

# Netcash Debit Orders Service Terms

between

## Netcash (Pty) Ltd

Registration Number: 2001/019308/07

("Netcash")

and

{RecipientAccountRegisteredName}

Registration Number: {RecipientAccountRegNo}

(the "Client")

## Overview

This document is an Annexure as defined in the "Master Agreement in respect of the Netcash Account Service Terms" (the "**Master Agreement**") and deals specifically with the debit orders service terms.

The debit orders can be set up to operate on a normal banking account, or on a credit card account. When the Client agrees to this Annexure, Netcash provides the Client with the service of obtaining funds from the Client's Customers bank or credit card account on a recurring basis for the services or goods that the Client offers to its Customers. The way in which Netcash does this is by the Client instructing Netcash to collect via the Netcash System, by submitting its collection file. Netcash then collects the debt in terms of that instruction and make the funds collected (subject to certain agreed retentions for a limited period) available to the Client on the Netcash System under the Clients dedicated account number under "Available Balance", which the Client will then transfer to its transactional bank account.

(the services described in the immediately preceding paragraph are hereinafter referred to as the "**Debit Orders Services**").

The Minimum Requirements to Use the Debit Order Services, which is attached hereto as Appendix A and can be found on the Client's online profile, refers to the requirements for a valid Debit Order Mandate. A valid Debit Order Mandate must be displayed on a client company letterhead; must contain the abbreviated name reflecting the trading name of the Client that will appear on the bank statement of the account holder being debited and must be retained for a period of 7 (seven) years after the last debit order transaction.

This Annexure is intended to be used for collections authorised by Debit Order Mandates and/or DebiCheck Services.

The Client is hereby made aware that this Annexure should be read in conjunction with the Master Agreement, which terms and conditions are incorporated in this Annexure. Should the Client require, Netcash will gladly answer any questions or clarify any uncertainty regarding these terms and conditions.

With a constantly changing regulatory environment as well as adjusted inflation, Netcash will update its fees from time to time. Netcash will only do so in accordance with the terms agreed under the Master Agreement.

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Appendix A – Terms of Use - Minimum Requirements to Use the Debit Order Services

## 1 Definitions

In this Annexure:

- 1.1 "Abbreviated Short Name" means a 10-character description of the Ultimate Creditor's name (the Client), which must be included in the Mandate, Mandate Register and in the Payment Instruction.
- 1.2 "Available Balance" means the "Available Balance", as such term is defined in the Master Agreement.
- 1.3 "Bank Account" means a bank account held at a Bank which can be debited or credited as a result of a Payment Instruction.
- 1.4 "Cards" means a valid Visa International card, Mastercard International credit card, American Express International credit card or Diners Club International credit card.
- 1.5 "Contract/Agreement" Reference means the unique reference used by the Ultimate Creditor (the Client) and the Payer / Customer of the Client / Account holder to identify the Contract/Agreement concluded between them.
- 1.6 "Payer" and "Account holder" means the Customer of the Client who's bank account is to be debited in terms of the Debit Order Mandate and/or DebiCheck Services payment option selected.
- 1.7 "Date of Acceptance" means the date on which the Client accepts the terms and conditions of this Annexure electronically on the Netcash System.
- 1.8 "DebiCheck" is a secure debit order payment system that allows a Payerto electronically approve debit order details directly with their bank in favour of the Client.
- 1.9 "Debit Order Mandate" means the voice recorded or written or electronic authorisation given by a Payer, authorising the Client to deduct from the Payer's bank account an agreed amount at predefined intervals in favour of the Client. A Client would request payment, through the Netcash System, from the Payer's bank, based on this authorisation. The Payer therefore gives permission for a debit order to be processed against the Payer's bank account.
- 1.10 "Debit Orders" in this Annexure refers to electronic funds transfer debits and/or DebiCheck debits. A debit order is an authorisation whereby a third party (the Client) is authorised to collect money from a Payer's bank account without having to do anything other than giving the Client a written, telephonic, or electronic mandate to do so.
- 1.11 "Debit Orders Service" is described and defined in the "Overview" section of this Annexure.
- 1.12 "Fraudulent Transaction" means any alleged fraudulent transaction intended to defraud or deceive the Bank, Client, or Payer.
- 1.13 "Frequency" means the regularity of the Payment Instruction namely: Weekly, Fortnightly, Monthly, Quarterly, Bi-annually and Annually.
- 1.14 "NSB" or "Netcash Sponsoring Bank" is the Payment Authority of South Africa ("PASA") approved Sponsoring Bank that sponsor Netcash as a Third-Party Payment Provider to provide specific National Payment System services to its Clients.
- 1.15 "Netcash System" means the software and database that stores all transactions and client details and performs the actions required for the services provided by Netcash.
- 1.16 "Sort at Source" means where Clients sort each Bank's Payment Instructions and submit those directly to each Bank, where the proceeds of such Payment Instructions are credited to the Client's Nominated Account.
- 1.17 "Stop Payment" means an instruction by the Payer to the Paying Bank to stop future Payment Instructions from being processed on the Payer's Bank Account.
- 1.18 "Third-Party Payment Provider or TPPP" is a services provider as defined in the National Payment System Act and licenced by the Payment Association of South Africa ("PASA"). Netcash as a TPPP.
- 1.19 "Ultimate Creditor" is the person to whom the Payer has given the Mandate, which is the Netcash Client.
- 1.20 "Unpaid ratios" means the total monthly unpaid Payment Instructions as a percentage of total monthly input.
- 1.21 This Annexure, which includes the 'Overview' section, incorporates all the definitions as set out in the Master Agreement between Netcash and the Client.

