

CBD Merchant Application Form for Ecommerce



CBD Merchant Application Form for Ecommerce

بنك دبي التجاري
Commercial Bank of Dubai



Serial No. _____

Merchant ID _____

(For Bank Use Only)

PLEASE PROVIDE THE FOLLOWING DOCUMENTS

1	CBD ECOMMERCE PROPOSAL (SIGNED AND STAMPED BY MERCHANT)
2	COPY OF UPDATED TRADE LICENSE (ONLY IF EXPIRED IN BANK'S RECORDS)
3	PASSPORT COPY OF AUTHORISED SIGNATORIES WITH VISA PAGE (ONLY IF EXPIRED IN BANK'S RECORDS)
4	TAX REGISTRATION CERTIFICATE (ONLY IF EXPIRED IN BANK'S RECORDS)
5	PCI DSS CERTIFICATION FORM DULY FILLED, SIGNED AND STAMPED BY MERCHANT
6	INFORMATION SECURITY CHECKLIST DULY FILLED, SIGNED AND STAMPED BY MERCHANT (CBD Template)
7	SANCTION UNDERTAKING LETTER ON COMPANY LETTER – SIGNED AND STAMPED BY MERCHANT (CBD Template)
8	RISK PROFILE SHEET (CBD Template)

(PLEASE COMPLETE IN BLOCK LETTERS)

DATE OF AGREEMENT / / (DD/MM/YY)

MERCHANT NAME

WEBSITE

ADDRESS

P.O.BOX

CITY

BUSINESS PHONE #

CONTACT (1)

DESIGNATION

MOBILE #

E-mail

CONTACT (2)

DESIGNATION

MOBILE #

E-mail



A. Company Information (Referred to as “Merchant / YOU ”)

Company Name:

Company Type:

Company Registration Number:

Date of Incorporation:

Company Phone:

Company Website:

Nature of Business/Industry Sector:

Does your Company run any retail stores () Yes () No.

If yes, number of retail stores in the UAE:

Trading Company Name (optional for company operating under a different name):

B. Principal(s) Information

Principal (1)

Title:

First Name:

Middle Name:

Surname:

Nationality:

Date of Birth:

Email Address:

Contact Phone Number:

Position Held:

Percentage of Ownership:

Principal (2)

Title:

First Name:

Middle Name:

Surname:

Nationality:

Date of Birth:

Email Address:

Contact Phone Number:

Position Held:

Percentage of Ownership:

C. Shareholder's Information:

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D. Fee Schedules

- (i) Subject to the Terms and Conditions, Merchant shall pay CBD the Fees set out herein below for each provision of the services stipulated under the Merchant Agreement.
- (ii) Merchant agrees to pay and hereby authorizes CBD to charge the following percentage as fees in consideration of the payment transactions

Card Type	Online processing MSF
Visa	
MasterCard	
Maestro	
Diners Club	
JCB	
CUP	
AMEX	
Premium Cards	
Others	

Fixed fee per payment transaction: AED

- (ii) Merchant agrees to pay CBD the following fees in consideration of processing transactions online payment transactions:
- (a) Setup fee: AED
- (b) Annual fee: AED

For the purpose of processing online web transactions, the following represent the merchant agreed details:

- (a) URL:
- (b) Email:
- (c) IP / Proxy Address:
- (d) Host Company:
- (e) Acceptance Mode:

(.....) 3rd Party SSL + (Card details are not disclosed and CBD will ensure that a level of data encryption and certification is provided when E-Transaction Authorization data is transmitted to CBD)

OR (.....) 2nd Party MO/TO (The merchant establishes a secure communication session directly with CBD for transaction processing. The Merchant takes complete responsibility for storing and protecting card and customer information.

- (iii) Merchant agrees to pay CBD the following consideration of remitting the bank account (as described below) with transaction proceeds:
- (a) Per transaction fee: AED
- (a) Membership fee: AED
- (b) Settlement fee: AED
- (c) Misc. monthly report fee: AED
- (d) Refund fee: AED
- (iv) Merchant agrees to pay CBD all such other expenses that may be charged to CBD by a third party as a result of processing payment transaction for and on behalf of the merchant.

E. Bank Account Details

1. Subject to clause D above and other terms and conditions, CBD shall credit the following bank account (Bank Account) held by the merchant with all sales proceeds resulting from processing cards for and on behalf of the merchant:
 - a. Account Numberr:
 - b. IBAN no. AE:
 - c. Account Nname:
 - d. Bank Nname:
2. No proceeds may be credited to the bank account in relation to a particular payment transaction unless payment for such payment transaction is approved, collected and received by CBD from the paying party.

Additional Services Schedules

F. Notices

All notices, notifications request demands, consents, approvals, agreements or other communication (notices) to or by a party to this application shall be in writing addressed to the recipient at the address set out below or at such other addresses as such party may specify from time to time in writing:

If to CBD

By Post: CBD Card Centre, P. O. Box 2668, Dubai, UAE

Marked to the attention of

If to merchant:

By Ppost:

By Eemail:

Marked to the attention of

Notices shall be deemed to be duly given or made

- (a) When delivered to the recipient at such address
- (b) When received in legible email copy from sender recognized email id or
- (c) On receipt by the sander confirmation of receipt by registered mail address

But if such receipt is later than 3.00 pm (UAE time) on the day on which business is generally carried on in the place to which such notice is sent, it shall be deemed to have been given or made at the commencement of business on the next such day in that place.

Executed as an application on the date set out hereinabove

For and on behalf of

Commercial Bank of Dubai (herein referred to as WE/US/CBD/the Bank) Name:

Signature :

Company official stamp:

For an on behalf of

Merchant (herein referred to as YOU/Merchant): Name:

Signature:

Company official stamp:

CBD MERCHANT AGREEMENT

Terms and Conditions

1. THESE TERMS AND CONDITIONS

These Terms and Conditions are part of your agreement with us governing the provision of Merchant Facilities to you. Please read them carefully and retain them for future reference.

Your agreement (“**Agreement**”) consists of:

- (i) A Merchant Application;
- (ii) These Terms and Conditions;
- (iii) A Merchant Operating Guide;
- (iv) Any Additional Services Schedules set out in the Merchant Application and the applicable Additional Service Schedule which contain the specific terms and conditions and operating instructions for the Additional Service(s);
- (v) A Secure Internet Site Declaration (where applicable) and Merchant Prepayment Exposure Declaration (where applicable);
- (vi) and
- (vii) any documents relating to the Security (where applicable).

It is advisable that you read all documents comprising the Agreement under which we provide the Merchant Facilities. You agree to be bound by the Agreement from the commencement date shown on the Merchant Application. You may cancel the Agreement at no cost before the commencement date shown on the Merchant Application. Termination after the commencement date will be governed by clause 28 and fees may apply.

Some words and expressions have special meanings in these Terms and Conditions. Those meanings are described in clause 45 and when you are reading these Terms and Conditions, you should refer to clauses 45 and 46. Unless the context requires otherwise, any words or expressions defined in these Terms and Conditions have the same meaning when used in any document that forms part of the Agreement.

2. PROVISION OF MERCHANT FACILITIES

- (i) We agree to provide you with the Merchant Facilities outlined in the Merchant Application and more fully detailed in the Agreement. We agree to do this in exchange for you carrying out your obligations under the Agreement.
- (ii) The Agreement will come into effect from the commencement date shown in the Merchant Application and will run for an Initial Term unless it is terminated earlier by either party in accordance with clause 28.
- (iii) We may at our sole discretion, suspend our agreement provide you with the Merchant Facilities until your opening bank account with Commercial bank of Dubai (CBD).
- (iv) At the end of the Initial Term, the Agreement will automatically continue for a further period of the same duration as the Initial Term (a “Subsequent Term”) unless you elect to terminate under clause 28.1 (i)(b) or unless the Agreement is terminated by us in accordance with its terms. At the end of each Subsequent Term, the Agreement will automatically continue for a further period of the same duration as the first Subsequent Term unless you or we elect to terminate the Agreement in accordance with its terms.
- (v) We will provide the Merchant Facilities unless:
 - (a) the Agreement is terminated;
 - (b) the Merchant Facilities are suspended in accordance with the Agreement; or
 - (c) there is a change in our decision to continue to do so or change in UAE Law or Central Bank regulation or to any Nominated Card Scheme Regulations that prevents us providing the Merchant Facilities.
- (vi) The Merchant Facilities may only be used by you and may not be used by, or on behalf of, any third party (including any associated company or related body corporate of yours), without our prior written authorisation.

