

THESE OPERATIONAL TERMS AND CONDITIONS REGARDING THE USE, CASHING AND ALL OPERATIONAL ASPECTS OF USE OF THE ATM SHALL BE READ TOGETHER WITH THE GENERAL TERMS AND CONDITIONS, AND IN THE EVENT OF THERE BEING A CONFLICT BETWEEN THESE OPERATIONAL TERMS AND CONDITIONS AND THE GENERAL TERMS AND CONDITIONS, THE GENERAL TERMS AND CONDITIONS SHALL PREVAIL.

1. DEFINITIONS AND INTERPRETATION

- 1.1. The words and phrases listed below will have the meaning set out next to the corresponding word or phrase unless the context indicates otherwise, in all other instances the definitions set out in the General Terms and Conditions shall apply :
- 1.1.1. “**ATM**” means the automated teller machine, alternatively the computerised telecommunications device that provides the client or Cardholder of a financial institution with access to financial transactions in a public space without the need for a cashier, human clerk or bank teller together with all devices, equipment including (if applicable) solar panels or hardware, which is used to access the ATMS services or used in conjunction with the ATMS services and which will be installed at the User’s Premises for use by Cardholders, which ATM is more fully described under **Schedule “A”**;
- 1.1.2. “**ATMS**” means ATM Solutions a division of Paycorp Group (PTY) Ltd, Registration number 2013/077629/07, having its principal place of business at Sandhaven Office Park, Pongola Crescent, Eastgate Ext 17, Sandton;
- 1.1.3. “**Acquiring Banks or Acquiring Institution**” means a banking Institution (e.g. ABSA, Standard Bank, Nedbank amongst others) which provides financial services that can be accessed via the ATM;
- 1.1.4. “**Business Day**” means any day, other than a Saturday; Sunday or public holiday as declared in the Republic of South Africa; “**Cardholder**” means the means the cardholder utilising a card issued by a banking institution which allows him or her to withdraw cash or perform any available VAS or available transactions from the ATM;
- 1.1.5. “**CPA**” means the Consumer Protection Act, 68 of 2008;
- 1.1.6. “**Data**” means personal and /or private information of the Party obtained in connection of the Agreement.
- 1.1.7. “**Date of Signature**” means the date on which the User signed the Agreement;
- 1.1.8. “**Including without limitation**” and “**amongst others**” means that the list is not an exhaustive listing;
- 1.1.9. “**Monthly Transaction Threshold**” means, where applicable, the threshold recorded in **Schedule B** in respect of withdrawal transactions performed by Cardholders using the ATM in any 1 (one) calendar month,
- 1.1.10. “**Network Operator**” means a company (e.g. Vodacom, MTN and Telkom) that owns an electronic communications network, and which makes such network and the electronic communications services conveyed over such network available to ATMS and other industry players for commercial purposes;
- 1.1.11. “**Operating Hours**” means the hours when the ATM will be operational, which are set out under **Schedule A**;
- 1.1.12. “**Premises**” or “**Sites**” mean the business premises described under **Schedule A and Additional Premises Schedule** which Premises are owned or leased by the User, where the ATM will be installed and operated from;
- 1.1.13. “**Rebates**” means, where applicable, the amounts set out under **Schedule B** paid by ATMS to the User when the User exceeds the Monthly Transaction Threshold;
- 1.1.14. “**Transaction(s)**” means any available transaction or VAS transaction, including without limitation, Successful Withdrawal Transactions, requested and completed by the Cardholder using the ATM;
- 1.1.15. “**User**” means the person set out under **Schedule A**, being the owner or lessee of the Premises where the ATM is installed and to whom this Agreement applies;
- 1.1.16. “**Usage Fee**” means where applicable, the amounts set out under **Schedule B**;

2. OPERATION AND AVAILABILITY OF THE ATM

- 2.1. The User is aware and acknowledges that the ATM does not operate in isolation, but instead relies on functionalities which are provided by a number of service providers such as the **Network Operators**, the GPRS service providers, **and the Acquiring Banks**, who provide separate but interrelated and connected services which as a whole allows the ATM to function. These service providers operate as independent service providers who are not necessarily contracted by ATMS.
- 2.2. ATMS will use its reasonable endeavours to ensure that the ATM remains operational at all times during Operating Hours. However, due to the nature of the ATM and the ATMS services, which are dependent on a number of independent service providers who ATMS has no direct control over, ATMS expressly stipulates and the User acknowledges that ATMS provides the ATMS Services “as is” and “as available”. In line with the rights set out under section 55 (2) (a) or (b) of the CPA, ATMS expressly states that it cannot warrant or guarantee that the ATMS services will at all times be free of errors or interruptions, that they will always be available, fit for any purpose be secure and reliable.
- 2.3. The User shall have no claim of any nature whatsoever whether for damages, remission of rent or otherwise, against ATMS or its Affiliates, for any failure of or interruption in the amenities and/or services provided by ATMS, notwithstanding the cause of such failure or interruption.

- 2.4. Notwithstanding clause 2.2 ATMS will use its reasonable endeavors to notify the User in advance of any failure of, or interruption of the ATM or the ATMS services and where applicable any required maintenance and repairs which may result from such failure, interruption or unavailability of the ATMS Service, where it is in a position to do this.

