

iPay Online Mobile Transaction Processing Agreement

BETWEEN

YOUR COMPANY NAME

AND

INTREPID DATA SYSTEMS LTD

Terms and Definitions

- **YOUR COMPANY NAME** - hereinafter called “the Merchant” or “You” or “Yourself” or “Your”
- The Merchant, You, your, yourself - This refers to the Sellers/Resellers of Goods or services using the iPay Transaction Processing Service
- Merchant Account - Online account on the Transaction Processor's systems that allows the routing of your transactions
- INTREPID DATA SYSTEMS Ltd - hereinafter called “the Transaction Processor” or “us” or “our”
- When both the Merchant and the Transaction processor are referred to jointly, they will be referred to as “the Parties” or “each Party”
- When either the Merchant or the Transaction processor are referred to, they will be referred to as “the Party” or “a Party”
- The Service, The Transaction Processor Service (The act of processing payments for goods purchased on the merchant's website and originating from customers' mobile money wallets like MPESA, Zap, Yu Cash)
- Pooled Accounts - The Mobile Network Operator Corporate Wallets that are run by the Transaction Processor, allowing them to receive money)
- Other Merchants - Other Sellers/Resellers of Goods or services using the iPay Transaction Processing Service)
- Customer, Client, User, Buyer - Your customer
- Item, Good, Merchandise – Your Product or Service
- Your Third Party - Suppliers of goods or services to you that allow you to serve your clients
- Our Third Party - Suppliers of goods or services to us that allow us to serve you
- Mobile Network Operator – Refers to the Mobile Telephone companies offering the mobile money transfer services
- Merchant Website – Refers to your online store that is publicly accessible over the Internet
- Shopping Cart – Refers to the software installed on the Merchant Website, allowing you to sell goods and/or services
- Robot exclusion Header – Special software used by us to raise security levels on our systems
- Dispute - Any disagreeable issue arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, performance, non-performance or cancellation, expiration and termination
- Anonymising Proxy – Computer Systems that mask the true identity of your website from the user.

All other section-specific definitions are covered within the document.

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1. The Legal Relationship between You and Transaction Processor.

1.1 User Relationship. The Transaction Processor acts as a facilitator to help customers accept payments and to help customers make payments. The Transaction Processor has independent relationships with the receiver of payments. We act based upon your direction and your requests to use our Services that require us to perform tasks on your behalf. The Transaction Processor will at all times hold your funds separate from its corporate funds, will not use your funds for its operating expenses or any other corporate purposes, and will not voluntarily make funds available to its creditors in the event of bankruptcy or for any other purpose. You acknowledge that:

- (i) the Transaction Processor is not a bank and the Service is a payment processing service rather than a banking service
- (ii) the Transaction Processor is not acting as a trustee, fiduciary or escrow with respect to your funds, but is acting only as an agent and custodian.

The Merchant is not required to carry a balance in their iPay account in order to use the Service, except in circumstances where the Merchant is selling tangible goods. In this case, the **deposit fees** mentioned in the fee schedule section will apply. The Transaction Processor will pool your funds together with funds from other Merchants, and will place those funds in accounts at one or more financial institutions ("Pooled Accounts").

You agree that you will not receive interest or other earnings on the funds you may keep in your Merchant Account. The Transaction Processor may earn interest on those funds, or may receive a reduction in fees or expenses charged for banking services by the banks that hold your funds.

By receiving payments through the Service you authorize the Transaction Processor to charge a 5% commission on all payment amounts to be received by you through the iPay service on your website, and to send the funds into the Transaction Processor's Pooled Account, subject to the terms and restrictions of this Agreement. When your Client makes a payment, until that payment clears our risk checks and is accepted by the recipient (which may occur instantly or take a few days), you remain the owner of those funds and the Transaction Processor only holds those funds for your benefit and on your behalf, but you will not be able to withdraw those funds until the amount in the Transaction Processor's pooled account reaches a reasonable amount of KSh. 50,000. This is because the Transaction Processor's agreement with the mobile network operators does not allow the withdrawal of pooled funds below this amount. It is worthy to note that the amount of KSh. 50,000 stated herein refers to pooled funds from other Merchants as well as yourself.

By receiving payments through the Service, you appoint the Transaction Processor as your agent to cause the funds to be deposited on your behalf in the Pooled Accounts until you further instruct The Transaction Processor with respect to the transmission of your funds. Through the Transaction Processor's website, you may provide instructions to withdraw the funds or send the funds to a third party, in each case subject to the terms and restrictions of this Agreement. If you receive a notice that a payment has been sent to you through the Transaction Processor but you have not registered for the Service, the Transaction Processor will not become your agent and you will have no claim to those funds unless and until you register for the Service and indicate your acceptance of the payment.

1.2 The Transaction Processor is only a Payment Service Provider. The Transaction Processor acts as a payment service provider by creating, hosting, maintaining and providing our Service to you via the Internet. the Transaction Processor is not a remittance business or a money transfer service and the Personal Payments feature may not be used to remit funds to third parties.

We do not have any control over, and are not responsible or liable for, the products or services that are paid for with our Service. We cannot ensure that a buyer or a seller you are dealing with will actually complete the transaction.

The Transaction Processor is not a common carrier or public utility.

