PAY@GATEWAY MERCHANT TERMS (SOUTH AFRICA)

VERSION EFFECTIVE DATE	1 September 2026

The following is a statement of the current standard terms of business under which Pay At Services (Pty) Ltd provides payment facilitation services to merchants. We refer to ourselves as "Pay@" in this document. Any person or entity that validly subscribes to be enabled for the payment facilitation services enabled by us via our Pay@ Gateway ("Gateway Services") will enter into a binding agreement with us that is subject to these terms unless otherwise agreed in writing. Such a person or entity is referred to as a "Merchant" in this document and we refer to a duly accepted and binding order or subscription for our Gateway Services, whether in paper or electronic form, as a "Merchant Subscription".

1. APPLICATION

1.1 ***Merchant Subscriptions.*** Merchant may be permitted to submit to Pay@ an order or subscription request for Gateway Services using Pay@'s standard ordering processes and service subscription form templates as made available to it by Pay@, whether electronically or in paper form. No such order or subscription request shall be binding until it has been duly accepted by Pay as may be confirmed to Merchant in writing. Each such Merchant order or subscription request for Gateway Services that has been so accepted by Pay@ shall be binding on the Parties and shall constitute a Merchant Subscription governed by these terms until it is terminated in accordance with these terms.

1.2 ***Application.*** These terms shall apply to all Merchant Subscriptions for Gateway Services concluded between Pay@ and Merchant. Each such Merchant Subscription shall constitute a separate contractual arrangement subject to these terms. These terms shall be valid as from the Version Effective Date specified at the head hereof until replaced with new or amended terms. Unless otherwise agreed with a Merchant in writing, these terms will apply to all Merchant Subscriptions for Gateway Services, irrespective of whether they are concluded prior to or after the Version Effective Date, and will replace any existing terms governing such Gateway Services with effect from such Version Effective Date.

1.3 ***Conflicts.*** Insofar as any term and condition in a Merchant Subscription may conflict with these terms, the Merchant Subscription shall prevail. However, save where expressly provided to the contrary, the terms and conditions of any one Merchant Subscription shall not apply to any other Merchant Subscription.

2. DEFINITIONS AND INTERPRETATION

2.1 ***Definitions***. The following terms shall have the following meanings when used in these terms or in a Merchant Subscription-

2.1.1 "**Affiliate**" means, in relation to a Party, any person or entity forming part of its company group, including any entity controlling, controlled by or under common control with such Party, where "control" is established in relation to an entity by having the power, whether directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such entity whether by contract, ownership of shares, membership of the board of directors or otherwise;

2.1.2 "**AFSA**" means the Arbitration Foundation of Southern Africa, or its successors in title;

2.1.3 "**Authorised Users**" shall mean the Personnel of Merchant or its Affiliates that are authorised to access and use the Technology for the benefit of Merchant;

2.1.4 "**Authorised Recipient**" means a person or entity that is enabled by a Network to submit Transactions to the Pay@ Gateway via the systems of such Network;

2.1.5 "**Authority**" means any national, municipal, provincial, other local or administrative government, authority or department, or any agency, tribunal, commission, regulator, self-regulatory body or other similar body having jurisdiction by Law over the assets, resources, activities or operations of any of the Parties in any territory that is applicable to a Merchant Subscription, which may include without limitation the Financial Sector Conduct Authority and the South African Reserve Bank;

2.1.6 "**Bank Charges**" means portion of the Fees that are charged to compensate for bank-related expenses incurred by Pay@, the Networks and/or their Authorised Recipients in connection with the collection, deposit and/or refund of Transaction Amounts;

2.1.7 "**Business Day**" means any day other than a Saturday, a Sunday or a public holiday in the Republic of South Africa;

2.1.8 "**Business Hours**" means the hours from 08h00 to 17h00 (Central African Time) on Business Days;

2.1.9 "**Client**" means a person or entity that requests the performance of a Transaction;

2.1.10 "**Client Account**" means a statement of account, invoice or other payment reminder issued to a Client reflecting payments to be made to Merchant by the Client, whether in printed or electronic format;

2.1.11 "**Client Data**" means all information pertaining to Clients that is processed or becomes available pursuant to or in connection with the Gateway Services;

2.1.12 "**Confidential Information**" means any information of whatever nature, which has been, or may be obtained directly or indirectly by one Party hereto from the other Party hereto, whether in writing or in electronic format, or pursuant to discussions held between the Parties, or which can be obtained by examination, testing, visual inspection or analyses, including, without limitation a Party's Know-How, all program code (including for Pay@, as may form part of the Pay@ Gateway), product architecture, data file structures, interface and communications protocols, numbering systems and associated material and manuals (including for Pay@, as incorporated in the Merchant Codes, and/or Operational Requirements) and the information contained therein, the Client Data and Transaction Data, all information relating to a Party's past, present and future research and development or to a Party's business activities, products, services, clients, security measures or disaster recovery plans, as well as all such Party's trade secrets and these terms and conditions and as may be contained in a Merchant Subscription, any information identified as confidential, any information in respect of which a Party is under obligation of confidence and any other material which contain or otherwise reflect, or are generated or derived from any such information as is specified in this definition;

2.1.13 "**Connectivity**" means the data network links required for the Merchant to access and use the Gateway Services enabled via the Pay@ Gateway, as may be specified by Pay@ for the Merchant Systems;

2.1.14 "**CPI**" means the percentage change in the year on year metropolitan areas – core consumer price inflation index published by Statistics South Africa, and if the publication of such index is discontinued, the most similar index as compiled and published monthly by Statistics South Africa in a statistical news release or a body authorised in its stead, in terms of the Statistics Act 1976 as amended (or any statute replacing such Act) will be used;

2.1.15 "**Designated Account**" means a bank account that has been designated by Merchant and approved by Pay@ for remittance to Merchant of the Transaction Amounts collected on its behalf;

2.1.16 "**Effective Date**" means in respect of each Merchant Subscription, the effective date stipulated in such Merchant

Subscription, and failing such stipulation the date of signature of such Merchant Subscription by the last Party signing;

2.1.17 "**Fees**" means the fees payable under a Merchant Subscription by the Merchant with respect to the Services provided to it;

2.1.18 "**Gateway Services**" means the services rendered via the Pay@ Gateway to enable the processing of Transactions and collection and transfer of Transaction Amounts for Merchant;

2.1.19 "**Intellectual Property Rights**" means patents, registered designs, trademarks (whether registered or otherwise), copyright, trade secret rights, database rights, design rights, service marks and other intellectual property rights and rights to claim something as its confidential information, including in other jurisdictions, that grant similar rights as the foregoing;

2.1.20 "**Know-How**" means any and all concepts, ideas, methods, methodologies, procedures, processes, know-how, formulae, techniques, models (including, without limitation, function, process, system and data models), templates, the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs, payment card designs, communications protocols, numbering systems, business rules, product architecture, data file definitions, utilities and routines; and logic, coherence and methods of operation of computer systems that a Party has created, acquired or otherwise has rights in and may, in connection with the performance of its obligations under a Merchant Subscription, employ, provide, modify, create or otherwise acquire rights in, including in respect of Pay@, as may be contained in the Operational Requirements;

