



**smart swipe**  
SOLUTIONS

*delivering smart solutions  
one swipe at a time...*

## TERMS AND CONDITIONS

THE USE OF THE SMART SWIPE SOLUTIONS WEBSITE IS SUBJECT TO THESE TERMS AND CONDITIONS AND OTHER SERVICE SPECIFIC TERMS AND CONDITIONS. ACCESSING AND USING THE SMART SWIPE SOLUTIONS WEBSITE OR ANY PART THEREOF IMPLIES THAT YOU ("USER") AGREE TO THE TERMS AND CONDITIONS BELOW.

### 1. DEFINITIONS

- **"the Smart Swipe Solutions website"** means the Smart Swipe Solutions website and all its pages and content, owned and operated by Smart Swipe Solutions and located at <http://www.smartswipesolutions.co.za>;
- **"content"** means, but not limited to text, graphics, icons, links and other similar material on the website;
- **"ECT Act"** means the Electronic Communications and Transactions Act 25 of 2002;
- **"Intellectual Property"** means copyright (including but not limited to literary-, artistic-, musical-work, photograph, sound recording, computer programmes, artistic works), patents, trademarks (incl. domain names, meta tags), confidential information, trade secrets;
- **"PAI Act"** means Promotion of Access to Information Act 2 of 2000;
- **"Smart Swipe Solutions"** means Smart Swipe Solution (Proprietary)Limited

### 2. ABOUT US

- Company Name: Smart Swipe Solutions Propriety Limited;
- Registration No: 2012/048775/07
- Directors: L Scholz, P van Rensburg, D Martin, C Enqelbrecht, E de Swardt
- Information Officer: L Scholz;
- Physical Address: Smart Swipe Solutions,
- Postal Address: P O Box 73587, Fairland, 2030
- Tel: +27 (0) 11 794 1487 ;
- Fax: +27 (0) 86 542 1866
- Email: [info@smartswipesolutions.co.za](mailto:info@smartswipesolutions.co.za)
- Type of Business: Payment solutions technology

### 3. ALLOWED USE OF THE SMART SWIPE SOLUTIONS WEBSITE

- Smart Swipe Solutions hereby grants the User a non-exclusive, non-transferable license, subject to the conditions below, to:
  - View/browse the Smart Swipe Solutions website;

- Use content for personal and non-commercial purposes in accordance with the terms and conditions below;
- Copy, download and print the content of the Smart Swipe Solutions website for purposes of executing – or with the intention to execute a transaction between the User and Smart Swipe Solutions or any of its agents;
- **License conditions**
  - Other than as agreed to above, the User may not use, copy, adapt, redistribute or modify the content or any part thereof or frame, "mirror", data-mine or cache the Smart Swipe Solutions website or reverse engineer, copy, modify, download, distribute, decompile or create a derivative work of the software, or any part thereof without prior written permission from Smart Swipe Solutions. For any re-use or distribution of the content, the User must make clear to others the terms and conditions applicable to the content available from the Smart Swipe Solutions website;
  - User may not sublicense any of the content available from the website. User must keep intact all notices that refer to this License and to the Limitation of Liability hereunder;
  - User may not assign, transfer or sublicense the rights pursuant to this Agreement;
  - In all of the aforesaid Licensed Rights, Smart Swipe Solutions must be acknowledged as the source of the material and Smart Swipe Solutions' contact details must be reflected accordingly;
  - User is not allowed to upload or submit damaging code to the Smart Swipe Solutions website;
  - User may not use the Smart Swipe Solutions website's communication facilities for purposes of unsolicited communications ("Spam") or to send or publish any content that is in violation of any law or that are obscene, defamatory, racist or offensive of nature or may result in the infringement of intellectual property;
  - The User's fair use and other rights are in no way affected by the above;
- **Hyperlinks to and from Smart Swipe Solutions website**
  - This website may contain links to other websites operated by third parties. Smart Swipe Solutions does not operate or control, in any respect whatsoever, any of the information, graphics and material on those third party websites or guarantee that the website will be operational at all times;
  - Links to third party websites are included solely for the convenience of Users. The User therefore assumes sole responsibility for the use of a third party website;
  - Smart Swipe Solutions makes no warranties or representations regarding the quality, accuracy, reliability, legality, merchantability or fitness for purpose of third party website content or products or services available through third party websites or that the third party website content does not infringe the intellectual property rights of any person;
  - Smart Swipe Solutions expressly disclaims acting in any respect on behalf of third party website operators and/or owners. Third party websites may be subject to their own terms of use and privacy policies different from those of this site;
  - Hyperlinks to the Smart Swipe Solutions website will be allowed, subject to the following conditions:
    - The User will be authorised to link to, but not replicate content contained in the Smart Swipe Solutions website;
    - The User may not present misleading or false information about Smart Swipe Solutions' services or products;
    - The User may not imply that Smart Swipe Solutions is endorsing or sponsoring the User's website, or any services or products available from the website containing the hyperlink;

