



CROSS SWITCH SOUTH AFRICA TECHNOLOGIES (PTY) LTD
TERMS OF SERVICE: PAYMENT PROCESSING

Introduction

Cross Switch South Africa Technologies (PTY) Ltd (“Cross Switch”) is a limited liability company incorporated under the laws of South Africa and licensed by Payments Association of South Africa (“PASA”). Cross Switch facilitates payments and provides payment infrastructure to Merchants.

These Terms of Service (“this Agreement”) is a legal and binding agreement that will apply to any Merchant entering into a Merchant Services Agreement with Cross Switch, unless otherwise amended in writing and/or any Merchant that has opened an account with Cross Switch and is processing Transactions with Cross Switch and/or utilising the Services offered by Cross Switch. It provides a general description of the Services that Cross Switch may provide to you, including those that allow you to accept payments from your Customers.

This Agreement incorporates:

- The terms set out in any Merchant Services agreement entered into between Cross Switch and a Merchant.
- These Terms of Service.
- Cross Switch’s Privacy Policy, Compliance with The Protection of Personal Information Act (POPI Act) Policy and Promotion of Access to Information Manual (“together the Cross Switch Policies”).
- Cross Switch’s Service Levels for Card Processing (Annexure A).
- Cross Switch’s Data Processing Addendum (Annexure B).

1. DEFINITIONS

- 1.1. **Agreement.** This agreement, including all annexures, attachments, or schedules, as well the Service Schedule, and the Payment Method T’s and C’s as applicable.
- 1.2. **Applicable Law.** means in relation to a party:
 - 1.2.1. all statutes, subordinate legislation, regulations, common law, ordinances, and by-laws; and
 - 1.2.2. rules, directives, codes of practice, circulars, guidance notices, judgments, and decisions of any competent authority, or any governmental, intergovernmental, or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation and any replacement or amendment thereof,compliance with which is mandatory for that party.
- 1.3. **business day.** A day which is not a Saturday, Sunday, or a public holiday or designated non-working day in South Africa.
- 1.4. **Card.** Any credit or debit card supported by the Payment Schemes for the purposes of processing Transactions.
- 1.5. **Cardholder.** The person in whose name a card is issued by an issuing bank.
- 1.6. **Confidential Information.** In relation to a party any information of a confidential and/or commercially sensitive nature, howsoever obtained or received and whether or not marked confidential, including any technical, commercial, financial, or scientific information, know how, trade secrets, processes,

business information, and/or any other information or material of whatever description or nature proprietary to such party in whatever format.

- 1.7. **Cross Switch.** Cross Switch South Africa Technologies (PTY) Limited (Registration No. 2021/641333/07) (registered address Suite 141, The Quays, Off Park Lane, Century City, 7441, South Africa; email legal@cross-switch.com).
- 1.8. **Customer.** An entity or individual who owes payment to the Merchant in exchange for the provision of goods or services, including charitable donations or services.
- 1.9. **Dispute.** An instruction initiated by a Customer to reverse or invalidate a processed Transaction (including “chargebacks” and “disputes” as those terms may be used by Payment Method Providers).
- 1.10. **Effective Date.** The date upon which a Merchant signs a Merchant Services Agreement that incorporates these Terms of Service or otherwise opens an account with Cross Switch and processes Transactions.
- 1.11. **Fee Schedule.** The Fee Schedule by which Cross Switch’s fees and charges are set out, as well as the types of Payment Methods, and associated pricing, to be made available to the Merchant are specified. The Fee Schedule may be updated, amended, or modified from time to time by agreement in writing and forms part of your Merchant Services Agreement.
- 1.12. **Fees.** The fees payable to Cross Switch by the Merchant in consideration for the Services, as set out in the Service Schedule, including the Processing Fee and Merchant Acceptance Fee.
- 1.13. **Intellectual Property.** All intellectual property rights owned by any party subsisting anywhere in the world, which is capable of protection in law, including trademarks, domain names, copyright, patents, designs and all proprietary rights in and to ownership of any idea, discovery, artwork, design, concept, technique or improvement, industry information, know how, system, methodology, data model, computer software, computer source code and object code, report, correspondence, documentation, flow chart, data base, table, calculation, spreadsheet, schematic plan, photograph, presentation or invention (whether patented or not) and any other rights of a similar nature which exist now or will in the future exist.
- 1.14. **Merchant.** Any merchant that has entered into a Merchant Services Agreement with Cross Switch, unless otherwise amended in writing and/or has opened a Cross Switch Account and is processing Transactions with Cross Switch.
- 1.15. **Merchant Acceptance Fee.** The fee that Cross Switch charges per Transaction for the use of the relevant Payment Method for that Transaction. This can be a percentage of the Transaction amount, or a fixed fee, or a combination of a percentage and a fixed fee. The Processing Fee is not part of the Merchant Acceptance Fee.
- 1.16. **Merchant Account.** An account held by the Merchant directly with a Payment Method Acquirer or alternative Payment Method Provider enabling the Merchant to accept Transactions using the applicable Payment Method, and in terms of which the Payment Method Acquirer or Payment Method Provider may charge an acceptance or other fee to the Merchant directly.

- 1.17. **Merchant Services Agreement.** An agreement between a Merchant and Cross Switch that establishes terms and conditions upon which a Merchant is processing Transactions with Cross Switch on behalf of Customers.
- 1.18. **ordinary business hours.** The hours between 08h00 and 17h00 (SAST) on a business day.
- 1.19. **Payment System Management Body.** The relevant payment system management body recognised in terms of Applicable Laws in South Africa, currently being the Payments Association of South Africa.
- 1.20. **Payment Method Acquirer.** An entity that a Payment Method Provider has authorised to sponsor or submit Transactions at the request of the Merchant to the Payment Method Provider for authorisation and clearing; and to receive and remit settlement funds for authorised and cleared Transactions.
- 1.21. **Payment Method Provider.** The provider of the Payment Method, e.g. VISA or Apple Pay.
- 1.22. **Payment Method T's and C's.** The relevant terms and conditions pertaining to the use of a Payment Method other than Cards.
- 1.23. **Payment Methods.** The various mechanisms, or mediums through which a Customer can transfer funds to the Merchant using the Services. This includes, but is not limited to, Card payment, instant electronic funds transfers (EFTs), buy now pay later (BNPL) options, vouchers, digital or electronic wallets, bank transfers, and any other method or medium that facilitates the transfer of money or its equivalent.
- 1.24. **Payment Scheme.** VISA and/or Mastercard, American Express and Diners and such other associations governing the issue and use of credit, debit, charge, purchase or any other cards or payment methods, as approved and notified by Cross Switch to Merchant in writing or on the Cross Switch website from time to time.
- 1.25. **Payment Scheme Rules.** Rules, regulations, and operating guidelines published and updated by the Payment Schemes from time to time.
- 1.26. **CS+ Platform.** The technological infrastructure, software, and application programme interfaces, owned by or duly licensed to Cross Switch, through which Transaction requests are processed. It encompasses all digital interfaces, tools, systems, and technologies provided by Cross Switch to enable, facilitate, or manage Transactional activity between the Merchant and their Customers.
- 1.27. **person.** Includes a natural person, juristic person, trust, organisation, partnership, joint venture, syndicate, or any other association.
- 1.28. **Processing Fee.** The fee that Cross Switch charges for each Transaction submitted for processing via the CS+ Platform, regardless of the Transaction amount and the type of Payment Method used.
- 1.29. **Services.** The services Cross Switch makes available to the Merchant under this Agreement, as more fully set out in the Fee Schedule, in particular enabling and facilitating Transactions between the Merchant and their Customers, allowing the Merchant to accept, process, and manage payments, refunds, or any other monetary exchanges, regardless of the Payment Method chosen by the end

Customer.