2.1.21 "**Law**" means:

(a) any statute, regulation, by law, ordinance or subordinate legislation in force from time to time to which a party is subject;

(b) the common law as applicable to the Parties from time to time;

(c) any binding court order, judgement or decree;

(d) any applicable industry code, direction, policy, rule or standard enforceable by law, including as may be stipulated by an Authority;

2.1.22 "**Merchant Code**" means any identification code, bar code, QR code and/or number or combination of numbers provided by Pay@ for the purposes of facilitating a Transaction for Merchant in the context of the Gateway Services;

2.1.23 "**Merchant Product**" means the type and nature of the Merchant business or product giving rise to the Client payments to be facilitated for it via the Gateway Services as may be specified in the Merchant Subscription;

2.1.24 "**Merchant Systems**" means the computer systems, devices and communications infrastructure used by Merchant and its Authorised Users for the purposes of accessing and using the Gateway Services, comprising all equipment, software and network connections, forming part thereof, including the Connectivity;

2.1.25 "**Network**" means a person or entity together with its Authorised Recipients that is engaged by Pay@ to facilitate Client payments for Merchant under a Merchant Subscription;

2.1.26 "**Operational Requirements**" means the functional, technical and business requirements and specifications, policies, procedures, standards, rules and protocols prescribed by Pay@ to be applicable to the Merchant's access to and use of the Gateway Services, including with respect to the identification of Clients, the access and authority of Authorised Users to use the Pay@ Gateway, the submission, processing, communication, authorisation, recording and reconciliation of Transactions and the interoperation between the Pay@ Gateway and Merchant Systems, format, composition, contents and/or function of the Merchant Codes, handling of errors, returns and other problems, the recording and keeping of records pertaining to the Transactions and the use of the Gateway Services in general (as may be amended by Pay@ from time to time);

2.1.27 "**Parties**" means Pay@ and the Merchant and "**Party**" means either one of them;

2.1.28 "**Pay@ Gateway**" means the technology platform used by Pay@ to facilitate the Gateway Services, but excluding all Merchant Systems components and Network systems and infrastructure that may interoperate with such platform;

2.1.29 "**Personnel**" means a director, employee, agent, consultant, contractor, sub-contractor or other authorised representative of an entity;

2.1.30 "**Principal Insurer**" means a registered insurer in the Territory that is the accountable financial institution under applicable Law in respect of Transaction Amounts that constitute payments with respect to insurance products;

2.1.31 "**Refund Security**" means a funding amount temporarily retained by Pay@ as security in order to settle Pay@ for any Transaction Amounts charged back or refunded to Clients, as may be specified in or in respect of a Merchant Subscription;

2.1.32 "**Services**" means any and all services that may be provided by Pay@ to the Merchant in connection with a Merchant Subscription, including without limitation, the Gateway Services;

2.1.33 "**Sponsoring Bank**" means a registered bank in the Territory that is the accountable financial institution under applicable Law in respect of Transaction Amounts that constitute deposits under applicable Law;

2.1.34 "**Technology**" means the Merchant Codes, Operational Requirements, User Documentation and Pay@ Gateway made available by or on behalf of Pay@ in connection with the Services;

2.1.35 "**Territory**" means the geographic area in which Gateway Services may be used by Merchant which will be South Africa unless otherwise stated in the Merchant Subscription;

2.1.36 "**Transaction**" means an instruction or request pertaining to the facilitation of a Client payment for a Merchant that is processed via the Pay@ Gateway;

2.1.37 "**Transaction Amount**" means the amount of the Client payment involved in a Transaction as submitted to and confirmed by the Pay@ Gateway;

2.1.38 "**Transaction Data**" means all data pertaining to the Transactions;

2.1.39 "**User Documentation**" means the reference manuals and/or user instructions supplied to the Merchant by Pay@ for aiding its access and use of the Gateway Services;

2.2 ***Headings***. Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of these terms.

2.3 ***References***. Unless otherwise stated herein, references in these terms to these terms or to a Merchant Subscription or to any other agreement are references to these terms or to such Merchant Subscription or such other agreement as varied, supplemented, substituted or replaced from time to time.

2.4 ***Clause References***. Unless otherwise stated herein, references to clauses, sub-clauses, schedules or paragraphs are references to clauses, sub-clauses, schedules or paragraphs in these terms, as the case may be.

2.5 ***Enactments***. References to any legislation shall be deemed to include references to such legislation as re-enacted, amended or extended from time to time.

2.6 ***References to persons***. References to persons shall include natural and juristic persons and references to either Party shall include such Party's successors or permitted assigns.

2.7 ***Substantive Provisions***. If any provision in a definition is a substantive provision conferring rights or imposing obligations on either Party, effect shall be given to it as if it were a substantive provision notwithstanding that it is contained in a definition.

2.8 ***Other Definitions***. Where any term is defined within the context of any particular clause in these terms, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in these terms and the Merchant Subscription, notwithstanding that the term has not been defined in this clause.

2.9 ***Calculation of Days***. Unless expressly otherwise stated, when any number of days is prescribed in these terms or a Merchant Subscription, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day that is

not a Business Day, in which case the last day shall be the next Business Day.

2.10 ***Counterparts***. Merchant Subscriptions may be executed in any number of counterparts (including faxed counterparts) and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

2.11 ***Interpretation***. No rule of construction that an agreement shall be interpreted against the Party responsible for its drafting or preparation shall apply to these terms or a Merchant Subscription.

3. TERM

3.1 ***Term.*** A Merchant Subscription shall commence on its Effective Date and shall continue be of force and effect until replaced by a new Merchant Subscription or terminated in accordance with the terms of such Merchant Subscription or these terms.

3.2 ***Network Withdrawal.*** Gateway Services being rendered under a Merchant Subscription that pertains to any specific Network will automatically terminate if and to the extent that such Network withdraws from or terminates its involvement with such Gateway Services for any reason.

3.3 ***Termination of Services***. Any Merchant Subscription and any component of the Gateway Services rendered under a Merchant Subscription (including with respect to a particular Network or Authorised User) may be terminated by either Party by giving the other Party at least 3 (three) months prior written notice thereto (provided that Pay@ may give a shortened notice of no less than 30 (thirty) days to Merchant if it is or becomes Inactive), which termination will take effect as of the date specified in the notice of termination. For the purposes hereof Merchant will be deemed "Inactive" if no more than 50 (fifty) Transactions were processed for Merchant over the 12 (twelve) months preceding the date of notice of termination.

3.4 ***No effect on other Services.*** The termination of any one Merchant Subscription will not affect the validity of any other Merchant Subscription. The termination of any one Service component under a Merchant Subscription will not affect the validity of any other Service component provided under such Merchant Subscription.