3. SECURITY

- 3.1. Should ATMS decide to install a P100 door and/or a roller shutter door, then the following will apply to the installation and use of the P100 door and roller shutter door:
- 3.1.1. the cost of the installation will be borne by the User;
 - 3.1.2. the User will be obliged to close and lock the P100 door and/or a roller shutter door, as the case may be, when the User's business closes at the end of the business day and be obliged to open the P100 door and/or a roller shutter door at the start of the business day;
 - 3.1.3. where a roller shutter is installed that is opened and closed with a remote control, the User undertakes to immediately advise ATMS in writing in the event that the remote control is lost, damaged or stolen or where the User is unable to open or close the shutter due to a technical fault;
 - 3.1.4. where a P100 door is installed, the User undertakes to immediately advise ATMS in writing in the event that the keys to the door are lost, damaged or stolen or where the User is unable to open or close the door due to a technical fault;
 - 3.1.5. should the User fail to comply with its obligations as set out in paragraph 3.1.3 above, then the User will be liable for any loss and/or damage which is suffered by or caused to the ATM resulting from any vandalism and for the value of any cash which has been loaded into the ATM. A certificate by the Cashing Manager of ATMS will serve as *prima facie* proof of the value of such cash loaded into the ATM at the time of the said vandalism.
 - 3.1.6. The User shall be responsible for all costs incurred by ATMS where the key or remote control as the case may be, is lost, damaged or stolen by the User, including but not limited to replacement, call-out and travel costs.
- 3.2. It is specifically agreed that the P100 door and/or the roller shutter door remains the property of ATMS, no matter that such door is affixed to the immovable property of the landlord/tenant/owner as the case may be. In the event that the ATM is uplifted, ATMS will be entitled to simultaneously remove the P100 door and/or roller shutter door. Alternatively, ATMS will be entitled to uplift same upon 7 (seven) days prior written notice to the User.

4. INOPERATIVE AND FAILURE OF THE ATM AND ATMS SERVICES

- 4.1. The User acknowledges that where a communication failure is experienced, which results in the ATM not operating at its optimum or at all, and where the failure is due to reasons wholly outside the control of ATM, that this will not amount to a breach of the Agreement and will not give the User the right to cancel the Agreement or to a claim for damages, subject always to the provisions of the CPA where applicable.
- 4.2. Due to ATMS relying on a number of inter-related but independent service providers, ATMS is unable and gives no guarantee in respect of the uptime of the ATM. However, ATMS will at all times use its best endeavours to ensure that the ATM operates during the Operating Hours where this is within its control.
- 4.3. Should the ATM stop working, become damaged or where any other problem is experienced which renders the ATM less useful or not useful at all, then the User must without exception notify ATMS within 24 (twenty four) hours of first becoming aware of the problem. The notification must include a detailed explanation of the problem and the date and time when the problem was first experienced, which will be logged by ATMS. ATMS will at its own cost and expense use its best endeavours to attend to the complaint and repair the ATM within 2 (two) days of from date of such notification.
- 4.4. ATMS and its employees, agents and/or assigns will have the right to access the Premises during Operating Hours for the purpose of inspecting, repairing, maintaining or upgrading the ATM, and / or for the purposes of observing the use of the ATM, but subject always to security clearance by the User, which clearance shall not be unreasonably withheld.

5. RELOCATION OR REMOVAL OF ATM

- 5.1. Where due to extraordinary reasons, the User is forced to relocate the ATM, it will have to apply for and obtain written permission from ATMS before the ATM can be relocated, which application must be made in writing at least 1 (one) month before the anticipated relocation or removal of the ATM.
- 5.2. ATMS may at its sole and absolute discretion, consent to the requested removal. ATMS will have the right to attach any conditions to any relocation and / or removal, of the ATM including any variation or adjustment of the fees and charges detailed under this Agreement.
- 5.3. ATMS or its appointed service provider will be the only party entitled to effect such removal and relocation and any consequential installation.
- 5.4. All costs and expenses arising from such relocation and / or removal and any consequential installation will be solely for the account of the User and shall be paid, on demand and by way of debit order.
- 5.5. This Agreement, save for the description of the new Premises or re-located area and any changes to the fee and charges will apply to any relocation. The description of the new Premises and fees and charges will be set out in a written addendum which will be attached to this Agreement.
- 5.6. Any relocation or removal which is not done in accordance with this clause 5 will be a material breach of the Agreement and ATMS may, in its sole discretion, treat such non-compliance as a criminal offence.

6. IRREGULAR TRANSACTIONS

- 6.1. When a Cardholder raises a transaction dispute, this dispute will be directed by either ATMS or the User to the network and data processor and or the Acquiring Bank or Institution who is responsible for the cardholder's account, which parties will be solely responsible for the determination and administration of the dispute.
- 6.2. Where the User loads the ATM with his own cash and a Cardholder or financial institution disputes any transaction, the User acknowledges that it will be liable to pay to either the Cardholder or to the Acquiring bank such disputed amount and any assessed fee, which amount the User undertakes to pay on demand by way of debit order, save that where the User disputes the charge in a timely manner and provides evidence that the transaction occurred, including evidence that the cash available in and dispensed through the ATM were in balance on the date of the disputed transaction, ATMS will use its best endeavours to assist the User to resolve the transaction dispute and obtain a reversal of an erroneous adjustment.
- 6.3. The User warrants that it will not, directly or indirectly, be a party to, or allow to its knowledge or authorise any transaction to be effected on, through or by the ATM, by any person who is not a Cardholder.