

PayCentral™

PAYCENTRAL PTY LTD

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

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1. PARTIES

- 1.1 PAYCENTRAL Proprietary Limited, a private company with limited liability, incorporated in terms of the laws of the Republic of South Africa.
- 1.2 [Insert full company name],
a private company with limited liability/close corporation, incorporated in terms of the laws of the Republic of South Africa.

2. INTRODUCTION

- 2.1 The parties intend discussing a business relationship developing various platforms and systems for a gift card online portal, (the "Discussions").
- 2.2 The parties wish to protect any Confidential Information which either party (the "Disclosing Party") may disclose to the other (the "Receiving Party") during the Discussions.

3. DEFINITION OF CONFIDENTIAL INFORMATION

- 3.1 "Confidential Information" means any information, excluding "Excluded Information", whether in written, graphic, oral, tangible, intangible, electronic or other form relating to the know-how, formulae, statistics, processes, business plans, business methods, marketing, pricing, trading and merchandising methods and information, research and product development, business strategies, promotional plans, specifications, records, drawings, reports, samples, financial information, financial models, inventions, long-term plans, user and consumer data, databases and profiles, computer software, contractual business and financial arrangements with third parties, trade secrets, information regarding the personnel and directors and other employees and agents of the Disclosing Party and shall include any other information which:
- 3.1.1 is notified by the Disclosing Party as being confidential; and/or
- 3.1.2 any other information which by its nature is deemed to be confidential information.
- 3.2 "Excluded Information" is any information that:
- 3.2.1 the Receiving Party can show was known to or in its possession prior to disclosure thereof by the Disclosing Party;
- 3.2.2 is or becomes publicly known, otherwise than pursuant to a breach of this Agreement by any party;
- 3.2.3 the Receiving Party can show was developed independently by the Receiving Party in circumstances that do not amount to a breach of the provisions of this Agreement;
- 3.2.4 the Receiving Party is obliged to disclose to satisfy an order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the Receiving Party shall give the Disclosing Party the right and opportunity to take whatever steps it deems necessary to protect its interests in this regard, and provided further that the Receiving Party will disclose only that portion of the information which it is legally required to disclose and will use its best endeavours to protect the confidentiality of such information to the widest extent possible in the circumstances;
- 3.2.5 is disclosed by the Receiving Party to a third party pursuant to and in accordance with the prior written authorisation of the Disclosing Party;
- 3.2.6 is lawfully received by the Receiving Party from a third party who did not obtain it under a pledge of secrecy from the Disclosing Party or in circumstances that do not result in a breach of the provisions of this Agreement.

4. NATURE OF INFORMATION

Each party asserts that its Confidential Information is a valuable asset proprietary to it and that the unauthorised disclosure or use of the Confidential Information might result in financial or other harm which may be irreparable.

5. UNDERTAKING

- 5.1 The Receiving Party undertakes to the Disclosing Party that it will not, during the course of their discussions and/or negotiations nor thereafter disclose or divulge, directly or indirectly, the Confidential Information to any third party for any reason or purpose whatsoever without the express prior written consent of the Disclosing Party. The Receiving Party further undertakes to protect the Confidential Information using the same degree of care it applies to protecting its own proprietary, secret or confidential information, which in any event shall be no less than reasonable care.
- 5.2 The parties agree and acknowledge that the Confidential Information may be disclosed to employees, professional advisors, agents and consultants on a need-to-know basis and strictly in relation to the discussions and negotiations referred to and each party undertakes to take all steps necessary to procure that such persons agree to abide by the terms of this Agreement to prevent the unauthorised disclosure of the Confidential Information to third parties.
- 5.3 The parties also each undertake not to use, exploit or in any other manner apply the Confidential Information disclosed to it for any purpose other than the purpose for which it was disclosed save with the prior written consent of that party.

6. INDEMNITY

Each party (the “defaulting party”) indemnifies and holds the other (the “innocent party”) harmless against any loss, expense, claim, harm, damage or liability of whatever nature suffered or sustained by the innocent party resulting from any action, proceeding or claim made by any person against the innocent party as a result of the breach of this Agreement by the defaulting party or any of its employees, agents, independent contractors or consultants.