3.5 ***Suspension.*** Pay@ shall have the right to immediately suspend its processing of Transactions in whole or in part, including with respect to a particular Authorised User or Network:

3.5.1 if it has reason to believe that the processing of such Transactions or the rendering of the Gateway Services is or may be unlawful, including if any of the licences, authorisations, permissions or consents required in Law to process such Transactions is not granted or is suspended or deemed to be insufficient or terminates without being renewed;

3.5.2 in the event of material non-compliance with the Operational Requirements;

3.5.3 if it has reason to believe that the Gateway Services is being used for unlawful purposes, or an actual or threatened security breach, money laundering or fraud impacting the Transactions or Gateway Services;

3.5.4 if Merchant or its Authorised User or a Network or a person related to, acting on behalf of, or involved with such party appears or is included on any sanction list as prescribed by Law; or is linked to any of the restricted countries on any sanction list prescribed by Law or the government agencies of such restricted countries;

3.5.5 if it has reason to believe that Merchant or its Authorised User or a Network or any person related to, acting on behalf of, or involved with such party has contravened any anti-corruption and or anti-money laundering Laws (locally or internationally), or is involved in terrorist activities;

3.5.6 if it has reason to believe that its continued association with Merchant or its Authorised User may expose it or any of its Networks to reputational and/or market conduct risk;

3.5.7 if the actual type of Merchant Products involved in the Transactions does not wholly correspond to the types identified for the Merchant Subscription;

3.5.8 if any amount payable to it in connection with the Gateway Services is not paid despite a written demand therefor; or

3.5.9 if it is required to do so pursuant to an instruction by a Network or a relevant Authority;

in each case, until the cause of the suspension has been adequately addressed.

4. IMPLEMENTATION

4.1 ***Systems.*** Merchant shall be responsible for complying with the Operational Requirements so as to enable its interoperation with the Pay@ Gateway and its access and use of the Gateway Services, including for the Authorised Users, and, accordingly, will procure, install and maintain all components of the Merchant Systems (including the necessary Connectivity) required to ensure such compliance.

4.2 ***Implementation.*** The Parties will work together and with the relevant Network to implement the Gateway Services so as to commence therewith at the scheduled commencement date. In this regard, the Merchant will be responsible for the timely implementation and configuration of the Merchant Systems to interoperate with the Pay@ Gateway, receive the relevant Gateway Services and, where applicable, authorise Transactions, all in compliance with the Operational Requirements, including with respect to the format and content of the data to be provided to process the Transactions.

4.3 ***Testing***. Prior to using the Gateway Services in an operational environment, the Merchant will thoroughly test the implementation of the Gateway Services to ensure that they operate properly in compliance with the Operational Requirements, notify Pay@ of problems detected and work with Pay@ to resolve such problems.

5. TECHNOLOGY

5.1 ***Usage Rights***. With effect from the Effective Date of a Merchant Subscription in terms of which Gateway Services are to be implemented for Merchant and in return for payment of the relevant Fees, Pay@ will make available the Technology to Merchant on a non-exclusive, non-transferable basis for Use (as defined in clause 5.2) in connection with the Gateway Services for its own internal business purposes and for the duration of such Gateway Services only.

5.2 ***Use***. For the purposes hereof "Use" of the Technology under clause 5.1 shall mean: –

5.2.1 to use the Operational Requirements as made available by Pay@ to configure and maintain the Merchant Systems in order to interoperate properly with the Pay@ Gateway;

5.2.2 to use and permit its Authorised Users to use the Merchant Codes and Pay@ Gateway as may be made available to it by Pay@ to access and receive the Gateway Services and to receive and submit Client Data and Transaction Data from and to the Pay@ Gateway in compliance with the Operational Requirements; and

5.2.3 to permit its Authorised Users to use the User Documentation for aiding the aforesaid uses;

5.3 ***Restrictions***. Merchant shall not, and shall not permit, whether directly or indirectly, any Authorised User or third party, except as expressly permitted hereunder to-

5.3.1 access, use or share the Gateway Services made available to it, or sell, assign, sub-license or otherwise transfer any of its rights with respect to the Gateway Services made available to it;

5.3.2 access, use, modify, adapt, translate, reproduce, distribute, rent, lease, share, sell, assign, sub-license or otherwise transfer its rights of use with respect to any part of the Technology made available to it;

5.3.3 remove, alter or conceal any proprietary notices or labels on Technology made available to it; or

5.3.4 reverse assemble, decompile or reverse engineer any software or code forming part of the Technology, whether in whole or in part, or otherwise attempt to derive the source code thereof, or otherwise use any part of the Technology to develop a product or render a service that can compete with the Gateway Services.

5.4 ***Infringements.*** Merchant shall ensure that the Technology is used by it and its Authorised Users in strict compliance with the terms of this clause 5 and agrees to notify Pay@ promptly in writing of any transgressing uses of, or any act of infringement involving the Technology of which it acquires knowledge and Pay@ shall have the right, at its own option, to proceed against anyone infringing its rights in the Technology.

5.5 ***Authorised Users.*** Merchant will provide a list of its Authorised Users to Pay@ promptly upon request. Pay@ may demand that any Authorised User wholly or partially cease its use of the Technology

and that its access to the Gateway Services be suspended or terminated, including if -

5.5.1 it determines that such use or the continued use of such Technology may subject it or any third party to legal liability, or may jeopardise its rights in the Technology; or

5.5.2 a failure to comply with the terms of this clause 5 occurs as it pertains to the use of the Technology and such failure is not remedied promptly following receipt of a written notice thereof; or

5.5.3 the relevant person's rights to use the Gateway Services is suspended or terminates for whatever reason,

and Merchant will promptly take such steps as may be required to ensure compliance with such request.

5.6 ***Retention of Rights***. Pay@ reserves all rights not expressly granted to Merchant. Merchant acknowledges that the rights in the Technology granted to it are limited to the limited licences granted to it hereunder and that Pay@ and its licensors shall remain solely entitled to all Intellectual Property Rights and other proprietary rights in the Technology, including in the Know-How represented by or incorporated in the Technology.

5.7 ***Merchant Representations***. Merchant undertakes that it shall not in any manner whatsoever represent that it is the owner or has any interest, other than as licensee in terms hereof, in the Technology and shall not take any action to impute any other right, title or interest in and to the Technology.

6. TRADEMARKS

6.1 ***Licence.*** Each Party hereby grants the other a nonexclusive, non-transferable right to use and display and to have the relevant Authorised Users, Networks and Authorised Recipients use and display its applicable trademarks in the form and format provided by it for the particular purpose solely in connection with and solely to the extent reasonably necessary for the promotion of the Gateway Services in the Territory in accordance with the terms and conditions hereof and the written instructions of the proprietor of such trademarks. Save as specified herein, a Party is granted no right, title, licence or interest to or in the other Party's trademarks.

6.2 ***Usage Approval.*** A Party will not use or permit the use of the other Party's trademarks or the trademarks of a Network on any promotional, marketing or advertising materials (whether electronic or printed), without first obtaining the proprietor's prior written approval thereto.

6.3 ***Protection.*** Each Party acknowledges and shall not challenge, nor cause any challenge to the other Party's rights in and to its trademarks or do anything that might harm the reputation or goodwill of the other Party or any of its trademarks. A Party shall also not take any action or cause an action to be taken that is inconsistent with the other Party's rights in its trademarks, nor shall it adopt, use or register any name, trade name, trade mark, service mark or other designation confusingly similar to any of the other Party's trademarks or incorporate in any way a such a trademark into one of its own trademarks or cause that or assist a third party in performing any of the above.