3. NOMINATED CARDS

- (i) You must:
 - (a) accept all Nominated Cards in accordance with the Agreement; and
 - (b) stop accepting a Nominated Card immediately if:
 - (A) we provide you with a notice to do so; or
 - (B) any of the events described in clause 2 (iv) occur.
- (ii) You must not, unless we specifically authorize in writing:
 - (a) accept a Nominated Card as payment for goods or services by mail, telephone or Internet order; or
 - (b) take Cardholder details via mail, telephone, facsimile or the Internet.

4. ACCEPTING NOMINATED CARDS AND PERMITTED USES

- (i) You must accept valid Nominated Cards.
- (ii) A Nominated Card is valid if:
 - (a) it has a current validity date (if applicable);
 - (b) it has not been visibly altered or tampered with in any way;
 - (c) it is signed on the back in the designated area for card signatures;
 - (d) the signature on the reverse has not been altered or defaced; and
 - (e) it meets the criteria for validity set out in the Merchant Operating Guide.
- (iii) You must not:
 - (a) make any representation in connection with any goods or services or any Nominated Card which may bind us;
 - (b) make any representations to any Cardholder concerning our products or policies;
 - (c) pledge our credit in any way or take part in the preparation of any documents purporting to provide for credit to be provided by us to the Cardholder;
 - (d) engage in any conduct which is false, misleading or deceptive concerning goods or services you supply, our products or policies or in any other dealings with the Cardholder;
 - (e) use a Nominated Card in a Credit Transaction to give a Cardholder cash.
 - (f) use a Nominated Card issued in your name in any Transaction to pay for goods or services or to provide cash where the Transaction is not a bona fide sale or where the Transaction is for the purpose of funding the working capital of your business. Where you are in a partnership, no Nominated Card issued in the name of a partner is to be used in any such Transaction. Where you are a company or retail outlet, no Nominated Card issued in the name of a director or secretary or your employee is to be used in any such Transaction.
 - (g) impose a minimum Transaction amount on a Cardholder or refuse to accept an otherwise valid payment Card on the basis that the amount of the Transaction is below a certain amount. You will not indicate that there is a requirement of a minimum Transaction amount either at the point of sale, in any published material or by way of any other medium.
 - (h) in relation to Card Present Transactions, refuse to complete a Transaction if a Cardholder refuses to provide additional identification information such as an address and/or telephone number unless such information is required by law to complete the transaction and/or the information is required by the Card Issuer or us.
- (iv) You can:
 - (a) in relation to Card Not Present Transactions, refuse to complete a Transaction if a Cardholder refuses to provide additional identification information such as an address and/or telephone number if you have any concerns in relation to the validity of the Transaction or if required by the Card Issuer or us.
- (v) you must honor all such valid cards properly presented for payment by a Cardholder.

5. PROCESSING TRANSACTIONS

- (i) If we have agreed that you can process Transactions manually using Transaction Vouchers you must not use two or more Transaction Vouchers to process one Transaction or process a Transaction where only part of the amount due is included on the Transaction Voucher except:
 - (a) where the balance of the amount due is paid in cash or by cheque; or
 - (b) where the goods or services are to be delivered or performed at a later date and one Transaction Voucher represents a deposit and the second Transaction Voucher represents payment of the balance. The second Transaction Voucher must not be presented or processed until the goods are delivered or the services performed.
- (ii) You must not process a Transaction on behalf of another person or retail shop or company including another business or allow another person or retail shop or company to use the Merchant Facilities except under a bona fide agency arrangement and agreed by us.
- (iii) You must use reasonable care in processing a Transaction to detect forged or unauthorized signatures or the unauthorized use or forgery of a Nominated Card. In particular, you must comply with specific requirements set out in the Merchant Operating Guide or otherwise notified by us in writing to you.
- (iv) If you are authorized to process transactions via mail, telephone or Internet order you must ensure all goods are dispatched to the Cardholder immediately after processing that sales Transaction either manually or Internet Payment Gateway to us.
- (v) Following each Transaction (other than mail, telephone and Internet orders) you must immediately give the Cardholder a copy of the Transaction Receipt. When the Transaction is an Internet Transaction, the Cardholder must be able to print a Transaction Receipt from the Internet or website and when the Transaction is a telephone Transaction, you must provide the Cardholder with a receipt number for the Receipt must include the following:
 - (a) type of account;
 - (b) type and amount of the Transaction;
 - (c) date of the Transaction;
 - (d) time of the Transaction;
 - (e) Transaction record number; and
 - (f) confirmation that the Transaction has been accepted or approved.
- (vi) The information on the Cardholder Transaction Receipt must be identical with information on any other copy of the Transaction Receipt.
- (vii) You must not split the value of any proposed Transaction into two or more separate Transactions which would, when added together, be in excess of the Authorized Floor Limit.
- (viii) If we determine that your conduct in processing Transactions in accordance with the Agreement may cause loss to you or us (through fraudulent activities or otherwise), we may:
 - (a) where you are authorized to accept a Nominated Card as payment for goods or services ordered by mail, telephone or Internet in accordance with clause 3 (ii), withdraw that authorization and require you to only process Transactions where the Nominated Card is presented by the Cardholder in person.
- (ix) You must prominently and clearly inform the Cardholder of your identity so that the Cardholder can readily distinguish you from any supplier of goods or services to you. You must also notify the Cardholder that you are responsible for:
 - (a) the sales Transaction including any goods or services that are the subject of the sales Transaction;
 - (b) all customer service relating to the sales Transaction;
 - (c) dispute resolution in connection with the sales Transaction; and
 - (d) performance of the terms and conditions of the sales Transaction.
- (x) If you are specifically authorized by us to accept a Nominated Card as payment for goods or services ordered by mail, telephone or Internet in accordance with clause 3 (ii) or you are authorized by a Cardholder to process Recurring Transactions, you must ensure that the Transaction is correctly identified as a mail, telephone, Internet order or Recurring Transaction.
- (xi) If we and a Cardholder have authorized you to process Recurring Transactions, you must maintain appropriate business practices to ensure that the Cardholder's Nominated Card information remains current, accurate and complete (including the Nominated Card's expiry date where applicable) and comply with the terms and conditions for Recurring Transactions outlined in the Recurring Transactions schedule which forms part of the Additional Services Schedules.
- (xii) For Recurring Transactions, you are required to provide Cardholders with a means of informing you of changes to card account details and/or the Cardholder's wish to cancel payment arrangements. You are required to action any Cardholder request to change and/or cancel payment arrangements with five (5) Business Days of receipt of the Cardholder's request or before the next recurring payment is due whichever is earlier.

