

**Agreement type: Account service terms**

**Service terms: Netcash Account Service Terms and Operator Agreement**

between

**Netcash (Pty) Ltd**

Registration Number: 2001/019308/07

("Netcash")

and

**{RecipientAccountRegisteredName}**

Registration Number: {RecipientAccountRegNo}

(the "Client")

### **Overview**

Netcash (Pty) Ltd provides a myriad of services to businesses. By leveraging its position as a processing facility which can assist with debit orders, salary and creditor payments, risk management and credit bureau data, e-Commerce, Netcash provides wide-ranging services to businesses who stand to benefit from the economies of scale that Netcash can leverage from Third Party providers. Put simply, Netcash can do it cheaper because we have the volume to negotiate reduced rates. We also do it better.

This Account Service Terms, also referred to as the Master Agreement, is intended to cover all the above services and as such needs an introduction if it is to be understood. The Account Service Terms contains the terms and conditions that are common to all the services. Of course, there are various terms and conditions that are unique to a particular service and when that occurs those terms will be contained in an Annexure specific to that service. As a result, any service needs to be understood by putting the Account Service Terms and the relevant Annexure/s together.

What this system allows us to do is ensure that you read the least amount of text, while at the same time ensuring that both you and Netcash are both protected by a complete and legally compliant Agreement.

After signing this Account Service Terms and the relevant Annexures, whenever the terms and conditions of a service are updated, you will be notified electronically and given the opportunity to cease using the service or continue using the service under the amended terms and conditions. This flexibility is essential to our business and ensures that there are no breaks in our service to you, even when new legislation is introduced.

Finally, please remember that where there is a conflict between the Annexures and the Account Service Terms, the Annexures will prevail, so please read the Annexures carefully.

We wish you well in your business and trust that together, we can make your business grow.

## Table of Contents of Account Service Terms

1	Interpretation .....	3
2	Introduction and Recordal.....	4
3	Commencement and Duration .....	4
4	Relationship of Parties .....	4
5	Undertakings by Netcash .....	4
6	Netcash Operator Agreement with Clients .....	5
7	Undertakings by Client.....	6
8	Security.....	7
9	Fees and Payment .....	8
10	Confidentiality Undertaking .....	9
11	Intellectual Property .....	9
12	Marketing and Announcements .....	10
13	Breach .....	10
14	No-fault Termination .....	10
15	Summary Termination .....	11
16	Consequences of Termination .....	11
17	Warranties.....	11
18	Disclaimer and Limitation of Liability .....	11
19	Acts beyond a Parties Control.....	12
20	Assignment or Cession .....	13
21	Address for Legal Notices .....	13
22	Whole Agreement, Amendment Policy .....	14
23	No Waiver.....	14
24	Legal Costs.....	14
25	Consent to Investigation into Credit Records.....	15
26	Applicability of the Consumer Protection Act .....	15
27	Consent to provide Value add Services .....	15

## 1 Interpretation

---

1.1 Where figures are referred to in numerals and words, then the latter shall prevail in the event of any dispute.

1.2 Any reference to an enactment shall be deemed to mean that enactment as at the date of signature hereof or as amended or re-enacted, from time to time.

1.3 When any number of days is prescribed in the Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday, or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

1.4 The headings used in this Agreement shall be deemed not to be part of the Agreement and will not be taken into consideration in the interpretation or construction of this Agreement.

1.5 This Agreement shall be binding on both Netcash and the Client and their successors in title. Any reference in this Agreement to a Party shall, if such Party is liquidated or sequestrated, be applicable also to and binding upon that Party's liquidator or trustee, as the case may be.

1.6 The Annexures attached to this Agreement form part hereof and words and expressions defined in this Agreement shall bear, unless stipulated otherwise therein, the same meanings in such Annexes or Schedules.