1.3 Identity Authentication.

We use many techniques to identify our users when they register on our site. A user's "Verified" status (as defined below) is only an indication of increased likelihood that a User's identity is correct. You authorize The Transaction Processor, directly or through third parties, to make any inquiries we consider necessary to validate your identity and registration. This may include requiring you to provide The Transaction Processor with fax or scanned documentation such as a government issued identification card, address verification documentation, ordering a credit report and performing other credit checks or verifying the information you provide against third party databases. However, because user verification on the Internet is difficult, The Transaction Processor cannot and does not guarantee any user's identity.

1.4 Release. In the event that you have a dispute with one or more users, you release the The Transaction Processor (and our officers, directors, agents, subsidiaries, joint ventures and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with such disputes.

1.5 No Warranty. WE, OUR PARENT, SUBSIDIARIES, RELATED ENTITIES, EMPLOYEES AND OUR SUPPLIERS PROVIDE OUR SERVICES "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR

STATUTORY TO THE MAXIMUM EXTENT PERMITTED BY LAW. WE, OUR PARENT, SUBSIDIARIES, RELATED ENTITIES, EMPLOYEES AND OUR SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT TO THE MAXIMUM EXTENT PERMITTED BY LAW. The Transaction Processor shall make reasonable efforts to ensure that mobile money transactions are processed in a timely manner and but we make no representations or warranties regarding the amount of time needed to complete processing because our Service is largely dependant upon many factors outside of our control, such as delays in the mobile money transfer systems run by the different Mobile Network Operators.

1.6 Limitation of Liability. EXCEPT IN THE CASE OF DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE, IN NO EVENT SHALL WE, OUR PARENT, SUBSIDIARIES, EMPLOYEES OR OUR SUPPLIERS BE LIABLE FOR LOST PROFITS OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH OUR WEBSITE, OUR SERVICE, OR THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE).

EXCEPT IN THE CASE OF DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE, OUR LIABILITY, AND THE LIABILITY OF OUR PARENT, SUBSIDIARIES, EMPLOYEES AND SUPPLIERS, TO YOU OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE ACTUAL AMOUNT OF DIRECT DAMAGES.

1.7 Indemnification. You agree to indemnify and hold The Transaction Processor, its parent, subsidiaries, affiliates, officers, directors and employees harmless from any claim or demand (including lawyers' fees) made or incurred by any third party due to or arising out of your breach of this Agreement or the documents it incorporates by reference, or your violation of any law or the rights of a third party relating to your use of the Service.

1.8 Liability for Violations of the Acceptable Use Policy. If you engage in the following behaviour, The Transaction Processor may suspend or restrict your access to the services, hold your funds up to 180 Days, fine you, as explained below, or report you to law enforcement officials.

- i. Using The Transaction Processor service to receive payments for any pornographic, socially unacceptable and sexually oriented or obscene materials or services in violation of the Acceptable Use Policy stated within this document.
- ii. Using The Transaction Processor service to receive payments for any narcotics, other controlled substances, steroids or prescription drugs in violation of the Acceptable Use Policy stated within this document.
- iii. Using the The Transaction Processor service to receive payments for wagers, gambling debts or gambling winnings, regardless of the location or type of gambling activity in violation of the Acceptable Use Policy.
- iv. Using the The Transaction Processor service to receive payments for tobacco products in violation of the Acceptable Use Policy.
- v. Using the The Transaction Processor service to receive payments for firearms/ammunition in violation of the Acceptable Use Policy.
- vi. Using the The Transaction Processor service to receive payments for hazardous materials, combustibles or corrosives in violation of the Acceptable Use Policy.
- vii. Using the The Transaction Processor service to receive payments for Online Dating and Relationship websites in violation of the Acceptable Use Policy.

You and The Transaction Processor agree that the damages that The Transaction Processor will sustain as a result of the behaviour outlined above will be substantial, including (without limitation) fines and other related expenses from its payment processors and service providers, but may be extremely difficult and impracticable to ascertain. In the event that you engage in such activities, then The Transaction Processor may fine you up to KSh. 180,000.00 for each such violation and/or The Transaction Processor may take legal action against you to recover losses that are in excess of the amount fined. You acknowledge and agree that a fine up to KSh. 180,000.00 is presently a reasonable and genuine minimum estimate of The Transaction Processor's damages, considering all currently existing circumstances, including (without limitation) the relationship of the sum to the range of harm to The Transaction Processor that reasonably could be anticipated and the anticipation that proof of actual damages may be impractical or extremely difficult. You agree that The Transaction Processor is entitled to deduct such amounts directly from any existing balance in the offending account, or any other Merchant account owned by you.

If you use the Transaction Processor service in a manner that violates the Acceptable Use Policy, including but not limited to the seven categories described above, your account will be subject to limitation or immediate termination, as stated in the Closing Accounts and Limiting Account Access Policy.

You further understand that, if you use the Transaction Processor service in a manner that violates the Acceptable Use Policy, including but not limited to the seven categories described above, The Transaction Processor may incur substantial liability and/or suffer significant damages, including (without limitation) fines and other related expenses from its payment processors and service providers. By selling goods or services (including access to content) in contravention

of the Acceptable Use Policy or the Restricted Activities section of this User Agreement (currently Section 6.2), you acknowledge liability to The Transaction Processor for any and all damages suffered by The Transaction Processor.

Without limiting the foregoing, you agree to reimburse The Transaction Processor for any and all costs, expenses, and fines levied on The Transaction Processor by third parties such as its payment processors and/or service providers as a result of your activities.

