



## XIP MERCHANT APPLICATION FORM

Merchant Name:	
Trading name (if different):	
Type of Business:	
Business Address:	
Telephone No:	Fax No:
Contact Person's details:	
E-mail:	
Merchant Transactor Details	
Period as an EcoCash Agent (if applicable):	
Brief Description of products to be sold through Ecocash:	
Projected number of transactions (per month):	
Banking	
Details	

Authorised Merchant's signatory:

Signature:

Designation:

I/We \_\_\_\_\_ hereby certify that all the information provided is correct. I/We authorize Econet to use the information contained herein to process the application. We hereby agree that the Ecocash Merchant terms and conditions signed on \_\_\_\_\_ shall remain applicable to this application. I/We have been provided with a copy of the said terms and conditions and have read and understood the same.

**Disclaimer:**

Please note that the completion of this form will not bind Econet in any particular course of action and submitting of the information shall not create a contractual relationship between the parties unless and until the application has been approved by Econet.

### OFFICIAL USE

Merchant Code	
Merchant Line	
Recommended	
Approved	
Date	

# EcoCash Merchant Terms & Conditions

WHEREAS Econet is desirous of appointing

as its Merchant to accept payments through Econet Mobile Money Transfer ("EcoCash") using the XipPOS as well as to issue the XipTAG to EcoCash customers within Zimbabwe on a non-exclusive basis;

AND WHEREAS the Merchant is agreeable to the provision of such Merchant services to Econet

NOW THEREFORE IN CONSIDERATION OF THE AFOREGOING THE PARTIES HAVE AGREED AS FOLLOWS:

## 1. DEFINITIONS

- 1.1 **XipPOS** means an accepting device used to accept payments from an EcoCash customer using a XipTAG.
- 1.2 **XipTAG** means a transaction initiating device that is linked to the EcoCash Wallet of a customer.
- 1.3 **Customer** means every person in whose name an EcoCash account is registered in connection with the use of EcoCash services and who also purchases goods and/or services from the Merchant.
- 1.4 **Device/s** means the XipTAG and/or XipPOS device.
- 1.4 **E-wallet** means an E- value repository.
- 1.6 **EcoCash Transfer and Payment system** means the EcoCash mobile money system on which the Mobile Money Transactions are done.
- 1.7 **Merchant** means an entity that accepts E-value as a payment mode for goods and/or services and also sells the XipTAG to a registered EcoCash customer.
- 1.8 **Wallet Redemption** means the withdrawal of funds by the Merchant from its wallet after Customers have purchased with the XipTAG.
- 1.9 **Dealer Price** means the price at which XipTAGs are sold to the Merchant by Econet.
- 1.10 **Selling Price** means the price of the XipTAG Customers set by Econet from time to time.
- 1.11 **Agent XipPOS** means a device used to link a Customer's XipTAG to their EcoCash wallet

## 2 SCOPE OF MERCHANT AGREEMENT

Econet hereby appoints and retains the Merchant, on a non-exclusive basis, to perform functions, services and such other acts as the Merchant is specifically required to do pursuant to the terms of this agreement. The agreement shall be deemed effective and in full force from the date of last signature or date of the XipPOS deployment whichever is earlier.

The Merchant agrees to perform its duties under the supervision of Econet within Zimbabwe commencing on the date of the last signature or date of the XipPOS deployment whichever is earlier and is subject to renewal, extension or termination by the Parties.

This agreement shall be read in conjunction with the existing EcoCash Merchant agreement.

## 3. MERCHANT'S RIGHTS AND OBLIGATIONS

The Merchant shall:

- 3.1 Store the XipPOS device in a cool dry place.
- 3.2 Issue the XipTAG to Customers at a price set and advised by Econet from time to time.
- 3.3 Educate Customers on the operation and use of the XipTAG.
- 3.4 Store the XipTAG stocks in a cool, secure and dry place.
- 3.5 Ensure that only trained personnel will use the XipPOS and/or issue and distribute the XipTAG to Customers.
- 3.6 Ensure the registration form is completed properly with accurate details before issuing the XipTAG to Customers.
- 3.7 Pay the necessary security deposit prior to issuance off all Agent XipPOS device(s) which shall be returned at the expiration of the contract.

