

PocketPOS MERCHANT AGREEMENT

Agreement between:

Nedbank Limited

Registration number: 1951/000009/06

of

135 Rivonia Road, Sandown, Sandton

(Nedbank or we or our or us)

and

(((name of sole proprietor, close corporation, company, other entity, etc)))

Registration number: ((reg no)) (where applicable)

of

((physical address and trading address if trading address differs from physical address))

(The Merchant or you or your)

The business of the Merchant is that of

((full description of the nature of business as described in the incorporation documents))

The number of the nominated bank account is: ((account no))

at the ((branch name))

branch of ((bank name))

The Merchant's business URL is ((URL))

The Merchant's VAT registration number is: ((VAT reg no))

IT IS RECORDED THAT:

You wish to market and sell your goods and/or services using the Service; and

you want to appoint us as your Acquiring Bank to effect settlement of the purchase of goods and/or services using the Service, subject to the terms and the conditions set out below.

1 INTERPRETATION

- 1.1 Clause headings are for ease and convenience only and must not be used to interpret the Agreement.
- 1.2 Words and expressions will bear the meanings assigned to them and related expressions will bear corresponding meanings.
- 1.3 Any reference to the singular includes the plural and vice versa, any references to natural persons include legal persons and vice versa, and references to any gender include the other genders.
- 1.4 The validity and interpretation of the Agreement will be governed by the laws of the Republic of South Africa.

2 DEFINITIONS

- 2.1 **Acquirer or Acquiring Bank** means the institution that will provide you with a service to allow you to accept payment by Card. The Acquiring Bank will facilitate or process Customer transactions to the card-issuing banks and will perform settlement to you.
- 2.2 **Amex** means American Express®.
- 2.3 **AMT** stands for authenticated mobile PIN and means a Card Not Present bank-PIN-authenticated mobile transaction.
- 2.4 **Business** means the business as you described on the first page of the Agreement.
- 2.5 **Card** means a credit or debit card issued by an issuing bank, which will include but is not limited to, among others, a Visa, MasterCard, American Express and Union Pay International card.
- 2.6 **Card Schemes** means any major Card Scheme, including but not limited to, Visa, MasterCard, Union Pay International and American Express.
- 2.7 **Card Not Present** means a Card payment transaction processed without the presence of a physical Card, either by way of a manual entry of Card details or online capture of Card details for E-commerce transactions, in other words where the physical Card has not been swiped, dipped or tapped by means of a reader.
- 2.8 **Chargeback** means a procedure where an issuing bank charges a Transaction back to the Acquiring Bank and subsequently debits you in line with the card Scheme rules.
- 2.9 **Chargeback Fee** means an administration fee that we charge you for processing a Chargeback.
- 2.10 **Commencement Date** means the date you sign the Agreement.
- 2.11 **'Customer or Card Holder'** means the consumer making a purchase from you by using the Service.
- 2.12 **Day** means any day, other than a Saturday, Sunday or official public holiday in the Republic of South Africa;
- 2.13 **3D Secure** means an authentication method approved by a Card Scheme that enables the secure processing of payment card transactions in E-commerce.
- 2.14 **E-commerce** means electronic commerce and includes a transaction performed by means of electronic media in a non-face-to-face environment.
- 2.15 **Intellectual Property** means any knowhow (not in the public domain), invention (whether patented or not), design, trademark (whether or not registered), software or copyright material (whether or not registered), processes, process methodology (whether patented or not), and all other identical or similar intellectual property as may exist anywhere in the world that is not in the public domain and any applications for registration of the intellectual property.
- 2.16 **Intellectual Property Rights** means, in relation to any Intellectual Property, all and any proprietary rights to that, or any other right, title, authority or entitlement held by any party in respect of that, whether under licence or otherwise.

