

## Payfast – End User Agreement

Please read our End User Agreement carefully and contact our Customer Services team if you have any questions.

BY USING THE Payfast WEBSITE (THE "SITE") AND THE PAYMENTS PROCESSING SERVICE OFFERED BY IT (THE "SERVICE"), YOU (THE "USER") ARE INDICATING YOUR ACCEPTANCE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS END USER AGREEMENT.

### 1 GENERAL

- 1.1) This end user agreement may be changed on 30 days' notice. Such notice shall be posted on the Site: [www.Payfast.co.za](http://www.Payfast.co.za). Your continued use of this Site after any such changes constitutes your acceptance of the new end user agreement and its terms and conditions.
- 1.2) This end user agreement applies exclusively to your access to, and use of, this Site and does not alter in any way, the terms or conditions of any other agreement you may have with Payfast for products, services or otherwise.
- 1.3) The headings of the clauses in the conditions are provided for convenience and ease of reference only and will not be used to interpret, modify or amplify the terms of the conditions.
- 1.4) No failure or delay by Payfast to exercise any of its rights will be construed as a waiver of any such right, whether this is done expressly or implied, nor will it affect the validity of any part of this end user agreement or prejudice our right to take subsequent action against the User.
- 1.5) Payfast cannot screen or edit all the content available from the Payfast site and does not accept any liability for illegal, defamatory or obscene content. Users are encouraged to inform Payfast of any content that may be offensive or illegal.

### 2. PRIVACY POLICY AND POPIA

- 2.1) Copyright © Payfast, Cape Town, South Africa. All rights not expressly granted, are reserved. To obtain permission for the commercial use of any content on this site contact Payfast at [info@Payfast.co.za](mailto:info@Payfast.co.za).
- 2.2) To view our Privacy Policy please go to <https://www.Payfast.co.za/legal/privacy-policy>
- 2.3) To view Payfast's PAIA Manual please go to <https://www.Payfast.co.za/compliance/paia-manual>
- 2.4) Payfast endeavours to comply with the provisions of the Protection of Personal Information Act (POPIA) in its processing and storing of User data in that it obtains permission from data subjects to use their personal information. Payfast only uses the personal information for the purpose that it was disclosed and treats personal information as confidential.
- 2.5) Payfast will never provide personal information to a third-party without the data subject and/or the responsible parties knowledge and agreement.
- 2.6) Where a User discloses personal information which they have collected from their customers and clients to Payfast for the purpose of allowing Payfast to process or further process such personal information on the Users behalf (e.g. the processing of a credit card payment) such processing will be done subject to the terms of this End User Agreement ("EUA") and the requirements of POPIA in that the personal information will only be processed with the knowledge and/or authorisation of the User, will be treated as confidential and shall not be disclosed by Payfast, unless required by law or during the proper performance of Payfast's duties.

### 3. COPYRIGHT

This end user agreement applies exclusively to your access to, and use of, this Site and does not alter in any way, the terms or conditions of any other agreement you may have with Payfast for products, services or otherwise.

#### 4. INTELLECTUAL PROPERTY RIGHTS

All the content, trademarks and data on this website, including but not limited to, software, databases, text, graphics, icons, hyperlinks, private information, designs and agreements, are the property of, or are licensed to Payfast and as such are protected from infringement by local and international legislation and treaties.

#### 5. LICENSES AND SITE ACCESS

5.1) Payfast grants you a limited license to make use of the Site. Such grant does not include, without limitation: (a) any resale of the Site or content therein; (b) the collection and use of any listings or descriptions; (c) making derivative uses of the Site and its contents; or (d) use of any data mining, robots or similar data gathering and extraction methods. Except as noted above, you are not conveyed any right or license by implication, estoppel or otherwise in or under any patent, trademark, copyright or proprietary right of Payfast or any third-party.

5.2) You may not use, frame or utilise framing techniques to enclose any Payfast trademark, logo or other proprietary information (including the images found at this Site, the content of any text or the layout/design of any page or form contained on a page) without Payfast's express written consent. Further, you may not use any meta tags or any other "hidden text" utilising a Payfast name, trademark or product name without Payfast's express written consent.