- The User may not use Smart Swipe Solutions' logos or trade marks without prior written permission from Smart Swipe Solutions;
- The User's website may not contain content that could be construed as obscene, libelous, defamatory, pornographic, or inappropriate for all ages or contain materials that would violate any laws;
- The link shall be removed immediately at any time upon Smart Swipe Solutions' request pursuant to Smart Swipe Solutions' reserved rights to rescind its consent to allow the link;
- All hyperlinks to link to the Smart Swipe Solutions website must link to the Homepage. Links beyond the Smart Swipe Solutions home page may only be used with Smart Swipe Solutions' prior written consent;
- Authorisation to link to the Smart Swipe Solutions website shall not create and/or constitute an employer/employee relationship or an agency or a partnership in any shape or form between the User and Smart Swipe Solutions nor authorise the User to incur any liability on behalf of Smart Swipe Solutions.

#### **4. INTELLECTUAL PROPERTY RIGHTS**

- The Intellectual Property available on the Smart Swipe Solutions website or obtained via the interaction between itself and the Users are the property of – or licensed to Smart Swipe Solutions and may not be utilised outside the licensed terms as set out herein;
- Email addresses, names, telephone numbers and fax numbers published on the Smart Swipe Solutions website may not be incorporated into any database used for electronic marketing or similar purposes. The presentation of such details is no "*opt-in*"/permission from Smart Swipe Solutions to utilise same;
- Smart Swipe Solutions would be pleased to consider requests for permission to disseminate or use Smart Swipe Solutions content outside the scope of the license terms set out under above, provided that our written approval is obtained in advance. To obtain approval please email us at: [info@smartswipesolutions.co.za](mailto:info@smartswipesolutions.co.za)

#### **5. ADDITIONAL INFORMATION TO THE USER AS CONSUMER**

Further disclosure requirements to the User as consumer:

- Access to the Smart Swipe Solutions website is for free;
- The main services available under the Smart Swipe Solutions website are to provide the User with information and contact details of Smart Swipe Solutions;
- To lodge complaints email: [info@smartswipesolutions.co.za](mailto:info@smartswipesolutions.co.za) or use any of the contact details available on the Smart Swipe Solutions website under "Contact Us" to inform Smart Swipe Solutions of the complaint.

#### **6. PRIVACY AND PROTECTION OF PERSONAL INFORMATION**

- We value your personal information and intend to give you as much control as possible over your personal information;
- The purpose of this statement is to set out how we use personal information that we may obtain about the User. By using the Smart Swipe Solutions website generally the User agrees to the following use:
- **Use of Personal Information**
  - When the User uses/browses the Smart Swipe Solutions website Smart Swipe Solutions may collect, store and use the User's personal information or any other additional information for purposes as set out below;

