.4 You shall include in your website the following:

Complete description of goods and/or services provided;  
refund or return policy – your 's website shall communicate your refund policy to the Cardholder and require the Cardholder to select a "click-to-accept" or other affirmative button to acknowledge the policy. The terms and conditions of the purchase shall be displayed on the same screen view as the checkout screen that presents the total purchase amount, or within the sequence of website pages the Cardholder accesses during the checkout process and should not be in a separate hyper link;  
contact details of your customer service including an electronic mail address;  
Transaction currency;  
export restrictions, as applicable;  
delivery mode and policy;  
country of your domicile;  
logos of Cards accepted in the format authorized by us;  
other related tariffs and/ or regulations; and  
security capabilities and policy for transmission of payment card details.

1.5 You shall notify promptly notify us in writing, of any modification to your website or banner which is linked with your website and or any actual or attempted attack or hacking of such website. Notification shall include but not limited to any recent modification, alteration, external attack or hacking to such website.

1.6 You shall use or implement an internet payments service approved by us which adheres to minimum security measures required by us from time to time. You shall remain responsible for maintaining data integrity of any data received held or maintained or sent across the internet, you shall also remain responsible for managing the telecommunications link, and for payment of all associated cost of maintaining such link. You will provide capability for secure sockets layer encryption to the minimum standard required by us.

1.7 You shall be responsible for regular reconciliation of Transactions and undertakes to investigate any errors reported to you within five (5) calendar days of intimation of the said errors.

1.8 You shall comply with Applicable Law and ensure that the Payment Transaction is legal both in the Cardholder's and your jurisdiction.

1.9 You undertakes to execute a quarterly Authorized Scanning Vendor (ASV) scan and an annual Web Application scan to ensure that your system(s) is safe and secure. You may request in writing, for us to perform these scans on your behalf and accordingly, we will provide reports and recommendations resulting from the scans. All costs of such scanning shall be borne by you.

### **Secure EFT Transactions**

#### **2.1 Payment Notification**

2.1.1 the Customer authorisation will be requested by you by transmitting to us the relevant order details in the form specified by us from time to time or by capturing the relevant information on our secure PayWeb payment page.

2.1.2 the Customer will authorise the payment for the products sold by you by using their existing internet banking facility.

2.1.3 After authorisation by the Customer if-

- a. successful, Payfast will send a successful payment notification to you.
- b. unsuccessful, Payfast will send an unsuccessful payment notification to you.
- c. Transaction history will be made available to you via our back office website detailing all the successful (and unsuccessful) Secure EFT transactions processed by the Secure EFT system.

#### **2.2 Your Obligations**

2.2.1 In addition to those obligations stipulated in the Agreement and in this Schedule, you must:

- a. only request Customer authorisation at the time of and for a particular transaction after receipt of a successful payment notification, record and release the products sold by you to the Customer;
- b. ensure that you obtain a successful payment notification for all Secure EFT transactions before releasing any products sold by you to the Customer;
- c. verify the status of a payment before releasing the products sold by you where the original payment notification message was not received;
- d. any refunds for products sold by you or Chargebacks must be settled between you and the Customer or between you and the Bank, as the case may be.

**Please pay special attention to the clause below as it may have specific consequences for you and limits our liability.**

#### **2.3 Our liability relating to Secure EFT Transactions**

Payfast guarantees protection up to a maximum amount of ZAR5000.00 per transaction in respect of funds not received in your Bank Account when payment is made by means of Secure EFT when such funds are not received by the Merchant due directly to a technical fault in the Secure EFT payment system. This guarantee applies only in so far as the customer service team, once notified by you, is not able to resolve the problem. This guarantee does not, under any circumstances, apply to problems that are not caused directly by a technical fault in the Secure EFT system. This exclusion expressly includes within its exclusionary scope, though is in no way limited to, instances in which the Bank makes a reversal of the funds for any reason whatsoever as this action falls outside the control of Secure EFT system and amounts to a dispute directly between the Bank and you.

**“Customer”** means any person using Secure EFT to pay for goods or services purchased from or through your online and/or mobile platform.

#### **Mail Order and Telephone Order (MO/TO)**

3.1 You may not accept MO/TO Payment Transactions without our prior written consent. Consent will be deemed to have been given by us where you include the anticipated MO/TO volume of Transactions on the Application and that Application has been accepted by us.