#### 6. LINKING

6.1) You are granted a limited, nonexclusive right to create a hyperlink to this Site provided such link does not portray Payfast or any of its products and services in a false, misleading, derogatory or otherwise defamatory manner. You may not use a Payfast logo or other proprietary graphic or trademark of Payfast to link to this Site without the express written permission of Payfast. This limited right may be revoked at any time.

6.2) Payfast makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature or reliability of sites accessible by hyperlink from this Site, or sites linking to this Site. The linked sites are not under the control of Payfast and Payfast is not responsible for the content of any linked site or any link contained in a linked site, or any review, changes or updates to such sites. The inclusion of any link does not imply affiliation, endorsement or adoption by Payfast of the site or any information contained therein. When leaving the Payfast site, you should be aware that Payfast's terms and policies no longer govern, and therefore you should review the applicable terms and policies, including privacy and data-gathering practices, of that site.

#### 7. USER CONDUCT

7.1.1) In using this Site, and any of the services it offers, you agree:

7.1.2) Not to disrupt or interfere with the security of, or otherwise abuse, the Site, or any services, system resources, accounts, servers or networks connected to or accessible through the Site or an affiliated or linked websites;

7.1.3) Not to violate, or attempt to violate, the security of Payfast. Violations of system or network security may result in civil or criminal liability. Payfast will investigate occurrences, which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.

7.1.4) Not to disrupt or interfere with any other user's enjoyment of the Site or an affiliated or linked websites

7.1.5) Not to upload, post or otherwise transmit through or on this Site any viruses or other harmful, disruptive or destructive les;

7.1.6) Not to transmit through or on this Site spam, chain letters, junk mail or any other type of unsolicited mass email to people or entities who have not agreed to be part of such mailings;

7.2) In addition, you agree that you are solely responsible for actions and communications undertaken or transmitted under your account (if applicable), and that you will comply with all applicable local, national and international laws and regulations in this regard.

## 8. INDEMNIFICATION

You shall remain solely liable for the content of any messages or other information you upload or transmit to Payfast. You agree to indemnify and hold harmless Payfast from any claim, action, demand, loss or damages (including attorneys' fees) made or incurred by any third-party arising out of or relating to your conduct, your violation of this end user agreement, or your violation of any rights of a third-party.

## 9. SUBMISSIONS

You agree that any materials, including but not limited to questions, comments, suggestions, ideas, plans, notes, drawings, original or creative materials or other information, provided by you in the form of email or submissions to Payfast, or postings on this Site, are non-confidential and shall become the sole property of Payfast. Payfast shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use of these materials for any purpose, commercial or otherwise, without acknowledgment or compensation to you. The submission of any materials to Payfast irrevocably waives any and all "moral rights" in such materials, including the rights of paternity and integrity.

## 10. EMAIL DISCLAIMER

10.1) The information in all email messages (document and attachments) sent by an employee / electronic agent / a legal member of Payfast is confidential and may be legally privileged. The information transmitted is intended only for the person(s) or entity to which it is addressed. If you are not the intended recipient(s), please notify the sender immediately and then delete this email (document and attachments). Do not disclose the contents of this email (document and attachments) to any other person, nor make any copies thereof.

10.2) Internet communications cannot be guaranteed to be secure or error-free. Neither Payfast nor the sender accepts liability for any errors or omissions in the contents of messages which arise as a result of email transmission. If verification is required, please request a hard copy version. Also take note that email can possibly contain viruses and that the recipient is responsible for checking and deleting viruses. In no event will Payfast or the sender be liable to anyone for any indirect, special, consequential or direct damages arising from the transmission of email messages, the opening of email messages and their attachments, or any use thereof whatsoever.

10.3) No employee is authorised to conclude a binding agreement on behalf of Payfast by email without the express written confirmation of a director of Payfast. Nothing contained in said email shall be construed as a legally binding agreement or an offer to contract.

## 11. ACCEPTANCE OF FUNDS

11.1) By registering with Payfast, you appoint Payfast as your agent to process payments on your behalf in accordance with your instructions, subject to the terms and restrictions of this Agreement. Payfast will at all times hold your funds separate from its corporate funds, will not use your funds for its operating expenses or any other corporate purposes, and will not voluntarily make funds available to its creditors in the event of bankruptcy or for any other purpose.