You agree that, if either you or The Transaction Processor commence litigation or arbitration in connection with this paragraph, the prevailing party is entitled to recover reasonable lawyers' fees and any other costs incurred in such proceeding in addition to any other relief to which the prevailing party may be entitled.

2. Fees.

All fees set forth herein will be assessed in the currency of the payment. Additional information about The Transaction Processor's fees is available in the fee schedule below. Your merchant account and all transactions are made and displayed in Kenya Shillings unless otherwise specified and may be subject to exchange rates. All fees related to the Service, are made free and clear of, and without any deduction or withholding for and on account of, any taxes, duties or other deductions. Any such deduction or withholding, if required by the laws of any country, shall be on your account and be borne by you.

Activity	Fees (KSh)	Mandatory
Non-Refundable Merchant Account Set up Fee	4,640.00	Yes
Receiving (Selling) for domestic payments	5% Commission on all transactions	Yes
Refundable Deposit if You are Selling Tangible Goods	50,000.00	Yes
Shopping Cart Set up Cost	23,200.00	No
RTGS / EFT Processing Charges	500.00 – 5,000	No (Depends on if this is your preferred choice of settlement and the amount being transferred)
Cheque Processing Charges	50.00	No (Depends on if this is your preferred choice of settlement)

3. Eligibility for Use.

To be eligible for an account under this Agreement, you must be a resident of one of the countries or regions listed below:

- Kenya
- Tanzania
- Burundi
- Uganda
- Rwanda
- Congo DRC

4. Sending, Receiving, and Withdrawing.

4.1 The policies and procedures for sending, topping up, receiving and withdrawing funds are set forth in the Payments Policy

In order to open your account or allow you to send, receive or withdraw funds, The Transaction Processor may be required by law or local regulation to verify your identity, source of funds, or other information and as may be determined from time to time. Failure to provide the required information will delay access to your funds as The Transaction Processor is prohibited for processing transactions if the required information is not received when requested. This information may include, but is not limited to the following: fax or email scanned copies of identity verification documentation such as national ID, Passport, drivers license, and address verification information such as a mobile phone bill or utility bill. Additionally, The Transaction Processor may ask for financial statements, such as profit and loss, cash flow, and balance sheet, or other financial or business documents as may be determined from time to time. Failure to provide the information when requested will result in your account being restricted and any funds in your account to be held until you provide the required information in the form and manner requested.

Please note: if you do not reside in a Withdrawal Country, you may not be able to request withdrawal of funds from your Merchant Account and should therefore only accept payments if you know you will send payments in equal amounts out of your account. For more details and guidelines about withdrawals, please refer to our Payments Policy.

4.2 Risk of Reversal of Payments and the Seller Protection Policy ("SPP").

1. **4.2.1 Definitions.** For the purposes only of this section 4, the terms set out below are defined as follows:

- a. "Disputed Payment" means a payment via The Transaction Processor which is the subject of a Seller Protection Reversal.
- b. "Item Not Received" means goods are purchased on a Merchant website but not received by the buyer.
- c. "Merchandise" or "Goods" means the item purchased through a Merchant website associated with the Disputed Payment and applies to **tangible items only**.
- d. "Proof of Delivery" means authentic viewable online documentation issued by the shipping company which includes the following: 1. Date item delivered, 2. the recipient's address, showing at least the city/state or zip code (or international equivalent) and 3. Signature Confirmation for payments of KSh. 500 or more.

"Proof of Shipment" means an authentic online or paper document issued by the shipping company demonstrating proof of shipment that includes the following information: 1. date item shipped, 2. recipient's address showing at least the following: name, address (City, State, Country, postal code)".

- a. "Seller Protection Reversal" occurs when The Transaction Processor places a hold on funds in your account under any of the following circumstances:
 - i. An unauthorized transaction where a mobile money transaction refund has been requested by a buyer where the sender of the payment was using improperly obtained funds or a fraudulent payment has been made.
 - ii. A refund has been requested by a buyer for the reason of Item Not Received.
 - iii. A claim filed via the Transaction Processor Online Dispute Resolution process has been requested by a buyer where the sender of the payment was using improperly obtained funds or a fraudulent payment has been made.
 - iv. A claim filed via the Transaction Processor Online Dispute Resolution process has been requested by a buyer for the reason of Item Not Received.
 - v. The Transaction Processor reverses a payment for a Merchandise item it believes to be fraudulent.
- b. "Transaction Details Page" means the page on the The Transaction Processor website titled "Transaction Details" that displays information about the transaction. This page is accessible by the Merchant from the "Transaction Details" section of the "My Account" tab on the Transaction Processor website.

4.2.2 Risk of Reversals of Payments and the Seller Protection Policy ("SPP").

- i. **Risks of Reversals.** You are responsible for all Reversals, Refunds, Claims, fees, fines, penalties, and other liability incurred by The Transaction Processor, a User, or a third party. In the event of any of these events, you will owe The Transaction Processor for the amount of the reversal, Claim, plus any fees imposed on or incurred by The Transaction Processor as a result of the reversal or refund. The Transaction Processor will seek to recover these funds from you by debiting your Merchant Account balance and, if there are not sufficient funds in your Merchant Account balance, The Transaction Processor reserves the right to take your account negative and to collect your debt to The Transaction Processor by any other legal means.
- ii. **Seller Protection Policy.** However, under the Seller Protection Policy, Merchants, will not owe The Transaction Processor any amounts in connection with a Seller Protection Reversal that results from a Disputed Payment and where the relevant transaction meets the applicable eligibility requirements, set out in section 4.2.3. The policy will protect you for the full amount of the eligible payment and waive a refund Fee, if applicable. There is no limit on the number of payments for which you can receive coverage.

