

04118 df/ YoManE EndUserAgreement

## **Terms of Service**

### **1 Welcome to the YoManE App**

1.1 Your use of this YoManE Smartphone App and its ancillaries (“YoManE Service”) in any manner whatsoever is subject at all times to these Terms and Conditions (“T&Cs”). By registering for, accessing and/or using the YoManE Service you agree with all of the terms and conditions contained in these T&Cs, which T&Cs may be amended from time to time through updates to the application.

1.2 You are requested to read these terms and conditions carefully.

### **2 The YoManE Service**

2.1 The YoManE Service is an enabling smartphone application technology that operates in conjunction with a Payment Gateway Solution. Both this smartphone application and the Payment Gateway Solution are owned by Access Gateway Technology Solutions Inc., and its subsidiaries and affiliates (“AGTS”). The Payment Gateway Solution and this smartphone application form the technology which enables qualifying Large Member Organisation (“LMO”) to establish one or more closed loop payments arrangements with selected Merchants for the benefit of the LMO Members. The LMO negotiates, contracts and manages the relationships between itself, the LMO’s bank and the relevant Merchants. AGTS is not responsible for these arrangements in any way.

2.2 To be eligible to use the YoManE Service, you must be a member of an LMO and that LMO must have concluded a closed loop payment arrangement with one or more Merchants. The LMO will also have established an account from which all payments are made.

2.3 The AGTS Payment Gateway and YoManE Service operate only with specific Merchants, through specific Banks, for specific Products, as determined by the LMO from time to time.

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2.4 The YoManE Service is made available to you, the user, to enable your participation in your

LMO's close loop payment scheme. Your service provider is therefore the LMO of which you are a member, and not AGTS. Accordingly, save as provided in these T&Cs, AGTS does not have any obligations towards you. AGTS is not responsible or liable for any aspect of any transactions enabled by the technology and all claims and queries you may have with regards to payments and any Merchant goods and services should be taken up with your LMO and/or the relevant Merchant.

### **3 Intellectual Property and License**

3.1 To enable you to lawfully use the YoManE Service, AGTS hereby grants you a revocable, non-exclusive, non-transferable license to use YoManE 's software. This license grant includes the software and all updates, upgrades, new versions and replacement software for your personal use only. You may not rent, lease or otherwise transfer your rights in the software to a third party. You must comply with the implementation and use requirements contained in all documentation accompanying the YoManE Service. If you do not comply with YoManE's implementation and use requirements you will be liable for all resulting damages suffered by you, AGTS and third parties. AGTS may change or discontinue the YoManE Service and any APIs upon notice to you. You agree not to alter, reproduce, adapt, distribute, display, publish, reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the software. You acknowledge that all rights, title and interest to the software are owned by AGTS.

### **4 Intellectual Property.**

- 4.1 "YoManE.com," "YoManE", "YoManE.co.za" and all other URLs, logos and trademarks related to the YoManE Service are either trademarks or registered trademarks of AGTS or its licensors.
- 4.2 You may not copy, imitate or use them without AGTS' prior written consent. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade dress of YoManE .
- 4.3 You may not copy, imitate, or use them without our prior written consent.
- 4.4 You may not use, alter, modify or change any YoManE logos in any way, use them in a manner that is disparaging to YoManE or the YoManE Service or display them in any manner that implies AGTS' or YoManE's sponsorship or endorsement of any product or service.

### **5 Restricted Activities**

In connection with your use of the YoManE Service, or in the course of your interactions with AGTS, your LMO, or third parties, you will not:

- 5.1 Breach these T&Cs;
- 5.2 Violate any law, statute, ordinance, or regulation applicable to the YoManE Service;
- 5.3 Violate any provision of your LMO's terms and conditions of service with you or any of its service

providers, its Bank or any Merchant;

Infringe AGTS' or any third party's copyright, patent, trademark, trade secret or other intellectual property rights, or rights of publicity or privacy (including any person's rights under the Protection of

5.1 Personal Information Act or similar legislation);

5.2 Providing another person access to your account or disclosing any IDs, passwords, personal identification numbers (PINs), or any other codes that you use to access the YoManE Services;

5.3 Engage in potentially fraudulent or suspicious activity and/or transactions;

5.4 Facilitate any viruses, trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or Information;

5.5 Use any device, software or routine to bypass the security features imbedded in the YoManE Service software; or

5.6 Take any action that may cause AGTS or YoManE any reputational harm in the market. (hereinafter referred to as "Restricted Activities")

5.7 If AGTS, in its sole discretion, believes that you may have engaged in any Restricted Activities, we may take various actions to protect AGTS, the LMO and/or other users, which may include, but are not limited to, the following:

5.7.1 It may close, suspend, or limit your access to your account or the YoManE Service;

5.7.2 It may refuse to provide the YoManE Service to you now and in the future; and

5.7.3 It may report your activities to competent legal authorities.

## **6 Warranty and Indemnity**

6.1 You hereby warrant that you are a legitimate member of a qualifying large member organisation (LMO) and are familiar with and have agreed to their terms and conditions related to their close loop payment system.