11.2) You acknowledge that (i) Payfast is not a bank and the Service you are provided with is a payment processing service rather than a banking service, and (ii) Payfast is not acting as a trustee, fiduciary or escrow with respect to your funds, but is acting only as an agent and custodian.

11.3) Payfast reserves the right to hold funds beyond the normal distribution periods for transactions it deems suspicious or for accounts conducting high transaction volumes to ensure integrity of the funds.

11.4) Payfast shall not be responsible for payments made to unintended Recipients or for payments made in incorrect amounts due to the input of incorrect information by Senders.

11.5) Payfast shall not be obligated to pay a User for any Payments for which Payfast has not been fully paid by the Sender's credit card issuer or bank, as applicable.

11.6) Payfast reserves the right to require Users who receive payments through the Service and operate with high reversal rates or otherwise present a relatively high risk of losses to choose between closure of their Payfast account or entering into an additional agreement addressing such risks, which may include higher fees.

## **12. CREDIT CARDS**

12.1) Payfast facilitates credit card payments through the purchase of a nonredeemable voucher from Payfast which is in turn redeemed to a User (receiver) through the Payfast system against a purchase of goods or services.

12.2) Payfast reserves the right to charge the purchaser an issuing fee per voucher for issuing and maintaining the voucher details on its systems.

12.3) Payfast is entitled to, at any time, claim back funds from a User which were deemed, or shown to be, the result of a fraudulent transaction. The User gives Payfast the right to debit the funds directly from their Payfast account or by debiting their designated bank account directly, should the funds in their Payfast account be insufficient.

## **13. IMPOSED LIMITS AND DELAYS**

13.1) Payfast reserves the right to impose an upper limit on the amount of a single transaction which will be accepted through the Service.

13.2) Payfast reserves the right to impose certain limits with regards to the flow of funds in the system including, but not limited to: funds sent, funds received and funds withdrawn. Details of what these limits are will be available on the Site.

13.3) Payfast reserves the right to delay the withdrawal of funds in the system based on when the funds were received by the User. This delay will be noted on the Site.

13.4) Payfast reserves the right to freeze or suspend any account in the system for an indefinite period if there is suspicion of any illegal activity taking place or for any other reason whatsoever.

## **14. PROHIBITED TRANSACTIONS**

14.1) You agree that you will only use the Service to accept payments for goods or services where payment is due and for which there exists an invoice which can be presented to Payfast upon request.

14.2) You agree that you will not use the Service to accept payment for illegal products or services, including but not limited to materials that infringe the intellectual property rights of third parties.

14.3) You agree not to use the Service to sell securities, business opportunities, franchises, multi-level marketing, or for the pre-order of goods.

14.4) You will not use the Service, the Payfast website or any of the services offered therein for any unlawful or fraudulent activity. If Payfast has reason to believe that you may be engaging in or have engaged in fraudulent, unlawful, or improper activity, including without limitation any violation of any terms and conditions of this Agreement, your access to the Service may be suspended or terminated.

14.5) You will cooperate fully with Payfast to investigate any suspected unlawful, fraudulent or improper activity.

14.6) You agree not to impersonate a Payfast User or a Payfast representative, or to request that a Payfast customer provide you with their password or other information to access their account.

## **15. PAYOUTS**

15.1) In order to withdraw funds (the proceeds of payments due to you) that Payfast is holding in custody for you, you are required to make a payout request on the Payfast website. The funds will then be transferred electronically to your designated bank account (South African banks only).

15.2) Payfast may enter into a separate agreement with you to automate the Payout of funds from your account on a scheduled basis on terms acceptable to both you and Payfast.

15.3) Each Payout may incur a fee as specified on your Account page.

15.4) Payfast will not be held responsible for incorrect banking details being provided by the User which may or may not lead to funds held in custody being transferred to the incorrect party. It is the User's responsibility to ensure the accuracy of the provided banking details.

## **16. NO SURCHARGES**

Under Visa, Mastercard, Diners and American Express regulations, merchants may not charge a fee to the buyer for accepting credit card payments (often called a "surcharge"). You agree that you will not impose a surcharge or any other fee in using the Service provided by Payfast for the acceptance of funds through any means including, but not limited to, the acceptance of credit cards. This restriction does not prevent you from imposing a handling fee in connection with the sale of goods or services, as long as the handling fee does not operate as a surcharge (in other words, the handling fee for transactions paid through the Service may not be higher than the handling fee for transactions paid through other payment methods).