3.2 You may enter Payment Transactions received by mail, by telephone, by fax, or in person from the Cardholder by using the POS Terminal or by obtaining Authorization through the Authorization Center, or Manual data entry screen available via the Payment Client Software installed on the server maintained by you. Where the Transaction occurs with the Cardholder present, you shall perform electronic capture at POS Terminal with proper CVM (PIN / signature).

3.3 Transaction Records for MO/TO Transactions. Whenever you make a MO/TO Transaction Merchant shall keep and retain for inspection, for a minimum period of thirteen (13) months from the date of the Transaction, a record of the following information: (i) Card number and the expiry date of the Card which is being used for the Transaction; (ii) name and address of the Cardholder; (iii) date of the Transaction; (iv) amount of the Transaction; (v) Cardholder's written order in the case of mail order Transactions; (vi) date and number of the Authorization; and (vii) date of invoicing the services.

#### **Pre-Authorized Recurring Transaction:**

4.1 If you accept a Pre-Authorized Recurring Transaction, you shall do so at your own sole risk and liability. You shall obtain from the Cardholder a prior written request or make an online acceptance for the Pre-Authorization for the sums due to you in respect of goods and/or services to be periodically charged to the Cardholder account. The Pre-Authorization must be dated and signed by the relevant Cardholder (or otherwise demonstrate a valid online acceptance) and must state the amount and frequency of the recurring charge to be made against that Cardholder, the approximate date within each period their account will be charged, and the duration of time during which the charges comprising that Pre-Authorized Recurring Transaction can be made. The written request or online approval record shall be maintained by you at all times and made available to us upon a request from us by e-mail. All annual billings of such Pre-Authorized Recurring Transactions must be reaffirmed at least once each year. You shall not deliver goods or perform services covered by a Pre-Authorization after receiving notification from the Cardholder that the Pre-Authorization is cancelled or from us that the Card covering the Pre-Authorization is not to be honored.

#### **MCP Payment Transactions**

5.1 You shall not accept MCP Transactions without our prior written consent. Consent will be deemed to have been given where the Application specifies the rebates payable to you. Where consent is provided you shall comply with the requirements set out below in respect of MCP transactions.

##### **5.2 Enablement and Consent**

MCP is automatically enabled for all Payfast aggregation merchants who has the card payment method enabled. By continuing to use our services, you accept the terms of MCP enablement. Merchants may opt out of MCP via the Merchant Access Portal (MAP).

##### **5.3 Transaction Processing**

MCP Transactions are processed in the buyer's selected currency based on the exchange rate provided by us. A markup (inclusive of VAT) is applied to the buyer's basket total as a service fee for using MCP. The merchant is settled in ZAR, minus applicable card scheme fees. We reserve the right to update the list of supported currencies or suspend MCP at any time with notice.

##### **5.4 Program Requirements**

###### **(i) Program Disclosure**

Merchants must comply with all reasonable instructions provided by us regarding MCP participation, including updates to supported currencies and operational procedures.

###### **(ii) Buyer Choice**

Buyers are presented with a currency dropdown on the payment page and may select their preferred currency. Merchants must not override buyer selection. MCP is only available for e-commerce transactions and not for point-of-sale (POS) devices.

###### **(iii) Refunds**

Refunds for MCP transactions are processed in ZAR only. Buyers are responsible for any conversion

fees charged by their issuing bank. The MCP markup fee is non-refundable.

(iv) Chargebacks

Chargebacks for MCP transactions are processed in ZAR in line with standard timelines as set out in the General Terms & Conditions. Any discrepancies due to exchange rate differences are borne by the buyer.

(v) Fees and Commission

Merchants do not receive any rebate or commission from MCP transactions.

(vi) Currency Scope

Only currencies approved and enabled via the Merchant Access Portal MAP are available for MCP. Currencies within the NGN - Nigerian Naira and CMA - Common Monetary Area are excluded due to risk and regulatory considerations.

The Program is initially valid only for approved Card Schemes but may be extended to other Card Schemes upon our notification to you.

