

TERMS AND CONDITIONS OF THE NEDFLEET CARD AGREEMENT

In addition to the terms and conditions contained in the NedFleet Card Agreement – Juristic Application, the NedFleet Card is issued by the Bank to the Cardholder subject to the following terms and conditions:

1 INTERPRETATION

- 1.1 The headings of the clauses of these terms and conditions of use are intended for convenience and do not affect the construction or interpretation thereof.
- 1.2 Any reference to natural persons includes juristic persons and vice versa.
- 1.3 Unless inconsistent with the context, a reference in these terms and conditions of use to the singular includes the plural and vice versa.
- 1.4 A reference to any gender includes the other genders.

2 DEFINITIONS

The following meanings apply to and form part of these terms and conditions:

- 2.1 **Card** means the NedFleet Card.
- 2.2 **CH** means the Cardholder.
- 2.3 **Card User** means any director, member, partner, employee, agent or other person whose use of the Card is authorised, permitted or condoned by the CH.
- 2.4 **Miscellaneous Cards** means Cards that are not linked to a specific vehicle, and can be utilised to pay for fuel, toll and repairs to various vehicles.
- 2.5 **CH's account** means the account number as reflected on the statements furnished to the CH reflecting the card transactions.
- 2.6 **Card Transaction** means the purchase of goods or services by the CH as result of the use of the card.

3 USE OF THE CARD

- 3.1 **By retaining/using the Card, the CH accepts all the terms and conditions herein contained.**
- 3.2 Subject to all the terms and conditions contained herein, the Card is valid only for the period stipulated thereon or such lesser period caused by the earlier revocation and/or cancellation and/or termination of the Card and/or the credit facility.
- 3.3 Ownership of the Card vests in the Bank and the CH must return the Card to the Bank or its authorised representative on demand.
- 3.4 The CH may not cede or assign any of its rights to or obligations in respect of the Card and/or the use thereof.
- 3.5 The CH must ensure that all Cards are recovered from employees leaving its employ and ensure that the Cards are destroyed.
- 3.6 The CH must at all times ensure that no Card is left without supervision.
- 3.7 The Card selectively accommodates toll road, fuel and oil transactions and the provision of maintenance and repair services, if required, at all merchants.
- 3.8 The functionality behind the Card is limited. As a consequence thereof it is not possible to:
 - 3.8.1 place limits on the value of each transaction. Limits are embossed on the Card for the purpose of advising the merchant of the limit, but in no manner prevents usage of the Card above the embossed limit reflected thereon; and
 - 3.8.2 prevent usage of the Card for any service not embossed / printed / imprinted or stamped on the face of the Card.

4 UNDERTAKING BY THE CH

- The CH must:
- 4.1 ensure and procure that the Card is used for the purpose of purchasing goods and/or services only from merchants contracted with the Bank to accept the Card;
 - 4.2 ensure that the Card is used only by the CH or the CH's authorised agent; and
 - 4.3 ensure that the Card is used solely for the vehicle stipulated on the Card.

5 LOST/STOLEN CARD AND CARD CANCELLATION

- The CH must:-
- 5.1 -immediately notify NedFleet in the event of the loss, theft, misappropriation or unauthorised use of the Card; and
 - 5.2 if such notification was effected verbally, confirm such verbal notification in writing within 24 (twenty four) hours. If notification is effected verbally, it must be done by using the following telephone number : 0860 110 722. Written notification must be done by sending email to the following email address: nedfldbn@nedbank.co.za or by fax at 031 372 0189.
should the card be lost, stolen, misappropriated or used without authority and not be reported in writing to NedFleet, the CH will remain liable for all usage on the Card.
 - 5.3 notwithstanding that notification was effected verbally, the CH is liable for all usage on the Card up and to the receipt of the written notification.

