

## FLASH VENDOR STANDARD TERMS AND CONDITIONS

### 1. Introduction

1.1 These terms and conditions govern your relationship with us.

**1.2 Please take special note of the paragraphs printed in bold as they may limit our responsibility or involve some risk for you.**

### 2. How to interpret these terms and conditions

2.1 In these terms and conditions, the words on the left have the meanings set out on the right unless the context clearly shows that the parties intended a different meaning:

2.1.1 **Access PIN** means the 4 digit numeric number that you choose to access the Flash System and your Prepayment – it operates as a security and authentication measure;

2.1.2 **Flash Device** means the device that forms part of the Flash System;

2.1.3 **Flash/us/we/our** means Flash Mobile Vending (Pty) Ltd, a private company with main place of business at 36 Stellenberg Road, Parow Industria;

2.1.4 **Flash System** means the Flash hardware and software which enables you to communicate with us;

2.1.5 **Prepayment** means an advance payment of an amount of money by you which is reflected against your name in the Flash account management system (using your phone number as unique identifier);

2.1.6 **RICA Act** means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 70 of 2002;

2.1.7 **Transactions** means the different transactions or activities that can be performed by you via the Flash System, whether as principal or in your capacity as agent for Flash and includes the vending and distribution of products, bill payments, transfer or Prepayment and RICA activities;

2.1.8 **User Guide** means the manual which explains how to operate the Flash System, as updated from time to time;

2.1.9 **You** means the user of the Flash System;

2.2 Reference to:

2.2.1 one gender includes all the genders;

2.2.2 the singular form of a word includes the plural;

2.2.3 the plural form of a word includes the singular;

2.2.4a law or regulation is a reference to that law or regulation as amended from time to time.

### 3. Registration

3.1 Please follow the steps as set out in the User Guide to register with us and to keep your Flash Device activated.

3.2 When you register, you accept these terms and conditions.

3.3 Our distribution partner will verify, record and store your identity and other details against the Flash Device SIM card as required by the RICA Act.

#### **4. Transacting using the Flash System**

- 4.1 You must make a Prepayment to us before you will be able to perform Transactions.
- 4.2 The different types of Transactions that can be performed will be specified in the User Guide and is subject to change from time to time.
- 4.3 The User Guide explains how to operate on the Flash System and is regularly updated. A User Guide will be provided to you together with the Flash Device and the latest User Guide will always be available on our website.
- 4.4 The Prepayment or any balance thereof can in no instance be redeemed for cash or by way of a deposit into a bank account and can only be used to perform Transactions.**
- 4.5 Prepayment can be done as explained in the User Guide or as notified to you from time to time.
- 4.6 You must ensure that you have enough Prepayment to cover the amount of the Transaction, where applicable.
- 4.7 Your Prepayment will immediately be reduced with the amount of each Transaction, where applicable.
- 4.8 To access the Flash System, you will need Flash hardware and software. **You authorise us to carry out any and all Transactions which are authenticated by your Access PIN.**
- 4.9 The device uses cellphone networks to communicate to the Flash System:
- 1. There may be a cost involved in this communication and you are responsible for this cost.**
  - 2. We cannot guarantee reception of cellphone networks in the area where you want to operate and Flash will not be liable for any damages or loss in this regard.**
  - 3. You acknowledge that information transmitted through the cellphone networks is susceptible to interception, unlawful access, distortion and monitoring and that you use the Flash System at your own risk.**
  - 4. If the cellphone network that your device is using to communicate to the Flash System is not operating for any reason, you will not be able to perform Transactions and Flash will not be liable for any damages or loss in this regard.**
- 4.10 In our own discretion we may allow you to perform a Transaction without sufficient Prepayment from time to time without prejudice to our right in any subsequent Transaction to deny such Transaction where sufficient Prepayment does not exist.
- 4.11 You will be entitled to such fees, commissions and discounts as may be applicable to Transactions from time to time. **These amounts will be used to increase your Prepayment and cannot be redeemed for cash.**
- 4.12 In all instances where we appoint you as our agent, you must act strictly within your mandate which will be detailed in the User Guide and/or communicated to you via the Flash System.
- 4.13 No reversal of a voucher or instruction is permitted once a voucher is requested by you or an instruction is given to us.
- 4.14 You may not charge any additional fees, costs or commissions to what is indicated on the Flash System.