- 1.30. **Transaction.** A Payment Method transaction request via the CS+ Platform in terms of which funds for or from a Customer's associated account are directed to be captured with respect to a payment from a Customer to the Merchant, and includes chargebacks, refunds and reversals with respect to that Payment Method transaction request.

2. THE SERVICES

- 2.1. Cross Switch will, in consideration for the fees set out in the Fee Schedule, render the Services to the Merchant.
- 2.2. Cross Switch will make the Services accessible to the Merchant via the CS+ Platform application programming interfaces (APIs) and other software to enable the Merchants to use the Services. While Cross Switch will provide setup guides and documentation, the Merchant must ensure the correct implementation, installation, integration, security and operation of all systems, equipment, software and telecommunications and use of the Services on its own platform. Cross Switch reserves the right to require Merchant to install or update certain software to continue using the Services.
- 2.3. Merchant is required to integrate the CS+ Platform into its systems at its expense. Cross Switch will provide integration documentation and reasonable support for technical questions in order to facilitate this integration. Before a Merchant can commence processing Transactions, Merchant will have to perform testing to ensure that the integration is operating correctly. Cross Switch does not assume any liability with regards to the correctness of Merchant's integration and testing.
- 2.4. Cross Switch provides its Services in terms of all Applicable Laws, and strictly subject to the Payment Scheme Rules, and all written approvals, directives, notices, or authorisations as may be issued by the Payment System Management Body to Cross Switch as a participant in the National Payment System of South Africa. Cross Switch may make changes to the Services as are strictly necessary to ensure compliance with Payment System Management Body requirements and the Payment Scheme Rules.
- 2.5. Cross Switch acts as a payment processor in respect of Transactions between the Merchant. Cross Switch is not:
- 2.5.1. a bank and does not offer banking or financial services;
- 2.5.2. a remittance business or a money transfer service.

3. ONBOARDING AND INFORMATION

- 3.1. To use the Services, the Merchant will have to register and complete the customer onboarding process.
- 3.2. The Merchant onboarding process includes a commercial approval and verification process, as well as the Merchant's technical integration to access the Services via the CS+ Platform. Cross Switch, the Payment Method Acquirer, or the Providers of other Payment Methods may conduct various checks

to determine whether the Merchant's application can be approved.

- 3.3. The Merchant must immediately disclose to Cross Switch such information as Cross Switch may reasonably require for the provision of the Services, including any information required in terms of any Payment Scheme Rule or Applicable Law, and such information as Cross Switch may require to verify the identity of the Merchant and its ultimate beneficial owners. The Merchant must notify Cross Switch promptly of any material change in such information.
- 3.4. Subject to Applicable Laws, Cross Switch may share this information with its affiliates, the Payment Schemes, Payment Method Acquirers, Payment Method Providers, credit reference agencies, fraud prevention agencies and crime enforcement authorities to the extent required in terms of the Payment Scheme Rules, Applicable Laws, or as Cross Switch may reasonably consider necessary or appropriate for the provision of the Services.
- 3.5. The Merchant acknowledges that:
 - 3.5.1. Payment Schemes to which Cross Switch discloses information may maintain databases which may be available to third parties (including card issuers, regulators and other authorities) containing information regarding the conduct of transactions by merchants, and/or categorize undesirable conduct of merchants; and
 - 3.5.2. if any of the Services are or this Agreement is terminated, relevant Payment Schemes may, subject to Applicable Laws, be notified and may retain such information in accordance with their normal practice.
- 3.6. Merchant must provide Cross Switch with:
 - 3.6.1. its business URL if applicable; and
 - 3.6.2. its Merchant Identification Number ("MID"), if the Merchant has its own account with a Payment Method Acquirer for Card Transactions; and
 - 3.6.3. proof of the relevant Merchant Account where applicable; and
 - 3.6.4. its trading name as it will appear on the Customer's statement.
- 3.7. Merchant must notify Cross Switch of any changes to its MID, business URL and/or of significant changes to its business model.
- 3.8. Cross Switch may request additional information from Merchant should it be deemed appropriate, based on an unusual or unreasonable increase of Transaction volume, the occurrence of Disputes or other circumstances that might affect Cross Switch's, the Payment Method Acquirer's, or other Payment Method Provider's risk exposure in connection with the provision of the Services.
- 3.9. Merchant is obliged to notify Cross Switch of any changes in its company information or beneficial ownership structure and will be responsible for providing updated KYC documentation.

4. FEES

- 4.1. Merchant will pay the Fees for using the Services as per the Fee Schedule.
- 4.2. Cross Switch will invoice on a monthly basis, within 5 business days of the end of the relevant month. Fees are due within 3 business days of receipt of the invoice and will be paid by electronic funds transfer without set-off or deduction into Cross Switch's nominated bank account. Alternatively, Cross Switch may debit the Merchant's bank account, as per the debit order authorisation attached to you Merchant Services Agreement, with the respective amount between the 5th and 10th business day of the month following the billing period. It is the Merchant's responsibility to ensure that the account has sufficient balance at that time. Should the debit fail due to circumstances in the Merchant's responsibility, Cross Switch may charge an additional administration fee to cover expenses caused.
- 4.3. The Processing Fee is charged for all Transactions that are successfully *processed*, including Transactions that are successfully processed to the Payment Method Acquirer or Payment Method Provider, *but are declined*. No Processing Fee is payable where the Transaction is not processed to the Payment Method Acquirer or Payment Method Provider i.e., due to processing error or timeout.
- 4.4. Processing and Merchant Acceptance Fees are payable irrespective of whether a successful Transaction is subsequently reversed, Disputed, or refunded.
- 4.5. Cross Switch may adjust the fees from time to time by mutual agreement with Merchant.
- 4.6. Cross Switch has the right to charge interest against all overdue amounts at 2% above the prevailing prime interest rate in South Africa. Such interest shall be calculated monthly in advance, on the first day of each succeeding month, on the outstanding balance due by the Merchant. An account is deemed to be overdue if not settled within a period of 3 business days.