- 5.4 the CH is liable for Miscellaneous Cards, if applicable.
- 5.5 the following liability with respect to the usage of the Card remains, notwithstanding aforesaid written notification:-

in the event an employee of the CH (that was a Card User), leaving the services of the CH and the Card is not recovered from that employee/Card User;
in the event where the vehicle, to which the Card has been allocated, has been stolen and such allocated NedFleet Card was left in such stolen vehicle at the time of the theft of the vehicle;
in the event where the NedFleet Card is misappropriated from the vehicle that has been allocated to the Card, due to the NedFleet Card having been left in such vehicle;
for the aggregate of the transactions as result of the usage of the Card, within the first 72 (seventy two) hours after receipt by the Bank of aforesaid written notification.

6 CARDHOLDER'S LIABILITY FOR PURCHASES MADE BY USING THE CARD

- 6.1 The CH must comply, or procure compliance by the CH's agent, with the requirement that, on each occasion the Card is used, an electronic point-of-sale slip ('the POS Slip') will be checked and signed by the Card User and the merchant or the merchant's authorised agent, but failure to do so will not release the CH from liability for payments made by the Bank in respect of the use of the Card.
- 6.2 By signing such POS Slip, the CH confirms that the information contained on such slip is correct.
- 6.3 The CH will be liable to reimburse the Bank for all the payments that the Bank have made, or is bound to make, arising from purchases made/or transactions conducted by means of the Card.
- 6.4 **Fraud**
Should any employee of the CH or Card User be involved in defrauding the CH through abuse of the Card in conjunction with a merchant, the Bank will not in any manner or to any extent be liable for any of these costs and the CH will be responsible for the payment of such costs.

7 COMPLIANCE WITH GOVERNMENT EXCHANGE CONTROL REGULATIONS

The Cards are only valid for use inside the South African rand monetary area.

8 AUTHORISATION GIVEN BY THE CARDHOLDER TO THE BANK

The CH irrevocably authorises the Bank to pay for any purchases made and/or services obtained by means of the Card and to debit the amounts to the CH's account. The CH authorises the Bank to debit the CH's account with the excess fees that are charged in terms hereof.

9 LIMITS

- 9.1 **Credit Limit**
The extent to which the CH may use the Card will at all times be at the Bank's discretion. The CH may not without the prior approval of the Bank exceed the Global credit limit applicable to the NedFleet Facility and notified by the Bank from time to time. If amended, the Global Credit Limit will be stipulated in a facility letter furnished by the Bank. The effective date of such amendment will be the date of such facility letter. Any acceptance by the Bank of any POS Slip that results in such credit limit being exceeded may not be construed as the exercise by the Bank of its discretion to extend and/or increase the CH's Global credit limit.
- 9.2 **Transaction Limit**
 - 9.2.1 The rand limit that appears on the face of the Card is a purchase limit per transaction and not a monthly limit.
 - 9.2.2 NedFleet instituted the transaction limit in an endeavour to minimise fraud. The limit is there as an indicator, but can be overridden by the merchant.
 - 9.2.3 The onus is on the CH to ensure safe custody of each Card, and to obtain authorisation for any transaction exceeding this limit prior to work being carried out.
 - 9.2.4 Any transaction exceeding this limit without the necessary authorisation remains for the CH's account because the CH is responsible for the bona fide use of the Card.
- 9.3 **Monthly Limit**
 - 9.3.1 The NedFleet facility is subject to a monthly limit, which is the value of the monthly aggregate of transactions that the Cardholder is entitled to transact on the Card. Should this limit be reached before the CH's month-end, the Card may be declined at the point of sale, showing insufficient available funds.
 - 9.3.2 The CH should provide NedFleet with the required monthly limit to be applied to each Card, subject to the overall approved Global Credit Limit.