6.4 ***Goodwill.*** A Party shall not in any way represent that it has any right of any nature in the other Party's trademarks other than as a licensee and all use of trademarks and the goodwill associated therewith will inure to the benefit of the proprietor of the trademarks.

6.5 ***Use.*** Each Party shall ensure that the other Party's trademarks and the trademarks of the Networks are not used by it or any of its Personnel or Authorised Users in any manner which may diminish or otherwise damage the trademark proprietor's reputation or its goodwill in such trademark, including, but not limited to, uses which would be deemed to be obscene, pornographic, excessively violent, hateful or otherwise in poor taste or unlawful, or which are designed to encourage unlawful activities.

6.6 ***Infringements.*** Each Party agrees to notify the other Party in writing of any conflicting uses of, and applications for registration of a conflicting trademark or any act of infringement, unfair competition or passing off involving a trademark of the other Party of which it acquires knowledge and the other Party shall have the right, at its own option, to proceed against any third party infringing its trademark.

6.7 ***Revocation.*** A Party may demand that -

6.7.1 the other Party and/or any of the Authorised Users, Networks or Authorised Recipients wholly or partially cease the use of any of its trademarks if -

(a) it determines that such use or the continued use of such trademark may subject it or any third party to legal liability, or may jeopardise its rights in the trademark; or

(b) a failure to comply with the terms of this clause occurs as it pertains to the use of such trademark and such failure is not remedied promptly following receipt of a written notice thereof; or

(c) the relevant person's rights regarding the Gateway Services terminate for whatever reason;

6.7.2 the Merchant and/or any of its Authorised Users wholly or partially cease the use of any trademark of a Network if the relevant Network demands such cessation of use.

6.8 ***Effects of Revocation.*** Upon revocation by a Party of a person's rights to use a trademark under clause 6.7 -

6.8.1 the other Party shall ensure the immediate cessation of further use of the relevant trademark by the relevant person, or any confusing or deceptive simulation thereof; and

6.8.2 the other Party shall at the instruction of the proprietor of the trademark ensure the destruction or handover to the proprietor of all materials held by the relevant person including labels, advertising matter, printed matter or the like featuring the relevant trademark, as well as any electronic versions thereof;

and certify compliance with such requirements in writing to the proprietor upon request.

7. SERVICES

7.1 ***Appointment.*** Merchant appoints Pay@ and authorises Pay@ to appoint the Networks for all purposes under applicable Law (including, to the extent required, as agent, representative, service provider and/or intermediary) to process the Transactions arising under each Merchant Subscription and to receive and pay over the corresponding Transaction Amounts on behalf of the Merchant, and Pay@ accepts such appointment. Merchant will give the necessary notifications (including to relevant Authorities) and procure the necessary approvals, permissions and registrations of such appointment as may be required by Law (including, if necessary, from the relevant Authorities) and will immediately notify Pay@ if such approval, permission or registration cannot be obtained. The appointment by Merchant of Pay@ and its Networks (and their Authorised Recipients), include the following appointments, to the extent relevant:

7.1.1 to receive and make payments due on behalf of Merchant as payment agent of Merchant in compliance with South African Reserve Bank Directive No 1 of 2007 issued under the National Payment Systems Act 78 of 1998;

7.1.2 to collect premiums on behalf of the Merchant, and where applicable its Principal Insurer, as intermediary in compliance with the Short Term Insurance Act 53 of 1998 and/or the Long Term Insurance Act 52 of 1998 and the rules, directives, practice notes and regulations published thereunder;

7.1.3 to receive deposits on behalf of Merchant and, where applicable, its Sponsoring Bank, as deposit-taking agent under the Banks Act 94 of 1990 and the rules, directives, practice notes and regulations published thereunder; and

7.1.4 to render intermediary services to Merchant and, where applicable, its Sponsoring Bank and/or Principal Insurer, under the Financial Advisory and Intermediary Services Act 37 of 2002 and the rules, directives, practice notes and regulations published thereunder.

7.2 ***Effect of Collection.*** Any Transaction Amount collected from a Client by Pay@, a Network or an Authorised Recipient will constitute payment by such Client on the account with Merchant that is designated by the Client when making the payment, and will, as between the Client and Merchant, be deemed to be received by Merchant immediately upon collection from such Client. Specifically, any insurance premium so collected from a Client shall, immediately upon collection, be deemed to be received by Merchant for purposes of maintaining the Client designated insurance policy in respect of which such payment is made. Transfer and payment to Pay@ by a Network of the Transaction Amounts collected by it and its Authorised Recipients on behalf of

Merchant will constitute compliance by such Network with its remittance obligations to the Merchant in respect of such Transaction Amounts.

7.3 ***Operational Requirements.*** Merchant will at all times comply with and ensure that the Merchant Systems and Authorised Users comply with the Operational Requirements applicable to the Gateway Services. Without limiting the aforesaid, Merchant shall be solely responsible for ensuring the maintenance of the components of the Merchant Systems so as to ensure proper interoperation with the Pay@ Gateway in compliance with the Operational Requirements. Merchant shall be responsible for providing copies of the User Documentation to its Authorised Users and training such Authorised Users so as to ensure their compliance with the Operational Requirements contained therein. Merchant shall not disclose to Authorised Users any Operational Requirements other than as contained in the User Documentation without Pay@'s prior written consent.

7.4 ***Change Management.*** Upon Pay@ request from time to time, Merchant shall send an adequate number of suitably qualified Personnel members for training in respect of the Gateway Services conducted by Pay@ at a Pay@ designated time and location. Such training which will be designed to train such Personnel so that such Personnel are capable of rendering helpdesk support for the Gateway Services and train Authorised Users in using the Gateway Services. Merchant shall be responsible for training its replacement Personnel. Pay@ will endeavour to provide the Merchant with reasonable advance written notice of any adjustments to the Merchant Codes or Operational Requirements or the Gateway Services, which notice will specify the date on which such adjustments are to take effect.

7.5 ***Merchant Changes.*** Other than in the event of an emergency, Merchant shall not make changes to the Merchant Systems that may impact the Gateway Services without notifying Pay@ in advance, providing Pay@ with sufficient opportunity to assess and mitigate against the potential impact of such change on the Gateway Services, and agreeing the scheduling and process of implementation of such changes with Pay@.

7.6 ***Product Changes.*** Merchant will notify Pay@ of any proposed change that materially impacts on the type or nature of the Merchant Products involved in the Gateway Services.

7.7 ***Support***. Pay@ will provide a helpdesk to support the Merchant and Networks with problems and queries regarding the Gateway Services in accordance with its standard support processes as may be reflected in the Operational Requirements. Merchant will provide user support to its Authorised Users for problems and queries regarding the Gateway Services and with access to support Personnel which will be able to deal with issues affecting the Gateway Services raised by Pay@ or the Networks at least during Business Hours and for business critical issues also after hours. Merchant will ensure that such support is provided by suitably trained and skilled staff that will be responsible for performing the following functions in a timely manner:

7.7.1 assist Authorised Users with the execution of Transactions, and with the use and operation of the Technology and Gateway Services;

7.7.2 assist Clients with queries regarding the Gateway Services;

7.7.3 assist Pay@ and the Networks with issues pertaining to Transactions (including authorisations) including by escalating to appropriate Personnel;

7.7.4 identify and notify Pay@ of problems affecting the Gateway Services, including any Merchant System downtime;

7.7.5 resolve all such problems that are not caused by the Pay@ Gateway or Network systems, including all problems caused by the Merchant Systems or the interoperation thereof with the Pay@ Gateway;

7.7.6 escalating all problems to Pay@ that it reasonably believes to be caused by the Pay@ Gateway or Network systems and liaising with Pay@ and until such issues are resolved.