## **SCHEDULE 2**

### **Industry Type:**

#### **1. Car Rental**

1.1 If you are engaging in vehicle or car rental services, you shall:

retain for five (5) years each of the signed vehicle lease agreement, the POS Record or the Manual Sale Draft and the related traffic fines issued during the services;

not, unless agreed by the Cardholder, include charges representing vehicle insurance deductible or premium, sum to cover potential damages when insurance coverage is waived at the time of renting the vehicle, traffic fines, maintenance cost, fuel compensation or other similar charges;

provide us with copy of your insurance policy, if the Cardholder pays an insurance deductible for damage;

if cost of repairing damages to be charged to the Card, provide us with copy of an official accident report, estimate by competent repair workshop and such other documents evidencing Cardholder consent to assume such charges.

#### **2. Hospitality Sector**

2.1 If you are in the hospitality sector, providing hotel or accommodation services, you shall:

retain for five (5) years each of the guest registration forms signed by the Cardholder, the POS Record or the Manual Sale Draft and all related documents issued during the services;

in event where Cardholder does not check in, to initiate a Payment Transaction for the cost of one night only.

If as a result of such Payment Transaction any Losses incurred by us the same shall be debited to the future Sales Proceeds, or shall be adjusted though debit to the Bank Account;

not charge for loss, damages or theft which is inconsistent with other charges such as room cost, food or beverage charges or tax duties.

2.2 If you are engaging in restaurant or catering services you shall not alter the amount of tip approved by the Cardholder as recorded on the Transaction Receipt.

#### **3. Marketplace**

- a. The below terms and conditions are applicable to you in the event you are classified as a marketplace on the basis of your trade license issued by a regulatory authority and/or under the Card Scheme Rules.
- b. You agree that:
  - i. you shall comply with all requirements of Card Scheme relating to a marketplace including those notified in writing by us from time to time.
  - ii. you shall ensure that you and your retailers or sub-merchants at all times, comply with the Card Scheme Rules, as amended from time to time.
  - iii. you shall enter into a contract with each retailer or sub-merchant before you deposit Transactions on retailer's or sub-merchant's behalf.
- c. we shall have the right to prohibit individual retailer or sub-merchant from participating in the Card Scheme and to immediately stop depositing Transactions for any individual retailer or sub-merchant for a good cause (reasonably determined at our discretion) or upon Card Scheme request. You shall forthwith comply with any instructions received from us in this regard.
- d. you hereby unconditionally and irrevocably, undertake, represent and warrant that:
  - i. you are permitted to process Transactions for retailers or sub-merchant located in a different country to the marketplace, and shall ensure that Transactions are legal in the country of the marketplace and of the retailer or sub-merchant;
  - ii. you shall be liable for all acts, omissions, Cardholder disputes, and other Cardholder customer service related issues caused by your retailers or sub-merchants;
  - iii. you shall be responsible and financially liable for each Transaction processed on behalf of a retailer or sub-merchant;
  - iv. you shall not transfer or attempt to transfer, or permit the retailer to transfer or attempt to transfer, your financial liability by asking or requiring Cardholders to waive their dispute rights;

- v. you shall deposit Transactions only on behalf of retailers or sub-merchants of goods and services that use your website or application;
  - vi. you shall not knowingly contract with a retailer whose contract to accept Transactions was terminated at our direction, Card Scheme or a government agency.
  - vii. you undertake to be solely liable for settlement of funds or Sale Proceeds to your retailers or sub-merchants in compliance with the Card Scheme Rules and Applicable Laws.
- e. you hereby unconditionally and irrevocably undertakes to indemnify us harmless against all acts, omissions, and other adverse conditions caused by you and/or your retailers or sub-merchants including but not limited to:
  - i. related legal costs;
  - ii. settlement of funds to the retailers or sub-merchants
  - iii. any act and/or omission of a retailer or sub-merchant will be treated as those of you, and you shall be fully liable for any claims, Losses, damages, Levies to us, Card Scheme, or other stakeholders caused by you and/or your retailers or sub-merchants.
- f. you shall upon request within ninety (90) days of notification from us and each quarter thereafter, report to us the following:
  - i. your total Transaction value; and
  - ii. total Transaction value generated by retailers or sub-merchants in the same country as you.
  - iii. in addition, you shall recertify annually that information provided to us to obtain Card Scheme approvals remains materially unchanged and immediately inform us in writing if there is a material change in the information provided to obtain approval from Card Scheme to treat you as a marketplace. You shall be solely liable if the approval is withdrawn by the Card Scheme for failure to comply with the aforementioned requirements.