## 4. OBLIGATIONS OF ECONET

Econet shall:

- 4.1 Supply and make available to the Merchant the XipPOS devices at a fee that will be paid in monthly instalments. The device shall remain the property of Econet until it has been paid in full by the Merchant.
- 4.2 Ensure that adequate marketing campaign material is available for use by the Merchant to promote the use of the XipPOS and XipTAG devices.
- 4.3 Supply and make available to the Merchant the XipTAG and any requisite stationary for distribution to Customers.
- 4.4 Have a fully operational Call Centre manned by qualified employees and/or automated systems to assist in the resolution of problems related to the use of the XipPOS and XipTAGS and any other EcoCash Services.
- 4.5 Econet excludes warranties of all kinds and shall not be liable for any costs, loss, liability or damage whether direct, special or consequential whatsoever and howsoever arising whether from any suspension or termination of this Agreement or otherwise.
- 4.6 Econet will train outlet staff so that they are proficient with XipPOS and XipTAG devices before they start offering services to Customers. Econet will meet all expenses related to the training venue and training material, while the Merchant meets all travel and accommodation expenses incurred by their officers when they attend training.
- 4.7 Advise the Merchant of any changes in fees or terms and conditions.
- 4.8 Econet reserves the right to disconnect the Merchant from Econet's network at any time, if it determines, at its sole discretion that the Merchant's licence is being used unlawfully or for purposes other than in connection with the product or that the Merchant is not complying with the terms and conditions of this agreement.
- 4.9 Econet shall have the right at any time during the contract period to inspect the Merchant's premises, Outlets and business operations to ensure compliance with the terms of this Agreement.

## 5. WITHDRAWAL OR TRANSFER FROM WALLET BY THE MERCHANT

Wallet Redemption can be done in any of the two following ways:

- (i) Bank transfer to an account resident in the same Bank or to an account with another Bank; and
- (ii) Merchant to Merchant Payment.

## 6. COMMISSION

- 6.1 The Merchant shall purchase XipTAGs from Econet at a discount.
- 6.2 The Merchant shall earn a once-off commission for every XipTAG linked to a Customer account.

## 7 INDEPENDENT CONTRACTOR

- 7.1 The Parties acknowledge that, save for the duties and powers of the Merchant as stated in clause 3, hereof nothing in this Agreement shall be construed to create a relationship of employment or partnership whatsoever between the Parties, whether for tax or any other purpose.
- 7.2 Subject to clause 3 hereof neither Party shall have the right to bind the other to any Agreement with a third Party or to incur any obligation or liability on behalf of the other Party.

## 8. OWNERSHIP OF THE XIPPOS AND XIPTAG DEVICES & SECURITY MANAGEMENT

- 8.1 The XipTTAG and XipPOS devices remains the property of Econet until paid for in full. Any copyright, trademarks used in connection with the use of the Devices remains the property of Econet. Should any of the Devices have latent defects or damage due to materials or workmanship Econet can at its discretion either repair the Device or replace it with a new one.
- 8.2 The Merchant is responsible for the security and safety of the XipTAG stocks and XipPOS devices and must only use the Devices for their intended purpose. Should the Merchant damage any Device in any way or attempt to open it, or it is stolen or lost due to negligence the Merchant shall be liable for any such loss, theft, damages or any such other mishap and/or negligence.
- 8.3 In the event of theft and damage of any XipTAG and the XipPOS device, the Merchant is required to inform Econet immediately. The Merchant can contact the Econet call centre or send an e-mail to [ecocash@econet.co.zw](mailto:ecocash@econet.co.zw) or contact their agent officer or any other EcoCash official. Reporting immediately will prevent unauthorised use.
- 8.4 The Merchant will be liable for any loss and/or costs incurred before the Merchant notifies Econet.

## 9. RECORD KEEPING

The Merchant shall keep records in line with Econet requirements. These records shall include:

- 9.1 Copies of registration forms of the XipTAG application/registration forms.
- 9.2 Registers containing details and particulars of XipTAG customers.
- 9.3 Copies of registration forms together with attachments must be forwarded to Econet within seven (7) days of registration.

## 10. CONFIDENTIALITY

- 10.1 The Merchant shall treat as confidential all information relating to Customers, Transactions and Econet.
- 10.2 Each Party agrees to keep all information confidential and agrees that it shall not without the prior written consent of the Merchant, Customer, or Econet, divulge information relating to the Merchant, Customer, or Econet; unless required to do so by law enforcement agents upon which the affected Party should be consulted.

## 11. BREACH

- 11.1 Econet shall have the right to terminate the Merchant Agreement in the event that the Merchant:
- 11.2 Commits any act of fraud or theft against Customers or Econet involving the use of the Econet mobile money facility; and/or
- 11.3 Commits an act that brings Econet into disrepute; and/or
- 11.4 Fails to perform any of its obligations in terms of this Agreement.