- Smart Swipe Solutions may use personal information or any other requested information that the User provides or that is obtained by Smart Swipe Solutions:
  - To submit information about Smart Swipe Solutions services/products to the User; or
  - To fulfill Smart Swipe Solutions' agreement with the User; or
  - To register the User with Smart Swipe Solutions website and to administer our website services; or
  - To identify the User when accessing and utilising the Smart Swipe Solutions website; or
  - To ensure that the User's requested services are delivered; or
  - For assessment and analysis of non-personal statistical information to enable Smart Swipe Solutions to review, develop and improve the services which Smart Swipe Solutions offers that will enable Smart Swipe Solutions to communicate with the User and other customers such relevant information;
- Smart Swipe Solutions retains all rights to non-personal information collected and compiled by Smart Swipe Solutions;
- **Disclosure of User Information**
  - Smart Swipe Solutions may give information about the User to the following, who may use it for the same purposes as set out above (excluding direct communications):
    - To employees and agents of Smart Swipe Solutions to administer the website and communications to the User;
    - To anyone to whom Smart Swipe Solutions transfers or may transfer rights and duties under an agreement with the User;
    - If Smart Swipe Solutions has a duty to do so or if the law allows Smart Swipe Solutions to do so;
  - No login names or passwords will be disclosed to any third party, except those third parties responsible for the execution of the Smart Swipe Solutions website EFT login facility;
  - Occasionally third parties may provide storage services to Smart Swipe Solutions. In those circumstances those third parties shall be required to enter into a Non-Disclosure Agreement on no less stringent terms than found in this privacy statement and to process and protect your data solely in accordance with our instructions;
  - The User has a right to see its own personal information that Smart Swipe Solutions keeps about the User by following the procedures available under the Smart Swipe Solutions PAI Act Manual, available from the Smart Swipe Solutions website, subject to the fees as stipulated under the PAI Act Manual. If the User is concerned that any of the information Smart Swipe Solutions holds on him/her is incorrect please contact Smart Swipe Solutions immediately;
- **Cookies**
  - Cookies may be used by Smart Swipe Solutions to understand the Users of the Smart Swipe Solutions website better. Cookies allow Smart Swipe Solutions to understand who has seen which pages and advertisements, to determine how frequently particular pages are visited and to determine the most popular areas of the Smart Swipe Solutions website. Depending on the type of cookie Smart Swipe Solutions uses, cookies also allow Smart Swipe Solutions to make the Smart Swipe Solutions website more user friendly, for example, permanent cookies allow Smart Swipe Solutions to save the User's password so that the User does not have to re-enter it every time the User visits the Smart Swipe Solutions website;
  - The User can usually adjust its browser so that the User's computer does not accept cookies. If the User does this, the User will still be able to browse around the site but the functions that allow the User to access an existing account or page that requires a username or password, will not be available;

- Alternatively the User can adjust its browser to tell the User when a website tries to put a cookie on the User's computer. How the User adjusts its browser to stop it accepting cookies or to notify the User of them, will depend on the type of internet browser programme the User's computer uses;
- Please remember, cookies do not contain confidential information such as the User's home address, telephone number or credit card details. We do not exchange cookies with any third party websites or external data suppliers;
- The User's browser also generates other information, including which language the site is displayed in, and User's Internet Protocol address ("IP address"). An IP address is a set of numbers, which is assigned to the User's computer during a browsing session whenever the User logs on to the Internet via the User's Internet service provider or the User's network (if the User accesses the Internet from, for example, a computer at work). The User's IP address is automatically logged by Smart Swipe Solutions' servers and used to collect traffic data about visitors to the Smart Swipe Solutions website. Smart Swipe Solutions does not use the User's IP address to identify the User personally;
- Smart Swipe Solutions only keeps cookies for the duration of the User's visit to our website, except where the User saves his/her login name as referred to above.
- **Security**
  - Smart Swipe Solutions endeavors to take all reasonable steps to protect the User's personal information. However, Smart Swipe Solutions cannot guarantee the security of any data the User discloses online. The User accepts the inherent security risks of providing information and dealing online over the Internet and will not hold Smart Swipe Solutions, its directors, employees or agents responsible for any breach of security unless this is due to our gross negligence or willful misconduct;
  - Please take note that Smart Swipe Solutions may send User emails from time to time however Smart Swipe Solutions would never send an email asking for the User's logon details or bank details, or direct User to a web page that asks for this information.
- **General**
  - Please be aware that the Smart Swipe Solutions website may link to other websites which may be accessed through the Smart Swipe Solutions website. Smart Swipe Solutions is not responsible for the data protection – or privacy policies or procedures or the content of these linked websites;
  - **To be removed from any Smart Swipe Solutions.co.za mailing list** If the User wants to be removed from Smart Swipe Solutions' mailing list then send an email to: [info@smartswipesolutions.co.za](mailto:info@smartswipesolutions.co.za) with the words 'remove from mailing list' in the subject line and the email address that the User wishes to be removed within the email. Please note that **it may take up to 10 (ten)** days to action the request. In addition, each electronic mailing Smart Swipe Solutions sends the User will contain details of how the User can unsubscribe;
- **Contact Us**  
If the User has any comments or queries in connection with Smart Swipe Solutions' Privacy Policy then please e-mail [info@smartswipesolutions.co.za](mailto:info@smartswipesolutions.co.za) or write to Smart Swipe Solutions (see postal address in Contact Us).