- (xiii) You must not, without our prior written consent, process Transactions for any goods or services unless delivery to the Cardholder will be completed within six (6) months of the date of the Transaction.
- (xiv) You must comply with all applicable Laws, any obligations in the Agreement and any direction from us in carrying out your obligations in processing Transactions under the Agreement.
- (xv) You must ensure you process all Transactions in accordance with the requirements of any Nominated Card Scheme Regulations or UAE Central Bank regulations that we notify to you. You agree to demonstrate your compliance with the Nominated Card Scheme Regulations or UAE Central Bank regulations if we request you do so.
- (xvi) You must ensure that each Transaction is recorded in United Arab Emirates Dirham "AED" except where we have given prior written approval to record Transactions in other currencies.
- (xvii) You must process all Transactions through us, except where we have agreed otherwise. If you process any Transactions through a provider other than us, we may at our sole discretion charge you two (2) times the Average Monthly Merchant Service Fee for any breach during the Initial Term or any Subsequent Term.
- (xviii) You acknowledge and agree that where we have agreed to provide you with the ability to accept Card Not Present Transactions that:
 - (a) processing Card Not Present Transactions may result in losses to your business if you process a Transaction that is later found to be fraudulent or is disputed by the Cardholder and then charged back to you;
 - (b) in providing you with suggestions on how to reduce the risk of fraudulent transactions, we make no representation on the effectiveness of those suggestions nor in any way guarantee a reduction in or protection from fraudulent transactions;
 - (c) any authorization obtained for the Card Not Present Transaction does not guarantee that the legitimate Cardholder is initiating the transaction or that the card has not been stolen or fraudulently used;
 - (d) you will follow best practices procedures to reduce the likelihood of exposure to fraud including, but not limited to, the procedures detailed in the Merchant Operating Guide and any security guide we provide; and
 - (e) we accept no liability for, and you agree to indemnify and keep us indemnified against, any losses, claims, costs, damages, expenses (including legal costs), liabilities (including penalties) or proceedings incurred or arising out of or as a consequence of any Card Not Present Transaction.
- (xix) Where we are the Card Issuer, we will not dishonor any payment made to you pursuant to an Electronic Off-line Transaction or Off-line Transaction that is an authorized Transaction and is for an amount that does not exceed the respective Off-line Payment Limit, Electronic Off-line Payment Limit or your Authorized Floor Limit.
- (xx) When completing an Electronic Off-line Transaction you must:
 - (a) not process any Transactions that exceed the Electronic Off-line Payment Limit;
 - (b) not use two or more Electronic Off-line Transactions to effect one Transaction if the amount of the Transaction exceeds the Electronic Off-line Payment Limit or Authorized Floor Limit;
 - (c) retain a signed copy of the Transaction Receipt for at least eighteen (18) months;
 - (d) obtain an authorization from the Authorisation Centre if a Credit Card Transaction exceeds the Authorized Floor Limit.
- (xxi) You must not use a Transaction Voucher for Debit Transactions
- (xxii) When completing a Transaction Voucher for an Off-line Transaction which is a Credit Card Transaction, you must:
 - (a) only use the Sales Voucher and/or Credit Voucher provided by us to you;
 - (b) not use two or more Transaction Vouchers in relation to the same customer if the amount of a single Transaction would exceed the Off-line Payment Limit or Authorized Floor Limit;
 - (c) provide the Cardholder with the 'Cardholder copy' of the completed Transaction Voucher;
 - (d) ensure the 'bank copy' of the Transaction Voucher is lodged with us within three (3) Business Days in accordance with the banking procedures outlined in the Merchant Operating Guide;
 - (e) obtain an authorization from the Authorisation Centre if a Credit Card Transaction exceeds the Authorized Floor Limit; and
 - (f) verify the Cardholder's identity by ensuring the Cardholder's signature on the signature panel of the card
- (xxiii) When you process an authorized Off-line Transaction, we will use all reasonable endeavors to ensure that:
 - (a) you receive value on the Business Day on which the Transaction Voucher is lodged with us; and
 - (b) Transactions Vouchers are processed to the Cardholder's Nominated Account within two (2) Business Days after lodgment.

- (xxiv) In all circumstances when an Electronic Off-line Transaction or Off-line Transaction is conducted, it must not be used to:
- (a) provide a Cardholder with cash;
 - (b) process a Transaction which has been previously declined;
 - (c) process a Transaction which could not be completed as a result of Cardholder PIN errors; or
 - (d) process a Transaction away from your normal site of business.

6. AUTHORISATION

- (i) You must obtain an authorization for all Recurring Transactions and ensure you have the Cardholder's consent to process Recurring Transactions. Where applicable, you must ensure the Nominated Card has a current validity date and that the CSC is provided when processing the first Recurring Transaction against that Nominated Card. After processing the initial Recurring Transaction, you must destroy the CSC in one of the manners set out in clause 8 (iv).
- (ii) When you seek authorization, you must ensure that the authorization code appears on each Transaction Voucher.
- (iii) You should seek to retain the Nominated Card until authorization is given. If you are requested by the Authorization Centre to retain the Nominated Card, you must use your reasonable endeavors to do so if this can be done safely and deal with the Nominated Card in accordance with the instructions of the Authorization Centre and the Merchant Operating Guide.
- (iv) In the case of a Transaction involving a mail, telephone or Internet order, authorization is not a representation or warranty to you that the purchase is made by the legitimate Cardholder.
- (v) Authorization of a Transaction is not a representation or warranty by us to you that a Transaction is not an Invalid Transaction.
- (vi) We may at any time change your Authorized Floor Limit by giving notice to you.

7. REFUNDS

You must:

- (i) establish a fair policy for giving Refunds and for exchanges or return of goods for sales Transactions.
- (ii) only give a Refund by means of a Credit Voucher processed to the same Nominated Card on which the original Transaction was made, a credit note issued by you or an exchange of goods, and not in cash or by cheque. You must disclose your Refund policy to the Cardholder prior to processing the Transaction.
- (iii) where you are authorized to process e-com Transactions via the Internet in accordance with clause 3 (ii), you must display your Refund policy on your website; and
- (iv) at all times act in accordance with the instruction for processing Refunds contained in the Merchant Operating Guide.

8. TRANSACTION INFORMATION

- (i) You must lodge Transactions with us for settlement in accordance with the Merchant Operating Guide and:
 - (a) in the case of a Transaction processed manually within three (3) Business Days after the Transaction.
- (ii) You must retain information about a Transaction whether processed manually or electronically for a period of eighteen (18) months from the date of the Transaction or such other period required by Law or notified by us.
- (iii) You must keep all the information about the Transaction for five years period from the transaction date;
- (iv) You must ensure that Cardholder data is destroyed in the following manner:
 - (a) shred, incinerate or pulp hardcopy materials so that Cardholder data cannot be reconstructed; and
 - (b) render Cardholder data on electronic media unrecoverable so that Cardholder data cannot be reconstructed.
- (v) You must provide any information about a Transaction which is requested by us within five (5) Business Days of receipt of the request.
- (vi) You must provide any information or reporting reasonably required by us regarding any Transactions.

9. SETTLEMENT OF TRANSACTIONS

- (i) We agree:
 - (a) to accept all sales Transactions processed by you in accordance with the Agreement and, subject to the other provisions of the Agreement, to credit your Nominated Settlement Bank Account with the full amount of such Transactions on the basis that the debt due by the Cardholder to you in respect of the Transaction is extinguished; and
 - (b) to accept all Refund Transactions processed by you in accordance with the Agreement and to debit your Nominated Bank Accounts with the full amount of each Refund Transaction.
- (ii) We will issue a monthly Transactions statement to you including a summary of the number and total amount of all Transactions processed by us and settled to your Nominated Settlement Bank Account during the previous month.
- (iii)
- (iv)
- (v) If, at the end of the settlement period, you have not initiated settlement, we will take all reasonable steps to force settlement and credit or debit (as the case may be) your Nominated Settlement Bank Account with the aggregate of the Transactions for that Business Day. We shall not be liable for any loss or costs incurred by you not effecting settlement.
- (vi) Where settlement is affected on a day other than a Business Day, we will use all reasonable endeavors to ensure that you receive value on the next Business Day.
- (vii) Where we are aware or have reason to believe that:
 - (a) a Transaction or Invalid Transaction is fraudulent, or a counterfeit Nominated Card has been used; or
 - (b) we receive notice of any claim or dispute in relation to any Transaction; or
 - (c) we receive unclear or conflicting instructions relating to any Transaction; we reserve the right for a period of thirty (30) days to:
 - (d) withhold payment to your Nominated Settlement Bank Account and immediately re-route the Transaction to a suspense account; and/or
 - (e) prevent the debit of that part of the balance of your Nominated Bank Accounts or any account held by you with us, as is equal to the amount we estimate may become owing to us by you in respect of that Transaction. During that 30 day period, we will investigate the Transaction to determine whether we will either:
 - (f) refuse to process the Transaction and return the Transaction to you; or
 - (g) if the Transaction has been processed, charge that Transaction back to you; and
 - (h) set-off amounts owing to us by you in respect of that Transaction against funds standing to the credit of any Nominated Bank Accounts or any account held by you with us.
- (viii) If a Transaction is a Delayed Supply Transaction, you agree that we may, at our sole discretion, immediately re-route the Transaction to a suspense account. We will make the proceeds in the suspense account available to you if you can supply evidence to our satisfaction that you have supplied the goods and services to which the Delayed Supply transaction relates (if part of the goods or services have been supplied then you will only be entitled to the portion of the proceeds due in respect of the part supplied) or we agree otherwise.
- (ix) You agree that if:
 - (a) you fail to pay any penalty imposed by the Nominated Card Schemes (whether imposed on us or you directly) in accordance with the Agreement; or
 - (b) we suspect you of any fraudulent or suspicious activity; or
 - (c) we assess you as a high credit or fraud risk; or
 - (d) you have breached the Agreement; or
 - (e) we otherwise determine on reasonable grounds that it is justified in order to prevent loss to you or us; we may, at our sole discretion, immediately re-route Transactions to a suspense account. In such cases we will make the proceeds in the suspense account available to you when: ((i)) we are satisfied that none of the matters or circumstances listed in sub clauses (a) to (e) apply or exist, or such matters or circumstances have been remedied to our satisfaction (in each case, as applicable); and/or ((ii)) we are satisfied that no Transaction will be charged back by Cardholders Or Card issuer
- (x) For the avoidance of doubt, you acknowledge that you have no ownership of any funds transferred to a suspense account until those funds are transferred to your Nominated Settlement Bank Account, and that no interest is payable on the funds while they are held by us.
- (xi) You agree to have up to 50% of your Monthly Anticipated Sales Volume (WHICH SHALL BE SUBJECT TO CHANGE ACCORDING TO THE PHYSICAL AMOUNT OF TRANSACTIONS) to be put on hold in your CBD a/c to cover any future losses on account of Chargebacks received by us from Card Issuer , and this shall not be construed as a release from your obligation to cover and pay such amounts and losses.