#### **4. Digital Wallet Operator**

As a Digital Wallet Operator you warrant and agree to comply with all the requirements, terms and conditions applicable to a Digital Wallet Operator that are stipulated by the Card Scheme Rules, the Applicable Law and/or as may be notified to you via e-mail by us from time to time.

### **SCHEDULE 3**

#### **Additional Services:**

##### **1. Smart Bundle Package**

1.1 Upon subscription by you for the Smart Bundle, we shall provide you with one or more of the following: POS accessories:

(a) We shall provide POS accessories including POS Terminal Paper Rolls including delivery, terminal cables, batteries, adapters and connector that commensurate to your business ("Fair Use"). If you fail to abide by the Fair Use guidelines, we shall, at our sole discretion, have the right to deny the provision of any or all of the POS accessories to you.

POS Terminal protection:

(b) Smart Bundle covers the protection of POS Terminal in case of accidental damage or if the terminal is faulty or ceases to function properly after the expiry of the original manufacturer warranty and is not repairable. We will replace the POS Terminal at no incremental charge to you. Such replacement of POS Terminal shall be limited to 2 times in a calendar year and any subsequent replacement requests will be charged as per our standard Fees.

1.2 POS accessories and POS Terminal protection provided under the Smart Bundle shall not cover:

(i) repair of equipment or accessories damage caused by abuse, misuse, flood, fire, earthquake or other external causes;

- (ii) damage caused by operating the POS accessories outside the permitted or intended uses as prescribed by us from time to time;
- (iii) deliberate mishandling of or damage to the POS accessories.

At any time during the Term, if you wish to withdraw from the Smart Bundle offer, you shall provide us a minimum of 30 calendar days' prior written notice. We shall have the right to withdraw and/or terminate the Smart Bundle offer anytime by giving one day's written notice via e-mail. Upon termination of the Smart Bundle offer, you shall return to us within five (5) days the POS accessories provided by us unless otherwise agreed by us in writing.

## **2. Dashboard Service**

2.1 The service includes a set of dashboards which would enable you to access trends and insights on the market in Merchant's place of domicile and/or Tourism and/or the sectors they operate in, as well as on their own business performance, customer loyalty and/or benchmarks ("Dashboard Service").

2.2 The Dashboard Service, inclusive of its content, is solely our proprietary right which cannot be shared or transferred to any third party. Subject to the receipt of Fees in full, we hereby grant a limited, non-exclusive, non-transferable, worldwide, royalty-free, license to you for the limited purpose to use the Dashboard Service for their internal business purposes only. The rights granted hereunder shall not be sublicensed or assignable to any third party without our prior written consent.

2.3 The information or insights provided in the Dashboard Service are based on the Payment Transactions captured within our direct acquiring business services. We reserve the right to edit or subset these Transactions or metrics as we may deem fit.

The Dashboard Service will be available to you for free of cost for the first one month (the "Trial Period") starting from the date when you receive access to Dashboard Service. After end of the Trial Period, unless you have unsubscribed for the Dashboard Service, we will continue to provide the Dashboard Service at a charge stated in the Application form. We reserve the right to amend the charges from time to time with prior notice to you which shall be payable by you and/or may be deducted by us from the Sale Proceeds.

2.4 If you want to discontinue or unsubscribe for the Dashboard Service during the Trial Period or after, then subject to clause 6.5 below, you must opt out of the Dashboard Service by unsubscribing for the service in writing to us in accordance with terms stipulated herein or notified in writing by us from time to time.

2.5 If you want to opt out during the Trial Period and not be charged for the Dashboard Service, you may notify us any time before or on the 5th day of a calendar month. If you notify after the specified day, you shall be charged for the subscription Fees for that entire month of notice, and cancellation of the Dashboard Service shall cease at the end of that notice month and the subscription shall cease for the subsequent term of the Agreement.

## **3. Electronic POS Integration.**

3.1 Upon subscription to Electronic POS Integration services, we will provide you a solution to enable integration of your Electronic Cash Register (ECR) with your card payment terminal (POS).

### **Our Responsibilities:**

Provide you with the necessary software to facilitate POS integration which will run on the Electronic Cash Register maintained by you ;

Route authorization requests sent from the POS to corresponding Card Schemes or Issuers for authorization;

Ensure payments are transmitted and processed securely in accordance with PCI-DSS requirements.