## 12. TERMINATION

- 12.1 If the Merchant is in breach of any provision of this Agreement, Econet may terminate this Agreement immediately and thereafter inform the Merchant in writing of reasons thereof.
- 12.2 Econet may also terminate the Merchant Agreement:
  - 12.2.1 for whatever reason and without incurring any liability by giving 30

days' notice to the Merchant.

- 12.2.2 without notice if it ceases to offer the services related to use of XipPOS and XipTAG devices.
- 12.3 The Merchant shall return the device or devices at the point of the termination of the contract to Econet in good order and condition fair wear and tear accepted. If any of the device(s) are damaged Merchant shall be required to pay the replacement cost of device.

## 13. LIMITATION OF LIABILITY AND INDEMNITY

- 13.1 Econet will not be liable for any costs, loss or damage whether direct, special or consequential, howsoever and when so ever arising from any suspension or termination of this Agreement.
- 13.2 The Merchant shall indemnify Econet, from and against any and all costs incurred by the Merchant of whatever nature and any loss, damage or liability, whether criminal or civil, suffered by Econet resulting from a breach of this Agreement or any laws and regulations governing the provision of Mobile Money Transfer Services by the Merchant including but not limited to breaches caused by any act, neglect or default of the Merchant and/or its employees, or any subscriber or third party claim in respect of any matter arising from the Merchant's or its employees' conduct.
- 13.3 No warranties or representations are made with regard to potential revenues that may be earned by the Merchant from the provision of the Mobile Money Transfer services and no reliance should be placed on any statements or projections provided, whether verbally or in writing in this respect.

## 14. DISPUTE RESOLUTION

- 14.1 In the event of any dispute between the parties arising from this Agreement, the parties shall endeavour to resolve it by negotiation between their authorized representatives within seven (7) days of such dispute arising.
- 14.2 In the event that the parties fail to reach agreement within the aforesaid period of

seven (7) days, either party may refer the dispute to arbitration.

- 14.3 Notwithstanding anything to the contrary contained in this clause neither party shall be precluded from obtaining interim relief from a court of competent jurisdiction including any arbitral tribunal pending the decision of an arbitral tribunal appointed in terms of this clause.
- 14.4 The arbitration shall be held:
  - 14.4.1 In Harare, Zimbabwe; and
  - 14.4.2 with such legal and other professional representatives as the parties may require; and
  - 14.4.3 in terms of the Arbitration Act (Chapter 7:15), as amended from time to time, it being the intention of the parties that the arbitration proceedings shall be held and completed as soon as possible.
- 14.5 The arbitrator shall be, if the matter in dispute is principally:
  - 14.5.1 A legal matter, a registered legal practitioner of at least fifteen (15) years' standing;
  - 14.5.2 An accounting matter, a practicing chartered accountant of at least fifteen (15) years' standing;
  - 14.5.3 Any other matter, an independent person who is an expert in the field in which the dispute has arisen, agreed upon between the parties.
- 14.6 Should the parties fail to agree whether the dispute is principally a legal, accounting or other matter within seven (7) days after the parties' agreement to refer the dispute to arbitration, the matter shall be deemed to be a legal matter.
- 14.7 Should the parties fail to agree on an arbitrator within seven (7) days after the matter was referred to arbitration in terms of clause 13.2 hereof, the arbitrator shall be appointed at the request of either party to the dispute by the Executive Secretary of the Law Society.
- 14.8 The decision of the arbitrator shall be final and binding on the parties and may be made an order of the court referred to in clause 13.3 at the instance of either of the parties.

**15. DOMICILIUM CITANDI ET EXECUTANDI**

The Parties choose as their domicilia citandi et executandi for all purposes under this Agreement the following addresses

**15.1 Econet Wireless (Private) Limited**

No. 2 Old Mutare Road

Msasa

Harare

**15.2 The Merchant**

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THUS DONE AND SIGNED AT ..... ON THIS ..... DAY OF ..... 20.....

IN THE PRESENCE OF THE UNDERSIGNED

WITNESSES

AS WITNESSES

1.....

2 .....

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FOR AND ON BEHALF OF THE MERCHANT

THUS DONE AND SIGNED AT ..... ON THIS ..... DAY OF ..... 20.....

IN THE PRESENCE OF THE UNDERSIGNED

WITNESSES

AS WITNESSES

1.....

2 .....

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FOR AND ON BEHALF OF ECONET WIRELESS (PVT) LIMITED