1.7 In the event of any conflict between any Agreement between the Parties, the conflict will be resolved in favour of the document with the highest priority as set out below:

1.7.1 Annexures to this Agreement (Highest Priority); and

1.7.2 This paper Agreement (Lowest Priority).

1.8 Where any term is defined within the context of any clause in this Agreement, 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 terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause or the definitions clause.

1.9 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

1.10 The rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply.

1.11 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it and the application of the *eiusdem generis* rule (which means "of the same kind or nature"), is excluded.

1.12 If any provision of this Agreement is unenforceable or invalid under law, the remaining substance of such provision and remaining provisions of this Agreement shall continue to be binding and in full force and effect provided the essential economic benefits of this Agreement are retained.

## 2 Introduction and Recordal

---

2.1 Netcash conducts business providing the Netcash Services to Clients as more fully set out in the Annexures.

2.2 The Client wishes to enter into an agreement whereby it will be able to have access to Netcash Services subject to the terms and conditions of this Agreement.

## 3 Commencement and Duration

---

3.1 This Agreement shall commence on the Signature Date and shall endure indefinitely or may be terminated prior in terms of clause 13 ('Breach'), 14 ('No-fault Termination') or 15 ('Summary Termination').

3.2 Notwithstanding clause 3.1, Netcash will only provide the Netcash Services from the Commencement Date as set out in each Annexure.

## 4 Relationship of Parties

---

4.1 Unless otherwise specified in the relevant Annexure, Netcash does not act as the Clients agent nor is there any relationship of joint venture or partnership between the Parties.

4.2 The Parties hereby acknowledge that they are in a position where each would have access to confidential information of the other and be in a position to affect the others business negatively and as such, undertake to act towards each other with the utmost good faith in strict confidence and in compliance with the Protection of Personal Information Act No. 4 of 2013 ("POPIA"), as may be amended, from time to time.

## 5 Undertakings by Netcash

---

5.1 Subject to clause 17 ('Warranties') and clause 18 ('Disclaimer and Limitation of Liability') Netcash will:

5.1.1 Ensure compliance with all applicable South African legislative, regulatory, and statutory requirements including those requirements of Authorities.

5.1.2 Comply with the reasonable standard of care expected of a Payments Association of South Africa ("PASA") member.



5.1.3 In conducting its business activities, in so far as it pertains to the subject matter contemplated in this Agreement, apply such standards of reasonable care in respect of its information management practices as can reasonably be expected from a person conducting the Netcash Services.

5.1.4 Use its best endeavours to notify the Client before any scheduled maintenance of any hardware, software or telecommunication systems relating to the Netcash Services.

5.1.5 Ensure its antivirus and firewall software are constantly updated and monitored.

5.1.6 Accept full liability for any direct loss suffered by the Client because of data which is lost or compromised due to any fault within the Netcash systems, over which it has control. This warranty does not extend to Third Party Services which are beyond the control of Netcash; and

5.1.7 Accept responsibility for non-compliance with the terms and conditions as set out by the South African Bankers Services Company Limited ("BankservAfrica").

5.1.8 Retain records of payments to third persons on behalf of the Client for a period of 5 (five) calendar years or such further time, as legislation requires.

5.1.9 Keep the records of the Client separate and distinct from other accounts.

5.1.10 Not offset any mutual obligations between the Client and other users of the Netcash Services.

5.1.11 Be adequately insured against any claims by the Client or its Customers.

5.1.12 Maintain an adequate audit trail of Transactions from the Commencement Date onwards.

## 6 Netcash Operator Agreement with Clients

---

6.1.1 When Netcash functions as an operator for the Client (Responsible Party) in terms of the Protection of Personal Information Act No. 4 of 2013 ("POPIA"), it will only process the personal information of the Client's Customers for the purposes set out in the Netcash Privacy Notice and Promotion of Access to Information Act No. 2 of 2000 ("PAIA") Manual, unless otherwise required by law or in the proper performance of Netcash's duties.

6.1.2 Netcash will not use any sub-contractors (sub-operators) for the purpose of processing personal information of the Client's Customers, except for the sub-contractors named in the Netcash Privacy Notice, which may be updated, from time to time.

