

WEBPAY STANDARD TERMS & CONDITIONS



The WebPAY Standard Terms and Conditions represent the legal attributes of the WebPAY Service provided by InterSwitch. The content is binding and is not subject to any varying terms or conditions, unless as provided by InterSwitch subsequently upon due notice to the Applicant.

The Terms and Conditions are outlined as follows:

General Definitions

The expressions listed below have the respective meanings set out against them:

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| "Applicant" | The owner of a website that is integrated with the WebPAY service for the purpose of receiving payment for goods and /or services that are sold on the website |
| "Participating Bank" | Banks or financial institutions that are members of the InterSwitch network and participate in the exchange of funds to effect payments |
| "Regulatory Authority" | Any ministry or department of the Government of Nigeria and statutory authority or body in Nigeria established with powers to regulate banking, credit or financial services and/or electronic transactions or communications. |
| "Set-Up Fee" | The sum charged by InterSwitch for integration of WebPAY to Applicants' websites. |
| "Site" | The website on which the Applicant offers goods and / or services for sale. |
| "Systems" | The Systems operated by InterSwitch to allow Users to effect payment |
| "Transaction" | Transactions effected and Services obtained by Users by means of the Systems. |
| "Transaction Fees" | The amount charged by InterSwitch per transaction done on the Applicant's website |
| "Users" | Users of the Systems for the purpose of payment or funds transfer. |
| "Certificates" | Digital certificates issued by an approved certificate authority upon authenticating the site. |
| "Data" | Any data, files, messages or other information irrespective of form, stored on the Systems directly or indirectly by, for and on behalf of the Applicant under the Services for which the Applicant assumes full responsibility whether for its legality, proprietorship or otherwise. |
| "Product" | Any of the Applicant's products or services marketed, sold or otherwise promoted using the Systems. |

"Services Application" The Services application forms accepted by InterSwitch detailing the Services to be provided to the Applicant.

"System Ready" The status of data and material at which no additional manipulation by InterSwitch is required.

1. APPLICANT RESPONSIBILITIES AND UNDERTAKINGS

- 1.1. The Applicant agrees and undertakes that it shall:
 - (a) Not make any warranty or representation what so ever in relation to the Services which may bind InterSwitch or make it liable in any way whatsoever;
 - (b) Where required, comply with all security or encryption standards, rules and procedures imposed by InterSwitch;
 - (c) Make connections to such other systems as InterSwitch may require from time to time;
 - (d) Inform InterSwitch of any change in the particulars of its bank account in the designated Bank;
 - (e) Not capture, by any means possible, user (cardholder) payment card details including but not limited to Primary Account Number (PAN) or Card Number, Personal Identification Number (PIN), Card Verification Value (CVV)

- 1.2. Where applicable, the Applicant agrees and undertakes that it shall:
 - (a) keep the Certificates current and valid;
 - (b) notify InterSwitch of any change to the internet protocol address of its website used for Transactions;
 - (c) take all necessary measures to protect the security and secrecy of its Certificates; and
 - (d) notify InterSwitch of any new or additional products that it proposes to offer on its website provided that such new or additional products shall not be offered without first obtaining InterSwitch's consent.

- 1.3. In order to permit the Applicant's website to inter-operate with the Systems, the Applicant will provide InterSwitch with material and data that is System Ready.

- 1.4. InterSwitch shall provide the Applicant with a list of requirements in order to enable the Applicant to create System Ready material and data. The Applicant shall have full responsibility for the content or correctness of the System Ready material and data.

- 1.5. The Applicant shall be responsible for validating information or Data for content, correctness or usability. The Applicant shall at all times adhere to the Acceptable Use Policy.

- 1.6. InterSwitch may, at its option and at any time, refuse or reject any material that is not System Ready. InterSwitch agrees to notify and afford the Applicant the opportunity to rectify such material within a reasonable period of time as mutually agreed by the parties, to satisfy the needs or requirements of the Systems.