5. MERCHANT OBLIGATIONS

- 5.1. The Merchant must:
 - 5.1.1. not engage in any practice prohibited by the Payment Scheme Rules when accepting Card payments, and in particular the Merchant must:
 - 5.1.1.1. not engage in any practice that discriminates against or discourages the use of a Card in favour of any other acceptance brand, including the levying of surcharges or the imposition of minimum or maximum transaction amounts;
 - 5.1.1.2. abide by and ensure that all equipment and software it uses in connection with Card Transactions and the storage and/or processing of Card data complies with, any payment card industry or payment application data security standards of any Payment Scheme as updated from time to time

(“PCI DSS”).

- 5.1.2. accept and apply 3D-Secure processes for all Transactions where mandated by regulation or the Payment Method Acquirer or if requested by Cross Switch;
 - 5.1.3. only accept payments and/or process refunds:
 - 5.1.3.1. from Customers in connection with goods and/or services supplied by the Merchant;
 - 5.1.3.2. in respect of goods and/or services which:
 - 5.1.3.2.1. commonly fall within its business identified to Cross Switch during onboarding or as updated to Cross Switch from time to time;
 - 5.1.3.2.2. the Customer would reasonably expect to receive;
 - 5.1.3.2.3. in respect of goods or services the provision of which is in terms of Applicable Laws;
 - 5.1.4. identify itself to its customers as the seller of the goods and services and will display its customer service contact details, including email address and telephone number on the website;
 - 5.1.5. display its full terms and conditions, including comprehensive details of its return and refund policies;
 - 5.1.6. if accepting a Transaction payment using any Payment Method not price that transaction higher than the Merchant’s standard, or usual, prices that it would charge to any other customer using any other type of payment method, including cash;
 - 5.1.7. not refuse to transact for any goods or services on the basis that the customer wishes to use a particular Payment Method to pay for such transaction;
 - 5.1.8. obtain authorisation for Transactions via the CS+ Platform;
 - 5.1.9. retain a copy of all relevant information relating to a Transaction for at least 5 years from the date of the Transaction; and
 - 5.1.10. comply with any additional security, authentication, risk control or other requirements imposed by Cross Switch or a Payment Scheme.
- 5.2. Where the Merchant has a Merchant Account directly with a Payment Method Acquirer, Cross Switch will send Transaction instructions to the relevant Payment Method Acquirer. On receipt of a response from the Payment Method Acquirer, Cross Switch will forward such response to the Merchant. The Payment Method Acquirer will settle Transaction payments to the Merchant directly.

- 5.3. The processing of certain Payment Methods may be subject to additional terms as set out in the Payment Method T's and C's, or by a separate contract between Merchant and the Payment Method Acquirer or Provider.
- 5.4. The use of any specific Payment Method is optional. However, if Merchant uses a Payment Method, Merchant must accept and agree to the terms applicable to that Payment Method. If there is any conflict between this Agreement and the specific terms applicable to a Payment Method, the relevant Payment Method T's and C's will apply.

6. SETTLEMENT

- 6.1. Cross Switch may accept Transactions on the Merchant's behalf except where the Merchant has an acquiring or merchant account directly with the third-party Payment Method Acquirer or Payment Method Provider.
- 6.2. Where the Merchant has a Merchant Account directly with a Payment Method Acquirer, Cross Switch will send Transaction instructions to the relevant Payment Method Acquirer. On receipt of a response from the Payment Method Acquirer, Cross Switch will forward such response to the Merchant. The Payment Method Acquirer or Payment Method Provider will settle Transaction payments to the Merchant directly.
- 6.3. In the case where Cross Switch accepts Transactions on behalf of the Merchant, Cross Switch will be acting as a
"Payment Facilitator" and will settle Transaction Payments to the Merchant in terms of this clause.
- 6.4. Where Cross Switch is acting as a Payment Facilitator:
- 6.4.1. the Merchant appoints Cross Switch to accept the proceeds of Transaction instructions (**"Proceeds"**) from Customers on the Merchant's behalf. Customers will make payment to the Merchant, but the Proceeds will be paid to Cross Switch and held on behalf of the Merchant until paid out to the Merchant in terms of clause 6.4.5;
- 6.4.2. Cross Switch will hold funds accepted on behalf of the Merchant in a separate bank account and will not use these funds for Cross Switch's own expenses. However, in the same way that Proceeds are received on behalf of the Merchant, any Disputed amount associated with the Transaction Proceeds will similarly be deducted from Cross Switch's account and accordingly paid by Cross Switch on behalf of the merchant. It is the Merchant's responsibility to contest any Dispute;
- 6.4.3. the Merchant's account balance with Cross Switch represents an unsecured debt owed by Cross Switch to the Merchant. Cross Switch is not acting as a bank, trustee, fiduciary or escrow agent in respect of such acquired funds. Interest, if any, accruing on any Transaction proceeds held by Cross Switch shall accrue for the benefit of Cross Switch;
- 6.4.4. settlement will be in ZAR only;

- 6.4.5. Cross Switch will credit the Merchant's nominated bank account with the total Proceeds from the relevant Payment Method transactions, less any applicable amounts placed on hold due to being the subject of a transaction Dispute or fraud investigations, refund amounts, reversals, Disputed amounts, and associated fines, penalties, and fees, on a daily basis (T plus 1), unless otherwise specified in the Payment Method T's and C's. This means that Transactions from any given day (T) will be settled and funds transferred to the Merchant on the subsequent business day (T+1). However, settlements will only be made on regular business days. If the next day (T+1) falls on a weekend or a public holiday, the settlement will occur on the next business day;
- 6.4.6. The Merchant is liable for any loss caused to Cross Switch related to a Disputed Transaction. This includes the Transaction amount that was charged back, but also any potential fees, fines or penalties imposed by any Payment Scheme or Payment Method Acquirer or Payment Method Provider. Cross Switch may levy an administration fee as per the Fee Schedule per Dispute received in addition to any costs and expenses charged by a relevant Payment Method Acquirer or Provider;
- 6.4.7. If Proceeds held on the Merchant's behalf are insufficient to accommodate the above, the Merchant is liable to pay Cross Switch for such amounts;
- 6.4.8. Cross Switch may delay settlement until it has resolved any uncertainty of the final amount due to be settled by Cross Switch to the Merchant. This may occur where there has been any actual or suspected Dispute, fraud, or compliance violation in relation to the Transaction or the Merchant's business, or due to there being outstanding, incomplete, or incorrect KYC documentation in relation to the Merchant, or the occurrence of any insolvency event in relation to the Merchant. In addition, we might require additional documents from you evidencing proof of delivery, or a valid issued tax invoice in respect of an order ("**Order Verification Docs**"). All balances and disbursements are ZAR denominated;
- 6.4.9. Cross Switch will take reasonable steps to process requested refunds to Customers to the extent that the Payment Method allows for refunds to be processed. The Merchant must provide all information that Cross Switch may require in relation to such refund request, including proof of sale, delivery, cancellation, and request for a refund. Unless otherwise agreed with Cross Switch, the Merchant must not refund the customer directly, but should request a refund from Cross Switch in writing confirming the transaction and the amount to be refunded. Cross Switch will deduct the refund amount from the next settlement;
- 6.4.10. Cross Switch is not obliged to settle amounts related to invalid or fraudulent transactions. The Merchant indemnifies Cross Switch against any loss or expenses Cross Switch might incur in connection with invalid or fraudulent Transactions concluded by the Merchant using any Payment Method. A Transaction will be invalid if

it is:

- 6.4.10.1. illegal for any reason;
- 6.4.10.2. processed after the termination or suspension of this Agreement;
- 6.4.10.3. the Merchant does not supply the goods and services transacted for within the stipulated period;
- 6.4.10.4. the Merchant accepts the Transaction without authorisation from the Customer, or without authorisation via the CS+ Platform; or
- 6.4.10.5. it is fraudulent i.e., not for the supply of goods or services to a genuine customer or represents a transfer of funds rather than the supply of goods or services.