10. INVALID TRANSACTIONS

A Transaction is invalid if:

- (i) the Transaction is illegal, including, without limitation, because it is in breach of any Law governing, for example, the sale of prescription medicines, controlled substances or other regulated products or services;
- (ii) the date of the Transaction is a date after the Agreement was suspended or the Nominated Settlement Bank Account and/or Nominated Charges Bank Account is frozen in accordance with clause 29 or terminated in accordance with clause 28;
- (iii) you process the Transaction knowing (or in circumstances where you should have known) that the signature on the Transaction Voucher or Transaction Receipt is forged or unauthorized;
- (iv) you process the Transaction knowing (or in circumstances where you would reasonably be expected to know) that the Nominated Card is used without the authority of the Cardholder or in the case of a mail, telephone or Internet order authorized by us in accordance with clause 3 (ii), the Transaction is not authorized by the Cardholder;
- (v) you were notified by us not to accept the Nominated Card used in the Transaction;
- (vi) the Nominated Card used in the Transaction is not used within the current validity dates shown on the Nominated Card (where applicable);
- (vii) for Recurring Transactions – the expiry date (where applicable) and CSC of the Nominated Card is not provided with the initial Recurring Transaction;
- (viii) the Transaction Voucher is not completed in accordance with the Agreement or is illegible;
- (ix) the particulars on the copy of the Transaction Voucher or Transaction Receipt given to the Cardholder are not identical with the particulars on any other copy;
- (x) the Transaction is recorded in a currency other than United Arab Emirates Dirham, except where we have given prior written approval to you to record Transactions in other currencies;
- (xi) the price charged for the goods or services to which the Transaction relates is more than your normal price which is charged to the general public, except where the additional amount represents the amount of any Surcharge Fee properly charged by you;
- (xii) the Transaction requires authorization by us and you do not obtain such authorization, or for Recurring Transactions, the Transaction is unauthorized and/or does not contain a Recurring Transactions flag;
- (xiii) the Transaction value exceeds your Authorized Floor Limit and you did not obtain authorization for a Transaction above that respective limit;
- (xiv) the Transaction requires authorization by us and the Transaction Voucher does not contain the authorization code;
- (xv) in our reasonable opinion the Transaction relates to one or more purchases made in the same Merchant establishment which have been split into 2 or more Transactions in an attempt to avoid the Authorized Floor Limit, Off-line Payment Limit or Electronic Off-line Payment Limit;
- (xvi) you have arranged without our consent for a person other than you to supply goods or services;
- (xvii) you process the Transaction knowing (or in circumstances where you should have known) that the Transaction is fraudulent;
- (xviii) the Cardholder has not received the goods or service as required by the terms of the Transaction (and, in the case where you are not the provider of the goods or services and act as agent for the provider of the goods or services, the goods or services have not been provided by the principal) and you have failed to provide us with proof of receipt of, and satisfaction with, the goods or services by the Cardholder within five (5) Business Days of our request to do so;
- (xix) the goods or services to which the Transaction relates were supplied from outside the United Arab Emirates without our consent;
- (xx) in the case of a Transaction being a mail, telephone or Internet order authorized by us in accordance with clause 3 (ii), you did not record the Cardholder's identification details and the expiry date (where applicable) of the Nominated Card as required by the Merchant Operating Guide.
- (xxi) except in the case of a mail, telephone or Internet order authorized by us in accordance with clause 3 (ii), the Nominated Card was not presented to you;
- (xxii) you have not otherwise complied with the Agreement in connection with the Transaction and we are of the reasonable opinion that such non-compliance may result in either us or you suffering a loss;
- (xxiii) the Transaction is processed by you on behalf of another person or retail outlet or company, or you have allowed another person or retail outlet or company to use the Merchant Facilities in connection with the Transaction, except under a bona fide agency arrangement authorized in accordance with the Agreement;
- (xxiv) you have accepted a Nominated Card as payment for goods and services by mail, telephone or Internet order without specific authorisation in writing by us under clause 3 (ii);
- (xxv) you bill the amount of the Transaction direct to the Cardholder or receive payment through the use of another card or by any other means;

- (xxvi) the card number or truncated card number appearing on the Transaction Receipt or Transaction Voucher does not correspond with the card number printed, encoded or otherwise shown on the Nominated Card used for the Transaction;
- (xxvii) you fail to lodge Transactions with us for settlement in accordance with clause 9 (i);
- (xxviii) the same Transaction is processed by you more than once;
- (xxix) you key-enter incorrect Transaction details or key enter the Transaction otherwise than in accordance with the Merchant Operating Guide;
- (xxx) you manually process a Transaction using a damaged Nominated Card which is not a valid Nominated Card referred to in clause 4 (ii);
- (xxxi) in our reasonable opinion, the Cardholder justifiably disputes liability for the Transaction for any reason or has not received the goods or services purchased;
- (xxxii) the Cardholder disputes the Transaction and/or makes a claim for set off or counter claim in respect of the Transaction against us;
- (xxxiii) the Transaction was processed in breach of the requirements of any Nominated Card Scheme Regulations notified by us to you under clause 5 (xviii) or by any other method determined by us; and/or
- (xxxiv) the Transaction is not authorized by us or the authorisation request is declined for any reason.

11. RIGHT TO DISHONOUR

In the event that you process an Invalid Transaction, you acknowledge that the Card Issuer and, in the case of a Refund, your Bank, has the right, but not the obligation, to dishonor the Transaction. For the avoidance of doubt, where the amount of an Off-line Transaction exceeds the Off-line Payment Limit and the Cardholder's Nominated Account has insufficient funds, the Card Issuer shall have the right, but not the obligation, to dishonor the whole amount of the Off-line Transaction.

12. CHARGEBACK

- (i) If a Transaction is an Invalid Transaction, we may, at our sole discretion (and without a request or demand from a Cardholder):
 - (a) refuse to accept the Transaction; or
 - (b) if the Transaction has been processed, at any time within twelve (12) months of the date of the Transaction, charge that Transaction back to you by debiting the Nominated Bank Accounts or otherwise exercising our rights under the Agreement.
- (ii) If we receive a payment from a Cardholder relating to an Invalid Transaction that has been charged back to you, we will pay an amount equal to that payment to you less any amount which we are entitled to withhold or set-off under the Agreement.
- (iii) Despite any contract, arrangement or understanding to the contrary, in respect of all Transactions processed by you, the Cardholder will be entitled to initiate a charge back of the Transaction to you where permitted in accordance with relevant Nominated Card Scheme Regulations. The Merchant Operating Guide provides a list of the most common Chargeback reasons and what you can do to minimize your risk of receiving Chargebacks.
- (iv) You must not impose, as a condition of accepting a Nominated Card, a requirement that the Cardholder waive any right to dispute a Transaction or pay you a fee in the event that the Cardholder chooses to exercise any right to dispute a Transaction.
- (v) If we receive chargeback from card issuer or payment schemes for transactions previous processed and subsequently confirmed as fraud, such debits will be passed on to your Bank account , as per clause 31 below.