### **Your Responsibilities:**

To ensure that ECR front-end application and the operating system, on which it is running is secure and updated with malware protection, patches, and integrity monitoring controls. NI will not be responsible in case of vulnerability or compromise arising as result of failure of the controls in your environment;

Ensure the networks where POS systems reside are properly segmented from non-payment network and are hardened in accordance with best practices; and

Implement logging and monitor logs for abnormal behavior.

#### **4. Payment Gateway Services**

4.1 The following terms apply for the Payment Gateway Services:

You shall accurately and validly complete the relevant enrollment form provided by us for the use of the Payment Gateway Services.

You shall ensure to provide us in writing, the URLs which are intended to be used for processing the online Transactions. Such URLs shall be used for processing payments once they have been reviewed and approved by us in writing.

Where you are not using the software provided by us for Payment Gateway Services and for the Transactions, you shall use the software that includes fraud screening of Authorization and Transactions. The software being designed specifically for the region or industry where you are doing business of your licensed activities to assist in keeping Chargeback and fraud rates below Chargeback and fraud limits of Card Scheme and updated from time to time and the same shall be applicable for all the Transactions and Services that you required from us pursuant to this Agreement.

You acknowledge and agrees that except for the right of use expressly granted to you in this Agreement, we (or our licensors) shall retain all right, title and interest, including all Intellectual Property Rights, in and to the Payment Gateway Services and Licensed Materials; and, nothing contained in this Agreement shall be construed as conferring upon you and/or Cardholder by implication, operation of law, estoppel, or otherwise, any other license or right. You must ensure that you do not:

reverse engineer, decompile or disassemble the Licensed Materials without our prior written consent;

separate or alter any of the Licensed Materials component parts;

copy or otherwise reproduce or to use, distribute, lease, rent, loan, sell, mortgage, grant a sub-license of, transfer or reproduce the Licensed Materials or any related documentation we may provide (for the avoidance of doubt, unless otherwise expressly stated to the contrary in this Agreement, we are under no obligation to provide any documentation);

harmfully use, cause or permit harmful use of the Licensed Materials or use the Licensed Materials in a way that creates an unreasonable or unwarranted interference with our Payment Gateway Services;

use the Licensed Material for the limited purpose permitted by us and in accordance with terms of this Agreement.

Subject to the above and payment of applicable Transaction Fees, we grant you a personal, non-transferable, non-exclusive, royalty-free right to use the Licensed Material in the Territory provided to it by us for the term of this Agreement to make use of such element(s) of the Payment Gateway Services as may be specified by us. You understand the right of use of the Licensed Material shall not in any way be construed as a grant of license under this Agreement and your right to use is limited for the above stated purpose and subject to the terms and conditions of this Agreement.

#### **5. Sale of Equipment**

Additional Terms and Conditions for the sale of Equipment by us to you (the “Additional Services Terms”) are incorporated into and form part of your Agreement with us. With respect to the purchase of Equipment, these Additional Services Terms will prevail to the extent they conflict with your Agreement with us. Where a capitalized term is used but not defined in these Additional Service Terms, it shall have the meaning given in the Agreement with us.

##### **1. Sale of Equipment**

1.1. The sale of Equipment by us to you and the transfer of ownership of the Equipment (excluding ownership of any software or APIs) are tied to, and contingent upon, receipt of full payment from you. Once accepted and on full payment of the Fees, we will provide the Equipment to you subject to these Additional Services Terms and the Agreement.

