

Disclaimer

TERMS OF USE AND AGREEMENT

1. RIGHTS OF USE

- 1.1. The User hereby obtains a non-exclusive, non-transferable right to use the Product, for the user only.
- 1.2. The User may use the Product to transmit information to and to receive information from the Vendors
- 1.3. The User shall be entitled to use and have access to all corrections, modifications, releases and requested enhancements provided by the Service Provider for customized use by the user.
- 1.4. The User shall not copy the Product in whole or in part or in any way reverse engineer the program, its amendments and additions.
- 1.5. Only the Service Provider shall have the right to make any amendments or changes to the product therefore any attempts by the User or User to alter the Product without the Service Provider's written consent shall entitle the Service Provider to unconditionally withdraw the Agreement and software program in use by the User.
- 1.6. The Service Provider shall not provide any copies of the software for purposes of disaster recovery or otherwise. The Product is hosted by in a secure environment with full redundancy and back up through the standards as defined and provided by an accredited service provider.
- 1.7. The Service Provider shall maintain and operate the software program through an accredited service provider who will in addition provide the necessary back-up, data, redundancy and recovery of data.

2. SETTLEMENT ACCOUNT

- 2.1. The User hereby accepts and agrees to the use of a Settlement Account which shall be provided by the Service Provider and which must be used to accept deposits and make payments authorized by the User as an integral part of the Product.
- 2.2. The User accepts and agrees that the Settlement Account is a valid Bank Account provided by a Participating Bank and the User shall select a Settlement Account from the list of Participating Banks presented by the Service Provider.
- 2.3. The User shall accept that the Service Provider has negotiated the best possible fees and charges from the Participating Bank and the User shall accept all such fees and charges as may be applicable and required by the Participating Banks from time to time.
- 2.4. The User shall accept such account as defined and agreed in the Document of Session.

3. TERMINATION

- 3.1. This User Agreement shall remain in effect until terminated by either party upon 60 days prior written notice. Such notice to given on the first calendar day of a month. In addition to the termination rights granted in

separate Agreements, either party may terminate this Agreement in the event of any material breach by the other party which is not cured within 30 days after receipt of written notice of such breach.

4. LIMITATION OF LIABILITY

4.1. Each Party ("the Defaulting Party") agrees to indemnify, hold harmless and defend the other Party from and against the following liabilities (hereinafter collectively referred to as "Liability") arising as a result of the negligence or fault of the Defaulting Party, provided that the legal liability assumed by the Defaulting Party in terms of this indemnity or any other provision of this Agreement shall not extend to any indirect or consequential damages and shall not extend beyond the liability that would nevertheless have attached to the Defaulting Party by law or by usage or by custom of trade in the absence of this indemnity or other provision of this Agreement: any liability arising out of intentionally wrongful or negligent acts, or wrongful omissions to act; notwithstanding anything to the contrary contained in this Agreement, the Parties will not be liable to each other for any indirect or consequential loss or damage, including without limitation, loss of profit, revenue, anticipated savings, business transactions or goodwill or other contracts whether arising from negligence or breach of contract.

5. CONFIDENTIALITY OF USERS DATA

5.1. The parties agree to maintain the confidentiality of materials and data relating to the Service Provider and the User. The Parties shall use all reasonable efforts to confine knowledge of such materials and data to only its employees who require such knowledge and use in the ordinary course and scope of this agreement. 6.

6. PROPRIETARY RIGHTS

6.1. The User acknowledges that (i) the Product constitute and embody trade secrets (the "Confidential Information") owned by the Service Provider; (ii) the Service Provider own and will retain all rights, title and interest in and to the Product and all related copyrights, patents, trade secrets and other proprietary rights; and (iii) the User obtains no rights in or to the Product other than the right from the Service Provider to use the Product pursuant to this Agreement. Nothing in this Agreement shall be construed to convey any title or ownership rights to the User.

7. WARRANTY

- 7.1. The Service Provider warrants that it has the right to provide the Product for use by the User pursuant to this Agreement.
- 7.2. The Service Provider will defend the User against any suit brought against the User that is based on a claim that the product, when used within the scope of this Agreement, infringes any patent, copyright, trademark or other proprietary right within the country of the designated location, and will protect the User against any liability that it may incur under a final award with respect to such claim.
- 7.3. The User shall give the Service Provider prompt written notice of such claim and the Service Provider shall have sole control of the defence, settlement or compromise thereof. The User may elect to participate in the defence of such claim with an attorney of its own choice and at its own expense. Should the Product become, or in the Service Provider's opinion be likely to become, the subject of a claim of infringement, the Service Provider may, at its option and expense (i) procure for the User the right to continue using the product; or (ii) replace or modify the product to make it non-infringing provided the performance thereof is not adversely affected in a

material manner. If the Service Provider in its sole discretion determines that neither of these options is commercially reasonable, the Service Provider may terminate this agreement for the affected product and, upon return of the product, refund to the User an applicable, proportional use fees paid by the User based on time usage by the User.