## 2 Introduction and Recordal

- 2.1 Netcash owns the Netcash System which it uses to provide Debit Order Services to Clients, as more fully set out in this Annexure.
- 2.2 The Client wishes to enter into an agreement whereby it will be able to have access to the Netcash System in order to use the Debit Order Services, subject to the terms and conditions of this Annexure and the Master Agreement.

2.3 This document deals with the Debit Order Mandates which (i) are authorised by the Client's Customers, and (ii) are levied against the Payer's banking accounts, (the "Transaction(s)"). Unless otherwise indicated all clauses within this Annexure apply to debit orders which are levied against the Payer's bank account, as well as debit orders against Cards.

### **3 Commencement and Duration**

This Annexure and access to the Netcash System for the purpose of using the Debit Order Services shall commence on the Date of Acceptance of this Annexure and shall endure indefinitely subject to the termination clauses within the Master Agreement, as modified hereby.

### **4 Use of the Debit Order Services**

- 4.1 On instruction by the Client, in the form agreed between the Client and Netcash (the "Instruction"), Netcash will process the Transaction provided the Netcash System allows for the Instruction to be processed.
- 4.2 The Client shall ensure that all Instructions are sent to Netcash timeously according to the specific processing dates, times and methods as advised by Netcash from time to time.
- 4.3 Netcash will only accept an Instruction/s if the Instruction includes all data required by Netcash (in the agreed form) to process the Transaction/s and the Client hereby undertakes to provide complete and accurate Instructions to Netcash.
- 4.4 Any Instructions provided through the use of the Access Codes (as defined in the Master Agreement) by a User shall be deemed to have been authorised by the Client, and Netcash shall be entitled to rely on and act upon the Instructions as being genuine Instructions and not tainted by fraud or any other illegal activity unless the Client informs Netcash of the use of its Access Codes for any unauthorized activity and/or by an unauthorised person, and Netcash will then only be required to stop or reverse the Instruction or Transaction in the event that it has the necessary time to do so and it is technically and legally feasible to do so.
- 4.5 In the event that a Transaction was processed, and monies were incorrectly deducted from a Client's Customer's (Payer) bank account due to an error in the Instruction from the Client (for whatever reason including fraud and negligence) or in the event that the Payer disputes a Transaction, Netcash will be entitled to reverse the transaction if it is legally and technically feasible to do so, and to charge the Client the applicable fee for this action.
- 4.6 In the event that it is not possible to reverse the Transaction as explained in clause 4.4 and 4.5 above, Netcash shall be entitled to deduct the necessary monies (in addition to any other fee as set out hereunder) from the Client's account in order to repay the Payer.
- 4.7 The Client shall ensure that it complies with the minimum requirements as set out in Appendix A, which appendix is incorporated into these terms of service.

### **5 Use of the DebiCheck Services**

- 5.1 DebiCheck Services are similar to that of the Debit Order Services as set out in clause 4 above, with the addition of the DebiCheck debit order information that is confirmed by the Payer / Account holder before the first collection.
- 5.2 In the event that there are changes to critical information such as the payment date and/or the amount to be collected, there will be a need to reconfirm information with the Payer / Account holder.
- 5.3 EFT debit orders do not need to be confirmed by the Payer / Account holder as this debit order will be deducted from the Payer's bank account on the assumption by the bank that a valid mandate exists with the Client collecting the debit order. A Client may be called upon at any time by Netcash to produce a valid mandate, failing which the Client's account with Netcash may be suspended.