7. FRAUD PREVENTION AND COMPLIANCE WITH LAWS

- 7.1. The processing of Transactions or the making of payments may be delayed or suspended where Cross Switch has a reasonable suspicion that a Transaction may be fraudulent or involve other criminal activity.
- 7.2. The Merchant must not use the Services:
 - 7.2.1. to accept payments for goods or services where payment is not yet due and for which no invoice exists which can be presented to Cross Switch on request;
 - 7.2.2. to accept payment for illegal products or services, including materials that infringe the intellectual property rights of third parties;
 - 7.2.3. to conduct any money laundering, or any activity that constitutes a crime or a breach of Applicable Laws.
- 7.3. Cross Switch is not part of, any sales or services contracts executed between the Merchant and the Customer. The Merchant is responsible for complying with all consumer obligations, tax obligations, exchange obligations or any other obligation in terms of Applicable Laws. The Merchant bears the risk of contracting with Customers (including where payments are made by Customers to unintended recipients or payments reflect the incorrect amounts due to the input of incorrect information by Customers or the Merchant).
- 7.4. If Cross Switch has reasonable suspicion that a Transaction may be fraudulent, or involve other criminal activity, Cross Switch may suspend the processing of that, and any connected, Transaction (and, if applicable, withhold settlement of the Transaction proceeds) until the satisfactory completion of an internal investigation.

8. TERM AND TERMINATION

- 8.1. This Agreement shall commence with effect from the date of activation of the Services by Cross Switch, or such other date as agreed between the parties in writing, and will endure indefinitely until terminated in accordance with the provisions of this Agreement.
- 8.2. The Merchant may terminate this Agreement at any time on written notice to Cross Switch. Any fees based on monthly usage will be applied for the month in which Merchant indicates the termination to Cross Switch.
- 8.3. Cross Switch reserves the right to suspend Merchant's access to the Services partially or in full, or terminate this Agreement, immediately upon notice to Merchant if:
 - 8.3.1. Merchant is in breach of any of the provisions of this Agreement and fails to remedy the breach on 14 days' written notice;
 - 8.3.2. Cross Switch is requested or required to do so by a Payment Scheme, a Payment Method Acquirer, or a Provider of a Payment Method; or
 - 8.3.3. if Cross Switch determines that continuing to provide the Services to the Merchant represents increased risk of loss or liability or risk to reputation to Cross Switch; or
 - 8.3.4. the Merchant engages in, or is suspected of engaging in, any trading practices or other activity which might give rise to fraud or any other criminal activity; or
 - 8.3.5. the Merchant breaches any Payment Scheme Rules; or
 - 8.3.6. where any Payment Scheme Rule would otherwise be broken by either the Merchant or Cross Switch; or
 - 8.3.7. Cross Switch is or may be subject to fines from a Payment Scheme, or Payment Method Acquirer, Payment Method Provider or other third party arising from the provision of the Services to the Merchant.
- 8.4. Outside of the circumstances in 8.3, Cross Switch may suspend Merchant's access to the Services partially or in full or terminate this Agreement by giving 45 days' written notice to Merchant.
- 8.5. This Agreement may be terminated immediately by either party on written notice to the other, if in respect of the other party to this Agreement:
 - 8.5.1. an order or declaration is made, steps are taken, or a resolution is proposed or passed for the administration, business rescue, custodianship, curatorship, bankruptcy, liquidation, sequestration, winding up, (whether provisional or final) or deregistration of such other party;
 - 8.5.2. such other party is unable (or admits inability) to pay its debts generally as they fall due or it becomes (or admits to being) otherwise insolvent or stops, suspends or threatens to stop or suspend payment of all or a material part of its debts or proposes or seeks to

make or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness;

8.5.3. such other party has any execution, attachment or other proceedings levied or enforced against its assets unless an application to rescind the relevant execution or attachment order is successfully brought by that person within 21 days of having become aware of the relevant execution, attachment, or other similar order.

8.6. Upon effective termination of this Agreement, Cross Switch will immediately discontinue the Merchant's access to the Services.

9. **WARRANTIES**

9.1. Merchant warrants to Cross Switch that:

9.1.1. It will use the Services solely for the purposes of receiving legitimate and lawful payments in terms of all Applicable Laws;

9.1.2. the information provided by it during the onboarding process in clause 3 is true and correct;

9.1.3. its business complies with Applicable Laws;

9.1.4. it will not offer goods or services in the following market segments:

9.1.4.1. counterfeit or stolen goods;

9.1.4.2. tobacco products;

9.1.4.3. prescription drugs or regulated substances;

9.1.4.4. pornographic content; or

9.1.4.5. any other business which Cross Switch may identify, from time to time, due to regulatory, risk or operational reasons to be a restricted business on written notice to the Merchant;

9.1.5. the Merchant will fulfil all its obligations to each Customer for which they submit a Transaction and will resolve disputes and complaints directly with the Customer; and

9.1.6. neither it nor its Merchant has ever had a contract with a Payment Scheme terminated at the direction of the Payment Scheme or at the direction of any regulatory authority or court of law.

9.2. Cross Switch warrants to Merchant that it:

9.2.1. will take reasonable steps to ensure that the Services will be provided with minimal

interruption, be available on a 24 hour per day basis, and that upon discovery of any defects, these are addressed timeously in accordance with the service levels set out in Annexure A. However, due to the nature of the Services, these are necessarily provided on an “as is” and “as available” basis to the maximum extent permitted by Applicable Law. This is because the Services are largely dependent upon many factors beyond Cross Switch's control, including, but not limited to delays in the banking system or in card networks;

9.2.2. has the necessary licences, authorisations, consents, and/or other regulatory permissions as are necessary in accordance with Applicable Law and the Payment Scheme Rules in order to provide the Services; and

9.2.3. provides the Services in a professional manner and according to industry security standards and the service levels set out in Annexure A. However, due to the nature of the Services, the Merchant acknowledges that they use them at their own risk.