13. NOMINATED BANK ACCOUNTS

- (i) You must maintain a Nominated Settlement Bank Account and Nominated Charges Bank Account for the term of the Agreement. These accounts must be United Arab Emirates based, United Arab Emirates Dirham transactional bank accounts. These accounts can be the same account if permitted by us.
- (ii) You authorize us to debit and credit your Nominated Bank Accounts for the purposes of the Agreement.
- (iii) We reserve the right acting reasonably to require you to maintain a minimum credit balance in any Nominated Bank Accounts during the term of the Agreement. Any such minimum credit balance will be notified by us to you from time to time.
- (iv) Where any Nominated Bank Account is held with a financial institution other than us, you must provide us with a properly completed direct debit authority.
- (v) You authorize us to pay on your behalf all the required amounts as a temporary overdraft , if the balance in your bank account is not sufficient to meet your obligations arising out of chargeback claims, fees, expenses, adjustments or other charges that may be imposed on us by Nominated Card Scheme or competent authority in correction to Payment Transaction made by you, such amount shall be subject to a default interest rate as per the Bank's prevailing default rate then , from the date of using such temporary overdraft until the full and final payment by you .
- (vi) you must provide the Bank with a security cheque/ transaction hold amount authorization letter

14. INFORMATION COLLECTION, STORAGE AND DISCLOSURE

14.1 General

- (i) You must not sell, purchase, provide or exchange any information or document relating to a Cardholder, a Cardholder's account number or a Transaction to any person other than us, the Card Issuer or as required by Law. You may disclose such information or document to your employees, contractors or agents as necessary in the course of conducting your business.
- (ii) You must not take an imprint of, or record any information relating to, a Nominated Card or Cardholder, unless the imprint or information is required to process a Transaction being made at that time or for the purposes of processing Recurring Transactions against that Nominated Card which have been authorized by the Cardholder. For the avoidance of doubt, you must immediately destroy the CSC of a Nominated Card in one of the manners set out in clause 9 (iv) after processing a Transaction.
- (iii) If permitted to record any information under clause 14.1 (ii) in respect of the Nominated Card, you may only record the card account number, expiration date and name of the Cardholder.
- (iv) You must ensure that any full card-read data in respect of Nominated Cards accessed by you in connection with a Transaction (or otherwise in connection with the Agreement) is stored only by you on an electronic file in a secure environment with restricted access in compliance with the Compliance Requirements such as PCI DSS for example and not limited to for the sole purpose of providing documentation for exception processing. You must not record, store, replicate or otherwise use full card- read data for any other purpose.
- (v) The Merchant Agreement will remain valid and enforceable notwithstanding any change in its constitution or ownership, merger or amalgamation of both the parties.
- (vi) No delay or omission of us in exercising or enforcing (whether wholly or in part only) any right or remedy hereunder shall impair such right or remedy of ours and shall not be construed as a waiver of such right or remedy.
- (vii) The validity or unenforceability of one or more provisions herein shall not affect the validity or enforceability of the other provisions which shall continue to be valid and enforceable.
- (viii) The headings contained in these Terms and Conditions are so employed for convenience of reference only and are not intended to define, construe, limit, expand or describe the scope or intent of the Merchant Agreement.
- (ix) No failure or delay on our part in exercising any right, power or privilege under this Agreement and no course of dealing with you shall operate as a waiver thereof.
- (x) These Terms and Conditions along with the Application and any addendum thereto shall constitute a one binding agreement (Merchant Agreement).
- (xi) These Terms and Conditions are made in both English and Arabic languages. In event of discrepancy, in interpretation between the Arabic and the English texts of these Terms and Conditions, the provisions of the Arabic text shall be deemed to be binding.

14.2 Nominated Card Scheme Obligations

You must provide us with a Compliance Action Plan (if required by any Nominated Card Scheme for the purposes of complying with the **Payment Card Industry Data Security Standards ("PCIDSS")**) within ninety (90) days of receiving a request from us to do so.

"PCI DSS" means the Payment Card Industry Data Security Standards and is a set of security standards that apply to all entities that store, process, and/or transmit cardholder data. It covers technical and operational system components included in or connected to cardholder data. If you are a merchant who accepts or processes payment cards, you must comply with the PCI DSS.

- (i) You must also comply with all Nominated Card Scheme Regulations as specified in the Agreement or otherwise notified to you from time to time, including any obligations regarding compliance with the PCIDSS. We will notify you of any such obligations and, to the extent practicable, will provide you with a reasonable period of time to comply with such obligations.
- (ii) We will notify you of any noncompliance alert received from a Nominated Card Scheme as a result of any breach of the Nominated Card Scheme Regulations ("Notice"). The Notice must:
 - (a) specify any actions or remediation works to be undertaken by you in order to rectify the breach set out in the alert from the Nominated Card Scheme;
 - (b) notify you of the deadline for rectifying the breach set out in the alert; and
 - (c) (provided the alert was received in written format) enclose either a copy of the alert or an extract of the alert (determined at our sole discretion) received from the Nominated Card Scheme.
- (iii) You must comply with the terms of any Notice by the deadline specified by us.
- (iv) If you:
 - (a) fail to comply with the terms of the Notice; or
 - (b) are otherwise in breach of Nominated Card Scheme Regulations;we may receive a breach notification (which may include a fine and/or penalty) from a Nominated Card Scheme ("Breach Notice"). You acknowledge that we may receive a Breach Notice without having received a non-compliance alert from the Nominated Card Scheme. If we receive a Breach Notice, we will:
 - (A) promptly notify you of the Breach Notice and (provided the notice was received in written format) provide a copy of the notice or an extract of the notice (determined at our sole discretion) to you;
 - (B) notify you of the deadline for paying the fine and/or penalty (such deadline not to exceed thirty (30) days from the date of our notice); and
 - (C) provide you with the opportunity to discuss the nature of the Breach Notice and any actions or remediation works which may be necessary to assist you avoid another Breach Notice in respect of the same matter in the future, providing however that any discussions between the parties does not waive or otherwise remove your obligation to pay the fine and/or penalty imposed by the Nominated Card Scheme.
- (v) You must pay the fine and/or penalty detailed in the Breach Notice to us within the timeframe specified by us and in a manner agreed between the parties.
- (vi) For the avoidance of doubt, you agree that you are liable for all fines and/or penalties imposed by the Nominated Card Schemes (whether imposed on us or you directly) as a result of your breach of the Nominated Card Scheme Regulations.
- (vii) In this clause 14.2, "you" means the person named as merchant in the Merchant Application ("Person") or, where appropriate, a service provider appointed by the Person to carry out any function which is in any way connected with the Merchant Facilities ("Service Provider"). It is the Person's obligation to notify a Service Provider of its obligations under this clause.

14.3 Privacy and Confidentiality

- (i) This clause 14.3 sets out when and how we may collect and share your information.
- (ii) If you are a company or other similar legal entity, you agree to obtain the consent of your directors and shareholders for us to use and disclose their personal information as provided in this clause 14.3.
- (iii) Information you provide to us will be kept strictly confidential and will be securely held by us and other companies within the CBD Group. If you are an individual, you have the right to access your personal information and request correction of any errors in that information. A fee may be payable for this.
- (iv) You agree to keep in strict confidence and not to disclose to any person any information in relation to the Merchant Agreement, the Cards, the DSS (as described in 47.1.f below) or any Payment Transaction except as directed by us and to use such information solely for the purpose of initiating legitimate Payment Transactions.
- (v) Both parties shall keep in strict confidence all technical and business information including but not limited to that which may be disclosed or confided to it by the other party or which it may obtain from the other party during the course of performance of the Merchant Agreement, and shall not disclose the same to any third party unless if so required by a court order, government or competent authority. Provided, however, we shall disclose any of such information as it may be required by any of the Nominated Card Schemes.