6.1.3 Netcash will not transfer personal information outside of South Africa, except as set out in the Netcash Privacy Notice.

6.1.4 Netcash will use reasonable security measures and inform its Clients (Responsible Parties) of any actual or suspected security compromise as set out in clause 8 ('Security') below.

6.1.5 Netcash will maintain the confidentiality of the personal information as set out in clause 10 ('Confidentiality') below.

## 7 Undertakings by Client

---

7.1 The Client represents and warrants to Netcash that:

7.1.1 it shall, from the Commencement Date onwards always comply with the applicable legislative, regulatory and statutory requirements including those requirements of Authorities.

7.1.2 it shall from the Commencement Date onwards promptly make any necessary changes, as required by Netcash from time to time, to comply with South African legislation and/or any Authority.

7.1.3 it acknowledges that once the correct Profile information has been entered and submitted to Netcash through the Profile, Netcash will accept all instructions, irrespective of whether the Profile information may have been entered fraudulently or otherwise without the Clients authority.

7.1.4 it will in all times act in good faith and will not conduct its business or represent Netcash in any way to tarnish the reputation of Netcash.

7.1.5 it will not pass off as Netcash by means of publishing details to such effect, nor will it make use of the Netcash or Third-Party Intellectual Property (including the Netcash name or logo) in any of its communications (including on its websites, marketing literature) or marketing strategies, without the prior written consent of Netcash, as the case may be.

7.1.6 it will retain records of the Transactions for a minimum period of 5 (five) calendar years from the date of the Transaction or such further time as the applicable legislation requires.

7.1.7 it will be responsible for the actions of its employees and ensure that it does not present any Transactions that it did know or should have known, were fraudulent.

7.1.8 it will be responsible for the loss and/or maintenance of any telecommunications infrastructure which it uses to access the Netcash Services (including direct data links).

7.1.9 it will maintain an adequate audit trail of transactions from the Commencement Date onwards; and

7.1.10 it will immediately inform Netcash in writing when the Super User must be removed from the Netcash System, due to him/her no longer being authorised to represent the Client and confirm in writing who the Client's newly appointed and duly authorised Super User is, to be set-up and activated in the Netcash System.

## 8 Security

---

8.1 As required by s19 of POPIA, Netcash will use reasonable security in a manner consistent with a Payments Association of South Africa ("PASA") member. This includes consistent assessment of security threats, identifying and implementing safeguards to protect against threats to security and confidentiality.

8.2 Netcash shall provide the Client with relevant Access Codes to access the Netcash System and be able to use the Netcash Services. These Access Codes constitute an electronic signature in terms of the Electronic Transactions Act No. 25 of 2002.

8.3 The Client will ensure that the security of all Access Codes relating to Netcash are maintained according to the higher standard of care that is due when dealing with financial transactions and will promptly inform Netcash should it suspect that any Access Codes have or could have been compromised.

8.4 The Client shall be required to set up and maintain adequate security procedures and standards as advised by Netcash from time to time, from the Commencement Date onwards. This includes necessary antivirus and firewall software programs, physical security and security of information including authentication and encryption.

8.5 The Parties shall immediately bring to the attention of the other Party any breach or attempted breach of security of which it becomes aware, as required by the POPIA. Either Party may fully investigate such breach or attempted breach and the other Party shall give its full co-operation with such investigation. The Parties shall immediately upon detecting a breach or attempted breach, take such steps as are necessary to prevent a recurrence thereof and to mitigate the effects of such breach. Netcash will provide guidelines on the procedure for reporting security breaches which the Parties must comply with.

8.6 The Client is required to appoint a Super User who must sign this Agreement and must be duly authorized in writing to represent the Client. This Super User is empowered to access all the services for which the Client is authorized and has the power to add, delete and vary the details of other users who are granted access on the request of the Client. The Client undertakes to immediately notify Netcash if the Super User ceases to represent the Client. If the Super User no longer represents the Client, the Super User personally agrees to immediately notify Netcash in writing of this and furthermore agrees to cease using any electronic Access Codes that he / she has to the Netcash Services, on behalf of the Client.