9.3. Each party warrants to the other that:

9.3.1. it has full capacity and authority to enter into and perform its obligations under this Agreement;

9.3.2. this Agreement is executed by a duly authorised representative of that party;

9.3.3. it has the necessary skills and resources to comply with the obligations assumed by it in terms of this Agreement;

9.3.4. the conclusion and/or compliance by that party of its obligations hereunder shall not breach any Applicable Law or agreement binding on it;

9.3.5. all information supplied to the other party is true, accurate and complete in all respects; and

9.3.6. it will not do anything, or engage in any activity, which is likely to adversely affect or damage the other party's good name and/or reputation.

10. **INTELLECTUAL PROPERTY**

10.1. Other than is provided for in this agreement:

10.1.1. all Intellectual Property belonging to either of the parties will remain the property of such party and the other party will not acquire any right, title, or interest in and to such Intellectual Property in terms of this agreement;

10.1.2. each party will not reverse assemble, decompile, reverse engineer, or otherwise attempt to derive source code (or any algorithms) from such Intellectual Property, except as specifically authorised in writing by the party owning such property or as specifically

provided in terms of this agreement;

10.1.3. neither party shall in any manner alter, remove, or affect the display of the respective Intellectual Property rights notices (and disclaimers) of the other party and/or their vendors and licensors without the prior written approval of the other party, and their vendors or licensors where applicable; and

10.1.4. neither party may use the other party's Intellectual Property, and specifically trade names, logos or any derivative or component thereof without the prior written approval of the other party.

10.2. Each party is responsible, at its cost, for licensing intellectual property rights owned or controlled by any person other than the party concerned that may be included within the Intellectual Property of that party from time to time to the extent that such third-party intellectual property is used in respect of the Intellectual Property of such party.

11. INDEMNITY AND LIMITATION OF LIABILITY

11.1. Cross Switch does not assume any liability for the products or services purchased by way of using its Services.

11.2. Under no circumstances shall any party be liable for any indirect, extrinsic, special, or consequential loss or damage of any kind whatsoever or howsoever caused, including any loss of commercial opportunities or loss of profits.

11.3. A party will not be responsible to the other party for any loss arising from any circumstances beyond the reasonable control of such party, including any failure or malfunction in software or systems, any delay or error in an electronic communication (including a communication via cellular telephones), failure or malfunction in any supporting or shared networks.

Each party indemnifies the other party from and against any loss, damage, costs, expenses and liabilities which such other party may suffer or incur as a result of or in connections with any claim by any third party arising out of the actions or omissions of the first-mentioned party, save to the extent that the legal action or claim arises out of the fraud, gross negligence or wilful misconduct of the party so indemnified.

11.4. The use of any electronic means of communication is entirely at a party's risk and the other party does not warrant that such communication shall meet any criteria of accuracy, completeness or reliability of information, performance, or quality.

11.5. Each party's liability to the other is limited to a maximum amount equal to the total amount of all Fees (excluding any pass-through fees levied by the Payment method Acquirers or Payment Method Providers) paid by the Merchant to Cross Switch within the 3-month period preceding the date on which the incident giving rise to the liability first occurred. For incidents that occur over an extended period, the commencement of the incident will be deemed to be the first occurrence or act giving rise to the liability.

12. DATA PROTECTION

12.1. For the purposes of this clause:

12.1.1. **Data Protection Laws.** Any Applicable Laws relating to data protection or data privacy, including the Protection of Personal Information Act (No. 4 of 2013) and any other data protection legislation and/or regulation applicable to the parties in respect of Personal Information which may be processed by the parties in terms of this agreement; and

12.1.2. **Personal Information.** 'Personal information' as defined in the Protection of Personal Information Act (No. 4 of 2013).

12.2. The parties will comply with all applicable requirements and obligations of the Data Protection Laws.

12.3. Each party shall take all appropriate technical and organizational security measures to ensure that Personal Information ("**Discloser's Data**") supplied by the other party ("**Discloser**") in connection with this agreement is protected against loss, destruction, and damage, and against unauthorized access, use, modification, deletion, disclosure, or other misuse.

12.4. Each party shall take reasonable steps to identify all reasonably foreseeable internal and external risks posed to the Discloser's Data and shall establish and maintain appropriate safeguards against any risks identified. The safeguards shall be updated continually in response to new risks or deficiencies in previously implemented safeguards.

12.5. Each party warrants, represents and undertakes that it shall ensure that its technology on which the Discloser's Data is processed, shall always be in a standard no less than the standards which comply with the best industry practice for the protection, control, and use of the Discloser's Data.

12.6. Where Cross Switch processes Personal Data of a Customer while processing Transactions on behalf of the Merchant, the parties shall comply with the Data Processing Addendum, which is incorporated into this Agreement as Annexure B.

13. CONFIDENTIALITY

13.1. Each party may in the execution of this agreement come into possession of Confidential Information. Each party will treat all Confidential Information, as well as the existence and contents of this agreement, as confidential and to use and divulge it only as far as is necessary for purposes of this agreement.

13.2. The obligations set out in this clause do not apply to information which:

13.2.1. at the time of its disclosure had already been published or was otherwise publicly available; or

13.2.2. subsequent to its disclosure became (through no fault or failure of either of the parties) part of the public domain; or

13.2.3. at the time of its disclosure can be shown by a party to have been in its possession prior to the disclosure thereof.

13.3. The provisions of this clause 13 shall endure irrespective of the termination of this agreement.

13.4. Subject to Applicable Law, Cross Switch may share information with the Card issuers, Payment Schemes and relevant Payment Method Acquirers to the extent reasonably necessary or appropriate to comply with Applicable Law or Payment Scheme Rules.

14. **LEGAL ADDRESS AND NOTICES**

14.1. Each of the parties chooses the addresses set out in clause 1 at which to receive notices and legal process in terms of this agreement ("**Legal Address**"), or as otherwise notified in writing.

14.2. Notices, to be valid, must be in writing, and may be given by e-mail.

14.3. Notices are deemed to have been received on the date of delivery by hand to a responsible person at, or transmission of the email to, the chosen Legal Address, during ordinary business hours. If delivery occurs outside of ordinary business hours, it shall be deemed to have been received at 08h00 (SAST) on the next business day.

14.4. A written notice actually received by a party shall be valid even if it was not delivered at its chosen Legal Address.

15. **COSTS**

Each party shall pay its own costs in connection with this agreement.

16. **ASSIGNMENT**

The Merchant may not cede, assign, or transfer any of its rights and obligations under this Agreement without Cross Switch's prior written consent (such consent not to be unreasonably withheld or delayed). Cross Switch may cede, assign, or transfer its rights and obligations under this Agreement, without the prior written consent of the Merchant.

17. **GENERAL PROVISIONS**

17.1. Governing Law

This Agreement will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.

17.2. Dispute Resolution

17.2.1. Good faith resolution. The Parties shall try, in good faith, to solve amicably, and by mutual agreement, any dispute which may arise between them with respect to the

Agreement in any way they deem appropriate.

