

SecurePayTech.com reseller terms and conditions of service

1.0 ENTIRE AGREEMENT

- 1.1 The Parties acknowledge that this Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.
- 1.2 Use of SecurePayTech.com Service constitutes acceptance of these Terms and Conditions.

2.0 OBLIGATIONS OF SECUREPAYTECH.COM

- 2.1 SecurePayTech.com will provide on-line credit card processing services with all reasonable care and in accordance with the standards reasonably expected in the information technology industry.
- 2.2 SecurePayTech.com will, at its own cost, correct any defects or faults in the provision of its services, subject to the terms of this Agreement.
- 2.3 SecurePayTech.com standard office hours are 9:00am to 5:00pm Monday to Friday excluding public holidays.

3.0 PAYMENT

- 3.1 In consideration of SecurePayTech.com providing on-line credit card processing services, the Reseller must pay SecurePayTech.com for those services at SecurePayTech.com's agreed rates and by the due date.
- 3.2 Set up fees shall be paid in advance.
- 3.3 Reseller's fees will be based upon the wholesale rate and may be subject to change following 30 days notice. All fees are quoted exclusive of GST.
- 3.4 Monthly transactions shall be invoiced in arrears on the first day of the month for the previous calendar month. Where the first day of the month falls on a holiday, processing will take place on the next business day.
- 3.5 The Reseller's customers will be invoiced at the retail rate and their credit card automatically debited for the total value of the invoice with the funds credited to the Resellers' account.
- 3.6 Resellers will then be invoiced for the total of their customer's transactions at the agreed wholesale rate and their credit card automatically debited at the wholesale rate.
- 3.7 Resellers are responsible for the transactions incurred by their customers. Failure by a Reseller's customer to pay the Reseller for services does not relieve the Reseller from their obligation to pay SecurePayTech.com for those transactions.
- 3.8 All fees are debited from the Reseller / subscribers' credit card as applicable. The credit card details are encrypted and held on file for this purpose.
- 3.9 Accounts that remain unpaid for five business days will be suspended without warning until payment is made in full. Suspended accounts may not be closed until full payment is received.
- 3.10 Accounts in default may also be subject to an interest charge of 1.5% per month on the outstanding balance.

3.11 Any expenses incurred by SecurePayTech.com in recovering any debt or in enforcing its rights under this Agreement, including but not limited to legal and debt collection costs, shall be claimed from the Reseller.

3.12 SecurePayTech.com reserves the right to remove all historical transaction data from a Subscriber's account which is more than 30 days overdue for payment.

4.0 TERMINATION

4.1 Either party may terminate this Agreement by thirty days written notice subject always to clause 4.2.

4.2 Either party may terminate this Agreement immediately if any of the following events occur:

(a) The other party is in breach of any term, condition or provision of the Agreement or required by law. Any defect in SecurePayTech.com's services or in their maintenance, however, shall not entitle the reseller to immediate cancellation of this contract.

(b) If the other party shall present a petition or have a petition presented by a creditor for its winding up, or shall convene a meeting to pass a resolution for voluntary winding up or shall enter into any liquidation or shall call a meeting of its creditors or shall have a receiver appointed, or shall be deemed by the Insolvency Act to be unable to pay its debts;

(c) If the Reseller, being a firm or partnership, shall be dissolved or, in any case, shall commit an act of bankruptcy or have a receiving order made against him/it or shall make or negotiate for any composition or arrangement with or assignment for the benefit of his/its creditors.

4.3 Upon cancellation of the service for whatever reason, payment for the current months transactions fall immediately due

4.4 The liability of SecurePayTech.com for the provision of services shall cease on the cessation of the services.

4.5 SecurePayTech.com may delete all files and data supported by the services following the execution of any arrangements for backing up, or, in the absence of any such arrangements, following the cessation of the services.

4.6 Should a Reseller cancel their agreement with SecurePayTech.com, the company reserves the right to work directly with the Reseller's customers who wish to continue to purchase services from SecurePayTech.com.