7.8 ***Service Awareness.*** Merchant agrees to promote the Gateway Services to its Clients in the Territory, including by prominently displaying the relevant Merchant Codes and a Pay@ logo, in the form and format approved by Pay@, on Client Accounts and by promoting the Gateway Services on its web sites, and by informing its Authorised Users and Clients of the contact details of the Merchant helpdesk responsible for dealing with Client queries regarding the Gateway Services.

7.9 ***Data.*** Merchant must record and maintain up to date, complete and accurate Client Data on the Merchant Systems and make available such Client Data to Pay@ and the Networks as required to facilitate the Transactions. The Client Data shall be proprietary to Merchant and may be used by Pay@ only to exercise its rights and comply with its obligations under these terms and under applicable Law. Without prejudice to the obligations of the other Party hereunder, each Party will be responsible for complying with applicable Law insofar as it pertains to its processing of the Client Data. Each Party will take reasonable precautions and implement reasonable, appropriate organisational and technical security measures to prevent any unauthorised access, alteration, processing, destruction, damage or loss of the Client Data or the Transaction Data processed by it, including as may be prescribed in the Operational Requirements. Merchant will not enable the submission of Client Data or Transaction Data to the Pay@ Gateway by persons other than Authorised Users authorised thereto in accordance with the Operational Requirements.

7.10 ***Authorisations.*** Merchant shall ensure that it and its Authorised Users obtains and maintains all licences, authorisations, permissions and consents as may be required in Law to have the Transactions executed on Merchant's behalf and to provide any related Transaction Data and/or Client Data to Pay@ and the Networks and to authorise Pay@ and the Networks to collect, process and share such Client Data and Transaction Data in the manner as contemplated herein. Merchant will, upon Pay@ request, provide Pay@ with proof to the satisfaction of Pay@ that Merchant and its Authorised Users hold the necessary licences, authorisations, permissions and consents and Merchant will immediately notify Pay@ in writing of the expiry or termination of any such licence, authorisation, permission or consent.

7.11 ***Applicable Law.*** Merchant shall comply with and shall ensure that its Authorised Users comply with applicable Law in using the Gateway Services and shall take all reasonable steps to procure that the Gateway Services is used by its Clients only for lawful purposes and accordingly Merchant shall:

7.11.1 ensure that the Merchant Products provided by it are compliant with applicable Laws and that it and, where required by Law, its Authorised Users, hold all required licenses, registrations and authorisations to make available the Merchant Products to Clients and to have Pay@ and the Networks collect and make payments hereunder on its behalf with respect to such Merchant Products;

7.11.2 verify that the Operational Requirements enable compliance with applicable Law insofar as it pertains to the collection of payments for its particular Merchant Products and notify Pay@ of any requirement in such applicable Law which requires an amendment of the Operational Requirements in order for the Merchant or its Authorised Users or for Pay@ or the Networks or Authorised Recipients acting for and on behalf of the Merchant to comply with such requirement;

7.11.3 not and ensure that its Authorised Users to not restrict Clients' use of the Gateway Services or of any particular payment mechanism or charge Clients for any Bank Charges or other Fees in contravention of applicable Law;

7.11.4 ensure compliance with Transaction Amount thresholds specified by Law and not authorise Transactions in excess thereof or for Clients prohibited by Law from conducting a Transaction;

7.11.5 to the extent required thereto by Law, procure Client identification, sanction screening and fraud detection, and ensure anti-money laundering analysis, keeping of Transaction records and reporting on Transactions to the relevant Authorities, all in compliance with applicable Law;

7.11.6 take all reasonable steps to prevent use of the Gateway Services to facilitate fraud and other illegal activities, including by monitoring for and not authorising any fraudulent or suspicious Transactions; and

7.11.7 be responsible for and shall obtain and maintain appropriate consents from Clients authorising Pay@ and the Networks to collect, share, process and store the Client Data on its behalf as contemplated herein;

and Merchant hereby indemnifies Pay@ and the Networks against any claims, fines or penalties that may be imposed on any of them as a result of a failure to comply with any of the aforesaid.

8. COMPENSATION

8.1 ***Fees***. Merchant shall be liable for and shall pay all Fees payable in respect of Services supplied by Pay@ pursuant to the Merchant Subscription on the basis set out herein.

8.2 ***Adjustments.*** Pay@ may adjust all Fee rates in accordance with its annual pricing cycle and practices generally applicable to its customers like Merchant, which may include publication of the adjusted Fee rates on the relevant Pay@ website. The amounts of Bank Charges that may be recovered from Merchant may be adjusted in line with any adjustments thereto by the relevant banks, while any fixed amount Fees pertaining to the Transactions or Services may be adjusted at least once on 1 March annually taking into account *inter alia* the change in CPI.

8.3 ***Tax***. The Fees shall exclude all taxes, duties, tariffs, rates, levies and other governmental charges payable in respect of the rendering of the Gateway Services, which shall be payable by the Merchant in addition to the Fees.

8.4 ***Transaction Amounts.*** Merchant must designate in writing at least one bank account with a registered bank in the Territory for remittance and settlement to it of the Transaction Amounts collected on its behalf. Merchant will provide Pay@ for its approval with suitable written evidence from the bank to verify the details of any account designated by it hereunder. Pay@ shall not be obliged to make payment to any bank account that has not been so verified and approved by it as Designated Account for the Merchant. Merchant accepts that any payment by Pay@ to a Designated Account shall constitute valid and effective discharge of Pay@'s obligations to make such payment.

8.5 ***Reporting and Remittance.*** Pay@ will provide Merchant with a daily payment report regarding Transactions duly authorised by Pay@ for Merchant reflecting *inter alia* the aggregates of the Transaction Amounts confirmed by the Pay@ Gateway for payment for such day as well as any retentions, refunds and chargebacks applied thereto (**"the Aggregate Daily Payment Amounts")** and the Fees due to Pay@ in respect of the Transactions involved. Unless otherwise agreed in writing, Pay@ will within 2 (two) Business Days remit and pay over to Merchant the Aggregate Daily Payment Amounts as received by it from the Networks for each day by transferring it into the relevant Designated Account(s), provided that Pay@ may retain and withhold settlement of such Transaction Amounts as may be required for it to establish and maintain the specified Refund Security. Pay@ will duly notify Merchant of such withholdings in the corresponding payment report. All settlements shall be made in South African rand unless otherwise agreed in writing. If any amount is paid over hereunder due to an error or fraud, Pay@ may add to or deduct such amount from any subsequent payment made by it to Merchant, and it will duly notify Merchant thereof in writing. Alternatively, Pay@ may require a refund from Merchant for any such amount and Merchant will effect such refund within 48 hours of Pay@'s demand therefore.