1.2. Risk and title to the Equipment shall pass from us to you upon delivery of the Equipment.

##### **2. Your Responsibilities**

2.1. The Equipment shall be installed at such points in your premises as described in the Application or

- as otherwise agreed between you and us.
- 2.2. You acknowledge that the Equipment will be exclusively maintained and serviced by us or our duly authorized agents. We shall have unrestricted access to the Equipment during normal working hours for the purpose of maintenance, replacement, or any other services.
  - 2.3. You shall not move, alter, adjust or in any manner tamper with the Equipment. The Equipment shall at all times be operated solely by the authorized Representatives and in compliance with the user manual provided by us or such other manual or guidelines that may be provided by us to this respect from time to time.
  - 2.4. You shall keep the Equipment in good condition and shall be responsible for any damage to the Equipment other than the normal use wear and tear.
  - 2.5. You shall maintain and pay for all power and telecommunication connections necessary to operate the Equipment. You shall not use or permit to be used the SIM card from any GPRS Equipment for any purpose other than the transmission and receipt of data in connection with the Services. If you are in breach of this clause, you shall be liable for all additional voice call and or data transmission charges incurred plus an administration charge to cover all costs incurred by us in recovering those additional charges from you.
  - 2.6. You shall ensure your authorized Representatives are trained and following any guidance provided by us to you from time to time to enable them to operate the Equipment correctly. You shall also ensure there are appropriate procedures and controls in place to ensure:
    - (i) the identity of any individual claiming to be our appointed repair or maintenance personnel properly verified before are allow any access to Equipment; and
    - (ii) your employees are regularly trained to be made aware of suspicious behaviour in and around Equipment and to report suspicious behaviour and any indication of device tampering to appropriate personnel within your management team, and to us.
  - 2.7. You shall be liable for fraudulent Payment Transactions that are processed which could have been prevented if you had been compliant with Chip and Pin and/or any other requirements set forth in this Agreement.
  - 2.8. Except where otherwise allowed by Card Scheme Rules, you shall use the Equipment to process every Payment Transaction and shall request every Cardholder to insert the Card through the Equipment. No Chip and PIN Payment Transaction shall be processed by you without the Cardholder being physically present.
  - 2.9. If one or more of the Equipment sustain an error or malfunction, you shall immediately notify us on our contact details as set forth on our website <https://payfast.io/>, and we will, upon such notification, arrange for the necessary repair or replacement provided that such error or malfunction was not caused by misuse, abuse or your negligence and/or your Representatives and is within the warranty as set out in clause 3 below.
  - 2.10. If the Equipment does not function correctly, you will follow the user manual or other back up procedures specified by us to you from time to time.
  - 2.11. You covenant and undertakes not to sell, lease, charge, pledge or otherwise dispose or encumber the Equipment, software programs, manuals and/or other materials provided by us to any third party, without our prior written consent.

### **3. Equipment Warranty**

- 3.1. The warranty period for the Equipment sold by us to you is subject to our manufacturer's warranty and returns policies and shall apply exclusively to the repair or replacement of the POS Terminal. POS accessories, including but not limited to batteries, power adaptor, printer, display panel and main board shall be excluded from this warranty.
- 3.2. Any one or more of following instances shall be excluded from this warranty and any considered out of warranty for all intents and purposes:
  - (i) any changes to the software loaded on the Equipment by you;
  - (ii) any alterations of or additions to the Equipment by you;
  - (iii) any interconnection of the Equipment with other equipment, accessories or software not

- provided by us to you;
- (iv) any damages to the Equipment resulting from any spillages, liquid or otherwise;
- (v) any use of the Equipment in a manner for which it was not designed, or that is not accordance with the Agreement or any user manuals or such other manual or guidelines that may be provided by us to this respect from time to time;
- (vi) any Equipment defects, malfunction or error caused by your misuse, abuse or your negligence and/or that of your Representatives; or
- (vii) any transfer or sale of the Equipment to a third party;
- (viii) any use of the Equipment outside the premises described in your Application or as otherwise agreed between us and you.

**4. Fees:**

- 4.1. We will provide Equipment to you and the related Services for the Fees communicated to you via email or available on our website, <https://payfast.io/>. We will automatically deduct the Fees from your Sale Proceeds or collect them as otherwise communicated by us to you via email or on our Dashboard. We will have the right to amend the Fees from time to time. Any such change will be communicated to you in writing in accordance with the Agreement.

**5. Term and Termination**

- 5.1. This Service will commence when we confirm your enrolment via the Dashboard or email, or the acceptance of the Application or an addendum and continue unless terminated earlier by a party pursuant to your Agreement with us.

**6. Transfer of device Ownership**

- 6.1. Should you wish to terminate your use of the Equipment and related Services by transferring ownership of the device to another third party, you shall give us sixty (60) days prior written notice.
- 6.2. Upon receipt of the notice reference in clause 6.1 above, we shall communicate the conditions of transfer and steps to be followed by you and such third party to effect the transfer of Equipment via email.
- 6.3. We shall in no event be held responsible or liable for the independent sale or unauthorized transfer of the Equipment to a third party.