- 9.3.3 If the CH does not provide NedFleet with the required monthly limit, NedFleet will apply such limits at its discretion, subject to the CH's overall approved Global Credit Limit.
- 10 THE BANK NOT LIABLE**
The bank will not be liable in any way to the CH if the Card is not accepted or dishonoured by any merchant for whatsoever reason.
- 11 FRAUD**
The bank will not be liable to pay under any claims resulting from fraud perpetrated by any Card User director, member, partner, trustee or employee or any authorised agent of the CH.
- 12 DISPUTES**
- 12.1 No claims by the CH against any merchant or supplier nor any disputes between the CH and any merchant or supplier with regard to the nature, quality or quantity of any goods or services acquired from the merchant or supplier will in any way affect the Bank's right to receive payment from the CH or give rise to any rights of setoff or counterclaim against the Bank. The CH acknowledges that no merchant or supplier is an agent of the Bank. Any refund to the CH by a merchant or a supplier will be credited by the Bank to the CH's account only on receipt of a properly issued and signed refund POS Slip.
- 12.2 The CH will not be entitled to countermand any payment by the Bank of any Card transaction.
- 13 FINANCE AND OTHER CHARGES**
The Bank will be entitled to charge finance charges, calculated daily and capitalised monthly, at the interest rate stipulated in the quotation or any amendment of such interest rate, from time to time on any debit balance on the CH's account arising from any Card transaction or any debit to the CH's Card account from whatsoever cause arising from the date of the Card transaction or the entry of such debit to the date on which full repayment thereof is received by the Bank.
- 13.1 The bank is entitled to charge and debit to the CH's account all charges, stipulated in the quotation, including but not limited to, a monthly fee in respect of the issue of the Card and its use by the CH. The amounts of such charges and fees are stipulated in the quotation and the Bank is entitled to amend such charges or fees. The Bank is entitled to levy interest on such charges or fees equal to the Bank's prime interest rate, from due date of payment of such charge or fee until payment thereof. Such interest will be calculated on a daily basis and capitalised monthly. The payment due to Nedbank in respect of usage of the NedFleet Card is payable on due date or the next business day. Notwithstanding the foregoing, the Bank is entitled at its own discretion to charge the abovementioned fee in the event of the Card being issued, but not used.
- 13.2 The CH is liable for all legal costs incurred by the Bank in collecting any payment owing by the CH or exercising any of its rights arising out of any breach of the CH's obligations hereunder. Such expenses include all legal charges between attorney and own client, tracing fees and all collection charges incurred by the Bank.
- 13.3 Excess Fee**
- 13.3.1 The Bank is entitled to charge and recover an excess fee in the event that the utilisation of the NedFleet Facility causes the cardholder's exposure in terms hereof to exceed the Global Credit Limit. The cardholder authorises the Bank to debit the cardholder's account with the excess fees that were charged in terms hereof.
- 13.3.2 The amount equal to the excess fee in the quotation will be charged per day for the duration the Global Credit Limit is exceeded. This excess fee will be due and payable when the finance charges are due and payable.
- 14 STATEMENTS, PAYMENTS AND DEPOSITS**
- 14.1 The bank will send monthly statements to the CH, setting out the total debit or credit balance, as the case may be, on the CH's Card account at statement date.
- 14.2 The CH must settle the Bank all finance charges, charges and fees, not later than 30 (thirty) days from the date of the statement. Any payment or deposit to the CH's Card account will be deemed to have been made only when it has been received and credited to the CH's Card account.
- 14.3 The CH must raise any query regarding the correctness of the CH's Card account statement with the Bank in writing within 60 (sixty) days of the date of the statement, failing which the CH will have no claim whatsoever in respect thereof.
- 14.4 Non-receipt by the CH of any monthly statement will not give rise to any claim or entitle the CH to withhold any payment due to the Bank.
- 14.5 The proceeds of any negotiable instrument deposited and credited to the CH's Card account will be regarded as payment or moneys to be credited to the CH's Card account only once such negotiable instrument has been honoured, and if it is dishonoured, the account will be debited accordingly.
- 14.6 All payments received by the Bank will be applied firstly to the repayment of all charges and fees stipulated in the quotation, thereafter to finance charges and finally to the debts as a result of card transactions.