- 2.17 **Masterpass** means Nedbank Masterpass.
- 2.18 **Masterpass Compatible App** means the application a Customer will install on a smartphone and/or tablet or similar technology, which will allow a Customer to load Card details to create a digital wallet and scan Masterpass QR codes.
- 2.19 **M-commerce** means an E-commerce transaction performed through wireless and/or mobile electronic media.
- 2.20 **Merchant Device** means a point-of-sale (POS) device, mobile phone or tablet.
- 2.21 **Payment Amount** means the amount the Customer will pay you for the goods and/or services you sell to him.
- 2.22 **Personal Information** means identification documents, business registration documentation or tax documents, your Transaction information as well as information relating to you or an identifiable, living, natural person, which includes, but are not limited to, any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person and the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.
- 2.23 **PCI DSS** means Payment Card Industry Data Storage Standards as stipulated by the respective Card Schemes.
- 2.24 **PocketPOS** means the PocketPOS Application that is downloaded from the phone's App Store and it may include the card acceptance device that is optional and at an additional cost. The PocketPOS Application offers Tap on Phone contactless payment acceptance and Masterpass QR code Acceptance on compatible mobile devices. The optional card acceptance device offers card swipe and EMV transactions.
- 2.25 **Process** means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including:
- 2.25.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use of information;
- 2.25.2 the dissemination by means of transmission, distribution or making available in any other form of information; or
- 2.25.3 the merging, linking, as well as restriction, degradation, erasure or destruction of information.
- 2.26 **QR Code** means a Quick Response Code generated to enable you to process Transactions. It is a machine-readable code consisting of either an array of black and white squares or a linked numeric code, typically used for storing URLs or other information. The QR Code can be a Static QR Code or a Dynamic QR Code:
- 2.26.1 **Static QR Code** means a QR code that has a predetermined value or will allow the Customer to input a value; and
- 2.26.2 **Dynamic QR Code** means a QR code that is linked to specific purchases.
- 2.27 **Service** means the services and product that we provide to you, as described in paragraph 3.
- 2.28 **Smart Device** means a compatible electronic device operated by the Customer, including a smartphone or tablet.
- 2.29 **Transaction** means a monetary transaction in terms of which you accept payment of the Payment Amount through the Service.
- 2.30 **Tap on Phone** means the functionality on the PocketPOS application that allows the customer to tap their card directly on your phone using near-field communication (NFC). You require an Android Mobile Device with NFC capability and operating system 7.0 or higher. Tap on Phone only accepts contactless payments from Mastercard and Visa Cards.
- 2.31 **URL** means a Uniform Resource Locator and is a reference (an address) to a resource on the internet.
- 2.32 The words **we**, **us** and **our** mean Nedbank Limited (Reg No 1951/000009/06).
- 2.33 Nedbank Limited (Reg No 1951/000009/06) operates as American Express Cards under licence in South Africa.
- 2.34 **Website** means pages on the internet belonging to you and holding your information.
- 2.35 The words **you** and **your** mean the Merchant reflected on the first page of the Agreement.

3 THE SERVICE

- 3.1 The Service provided by us to you includes Business Management features such as:
- 3.1.1 Access reports on transactions performed in your business.

- 3.2 The Service is used for trading in a physical store environment.
- 3.3 The Service includes Payment Acceptance features.
- 3.3.1 For all transactions the normal Nedbank authorisation process for Card acceptance must be applied. This process is enforced by the PocketPOS Application provided you follow the Card acceptance process for use of PocketPOS as we prescribe. We reserve the right to decline authorisation, without explanation.
- 3.3.1.1 An authorisation granted under any provision of this clause does not constitute evidence or a warranty:
- 3.3.1.1.1. that payment will eventually be made by us;
- 3.3.1.1.2. that the Card is valid;
- 3.3.1.1.3. that the Card is genuine (ie that the Card is not counterfeit); and/or
- 3.3.1.1.4. that the person presenting the Card is the Customer.
- 3.3.1.2 An authorisation is merely an indication that the relevant account has sufficient funds to meet payment on the authorisation date and that the card has not been reported lost or stolen at the time the card was presented for payment.
- 3.3.2 You can accept and process cards from Card Schemes
- 3.3.2.1 All Card transactions where the physical card is present must be processed as follows:
- 3.3.2.1.1. the Customer must be present when the transaction is processed;
- 3.3.2.1.2. the Customer must verify his/her identity by entering his/her valid PIN into the PocketPOS card acceptance device or by signing the transaction receipt; the PocketPOS Application will instruct you which method is required for Customer verification;
- 3.3.2.1.3. transactions may be processed by inserting the Card for the chip to be read or swiping the card for the magnetic strip to be read using the PocketPOS card acceptance device;
- 3.3.2.1.4. Tap on Phone transactions may be processed by the Customer tapping his/her contactless-enabled Mastercard or Visa Card on your NFC-capable Android mobile device that has the PocketPos Application;
- 3.3.2.1.5. Masterpass transactions may be processed by the Customer scanning the Masterpass QR code displayed in the PocketPos Application.
- 3.3.2.2 A transaction will be incomplete:
- 3.3.2.2.1. if the card is taken out of the slot before the transaction is completed; and/or
- 3.3.2.2.2. if the chip technology fails during the transaction; and/or
- 3.3.2.2.3. if the telecommunications are interrupted during the transaction flow.
- 3.3.3 You can accept Masterpass payments.
- 3.3.3.1 Customers will use the Masterpass Compatible App to scan the QR Code or a Customer may manually input the numeric code linked to the QR Code to perform a Transaction.
- 3.3.3.2 The Cards the Customer loads onto the Masterpass Compatible App may not necessarily be compatible with the Service.
- 3.3.3.3 The Service will automatically accept Payment Amounts from compatible Visa, Mastercard and Amex-issued Cards.
- 3.3.3.4 All Service Transactions will be authenticated either by 3D Secure, AMT or another accepted authentication method.

4 DURATION

- 4.1 The Agreement will come into force on the Commencement Date and will remain in force until terminated, for any reason, by either party on 30 days' written notice.
- 4.2 It is specifically agreed that we may suspend the Service or terminate the Agreement immediately for regulatory or statutory reasons as well as for any reason considered material by us.
- 4.3 Termination of the Agreement will not affect any obligations or rights of either party existing before or on the date of termination.

You have the responsibility to ensure your business data is exported from PocketPOS before your agreement is terminated.