## **5 Regulatory requirements**

- 5.1 **You must at all times comply with applicable laws, including the RICA Act and indemnifies Flash against any loss or liability it may suffer as a result of non-compliance by you.**
- 5.2 **Electricity: The ability to distribute electricity vouchers are area specific and may not be available in your area. There are specific requirements applicable to the distribution of electricity vouchers which are specified in the User Guide and you must comply with these rules.**

## **6 Starter Packs**

- 6.1 By selling or distributing Flash starter packs to you, we appoint you to sell starter packs to end-users only, unless specifically authorised otherwise by Flash in writing. **This appointment can be revoked at any time.**
- 6.2 You must act in strict accordance with the instructions and directions provided and standards set by Flash from time to time.
- 6.3 You will be entitled to such fees, commissions or discounts as communicated to you and which is subject to change from time to time.

## **7 RICA**

- 7.1 If you sell Flash starter packs, you must comply with the RICA Act.
- 7.2 The requirements of the RICA Act are set out in the User Guide and you agree to comply with these requirements.
- 7.3 You agree that you will sell starter packs only to end-users, unless specifically authorised otherwise by Flash in writing.
- 7.4 The Flash Device provides you with a communication link to send an end user's RICA data and the relevant SIM card number to us or a cellular network.
- 7.5 The Flash Device enables you to RICA only Flash starter packs and we do not appoint you as our agent to RICA any other starter packs than Flash stock.
- 7.6 You may only use the Flash Device and you may not use any other device or solution to RICA Flash starter packs.
- 7.7 We may require you to provide us with such documents and information pertaining to you as set out in the User Guide before we activate the RICA capability of your Flash Device.
- 7.8 You may not allow anyone else to use your Flash Device and Access Code to RICA an end-user.
- 7.9 **Flash reserves the right to terminate or suspend the RICA capability of the Flash Device immediately if:**
  - 7.9.1 **You fail to comply with the provisions of the RICA Act, the User Guide and/or these terms and conditions;**
  - 7.9.2 **You fail to RICA for a continuous period of 4 months.**

## 8 Security

- 8.1 You understand that the use of the Flash System with the Access PIN allows access to your Prepayment.
- 8.2 You must make sure that you keep the device and Access PIN secret and secure and do not compromise any safety measures.
- 8.3 If another person gets hold of your Access PIN by whatever means, we will regard you as having authorised this person to access your Prepayment on your behalf, as your agent with full authority to do so.**
- 8.4 You must notify us immediately if you have reason to think that someone else obtained your Access PIN or if your Flash device/SIM card is lost. Any losses or costs incurred prior to notification will be for your account.
- 8.5 If the SIM card in your Flash Device is lost, stolen or damaged you must inform the South African Police Service in writing.

## 9 Changes

- 9.1 We are entitled to change the type of Transactions that can be performed via the Flash System, amend any feature or benefit as well as the fees, discounts, commissions and costs relating to the Transactions from time to time by giving you reasonable prior notice of any such change.**
- 9.2 We are further entitled to change these terms and conditions and the User Guide from time to time. The latest version will always be available at [www.flash.co.za](http://www.flash.co.za) or available from us upon request. It is your responsibility to keep up to date and comply with the latest version of these documents.**
- 9.3 Your continued use of the Flash System means that you have accepted such changes.**

## 10 Intellectual property

- 10.1 Intellectual property rights of Flash shall remain the sole property of Flash and you will not vest any right, title or interest in the software contained in the Flash System.
- 10.2 You may not tamper with, damage, misuse, modify, reverse engineer or decompile any hardware and/or software of the Flash System.
- 10.3 You must ensure that such promotional or advertising material as may be provided by Flash from time to time to you, is displayed at all times in accordance with the directions and requirements of Flash.
- 10.4 You must ensure that any promotional or advertising material or collateral relating to cellular networks which you wish to design and/or produce and/or use, shall be approved of by Flash prior to publication and circulation.
- 10.5 You may not use the Flash trademarks, trade names, logo`s or any derivative or component thereof without prior approval of Flash.