8. GENERAL

8.1. The headings used in this Agreement are for convenience only.

8.2. This Agreement, its Schedules and any duly executed related addenda constitute the Entire Agreement between the Service Provider and the User and supersede all other agreements, proposals, purchase orders, or representations, whether written or oral, relating to the subject matter hereof.

8.3. No alterations or modifications of this agreement will be valid unless effected herein.

8.4. Neither Party may assign its rights under this agreement without the other Party's prior written consent.

8.5. Neither party shall be liable for delays in performance hereunder due to causes beyond its reasonable control and force majeure.

8.6. If any provision of this Agreement is deemed illegal or unenforceable, that provision shall be severed and the remainder of this agreement shall remain in full force and effect. A waiver shall be effective only if made in writing and signed by an authorized representative of both parties. The waiver of any right or election of any remedy in one instance shall not affect any rights or remedies in another instance.

8.7. All required notices under this Agreement shall be sent to the recipient Party's address stated in a separate Agreement, unless otherwise changed in writing. All notices shall be given by certified or registered mail, or overnight carrier. Such notices shall be deemed given on the date of receipt (or refusal) of delivery of said notice.

8.8. The laws of the Republic of South Africa will govern the validity, interpretation and performance of this Agreement and the courts of the Republic of South Africa will have sole jurisdiction.

9. ARBITRATION

9.1. Any disputes arising out of this Agreement shall be decided by arbitration. The Arbitrators findings shall not prevent either party from approaching a competent court for further or alternative relief.

10. REASONABLENESS

10.1. The Service Provider and the User agree that all the terms and conditions, schedules and addenda making up this agreement are accepted as fair and reasonable.

11. SOFTWARE PROGRAM SPECIFICATION

11.1. The Software Program is branded "G-PAY™". A Software Product enabling users create Requisitions and perform Settlements through a Web Based Software Solution.

12. DESIGNATED CPU

12.1. Being a "Web Based" application it can be accessed by means of an internet browser. The designated CPU is hosted with an accredited Service Provider and is defined in the CPU Location.

13. CPU LOCATION

13.1. The Service Provider server, equipment and the associated Software Programs are hosted with accredited service providers at their main data centres as applicable.

13.2. The Service Provider servers and equipment are all hosted in a secure fireproof environment with Backup generators and UPS coverage. From this hosting environment G-PAY has access to advanced data links into the service provider environment.

13.3. The Service Providers' external Service Providers have aligned themselves with industry leaders like Vodacom, Dimension data, Internet Solutions and MTN Network solutions to name a few. Their products have been designed to best suit our company needs.

13.4. The Service Provider is guaranteed:

- 99.5% uptime on hosted servers and web sites
- 24 hours dedicated sever onsite support
- The Service Provider further has access to:
 - Email Support Centre with reference numbering.
 - SMS Support Centre with call back facility.
 - Telephonic Support Centre.
 - Remote desktop support.

14. USER REQUESTED MODIFICATIONS

14.1. Any and all modification requirements or requests from the User shall be documented, scoped and the cost calculated and acceptance for such work shall be obtained in writing from the User prior to the commencement of any work.

15. FEES

15.1. The fees for any such work requests by the user shall be available upon request.

16. STANDARD SUPPORT AND OFFICE (WORKING) HOURS

- Monday to Friday - 08h00 to 17h00
- Saturday, Sunday and Public Holidays technical telephonic support.
- Support number 086 117 2431 (Office Hours)
- Support number 082 331 2207 (All Hours)

- Support email admin@gpay.co.za (All Hours)

17. SYSTEM AVAILABILITY

- 24x7x365. The User shall be notified in advance where special maintenance on G-PAY™ must be performed.

18. TIMES TO REPAIR

18.1. In the event that the User should experience an error or defect in the Product then the User shall notify G-PAY™ immediately by email of such error or defect.

18.2. The User shall make "Screen Dumps" or "Screen Prints" of such error or defect and send the proof by email to the support email address.

18.3. G-PAY™ shall within 2 (Two) hours respond to the User request and advise of the actions to remedy such error or defect.

19. DISCLAIMER INFORMATION

1. Agreement and Terms of Use:

By using our website for any reason whatsoever, you, the user, agree and subject yourself to the terms and conditions as contained herein and as set out below. Our website only provides you with information regarding Incatorque (Pty) Ltd our associations and any products / services offered by Incatorque and/or our Entities and does not constitute in any way a legal opinion or binding agreement enforceable against Incatorque and/or any of our Entities.

2. Content:

You are authorised to view, copy, download, print the content of our Website, or any part thereof, provided that the content:

- is used for information and/or private purposes only;
- any reproduction must include the following notice: ©Incatorque (Pty) Ltd (2011) - All rights reserved. Should you wish to use any content from this site for commercial purposes you may do so, with our prior written permission.

3. Intellectual Property Rights:

Our intellectual property includes, but is not limited to all trademarks, copyright, data, databases, private information, text, software, graphics, designs, icons and hyperlinks. This intellectual property is Incatorque property or is licensed to Incatorque and is therefore protected from infringement by both domestic and international law and treaties. We expressly reserve all rights in respect of all the intellectual property on the Incatorque Website and Incatorque Solutions.