4.2.3 Transaction Eligibility Requirements for the Seller Protection Policy.

1. Subject to the limitations set forth below a transaction (where the buyer makes a payment on or after June 7, 2010) will be eligible for protection under the Seller Protection Policy where the following requirements are met:
 - i. You sold the Merchandise via your website; and

- ii. You provide The Transaction Processor with valid Proof of Shipment of the Merchandise for unauthorized transactions or valid Proof of Delivery of the Merchandise for claims of an Item Not Received; and
- iii. You are a Transaction Processor Merchant in a country that has both receive and withdraw capabilities; and
- iv. You must ship the item within 7 days of receipt of payment (unless otherwise permitted under the Authorized Use Policy); and
- v. You sent the Merchandise to the address specified by the sender of the payment which is highlighted on your website's shopping cart's Transaction Details Page or otherwise notified to you by The Transaction Processor through a Transaction Processor application programming interface ("API").

4.2.4 Limitations on the Seller Protection Policy.

1. Note: The item must be listed and sold on your website and paid for with The Transaction Processor's Service. Sellers must provide one Proof of Shipment for each separate payment. The Seller Protection Policy will **not** apply to a transaction if any of the following apply:
 - i. You combine your items purchased through separate payments into a single shipment,
 - ii. You accept more than one payment for a single user transaction,
 - iii. You ship an item that is under payment review by The Transaction Processor and you have been advised via email or in your transaction details page not to ship the item as it is under review,
 - iv. You do not provide Proof of Shipment or Proof of Delivery as required or respond to The Transaction Processor's other requests for information in a timely manner as specified by The Transaction Processor,
 - v. The item sold was an intangible good, quasi-cash, gift certificate, downloadable or streaming content, a business, real estate, license for digital content, motor vehicle (including cars, motorcycles, boats, and planes) or a service,
 - vi. You hand deliver the item,
 - vii. You charge a surcharge to accept The Transaction Processor,
 - viii. The buyer has claimed that the item was significantly not as described (SNAD), or
 - ix. You have not complied with the terms of the Transaction Processor User Agreement, the Transaction Processor Acceptable Use Policy, any Transaction Processor policy or any specific directions provided by The Transaction Processor.

4.2.5 Seller Protection Process.

- i. If a Seller Protection Reversal occurs for a specific transaction, The Transaction Processor will send you an email to let you know that it will place a temporary hold on the funds in your Merchant account to cover the amount of the Seller Protection Reversal and will ask you to provide Proof of Shipment or Proof of Delivery as required and any other information that The Transaction Processor may require to enable it to assess and determine if the transaction meets the eligibility requirements set out at section 4.2.3 above.
- ii. If The Transaction Processor determines in its sole discretion that the transaction meets the eligibility requirements, then The Transaction Processor will lift the temporary hold and restore the funds to your Merchant account.
- iii. If The Transaction Processor determines that the transaction does not meet the eligibility requirements, then The Transaction Processor will return the funds to the buyer's mobile money account or other rightful owner and the funds which have been on temporary hold will be debited from your Merchant account, together with any fees imposed on or incurred by The Transaction Processor as a result of the Seller Protection Reversal. If there are not sufficient funds in your Merchant Account balance, The Transaction Processor reserves the right to take the account negative and collect your debt to The Transaction Processor by any other legal means.
- iv. In the event that you receive an excessive or unreasonable number of Seller Protection Reversals, as determined by The Transaction Processor in The Transaction Processor's sole discretion, having regard to all the relevant circumstances, The Transaction Processor may notify you that you are hereby excluded from this policy and take any other actions pursuant to the User Agreement.
- v. The Transaction Processor reserves the right, in its absolute discretion, to terminate or amend the terms and conditions of the Seller Protection Policy or the transaction eligibility requirements at any time.

4.2.6 The Transaction Processor's Right to Hold Funds.

In order to ensure the integrity of a transaction The Transaction Processor reserves the right to hold funds or proceeds from transactions by placing them in a "pending" or hold status beyond the normal distribution period. The Transaction Processor may do this in order to mitigate risk related to transactions it considers suspicious, until the said transactions are investigated, vetted and found to be of no risk.

5. Your Information and Restricted Activities

5.1 Definition. "Your Information" is defined as any information you provide to us or other users in the registration, payment process, stores or other features of our Service. You are solely responsible for Your Information, as we act as a passive conduit for your online distribution and publication of Your Information. Failure to provide true and accurate identification information is prohibited. The Transaction Processor will restrict your account and limit your access to funds should you fail to provide true and accurate information at registration.