- 1.7. The Applicant will be fully responsible and liable for (including without limitation, all charges, losses or damages whatsoever arising from):
- (a) Data stored or transmitted on or through the Systems; or
 - (b) Any use of the Systems passwords or identification codes assigned by Interswitch.
- 1.8. The Applicant shall observe and comply with all security measures whether or not prescribed by Interswitch or the relevant bank and shall further comply with any instruction given by Interswitch or the relevant bank in respect of card transaction or customer (cardholder) payment instruction.
- 1.9. The Applicant shall ensure that Interswitch is promptly notified of any security breach, misuse, irregularity, suspected fraudulent transaction, account numbers or any suspicious activities that may be connected with attempts to commit fraud or other illegal activity through the use of Applicant's website.
- 1.10. The Applicant shall be responsible for determining and communicating the terms and conditions of Transactions on the Systems to its online users (cardholders). The Applicant understands and agrees that under no circumstances shall use of the Service imply that Interswitch endorses, sponsors, certifies or otherwise guarantees the sale or use of the Applicant's Products.
- 1.11. The Applicant shall take all steps to keep secure and confidential any information or data related to transactions initiated on the Applicant's website. In the event any such information is lost, stolen or otherwise compromised, the Applicant shall forthwith report and give written notice of such occurrence to Interswitch whereupon the Applicant shall, in consultation with Interswitch, take immediate steps to remedy the situation and prevent its recurrence.

2. SERVICES FEES AND CHARGES

- 2.1. The Applicant shall pay Interswitch the non-refundable set-up fee as set forth at Commencement Date.
- 2.2. Interswitch shall be entitled to 1.5% (with a maximum cap of N2,000) per transaction for use of the systems as detailed in the services application. Interswitch shall have the right to revise such fees and charges from time to time upon 30 days notice to the Applicant.
- 2.3. The terms of payment for Services fees and charges shall be in accordance with the Services Application. Interswitch shall be entitled to deduct all the aforementioned fees and charges from successful transactions from funds payable by Interswitch to the Applicant hereunder.
- 2.4. All payments required to be made by the Applicant on this service shall be payable unconditionally, without any deduction, claim, counterclaim, setoff, notice or demand.
- 2.5. All fees and charges paid by the Applicant under this service shall not be refundable in the event of termination of the service howsoever caused.
- 2.6. The Applicant agrees that Interswitch may, if and whenever instructed to do so by a Participating Bank, limit or refuse any or all transactions to the Applicant's Bank account with the Designated Bank and no liability shall be imputed to Interswitch for acting on such instructions.

- 2.7. If for any reason whatever, a Applicant's Designated Bank ceases to be a Participating Bank, the Applicant shall forthwith upon receipt of written notice thereof from Interswitch, redesignate an account for the purpose of the Transactions with any of the participating banks.
- 2.8. The Applicant agrees that Interswitch and the Designated Bank will not undertake payment or settlement procedures on the following non-settlement days:
- (a) any day declared by the Association of Banks in Nigeria or the Acquiring Bank as being a holiday; and
 - (b) Sundays and public holidays as gazetted and declared in Nigeria; in which case Transactions effected on such days shall be paid and settled on the day immediately following which is not any of the aforesaid non-settlement days.

3. SETTLEMENT OF TRANSACTION FUNDS

- 3.1. Interswitch shall make regular payments to the Applicant in accordance with the frequency stated in the Services Application. Payments shall comprise actual funds cleared and actually received by Interswitch from the relevant settling bank since the previous settlement date. If the Applicant does not raise any objection to the amount of the payment within seven (7) days after such payment date, the Applicant shall not be entitled to object to it thereafter, provided that nothing in this clause shall preclude Interswitch from correcting any error or discrepancy in such amount paid.
- 3.2. Any payment by Interswitch hereunder whether or not the Applicant has complied with all its obligations hereunder shall be made without prejudice to any claims, rights or remedies that Interswitch may have against the Applicant and shall not constitute any admission or acknowledgment by Interswitch that the Applicant has duly performed its obligations hereunder or of the correctness of any amount so paid.

4. USERS INDEMNITY

- 4.1. Interswitch shall be entitled, upon receiving notification from users (cardholders) or a participating bank and without any requirement for or any obligation to obtain any further proof thereof, to
- i. Refuse full or partial payment to the Applicant;
 - ii. Set-off against any payment accruing to the Applicant;
 - iii. Deduct from the Applicant account ; or
 - iv. Seek immediate reimbursement to the user for the amount of the relevant transaction including but not limited to, where:
 - a) The Applicant's Product is returned or rejected by the user for any reason;
 - b) The user did not receive the product(s) ordered on the Applicant's site; and
 - c) The relevant bank otherwise refuses for any reason to clear or settle the funds in connection with a Transaction.
- 4.2. If any amount withheld, set-off, deducted or reimbursed (as the case may be) as mentioned above becomes payable or refundable to the Applicant, Interswitch shall pay or refund, without interest, such amount to the Applicant as soon as practicable.