### **6 Fees and Payment**

- 6.1 In return for the Debit Order Services, Netcash will be entitled to deduct the agreed Netcash Fees as set out in the Master Agreement.
- 6.2 While Netcash shall endeavour to update its fees annually in July of each successive year, Netcash may be obliged to update its fees at some other time due to changes in legislation or by third party providers. In the event that Netcash changes the Netcash Fees it shall provide the Client with 30 (thirty) calendar days' notice thereof and the Client shall be entitled to cancel this Agreement, without penalty of any kind whatsoever, either within the 30 (thirty) calendar day notice period given by Netcash or at any stage thereafter, if the Client objects to the increase in the Netcash Fees.
- 6.3 In addition to the Netcash Fees, Netcash shall be entitled to deduct the following from the Available Balance:
  - 6.3.1 all tariffs and fees as levied by means of law or as levied by other banking or other institution registered in terms of the National Payment System Act No. 78 of 1998 or any other banking institution which is entitled to levy a fee or tariff on the Transaction;

- 6.3.2 interest at the rate of Prime plus 2% (two per centum) that is levied by Netcash on any unpaid amounts owing to Netcash by the Client and in respect of which there are insufficient amounts in the Retentions and/or the Client's Netcash Account;
- 6.3.3 any unpaid or unsuccessful or disputed collections which are returned by the Payer's bank; and
- 6.3.4 any other monies that Netcash was required to pay on the Client's behalf to process any Transaction.
- 6.4 If Netcash pays more monies to the Client than the Client was entitled to recover or under-recovers any fees, charges, or interest as set out above, Netcash shall be entitled to deduct the amount of such overpayment, fees, charges, and/or interest by means of set-off from the current Available Balance on the Client Netcash account and/or the Available Balance applicable to the next Transaction/s, not yet processed through the Sponsoring Bank, that Netcash processes for and on behalf of the Client. If Netcash refunds any overpayment as set out in this clause it shall provide the Client with the full accounting detailing the way in which the set-off was calculated.
- 6.5 In the alternative to clause 6.4 above Netcash may, at its sole discretion, elect to recover the overpayment, fees, charges, and/or interest directly from the Client Bank Account, should there not be sufficient Available Balance on the Client Netcash account for set-off and the Client hereby authorizes Netcash to make the necessary payment from the Client Bank Account.

## 7 Undertakings by Client

7.1 The Client undertakes to Netcash that:

7.1.1 It shall ensure that it complies with the minimum requirements to use the Debit Order Services as set out in Appendix A and which may also be communicated by Netcash to the Client from time to time;

7.1.2 Any Instruction sent to Netcash has not been sent to a third party and/or has not been ceded to a third party nor is the debit order being processed on behalf of a third party;

7.1.3 It has, in respect of each Payer, verified that the name, account number, branch clearing code or card number refer to the same person and that the information provided to Netcash is accurate;

7.1.4 It has a Debit Order Mandate from each Payer in its possession which authorises the Client to deduct the debt from the Payer's bank account;

7.1.5 It will provide the written Debit Order Mandate or the voice recording of the Debit Order Mandate by close of business on the day following the day on which the Client is requested to do so by Netcash;

7.1.6 It will advise the Payer that the debit on the Payer's bank account will reflect the name of Netcash or such other name as advised by Netcash from time to time, **and** the name of the Client; and

7.1.7 It will report any mistake with an Instruction of which it is aware at least 2 (two) days prior to the Transaction date.

7.2 In relation to debit orders relating to Cards only, the Client warrants:

7.2.1 That the Client will ensure that the Cardholder's name (Payer) and the expiry date of the Card is contained in the Debit Order Mandate;

7.2.2 That the Client will check the commencement date and expiry date of every Card and ensure that no Instruction is provided to Netcash in relation to a Card which has expired or not commenced.

7.2.3 That it will resolve any disputed Transactions with the Payer and/or with Netcash, to the extent applicable;

7.2.4 That it will not create the impression that Netcash or Card Issuers/Licensed Providers endorses or guarantees any of its goods and/or services;

7.2.5 That the Client will honour all valid Cards which are acceptable to all the Client's banks, when properly presented and validated in payment of goods and/or services; and

7.2.6 That the Client has properly disclosed the full price, goods and services offered, delivery and other costs and taxes (if applicable), its contact details and terms and conditions of sale, its dispute resolution procedure, and the use of Netcash to recover the monies from the Payer.