5.2 Restricted Activities. Your Information and your activities (including your payments and receipt of payments) through our Service shall not:

(a) be false, inaccurate or misleading; (b) be fraudulent or involve the sale of counterfeit or stolen items; (c) be related in any way to gambling and/or gaming activities, including but not limited to payment or the acceptance of payments for wagers, gambling debts or gambling winnings, regardless of the location or type of gambling activity (including online and offline casinos, sports wagering and office pools); (e) violate The Transaction Processor's Acceptable Use Policy; (f) infringe on any third party's copyright, patent, trademark, trade secret or other property rights or rights of publicity or privacy; (g) violate any law, statute, ordinance, contract or regulation (including, but not limited to, those governing financial services, consumer protection, unfair competition, anti-discrimination, or false advertising); (h) be defamatory, trade libellous, unlawfully threatening or unlawfully harassing; (i) be obscene or contain child pornography; (j) contain any viruses, Trojan horses, worms, time bombs cancelbots, easter eggs or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or other personal information; (k) use the Service to facilitate the sale of counterfeit goods, or (l) create liability for us or cause us to lose (in whole or in part) the services of our ISP's or other suppliers. If you use, or attempt to use the Service for purposes other than sending and receiving payments and managing your account, including but not limited to tampering, hacking, modifying or otherwise corrupting the security or functionality of Service, your account will be terminated and you will be subject to damages and other penalties, including criminal prosecution where available.

You are independently responsible for complying with all applicable laws in all of your actions related to your use of the Transaction Processor's services, regardless of the purpose of the use. In addition, you must adhere to the terms of this Acceptable Use Policy.

Prohibited Activities

You may not use the Transaction Processor's service for activities that:

1. violate any law, statute, ordinance or regulation
2. relate to sales of (a) narcotics, steroids, certain controlled substances or other products that present a risk to consumer safety, (b) drug paraphernalia, (c) items that encourage, promote, facilitate or instruct others to engage in illegal activity, (d) items that promote hate, violence, racial intolerance, or the financial exploitation of a crime, (e) items that are considered obscene, (f) items that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction, (g) certain sexually oriented materials or services, (h) ammunition, firearms, or certain firearm parts or accessories, or (i) certain weapons or knives regulated under applicable law
3. relate to transactions that (a) show the personal information of third parties in violation of applicable law, (b) support pyramid or ponzi schemes, matrix programs, other "get rich quick" schemes or certain multi-level marketing programs, (c) are associated with purchases of annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (d) are for the sale of certain items before the seller has control or possession of the item, (e) are by payment processors to collect payments on behalf of merchants, (f), are associated with the sale of traveller's checks or money orders, (h) involve currency exchanges or check cashing businesses, or (i) provide certain credit repair or debt settlement services
4. involve the sales of products or services identified by government agencies to have a high likelihood of being fraudulent

5. violate applicable laws or industry regulations regarding the sale of (a) tobacco products, or (b) prescription drugs and devices
6. involve gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to casino games, sports betting, animal racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes unless the operator has obtained prior approval from their National Betting Control and Licensing Board or equivalent body and the operator and customers are located exclusively in jurisdictions where such activities are permitted by law.

Activities Requiring Approval

The Merchant requires pre-approval to accept payments for certain services as set out in 5 above and detailed in the chart below.

Service Requiring Pre-Approval	Contact Information
Collecting donations as a charity or non-profit organization; dealing in jewels, precious metals and stones; acting as a money transmitter or selling stored value cards; selling stocks, bonds, securities, options, futures or an investment interest in any entity or property; or providing escrow services.	Please send contact information, business website URL and a brief business summary to ipay@intrepid.co.ke
Offering online dating services; providing file sharing services or access to newsgroups; or selling alcoholic beverages.	Please send contact information, business website URL and brief business summary to ipay@intrepid.co.ke

5.3 License. Solely to enable The Transaction Processor to use the information you supply us with, so that we are not violating any rights you might have in that information, you agree to grant us a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, sublicensable (through multiple tiers) right to exercise the copyright, publicity, and database rights (but no other rights) you have in Your Information, in any media now known or not currently known, with respect to Your Information. The Transaction Processor will use and protect Your Information in accordance with our Privacy Policy.

5.4 Trademarks. ipay.intrepid.co.ke, **iPay**, and all related logos, products and services described in the Transaction Processor's website are either trademarks or registered trademarks of The Transaction Processor, or its licensors, and (aside from the circumstances described below) may not be copied, imitated or used, in whole or in part, without the prior written permission of The Transaction Processor. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade dress of The Transaction Processor and may not be copied, imitated, or used, in whole or in part, without the prior written permission of The Transaction Processor.

Notwithstanding the above, **iPay** logos provided by The Transaction Processor through its website, may be used without prior written consent for the purpose of directing web traffic to the Service on your website. These Logos may not be altered, modified, or changed in any way, or used in a manner that is disparaging to The Transaction Processor or the Service. Logos may not be displayed in any manner that implies sponsorship or endorsement by The Transaction Processor. The Transaction Processor is a payment service, and no partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

5.5 Use of the Transaction Processor Service on your website.

Sellers who offer The Transaction Processor as a payment method in their websites must follow these requirements:

- a. Accept The Transaction Processor if the website listing includes The Transaction Processor as a payment method.
- b. Sellers may not charge a surcharge for accepting Transaction Processor as a payment method.
- c. The Merchant's website shall prominently display a satisfactory Reversal Policy of customer transactions which includes cancellations, returns and refunds. This policy should be clear, complete, accurate and prominently posted on the merchant's website and available for review by a customer prior to the purchase web page interface.
- d. Provide a valid and up-to-date Privacy Policy and Terms and Conditions Section to alert the buyer of their rights
- e. Prominently display the logo of the Transaction Processor on the home page as an accepted payment form.

