

## **SecurePayTech.com Standard Terms and Conditions:**

### **1.0 ENTIRE AGREEMENT**

- 1.1 This contract constitutes the complete and exclusive understanding between the parties in relation to the subject matter hereof and supersedes all prior contracts, proposals, communications and representations made by either party (whether oral or written).
- 1.2 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.
- 1.3 Use of SecurePayTech.com Service constitutes acceptance of these Terms and Conditions.

### **2.0 LAWFUL PURPOSE**

- 2.1 All services provided by SecurePayTech.com may be used for lawful purposes only. The subscriber agrees to indemnify and hold harmless SecurePayTech.com from any claims resulting from the use of the service which damage the subscriber or any other parties.

### **3.0 OBLIGATIONS OF SECUREPAYTECH.COM**

- 3.1 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.
- 3.2 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.
- 3.3 SecurePayTech.com standard office hours are 9:00am to 5:00pm Monday to Friday excluding public holidays.

### **4.0 PAYMENT**

- 4.1 In consideration of SecurePayTech.com providing on-line credit card processing services, subscribers must pay SecurePayTech.com for those services at SecurePayTech.com's agreed rates and by the due date.
- 4.2 Accounts must be paid within 30 days after the date of invoice. No deduction or set-off against any amount due is permitted.
- 4.3 Accounts unpaid 30 days after date of invoice may have their service interrupted. Such interruption does not relieve the subscriber from the obligation to pay the monthly charge.
- 4.4 Accounts in default are subject to an interest charge of 1.5% per month on the outstanding balance.
- 4.5 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 subscriber.

### **5.0 SUSPENSION OF SERVICES**

- 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 TERMINATION**

- 6.1 Either party may terminate this Agreement by thirty days written notice subject always to clause 6.2. SecurePayTech.com reserves the right to change the period of notice pursuant to clause 16.
- 6.2 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 subscriber 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 client, 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.
- 6.3 Upon cancellation of the service for whatever reason, payment for the current months transactions fall immediately due
- 6.4 The liability of SecurePayTech.com for the provision of services shall cease on the cessation of the services.

## **7.0 INTELLECTUAL PROPERTY RIGHTS**

- 7.1 The subscriber 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 subscriber 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 CERTIFICATION AS TO AGE**

9.0 The subscriber must certify that he or she is at least 18 years of age.

## **10.0 ADDITIONAL SERVICES**

- 10.1 If the subscriber requests that SecurePayTech.com provide services not delineated herein any time during the 30-day period and thereafter, the subscriber agrees to pay SecurePayTech.com's price for such services in effect at the time such service was rendered.

## **11.0 LIMITATION AND EXCLUSION OF LIABILITY**

- 11.1 SecurePayTech.com exercises no control whatsoever over the content of the information passing through SecurePayTech.com.
- 11.2 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.
- 11.3 SecurePayTech.com will not be responsible for any damage suffered except as expressly provided in this Agreement. This includes loss of data resulting from delays, non-deliveries, miss-deliveries, or service interruptions. Use of any information obtained via SecurePayTech.com is at the subscriber's own risk. SecurePayTech.com specifically denies any responsibility for the accuracy or quality of information obtained through its services.
- 11.4 Without limiting the other terms of this contract, the Subscriber'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 resupply of the services or the amount of the current monthly Subscriber's Levies for the month during which the breach allegedly occurred.
- 11.5 Subject only to SecurePayTech.com's liability for breach of contract (if any) pursuant to clause 11.4 above, SecurePayTech.com will not be liable to the Subscriber for any claim for breach of contract, breach of 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 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.
- 11.6 Notwithstanding anything herein contained or implied no employee, agent or director of SecurePayTech.com will be liable to the Subscriber 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.
- 11.7 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.
- 11.8 This clause shall survive termination of this contract.

## **12.0 RELATIONSHIP OF THE PARTIES**

- 12.1 The subscriber 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.

### **13.0 NON WAIVER**

- 13.1 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.
- 13.2 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.

### **14.0 ENFORCEABILITY**

- 14.1 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.

### **15.0 FORCE MAJEURE**

- 15.1 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.

### **16.0 VARIATION**

- 16.1 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 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.

### **17.0 ASSIGNMENT**

- 17.1 Accounts cannot be transferred or used by anyone other than the subscriber or their delegated agent.

### **18.0 GOVERNING LAW**

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