7.3 The Client is aware that it cannot levy additional charges not permissible in law for credit card transactions – surcharges from its Customers (Payers) in relation to the Debit Order Services.

7.4 The Client warrants that it shall:

7.4.1 Comply with all applicable laws and regulations including directives issued by the South African Reserve Bank ("SARB"), National Payment System Department ("NPSD") and/or the Payment Association of South Africa ("PASA").

7.4.2 Remain registered as a compliant Client on its Netcash profile.

7.4.3 Comply with the standards, terms and conditions as set out in this Service Terms and Terms of Use.

7.4.4 Have an Abbreviated Short Name for each account that it processes on behalf of.

7.4.5 Stop transactions to a Payer immediately on instruction received from Netcash.

7.4.6 Not switch between Payment Systems in a Payment Cycle.

7.4.7 Not switch between Payment System transaction types in order to circumvent any obligations placed on Clients utilizing any particular Payment System. For instance, where a Client is using the EFT Debit Payment System, the Client may not switch between EFT Debit and another Payment System transaction type, for instance DebiCheck, to circumvent any obligation placed on the Client utilising the EFT Debit Payment System. Where the Client does switch Payment Instructions between Payment Systems in different and separate Payment Cycles, the Client must ensure prior to presentment that the Mandate in terms of which the Payment Instruction will be presented meets the minimum requirements for the applicable Payment System.

## **8 No-fault Termination**

8.1 Both Parties may terminate this Annexure on 30 (thirty) days' notice. For the sake of clarity, it is recorded that the termination of this Annexure will only terminate the Debit Order Services and the remaining Netcash Services for which the Client has signed the necessary annexures and/or agreement/s will be unaffected by the termination of this Annexure.

## **9 Other Warranties**

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.

## **10 Inclusion of terms from the Master Agreement**

For the sake of clarity, it is reiterated that the clauses as found in the Master Agreement are included herein by reference and that this Annexure must be read in conjunction with the Master Agreement.

## **11 Indemnity**

11.1 Adjustments by a Regulatory and/or Supervisory Body:

- 11.1.1 The Client indemnifies and holds Netcash harmless against all adjustments, fines and/or penalties imposed upon Netcash arising out of or relating to any act or omission of the Client (including any breach by the Client of the provision of this Service Terms and Terms of Use).
- 11.1.2 Where the Client is partially responsible for the adjustment, fine and/or penalty, the Client will be liable for a pro rata share of such adjustment, fine and/or penalty.
- 11.1.3 Netcash will notify the Client of the adjustments, fines and/or penalties and the reasons therefore prior to imposing the adjustments, fines and/or penalties on the Client.

11.2 Third Party Claims

- 11.2.1 The Client indemnifies and holds Netcash harmless against all direct, indirect and/or inconsequential losses, liabilities, costs, expenses, fines, penalties, damages, special damages and claims which will include (without limitation) third party claims, and all related costs and expenses (including legal fees on the scale as between attorney and client, tracing and collection charges, costs of investigation, interest and penalties) (hereafter referred to as "Losses") arising out of any infringement or alleged infringement by Netcash of any rights of any third party attributable to the provisions in this Terms of Use, or any part thereof.
- 11.2.2 The Client indemnifies Netcash against any Losses, arising out of the Consumer Protection Act No. 68 of 2008, which arise out of the provision of any services to the Client.
- 11.2.3 Netcash will as soon as possible notify the Client, in writing, of any proceedings instituted by a third party against Netcash about any alleged infringement referred to in clause 11.2.1 and/or 11.2.2. Any delay by Netcash in giving the notice will not limit the client's obligations under these Terms of Use except for any losses suffered due to the delay.
- 11.2.4 The Client will, at its expense, defend any action instituted by a third party against Netcash, and will be obliged to apply to be joined as a defendant in terms of the rules of the High Court. Netcash will, at the Client's expense, assist it, by providing the Client with reasonable information as may be required so that it may defend any proceedings instituted against it.
- 11.2.5 The Client will hold Netcash harmless against all Losses arising out of the Client's failure to comply or satisfy the provisions in this Terms of Use;

11.3 The Client's obligation to indemnify Netcash will survive the termination of the relationship.

Appendix A – Terms of Use - Minimum Requirements to Use the Debit Order Services can be found on  
<https://netcash.co.za/legal-page/>