5 BREACH

- 5.1 If you breach or otherwise default on any obligations in terms of the Agreement, we will give you five days' written notice to remedy the breach. If you fail to comply within five days, or if you are unable to remedy the breach, we will may either suspend the Service or terminate the Agreement without further notice. Alternatively, we may insist on immediate performance and/or payment from you of all obligations or amounts you owe us under the Agreement, without prejudice to any other legal rights we may have, including the right to claim damages.
- 5.2 If you are non-compliant with any Card Scheme rules, act illegally in any manner, do not pay any amount as specified in Annexure A, submit high levels of fraudulent Transactions or Chargebacks, breach any Intellectual Property Rights or protection of Personal Information obligations as set out in the Agreement, commit any act of insolvency or effect a compromise or composition with creditors, or if a creditor institutes insolvency proceedings against you, we will have the right to suspend the Service and/or terminate the Agreement immediately.

6 MERCHANT'S RIGHTS AND OBLIGATIONS

- 6.1 You agree to conclude Transactions in compliance with the terms and conditions of the Agreement and in a manner that complies with all laws, rules and regulations.
- 6.2 You may only use the PocketPOS as supplied by us or our appointed agents on the terms and conditions as set out in this Agreement.
- 6.3 You have to clearly display all PocketPOS promotional material that we supply, indicating that you accept certain Cards for payment for goods and/or services. You also undertake to replace or remove the material immediately when we request you to do so.
- 6.4 You can accept and process cards from Card Schemes where the cards are:
- 6.4.1 genuine, signed, correct and valid;
 - 6.4.2 issued by a Bank or a Card Issuer in its original form;
 - 6.4.3 not rejected by the equipment;
 - 6.4.4 authorised for use by us; and
 - 6.4.5 presented by the Customer.
- 6.5 A transaction is invalid if:
- 6.5.1 it is/or appears to be a fraudulent transaction, illegal and/or unenforceable;
 - 6.5.2 the Card had expired at the time of the transaction;
 - 6.5.3 the card is not approved by us;
 - 6.5.4 you accept a mutilated, defaced, blank or illegible Card;
 - 6.5.5 you breach any of the provisions of clauses 5 and/or 6 and/or has breached any other provisions of this agreement at the time of the transaction; and/or
 - 6.5.6 it is subject to a chargeback in terms of the Card Scheme rules.
- 6.6 The value of an invalid Card transaction may be debited against the nominated bank account at any time by us or may be recovered from you in any other way by us.
- 6.7 Before concluding a sale you must verify that the Card presented complies with clauses as referenced elsewhere in the agreement. You specifically accept responsibility for and assumes all risk relating to fraudulent and invalid transactions.
- 6.8 If the PocketPOS cannot read the electronic magnetic strip and/or chip, the transaction will be declined and the Customer should use another means of payment. You acknowledge that the functionality to manually enter Card details on the PocketPOS for the purpose of completing a transaction is not available.
- 6.9 If the PocketPOS cannot obtain authorisation for the transaction by connecting online to our systems, the transaction will be declined and the Customer should use another means of payment. You acknowledge that the functionality to enter transaction authorisation details manually on the PocketPOS for the purpose of completing a transaction is not available.

- 6.10 Under no circumstances may you ask the Customer to disclose his/her PIN.
- 6.11 You are responsible for the control and use of your credentials to access features within PocketPOS and indemnify us against and agree to hold us harmless from any direct or indirect damage, loss, claims, costs and the expenses incurred or suffered by us as a result of or in connection with the use of your access credentials.
- 6.12 You will under no circumstances be allowed to store any Card data, including, but not limited to, the PIN, Card or Account number formation.
- 6.13 You must refund the Customer in the case of:
- 6.13.1 damaged goods;
 - 6.13.2 no proof of delivery of goods or services rendered by you; and
 - 6.13.3 incorrect delivery of a specified order.
- 6.14 You specifically agree to comply with all Card Scheme rules.
- 6.15 You must, at your own cost, provide telecommunication connectivity and data to facilitate the Service and you are liable for any data costs you need to incur to be able to use the Service.
- 6.16 You may not charge more than your normal cash price for the goods and/or services to subsidise any fees or costs you may incur when processing Transactions.

7 YOUR PERSONAL INFORMATION

- 7.1 To use the Service you must give us the Personal information we request from you when you apply for the Service or any other Personal Information we may request from you from time to time. If you do not or cannot give us any required Personal Information, we may suspend or terminate your account immediately. We may delay settlement of any Transactions until we have received all documentation we require from you.
- 7.2 You authorise us to:
- 7.2.1 take all steps as we may deem necessary to verify the Personal Information you submit to us;
 - 7.2.2 retain and process any Personal Information you give to us;
 - 7.2.3 give any confidential information relating to any account operated by you with us for any reason to any person (including, without limitation, any credit bureau) in line with generally accepted banking practice; and
 - 7.2.4 visit your business premises if and when we consider it necessary.
- 7.3 You give us consent that we may share your Personal Information with any third parties to render the Service to you.
- 7.4 You grant us consent to disclose your Personal Information to any Card Scheme, card issuer and other financial institution for use in any fraud prevention schemes.
- 7.5 You also grant us consent to disclose your information to the Member Alert to High-Risk System and to your Performance Reporting Service for the purpose of helping us and other card issuers to identify merchants who are, or are suspected of being, or are likely to become, involved in fraud or in any other fraud prevention matter.
- 7.6 You specifically understand, due to the nature of the Smart Device and software used, that various location settings and other information for the Smart Device may automatically be disclosed to us. You hereby consent to us using the information for all lawful purposes, which includes theft and fraud prevention. Information that we will be given access to will among others include your physical location and geographically where transactions were processed on the Smart Device.
- 7.7 Should you not wish the above location settings and other information to be disclosed to us, the Smart Device or software will allow you to turn off the location settings, and therefore disallow us access to the information.