14.4 Collection of information

- (i) We may collect and use your information to provide information about a product or service; to consider your request for a product or service; to meet our obligations under the Agreement; to administer, manage and monitor any contracts and banking facilities you have with us or other companies in the CBD Group or manage our relationship with you; to provide you with a product or service; to tell you about other products or services; to assist in arrangements with other organizations (such as loyalty partners) in relation to the promotion and provision of a product or service; to perform administrative and operational tasks (including, for CBD Group: risk management, debt collection, systems development and testing, credit scoring, staff training, and market or customer satisfaction research); to prevent or investigate any fraud or crime (or a suspected fraud or crime); and as required by relevant Laws, and external payment systems or nominated card schemes or financial regulatory authority.
- (ii) We may obtain information and make enquiries about you as we consider warranted from any source, including credit reference agencies and other companies within the CBD Group. We may contact the source of any information that you provide to us in order to check the accuracy of the information and you authorize any person we approach to provide the above information to us.

14.5 Absence of relevant information

- (i) If you do not provide some or all of the information requested, we may be unable to provide you with Merchant Facilities.

14.6 Providing your information to others

- (i) We may provide your information to: another member of the CBD Group; any outsourced service provider to CBD Group (for example mailing houses or debt collection agencies); an alliance partner or other third party with whom we have a relationship for the purpose of promoting or using that alliance partner's or third party's products or services (and any of the alliance partner's or third party's outsourced service providers); credit reporting agencies; government agencies; other parties CBD Group is authorized or required by Law to disclose information to; participants in the payments system (including Nominated Card Schemes, payment organizations and merchants (including providing details of excessive Chargebacks or Invalid Transactions)) and other financial institutions (such as Card Issuers); insurers and reinsurers; any person who introduces you to us; your referee(s); sureties or assignees or potential sureties or assignees; and your representative (for example your lawyer, administrator, attorney or executor). You agree we may not be able to tell you that a request has been received for information and that information has been provided.
- (ii) You agree that we may disclose information about you to credit reference agencies or debt collection agencies, including details of any defaults in payments or repayments of your financial facilities. Those agencies may retain that information and provide it to their customers who use their credit reporting services.
- (iii) You agree that the CBD Group may disclose any information concerning you to any law enforcement, regulatory agency or court where required by any law or regulation in The United Arab Emirates or elsewhere. If the CBD Group receives a request from certain agencies to release your information, we may not be able to tell you that the request has been received and/or that information has been provided. The CBD Group may also disclose information to the police, certain government agencies or other financial institutions where we reasonably believe that the disclosure will assist in the investigation, detection and/or prevention of fraud or other criminal offences.
- (iv) Where you do not want CBD Group or our alliance partners or third parties with whom we have a relationship with to tell you about their products or services, you may withdraw your consent.

15. AUDIT

If there is a dispute involving a Transaction or we suspect that fraud is involved, you authorize us, or our agent, to enter your Premises during normal business hours to examine and take copies of your book of accounts and records.

You authorize us to audit your website URL that you conduct for your e-commerce or internet business.

You authorize our representatives to carry out physical inspections of the place(s) of your business and any of your warehousing facilities.

16. FEES, CHARGES, OTHER PAYMENTS

- (i) You must pay to us the fees, charges, fines and/or penalties described in the Agreement (both actual and contingent) and the Merchant Application by direct debit from your Nominated Charges Bank Account at the times and in the manner set out in the Agreement and the Merchant Application (as the case may be), as varied under clause 16 (iv) from time to time.
- (ii) You authorize us to debit, or instruct your Bank to debit, the Nominated Bank Accounts or debit from any settlement amounts payable by us to you without notice for:
 - (a) all fees, charges and costs owing to us by you under the Agreement;
 - (b) the value of any over credits paid by us to you due to errors and omissions;
 - (c) all credits paid by us in respect of Transactions which are Invalid Transactions;
 - (d) the full amount of any Refund Transaction less any amounts in respect of such Transaction already debited to the Nominated Bank Accounts;
 - (e) all Taxes incurred or payable by us in connection with the Agreement, the Merchant Facilities or any Transaction contemplated by the Agreement;
 - (f) all fines, penalties and other charges incurred by us as a result of any act or omission by you including a breach of the Agreement by you;
 - (g) any fees, charges or penalties imposed on us by any Nominated Card Scheme due to the nature of your business;
 - (h) all fines and/or penalties levied by a Nominated Card Scheme as a result of your breach of any Nominated Card Scheme Regulations specified in the Agreement or otherwise notified to you from time to time;
 - (i) interest on any amount that is not paid when it is due. The applicable interest rate will be set at our bank overdraft rate as at the first day of the month that the amount was due to be paid; and
 - (j) all other amounts owing to us by you under the Agreement.

If we debit the Nominated Bank Accounts, we will give you written notice that we have done this.

- (iii) You must pay on demand by us any amount referred to in clause 16 (ii) which remains unpaid by you because there are insufficient funds in the Nominated Bank Accounts to satisfy the payment of that amount in full.
- (iv) We reserve the right to vary the fees and charges in accordance with clause 30.

17. MERCHANT WEBSITES

If you are specifically authorized by us in accordance with clause 3 (ii) to accept a Nominated Card as payment for goods or services ordered via the Internet:

- (i) in addition to any information set out in the Merchant Operating Guide and the Mail, Telephone and Internet Order Transactions provisions of the Additional Services Schedules or as otherwise notified by us from time to time, your website must contain all of the following information:
 - (a) a complete description of the goods or services offered;
 - (b) a returned merchandise and refund policy;
 - (c) a customer service contact, including electronic address and/or telephone number and the physical address of your Premises;
 - (d) any export or legal restrictions (if known);
 - (e) a delivery policy (including the delivery cost, if any);
 - (f) a privacy policy (including your policy on dealing with Cardholder information);
 - (g) security capabilities and your policy for transmission of Cardholder's details;
 - (h) the "Visa" logo, in full color, to indicate Visa card acceptance; and
 - (i) the "MasterCard" logo, in full color, to indicate MasterCard acceptance;
 - (j) Logo of all nominated payments must be displayed according to the payment scheme regulations.

- (ii) except with our prior written consent, the transaction currency on your website must be in United Arab Emirates Dirham only;
- (iii) your country of domicile must be the United Arab Emirates;
- (iv) you must complete a Secure Internet Site Declaration to our satisfaction;
- (v) you must, at your cost, arrange for your website to be prepared and maintained in accordance with our reasonable requirements, including those requirements applicable to Internet security standards or as set out by a Nominated Card Scheme or otherwise notified by us in writing from time to time; and
- (vi) you must, at your cost, immediately rectify any security or processing faults or issues with your website as identified by either:
 - (a) you; or
 - (b) us and notified to you.

18. MERCHANT OPERATING GUIDE

We will provide you with a copy of the Merchant Operating Guide at our cost. The Merchant Operating Guide includes procedures and other information you require for the day-to-day operation of the Merchant Facilities, including requirements set down under Nominated Card Scheme Regulations.

19. CREDIT CARD SURCHARGE FEE

- (i) Under the Nominated Card Scheme Regulations in United Arab Emirates or upon written confirmation from us , you are permitted to charge Cardholders a Surcharge Fee when these cards are used in a Transaction.
- (ii) When applying a Surcharge Fee you must:
 - (a) ensure the Surcharge Fee is clearly disclosed to the Cardholder prior to the completion of the transaction and give the Cardholder the opportunity to cancel once the Surcharge Fee has been disclosed;
 - (b) ensure the Surcharge Fee is processed as part of the total amount of the transaction and not collected separately;
 - (c) ensure the Surcharge Fee bears a reasonable relationship to your cost of accepting Nominated Card for payment;
 - (d) ensure the Surcharge Fee is not described as, or inform the Cardholder that it is, a charge imposed by Nominated Card , us or a financial institution;
 - (e) prominently display notices or signs disclosing that a Surcharge Fee is charged. Such notices or signs must be in conspicuous location(s) at the physical point of sale. In the absence of a physical point of sale, such notices or signs must be displayed prominently during an Internet order Transaction or communicated clearly in a telephone order, in each case prior to the transaction being processed.
- (iii) If a surcharge is levied on a Cardholder in circumstances other than those set out in this clause 21, you will be liable for the cost of compensating any Card Issuer which successfully effects a Chargeback against us for the amount of any surcharge levied to a Cardholder by you.