- 14.7 All payments by the CH to the Bank will be unconditional. If the CH attaches any condition, the Bank will be entitled to accept such payment and exercise rights in terms of this Agreement as if no such condition has been imposed.
- 14.8 In the event the CH choose the weekly option under the authorisation to debit a nominated account, for purposes of payment, the aggregate value of the Card transactions debited to the CH's account will become due and payable weekly on each Friday. (If such day is not a business day, then the first business day thereafter).
- 14.9 In the event the CH choose the monthly option under the authorisation to debit a nominated account, for purposes of payment, the aggregate value of the Card transactions debited to the CH's account will become due and payable on the last day of each month. (If such day is not a business day, then the first business day thereafter).
- 15 WAIVER**
- 15.1 The CH hereby renounces the benefits of the legal exceptions of excussion, division, cession of action, *non causa debiti*, no value deemed, revision of accounts and errors of calculation, *de duobus vel pluribus reis debendi* and all other exceptions that might or could be pleaded in defence, or bar to any claim or proceedings made or brought against the CH by the Bank, and the CH acknowledges that it is fully acquainted with the meaning and effect of all the aforesaid exceptions.
- 15.2 The bank is entitled, and the CH authorises it, to:
- 15.2.1 verify the information contained on the CH's application form and make such other enquiries as the Bank deems necessary; and
- 15.2.2 furnish any information relating to any account the CH may have with the Bank and the CH's conduct thereof to any person and/or juristic persons as the Bank, at its sole discretion, may deem fit.
- 16 AMENDMENTS OF CONDITIONS OF USE**
- 16.1 The bank may at any time at its sole and absolute discretion amend or substitute all or any of these terms and conditions of use by notice addressed to the CH at the CH's *domicilium*.
- 16.2 If the Card is renewed or replaced, the CH will be bound by the terms and conditions of use current at such time of renewal or replacement.
- 16.3 Any amendment to or substitution for the terms and conditions of use will not constitute a novation of this Agreement and/or any prior indebtedness of the CH to the Bank.
- 16.4 A notice of amendment or substitution by the Bank to the CH will be deemed to have been received by the CH 5 (five) days after the posting thereof, and any such amendment or substitution will be effective and binding on the CH, unless the CH terminates this Agreement and returns the Cards to the Bank within 8 (eight) days after the dispatch of the notice by the Bank.
- 17 CERTIFICATE AND OTHER DOCUMENTARY EVIDENCE OF INDEBTEDNESS**
- 17.1 A certificate signed by any manager of the Bank (whose status and appointment need not be proved) as to:
- 17.1.1 the existence and amount of indebtedness to the Bank by the CH or vice versa, in respect of capital and/or any other amount of charges; the fact that it is due and payable;
- 17.1.2 any details of any purchase or Card transaction; and
- 17.1.3 any other matter or thing regarding the CH's account;
- 17.1.4 will on the mere production thereof be prima facie proof of the correctness of the contents thereof for all purposes, including, but not limited to, obtaining judgment or any other order or relief against the CH, and such certificate will in any legal proceedings by the Bank against the CH be valid as a liquid document.
- 17.2 The bank will be entitled to use microfilm and/or copies of any other relevant records or documents as proof of the CH's indebtedness to the Bank in any legal proceedings instituted against the CH by the Bank.
- 18 JURISDICTION**
The CH consents and submits to the jurisdiction of a magistrate's court in respect of any legal proceedings arising out of this Agreement, notwithstanding that the amount claimed might otherwise exceed the jurisdiction of the magistrate's court. It will nevertheless be entirely within the Bank's discretion as to whether to proceed against the CH in such magistrate's court or any other court having jurisdiction.
- 19 NOTICES AND DOMICILIUM**
- 19.1 The address given by the CH on the application form will for all purposes be the CH's chosen *domicilium citandi et executandi (domicilium)*.
- 19.2 The CH may, on written notice to the Bank, change its *domicilium* to any other physical address in the Republic of South Africa. Any such change of *domicilium* will be effective only 14 (fourteen) days after the date on which the Bank received the aforesaid notice.
- 19.3 Any notice to the CH by the Bank may be addressed to the CH at its chosen *domicilium* and will be deemed to have been received by the CH on the 4th (fourth) day after the posting thereof.
- 19.4 All and/or any notice(s) or communication(s) by the CH to the Bank must be in writing and sent by prepaid registered post to the Bank.