8 MERCHANT'S BUSINESS

- 8.1 You undertake to accept Cards in payment for goods and/or services relating only to the Business, which goods and/or services may not be sold or produced in contravention of any common-law, statutory or regulatory provision. You must notify us in writing within three days if there is any change in the nature of your Business or in the ownership of the business.
- 8.2 In the event of changes, irrespective of any clause to the contrary in the Agreement, we may:
- 8.2.1 terminate the Agreement immediately without giving notice or reasons; or

- 8.2.2 continue with the Agreement, subject to any amendments that we consider appropriate, including our right to re-sign the necessary documents and agreements, and reassess you.

9 LIABILITY SHIFT

- 9.1 If you have complied with all your procedures as set out in this Agreement, then the liability for any resultant chargebacks will shift from you to the issuing bank.
- 9.2 If you do not follow your procedures as set out in this Agreement, the liability for any resultant chargeback will shift from the issuing bank to you and you will be liable for these chargebacks.

10 PAYMENT CARD INDUSTRY

- 10.1 When you process Card transactions, you must at all times comply with PCI DSS to avoid a Card data breach incident and therefore you are under an obligation to:
- 10.1.1 complete a self-assessment questionnaire when we request you to do so at your own cost;
- 10.1.2 comply with the requirements of the PCI DSS as published by the Payment Card Industry Security Standards Council from time to time; and
- 10.1.3 grant an appointed Nedbank forensic investigator access to your premises and access to related Merchant devices to conduct an investigation in the event of a Card data compromise incident.
- 10.2 In the event of a Card data compromise incident you will be liable for the associated cost of an investigation, and or Card Scheme penalties and fees related to these incidents if the data compromise incident is attributable to you.

11 FRAUDULENT TRANSACTIONS

- 11.1 Fraudulent transactions include:
- 11.1.1 any purchase and/or transaction arising from the use of a Card or Card number by a person other than the authorised Customer;
- 11.1.2 acceptance of a card that is not acceptable to us, i.e. use of a card that has not been issued by Visa, Mastercard and American Express; or UnionPay International; and
- 11.1.3 any duplicate transaction.
- 11.2 We reserve the right to levy a charge to you, the percentage of which will be determined with reference to the fraud basis points generated by the Card Schemes, and which will be debited to the nominated bank account.
- 11.3 Should fraudulent transactions account for more than 8% of your sales turnover as reflected through your PocketPOS, in any month, we may review this agreement without prejudice to any other rights that this agreement may confer on us, in line with Visa, Mastercard and American Express excessive fraud procedures.
- 11.4 You agree that it will always be responsible for the actions of your employees.

12 CHARGEBACKS

- 12.1 Any Transaction may be charged back to you by reason of:
- 12.1.1 a Customer dispute;
- 12.1.2 a Transaction reversal;
- 12.1.3 actual or suspected lack of authorisation;
- 12.1.4 unlawful or suspicious Transactions; or
- 12.1.5 Transactions processed outside the terms of the Agreement.
- 12.2 It is your responsibility to request Transaction information from us if a Customer disputes a Transaction or raises a Chargeback.
- 12.3 You will be liable to us for the full amount of the Chargeback amount as well as any associated fees, penalties and charges.

- 12.4 We will debit the Transaction amount from your Nominated Bank Account or any other bank account holding sufficient credit in your name.
- 12.5 We may hold the Transaction amount in advance for potential Chargebacks until the Chargeback process has been completed.
- 12.6 You agree that you will assist us to investigate any Transactions and that we will share Personal Information with the relevant Customers, Issuers, financial institutions and regulators as required to investigate a Chargeback.
- 12.7 You agree and accept full Chargeback liability for all fraud incurred on any Card at its establishment, whether or not the Chargeback is regarded as a result of fraudulent Card usage.

13 NOMINATED BANK ACCOUNT

- 13.1 You may not change the nominated bank account without first giving seven days' written notice to Nedbank Card.
- 13.2 You must direct any query relating to payments into and/or charges to the nominated bank account to Nedbank Card within 30 days of the date of the relevant bank statement, failing which you will have no claim against us in this respect.

14 PRESENTATION FOR PAYMENT AND SETTLEMENT

- 14.1 The PocketPOS is programmed to perform automated daily settlement within a specified timeframe.
- 14.2 Any payment not reflected in the nominated bank account must be queried within a period of seven days of the date of settlement.
- 14.3 We reserve the right to net settle you at our sole discretion. Net settle means the transaction value less your commission.
- 14.4 We reserve the right to withhold settlement of a given Batch or part of that while investigating potential irregularities.
- 14.5 Deposits into the nominated bank account will be regarded as payment of money into this account only once each Card transaction has been honoured.
- 14.6 While we act in good faith and exercises reasonable care, it cannot be held liable if any deposit (or Transaction) is dishonoured for any reason.