20. SUPPLY OF CARD IMPRINTERS AND TRANSACTION VOUCHERS

We may supply you with, and may charge you for the supply of, a Card Imprinter, Transaction Vouchers and other stationery requirements to process transactions manually if electronic processing is not available for any reason including but not limited to a technical malfunction at the Switch or failure of the telecommunication links. Title to all Card Imprinters, Transaction Vouchers and other stationery supplied to you remains with us.

21. INDEMNITY CLAUSES

- (i) You indemnify us and agree to keep us indemnified against all claims, damages, actions, proceedings, expenses (including legal costs) losses and liabilities (including all fines, penalties and other charges) whether in contract, under statute, in tort (including negligence) ("Liabilities") suffered or incurred at any time by us arising out of or as a consequence of the Agreement, except that you are not obliged to indemnify us against any Liabilities to the extent such Liabilities are solely the result of our fraud, willful default or negligence.
- (ii) Without prejudice to clause 21 (i), you indemnify us and the Card Issuing Organizations (the "Indemnified Parties") and agree to keep the Indemnified Parties indemnified against all Liabilities which an Indemnified Party suffers or incurs arising directly or indirectly from:
 - (a) your negligence or fraud or the negligence or fraud of an employee, contractor or agent of yours;
 - (b) your failure, or the failure of an employee, contractor or agent of yours, to observe any of your obligations under the Agreement;
 - (c) any dispute arising between you and the Cardholder in respect of the supply, use, quality or fitness for purpose of goods or services or the provision of cash;
 - (d) any dispute between us or the Card Issuing Organizations, as the case may be, and any Cardholder where the Cardholder or us or the Card Issuing Organizations, as the case may be, dispute liability for any reason;
 - (f) any representation, warranty or statement made by you or your employees, contractors or agents to the Cardholder; or
 - (g) any misrepresentation, breach of contract and/or failure of consideration relating to any contract for the supply of goods or services by you to a Cardholder, except that you are not obliged to indemnify an Indemnified Party against any Liabilities to the extent such Liabilities are solely the result of the fraud, willful default or negligence of that Indemnified Party.
- (iii) Without prejudice to clause 21 (i), if you breach the Agreement including, for the avoidance of doubt, any provision of any Additional Services Schedule or the Merchant Operating Guide or any material provision of any Nominated Card Schemes Regulations applying generally across all merchants and notified by us in writing then, in addition to any remedy we may have elsewhere in the Agreement, you agree to indemnify and keep indemnified the Indemnified Parties against all Liabilities suffered or incurred by an Indemnified Party under any such Nominated Card Scheme Regulations as a result of your breach.
- (iv) You authorize us to withdraw from your Nominated Bank Accounts or any other account you have with us the amount determined by us to be the amount payable under this indemnity.

22. CBD LIABILITY

- (i) To the extent permitted by Law, we will not be responsible for any Liabilities (whether direct, indirect, consequential or otherwise) ("Merchant Liabilities") suffered or incurred by you under or in connection with the Agreement including, but not limited to, Merchant Liabilities suffered or incurred because the Card Payment System, or any telephone line or other communications device or service is malfunctioning or not operating and Merchant Liabilities resulting from our failure to credit the Nominated Settlement Bank Account due to technical or administrative difficulties relating to the banking system or Card Payment System used for the transfer of funds to the Nominated Settlement Bank Account. To remove any doubt and without limiting the generality of this provision, our services and Merchant Facilities are dependent on messaging, communications, processing and other systems which are subject to interruption or breakdown for a variety of reasons. We will take all commercially reasonable steps to reduce the duration should such interruption or breakdown occur but will not otherwise have any liability for any failure, delay or other matter resulting from it.
- (ii) If, despite the other provisions of the Agreement, we are found to be liable to you under or in connection with the Agreement then, without limiting your obligation to indemnify us as set out in clause 21, our total liability to you in connection with each event or series of events giving rise to liability is limited to an amount equal to two (2) months' Merchant Service Fees at the rate prevailing at the time the liability arose.

23. THIRD PARTY BUREAU SERVICES

We are not responsible for the acts or omissions of any third party which provides services, including processing services, to you in connection with or as part of the Merchant Facilities. For the avoidance of doubt, we are not liable for any losses, claims, damages, costs, terms or expenses suffered by you (including consequential loss) arising from or in connection with any act or failure to act by such third party in connection with a Transaction.

24. APPOINTMENT OF AGENT, SUBCONTRACTOR OR OTHER PARTY

- (i) You must not appoint any agent or subcontractor or a person in any other capacity (an "Appointee") to carry out the performance of any of your obligations under the Agreement without our specific written agreement.
- (ii) If we agree to the appointment of an Appointee you will be responsible for any act or omission of that Appointee as if you had performed such act or omission.

25. PROMOTIONAL MATERIAL

- (i) We may supply you with Nominated Card signs, decals and other promotional material we have authorized.
- (ii) You must prominently display in your Premises each Nominated Card decal and other promotional material supplied by us or our authorized representative.
- (iii) Where you are authorized in writing by us to accept Internet orders, you must display logos, signs or other promotional material supplied by us or our authorized representative on your website wherever payment options are presented to the Cardholder.
- (iv) You must not use any promotional material in relation to us or any Nominated Card Scheme except as authorized by us. You must not use the name, logo, any trademarks, brand names, business names or copyright belonging to us or any Nominated Card Scheme without our prior written approval.
- (v) You must only advertise goods and services which can be purchased with a Nominated Card in United Arab Emirates currency or any other currency authorized in writing by us.

26. REPRESENTATIONS AND WARRANTIES

- (i) When you supply Transaction details to us, whether the Transaction is processed electronically or manually, you represent and warrant to us that:
 - (a) all Transaction details are true and correct;
 - (b) you have complied with the requirements of the Agreement applicable to processing of Transactions;
 - (c) you are not aware of any fact which would cause the Transaction to be an Invalid Transaction;
 - (d) you have complied with all applicable Laws in carrying out your obligations in connection with the Transaction under the Agreement; and
 - (e) the information you have provided us in the Application remains true and correct and not misleading in any material respect.
- (ii) You represent and warrant to us that you have power to enter into and perform your obligations under the Agreement and that the Agreement is valid, binding and enforceable upon you.
- (iii) You represent and warrant to us that the information you have provided us in the Application is true and correct and not misleading in any material respect.
- (iv) You acknowledge that the issue of a Nominated Card to a Cardholder is not a representation or warranty by us or the Card Issuer as to the Cardholder's credit worthiness or identity.
- (v) Unless you have disclosed to us that you are acting in a trustee capacity or on behalf of another party, you warrant that you are acting on your own behalf in entering into the Agreement.

27. SUSPENSION OF MERCHANT FACILITY OR FREEZING OF NOMINATED BANK ACCOUNTS

- (i) We reserve the right to suspend the Merchant Facilities or freeze (and/or instruct your Bank to freeze) the Nominated Bank Accounts and refuse to allow withdrawals of funds from the Nominated Bank Accounts, or both suspend the Merchant Facilities and freeze the Nominated Bank Accounts, under the following circumstances:
 - (a) You authorize us to pay on your behalf all the required amounts as a temporary overdraft, if the balance in your bank account is not sufficient to meet your obligations arising out of chargeback claims, fees, expenses, adjustments or other charges that may be imposed on us by Nominated Card Scheme or competent authority in correction to Payment Transaction made by you, such amount shall be subject to a default interest rate as per the Bank's prevailing default rate then, from the date of using such temporary overdraft until the full and final payment by you.
 - (w) you must provide the Bank with a security cheque
 - (b) immediately on notice to you if any of the events listed in clause 28.2 occurs. When exercising this right we are not required to notify you of the date on which the suspension or freezing of your Nominated Bank Account, or both, as the case may be, will end.
- (ii) When we suspend the Merchant Facilities or freeze the Nominated Bank Accounts, or both, as the case may be:
 - (a) you must not accept any Nominated Cards as payment for goods or services; and we are not obliged to accept any Transactions processed by you after notification of suspension (b)
- (iii) We may during the period of suspension or freezing of the Nominated Bank Accounts, or both, as the case may be, terminate the Merchant Facilities under clause 25.
- (iv) We may also suspend the availability of various types of Nominated Cards for such period or periods as we may consider appropriate if:
 - (a) we reasonably consider that the principles of prudent banking require such action; or
 - (b) a financial institution has suspended the use of those types of its Nominated Cards.We will use all reasonable endeavors to give you notice of suspension of Nominated Card types, after we have received notification. For the purposes of this clause, notice to you can include publishing a general notice in major daily newspapers.

