

## Sticitt Pay - General Merchant Terms of Use

This Merchant Agreement is agreed between any natural or legal person accepting payments made through Sticitt's Payment SDKs and/or Pay Terminal as a valid payment option for goods or services offered by such natural or legal person ("Merchant") and Sticitt (Pty) Ltd ("Sticitt"). We may amend this Agreement by posting a revised version on our website, at which point the posted revised version will be effective.

### -Definitions and Interpretations

In this Agreement, unless a contrary intention clearly appears -

1. words indicating -
  - 1.1. any one gender includes the other two genders;
  - 1.2. the singular includes the plural and vice versa; and
  - 1.3. natural persons include created entities (corporate or unincorporated) and vice versa.
  
2. the following terms and expressions shall have the respective meanings
  - 2.1. "Account Holder" means any user that can perform purchases of products and/or services at Merchants, through Sticitt's Payment SDK and/or Pay Terminal, or any Merchant that can receive payment for products and/or services, through Sticitt's Payment SDKs and/or Pay Terminal, as the case may be;
  - 2.2. "AFSA" means the Arbitration Foundation of Southern Africa;
  - 2.3. "Authorised Transaction" means a transaction made by an Account Holder at a Merchant, which transaction status is Paid as indicated by Sticitt's Payment SDK or Pay Terminal in accordance with the provisions of this Memorandum of Agreement entered into between Sticitt and that Merchant;
  - 2.4. "Business Day" means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

- 2.5. "Calendar Month" means each of the named months of the Gregorian calendar;
- 2.6. "Merchant Agreement" means this Sticitt Pay - General Merchant Terms of Use;
- 2.7. "Paid" means a transaction initiated through Sticitt's Payment SDK or Pay Terminal by an Account Holder and the associated Sticitt Pay Account has sufficient Sticitt Pay credits to purchase the requested products and/or services from the applicable Merchant and the applicable Sticitt Payment SDK or Pay Terminal indicating a successful transaction;
- 2.8. "Payment SDK" means Sticitt's software development kit that enables the virtual authorisation and payment of purchases by Account Holders, for products and/or services from Merchants;
- 2.9. "Parties" means Sticitt and the Merchant and "Party" means either of them;
- 2.10. "Pay Terminal Activation Fee" means a fee, as agreed to in a Sticitt Pay - Commercial Merchant Terms of Use agreement deducted from the Merchant's Sticitt Pay Account on successful delivery, to enable a Pay Terminal to accept authorisation and payment of purchases by Account Holders;
- 2.11. "Sticitt Pay Terminal Application" means a software application built by Sticitt which enables authorisation and payment of purchases by Account Holders, for the purchase of products and/or services from Merchants utilising a Sticitt Pay Token or Payment SDK;
- 2.12. "Pay Terminal Monthly Rental Fee" means a monthly fee, as agreed to in a Sticitt Pay - Commercial Merchant Terms of Use agreement deducted monthly from the Merchant's Sticitt Pay account on the last business day immediately preceding the last Payment Date of that month;
- 2.13. "Pay Terminal" means any hardware owned by Sticitt or any other Sticitt approved hardware running the Sticitt Pay Terminal Application with a unique and valid certificate issued by Sticitt;

- 2.14. "Sticitt Pay Token" means a physical token issued by Sticitt that can take various form factors and include, but is not limited to cards and bracelets with the official Sticitt Pay logo printed on the face of such card or bracelet;
- 2.15. "Sticitt Pay Account" means, in respect of Account Holders, the corresponding account which contains a record or statement of transactions performed on that account, in respect of a specified period of time.
3. any reference to a Party includes that Party's successors-in-title and permitted assigns;
4. any reference to the giving of a notice "in writing" includes electronic communications effected by email, short message service or any similar medium.

### -Introduction

This Merchant Agreement outlines the terms of use of Sticitt's Payment SDKs and Pay Terminals but does not allow the Merchant to accept Sticitt Pay credits as a form of payment for products and/or services. **In order for the Merchant to accept Sticitt Pay credits as a form of payment for products and/or services, a Sticitt Pay - Commercial Merchant Terms of Use agreement must be completed between Sticitt and the Merchant.** Sticitt reserves the right to amend any pricing related terms underlying the Sticitt Pay - Commercial Terms of Use and must notify the Merchant of such pricing changes 30 days prior to such changes being effected.

### -Duration

This Agreement shall continue in full force and effect for so long as the Parties continue to conduct business together.