5. TAXES, TRANSACTION CHARGES AND REFUNDS

- 5.1. Interswitch and a participating bank will not be liable for any taxes or other fees, including but not limited to goods and services tax, sales taxes, VAT, withholdings taxes or any other tax assessed by any tax authority with competent jurisdiction, to be paid in accordance with or related to the sale of the Applicant's Products through the Systems or transactions generated by the users.



- 5.2. The Applicant agrees to bear and take full responsibility for all taxes and fees of any nature associated with Products sold or the Applicant's use of the Systems, and will indemnify and hold Interswitch and the acquiring bank harmless in accordance herewith.
- 5.3. All refunds to the users (cardholders) in connection with any Transaction shall be effected by Interswitch and the acquiring bank. Upon receipt of the Applicant's instructions, Interswitch will refund any sum approved by the Applicant to the Applicant's nominated customer (user). No refund of any Service charge levied on the original Transaction will be made.
- 5.4. Interswitch shall be entitled to deduct all the aforementioned charges under this clause from cleared Transactions funds payable by Interswitch to the Applicant hereunder.

6. ELECTRONIC TRANSACTIONS

- 6.1. The Applicant agrees that when it submits an electronic request message only to Interswitch, the Applicant is thereby deemed to confirm to Interswitch and the Participating Bank that:
 - (a) the electronic request is to pay for the Applicant's goods and/or services and/or any other charges due to the Applicant; and
 - (b) the contract for providing those goods and/or services is legal, valid and enforceable both in Nigeria and in the country where such goods and/or services are provided.
- 6.2. The Applicant accepts that payment can sometimes fail either for reasons known only to the Participating Bank or due to a data communication failure between servers. The Applicant can only obtain proof of payment from the transaction message bearing a successful transaction status or the successful transaction report available to the Applicant the day after the Transaction date.

7. UNDERTAKINGS OF INTERSWITCH

- 7.1. InterSwitch agrees and undertakes that it shall use its best endeavours to ensure that the system shall facilitate the Transactions and the functions required to enable the Applicant to provide the Services.
- 7.2. Interswitch makes no representations or warranties of any kind with respect to the Systems or any software provided, or any part thereof, express or implied, and shall not be liable to the Applicant for any loss or damage howsoever caused and regardless of the form of loss or damage which may be suffered or incurred by the Applicant in connection with this Service including (without prejudice to the generality of the foregoing) any loss of profit in consequence of a breakdown in the Systems or part thereof other than pursuant to situations envisaged hereunder in 7.3.
- 7.3. Interswitch shall not be liable to the Applicant in event that the Applicant suffers loss arising from a breach of the security and integrity of the Applicant's Site, hardware or software related to this Service but not under its direct administration and control.

8. UNDERTAKINGS OF APPLICANTS

- 8.1. The Applicant undertakes that subject to 7.2, it shall not disallow the use of the Systems as a means of payment for goods or services provided by it to Users who wish to effect such payment and shall indemnify and keep Interswitch harmless from and against any liabilities, losses and other consequences arising from any such refusal.
- 8.2. If a Transaction involving payment by users under the Systems is rejected for any reason whatsoever, the Applicant may agree

to alternative means of payment with the users provided such means do not contravene provision of section 4.1.

- 8.3. The Applicant hereby undertakes that it will not offer for sale on the Site, any goods or services not expressly stated upon registration of the Applicant's website with Interswitch, the default of which Interswitch shall without any liability, immediately withdraw its Services and prevent access to the Systems.
- 8.4. The Applicant hereby agrees that only the Site expressly stated upon its registration with Interswitch shall be integrated into the Systems and derive the Services provided.

9. DISPUTES

- 9.1. InterSwitch shall not be involved in any dispute or claim that may arise between the Users and the Applicant, unless the said dispute or claim relates specifically to the use of the Systems in which case the same shall be subject to the relevant terms and conditions governing the use of the Systems prevailing from time to time and the dispute or claim was notified to InterSwitch within thirty (30) days of occurrence.