## **17. DEPOSITS AND BALANCES**

17.1) You acknowledge that Payfast does not hold a deposit-taking license (a banking license) and cannot hold funds on your behalf which are not the proceeds of payments due to you from the sale of goods or services which Payfast processed on your behalf.

17.2) You acknowledge that if funds are present in your Payfast account, which are not the proceeds of payments due to you from the sale of goods or services, that Payfast will endeavour to return these funds to you after a period of 48 hours after those funds came to be in your account.

## **18. SECURITY**

18.1) Payfast makes every effort to ensure the security and integrity of your account and we make use of sophisticated systems to accomplish this. You understand, however, that there is a compromise made between the extent of these security systems and the inconvenience to you, the User.

18.2) As a possessor, processor, storer and transmitter of credit cardholder data, Payfast maintains all applicable Payment Card Industry Data Security Standards (hereinafter referred to as "PCI DSS) requirements as it relates to the processing of such data on behalf of our merchants and customers. The applicable PCI DSS standards shall be those as published from time-to-time at <https://www.pcisecuritystandards.org/> and Payfast's PCI DSS Attestation of Compliance shall be made available to registered Payfast Users upon request.

18.3) You understand that security still relies heavily on the use of a username and password and undertake to contact us at once if you believe your username and password have been compromised, or if someone has transferred or may transfer money from your account without your permission.

18.4) Payfast strongly suggests that you use a web browser with 128-bit encryption or better. However, regardless of whether you use a web browser with security features or not, Payfast is unable to guarantee that data transmitted and is secure and/or will not be intercepted by third parties.

18.5) Phishing is a form of fraud where criminals attempt to access your confidential information. This is done by an email request for information, by luring you to a fake website or some other such means. In any case of phishing, Payfast will respond as quickly as possible to alert users to the threat or to mitigate the threat. No guarantee is given as to this action, however, and Payfast will not be held liable for any funds lost as a result of a User falling prey to a phishing attack. It is the responsibility of the User to be aware of such potential threats, to avoid them and to report them to Payfast upon discovery.

18.6) Payfast reserves the right to implement any security measures deemed appropriate to lower or negate fraudulent transactions, which may result in certain payments to a User (as a receiver), or from a User (as a sender), being disallowed.

## **19. FEES**

You understand that Payfast will charge fees for the use of any of the services it provides. These fees are available on the Site and may change from time to time. Your acceptance of this agreement indicates your acceptance of these fees and any change to these fees which may occur now or in the future.

## **20. DISCLAIMER OF WARRANTIES**

21.1) You understand and agree that this site and the information, services, products and materials available through it are provided on an "as is" and "as available" basis. You expressly agree that use of this site is at your sole risk.

20.2) To the fullest extent permissible pursuant to applicable law, Payfast and its affiliates disclaim all warranties of any kind, either express or implied, including but not limited to any warranties of title, or implied warranties of merchantability or fitness for a particular purpose. No oral or written information provided by Payfast or its affiliates, officers, directors, employees, agents, providers, merchants, sponsors, licensors or the like shall create a warranty; nor shall you rely on any such information or advice.

20.3) You expressly agree that use of this site, including all content, data or software distributed by, downloaded or accessed from or through this site, is at your sole risk. You understand and agree that you will be solely responsible for any damage to your business or your computer system or loss of data that results from the download of such content, data and/or software.

20.4) You acknowledge that Payfast does not control in any respect any information, products or services offered by third parties on or through this site, except as otherwise agreed in writing. Payfast and its affiliates assume no responsibility for and make no warranty or representation as to the accuracy, currency, completeness, reliability or usefulness of content or products distributed or made available by third parties through this site.

20.5) Payfast does not make any warranty that this site or its content will meet your requirements, or that the site or content will be uninterrupted, timely, secure or error-free, or that defects, if any, will be corrected. Payfast does not represent or warrant that materials in this site or information provided by Payfast via email or other means, are accurate, complete, reliable, current or error-free. Nor does Payfast make any warranty as to the results that may be obtained from use of Payfast or its content or as to the accuracy, completeness or reliability of any information obtained through use of the site.