20 TERMINATION OF CARD FACILITY

- 20.1 The bank at its sole discretion may at any time and without assigning any reasons therefor and without releasing the CH or, where applicable, the CH's agent from any liabilities to the Bank in respect of any previously extended credit or any use of the Card revoke or cancel the Card facility or call for immediate repayment of the full amount outstanding on the CH's Card account, or reduce the credit limit applicable to the Card, or refuse to make any further advance on the CH's account and/or require the CH to return the Card to the Bank.
- 20.2 Should:
- 20.2.1 the Card facility be revoked or cancelled by the Bank; or
- 20.2.2 the Bank call for the surrender and return of the Card; or
- 20.2.3 the CH breach any term or condition contained in this Agreement and/or any term, condition or covenant recorded in a facility letter (being the latest banking facilities agreement entered into/to be entered into between the Bank and the CH, hereinafter referred to as the Facility Letter), or the CH breach a term or condition of any other agreement with the Bank (which breach will constitute a breach of this Agreement); or
- 20.2.4 the CH commit an act similar to an act of insolvency as defined in the Insolvency Act, 24 of 1936 (as amended), or an act defined in terms of section 344 of the Companies Act, 61 of 1973 (as applicable in terms of Act 71 of 2008, as amended); or
- 20.2.5 the CH be unable or cease for any reason whatsoever to conduct its normal line of business in an ordinary and regular manner; or
- 20.2.6 the CH commit a breach of any of the terms and conditions of this Agreement, including, but not limited to, non-compliance with clause 21 of this Agreement, or any other agreement or instrument pursuant to this Agreement; or
- 20.2.7 any Material asset of the CH be attached under writ of execution; or
- 20.2.8 the CH dispose of a Material portion of its undertakings or assets or change its asset structure, except in the normal course of business, or should the value of the CH's assets be Materially reduced; or
- 20.2.9 the CH voluntarily or compulsorily be placed under judicial management or be wound up or enter into a compromise, composition or arrangement with its creditors, or any class thereof; or
- 20.2.10 the ultimate beneficial control of the CH change during the period of this Agreement; or
- 20.2.11 a Material change in the financial condition of the CH occur subsequent to the date of its last audited financial statements, which change will, in the opinion of the bank's auditors, prevent or aggravate the CH's ability to perform or observe its obligations in terms of this Agreement; or
- 20.2.12 any Material indebtedness or obligation for any loans, constituting indebtedness of the CH, become due and payable prior to its specified maturity by reason of default or not be paid when due; or
- 20.2.13 the CH do or cause to be done anything that, in the reasonable opinion of the bank, affects or prejudices the CH's ability to meet its obligations in terms of this Agreement; or
- 20.2.14 the CH, if a trust as defined in the Trust Property Control Act, 57 of 1988, fail to obtain the bank's prior written consent to an increase or decrease in the number of trustees, or to the appointment or removal of a juristic person as a trustee, where such increase, decrease, appointment or removal has the effect of altering the CH's status from a natural person to a juristic person, as defined in the National Credit Act, 34 of 2005, or vice versa; or
- 20.2.15 any event occur in respect of a grantor of security that would constitute an event of breach or default by the CH; then and on the happening of any of these events, the full amount of the CH's indebtedness to the Bank will immediately become due and payable. For the purposes of this clause Material or Materially means an act or omission or circumstance that may, at the Bank's sole discretion, prejudice the Bank's rights or interests in terms of this Agreement or any agreement pursuant to this Agreement.
- 20.3 The bank will be entitled to give notice of the cancellation or revocation of the Card facility to any merchant or other person as it may deem fit and the CH will have no claim whatsoever against the Bank in respect of such notification.
- 20.4 The CH will not be entitled to make use of the Card after it has been cancelled or revoked or the time period stipulated thereon has expired.
- 20.5 The CH may, by written notice to the Bank accompanied by the Card, terminate the CH's right to use the Card and the Card facility, which termination will be effective on receipt of the notice and Card by the Bank.
- 20.6 Any termination will not affect the CH's liability to the Bank in respect of any use of the Card.