15 AUTHORITY GIVEN TO NEDBANK TO DEBIT

- 15.1 You irrevocably authorise us to debit the nominated bank account, as referred to in the preamble, with the following:
 - 15.1.1 your commission;
 - 15.1.2 adjustments for any errors, whether on your or our part of;
 - 15.1.3 reversals of invalid transactions;
 - 15.1.4 adjustments in respect of fraudulent entries/items;
 - 15.1.5 any dishonoured deposits;
 - 15.1.6 any penalty levied by a Card Scheme for the contravention of its regulations and/or operational risk parameters;
 - 15.1.7 all Nedbank service and other charges prevailing at the time, including stamp duties, VAT, chargeback fees, transaction fees, stationery fees, setup fees and other charges relating to this agreement;
 - 15.1.8 the amount of any card transaction where you fail to supply us with a Merchant's voucher requested in terms of this Agreement;
 - 15.1.9 interest;
 - 15.1.10 equipment rental, insurance and other fees;
 - 15.1.11 chargebacks.
 - 15.1.12 the Replacement value in the case of Rental Merchants;

- 15.2 Interest will accrue on all amounts outstanding at the maximum interest rate permitted by law at the time (as certified by any manager of Nedbank), calculated from the due date until the date of final payment, both days inclusive.
- 15.3 We are authorised to debit any other account of yours held at Nedbank or any other financial institution with items listed in this Agreement, in the event that debits to the nominated bank account are unsuccessful.

16 CONFIDENTIAL INFORMATION

We may:

- 16.1 take all steps we consider necessary to verify the information contained in your application form;
- 16.2 retain and process any information that you provided; and
- 16.3 provide any confidential information relating to any account operated by you at Nedbank to any person (including any credit bureau) in accordance with any law, the Code of Banking Practice or generally accepted banking practice.

17 COMMISSION/FEES/CHARGES FOR POCKETPOS SERVICES

- 17.1 You will pay us the fees as set out in Annexure B to this agreement, which will reflect monthly in your statement. These fees and charges may include, if applicable, the but not be limited to the following:
- 17.1.1 Initiation fees, which is payable once-off in advance.
- 17.1.2 Merchant Services Commission (MSC).
- 17.1.3 Monthly Usage Fees.
- 17.1.4 The full purchase price of the PocketPOS that have been ordered if you have elected to purchase the PocketPOS.

18 POCKETPOS CARD ACCEPTANCE DEVICE PURCHASE

- 18.1 You will:
- 18.1.1 before delivery of the PocketPOS device pay us the purchase price of the PocketPOS card acceptance device;
- 18.1.2 become the owner of the purchased PocketPOS card acceptance device; on delivery of the device;
- 18.1.3 remain liable for any damage suffered as a result of theft or physical damage to the PocketPOS card acceptance device; and/or Accessories.

We will not supply you with a replacement PocketPOS card acceptance device; should the PocketPOS become defective after the Maintenance Period and you will be liable for a new PocketPOS card acceptance device.

19 EQUIPMENT AND USE THEREOF

- 19.1 On successful application and payment of fees, the PocketPOS card acceptance device will be delivered to the delivery address stated in this agreement.
- 19.2 You must, at your own cost, provide a mobile phone or tablet for the PocketPos Application.
- 19.3 You are responsible for the setup of PocketPOS and connectivity to your mobile device (smartphone or tablet) to enable PocketPOS to process transactions. We will provide telephonic support to merchants should merchants contact the Nedbank Contact Centre for assistance during the PocketPOS setup process or transaction processing.
- 19.4 We will not be liable for any telecommunications failure that may result in failed Transactions.
- 19.5 You must download the PocketPOS Application, which is subject to the terms and conditions as contained in this agreement.
- 19.6 You must always keep the PocketPOS fully charged (where applicable) and in a safe place. You must also ensure that the PocketPOS is used with due skill and care, and only in the manner and for the purpose for which it is designed and intended, in line with your business as specified in this agreement.

- 19.7 You must ensure that the PocketPOS is always operated in line with the law.
- 19.8 If we suffer any damage due to your direct or indirect abuse of the PocketPOS, the cost of the damage will be debited to the nominated bank account together with any other associated costs.
- 19.9 If you do not make use of the PocketPOS solution for an extended period of time, the PocketPOS account may become inactive and dormant due to non-use; you must ensure that the PocketPOS account is active and activated by trying to perform a transaction before making use of the PocketPOS Services.
- 19.10 You may not sell, assign, mortgage, encumber or otherwise dispose of, deal with or part with the PocketPOS (or any interest in it) under this agreement or attempt to do so without our prior written consent.

20 OWNERSHIP AND RISK

All risk relating to the PocketPOS including, but not limited to, loss, damage theft, destruction and unauthorised use of the PocketPOS, arising from any cause whatsoever (including acts of God), will pass to you and will remain yours on delivery of the PocketPOS Card Acceptance Device.