8.6 ***Chargebacks and Refunds.*** Merchant will be liable to settle Pay@ for any Transaction Amounts refunded to or charged back for Clients within 1 (one) Business Day of such refund or chargeback being confirmed to it by Pay@ and Pay@ may use the funds held as Refund Security for this purpose. Failing settlement in full to Pay@ of such Transaction Amounts for any reason, Pay@ may deduct the outstanding Transaction Amounts from any Aggregate Daily Payment Amount payable to Merchant and pay over such Aggregate Daily Payment Amount net of such Transaction Amounts. Pay@ will duly notify Merchant of such deduction in the corresponding payment report.

8.7 ***Refund Security.*** Depending upon the Merchant Products involved in the Transactions, the value of the Aggregate Daily Payment Amounts and the risk profile of the Merchant, Pay@ may retain a specified amount or portion of the Transaction Amounts collected on behalf of Merchant as Refund Security. Pay@ may use the funds held as Refund Security to settle any amounts payable to it and/or to the Networks as and when they become payable and particularly for settlement to it and its Networks of any Transaction Amounts that may be refunded to or charged back for Clients. Any remaining funds held by Pay@ as Refund Security upon termination of a Merchant Subscription shall be transferred to Merchant within 30 (thirty) days of such termination becoming effective. Pay@ may reasonably adjust the amount of funds to be held as Refund Security from time to time by giving written notice thereto.

8.8 ***Invoicing and Fees***. Pay@ will provide Merchant with a consolidated monthly report, tax invoice and statement for the Transactions processed and the Fees due on a monthly basis in arrears. Unless otherwise agreed or if the net settlement option is agreed for a Merchant Subscription, Pay@ may deduct the Fees directly from the Aggregate Daily Payment Amounts payable to Merchant and pay over such Aggregate Daily Payment Amounts net of the Fees. If the gross settlement option is agreed for a Merchant Subscription, the Fees will, unless otherwise agreed in writing, be paid by the Merchant by way of direct deposit into the bank account duly designated for such payment by Pay@ within 7 (seven) Business Days of date of invoice therefor. Failing such payment for any reason, Pay@ may deduct the Fees from any Aggregate Daily Payment Amount payable to Merchant and pay over such Aggregate Daily Payment Amount net of the Fees. Pay@ will duly notify Merchant of such deduction in the corresponding payment report. Furthermore, if payment of Fees is delayed or overdue for any reason, Pay@ may elect to commence applying the net settlement option to Fees notwithstanding that gross settlement was agreed for the Merchant Subscription. Pay@ will duly notify Merchant of such change in payment option in the corresponding payment report.

8.9 ***Payment Disputes.*** Merchant shall be responsible to review promptly and raise any dispute it may have regarding the contents of Pay@ payment reports and invoices as soon as practically possible after receipt thereof and in any event within no more than 3 (three) months of such report or invoice being delivered to it, failing which the content of such documents shall be deemed true and accurate in all material respects and no further claims or disputes shall be permitted in respect of the contents thereof. If there is any dispute about the amounts due to any Party, the Parties shall appoint an independent registered public accountant to act as an expert. If the Parties are unable to reach agreement as to the appointment of such independent registered public accountant, an independent registered public accountant shall be appointed at the request of either Party by the President for the time being of the South African Institute of Chartered Accountants (or the successor body thereto). The independent registered public accountant shall act as an expert and not as an arbitrator and the Parties shall provide each other and any such expert with any and all information that it may reasonably require in order to determine the correct amount payable. Such expert's decision shall be final and binding on the Parties. The cost of the aforesaid determination shall be borne by the Parties in equal shares unless a Party is found to be materially in default, whereupon the defaulting Party shall bear the costs of such expert. A correcting payment in the amount as determined by the expert shall be paid to the non-defaulting Party within 14 (fourteen) days of the determination.

8.10 ***Transaction Disputes.*** Merchant accepts that Transaction disputes may be raised by Clients for determination in accordance with the standard dispute processes applicable to the types of payment involved and that the determinations made pursuant to such processes will be binding and final. In principle, the risk of liability for Transactions that are processed incorrectly, fraudulently or without the necessary authority, including with respect to liability for chargebacks and refunds, will be ascribed to the person that causes such processing to occur.

9. WARRANTIES

9.1 ***Warranty of Authority***. Each Party warrants that it has the legal right and full power and authority to accept each Merchant Subscription.

9.2 ***Merchant Warranties.*** Merchant warrants and represents that :

9.2.1 it is duly authorised and has and shall maintain all such licences, authorisations, permissions and consents as may be required under Law for each designated Merchant Product to appoint Pay@ and authorise Pay@ to appoint the Networks to facilitate payment of the Transaction Amounts on its behalf and process the corresponding Client Data and Transaction Data as contemplated under each Merchant Subscription, including from all relevant Authorities and Clients as well as from its Principal Insurer and/or Sponsoring Bank, where applicable; and

9.2.2 the information as provided by it in respect of the Merchant Subscription is complete, true and accurate, including as it may pertain to the type and nature of the Merchant Products specified to be involved.

9.3 ***Disclaimer of warranties***. Each Party hereby excludes and disclaims all warranties, whether expressed or implied, statutory or otherwise, except those warranties expressly made in these terms.

9.4 ***No representations***. Each Party acknowledges that it has not been induced to enter into the Merchant Subscription by any prior representations, warranties or guarantees, whether oral or in writing, except as expressly contained in these terms.

10. CONFIDENTIAL INFORMATION

10.1 ***Confidentiality obligation***. Each Party ("**Receiving Party**") must treat and hold as confidential all Confidential Information which they may receive from the other Party ("**Disclosing Party**") or which becomes known to them.

10.2 ***The Receiving Party's obligations***. The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in the Disclosing Party's Confidential Information, unless the Disclosing Party has expressly agreed otherwise in writing –

10.2.1 the Receiving Party will only make the Confidential Information available to those of the Receiving Party's Personnel who are actively involved in the execution of the Receiving Party's rights or obligations and then only on a "need to know" basis;

10.2.2 the Receiving Party will only use and will ensure that its Personnel only uses the Confidential Information for the purposes of executing its rights or obligations;

10.2.3 the Receiving Party will not and will ensure that its Personnel does not at any time either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any Confidential Information of the Disclosing Party to any third party other than as allowed in terms hereof;

10.2.4 the Receiving Party will initiate internal security procedures at least as strict as it uses for its own information of a similar nature to prevent unauthorised use and disclosure and will take all practical steps to impress upon those Personnel who need to be given access to Confidential Information, the secret and confidential nature thereof;

10.2.5 all written instructions, drawings, notes, memoranda and records of whatever nature relating to the Confidential Information of the Disclosing Party which have or will come into the possession of the Receiving Party and its Personnel, will be and will at all times remain the sole and absolute property of the Disclosing Party and shall promptly be handed over to such Disclosing Party upon request; and

10.2.6 the Receiving Party shall promptly notify the Disclosing Party if it becomes aware of any breach of confidence in respect of the Confidential Information of the Disclosing Party by any person within it or by any person to whom it has divulged such Confidential Information and shall give the Disclosing Party all reasonable assistance in connection with any proceedings which it may institute as a result.