7. TITLE TO INFORMATION

All Confidential Information disclosed by Disclosing Party to the other is acknowledged by the Receiving Party to be proprietary to the Disclosing Party and disclosure does not confer any rights whatsoever in the Confidential Information on the Receiving party.

8. RETURN OF INFORMATION

Either party may at any time request the other party to return any Confidential Information, in whatever form, disclosed in terms of this Agreement or to destroy such information and to provide a written statement, if required, that all the information has been returned or destroyed. Any such information shall be returned or destroyed within a reasonable time not exceeding 10 (ten) days.

9. DURATION

This Agreement shall commence upon the date of last signature hereof and shall continue in force for a period of 1 (one) year after the termination of the Discussions or any agreement entered into pursuant thereto.

10. NO OBLIGATION TO DISCLOSE

Notwithstanding any other provision to the contrary herein, this Agreement does not create any obligation on either party to disclose any particular Confidential Information to the other, all disclosures being at all times within the sole discretion of the parties.

11. BREACH

The parties agree that in the event that either party (“defaulting party”) commits a breach of this Agreement, the other party (“aggrieved party”) shall be entitled, without prejudice to its other rights in law, to claim immediate specific performance of any of the defaulting party’s obligations of this Agreement and/or interdict the defaulting party from committing any further breaches of this Agreement, without prejudice to the aggrieved party’s right to recover damages.

12. ARBITRATION

- 12.1 Any disputes arising from or in connection with this Agreement shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa (“the Foundation”) by an arbitrator or arbitrators appointed by the Foundation.
- 12.2 Nothing herein contained shall preclude any of the parties to this Agreement from approaching a court of competent jurisdiction for an interdict or for relief on an urgent basis.

13. DOMICILIUM AND NOTICES

- 13.1 The parties choose an address for the purposes of the giving of any notice, the serving of any process, the payment of any monies and for any other purpose arising from this Agreement, as follows:

PAYCENTRAL PTY LTD

Corner Smith and Van der Linde Streets
 Bedford Centre, Bedfordview
 Telephone 011 553 7118
 Contact, CEO

Name of Company	<input style="width: 100%;" type="text"/>
Insert Physical Address	<input style="width: 100%;" type="text"/>
Telephone	<input style="width: 100%;" type="text"/>
Contact/Name of person	<input style="width: 100%;" type="text"/>

- 13.2 Either party shall be entitled to change its domicilium from time to time, provided that any new domicilium selected by it shall be an address other than a box number in the Republic of South Africa, and any such change shall only be effective upon receipt of notice in writing by the other party of such change.
- 13.3 All notices, demands, communications or payments intended for a party shall be made or given at its domicilium for the time being.
- 13.4 A notice sent by one party to another party shall be deemed to have been received on the same day if delivered by hand or sent by facsimile.
- 13.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium.

14. SEVERABILITY

In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any of the provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions was not a part of this Agreement, and the agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

15. GENERAL

- 15.1 This Agreement constitutes the whole agreement between the parties in regard to the subject matter thereof and no addition to, variation, modification or consensual cancellation of this Agreement shall be of any force or effect unless recorded in a written document and signed by or on behalf of the duly authorised representatives of the parties. For the purposes hereof, a "written document" shall exclude any written document that is in the form, either wholly or partly, of a data message as defined in the Electronic Communications and Transactions Act, 25 of 2002 and "signed" shall mean a signature executed by hand with a pen and without any electronic process or intervention.
- 15.2 This Agreement may not be assigned without the prior written consent of the other party and such consent may not be arbitrarily withheld or delayed.
- 15.3 This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.
- 15.4 This Agreement may be executed in counterparts by the parties hereto on separate counterparts, both of which when so executed shall be an original, but such counterparts together shall constitute one and the same instrument.

Signed at on: this day: 2020

As Witnesses:

- 1.
- 2.

FOR PAYCENTRAL PTY LTD

Name:

Who warrants that s/he is duly authorised hereto.

Signed at on: this day: 2020

As Witnesses:

- 1.
- 2.

FOR THE SUPPLIER

Name:

Who warrants that s/he is duly authorised hereto.

Signed at on: this day: 2020

As Witnesses:

- 1.
- 2.