5.0 RIGHT OF SUSPENSION

5.1 SecurePayTech.com may suspend any or all services at any time, without notice.

5.2 Where SecurePayTech.com exercises its right to suspend services under this clause, it shall notify the subscriber of the fact of the suspension, the reason for the suspension, and the expected length of the suspension.

6.0 LIMITATION OF LIABILITY

6.1 Without limiting the other terms of this contract, the Reseller's sole remedy against SecurePayTech.com shall be limited to breach of contract and SecurePayTech.com's sole and total liability for any such claim shall be limited to, at the option of SecurePayTech.com, either the re-supply of the services again or the amount of the

current monthly Subscriber's Levies for the month during which the breach allegedly occurred.

- 6.2 Subject only to SecurePayTech.com's liability for breach of contract (if any) pursuant to clause 6.1 above, SecurePayTech.com will not be liable to the Reseller for any claim for breach of contract, statute or breach of duty in tort (including negligence) or for any claim in equity or otherwise at law for any losses or damages whether general, exemplary, punitive, direct, indirect or consequential (including any claim for loss of profits) however caused which may be suffered or incurred by the Subscriber/Reseller or any third person or which may arise directly or indirectly out of or in respect of this contract or the services (or its maintenance) or by reason of any act or omission on the part of SecurePayTech.com to comply with its obligations under this contract.
- 6.3 Notwithstanding anything herein contained or implied no employee, agent or director of SecurePayTech.com will be liable to the Reseller for any breach of duty or care in contract, tort, equity or otherwise in relation to the performance of obligations under this contract or in relation to the subject matter of this contract.
- 6.4 To the maximum extent permitted by law all terms, warranties or representations, whether statutory or otherwise and whether express or implied, oral or written as to the state, merchantability, quality, fitness for purpose or fitness of the services and its maintenance are hereby excluded.
- 6.5 The Consumer Guarantees Act 1993 will not apply where the Reseller acquires services (or holds itself out as acquiring services) for the purposes of a business as defined by the Act.
- 6.6 This clause shall survive termination of this contract.

7.0 INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Reseller acknowledges that SecurePayTech.com's logos, product and service names are the property of SecurePayTech.com. All of the trademarks, trade names, copyrights, patents and other intellectual property rights created, developed, embodied in or in connection with SecurePayTech.com's services shall be and remain the sole property of SecurePayTech.com.
- 7.2 Except as expressly authorized by these Terms and Conditions, the Reseller shall not in any form or by any means:
- (a) Adapt, reproduce, store, distribute, print, display, perform, publish or create derivative works from any part of SecurePayTech.com's website; or
 - (b) Commercialise any information, products, or services obtained from any part of SecurePayTech.com's website
- without SecurePayTech.com's written permission.

8.0 RELATIONSHIP OF THE PARTIES:

- 8.1 The Reseller warrants it has not relied on any representation made by or on behalf of SecurePayTech.com which has not been expressly stated in this contract; or upon any publicity material or brochures produced by or on behalf of SecurePayTech.com.
- 8.2 Nothing in this agreement shall create a partnership or agency between any of the parties.

8.3 This contract shall prevail over any inconsistent terms and conditions in any other contract between the parties whether in correspondence or otherwise and any conditions or stipulations to the contrary are hereby excluded and extinguished. Except as otherwise expressly stated in this contract, neither party has any other responsibility or obligation to the other.

9.0 RESELLER'S CUSTOMERS - MINIMUM TERMS

9.1 The Reseller's customers are bound by the following terms, which must be included in any agreement between the reseller and the customer:

- (a) The services provided by SecurePayTech.com may be used for lawful purposes only.
- (b) Accounts cannot be transferred or used by anyone other than the customer or their delegated agent.
- (c) Monthly transactions shall be invoiced in arrears on the first day of the month for the previous calendar month. Where the first day of the month falls on a holiday, processing will take place on the next business day.
- (d) The Reseller's customers will be invoiced at the retail rate and their credit card automatically debited for the total value of the invoice with the funds credited to the Resellers' account.
- (e) Accounts that remain unpaid for five business days will be suspended without warning until payment is made in full. Suspended accounts may not be closed until full payment is received.
- (f) SecurePayTech.com reserves the right to remove all historical transaction data from a customer's account which is more than 30 days overdue for payment.
- (g) Upon cancellation of the service for whatever reason, payment for the current months transactions fall immediately due.
- (h) The liability of SecurePayTech.com for the provision of services shall cease on the cessation of the services.
- (i) SecurePayTech.com may suspend any or all services at any time, without notice.
- (j) SecurePayTech.com will not be liable to the customer for any claim for breach of contract, statute or breach of duty in tort (including negligence) or for any claim in equity or otherwise at law for any losses or damages whether general, exemplary, punitive, direct, indirect or consequential (including any claim for loss of profits) however caused which may be suffered or incurred by the customer or any third person or which may arise directly or indirectly out of or in respect of the services (or its maintenance) or by reason of any act or omission on the part of SecurePayTech.com.
- (k) To the maximum extent permitted by law all terms, warranties or representations, whether statutory or otherwise and whether express or implied, oral or written as to the state, merchantability, quality, fitness for purpose or fitness of the services and its maintenance are hereby excluded.
- (l) The Consumer Guarantees Act 1993 will not apply where the customer acquires services (or holds itself out as acquiring services) for the purposes of a business as defined by the Act.

- (m) The customer acknowledges that SecurePayTech.com's logos, product and service names are the property of SecurePayTech.com. All of the trademarks, trade names, copyrights, patents and other intellectual property rights created, developed, embodied in or in connection with SecurePayTech.com's services shall be and remain the sole property of SecurePayTech.com.
- (n) Except as expressly authorized by these Terms and Conditions, the customer shall not in any form or by any means:
 - (i) Adapt, reproduce, store, distribute, print, display, perform, publish or create derivative works from any part of SecurePayTech.com's website; or
 - (ii) Commercialise any information, products, or services obtained from any part of SecurePayTech.com's website
 - without SecurePayTech.com's written permission.

9.2 The Reseller will indemnify SecurePayTech.com against all liability, losses and costs that SecurePayTech.com incurs through the reseller's failure to comply with the terms of this clause.

10.0 WAIVER

10.1 Failure by any party to enforce any right or obligation with respect to any matter arising in connection with this contract shall not constitute a waiver as to that matter or any other matter either then or in the future.

10.2 Any waiver of any right or obligation under this contract shall only be of any force and effect if such waiver is in writing and is expressly stated to be a waiver of a specified right or obligation under this contract.

11.0 VALIDITY

11.1 Should any provision of this contract be held to be illegal, invalid, or unenforceable by a court law, the legality, validity and enforceability of the remaining provisions of this contract shall remain unaffected thereby unless otherwise stated.

12.0 FORCE MAJEURE

12.1 SecurePayTech.com shall not be liable to anyone for any loss or damage directly or indirectly arising out of or in connection with any failure to perform any term of these Terms and Conditions where such failure is caused directly or indirectly by an act of God, fire, armed conflict, labour dispute, civil commotion, intervention of a government, inability to obtain labour, materials or facilities, and accidents, interruptions of, or delay in transportation, or any other cause outside SecurePayTech.com's reasonable control.

13.0 VARIATION

13.1 SecurePayTech.com reserves the right to amend the terms of this Agreement from time to time. Amendments will be effectively immediately upon notification on SecurePayTech.com's website. The Reseller's continued use of SecurePayTech.com's services following such notification will represent an agreement by the Subscriber to be bound by the amended terms and conditions.

14.0 ASSIGNMENT

14.1 Accounts cannot be transferred or used by anyone other than the client or their delegated agent.

15.0 GOVERNING LAW

15.1 This Agreement is governed by and is to be construed in accordance with the laws of New Zealand. The Reseller agrees to the exclusive jurisdiction of the New Zealand courts.