8.7 Netcash may from time to time require that the Super User confirm his / her details as a security precaution. Failure to comply with the necessary requirements as advised from time to time could result in Netcash disabling the Clients access to the Netcash System for all Users until such time that the security procedures are complied with.

8.8 In the event that Netcash learns – by any means - that the Super User no longer represents the Client it can immediately suspend the Clients account at Netcash until such time as a new, authorized Super User is appointed.

8.9 Netcash will from time to time advise the Client of the minimum requirements which are required to use the Netcash Services. These minimum requirements include minimum specifications



relating to computer hardware, computer software and telecommunications services which the Client must have to be able to use the Netcash Services.

8.10 The Client acknowledges that for the protection of both Parties, any personal information of the Client and its Customers will be regulated by Netcash's Privacy Notice and PAIA Manual in accordance with POPIA and the Promotion of Access to Information Act No.2 of 2000, respectively.

## 9 Fees and Payment

---

9.1 Each of the Netcash Services has their own fee system and can be found in the relevant Annexure and/or electronic notice of fees.

9.2 Netcash uses a tiered fee system that is based on volume or value and is negotiated with each individual Client.

9.3 From the Commencement Date onwards Netcash will invoice the Client for any Netcash Services and will be charged to the Clients Netcash Account statement free of any deductions unless such amount has already been deducted by Netcash in terms of this Agreement.

9.4 The Client shall be solely responsible for the invoicing and collection of fees/payments from the Clients Customers. In the event of no or slow payment on the part of a Client Customer, the Client shall assume all risk and responsibility in respect thereof. Non-payment or slow payment by the Clients Customer shall not in any way hinder or prevent the Client from fulfilling its obligations in terms of this Agreement.

9.5 In the event that Netcash requires security from the Client for a specific Transaction, Netcash shall inform the Client of this, and the Client shall be entitled to either provide Netcash with the necessary security or to cancel the Instruction.

9.6 In the event that the Client fails and/or refuses to pay any amount then due to Netcash, that overdue amount shall accrue interest from the date it became due, at the Prime Rate plus 2% (two per centum) which interest shall be calculated daily and compounded monthly.

9.7 Account showing a positive balance may or may not earn interest at the rate determined by Netcash, which interest shall be calculated daily and compounded monthly, depending on the macroeconomic state of South Africa as well as the interest rate announcements made by the South African Reserve Bank ("SARB").

9.8 While changes to the fees charged depends on the relevant Netcash Service, Netcash will endeavour to provide the Client with at least 30 (thirty) calendar days' notice of any change in fees. The aforesaid notice period may be impacted if a Netcash supplier increase its cost with immediate effect, in which instance Netcash will provide the client with no less than 10 (ten) calendar days' notice.

9.9 All payments by the Client to Netcash will only be considered to have been received, once confirmed by Netcash's bank to Netcash.

9.10 Any Netcash Fees paid by the Client to Netcash shall be reflected in the Clients monthly account and it is the duty of the Client to raise any query relating to the accuracy of the account within 30



(thirty) calendar days of the date on the monthly statement, failing which the monthly statement will be irrevocably deemed to be correct.

9.11 For the purposes of this Agreement any certificate by a Director of Netcash certifying the amount owing to Netcash by the Client shall be a liquid document and be deemed to prove the amount owed by the Client until proven otherwise.

9.12 Netcash do not afford credit terms to its clients. Should a Client's debit orders be disputed or fail for any reason, and should the Client fail to remedy this within 2 (two) business days of receipt of the various online system reports, Netcash shall be entitled to deduct amounts owing (settlement of overpayments and fees) in terms of this Agreement, from the Client's bank account.