10. SERVICE TERMINATION

- 10.1. This WebPAY Standard Terms & Conditions shall remain in force and effect until a party terminates or Webpay Service Provisions is terminated.
- 10.2. Either Interswitch or the Applicant may elect to terminate WebPAY Service Provision by giving one (1) month's prior notice in writing to the other party of its intention to do so.
- 10.3. Notwithstanding 10.1 and 10.2, Interswitch shall have the right (but not the obligation) at anytime to give immediate notice in writing to the Applicant to terminate this service forthwith upon the happening of any one or more of the following events of default, whether or not such event is of a continuing nature:
 - a) if the Applicant has breached any of the terms and conditions of this service;
 - b) the Applicant enters into liquidation, receivership, judicial management or otherwise compounds with its creditors or takes or suffers any similar action or occurrence in any jurisdiction;
 - c) the Applicant becomes insolvent or stops payment or ceases or threatens to cease to carry on its business or any part of its business;
 - d) if any resolution is passed or steps taken by the Applicant or any other person to apply for judicial composition proceedings with its creditors or an order is made by any competent court for such proceedings or a receiver, judicial manager, administrator or other similar official is appointed in relation to the Applicant or any part of the assets or undertakings of the Applicant or encumbrance taking possession of any part of the assets or undertakings of the Applicant or a distress or execution or other process is being levied or enforced upon or sued out against any part of the assets or undertakings of the Applicant;
 - e) if the Applicant is deceased or its partnership is dissolved;
 - f) if the Applicant or any of its shareholders, partners, proprietors, officers, employees, agents or contractors is or is suspected by Interswitch or the Acquiring Bank to be involved in any fraudulent or unlawful activity whether or not relating to the Applicant's business;



- g) if the Applicant's Site contains any material or involves any trade or activity deemed undesirable by Interswitch or any Regulatory Authority;
- h) If the Applicant's site or security system has been breached or compromised; or
- i) if there had been multiple complaints and disputes relating to the Applicant's goods or services by the Users.

10.4. In the event of termination of this service for whatever reason:
(a) the Applicant agrees and undertakes to return to Interswitch immediately all materials, books, records or otherwise pertaining to the Systems, and shall not thereafter use the Marks or any part or derivatives thereof; and
(b) Any antecedent right and liability of either party shall not be thereby prejudiced or impaired.

10.5. In the event that Interswitch terminates this service in accordance with the terms hereof, the Applicant acknowledges and agrees that no reason whatsoever needs to be communicated to the Applicant for such termination and Interswitch shall not be liable in any way for any loss or damage incurred or suffered by any party due to such termination.

10.6. Any dispute, difference or disagreement arising out of or in connection with the provisions of this Terms and Conditions shall be finally settled in arbitration in accordance with the Arbitration and Conciliation Act Cap 19 1990 by one arbitrator appointed in accordance with provisions of the Act. Arbitration shall take place in Lagos and shall be conducted in English language

11. LAW
The laws of Nigeria govern this Terms and Conditions and the Nigerian Courts shall have sole jurisdiction.

12. WAIVER
The failure by either Party to enforce any of the provisions of this Terms and Conditions and the Nigerian Courts shall not constitute a waiver of the same or affect that Party's rights thereafter to enforce the same.

13. ASSIGNMENT
Neither Party shall assign any of its obligations under this Terms and Conditions without prior written consent of the other Party, which shall not be unreasonably withheld.

14. CONFIDENTIALITY
Each of the Parties hereto undertakes to the other to keep confidential all information [written or oral] concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the acceptance of this Terms and Conditions save that which is [a] trivial or obvious or [b] already in its possession other than as a result of a breach of this clause; or [c] in the public domain other than as a result of a breach of this clause. And each of the Parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this clause by its employees, agents and subcontractors. The confidentiality obligations shall survive the termination of the Webpay Service Provisions.

15. FORCE MAJEURE
If the compliance with this Terms and Conditions or any obligation under it is prevented, restricted or interfered with by reason of circumstance beyond the reasonable control of the Party obliged to perform it, the Party so affected shall be excused from performance to the extent of the prevention, restriction or interference, but the Party so affected shall use his best endeavors to avoid or remove the causes of nonperformance and shall continue performance under this Terms and Conditions with utmost dispatch whenever such causes are removed or diminished.

16. NOTICES
16.1. Any notice required under this Terms and conditions shall be in writing and may be served either personally, or by registered or recorded delivery mail, or by telex or facsimile transmission to the last known address of the parties.

16.2. A notice shall be deemed to have been served, if it was served in person, at the time of service, or if it was served by post, 48 hours after it was posted, or if it was served by telex or facsimile transmission, at the time of transmission.