**7. Effects of Termination**

- 7.1. Upon our confirmation of termination of the Agreement via email, subject to full payment by you of any outstanding Fees as at the date of termination and fulfilment of any additional conditions of termination communicated to you by us, you shall retain ownership of the device.
- 7.2. Access to and rights to use of any software loaded on the Equipment by you will terminate as at the effective date of termination.
- 7.3. Any approved use of our name, brand or logo in relation to the Equipment pursuant to the Agreement shall terminate.

**Please pay special attention to this clause below as it may have specific consequences for you and limits our liability**

7.4 You agree that we shall have no liability to you, the Representatives, the Cardholders or to any other person for any costs, losses, expenses, claims, damages whether caused directly or indirectly by the Equipment or by any system malfunction, failure in connection or communication links or error in the design or manufacture of any Equipment, and in the event of an error and design of the Equipment, and all warranties, if any, with regard to the Equipment shall be as provided by the respective manufacturers of the said Equipment. You agree to indemnify us for any losses, expenses, or damages that we may suffer as a result of any direct or indirect claim, legal proceeding, order or judgment made against us in connection to any failure or malfunction by any system, software or Equipment used by you in relation to Services.

#### **SCHEDULE 4**

##### **Fraud Shield Terms and Conditions**

Please pay special attention to these clauses below as it may have specific consequences for you and limits our liability.

##### **1. Relationship to the Agreement**

These Fraud Shield Terms and Conditions (the “Fraud Shield Terms”) are incorporated into and form part of your Agreement with us. The Fraud Shield Services is a “Services” for the purposes of your Agreement with us. With respect to the Fraud Shield Services, these Fraud Shield Terms will prevail to the extent they conflict with your Agreement with us. Where a capitalized term is used but not defined in these Fraud Shield Terms, it has the meaning given in the Agreement with us.

The availability of the Fraud Shield Services is tied to, and contingent upon, your use of our other Services. On full payment of the Fees, the Fraud Shield Services will offer you reimbursement for certain Covered Chargeback amounts and certain associated fees, on the terms set out in Sections 2 to 7 of these Fraud Shield Terms and your Agreement.

##### **2. Covered Chargebacks**

On full payment of the Fees, we will not hold you responsible for the amount of the Covered Chargeback, for any associated Covered Chargeback fees, or for any fines imposed on us by the Card Schemes, subject to the Protection Limit as described on our website or your Dashboard or via email to you. Protection Limit, as amended by us from time to time, is a fixed amount that will be communicated to you.

We may elect to challenge a Covered Chargeback on your behalf, in which case we will communicate with third parties (including the Card Schemes) for this purpose. Your protection is not affected by whether or not we challenge (successfully or not) a Covered Chargeback. If we successfully challenge a Covered Chargeback, you are not entitled to any proceeds or refunded amounts that we receive from the Card Scheme following the challenge.

The Fraud Shield Services is designed to help you reduce the number of Chargebacks that you receive while using the Services. However, you should be aware that Chargeback rates are tracked by the Card Schemes, and that for the purpose of this tracking all of your Chargebacks will be attributed to you (including Chargebacks on Covered Chargebacks). If you exceed the acceptable Chargeback rates specified by the Card Schemes, you may be placed into one or more monitoring programs. If you are using the Fraud Shield Services, and we identify that you are at risk of being placed in a monitoring program, we may require you to promptly take remedial actions (as specified by us) to reduce your Chargeback rate.

##### **3. New Merchants**

If you are a New Merchant, and we have activated your access to the Fraud Shield Services, we will not pay you the amount for Covered Chargebacks during the Evaluation Period. Instead, we will hold these amounts and only pay them to you once you have successfully passed our internal control processes, including our processes related to credit and fraud risk. We may extend the Evaluation Period based on certain criteria determined by us. If during the Evaluation Period these criteria are not met, then these Fraud Shield Terms will automatically terminate, and you will not be entitled any amounts held by us (or otherwise owed to you) with respect to Covered Chargebacks.

##### **4. Your Responsibility**

As and when it is provided by us, it is your responsibility to accept the latest version of the software on the POS Terminal.

For each Transaction, the Fraud Shield Services will use machine learning technology to initially calculate the likelihood of the Fraud Chargeback or Service Chargeback, based upon fraud analytics and detection tools. If the likelihood of a Transaction being Covered Chargeback is less than a predetermined threshold (set by us), then we will allow the Transaction to proceed. If such Transactions results in a Covered Chargeback, we will not hold you responsible for the amount of the Covered Chargeback.