- 20.1 If the equipment becomes non-compliant with industry standards, you will be obliged to purchase new equipment, which is compliant with industry standards, from Nedbank or a Nedbank-approved supplier.
- 20.2 We reserve the right to terminate your Agreement should you choose not to purchase new equipment, as detailed elsewhere in this Agreement.

21 WARRANTIES

- 21.1 The PocketPOS Card Acceptance Device hardware will be under warranty during the Maintenance Period, subject to the following terms:
- 21.1.1 The warranty will start from the date of delivery of the PocketPOS Card Acceptance Device to your delivery address.
- 21.1.2 We will replace a PocketPOS Card Acceptance Device with a new PocketPOS Card Acceptance Device (replacement PocketPOS) while under warranty if we find the PocketPOS Card Acceptance Device to be defective and you have returned the original defective PocketPOS Card Acceptance Device to us.
- 21.1.3 We will deliver the replacement PocketPOS Card Acceptance Device to you by courier at our expense.
- 21.1.4 You must facilitate the return of a defective PocketPOS Card Acceptance Device to our repair centre.
- 21.1.5 You must furnish us with your proof of payment of the purchase price of the PocketPOS.
- 21.1.6 Should we refund you, we will refund the cost of the PocketPOS Card Acceptance Device only and will not refund the administration fee incurred by you.
- 21.1.7 You will not have card acceptance capability for the period between the time you return the PocketPOS Card Acceptance Device to us and the time we deliver the replacement PocketPOS Card Acceptance Device to you.
- 21.1.8 The warranty will not extend to defects:
- 21.1.8.1 caused by the actions of you or for reasons attributable to you;
- 21.1.8.2 if you do not update the PocketPOS Application and or software with updated versions as and when these versions become available; and
- 21.1.8.3 if you do not make use of the PocketPOS for an extended period of time, allowing the PocketPOS to go dormant.
- 21.1.9 You will not receive a replacement PocketPOS after the Maintenance Period and must purchase a new PocketPOS.

22 INTELLECTUAL PROPERTY

- 22.1 We grant you a non-assignable and non-exclusive licence to use the Service.

- 22.2 Subject to any Intellectual Property Rights held by any other third parties, we retain all Intellectual Property and Intellectual Property Rights in and to all Intellectual Property in connection with the Service and specifically to any Masterpass logos, the Masterpass App, Merchant Portal and QR Code(s).
- 22.3 You may not copy, republish, distribute, adapt, modify, alter, decompile, reverse-engineer or attempt to derive the source code of works or create a derivative thereof, or otherwise attempt to reproduce the Masterpass App, Merchant Portal and QR Code, their respective content, including any Intellectual Property in that, their respective designs, any updates to the proprietary features and/or any proprietary features in relation to them, or any parts of them.

23 DISCLAIMER

- 23.1 We will not accept liability for incorrect Transaction details you submit to us.
- 23.2 We do not guarantee uninterrupted availability of the Service.
- 23.3 We do not accept liability for failed Transactions if Transactions fail for reasons beyond our control, including, but not limited to, a telecommunication connectivity failure.
- 23.4 We do not warrant that the Service will be error-free nor that the Service will perform to any particular standard.
- 23.5 You use the Service at your own risk.
- 23.6 If you do not notify us of changes to its contact details, we will not be liable for any loss you may suffer if we cannot contact you or if you do not receive notifications or other documents or information from us.

24 INDEMNITY

- 24.1 You indemnify us against:
- 24.1.1 all losses, liabilities, damages or expenses that we may sustain or incur as a result of, or attributable to, any claim instituted by anyone in connection with your act(s) or omission(s) in terms of the Agreement or in connection with our act(s) or omission(s) relating to the Agreement, unless the claim arose as a direct or indirect consequence of our gross negligence or wilful misconduct;
- 24.1.2 any liability arising from any dispute you may have with a Customer in respect of any goods and/or services you sold to the Customer using the Service;
- 24.1.3 any claim by a Customer pertaining to your use of the Customer's Personal Information;
- 24.1.4 all claims, expenses and other liabilities we suffer or incur as a result of any third-party claims initiated and/or instituted against us relating to your unauthorised use of Intellectual Property.

25 SERVICE OF NOTICES AND LEGAL PROCESS

- 25.1 The parties choose their respective physical addresses on the first page of the Agreement, or the other address as either party may notify to the other in writing, as *domicilia citandi et executandi* (the address at which each party must serve legal notices).
- 25.2 All notices to be delivered in terms of the Agreement must be in writing and delivered by hand and will be regarded as having been received on the date of delivery.

26 GENERAL

- 26.1 The Agreement, as we may amend it from time to time, constitutes the entire agreement between the parties in respect of the subject matter.
- 26.2 We may add to, amend or replace all or any of the terms and conditions of the Agreement by giving notice of that. We will communicate any amendments to you by email and will use the email address you provide to us on the Agreement application form. If you do not agree to the amendments so communicated to you, you may, subject to any outstanding obligations you may have and subject to the terms of the Agreement, terminate the Agreement by giving us notice to that effect. If you do not terminate the Agreement, you will be deemed to have accepted the amendment(s) or new terms and conditions.