6. Access and Interference.

Our web site contains robot exclusion headers and you agree that you will not use any robot, spider, other automatic device, or manual process to monitor or copy our web pages or the content contained herein without our prior expressed written permission. You agree that you will not use any device, software or routine to bypass our robot exclusion headers,

or to interfere or attempt to interfere with the proper working of the Transaction Processor site or any activities conducted on our site. You agree that you will not take any action that imposes an unreasonable or disproportionately large load on our infrastructure. Much of the information on our site is proprietary or is licensed to The Transaction Processor by our users or third parties. You agree that you will not copy, reproduce, alter, modify, create derivative works, publicly display or frame any content (except for Your Information) from our web site without the prior expressed written permission of The Transaction Processor or the appropriate third party. If you use, or attempt to use the Service for purposes other than receiving payments and managing your account, including but not limited to tampering, hacking, modifying or otherwise corrupting the security or functionality of the Service, your account will be terminated and you will be subject to damages and other penalties, including criminal prosecution where available.

7. Privacy and Security.

We do not sell or rent your personal information to third parties for marketing purposes without your consent and we only use Your Information as described in our Privacy Policy. We view protection of users' privacy as a very important principle. We understand clearly that you and Your Information are one of our most important assets. We store and process Your Information on computers located in the United States that are protected by physical as well as technological security devices. You should only log in to your Merchant account on a page which begins with <https://ipay.intrepid.co.ke/merchant/>. All of our pages begin with <https://ipay.intrepid.co.ke/merchant/> and therefore you should not use any other site that does not begin as such.

8. Termination or Closing Your Account.

You may close your account at any time by clicking the **Close Account** link in your Profile on the Transaction Processor website. Upon closure of an account, any pending transactions will be cancelled and any balances will be forfeited. Any funds that we are holding in custody for you at the time of closure, less any applicable fees, will be paid to you by cheque, assuming all withdrawal related authentication requirements have been fulfilled (for example, you may not use closure of your account as a means of evading liability or responsibility to your buyers). You may not use closure of your account as a means of evading investigation - if an investigation is pending at the time you close your account, The Transaction Processor may continue to hold your funds for up to 180 days as appropriate to continue the investigation and, if necessary, report fraudulent or illegal behaviour to regulators or law enforcement. The Transaction Processor may hold your funds indefinitely or so long as it takes for a formal investigation to be completed if you are suspected of fraud or other illegal behaviour. If you are later determined to be entitled to some or all of the funds in dispute, The Transaction Processor will release those funds to you. You will remain liable for all obligations related to your account even after such account is closed. If you do not access your account for a period of three years, it will be terminated. After the date of termination, we will use the information you provided to try to send you any funds that we are holding in custody for you. If that information is not correct, and we are unable to complete the payment to you, your funds will be subject to applicable laws regarding escheat of unclaimed property.

In general. In addition to the rights laid out in the User Agreement, The Transaction Processor, at its sole discretion, also reserves the right to limit access to sending money or making withdrawals from an account for any one of the events listed below.

1. **If your Account Access is Limited.** If the dispute covers only a specific transaction, we will only limit access to funds related to that particular transaction. If your account access has been limited, you will be notified by e-mail and requested to provide information relevant to your account. The Transaction Processor will investigate the matter promptly. If the investigation is in your favour, we will restore access to your account. If the investigation is not in your favour, The Transaction Processor may return funds to the sender and restore access to the remainder of your account, continue to limit your account access for up to 180 days as is necessary to protect The Transaction Processor against the risk of reversals, longer if required by law if a violation of law or money laundering is suspected, or may close your account by giving you notice and mailing a check for any funds in your account (minus funds that are in dispute) to the address that you have provided. If you are later determined to be entitled to the funds in dispute, The Transaction Processor will return or release those funds to you. Any of the following events may lead to your account being limited:
 - i. Reports of unauthorized or unusual credit card use associated with the account including, but not limited to, notice by the card issuing bank. This includes notices made by you to your credit card company that a transaction was unauthorized or your account compromised, and is done in order to protect you from further unauthorized use of your card;
 - ii. Reports of unauthorized or unusual bank account use associated with the account;

- iii. Consistent failure to pursue the Buyer Complaint Process described below before pursuing any alternate reversal process provided for the buyer;
- iv. Abuse by a buyer or seller of the Buyer Complaint Process;
- v. Complaints received regarding non-shipment of merchandise, non-delivery of services, merchandise not as described, or problems with merchandise shipped;
- vi. Initiation by a buyer of a reversal process through the buyer's issuing bank without first pursuing the Buyer Complaint process described below;
- vii. Receipt of potentially fraudulent funds;
- viii. Excessive disputes or reversals, or attempts to "double dip" by receiving funds in a dispute both from The Transaction Processor and through a reversal or a refund from the seller;
- ix. Refusal to cooperate in an investigation or provide identity confirmation information when requested;
- x. Initiation of transactions considered to be cash advances or assisting in cash advances;
- xi. Sending unsolicited email or posting referral links on websites where they are not permitted;
- xii. Opening multiple accounts;
- xiii. The account has been used in or to facilitate fraudulent activity;
- xiv. Violations of this User Agreement;
- xv. Return of an incoming Electronic Funds Transfer for insufficient funds in the bank account, incorrect bank routing number, or incorrect bank account number;
- xvi. Use of an Anonymising proxy;
- xvii. Participating in prohibited transactions and activities, including but not limited to multi-level marketing programs, gifting clubs and other pyramid schemes, and listing items for sale that have a delayed delivery date of 20 days or more after the transaction list, and other activities that are prohibited in Part II of this Agreement;
- xviii. Violate any law, statute, ordinance, or regulation (for example, those governing financial services, consumer protections, unfair competition, anti-discrimination or false advertising);
- xix. Infringe The Transaction Processor's or any third party's copyright, patent, trademark, trade secret or other intellectual property rights, or rights of publicity or privacy;
- xx. Use The Transaction Processor to facilitate the sale of counterfeit goods;
- xxi. Reports from credit agencies of a high level of risk;
- xxii. Suspected or actual money laundering or terrorist financing;
- xxiii. Receipt by The Transaction Processor of excessive complaints regarding your account, business or service.