20.6) Payfast assumes no responsibility for any damages suffered by a user, including, but not limited to, loss of data from delays, non deliveries of content or email, errors, system down time, misdeliveries of content or email, network or system outages, file corruption or service interruptions.

20.7) Payfast disclaims any warranty or representation that confidentiality of information transmitted through this website will be maintained.

20.8) All the information appearing on this site is provided without a representation or warranty whatsoever, whether expressed or implied, and Payfast disclaims any liability to the user in this regard.

## **21. LIMITATION OF LIABILITY**

21.1) Payfast has taken reasonable steps, as far as is possible, to ensure the accuracy and completeness of the content shown on this site, to ensure that the user doesn't suffer any loss or damages as a result of the use of this site.

21.2) Under no circumstances, shall Payfast or its parents, subsidiaries, affiliates, officers, directors, employees, agents, suppliers or any other party involved in creating, producing, transmitting, or distributing Payfast or related services be liable for any indirect, incidental, special, consequential or punitive damages arising from or in connection with the use or inability to use Payfast or any content provided by or through this site, or resulting from unauthorised access to or alteration of your transmissions or data, or other information that is sent or received, including but not limited to damages for lost profits, use, data or other intangibles, even if Payfast has been advised of the possibility of such damages.

21.3) Payfast shall have no liability to you in connection with any actions or transactions by an individual that uses your user name and password with your consent or knowledge or any cause over which Payfast does not have direct control, including, but not limited to,

problems attributable to computer hardware or software (including computer viruses), telephones (or other communications equipment), or internet service providers.

21.4) Payfast shall have no liability to you in connection with any product, service or otherwise, purchased or used as a result of the use of this site. It is expressly understood that the user is aware that Payfast provides a service to bring buyer and seller or service offerer and service consumer together, and accepts no responsibility for the quality, reliability, safety, function, suitability or otherwise, of a product purchased, service used, or otherwise, as a result of the use of this site.

21.5) Payfast shall not be liable for any fraud, deception or misrepresentations by Users of the Service in any capacity whatsoever.

21.6) In no event shall Payfast be liable for any act or omission of any third-party (such as, for example, any provider of telecommunications services, internet access or computer equipment or software) or for any circumstances beyond our control (such as, for example, a flood, or other natural disaster, war, riot, strike, act of civil or military authority, equipment failure, computer virus, or failure or interruption of electrical, telecommunications or other utility services).

21.7) Some jurisdictions do not allow the limitation or exclusion of liability for incidental or consequential damages, in such jurisdictions, liability is limited to the fullest extent permitted by law.

## **22. USER'S LIABILITY TO Payfast**

In the event that Payfast takes action against you for breach of these terms of use, you agree to reimburse Payfast for all legal costs, including tracing fees and collection commission, on a scale as between attorney and own client.

## **23. APPLICABLE LAW**

The terms and conditions pertaining to any products or services appearing on this site or pages shall be governed and interpreted in accordance with the laws of the Republic of South Africa. Use of the service offered on this site or pages will constitute the users consent and submission to the jurisdiction of the South African courts regarding all proceedings, transactions, applications or the like instituted by either party against the other, arising from any of the terms and conditions pertaining to this site or such products or services.

## **24. TERMINATION**

Notwithstanding any of these terms and conditions, Payfast reserves the right, without notice and in its sole discretion, to terminate your license to use this Site, and to block or prevent future access to and use of this Site.

## **25. SEVERABILITY**

If any provision of this end user agreement is held to be invalid, void or for any reason unenforceable, then that provision shall be deemed severable from this end user agreement and shall not affect the validity and enforceability of any remaining provisions.

## **26. DOMICILIUM**

Payfast chooses as its domicilium citandi et executandi for all purposes under this agreement, whether in respect of court process, notice, or other documents or communication of whatsoever nature: Brookside Office Park, Lansdowne Building, 11 Imam Haron Road, Claremont, Cape Town, South Africa.

## **27. TERMS**

27.1) The terms "The User" and "You" are used interchangeably and refer to all individuals and/or entities accessing this website for any reason.

27.2) The terms "we" and "Payfast" are used interchangeably and refer to Payfast itself and all individuals and/or entities acting directly on behalf of Payfast.