- 26.3 A certificate of indebtedness signed by a Nedbank authorised manager will be regarded as sufficient proof of the particulars included in it for purposes of provisional sentence, summary judgment or any other purpose.
- 26.4 No failure, delay, relaxation or indulgence on our part in exercising any power or right conferred on us by the Agreement will operate as a waiver of the power or right, nor will it change or cancel any of the terms and conditions of the Agreement.
- 26.5 You acknowledge that, apart from what is recorded in the Agreement, we have given no warranty, express or implied, concerning our obligations under the Agreement or for any provisions contained in it.
- 26.6 The terms of the Agreement will, for each part, be deemed to be entire, separate and severable and separately enforceable in the widest sense from the rest of the Agreement.
- 26.7 Should any provision of the Agreement be found by any competent court to be defective or unenforceable for any reason whatsoever, the remaining provisions of the Agreement will continue to be of full force and effect.
- 26.8 The Agreement is subject to the rules and regulations of the Card Schemes relating to card acquiring procedures, as amended from time to time.
- 26.9 You confirm that you have read the terms and conditions of the Agreement and that you understand them and that the Agreement correctly reflects the parties' intentions and constitutes all arrangements entered into between the parties.
- 26.10 If the Agreement is in conflict with another acquiring agreement you have with us, the terms of the Agreement will be subordinate.

27 COMMENCEMENT, ACCESS REQUIREMENTS AND RELATED SECURITY OBLIGATIONS

- 27.1 You must download the PocketPOS App from any applicable App store or any other store that may be enabled by us. In addition, downloads may be enabled on any authorised Nedbank site, a Nedbank website, a Nedbank internet banking site, or any other Nedbank-approved electronic channel.
- 27.2 The terms and conditions of this Agreement are applicable to the access and use of the PocketPOS App.
- 27.3 The terms and conditions of this Agreement will remain in force and binding on the you until the you either terminates the Agreement or terminates use of the PocketPOS App.
- 27.4 To enable the PocketPOS you are required to apply to us for access to the PocketPOS Service. Purchase of the PocketPOS and downloading of the PocketPOS App does not automatically guarantee that you will be approved as a merchant.
- 27.5 You must at all times keep your PIN and any other personal details relating to the login procedure (Access Details) secret and take all reasonable precautions to prevent any unauthorised or fraudulent use of your Access Details.
- 27.6 We confirm that we have reasonable security safeguards in place to protect your Access Details and other Personal or confidential Information you gave us via the PocketPOS App. However, you accept that, while we will take all reasonable steps to prevent security breaches in respect of the PocketPOS Services, any information sent over an unsecured link or communication system is susceptible to unlawful monitoring, interception or access by a third party, for which we will not be responsible.
- 27.7 You agree to enter your correct Access Details when registering for the PocketPOS Services, failing which you will be prevented from accessing the PocketPOS Services.
- 27.8 You acknowledge that (i) the Access Details are for your exclusive use only; (ii) you will not share passwords with other users nor disclose any personal details and/or Access Details in relation to accessing or using the PocketPOS Services to any third party or record these details in any way that may result in the Access Details becoming known to a third party; and (iii) once the correct Access Details have been entered and submitted to us, we will accept and process all instructions relating to the PocketPOS Services accessed by way of those Access Details, irrespective of whether the Access Details may have been entered fraudulently or otherwise without your authority.
- 27.9 You agree not to respond to any email or other unsolicited correspondence that requests your Access Details (you will only receive an SMS from us when you register for access to the mobile services, as detailed in clause 1.5 above, if we communicate to you regarding the termination or the amendment of this agreement and if you initiated any transaction using your Access Details).
- 27.10 You must notify us immediately when becoming aware of or reasonably suspecting any unauthorised access to or use of their Access Details by contacting us on the telephone number in clause 7. You are required to take appropriate steps to minimise any loss or harm that may result from unauthorised access.