- 17.2.2. Failure to resolve. Should the Parties be unable to resolve a dispute despite their good faith efforts, then the dispute will be finally resolved through private arbitration. The arbitration proceedings shall be subject to the rules of the Arbitration Foundation of South Africa, or its successor in title ("AFSA"). The arbitrator shall be appointed by agreement between the Parties. Should the Parties fail to agree on the identity of the arbitrator, the dispute will be referred to AFSA for the nomination of the arbitrator. The arbitrator shall be entitled to: (i) investigate or cause to be investigated any matter, fact or thing which he/she considers necessary or desirable in connection with any matter referred to him/her for decision; and (ii) make such award, including an award for specific performance, an interdict, damages or a penalty or the costs of the arbitration or otherwise, as he/she in his/her discretion may deem fit and appropriate. The arbitration shall be held as quickly as possible after it is demanded, with the view to it being completed within 30 (thirty) days after it has been demanded and the decision of the arbitrator shall be final and binding on the Parties.
- 17.2.3. Demand for arbitration. Either Party may demand that a dispute be referred to arbitration by giving Written notice to that effect to the other Party.
- 17.2.4. Urgent interim relief. Nothing in the Agreement shall preclude either Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction.
- 17.2.5. Arbitration. The arbitration shall be held – at Johannesburg in the English language; and immediately and with a view to its being completed within 21 (twenty-one) calendar days after it is demanded.
- 17.2.6. Right of appeal. The Parties irrevocably agree that the submission of any dispute to arbitration is subject to the Parties' rights of appeal. Either Party may appeal the arbitration ruling by giving Written notice to the other Party to the arbitration within 20 (twenty) calendar days of the ruling being handed down. The appeal shall be dealt with in accordance with the rules of AFSA by a panel of 3 (three) arbitrators appointed by AFSA.
- 17.2.7. Parties to be bound. The Parties irrevocably agree that on expiry of the 20 (twenty) calendar day period for appeal or the handing down of the ruling of the appeal panel, as the case may be, as contemplated in clause 17.2.6, the decision in arbitration proceedings – (i) shall be final and binding on the Parties; (ii) shall be carried into effect; and (iii) may be made an order of any court of competent jurisdiction.
- 17.2.8. Costs. The costs of any reference to arbitration will be borne by the unsuccessful Party, unless otherwise determined by the Parties or the arbitrator, irrespective of which Party referred the dispute to arbitration.

17.3. Whole Agreement

- 17.3.1. Any amendment or cancellation of this agreement must be agreed between the parties in writing.

- 17.3.2. This agreement encompasses the whole and only agreement between the parties relating to its subject matter. No term, representation, or warranty is binding unless set out in this agreement.
- 17.3.3. No indulgence or waiver of any provision of this agreement shall be binding unless given by the relevant party in writing.

17.4. Interpretation

In this agreement:

- 17.4.1. a reference to an enactment is to that enactment as at the Effective Date as amended and includes any subordinate legislation made from time to time under such enactment
- 17.4.2. a reference to any other agreement or document shall be to such agreement or document as amended;
- 17.4.3. the words “**include**”, “**including**” and “**in particular**” are by way of example only and shall not limit the generality of any preceding words;
- 17.4.4. the words “**other**” and “**otherwise**” shall be interpreted as widely as possible and will not be limited by any preceding words;
- 17.4.5. a particular jurisdiction’s law process shall, if a party is subject to another jurisdiction’s law, be interpreted in relation to that party as including an equivalent or analogous proceeding under such other law; and
- 17.4.6. a number of days shall exclude the first day and include the last day. If the last day is not a business day, the last day shall be the next business day.
- 17.4.7. clauses shall continue to operate after the termination of this agreement if necessitated by their nature;
- 17.4.8. if figures are referred to in numerals and in words and there is a conflict between the two, the words shall prevail;
- 17.4.9. its provisions shall not be interpreted against the party drafting it; and
- 17.4.10. if any provision becomes illegal, invalid, or unenforceable, such provision shall be severed, to the extent of its illegality, invalidity, or unenforceability, from the balance of this agreement.

AnnexureA – SERVICE LEVELS FOR CARD PROCESSING

The following terms describe the service delivery metrics to be used in measuring the Card processing Services being delivered by Cross Switch on an ongoing basis.

In this Service Level Agreement, all services that are rendered and/or performed by external third parties other than Cross Switch (are excluded in the definitions of the availability, reliability, or target resolution time. This applies specifically to – but is not limited to – services provided for hosting, communication or data networks and services in the realm of responsibility of the Provider of payment methods, such as card schemes, risk management providers or acquiring banks.

1 DEFINITIONS

1.1 Processing Services

All technical functionality of the Services that support the processing of Card Transactions, including the provisioning of the Transaction platform and the link to the provider of the payment method shall be considered the PROCESSING SERVICES under this Agreement.

1.2 Service Hours

The Processing Services under this Service Level Agreement will be rendered 24 hours per day for 7 days per week, excluding the periods of Scheduled Maintenance Windows as referred to in 1.4.

1.3 Performance Metrics

All metrics and performance parameters will always be measured and/or calculated on a monthly basis, i.e., using the cumulative result of the incidents or times being measured applicable during one month in which the Services were delivered.

1.4 Availability

CROSS SWITCH'S services are deemed available if the servers via which the agreed services are running, are connected via an access node with the Internet and the services run free of significant defects (Error Categories 1 and 2).

In order to sustain the quality and security of CROSS SWITCH'S services, the Parties agree on Scheduled Maintenance Windows of up to a maximum of 3 (three) hours per month. During these Scheduled Maintenance Windows, the Services are deemed available for the purposes of calculating the Availability. Cross Switch will provide the Merchant with no less than 14 days' notice of any planned Scheduled Maintenance Windows.

1.5 Resolution Time

This is the time that elapses between Merchant reporting a problem via the referenced support platform and the Service being fully restored and available, being provided free from the reported error.

Merchant is required to report the problem by providing sufficient information that supports the identification process.

2 ERROR CATEGORIES

2.1 Error Category 1

A malfunction is considered an Error of Category 1 if the Services cannot be provided due to circumstances that are within CROSS SWITCH' scope and causes a complete or partial interruption of the services that prevent the MERCHANT from performing payment Transactions.

2.2 Error Category 2

A malfunction is considered an Error of Category 2 if the Services provided are faulty and can be used by the MERCHANT and by the MERCHANT's customers with substantial drawbacks only.

Example: One or several system functionalities of the payment system, e.g., scheduling or registration Transactions are not available, and the payment system therefore can only be used with significant drawbacks.

2.3 Error Category 3

A malfunction is considered an Error of Category 3 if the Services provided are faulty but can be used by the MERCHANT and by the MERCHANT's customers with drawbacks, while the main processing functions are available.

Examples: Analysis or reporting functions indicate incorrect values or risk management functions are not available.