If the Covered Chargeback exceeds the predetermined threshold, we may give you the ability to tell us that the Transaction should proceed. If we provide you with this ability, and you tell us, or have told us, to proceed with the Transaction, then the Transaction will no longer be protected and Section 2 will not apply, and you will remain fully responsible and liable to us if Transaction is subject to a Covered Chargeback.

The Fraud Shield Services is most effective when it is able to see all of your Transactions. You agree to submit all the Transactions relating to your business exclusively through us. In addition, you must not, and you are prohibited from, selectively routing your Transaction so that you route your higher-risk Transactions to the Fraud Shield Services provided by us. If we believe that you are engaging in such selective routing, we may require you to provide us with a detailed description of your routing logic. If we subsequently determine that you have engaged in discriminatory routing, we may hold you responsible for Covered Chargebacks (and associated fees and fines).

We may also hold you responsible for a Covered Chargeback if: (a) you are in breach of these Fraud Shield Terms or your Agreement with us, (b) you provide us with inaccurate or incomplete information for a Covered Chargeback or where it is an illegitimate claim for Covered Chargeback (as determined by us), (c) the Covered Chargeback exceeds the Protection Limit, as described in Section 2; (d) you are a New Merchant, as described in Section 3, or (e) the Covered Chargeback occurred before the date on which we activated your access to the Fraud Shield Services, or after the date on which these Fraud Shield Terms expire or are terminated, or (f) when the Transaction was Reversed or Refunded by you.

In addition to any other provision of these Fraud Shield Terms or your Agreement with us, you expressly agree that you will not use the Fraud Shield Services for any purpose, function, or feature not described to you by us. You also expressly agree that you will follow all best practices identified in our communication from time to time for the Fraud Shield Services.

#### 5. Fees

We will provide the Fraud Shield Services to you for the Fees communicated to you via email. We will automatically deduct the Fees from your Settlement Funds. We will have the right to amend the Fees from time to time. Any such change will be communicated to you in writing.

#### 6. Term and Termination

These Fraud Shield Terms commence when we confirm your enrollment in the Fraud Shield Services via the Dashboard or email, or on the date of your first Covered Chargeback (whichever occurs first) and continue unless terminated earlier by a party as provided in this Section 9 or pursuant to your Agreement with us. Your enrollment in the Fraud Shield Services does not mean that your use of the product is activated. We will notify you (via the Dashboard or email) when we activate your access to the Fraud Shield Services, and we may delay or deny activation for any reason.

Either you or us may terminate your access to the Fraud Shield Services at any time and for any reason by providing notice to the other party. Termination of Fraud Shield Services will not result in termination of the other Services under the Agreement. Your access to the Fraud Shield Services may be automatically suspended if we suspend your use of any of the Services as provided in your Agreement with us. These Fraud Shield Terms will automatically terminate if your Agreement with us is terminated. If you terminate the Fraud Shield Services within six (6) months of enrollment, you will be entitled to a full refund of Fees paid. If you terminate the Fraud Shield Services after six (6) months of enrollment, you will be entitled to refund of Fees of that month in which you have requested for termination. Notwithstanding the above, you will not be entitled to any refund of Fees paid if you have terminated the Fraud Shield Services and have claimed or received Chargeback Protection from us or in case where we have terminated your enrollment in the Fraud Shield Services for any reason whatsoever.

#### 7. Definitions:

“Chargeback Protection” means protection against the costs and fees you would have paid to us for certain Covered Chargebacks

“Covered Chargebacks” means Chargebacks raised by the Card Scheme with the following reason code (or other reason codes as updated from time to time by us and/or Card Schemes):

Merchandise services not received, Not as described or defective merchandise services, counterfeit Merchandise, EMV Liability Shift Counterfeit Fraud, EMV Liability Shift non- Counterfeit Fraud, Other -Fraud- Card present environment, Other -Fraud- Card absent environment.

“Evaluation Period” means a period of time determined by us during which we will not pay you the amount for Covered Chargebacks

“Fraud Shield Services” means the Services relating to Chargeback Protection provided by us to you subject to the terms and conditions of this Schedule 4 and this Agreement

“New Merchant” means where you have been our active Merchant for less than six months.

“Protection Limit” means a maximum limit of Covered Chargeback we will be assuming responsibility for.