### -Roles and Responsibilities

#### -Sticitt shall

1. Upon finalisation of a Sticitt Pay - Commercial Merchant Terms of Use agreement, supply the Merchant with the registration process to be completed by the Merchant and the relevant contact information in order for the Merchant to access the Merchant's Sticitt Pay Account;
2. Take reasonable measures in ensuring that the Sticitt Payment SDK and/or Pay Terminal operates correctly.
3. Provide 24 hour email support for any Pay Terminal related queries at support@sticitt.co.za and telephonic support during business hours at 021 300 4743.
4. Provide training and Pay Terminal setup support as outlined in the applicable Sticitt Pay - Commercial Merchant Terms of Use entered into between the Merchant and Sticitt.

#### **-The Merchant shall**

1. Furnish Sticitt with a duly certified copy of its most recent and up to date statutory documents;
2. Immediately report to Sticitt in writing, by electronic mail to support@sticitt.co.za, any fraudulent or misappropriate use of a Sticitt Pay Account;
3. Notify Sticitt of any change in the Merchant's bank details together with formal bank documentation confirming such bank details change;
4. Adhere to all requirements of the Protection of Personal Information Act of 2013 in utilising Sticitt's Payment SDK.
5. Where the Merchant makes use of Sticitt's hardware as a Pay Terminal, ensure sufficient measures and controls are in place to protect such hardware against damage, loss or theft.
6. Not discriminate against any Sticitt Pay Account holder with regards to the price charged for goods and/or services paid for using their Sticitt Pay Account credits as a form of payment. For the avoidance of doubt, the merchant shall not charge a customer a higher price for goods and/or services when Sticitt Pay credits are

used as a form of payment compared to debit/credit card or cash being used as a form of payment.

## -Payments and Refunds

### **-Invalid and Fraudulent transactions**

A transaction will be invalid if the underlying transaction is illegal or if the Merchant fails to adhere to the terms of this Agreement in relation to a transaction.

A transaction will be un-authorized if the underlying transaction was processed through a Pay Terminal that utilises a certificate that was not issued by Sticitt or that has been issued for a different Pay Terminal.

Sticitt reserves the right to disregard un-authorized, invalid and fraudulent transactions or duplicated transactions, subject to confirmation and disclosure by Sticitt that the transactions are invalid.

### **-Authorisations and Refund Procedures**

Until a Sticitt Pay Account is blacklisted, cancelled or blocked by Sticitt, Sticitt shall be obliged to pay the Merchant in terms hereof for all Authorised Transactions, less all applicable fees as agreed to between Sticitt and the Merchant that took place irrespective of any dispute between Sticitt and the Account Holder. Paid transactions do not warrant that the person presenting the transaction through the Payment SDK or Pay Terminal is authorised to do so. It merely confirms that sufficient Sticitt Pay credits are available in the Account Holder's Sticitt Pay Account. If the Merchant agrees to furnish a refund to an Account Holder, the Merchant must electronically, through a Pay Terminal affect such a refund by reversing the transaction within 48 hours of the successful transaction that gave rise to such refund. Following this time the Merchant must arrange any refund

directly with the Account Holder. No cash refund may be made by the Merchant to an Account Holder.

Relating to Pay Terminals, the Merchant can perform refunds to Account Holders by deleting transactions performed at a specific Pay Terminal through that Pay Terminal only and must do so within 48 hours from the original transaction date. Such a refund procedure will transfer Sticitt Pay credits from the applicable Merchant's Sticitt Pay account to the relevant Account Holder who performed the original transaction. Any charges as part of the original transaction by the Account Holder at the Merchant will remain and will not be reversed as part of the refund process.

#### **-Certificate of Balance**

In the event of any dispute concerning the amount of any monies payable by a Party to the other under this Agreement, a certificate as to the amount due and payable, audited and signed by the auditors of Sticitt shall be prima facie proof of the amount owing.

#### **-Pay Terminals**

##### **-Fees and Cancellation**

The Pay Terminal Activation Fee will be deducted from the Merchant's Sticitt Pay Account upon successful Pay Terminal delivery. The Pay Terminal Monthly Rental Fee will commence in the month immediately following the successful Pay Terminal delivery month. Sticitt reserves the right to charge the Pay Terminal Monthly Rental Fee to a Merchant's Sticitt Pay Account even if sufficient credits are not available. Sticitt also reserves the right to waive any Pay Terminal Activation Fees or Sticitt Pay Monthly Terminal Rental Fees.

Pay Terminals can be cancelled by sending an email to support@sticitt.co.za. The applicable Pay Terminal will be deactivated once such cancellation request has been received and confirmed by Sticitt and Sticitt reserves the right to reclaim and recollect any

cancelled Pay Terminals. In cases of successful cancellation, Pay Terminal Monthly Rental Fees will stop the month following the cancellation month but will be charged in full for the month of cancellation.