10.3 ***Exceptions***. The aforegoing obligations shall not apply to any information which –

10.3.1 is lawfully in the public domain at the time of disclosure;

10.3.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;

10.3.3 is already lawfully known to the Receiving Party prior to the time of disclosure;

10.3.4 subsequently becomes available to the Receiving Party from a source other than the Disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such information; or

10.3.5 is disclosed pursuant to a requirement or request by an Authority or by operation of Law.

11. LIMITATION OF LIABILITY

11.1 ***Direct damages limited***. Except to the extent that such limitation is not permitted by applicable Law and without limiting a Party's obligations hereunder to make payment of Transactions Amounts or Fees, either Party's maximum aggregate liability to the other Party for all amounts whatsoever claimed from it in connection with a Merchant Subscription during any 12 (twelve) month period shall be limited to the total of the Fees exclusive of all Bank Charges paid or payable to Pay@ in respect of such period under such Merchant Subscription, irrespective of the form (whether in contract, delict, statute or otherwise) of such legal action.

11.2 ***Indirect damages excluded***. In no event shall a Party or its Personnel be liable for any indirect, incidental, extrinsic or special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including, without limitation, any loss of profits, loss of revenue, loss of goodwill, loss or corruption of data, business interruption, third party claims or other pecuniary loss arising out of a the unavailability, delay in delivery or reliance on the systems, services, payments or data to be provided in connection with a Merchant Subscription) arising in connection with any Merchant Subscription, whether based on contract, delict, statute or otherwise, except to the extent that the limitation of liability contained herein is not permitted by applicable Law.

12. BREACH AND TERMINATION

12.1 ***Termination for Cause***. Should either Party ("Defaulting Party") –

12.1.1 commit a material breach of a Merchant Subscription or of these terms as they apply to such Merchant Subscription, and fail to remedy such breach within 30 (thirty) calendar days of having been called upon in writing by the other Party to do so; or

12.1.2 fail to pay any amount due that is more than 60 (sixty) calendar days outstanding; or

12.1.3 commence with business rescue proceedings; or

12.1.4 defer or suspend payment of all or substantially all of its debts or is unable to pay its debts as and when they fall due; or

12.1.5 effect or attempt to effect a compromise or composition with the Defaulting Party's creditors; or

12.1.6 take steps for its voluntary winding up or be provisionally or finally liquidated or be placed in judicial management, whether provisionally or final or ceases to conduct business;

then, without prejudice to any other rights or remedies it may have in Law, the other Party ("**Innocent Party**") may, in its discretion, terminate the Merchant Subscription or Service component to which the event relates on written notice to the Defaulting Party, such termination to take effect on the date specified in the notice.

13. EFFECT OF TERMINATION

13.1 ***Effect of termination of Merchant Subscriptions***. The termination or expiry of any one Merchant Subscription will not affect the validity of any other Merchant Subscription.

13.2 ***Amounts due.*** On termination of any Merchant Subscription or Gateway Services for any reason, all amounts already due in respect of the terminated Gateway Services shall become payable immediately.

13.3 ***Duties upon termination***. Upon termination, cancellation or expiry of any Merchant Subscription or any Gateway Service -

13.3.1 Merchant shall cease using and ensure that its Authorised Users cease using all the affected Gateway Services and Pay@ will be entitled to take any steps required to prevent any further access or use by Merchant, the Authorised Users and the Clients of such Gateway Services; and

13.3.2 each Party shall deliver, or at the other Party's option destroy, and procure the delivery of or destruction by its Authorised Users, of all originals and copies of the other Party's Confidential Information and proprietary materials in its or their possession or under its or their control that is relevant to the affected Gateway Services and will certify its compliance herewith promptly upon request by the other Party, provided that both Parties may retain their records of the Transaction Data and any such other records of Confidential Information as may be required by them to comply with applicable Law; and

13.3.3 each Party shall immediately cease to use, whether by advertising or in any other manner whatsoever, any of the other Party's trademarks in connection with the affected Gateway Services and Merchant shall discontinue immediately all promotions of the affected Gateway Services and refrain from doing anything that would indicate that it is still able to make or receive payments via such Gateway Services.

13.4 ***Accrued Rights.*** The expiry or termination of a Merchant Subscription or Service shall be without prejudice to any rights of the Parties accrued thereunder as at the date of such expiry or termination.

13.5 ***Survival***. Termination of a Service or a Merchant Subscription shall not affect the enforceability of the provisions herein which have been specified or are by their nature required to operate after

such expiry or termination, including without limitation, the following provisions: Clause 1 (Application), clause 2 (Definitions), clause 10 (Confidential Information), clause 11 (Limitation of Liability), clause 13 (Effect of Termination), clause 15 (Dispute Resolution), clause 16 (Assignment), clause 17 (Non-Solicitation), clause 18 (Severability), clause 19 (Notices and Domicilia), clause 20 (General).

14. **FORCE MAJEURE**

14.1 ***Parties not liable for force majeure***. Neither Party shall be liable for any failure to fulfil its obligations with respect to a Merchant Subscription if and to the extent such failure is caused by any circumstances beyond its reasonable control, including but not limited to acts of God, natural disasters, earthquakes, fire, explosions, floods, hurricanes, extreme weather, riots, wars, (whether declared or not), hostilities, revolutions, civil disturbance or usurped authority, accidents, embargo or requisition, unforeseeable acts (including failure to act) of any governmental authority (*de jure* or *de facto*), sabotage, nuclear incidents, epidemics, general power failures, general communications failures, strikes over which the affected Party have no control, or the failure of any institution whose consent is required for the performance of any obligation hereunder to provide such consent, or delays in the performance of its sub-contractor caused by any such circumstances as referred to in this clause. The right of relief shall apply irrespective of whether the cause of prevention or delay occurs before or after the agreed due time for such obligations.

15. **DISPUTE RESOLUTION**

15.1 ***Informal Resolution***. Should any dispute arise between the Parties in relation to a Merchant Subscription or these terms or any issue arising therefrom:

15.1.1 The authorised representatives, as appointed by each Party, shall meet as soon as reasonably practicable (but no less than 5 days of such meeting being requested in writing by either Party) to try to resolve the dispute and shall, if required by either Party, continue to negotiate for at least five (5) consecutive days (or such other period as may be agreed by the Parties in writing);

15.1.2 If the dispute had not been resolved at the meeting pursuant to Clause 15.1.1, the dispute shall be referred to an urgent meeting of the Chief Executive Officers of the Parties or such representatives as may be appointed by their Chief Executive Officers. This meeting is to take place within five (5) days of the matter being referred to them or such other period as may be agreed by the Parties in writing;

15.1.3 If the dispute has not been resolved within 5 days of the meeting contemplated in Clause 15.1.2 (or such other period as may be agreed by the Parties in writing), either Party may refer the dispute to arbitration in accordance with the terms of Clause 15.2.