## 7. SECURITY

- Although Smart Swipe Solutions is not obliged to provide security on the Smart Swipe Solutions website, Smart Swipe Solutions feels it is important that Users information or any communication between Users and Smart Swipe Solutions is dealt with in the most secure manner reasonably possible, however because of the nature of the Internet, Smart Swipe Solutions cannot warrantee

that the security of the User's communication with Smart Swipe Solutions via the website is completely secure;

- To provide adequate security to all Users of the website and to monitor activities prohibited under section 86 of the ECT Act the User hereby agrees to Smart Swipe Solutions the right to intercept, monitor, block, read, delete or accesses all data sent to the website or any other Smart Swipe Solutions communication facility, e.g. e-mail, instant messaging – or fax to email application, subject to conditions as set out under the Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002;
- It is Smart Swipe Solutions' policy to virus check documents and files before they are posted on the Smart Swipe Solutions website. However, Smart Swipe Solutions cannot guarantee that documents or files downloaded from this website will be free from viruses and Smart Swipe Solutions does not accept any responsibility for any damage or loss caused by any virus. Accordingly, for the User's own protection, the User must use virus-checking software when using this website. Further, the User shall not post or provide to Smart Swipe Solutions via this website, any document or file that may contain a virus. The User must virus-check any document or file which the User intends to post or provide to Smart Swipe Solutions via this website. The User hereby indemnify Smart Swipe Solutions, its service providers and affiliates against any possible damages, expenses or losses as a result of delivering computer programmes or any other code that may damage this website or the Smart Swipe Solutions or its service provider's infrastructure;

## **8. LIMITATION OF LIABILITY**

- Smart Swipe Solutions website and all materials found on the website are intended for information purposes and provided "as is" without any warranty, representation, condition, undertaking, or terms of any kind, express or implied, statutory or otherwise, including without limitation, the warranties of merchantability, non-infringement of intellectual property, professional advice, fitness for a particular purpose or suitability of the information, software or services;
- Smart Swipe Solutions further does not warrant the accuracy or completeness of the information, text, graphics, links or other items contained in the Smart Swipe Solutions website. Smart Swipe Solutions may make changes/amendments to the Smart Swipe Solutions website, the policies, information described in the materials or content of these terms and conditions, at any time without notice. Smart Swipe Solutions reserves the right to vary or amend these terms and conditions from time to time. Any changes shall take effect upon posting to this website. Smart Swipe Solutions makes no commitment to update the materials and may discontinue any part of the Smart Swipe Solutions website or services or certain software or version of certain software for the utilisation of the Smart Swipe Solutions website;
- Smart Swipe Solutions and its service providers will not be liable for any special, direct, indirect or consequential damages, expenses or losses whatsoever, including loss of profits or data, any delays, whether in an action in contract or delict, arising out of the use or inability to use the Smart Swipe Solutions website or performance of the Smart Swipe Solutions website or non-performance of the Smart Swipe Solutions website, i.e. Smart Swipe Solutions website not available as a result of 3rd party service providers, maintenance, enhancements, events outside the control of Smart Swipe Solutions or *force majeure* events, even if Smart Swipe Solutions have been advised of the possibility of such damages;

## **9. AGREEMENT AND ECOMMUNICATIONS**

- **Formation and validity of this Smart Swipe Solutions website agreement**  
The User agrees that:

- If the User is not a consumer, the User confirms that the User has authority to bind any business on whose behalf the User uses this website;
- The User possesses the legal right and ability to enter into this Agreement and to use this website in accordance with all terms and conditions herein;
- All information that is incorporated by using hyperlinks and/or other methods of reference form part of this agreement (see Section 11(3) of the ECT Act);
- Except for the agreement on these terms and conditions, no other agreement shall be formed between the User and Smart Swipe Solutions via electronic communications;
- This Agreement is concluded in Johannesburg, the moment the User accesses the Smart Swipe Solutions website.
- **Time and Place of communication, dispatch and receipt**
  - Data messages sent from Smart Swipe Solutions to the User have been sent from Smart Swipe Solutions' place of business;
  - Data messages sent from Smart Swipe Solutions to the User is deemed to be received when complete message is outside the control of Smart Swipe Solutions (left the system of Smart Swipe Solutions);
  - Data messages from the User to Smart Swipe Solutions are deemed to be received by Smart Swipe Solutions only when Smart Swipe Solutions responds thereto. Such acknowledgement further does not give legal effect to that message, unless specifically indicated by Smart Swipe Solutions that it does give legal effect to the message;
- **Expression of intent**
  - The User acknowledges that all agreements, authorisation or request under this agreement satisfies the "*writing*" requirement as per Section 12 of the ECT Act;
  - For purposes of Electronic Communications between the User and Smart Swipe Solutions, no Electronic Signature is required; the mere sending of data messages or browsing of our website demonstrates the User's intent to be a party to this agreement;
- **Attribution of data messages to originator**
  - The User agrees and warrants that the data message sent, from any computer or device that are owned by the User or the User's employer or programmed by the User or on the User's behalf, to Smart Swipe Solutions was sent by the User or a person that had authority to act on the User's behalf in respect of the data message.

## 10. REFUND/CANCELLATION POLICY

There are no deliverables in terms of services or goods available from the Smart Swipe Solutions website, except for the information that is provided by Smart Swipe Solutions from time to time on the Smart Swipe Solutions website. Therefore, no cooling-off period, as per Section 44 of the ECT Act applies.

## 11. TERMINATION

These terms and conditions and the User's access to the website may be terminated at any time by Smart Swipe Solutions without notice. All restrictions, disclaimers and limitations of liability by Smart Swipe Solutions will survive termination, however, the User will no longer be authorised to access the website.

## 12. BREACH

- If the User is in breach of the terms and conditions of this website, Smart Swipe Solutions reserves the right to, without prejudice to any rights which it may have in terms hereof or at law, to:

- Order for specific performance and damages;
- Terminate this Agreement and claim damages;
- Institute criminal procedures where applicable and necessary;
- All costs, charges and expenses of whatsoever nature which may be incurred by Smart Swipe Solutions in enforcing its rights in terms hereof including, without limitation, legal costs on the scale as between an attorney and own client and collection commission, irrespective of whether any action has been instituted, shall be recoverable from you if the above rights are successfully enforced.

### 13. GENERAL AND MISCELLANEOUS

- **Sole record of agreement**

These terms and conditions constitute the sole record of the agreement between the User and Smart Swipe Solutions with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

- **No amendments except in writing**

No data message as defined above, including but not limited to an email, SMS and recorded voice message, sent by User to Smart Swipe Solutions shall amend this agreement or the rights and duties of the parties in any manner, unless such a data message is reduced to paper and signed by the parties.

- **Waivers**

No relaxation or indulgence, which any party may grant to any other, shall constitute a waiver of the rights of that party and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

- **Survival of obligations**

Any provision under these terms and conditions, which contemplates performance or observance subsequent to any termination, or expiration of this Agreement, shall survive any termination or expiration of this Agreement and continue in full force and effect.

- **Severability**

If any one or more of the clauses of these terms and conditions shall be declared or adjudged (formally or informally) by competent authority to be illegal, invalid or unenforceable under any law applicable in any jurisdiction in which these terms and conditions is to be performed, including this clause:

- That clause shall be deemed for all purposes to be severable from all the other clauses of these terms and conditions, which clauses shall continue in force unaffected;
- The terms and conditions thus continuing shall (subject and without prejudice to any appeal to higher authority as to the status of that clause) exclude the offending clause but, if such deletion substantially affects or alters the commercial basis of these terms and conditions, the terms and conditions, including such provision, shall be amended in such manner as the parties shall in good faith agree which will, while not being void or unenforceable, most nearly achieve the object of the allegedly void or unenforceable provisions.

### 14. APPLICABLE AND GOVERNING LAW

The law of South Africa and the jurisdiction of the South African courts shall govern this Agreement.

**We recommend you print out a copy of these terms and conditions for future reference.**