The Transaction Processor will use reasonable efforts to investigate accounts that are subject to account access limitations and to reach a final decision on the limitations promptly.

9. Remedies and The Transaction Processor's Right to Collect From You.

Without limiting other remedies, we may at any time and without notice to you update inaccurate or incorrect information you provide to us, contact you by means other than electronically, immediately warn our community of your actions, place a hold on funds in your account, limit funding sources and payments, limit access to an account and any or all of the account's functions (including but not limited to the ability to send money or making withdrawals from an the account), limit withdrawals, indefinitely suspend or close your account and refuse to provide our Services to you if: (a) you breach this Agreement or the documents it incorporates by reference; (b) we are unable to verify or authenticate any information you provide to us; (c) we believe that your account or activities pose a significant credit or fraud risk to us; (d) we believe that your actions may cause financial loss or legal liability for you, our users or us; or (e) your use of your Merchant account is deemed by The Transaction Processor to constitute abuse of the User Agreement Policy. Even if transactions have been recorded as completed in the recipient's Recent Activity or History Transaction Log, The Transaction Processor reserves the right to reverse transactions if the funds can not be or have not been charged to the customer's funding source. In addition, The Transaction Processor reserves the right to hold funds beyond the normal distribution

periods for transactions it deems suspicious or for accounts conducting high transaction volumes to ensure integrity of the funds. If we close your account, we will provide you notice and pay you all of the unrestricted funds held in your Merchant account. Additionally, to secure your performance of this Agreement, you grant to The Transaction Processor a lien on and security interest in your account. In addition, you acknowledge that The Transaction Processor may offset against any Merchant accounts you own for any negative balance in your other Merchant accounts, at any time and for any reason allowed by law.

Liability for claims filed by Buyers. You have provided the Transaction Processor with permission to make a final decision on a claim that a buyer files against you directly. If the Transaction Processor makes a final decision that you lose a claim, you agree to allow The Transaction Processor to remove funds from your Merchant Account in order to reimburse the Buyer for your liability.

The Transaction Processor offers protection to buyers for Significantly Not as Described Claims (“SNAD”) for purchases made with any merchant. If you sell to a buyer and the buyer files a SNAD Claim, you will generally be required to accept the item back and refund the buyer the full purchase price plus original shipping costs. You will not receive a refund on your Merchant fees. If you lose a SNAD Claim because the item you sold is counterfeit, you will be required to provide a full refund to the buyer.

SNAD Definition

An item is Significantly Not as Described if it is materially different than what the seller described in the item listing. Here are some examples:

- Buyer received a completely different item. Example: The buyer purchased a book and received a DVD or an empty box.
- The condition of the item was misrepresented. Example: The listing said "new" and the item was used.
- The item was advertised as authentic but is not authentic.
- The item is missing major parts or features which were not disclosed in the listing.
- The buyer purchased three items from a seller but only received two.
- The item was damaged during shipment.

An item is **not** Significantly Not as Described if it is materially similar to the seller’s item listing description. Here are some examples:

- The defect in the item was correctly described by the seller.
- The item was properly described but the buyer didn't want it after he or she received it.
- The item was properly described but did not meet the buyer's expectations.
- The item has minor scratches and was listed as being in a used condition.

10. Errors.

If The Transaction Processor discovers a processing error, we will rectify the error. If the error resulted in your receiving less money than you were entitled to, The Transaction Processor will credit your Account for the difference. If the error results in you receiving more money than you were entitled to, The Transaction Processor may debit the extra funds from your Merchant Account. If the error resulted in our not completing a transaction on time or in the correct amount, we will be liable for your actual losses or damages directly caused by this failure, unless: (a) through no fault of ours, you did not have enough available funds to complete the transaction, (b) our system was not working properly and you knew about the breakdown when you started the transaction, or (c) circumstances beyond our control (such as fire or flood or loss of Internet connection) prevented the transaction, despite our reasonable precautions.

11. Assignability.

You may not transfer any rights or obligations you may have under this Agreement without the prior written consent of The Transaction Processor. The Transaction Processor reserves the right to transfer this Agreement or any right or obligation under this Agreement without your consent.

12. Legal Compliance.

You shall comply with all applicable Kenya and international laws, statutes, ordinances, regulations, contracts and applicable licenses regarding your use of our Services.

13. Release of The Transaction Processor.

If you have a dispute with one or more Users, you release the Transaction Processor (and our officers, directors, agents, joint ventures, and employees) from any and all claims, demands, and damages (actual and consequential) of every kind and nature arising out of any or in any way connected with such disputes.