9.13 Subject to clause 9.12, the Client hereby authorises Netcash to draw against the Client's account with the listed bank (or any other bank or branch to which the Client may transfer its account) any variable amount pertaining to this Agreement, on any day of the month, this being the amount necessary for the settlement of overpayments and fees due to Netcash in respect of this Agreement.

## 10 Confidentiality Undertaking

---

10.1 Each Party agrees to hold the Confidential Information in confidence during and after the termination of this Agreement in a manner which is consistent with the POPIA. Each Party agrees that unless required by law (including a subpoena, discovery demand or similar compulsory process) it will neither make the Confidential Information available to any Third Party nor use the Confidential Information for any purpose other than the performance of this Agreement. Each Party agrees to use all reasonable efforts to ensure that the Confidential Information is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

10.2 The Parties shall take appropriate measures to ensure that all employees, agents and/or subcontractors employed and/or contracted by either Party, sign Confidentiality Agreements containing, inter alia, the provisions set out above.

## 11 Intellectual Property

---

11.1 All of the Intellectual Property rights owned by either Party at the Signature Date and any Intellectual Property rights acquired by either Party independently thereafter shall remain vested with that Party exclusively.

11.2 The Client warrants that it will not modify, translate, reverse engineer, decompile, disassemble or create derivative works of any computer software or programs owned or operated by Netcash or otherwise attempt to defeat, avoid, by-pass, remove, deactivate or otherwise circumvent any software protection mechanisms including, without limitation, any such mechanism used to restrict or control the functionality of the software or programs or derive the source code or the underlying ideas, algorithms, structure or organisational form of the software.

## 12 Marketing and Announcements

---

12.1 Neither Party shall issue any press release or release any marketing or advertising or other promotional literature or make any public statement in each case relating to or connected with or arising out of this Agreement, without obtaining the prior written approval of the other Party relating to the content thereof and the manner of its presentation and publication, which approval may be communicated electronically.

## 13 Breach

---

13.1 Should either Party (including a User insofar as the provisions contained in this Agreement apply to a User) breach or otherwise be in default of any of its obligations under or in terms of the Agreement and remain in default or fail to remedy such breach within 10 (ten) calendar days of receipt of written notice calling upon it to do so (which notice may be provided electronically), the other Party will be entitled, but not obliged, in addition to any other rights which it may have or remedies which may be available to it:

13.1.1 to cancel the Netcash Service/s in question if the breach only affects the Netcash Service, with or without claiming damages; or

13.1.2 to cancel the Agreement, if the breach in question affects performance under the Agreement as a whole, with or without claiming damages; or

13.1.3 to obtain an order against such defaulting Party for specific performance, with or without claiming damages.

13.2 In the event that either Party commits an act of insolvency or is placed under a provisional or final winding-up or judicial management order or if either Party makes an assignment for the benefit of creditors, or fails to satisfy or take steps to have set aside any judgment taken against it within 7 (seven) days after such judgment has come to its notice, then the other Party will be entitled to terminate the Agreement on 5 (five) days written notice.

13.3 The termination of the Agreement shall not affect any rights of either Party which accrued prior to the date of termination and the termination of any one or more Annexure shall not affect the validity of all other Annexure still in operation, which continue to remain of full force and effect.

## 14 No-fault Termination

---

14.1 Subject to any variation of this clause in the Annexures both Parties may terminate this Agreement on 30 (thirty) days' notice. For the sake of clarity, it is recorded that the termination of this Agreement will terminate all Netcash Services. In contrast, the termination of any Annexure will only terminate the Services set out in that Annexure and the remaining Netcash Services for which the Client has signed the necessary Annexure/s to, and the Account Service Terms, will be unaffected by the termination of the terminated Annexure.

## 15 Summary Termination

---

15.1 Notwithstanding clause 13 ('Breach'), both Parties shall be entitled to cancel the Agreement and any Annexures immediately, if either Party breaches clauses 5 ('Undertakings by Netcash') or 7 ('Undertakings by Client') or breaches any other material clause within this Agreement or any Annexure thereof.