## **11 Your personal information**

### **11.1 You consent to:**

- 11.1.1 the processing of your personal information by us and other companies in our group, any of its operators, commercial partners, agents and sub-contractors (who may be outside South Africa) on the condition that they will keep such information confidential;**
- 11.1.2 the collection of your personal information from any other source to supplement the personal information which we have about you;**
- 11.1.3 the retention by us of your personal information for as long as permitted for legal, regulatory, fraud prevention and marketing purposes;**
- 11.1.4 Us using your personal information to send you information about products, services, and special offers of the various companies in our group and commercial partners that may be of interest or value to you;**
- 11.1.5 Us conducting a credit enquiry about you with any credit bureau or credit provider and providing your personal information, including the manner in which you conduct's your account, to:**
  - 11.1.5.1 credit risk management services (including credit bureaux); and/or**
  - 11.1.5.2 crime prevention agencies.**

### **11.2 Subject to applicable law, you may access the personal information Flash has about you by contacting our call centre and request that applicable corrections be made.**

## **12 Confidentiality**

**12.1** All information identified by Flash as confidential or which, you should reasonably identify as confidential, including business, commercial (discounts etc), end-user, scientific or technical information, as well as any price list whether current or not, received by or made available to you pursuant to your relationship with Flash, shall be regarded by you as confidential and shall be treated accordingly and not be disclosed to third parties, or used for any purpose other than that for which it was disclosed, without the prior written consent of Flash.

**12.2** In particular, you shall not, directly or indirectly communicate any information regarding or relating to an end-user to any third party other than in the compliance with the obligations of these terms and conditions or as may be required in law, from time to time.

**12.3** The provisions of this clause 12 shall survive any termination of our relationship with you.

## **13 Termination and suspension**

**13.1 We are entitled to cancel, terminate or suspend your use of the Flash System in respect of all Transactions or selected types of Transactions immediately, or any combination of these actions, as may be permissible in law, without prejudice to any of our other rights (that is, without barring or limiting any future action), if**

- 13.1.1 we have reason to believe that the Flash System has been or is likely to be misused;**
- 13.1.2 suspect any illegal use of the Flash System and/or its functionalities;**
- 13.1.3 you gave false or inaccurate information;**

- 13.1.4 you fail and/or refuse to follow our User Guide or other instructions;
- 13.1.5 you are in breach of these terms and conditions or the provisions of any other agreement between us;
- 13.1.6 law forces us; or
- 13.1.7 if we need to protect our interest.

13.2 We reserve the right to terminate or suspend your access to the Flash System upon notice, without any liability to you or any third party.

13.3 You may also terminate your relationship with us with immediate effect upon notice to us.

13.4 Upon termination you will not be entitled to redeem your Prepayment or any balance thereof in cash, but will be allowed to purchase airtime until the Prepayment is depleted.

#### 14 Limitation of liability & indemnity

14.1 We will not be liable to you if we cannot carry out our responsibilities under these terms and conditions as a result of anything that we cannot reasonably control. This includes, but is not limited to any technical problems relating to cellular networks.

14.2 We will not in any circumstances be liable for any consequential or indirect losses however these may arise or for any other unusual losses. In particular, Flash shall not be liable for any financial loss, loss of business, profit, savings, revenue, or goodwill suffered or sustained by you howsoever arising.

14.3 We will not be liable for any claims, loss or damage resulting from claims that products or services are defective where we act as agent for the supplier thereof.

14.4 You indemnify Flash against any loss suffered by it, whether direct or consequential, or claims instituted against Flash by virtue of your use of the Flash System.

#### 15 General

15.1 You are not, without the consent of Flash, entitled to cede, delegate or sub-license all or any of its rights and/or obligations in terms of your contractual relationship with Flash to any third party. Flash shall not be bound by such a provision and you hereby expressly consent to any such cession and/or delegation of rights and/or obligations by Flash.

15.2 No indulgence, leniency or extension of time which Flash may grant or show to you shall in any way prejudice Flash or preclude Flash from exercising any of its rights in the future.

15.3 No contract varying, adding to, deleting from or cancelling this product schedule, and no waiver of any right, shall be effective unless reduced to writing and signed by Flash.

15.4 Flash shall not be bound by any representation, express or implied term, warranty, promise or the like not recorded herein or in the User Guide.