4. Changes and Amendments:

We expressly reserve the right, in our sole and absolute discretion, and without prior notice to you, to alter and /or amend the content of any part of the Incatorque website and also to change any amounts, costs or rates as may be quoted. You undertake to view our website from time to time in order for you to acquaint yourself with the changes and /or amendments to the Incatorque information.

5. Privacy Policy:

You acknowledge that you have accessed and read our Privacy Statement as set out on our Homepage. We protect your privacy subject to the terms thereof. We expressly record that we retain the copyright in respect of our databases of and relating to any personal information of our website and solution users.

6. Electronic Communications:

When you enter and use our website or solutions, or when you communicate with us by sending us an e-mail, you consent and agree to receiving communications from us electronically and also that all instruments of agreements, letters, notices, disclosures and other communication(s) and / or correspondence, as sent by Incatorque to you, will satisfy any legal requirement(s), including but not limited to the requirement that such communication or correspondence should be "in writing".

7. Linking and Framing:

Any third party site may link to our website provided that such a link is directed at the homepage of our website. Without our prior written approval, it is expressly prohibited for any person, business, entity or website to link to any page, other than the home page of our website and to frame any page on our website, including the home page, in any way whatsoever.

8. Agreements in terms of Section 21 of the Electronic Communications and Transactions Act No. 25 of 2002 ("the Act") Information or data on our website is merely a facility to access information and discussions.

9. Searching Technology:

The use of non-malicious search technology, such as "web-crawlers" or "web-spiders", to search and gain information from the Incatorque web site is not permitted, specifically in the event that such technology will result in slowing down our website's server or infringing the copyright of any data and/or information available on or from the Incatorque website. The data and information as contained on the Incatorque website may only be used in order to comply with clauses 5 to 9 as set out above.

10. Advertizing and links to third party sites:

We may provide you with links to other site(s). In the event of a link being provided, we expressly record that such link(s) is only provided for your convenience and the inclusion of such link does not imply our endorsement of any such linked site(s). Linked websites or pages are not subject to our control. We shall not be held responsible or be liable, directly or indirectly, in any way whatsoever in respect of and/or for the content, or your use of, or your inability to use or access any linked website(s) or any link(s) contained in a linked website.

11. Information Security:

We will take all reasonable steps to secure your information. You undertake not to divulge your user name and/or password to any other person. It is expressly prohibited for any person, company, business, or any other entity to gain or attempt to gain unauthorised access to any page of our website or solutions or to deliver or attempt to deliver any unauthorised, damaging or malicious code to our website or solutions. Any person who contravenes the provisions of this clause, shall be prosecuted and held criminally liable. We shall also institute civil proceedings for the recovery for any damages or loss suffered by Incatorque.

12. Disclaimer and Exclusions of liability:

You acknowledge that you have accessed and read our Disclaimer as set out on our Homepage.

13. Severability:

These Terms and Conditions of Use constitute the entire agreement between you, as the user of this website or solution, and Incatorque. Any failure on our part in exercising or enforcing any right or provision of these Terms and Conditions of Use shall in no way constitute a waiver of such right or provision. Should any term

or condition of the use of the Incatorque website or solutions not be fully enforceable or valid for any reason, such term(s) or condition(s) shall be severable from the remaining terms and conditions. The remaining terms and conditions shall not be affected by such unenforceable or invalidity and shall remain enforceable and applicable.

14. Applicable and Governing Law:

The Incatorque website and solutions are hosted, controlled and operated from the Republic of South Africa, and therefore the South African Laws govern the use of or inability to use this website and solutions as well as these terms and conditions.

15. Contact Information / Domicilium Citandi Et Executandi:

Should you have any questions or queries or wish to request permission to use any part of the website or solution, including, linking, framing, or searching, please contact us at:

Street Address:

Incatorque Administrator,
Building 8, Ground Floor, Central Office Park,
13 Esdoring Street,
Highveld Techno Park,
Centurion,
0169

Tel: +27 86 117 2431

Fax: +27 86 743 1070

Email: admin@gpay.co.za

These terms and conditions may not be copied or used, in part or whole, without the express written permission of Incatorque (Pty) Ltd - All Rights reserved.

PRIVACY POLICY

Incatorque (Pty) Ltd values its clients and recognises that it must maintain and use client information responsibly. We will be in possession of your personal information (such as your name, email address and phone numbers), which you will provide to us at the time that you apply for web access to our products.

By using the website and our products, you will have restricted access and permissions as defined at the time of registration. You will also be allowed to participate in any discussion and / or surveys that we may run. Any information we collect relating to you, will be used in an effort to improve our service relationship with you. In addition, we may use information received to help us improve our services and offerings.

We do not sell or share any of the information that we collect online to any unaffiliated third party. Our website may contain links to other sites that are not under our control. These websites have their own policies regarding privacy, which you should review before visiting them.

We cannot take any responsibility for linked websites and provide these links solely for the convenience and information of our visitors. If our information practices change in the future, we will communicate such changes on our website. Users of our website may view, download and print our privacy policy for private purpose only.

Should you have any questions about our privacy policy, please contact our website administrator at admin@gpay.co.za

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