15.2 ***Arbitration***. In the event of there being a dispute relating to or arising out of a Merchant Subscription, including regarding the scope, effect, validity, implementation, execution, interpretation, rectification, termination or cancellation thereof or of these terms, which is not resolved in accordance with Clause 15.1 then, save where otherwise provided in these terms, such dispute shall be finally resolved on the terms as provided for below:

15.2.1 In the event of any such dispute or difference arising between the Parties the said dispute or difference shall on written demand by any Party to the dispute be submitted to arbitration in Cape Town in the English language in accordance with the rules of AFSA.

15.2.2 The arbitrator shall be, if the matter in dispute is principally:

(a) a technical matter, an independent technical expert of not less than 10 years experience in the relevant technical area;

(b) an accounting matter, an impartial chartered accountant of not less than ten (10) years standing;

(c) a legal matter, an impartial practising advocate of not less than ten (10) years standing;

15.2.3 If the parties fail to agree whether the matter in dispute is of a legal, accounting or technical nature within seven (7) days after the arbitration has been demanded, it shall be considered to be a legal matter referred to in Clause 15.2.2(c) above.

15.2.4 Should the Parties fail to agree in writing on an arbitrator within 10 (ten) days after arbitration has been demanded, the arbitrator shall be nominated at the request of either Party by the Chairman of the Western Cape Bar Council.

15.2.5 Each of the Parties hereby irrevocably agrees that the decision of the arbitrator in the arbitration proceedings:

(a) shall be final and binding on each of them; and

(b) will be carried into effect; and

(c) can be made an order of any competent Court to whose jurisdiction the parties are subject.

15.2.6 Each Party expressly consents to any arbitration in terms hereof being conducted as a matter of urgency; and irrevocably authorises the other Party to the dispute to apply, on behalf of all Parties to the dispute, in writing, to the secretariat of AFSA, in terms of the AFSA rules, for the arbitration to be conducted on an urgent basis.

15.2.7 Any arbitration in terms of this clause 15.2 shall be conducted in camera and the Parties shall treat as confidential and not disclose to any third party details of the dispute submitted to arbitration, the conduct of the arbitration proceedings or the outcome of the arbitration, without the written consent of the other Party.

15.2.8 This clause 15.2 shall constitute each Party's irrevocable consent to the arbitration proceedings described herein, and no Party shall be entitled to withdraw from such proceedings or to claim at such proceedings that it is not bound by this clause.

15.3 ***Urgent Relief***. Nothing herein contained shall be deemed to prevent or prohibit a Party from applying to any appropriate Court for an interdict, urgent relief, enforcement of Intellectual Property Rights or for judgment in relation to a liquidated claim.

15.4 ***Severability***. The provisions of this clause 15 are severable and will continue to be binding on the Parties notwithstanding any termination or cancellation of the Merchant Subscription or any part thereof.

16. **ASSIGNMENT**

Neither Party shall be entitled to cede, assign, delegate or otherwise transfer any of its rights or obligations in relation to a Merchant Subscription without the prior written consent of the other Party. By giving the other prior written notice, either Party may cede its rights and delegate its obligations in relation to a Merchant Subscription to any entity which acquires all or substantially all of its assets or business or to any successor entity in a merger or acquisition.

17. **NON-SOLICITATION**

For the duration of a Merchant Subscription and for a period of 12 (twelve) months after its termination (for whatsoever reason) and save to the extent otherwise agreed in writing, neither Party shall, directly or indirectly, solicit for employment any employee of the other Party involved in the supply of the Gateway Services, nor shall it solicit, entice, encourage or persuade any such employee to terminate his/her employment with the other Party. General advertisements by a Party will not be considered direct or indirect solicitation and the appointment of a person pursuant to an unsolicited response to such advertisement will not be prohibited hereunder.

18. **SEVERABILITY**

18.1 ***Reading Down.*** If a provision in these terms is reasonably capable of an interpretation which would make that provision valid and enforceable and an alternative interpretation that would make it void, illegal, invalid or otherwise unenforceable, then that provision shall be interpreted, so far as is possible, to be limited and read down to the extent necessary to make it valid and enforceable.

18.2 ***Severability***. If the whole or any part of a provision of these terms is void or voidable by either Party or unenforceable or illegal, the whole or that part (as the case may be) of that provision, shall be severed, and the remainder of these terms shall have full force and effect.

19. **NOTICES AND DOMICILIA**

19.1 ***Addresses***. The Parties hereby choose domicilium citandi et executandi ("**Domicilium**") for all purposes under a Merchant Subscription the physical addresses specified for the Merchant Subscription.

19.2 ***Change of Address***. Either Party may give written notice to the other, change its Domicilium to any other physical address in the Republic of South Africa, provided that such change shall take

effect 14 (fourteen) calendar days after delivery of such written notice.

19.3 ***Deemed Delivery***. Notice will be deemed given –

19.3.1 if delivered by hand to a responsible person during Business Hours to the designated physical address, on the date of delivery;

19.3.2 if sent to the designated physical address by an express courier with a system for tracking delivery, when received; and

19.3.3 if successfully sent by email during Business Hours to an email address designated by the recipient for the delivery of notices then on the day of sending, and if outside such Business Hours then at the beginning of the next Business Day.

19.4 ***Notice actually received***. Notwithstanding anything to the contrary stated above, if a notice or communication is actually received by a Party, adequate notice or communication shall have been given, even though it was not delivered in a manner described above.

20. **GENERAL**

20.1 ***Independent Contractors.*** The Merchant Subscription does not create a fiduciary relationship between the Parties. The Parties act as independent contractors and, save for clause 7.1, nothing is intended to make either Party a general or special agent, joint venture, partner, or employee of the other for any purpose and neither Party shall have any authority to bind, make any express or implied agreements, warranties, guarantees or representations or incur any debt or liability in the name of or on behalf of the other.

20.2 ***Entire Agreement***. The Merchant Subscription, these terms and any documents expressly incorporated into either by reference constitute the entire agreement between the Merchant and Pay@ in respect of its subject matter and supersede and replace all other agreements, representations or warranties between the Parties pertaining to the subject matter contained in the Merchant Subscription, which will no longer be binding on the Parties as from the Effective Date thereof.

20.3 ***Variation***. No amendment or modification to a Merchant Subscription or these terms shall be effective unless in writing and signed by authorised signatories of both the Merchant and Pay@.

20.4 ***Waiver***. No latitude, granting of time or forbearance of a Party hereto regarding the performance of the other Party shall be or be deemed to be a waiver of any term or condition and no waiver of any breach shall operate a waiver of any continuing or subsequent breach. No waiver shall be effective unless it is expressly stated in writing and signed by the Party giving it.

20.5 ***Governing Law and jurisdiction***. The Merchant Subscription and these terms shall be governed and construed according to the laws of the Republic of South Africa and, subject to clause 8.9 and clause 15, the Parties agree to submit to the exclusive jurisdiction of the Western Cape High Court, Cape Town regarding any and all disputes arising in connection with the Merchant Subscription.

20.6 ***Publicity***. Neither Party will make or issue any formal or informal announcement or statement to the press in connection with a Merchant Subscription without the prior written consent of the other Party, provided that either Party may name the other of them as a client or supplier as appropriate and disclose the general nature of the overall arrangement between them.