14. Notices.

14.1 Electronic Communications.

You agree that this Agreement constitutes "a writing signed by You" under any applicable law or regulation. To the fullest extent permitted by applicable law, this Agreement and any other agreements, notices or other communications regarding your account and/or your use of the Service ("Communications"), may be provided to you electronically and you agree to receive all Communications from The Transaction Processor in electronic form. Electronic Communications may be posted on the pages within the Transaction Processor website and/or delivered to your e-mail address. You may print a copy of any Communications and retain it for your records. All Communications in either electronic or paper format will be considered to be in "writing," and to have been received no later than five (5) business days after posting or dissemination, whether or not you have received or retrieved the Communication. The Transaction Processor reserves the right but assumes no obligation to provide Communications in paper format.

14.2 Electronic Evidence. You agree that in the event of a dispute between You and The Transaction Processor or You and another user, that The Transaction Processor's electronic records of your transactions, the Transaction Processor User Agreement, the Transaction Processor Privacy Policy, any identity verification information provided in a paper format and subsequently scanned or otherwise converted into an electronic format, and any other information stored or created electronically shall be admissible in a court of law or in relation to a law enforcement or regulatory investigation or prosecution.

14.3 Third Party Verification. You agree that where available The Transaction Processor may engage third parties, such as credit reporting agencies or identity verification companies order and review your credit report with the sole purpose of assessing your fitness to hold a Merchant account and/or your ability to use the Service or features thereof.

14.4 Procedure. Except as explicitly stated otherwise, any notices shall be given by postal mail to:

Intrepid Data Systems Ltd
Attn: Legal Department,
P.O. Box 20790 – 00202 KNH
Nairobi, Kenya

(in the case of The Transaction Processor) or to our online message centre or the email address you provide to The Transaction Processor during the registration process (in your case). Notice shall be deemed given 24 hours after posted or email is sent, unless the sending party is aware that the electronic communication was not received. Alternatively, we may give you notice by mail to the address provided to The Transaction Processor and entered herein below. In such case, notice shall be deemed given 3 days after the date of mailing.

YOUR COMPANY NAME
The Managing Director
YOUR COMPANY NAME
P.O. Box
<Town>
Kenya

15. Legal Disputes.

In the event a dispute arises between you and The Transaction Processor, our goal is to provide you with a neutral and cost effective means of resolving the dispute quickly. Accordingly, you and The Transaction Processor agree that any controversy or claim at law or equity that arises out of this Agreement or The Transaction Processor's services ("Claims") shall be resolved in accordance with one of the subsections below, or as otherwise mutually agreed upon in writing by the parties. Before resorting to these alternatives, The Transaction Processor strongly encourages users first to contact The Transaction Processor directly to seek a resolution. The Transaction Processor will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation, as an alternative to litigation.

Disputes between you and The Transaction Processor regarding the Services may be reported to Customer Support online through the Transaction Processor Support Centre at any time, by sending an email with subject heading "Dispute" to the Legal Department at ipay@intrepid.co.ke or by calling +254 713 129623 from 8 AM to 5 PM East African Time.

15.1 Arbitration. For any Claim (excluding Claims for injunctive or other equitable relief) where the total amount of the award sought is less than KSh. 20,000.00, you or The Transaction Processor may elect to resolve the dispute through binding arbitration conducted by telephone, on-line, and/or based solely upon written submissions where no in-person appearance is required. In such cases, the arbitration shall be administered by the Chartered Institute of Arbitrators, Kenya Branch, or any other established ADR provider mutually agreed upon by the parties. Any judgement on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

15.2 Court. Alternatively, any Claim may be adjudicated by a court of competent jurisdiction located in Kenya or where the defendant is located (in The Transaction Processor's case, Kenya, and in your case, your home address or principal place of business). You and The Transaction Processor agree to submit to the personal jurisdiction of the courts located in Kenya.

15.3 Violations of Section 15. All Claims (excluding requests for injunctive or equitable relief) between the parties must be resolved using the dispute resolution mechanism that is selected in accordance with this Section by the party first to assert a Claim, either through a court filing or commencement of arbitration. Should either party file an action contrary to this Section 15, the other party may recover lawyers' fees and costs up to KSh. 80,000.00, provided that the party seeking the award has notified the other party in writing of the improperly filed Claim, and the other party has failed to withdraw the Claim.

16. General.

Except as set forth herein, this Agreement is governed by and interpreted under the laws of Kenya as such laws are applied to agreements entered into and to be performed entirely within Kenya. For East African residents who register for the Transaction Processor service with an East African address, this Agreement is governed by and interpreted under the laws of Kenya as such laws are applied to agreements entered into and to be performed entirely within Kenya. We do not guarantee continuous, uninterrupted or secure access to our service, and operation of our site may be interfered with by numerous factors outside of our control. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. You agree that this Agreement and all incorporated agreements may be automatically assigned by The Transaction Processor, in our sole discretion, to a third party in the event of a merger or acquisition. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. This Agreement and the documents it incorporates set forth the entire understanding between us with respect to the subject matter hereof. Sections (3) Fees, (2.4) Release, (7) Access and Interference, (2.6) Limitation of Liability, (2.7) Indemnity, and (15) Legal Disputes shall survive any termination or expiration of this Agreement.

The undersigned agree to the terms of this agreement on behalf of their organization.

On behalf of the Merchant:

_____ Date _____
Sign

Name

Title

Witnessed by:

_____ Date _____
Sign

Name

Title

On behalf of the Transaction Processor:

_____ Date _____
Sign

Name

Title

Witnessed by:

_____ Date _____
Sign

Name

Title