6.2 You hereby agree that all claims you may have arising from the operation of the payment system, including the use of the YoManE service will be against the LMO and/or the merchant and not AGTS.

6.3 You agree to defend, indemnify and hold AGTS, its affiliates, its officers, directors, agents, joint ventures, employees and suppliers harmless from any claim, demand (including attorneys' fees), fine, or other liability incurred by any third party or by yourself due to or arising for whatsoever reason out of use or misuse of the YoManE service and/or your breach of these T&C's and/or any persons intellectual property or other rights, whether in contract or delict.

## 7 Limitation of Liability and Warranties

### 7.1 Limitations of Liability.

- 7.1.1 In no event shall AGTS, its parent, subsidiaries and affiliates, its officers, directors, agents, joint ventures, employees or suppliers be liable for any loss whatsoever arising from your use of the YoManE service and you make use of this service at your own risk.
- 7.1.2 Without derogating from the generality of the above, in no event shall AGTS, its parent, subsidiaries and affiliates, its officers, directors, agents, joint ventures, employees or suppliers be liable for lost profits or any special, incidental or consequential damages (including without limitation damages for loss of data or loss of business) arising out of or in connection with the YoManE service, or this T&C's (however arising, including negligence and even where AGTS has been informed or should have known of the possibility of such damages).

### 7.2 No Warranty.

- 7.2.1 The YoManE service is provided on an "as is" basis and without any representation of warranty, whether express, implied or statutory. AGTS, its parent and affiliates, our officers, directors, agents, joint ventures, employees and its suppliers specifically disclaim any implied warranties of title, merchantability, fitness for a particular purpose, error free and non-infringement. AGTS does not warrant the completeness or accuracy of information obtained from or through the YoManE service. AGTS does not warrant safe and secure access.
- 7.2.2 YoManE does not guarantee continuous, uninterrupted, operation without error, or secure access to any part of the YoManE service, and the operation of the YoManE service may be temporarily suspended for maintenance or upgrade or interfered with by numerous factors outside of AGTS' control. AGTS may in its sole discretion discontinue the YoManE service at any time.

### 7.3 Services Limitation.

- 7.3.1 AGTS is not a bank, or financial service provider, or merchant and the YoManE service is merely a communication tool linked to your LMO close loop purchase and payment scheme.
- 7.3.2 AGTS is not acting as a trustee, fiduciary or escrow with respect to your funds, nor an agent, nor custodian in respect of any person.
- 7.3.3 AGTS through the YoManE service does not have access to nor does it store any personal information and therefore has no obligations under the protection of personal information act.
- 7.3.4 AGTS does not have control of, nor liability for, the products or services that you purchase making use of the YoManE service. AGTS does not guarantee the

identity of any other user of the YoManE service, or any transaction, nor that any person will complete a transaction.

- 7.3.5 AGTS is not responsible nor liable for the accuracy, completeness or otherwise of any information that you obtain via the YoManE service, including but not limited to account balances. All claims should be directed to the relevant LMO or merchant.

## **8 General Terms**

### **8.1 Law and Forum for Disputes.**

- 8.1.1 Except as otherwise agreed by the parties you agree that any claim or dispute you may have against AGTS must be resolved by a court located in the Republic of South Africa. You agree to submit to the jurisdiction of the courts located within South Africa for the purpose of litigating all such claims or disputes. These T&Cs shall be governed in all respects by the laws of South Africa as such laws are applied to agreements entered into and to be performed entirely within South Africa, without regard to conflict of law provisions.

### **8.2 Confidentiality.**

- 8.2.1 If you receive Information about another user or person through the YoManE Service, you must keep the Information confidential and only use it in connection with the use of the YoManE Service.
- 8.2.2 You may not disclose or distribute a user's Information to a third party or use the Information for marketing purposes unless you receive the User's express consent to do so.
- 8.2.3 Whereas the YoManE Service does not give AGTS any access to personal information, AGTS shall not be liable for any damage suffered by any person as a result of a breach of privacy laws, including but not limited to the Protection of Personal Information Act.

### **8.3 Taxes.**

- 8.3.1 It is your responsibility to determine what, if any, taxes apply to the payments you make or receive, and it is your responsibility to collect, report and remit the correct tax to the appropriate tax authority. AGTS is not responsible for determining whether taxes apply to your transaction, or for collecting, reporting or remitting any taxes arising from any transaction.

### **8.4 Complete Agreement and Survival.**

- 8.4.1 These T&Cs sets forth the entire understanding between you and AGTS with respect to the YoManE Service. Any terms which by their nature should survive, will survive the termination of this T&Cs. If any provision of these T&Cs is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be

enforced.

8.5 Assignment.

8.5.1 You may not transfer or assign any rights or obligations you have under this Agreement without AGTS' prior written consent. AGTS reserves the right to transfer or assign any right or obligation under these T&Cs at any time.

8.6 No Waiver.

8.6.1 AGTS' failure or delay to act with respect to a breach by you or others does not waive AGTS' right to act with respect to such breach or any subsequent or similar breaches.