2.4 Error Category 4

A malfunction is considered an Error of Category 4 if all payment processing functions are available and are performed correctly and can be used by the MERCHANT and by the MERCHANT's customers without drawbacks, but layout or graphical interfaces are compromised.

Examples: Corporate design of forms or User Interface functionality of minor features or reports are compromised.

2.5 Other malfunctions

Malfunctions in CROSS SWITCH'S provision of services does not constitute errors in the context of this Service Level Agreement if they occur due to unforeseeable circumstances outside of CROSS SWITCH'S scope of influence. Such circumstances include for example Force Majeure, systems breakdown due to DoS attacks, general telecommunication failures or actions or omissions of parties outside of CROSS SWITCH'S scope of influence.

3 CONTRACTUAL TARGET AVAILABILITY

CROSS SWITCH aims to always maintain the uptime and availability of its Processing Services outside the Scheduled Maintenance Windows and will undertake to use its reasonable endeavours to provide the Processing Services without any interruptions. However, although CROSS SWITCH uses reasonable care and diligence to ensure that the Processing Services are available, accurate, error-free, secure, and reliable, CROSS SWITCH makes no representations or warranties, implied or otherwise, that the Processing Services will be available, accurate, error-free, secure, reliable and 100% uninterrupted.

Should the availability as defined in C.1.4 fall short of 99.0% during one calendar month, the provisions of C.5 shall apply.

4 TARGET RESOLUTION TIMES

CROSS SWITCH will undertake to rectify reported errors within the following time frames:

Error Category	Error Resolution Time
1	8 hours
2	24 hours
3	5 business days
4	In a timely manner within the regular software release cycles

5 SERVICE CREDITS

In case of a shortfall on the Contractual Availability and where CROSS SWITCH fails to resolve errors of Category 1 to 4 within the specified Error Resolution Time that led to the services being free of errors short of the Contractual Target Availability within one particular calendar month, the Parties agree to liquidated damages according to the following table. The damages shall be calculated as a percentage of the monthly Transaction fees invoiced by CROSS SWITCH to Merchant during that particular month and applied as Service Credits against the next invoice.

Deviation in percentage points	Applicable Service Credits
< 1.0%	10 %
> 1.0% to 2.0%	20%

> 2.0% to 3.0%	50%
> 3.0%	100%

By way of granting the Service Credits listed above as liquidated damages, all claims for damages by Merchant that are not caused by CROSS SWITCH' wilful misconduct or gross negligence are discharged.

6 REPORTING OF ERRORS

All errors must be reported via email to support@cross-switch.com

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When reporting an error, Merchant is required to provide sufficient information that helps identifying the problem.

7 SUPPORT SERVICES

CROSS SWITCH offers support during office hours to help resolve issues relating to the use of the CROSS SWITCH platform, the payment processing and the use of software provided by CROSS SWITCH.

It is in Merchant's sole responsibility to provide service to its Merchants for any and all issues related to its products and services, including, but not limited to issues arising from the processing of customers' cards through CROSS SWITCH' Service.

Annexure B – DATA PROCESSING ADDENDUM

1 DEFINITIONS

All capitalized words and phrases not otherwise defined within the body of this Annexure B shall have the meanings set forth in the Master Service Agreement. The following definitions apply to this Annexure B.

"Controller" or **"Responsible Party"** means the entity or entities which alone or jointly with others determines the purposes and means of the processing of the Customer Personal Data.

"Customer Personal Data" means any Personal Data relating to the Customers that Merchant provides to Cross Switch in connection with the Services, or any Personal Data in turn generated by Cross Switch from such Personal Data provided.

"Data Protection Laws and Regulations" means all laws and regulations, applicable to the Processing of Personal Data under the Master Service Agreement.

"Data Subject" means the identified or identifiable person to whom Customer Personal Data relates.

"Personal Data" means any information relating to (i) an identified or identifiable natural person or (ii) an identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable Data Protection Laws and Regulations).

"Processing" means any operation or set of operations which is performed upon Personal Data, whether by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and **"Process"** and **"Processes"** shall have a corresponding meaning.

"Processor" or **"Operator"** means an entity which Processes Personal Data on behalf of a Controller.

"Sub-processor" means any entity which Processes Customer Personal Data on behalf of Cross Switch.

2 PROCESSING OF USER PERSONAL DATA

Roles of the Parties. With regard to the Processing of Customer Personal Data under the Master Service Agreement, Merchant is the Controller, Cross Switch is the Processor, and Cross Switch may engage Sub-processors pursuant to the requirements set forth in Section 5 "Sub-processors".

Processing of Customer Personal Data. Merchant shall, in its use of the Services, Process Customer Personal Data in accordance with the requirements of Data Protection Laws and Regulations. Merchant's instructions for the Processing of Customer Personal Data shall comply with Data Protection Laws and Regulations. Merchant shall have sole responsibility for the accuracy, quality, and legality of the Customer Personal Data and the means by which Merchant acquired the Customer Personal Data and ensuring that disclosure of the Customer Personal Data to and the Processing of Customer Personal Data in order to provide the Services in accordance with the Master Service Agreement by Cross Switch is in accordance with the Data Protection Laws and Regulations.

Compliance with Data Protection Laws. Cross Switch shall process Customer Personal Data in accordance with the Data Protection Laws.

Data Protection Impact Assessment. Upon Merchant's request Cross Switch shall provide Merchant with reasonable cooperation and assistance needed to fulfil any obligation of Merchant under the Data Protection Laws and Regulations to carry out a data protection impact assessment related to the processing of Customer Personal Data to the extent Merchant does not otherwise have access to the relevant information and to the extent such information is available to Cross Switch. Cross Switch shall provide reasonable assistance to Merchant in the cooperation or prior consultation with any supervisory authority in the performance of its tasks to the extent required under the Data Protection Laws and Regulations. To the extent legally permitted, Merchant shall be responsible for any costs arising from Cross Switch' provision of any assistance under this clause.

Cross Switch Payment's Processing of Customer Personal Data. Cross Switch shall Process Customer Personal Data only on Merchant's documented instructions unless required to do so by applicable Data Protection Laws and Regulations. Merchant warrants that the Master Service Agreement; any Schedule and any instructions it gives to Cross Switch for the Processing of Customer Personal Data are Controller's documented instructions.

Details of the Processing. The subject-matter of Processing of Customer Personal Data by Cross Switch is the performance of the Services pursuant to the Master Service Agreement (as supplemented by any Schedule). The duration of the Processing, the nature and purpose of the Processing, the types of Customer Personal Data and categories of Data Subjects Processed under this Annexure are further specified in Schedule 1 (Details of the Processing) to this Annexure B.

3 DATA SUBJECT REQUESTS

Regulatory requests. Cross Switch shall notify Merchant of any legally binding request for disclosure of Customer Personal Data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation.