15.2 For the purposes of clause 15.1, a breach shall not be deemed to be a material breach for the purposes of entitling the aggrieved Party to cancel the Agreement and/or the Annexure so affected if -

15.2.1 it is capable of being remedied; or, alternatively,

15.2.2 it is incapable of being remedied, and payment in money will compensate for such breach and such payment is made within 14 (fourteen) days, after written request for such payment.

15.3 Notwithstanding anything in this Agreement, Netcash shall be entitled to cancel any Netcash Service/s immediately if it is prevented from providing the Netcash Service/s by any Authority and the Client shall have no claim for damages of any nature that arise because of the cancellation of this Agreement in terms of this clause.

## 16 Consequences of Termination

---

16.1 Notwithstanding the cancellation of this Agreement for any reason whatsoever, the provisions of clauses 10 ('Confidentiality Undertaking'), 11 (Intellectual Property') and any other provision that impliedly or by necessary implication endures after termination shall remain of full force and effect as between the Parties.

## 17 Warranties

---

17.1 To the extent permissible by law no Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not. Any oral representations need to be included in this Agreement and any applicable Annexure.

## 18 Disclaimer and Limitation of Liability

---

18.1 Neither Party will be liable whether in contract, delict or otherwise for any loss of profits, contracts or goodwill, any incidental, indirect or consequential damages, losses or expenses incurred

by the other Party pursuant to the performance by either Party of its obligations in terms of this Agreement, unless any such damage or loss was occasioned by the fraud, gross negligence, or wilful misconduct of the other Party.

18.2 Each Party hereby indemnifies the other Party against any liability arising from any loss or damage to each Party's physical property (including data) and any liability arising from the death or injury of each Party's employees or the death or injury of any Third Parties.

18.3 Whether or not advised of their possibility, Netcash will not be liable whether in contract, delict or otherwise for –

18.3.1 any cost of procurement of substitute goods, technology, services or rights;

18.3.2 interruption or loss of use, loss, or corruption of data; and/or

18.3.3 wasted management or staff time.

18.4 In all cases (and excluding any liability, which may not by law be excluded or limited), Netcash's total liability, whether in contract, negligence or otherwise, under or in connection with this Agreement will not exceed in aggregate 100% (one hundred per centum) of the total fees received by Netcash with respect to the Netcash Service in question, giving rise to the liability during the 12 (twelve) month period, prior to the cause of action.

18.5 The Client agrees that the allocation of risk contained in this Agreement is reflected in the fees and is also a recognition that, inter alia, it is not within Netcash's control, how and for what purpose the Netcash Services are used on their own, or in combination with the other services and deliverables provided by the Client or Third Parties, and the Client is able to rely on its own insurance arrangements and other resources, to bear or recover any loss for which Netcash, is not liable.

## 19 Acts beyond a Parties Control

---

19.1 If there is an event which cause delays in or failure or partial failure of performance by a Party of all or any of its obligations hereunder which is beyond the control of that Party, this Agreement, or as the case may be, the effected portion thereof, shall be suspended for the period during which the event prevails, but if the event affects any material part of the Agreement only for a period of 15 (fifteen) days or more, then either Party shall be entitled on 5 (five) days written notice to the other Party to cancel this Agreement. In the event of cancellation of this Agreement as contemplated in this clause, each Party shall bear their own losses and/or damages. For the purpose hereof, an event includes strikes, riots, lockouts, fire, floods, drought, or any other cause beyond the control of the Parties, including what a layman will consider to be an "act of god".



## 20 Assignment or Cession

---

20.1 The Client shall not assign or in any manner make over, or purport to assign or make over, this Agreement or the Clients rights and obligations hereunder or any part hereof, unless it has given Netcash 30 (thirty) calendar days' written notice of its intention to do so.

20.2 In the event that if Netcash assigns any of its rights and obligations in terms of this Agreement, then Netcash undertakes to notify the Client accordingly in writing of such assignment.