21 UNDERTAKINGS AND COVENANTS

- 21.1 In addition to any term, condition and covenant recorded in any facility letter, if applicable, the CH, if a juristic person, hereby agrees and undertakes that, until this Agreement has terminated, the CH will:
- 21.1.1 furnish the bank with the audited annual financial statements (consolidated if the CH has subsidiaries) and all other financial information with which a shareholder is entitled to be furnished by the CH, within 180 days of the end of the financial year of the CH;
- 21.1.2 maintain in full force and effect all government, tax, monetary and other approvals required to enable the CH to maintain its corporate status to continue in its business and affairs;

- 21.1.3 not encumber any of its assets, except for existing encumbrances, without the prior written consent of the bank, which consent will not unreasonably be withheld if the encumbrances are in the normal course of business;
- 21.1.4 immediately notify the bank of any change in the present shareholding or beneficial ownership of the CH; and
- 21.1.5 ensure that all necessary exchange control approvals have been obtained from the Reserve Bank and complied with.
- 21.2 The CH, if a juristic person, represents and warrants to the bank that:
- 21.2.1 it is a company duly registered and existing under the laws of the Republic of South Africa;
- 21.2.2 it has full power to enter into and perform in terms of this Agreement and has taken all necessary corporate and other actions, including such steps as may be necessary to comply with the Memorandum of Incorporation, as amended, if applicable;
- 21.2.3 this Agreement constitutes a legal, valid, binding and enforceable obligation of the CH;
- 21.2.4 no litigation, arbitration or administrative proceeding is currently in progress or, to the knowledge of the CH, pending or threatened against it or any of its assets, which relates in any manner to this Agreement or which would have a materially adverse effect on the financial condition of the CH;
- 21.2.5 it is not a party to any agreement materially affecting, or which is likely to materially affect, its financial condition;
- 21.2.6 it has good title to all its assets that are reflected in its financial statements or has not sold or otherwise disposed of any such assets as reflected in its latest audited financial balance sheet for the previous financial year, except in the ordinary course of business;
- 21.2.7 its last published annual report fairly represents the consolidated financial position of the CH and its subsidiaries, where applicable, and the consolidated results of their operations for that financial year, and that the said financial statements have been prepared in accordance with generally accepted accounting principles in the Republic of South Africa, consistently applied, and that the CH does not have significant liabilities, present or continued, including, without limitation, liabilities for taxes or material forward or long-term commitments that are not disclosed or provided for in such financial statements; and
- 21.2.8 there has been no material adverse change in the financial or other conditions of the CH since the date of its last audited financial statements.
- 21.3 The CH will, on the anniversary of each year after date of signature of this Agreement, be deemed to represent and warrant that each of the representations and warranties are true and accurate on such day and, in addition, that the then latest accounts of the CH and its subsidiaries, delivered to the bank pursuant hereto, fairly represent the financial position of the CH or the consolidated financial position of the CH and its subsidiaries, as the case may be.

22 GENERAL

- 22.1 Any latitude, indulgence or extension of time granted to the CH by the Bank does not constitute and may not be deemed to be a novation or waiver of the Bank's rights under this Agreement nor will it give rise to, or operate as, an estoppel against the Bank.