### **-Ordering, Ownership and Support**

Additional Pay Terminals can be ordered by contacting Sticitt at support@sticitt.co.za and by completing and signing the applicable Pay Terminal order form. Pay Terminals remain the property of Sticitt. In the event that a problem, issue or malfunction is reported, Sticitt hereby undertakes to resolve such problems, issues or malfunctions as quickly as is reasonably possible.

Sticitt shall not be held liable for any signal strength issues due to network failure but will advise of alternative solutions if possible and if the solution to be implemented would be beneficial to both Parties. Malfunctioning reports must be provided by sending an email to support@sticitt.co.za and will only be effective once one of the Sticitt support team members confirms receipt of such a report. However, Sticitt shall not be held liable for any Pay Terminal malfunctions caused by the Merchant's negligence or networking related problems.

Sticitt also reserves the right to charge a call out fee and recover all costs associated with replacing or repairing the Pay Terminal reported as malfunctioning if such malfunctioning was determined to be caused by the Merchant's negligence or networking related problems. To determine and confirm the root cause and applicable repair or replacement cost, an objective third party chosen by Sticitt will provide a Pay Terminal damage report outlining the root cause of the malfunction and the applicable replacement or repair costs and such report shall be prima facie proof of the Pay Terminal's malfunctioning root cause and associated repair or replacement cost.

## -Warranties and Undertakings

Each party will warrant to the other party that their participation in the Agreement comes without liabilities or claims which may damage or cause harm to the commercial objectives of the Agreement.

## -Limitations of Liability

Until such time as the Merchant is notified that a Sticitt Pay Account has been blacklisted, cancelled and/or blocked, the Merchant shall, subject to the provisions of "Payments and Refunds" above, not be liable for any losses or damages incurred by Sticitt due to the unauthorised use of a Sticitt Pay Account by a person other than the particular Account Holder. However, and in addition to the provisions of "Payments and Refunds" above, should a Sticitt Pay Account be used fraudulently by an employee of the Merchant then the aggregate value of Authorised Transactions made pursuant to the unauthorized use of a Sticitt Pay Account shall be the responsibility of the Merchant.

## -Indemnity

The Merchant hereby indemnifies Sticitt against any and all claims, losses, damages and expenses which may be sustained or incurred by Sticitt or for which Sticitt may be sought to be held responsible as a result of or in connection with any act or omission of the Merchant, its employees, agents or representatives arising out of the terms of this Agreement.

The use of Pay Terminals are at the Merchant's own risk and indemnifies Sticitt against any claims, losses, damages and expenses which may be sustained or incurred by Sticitt or for which Sticitt may be sought to be held responsible as a result of physical injury incurred by the Merchant, its employees, agents or representatives or Account Holders from using any Pay Terminals.



### -Force Majeure

Neither party will be liable to the other for non-compliance with the contracts if caused by a matter beyond the control or anticipation of the party.

### -Severability

If any part of this Agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable.

### -Dispute Resolution

Should any dispute, disagreement or claim arise between the parties (called hereafter “the dispute”) concerning this agreement, the parties shall try to resolve the dispute by negotiation. This entails that the one party invites the other in writing to a meeting to attempt to resolve the dispute within 5 (five) days from the date of the written invitation. If the dispute has not been resolved by such negotiation, the parties shall submit the dispute to AFSA administered mediation, upon the terms set by the AFSA Secretariat. Failing such a resolution, the dispute, if arbitrable in law, shall be finally resolved in accordance with the Rules of the AFSA by an arbitrator or arbitrators appointed by AFSA. The parties hereby agree that the arbitrator’s decision will be final unless it contradicts public policy.

### -Contact Information

Sticitt choose their domicilium citandi et executandi for all purposes under this agreement the following addresses: 31, 14th Street, Parkhurst, 2193, Tel: (012) 110-4085, Email: support@sticitt.co.za

### -General

The Parties shall at all times endeavour to comply with all applicable legislation and regulations. Save as provided for herein, neither Party shall be entitled to cede, delegate, assign or otherwise transfer any of its rights and/or obligations in terms of this

Agreement to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld. The Parties will cooperate with each other to give effect to the provisions of this Agreement and their relationship shall be governed by the principles of good faith.

We may amend this Agreement by posting a revised version on our website, at which point the posted revised version will be effective. If you have any queries in this regard or underlying the Sticitt Pay - General Merchant Terms of Use please do not hesitate to contact us at [legal@sticitt.co.za](mailto:legal@sticitt.co.za).

Last Updated - This General Merchant Terms of Use was last updated on 7 January, 2020.