## 21 Address for Legal Notices

---

21.1 The Parties choose as their address for legal documents for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses:

21.1.1 Netcash: Netcash Square, Parklands Main Road, Parklands, 7441,  
legal@netcash.co.za.

21.1.2 the Client: {RecipientPhysAddress1}, {RecipientPhysAddress2},  
{RecipientPhysSuburb}, {RecipientPhysCity}, {RecipientPhysPostalCode},  
{RecipientEmailAddress}.

21.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give notice by e-mail.

21.3 Any Party may by notice to any other Party change the physical address or e-mail address for the delivery of legal documents, provided that the change shall become effective on the 10th (tenth) business day after the receipt of the notice by the addressee and provided that the addressee may require that the Party changing the contact details prove that it is entitled to do so.

21.4 Any notice to a Party -

21.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its address for delivery of legal notices to which post is delivered shall be deemed to have been received on the 10th (tenth) business day after posting (unless the contrary is proved).

21.4.2 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its address for delivery of legal notices shall be deemed to have been received on the day of delivery; or

21.4.3 sent by e-mail to its chosen e-mail address stipulated in clause 21.1, shall be deemed to have been received on the date of despatch (unless the contrary is proved).

21.5 Notwithstanding anything to the contrary herein contained a written notice or communication received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address for delivery of legal notices.

21.6 The Parties hereby consent and submit to the jurisdiction of the Magistrate's Court district applicable to the Client's physical address, as set out in clause 21.1.2 for disputes up to R100,000 (one hundred thousand rands) and the relevant Provincial High Court applicable to the Client's physical address, as set out in clause 21.1.2 for disputes over R100,000 (one hundred thousand rands) of the Republic of South Africa in any dispute arising from or in connection with this Agreement.

## 22 Whole Agreement, Amendment Policy

---

22.1 This Agreement constitutes the whole Agreement between the Parties relating to the subject matter hereof.

22.2 No amendment or consensual cancellation of this Agreement or any provision or term hereof or of any Agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party granting such extension, waiver or relaxation). Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

22.3 Notwithstanding clause 21.2 this Agreement (including the Annexures hereto) may be amended by Netcash by providing written notice thereof (which notice may be provided electronically) with the provisions of the new Agreement. Should Netcash provide written notice as aforesaid, the act of requesting the Netcash Services by the Client, after the implementation date of the new Agreement, will constitute acceptance of the new Agreement by the Client.

## 23 No Waiver

---

23.1 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any Party in respect of its rights under this Agreement, nor shall it operate to preclude such Party thereafter from exercising its rights strictly in accordance with this Agreement.

## 24 Legal Costs

---

24.1 In the event that this Agreement is breached by either Party, the Party who did not breach the Agreement shall be entitled to attorney-own client costs when enforcing any rights contained within this Agreement or when claiming any damages arising from the said breach.

## 25 Consent to Investigation into Credit Records

---

25.1 The Client and its principals hereby consent to Netcash conducting a credit enquiry in respect of the Client as well as the principals in their personal capacity.

25.2 Any information gathered by Netcash both initially and during the currency of this Agreement and after the termination of this Agreement relating to the way the Client has performed (or not performed) in meeting its obligations, may be transmitted to credit bureaus for the purpose of making risk management decisions, and the Client hereby consents to this.

## 26 Applicability of the Consumer Protection Act

---

26.1 This Agreement is a business-to-business contract and as such neither Netcash nor the Client are considered to be “consumers” as defined in the Consumer Protection Act No.68 of 2008 (“CPA”). Rather the Clients Customers would be considered to be “consumers”.

26.2 It is the intention of the Parties that this Agreement be excluded from the ambit of the CPA, due the Client being a juristic person whose annual turnover or asset value exceeds the threshold as prescribed by the Minister in terms of s5(2)(b) of the CPA. Upon request by Netcash the Client undertakes to provide a certificate certifying both its asset value and annual turnover at a specific date, as indicated by Netcash within 7 (seven) days of the request being made, failing which the Client will be deemed to be above the threshold amount as indicated in s5(2)(b) of the CPA, until proven otherwise.