28 GRANT OF LICENCE AND TERMS OF USE

- 28.1 We hereby grant you a licence to install and download the PocketPOS App and to access and use the PocketPOS Services available via the PocketPOS App on a compatible mobile phone or any other portable communication device (Mobile Device) owned and/or lawfully controlled by you, for your personal use only. This licence is not exclusive and we will also allow other users to download the PocketPOS App. The licence is limited to use by you alone and you cannot transfer it.
- 28.2 You may use the PocketPOS Services only for purposes that are not illegal and you may not allow any third party to use the PocketPOS Services.
- 28.3 You must also not (nor will it allow or cause any third party to):
- 28.3.1 tamper, decompile, edit, reverse engineer, disassemble, attempt to derive the source code of or modify the PocketPOS Services, nor use the PocketPOS Services to develop functionally similar software applications to those available via the PocketPOS App;
 - 28.3.2 use or exploit the PocketPOS App for commercial gain under any circumstances whatsoever or copy the PocketPOS Services except as may be expressly allowed in terms of this agreement;
 - 28.3.3 sublicense, distribute, export or resell the PocketPOS Services (whether in whole or in part) or otherwise transfer any rights therein;
 - 28.3.4 remove any proprietary or intellectual property rights notices or labels that appear on the PocketPOS Services or that appear on or are used in relation to the Mobile Services; or
 - 28.3.5 exercise any other right to the PocketPOS Services not expressly granted in this agreement.
- 28.4 You must ensure that you download and use the latest version of the PocketPOS App. If you do not install the latest version of the PocketPOS App, the Mobile Services may not function correctly or you may experience security and/or data flaws, for which we will not be liable under any circumstances.
- 28.5 If you download the PocketPOS App from a mobile application store, you may be required to comply with and will be bound by terms and conditions prescribed by the mobile application store. The terms and conditions are separate to and specifically do not form part of the terms contained in this agreement.
- 28.6 Mobile Device requirements and related security obligations:
- 28.6.1 We do not warrant that the PocketPOS Services will be compatible with nor that it will operate with every type of Mobile Device.
 - 28.6.2 You acknowledge that the display, layout, look and feel of the content of the Mobile Services may differ depending on the Mobile Device being used to access the Mobile Services.
- 28.7 You acknowledge that, for the PocketPOS App to load and/or to function, you are fully responsible for:
- 28.7.1 ascertaining whether the Merchant's Mobile Device is appropriate and compatible for operation of the PocketPOS Services;
 - 28.7.2 the continued functionality of the Mobile Device on which the PocketPOS App has been installed and downloaded, including for ensuring that the Mobile Device is (i) in good working order; (ii) at all times updated to run on the latest version of your operating system; and (iii) operating in accordance with the relevant Mobile Device manufacturer's specifications.
 - 28.7.3 the Mobile Device that you use to access the Mobile Services and Nedbank will not be responsible for and disclaims any liability for losses that may arise due to any defect in the Mobile Device. You agree that you will (i) not leave your Mobile Device unattended or accessible in any manner by any third party while you are still logged onto the Mobile Services; (ii) not save your Access Details to your Mobile Device; and (iii) immediately inform us of any fraudulent or unauthorised use of the Mobile Services by any third party.
 - 28.7.4 if your Mobile Device is lost or stolen, you will inform us immediately by contacting us on the telephone number in clause 7. You acknowledge that you will remain responsible for all transactions that may be processed via the PocketPOS Services up to the time that you report the loss or theft to us.
- 28.8 Third-party telecommunications
- 28.8.1 You acknowledge that (i) we will not be responsible for any mobile operator or service provider's network and/or Wi-Fi (wireless internet access) connectivity preventing or negatively impacting its access to the Mobile Services; and (ii) your Mobile Device network operator (cellphone service provider) or internet service

provider may charge you for access and use of the Mobile Services via a mobile network or Wi-Fi connection, and you will be solely responsible for these charges.

- 28.8.2 The use of the PocketPOS Services is in addition to and not in substitution of other online channels provided by us. You acknowledge that the PocketPOS Services are subject to downtime (times when the services are of necessity not available) and that we may, from time to time, fully or partially interrupt access to the PocketPOS Services, whether for maintenance purposes or otherwise. You may be able to use other banking channels in the event that the PocketPOS Services are interrupted.

29 OWNERSHIP AND INTELLECTUAL PROPERTY

- 29.1 We own all right, title and interest in and to PocketPOS and all information, documentation and proprietary products made available via the PocketPOS App. No licence or other right or interest in or to the PocketPOS is granted to you except for the licence rights specifically set forth in this agreement.
- 29.2 You may not duplicate or reproduce in any way the PocketPOS and information, documentation and proprietary products made available via the PocketPOS without our express prior written consent.
- 29.3 In respect of third-party software (such as operating systems and internet browsers) that may be used by you to operate or use the PocketPOS, you acknowledge that we are not a party to any third-party software licence agreement entered into by you with a third-party software licensor. We provide no warranties regarding the software, including, without limitation, warranties relating to the suitability for a particular purpose, security features or performance. You acknowledge that the use of third-party software will be at your own risk and you indemnify us against and hold us harmless from any and all loss or damage that you may suffer as a result of the use, abuse or possession of third-party software.

ANNEXURE A

DELIVERY ADDRESS

Recipient name: _____

Recipient contact number _____

Recipient email address _____

Select address type: _____

Residential address:

Business address:

COMPLEX/BUILDING DETAILS:

Complex/Building name: _____

Floor: _____

Unit number: _____

Street: _____

Suburb: _____

City/Town: _____

Postal code: _____

ANNEXURE B

Nedbank PocketPOS pricing

Item	Price	Once off/Monthly	Payment due
The PocketPOS App that includes Tap on Phone and Masterpass payment acceptance on compatible mobile phones	Free	Free	None
The PocketPOS card acceptance device	Including VAT is R1 199,00	Once off	Once-off upfront payment before PocketPOS card acceptance device is couriered to you. This fee is fully refundable should you decide to return the device within the 30-day warranty period.
Device delivery fee (admin fee)	including VAT is R115,00	Once off	This fee is not refundable should you decide to return the device within the Maintenance Period.
Merchant Service Commission	The rate for your commission exclusive of VAT is 2,75%	Monthly	Your commission is calculated on the total value of all Transactions you deposit into the nominated bank account and payable by you to us.

- 1 We reserve the right to vary your commission and transaction fee and any other fees provided for in the agreement on written notification to you, which notification may be included in but will not be limited to a letter, statement message, statement insert or email.
- 2 Data cost and the cost of smart phone/tablet are not included and are for your account.