Data Subject Requests. Cross Switch shall, to the extent legally permitted, promptly notify Merchant via email if Cross Switch receives a request from a Data Subject to exercise the Data Subject's right of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, object to the Processing, or its right not to be subject to an automated individual decision making in each case in relation to the Customer Personal Data ("Data Subject Request"). Considering the nature of the Processing, Cross Switch shall assist Merchant by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Merchant's obligation to respond to a Data Subject Request under Data Protection Laws and Regulations. In addition, to the extent that Merchant, by its use of the Services, does not have the ability to address a Data Subject Request, Cross Switch shall upon Merchant's request provide commercially reasonable efforts to assist Merchant in responding to such Data Subject Request, to the extent Cross Switch is legally permitted to do so and the response to such Data Subject Request is required under Data Protection Laws and Regulations. To the extent legally permitted, Merchant shall be responsible for any costs arising from Cross Switch's provision of such assistance.

Notification by the Customer. Merchant must make any Data Subject Request or request for assistance in relation to a Data Subject Request by sending a ticket to legal@cross-switch.com

4 CROSS SWITCH PERSONNEL

Confidentiality. Cross Switch shall ensure that its personnel engaged in the Processing of Customer Personal Data are informed of the confidential nature of the Customer Personal Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements.

Reliability. Cross Switch shall take commercially reasonable steps to ensure the reliability of any Cross Switch's personnel engaged in the Processing of Customer Personal Data.

Limitation of Access. Cross Switch shall ensure that Cross Switch's access to Customer Personal Data is limited to those personnel performing Services in accordance with the Master Service Agreement.

5 SUB-PROCESSORS

Appointment of Sub-processors. Merchant acknowledges and agrees that (a) Cross Switch's affiliates may be retained as Sub-processors; and (b) Cross Switch and Cross Switch's affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services provided that Cross Switch or the relevant affiliate has entered into a written agreement with each Sub-processor containing data protection obligations no less protective than those in this Data Processing Addendum with respect to the protection of Customer Personal Data to the extent applicable to the nature of the Services provided by such Sub-processor.

Liability. Cross Switch shall be liable for the acts and omissions of its Sub-processors to the same extent Cross Switch would be liable if performing the services of each Sub-processor directly under the terms of this Annexure B.

6 SECURITY

Controls for the Protection of Customer Personal Data. Cross Switch shall maintain appropriate technical and organizational measures for protection of the security (including protection against unauthorized or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorized disclosure of, or access to, Customer Personal Data), confidentiality and integrity of Customer Personal Data taking into account the state of the art, costs or implementation and the nature, scope, context and purpose of processing. Cross Switch regularly monitors compliance with these measures. Cross Switch may update or modify such security measures but will not materially decrease the overall security of the Services during the term of the Master Service Agreement.

Confidentiality of Processing. Cross Switch shall ensure that any person that it authorizes to process the Customer Personal Data (including its staff, agents, and subcontractors) shall be subject to a duty of confidentiality (whether a contractual or a statutory duty) that shall to the extent permitted by law survive for 5 years after the termination of their employment and/or contractual relationship.

Data Incidents. Cross Switch maintains security incident management policies and procedures and shall notify Merchant without undue delay after becoming aware of the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Personal Data transmitted, stored or otherwise Processed by Cross Switch or its Sub-processors of which Cross Switch becomes aware (a "**Merchant Data Incident**"). Cross Switch shall make reasonable efforts to identify the cause of such Merchant Data Incident and take those steps as Cross Switch deems necessary and reasonable to remediate the cause of such a Merchant Data Incident to the extent the remediation is within Cross Switch's reasonable control. The obligations in this clause shall not apply to incidents that are caused by Merchant or the Merchants.

Breach notification. Upon becoming aware of any Merchant Data Incident, Cross Switch shall notify Merchant without undue delay and pursuant to the terms of the Master Service Agreement, but within no more than seventy-two (72) hours and shall provide such timely information as Merchant

may reasonably require enabling Merchant to fulfil any data breach reporting obligations under Data Protection Laws and Regulations. Cross Switch will take steps to immediately identify and remediate the cause of such incident. Cross Switch's obligation to report or respond to a Merchant Data Incident shall not be construed as an acknowledgment by Cross Switch of any fault or liability of any kind.

7 INTERNATIONAL TRANSFER OF PERSONAL DATA

To the extent that Cross Switch processes Personal Information outside of South Africa, such transfer shall be effected in terms of applicable Data Protection Laws and Regulations whether by reference to the destination of the transfer (for example where made to a foreign country found to have “adequate level of protection” under applicable Data Protection Laws and Regulations); or by the use of standard data protection clauses in a contract or otherwise. The provisions of this Annexure shall constitute Merchant’s instructions with respect to International Transfers.

8 RETURN AND DELETION OF CUSTOMER PERSONAL DATA

On termination or expiry of the Master Service Agreement, Cross Switch shall return Customer Personal Data to Merchant or, to the extent allowed by Applicable Law, delete Customer Personal Data in accordance with the procedures and timeframes specified in the Master Service Agreement except where it is required by law to retain any data.

9 LIMITATION OF LIABILITY

Each party’s liability, taken together in the aggregate, arising out of or related to this Annexure and whether in contract, delict or otherwise, is subject to the limitation provision in the Master Service Agreement and shall be treated as liability under the Master Service Agreement, and any reference in any such limitation to the liability of a party means the aggregate liability of that party under the Master Service Agreement including this Annexure. For the avoidance of doubt, Cross Switch’s total liability for all claims from Merchant arising out of or related to the Master Service Agreement shall apply in the aggregate for all claims under the Master Service Agreement including this Annexure.

SCHEDULE 1 TO ANNEXURE B

Nature and Purpose of Processing

Cross Switch will Process Customer Personal Data as necessary to

- Provide, improve, and develop the Services;
- Take steps to prevent, detect or prosecute fraud, or other offences and/or to comply with Applicable Laws;
- As further instructed by Merchant in its use of the Services.

Cross Switch may take steps to derive anonymised data from Customer Personal Data and may use and disclose anonymised Customer Data for any purpose, including market research and trend analysis.

Duration of Processing

Subject to 8 of the Data Protection Addendum, Cross Switch will Process Customer Personal Data for the duration of the Master Service Agreement, unless otherwise agreed upon in writing.

Categories of Data Subjects

Merchant may submit Customer Personal Data when using the Services, the extent of which is determined and controlled by Merchant in its sole discretion, and which may include, but is not limited to Customer Personal Data relating to the following categories of data subjects:

- Customers, business partners and vendors of Merchant (who are natural persons)
- Employees or contact persons of Merchant's vendors or business partners
- Employees, agents, advisors, freelancers of Merchant (who are natural persons)

Type of Personal Data

Merchant may submit Customer Personal Data to the Services, the extent of which is determined and controlled by Merchant in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- First and last name
- Title
- Position
- Employer
- Business Contact information (company, email, phone, physical business address)
- ID data
- Personal Email Address
- Account Numbers
- Cardholder Primary Account Number (Debit/Credit)