26.3 Notwithstanding the above, if the CPA is deemed by a court of law to apply to this Agreement, those clauses which fundamentally conflict with the provisions of the CPA – and any other clause found to be contrary to South African law, will be capable of being severed from this Agreement, provided that the financial basis underlying this Agreement is not lost.

## 27 Consent to provide Value add Services

---

27.1 The Client and its principals hereby consent to Netcash offering the Client Value-add Services, from time to time. The Client may decide whether to accept or decline any Value-add Services offers, made to the Client on the Netcash Platform. Should an offer be acceptable to the Client, an additional Agreement related to the specific offer will be entered, which is separate from this Agreement and Annexures.

## Schedule A

### A. AUTHORITY/MANDATE: PAPER/ELECTRONIC

Given by (name of Accountholder): {RecipientAccountRegisteredName}

Address: {RecipientPhysAddress1}  
{RecipientPhysAddress2}  
{RecipientPhysSuburb}  
{RecipientPhysCity}  
{RecipientPhysPostalCode}

Bank Account Detail

Bank Name: {RecipientBankName}

Branch Number: {RecipientBankBranchCode}

Account Number: {RecipientBankAccountNo}

Type of Account: {RecipientBankAccountTypeDescription}

Date: {SignedOn}

Contact Number: {RecipientTelNumber}

To (Name of Beneficiary): NETCASH

Address: {CompanyPhysAddress1}  
{CompanyPhysAddress2}  
{CompanyPhysSuburb}  
CompanyPhysPostalCode}

Abbreviated Shortname to be used: NETCASH

Refer to contract reference number {ContractReference} ("the Contract Reference Number")

I/We hereby authorise (Netcash) to issue and deliver payment instructions to your banker for collection against my/our abovementioned account at my/our above-mentioned bank on condition that the sum of such payment instructions will not differ from my/our obligations as agreed to in the Contract Reference Number.

The individual payment instructions so authorised must be issued and delivered on the date when the obligation in terms of the Agreement is due and the amount of each individual payment instruction may not differ as agreed to in terms of the Agreement.

The payment instructions so authorised to be issued must carry the Contract Reference Number, included in the said payment instructions, and must be provided to identify the specific contract. The said Contract Reference Number should be added to this form in section E before the issuing of any payment instruction and communicated directly after having been completed.



I /we agree that the first payment instruction will be issued and delivered on 4th of the month following the month signed(date) and thereafter regularly on the 4th of each month.

If, however, the date of the payment instruction falls on a non-processing day (weekend or public holiday) I agree that the payment instruction may be debited against my account on the following business day; or

Subsequent payment instructions will continue to be delivered in terms of this authority until the obligations in terms of the Agreement have been paid or until this authority is cancelled by me/us by giving you notice in writing of not less than the interval (as indicated in the previous clause) and sent by prepaid registered post or delivered to your address indicated above.

## **B. MANDATE**

I/we acknowledge that all payment instructions issued by you will be treated by my/our abovementioned bank as if the instructions had been issued by me/ us personally.

## **C. CANCELLATION**

I/we agree that although this authority and mandate may be cancelled by me/us, such cancellation will not cancel the Agreement. I/we also understand that I/we cannot reclaim amounts, which have been withdrawn from my/our account (paid) in terms of this authority and mandate if such amounts were legally owing to you.

## **D. ASSIGNMENT:**

I/We acknowledge that this authority may be ceded or assigned to a third party if the Agreement is also ceded or assigned to that third party.

## **SIGNATURE AS USED FOR OPERATING ON THE ACCOUNT**

{RecordalSignature}

ASSISTED BY

CAPACITY

{CompanyAccManagerFullName}

{CompanyAccManagerJobTitle}

## **FOR OFFICE USE**

E.AGREEMENT REFERENCE NUMBER

THE AGREEMENT REFERENCE NUMBER IS {ContractReference}

---

**Mandate Version:** 02122021