For the avoidance of doubt, we are not required to notify you of the suspension of individual Nominated Cards.

28. TERMINATION

28.1 How can the Agreement be terminated?

- (i) You may only terminate the Agreement or cancel any Additional Service:
 - (a) in accordance with clause 1; or
 - (b) at the end of the Initial Term or each Subsequent Term by giving us at least thirty 30 days prior written notice of termination before the end of that Initial Term or Subsequent Term; or
 - (c) if you cease to carry on the whole of your business or sell the business as a going concern to an unrelated buyer, in which case you must provide us with at least six (6) months prior written notice of termination under this sub clause.
- (ii) If you terminate the Agreement, or cancel any Additional Service, before the end of the Initial Term or any Subsequent Term or cease to carry on the whole of your business, or sell the business as a going concern to an unrelated buyer without the required six (6) months notice, you authorize us, or where the Nominated Charges Bank Account is not with us you authorize us to authorize your Bank, to debit your Nominated Bank Accounts and credit us with fees as set out in clause 28.3. For the purposes of this clause, if you give notice to terminate the Agreement or cancel any Additional Service pursuant to clause 30.1 (i), but you continue to accept any services pursuant to this Agreement after the expiry of such notice such notice shall be invalid and of no effect from the date of expiry of such notice and the Agreement shall continue in accordance with its terms and conditions as if such notice was not served.
- (iii) We may terminate the Agreement, or cancel any Additional Service:
 - (a) at any time by giving you at least twenty-one (30) days' written notice; (b) immediately if any of the events listed in clause 28.2 occurs;
 - (c) immediately if we reasonably determine that the continued provision of the Merchant Facilities may damage our reputation or may result in us or you suffering loss;
 - (d) immediately if we are unable to continue to provide the Merchant Facilities for any reason.

- (iv) If the Agreement is terminated, for whatever reason, you agree to:
 - (a) securely destroy any Card Imprinter, Transaction Vouchers and related documents; and
 - (b) securely destroy all information, including without limitation, stationery and promotional material, including the decal insignia, decals, provided by us which you have in your possession other than that concerning your settlement records; and
 - (c) cancel any automatic payments in our favor.

28.2 What is a termination event?

- (i) We may terminate the Agreement immediately if:
 - (a) any amount payable by you to us is overdue, or in our opinion you are unlikely to be able to meet your payment or other obligations to us; or
 - (b) you are in breach of any provision of the Agreement and where such breach is capable of remedy, such breach is not remedied within fourteen (14) days following written notice from us requesting the same to be remedied; or
 - (c) you are in breach of any material provision of any Nominated Card Schemes Regulations applying generally across all merchants and notified by us in writing whether or not such breach is capable of remedy; or
 - (d) you become Insolvent; or
 - (e) you cease to carry on the whole or any substantial part of your business, you transfer or agree to transfer the ownership or effective control of your business, or the nature of your business is materially altered; or
 - (f) you act fraudulently or illegally in relation to the Agreement or you process any Transaction that you knew or ought to have known was fraudulent; or
 - (g) you have been identified in the Nominated Card Fraud databases or any banking databases as having previously acted fraudulently; or
 - (h) we Chargeback a transaction and the Chargeback is dishonored or otherwise refused for any reason; or
 - (i) you have, in our reasonable opinion, an excessive Chargeback to Transaction Ratio, or excessive Fraud to Transaction Ratio or you are involved in an unacceptably high number of Refund requests; or
 - (j) you default under any lease or license relating to the Premises (if applicable); or
 - (k) we determine that you are using the Merchant Facilities for purposes outside of those declared on the Application (including but not limited to illegal or fraudulent transactions, high-risk transactions or activities that may be brand-damaging for any Card Issuing Organization or us) and/or information you provide us is or becomes incorrect, false or misleading whether, in each case, the information was provided fraudulently or in error; or
 - (l) your details and other information disclosed in the Application materially changes, including, but not limited to, a change to the nature and type of business conducted by you; or
 - (m) the Cardholder has not received any goods or services purchased (including, where you act as an agent for the provider of the goods or services, if the principal has not supplied the goods or services) and you have not provided us with proof of the receipt of, and satisfaction with, the goods or services by the Cardholder within five (5) Business Days of our request to do so; or
 - (n) you fail to provide us with copies or do not allow us or an agent appointed by us to inspect or examine your accounting books or financial statements or any other records relating to any Transactions within five (5) Business Days of our request to do so.

28.3 What are the consequences of termination?

- (i) If we terminate the Agreement for any of the reasons set out in clause 28.2 or you terminate the Agreement in breach of clause 28.1 (i) we may charge you:
 - (a) four (4) times the Average Monthly Merchant Service Fee if you terminate during year one (1) of the Initial Term; or
 - (b) three (3) times the Average Monthly Merchant Service Fee if you terminate during year two (2) of the Initial Term; or
 - (c) two (2) times the Average Monthly Merchant Service Fee if you terminate during year three (3) of the Initial Term or during any Subsequent Term; and the balance of any fixed fees or charges described in the Letter of Offer and Acceptance that would have been payable up to the end of the current Term.
- (ii) If you terminate the Agreement due to sale or ceasing to carry on business, without giving the required six (6) months' notice, we may charge you:
 - (a) two (2) times the Average Monthly Merchant Service Fee; and
 - (b) the balance of any fixed fees or charges described in the Merchant Application that would have been payable up to the end of the current Term (to a maximum of six (6) months charges).
- (iii) Upon termination of the Agreement for any reason, you will no longer be able to process Transactions.
- (iv) If the Agreement is terminated for fraudulent or improper use of the Merchant Facilities, or for non-compliance with Nominated Card Scheme Regulations or the Agreement or law or UAE Central Bank, we may list your details in the Nominated Card Scheme Fraud databases or any banking databases.
- (v) Termination of the Agreement or any part of it does not affect any rights or obligations of you or us that arose prior to termination. In particular, any obligation you have under the Agreement to indemnify us or to pay us any amounts (including costs), is a continuing and independent obligation and survives even if the Agreement is terminated. All Transactions made prior to termination are subject to the terms of the Agreement.
- (vi) You authorize us to:
 - (a) disclose to any person or agencies the fact that all or part of the Agreement has been terminated;
 - (b) disclose information concerning the termination and reasons for termination of all or part of the Agreement to any credit provider, credit reference agency or Nominated Card Scheme; and
 - (c) give a banker's opinion to other financial institutions with whom you may make application for other Merchant Facilities.

You acknowledge that the disclosure of this information may affect your ability to successfully apply for Merchant Facilities in the future.
- (vii) The obligations contained in clauses 12, 13, 14, 16, 18, 19, 21, 22, 27, 28, 29 and 44 survive termination of the Agreement, together with any other obligations intended to survive termination of the Agreement.
- (viii) If we receive a Transaction Voucher after termination of the Agreement, we reserve the right, at our option, to return the Transaction Voucher to you or to retain the Transaction Voucher. If we decide to retain the Transaction Voucher, you are not entitled to any payment for the Transaction in respect of the Transaction Voucher until such time as we have received payment and no chargeback claim can be made by the issuer of the Nominated Card in connection with the Transaction Voucher.

29. SET-OFF

- (i) We may at any time without notice to you set off any Liability owed by us to you on any account against any Liability owed by you to us under or in connection with the Agreement. For the purposes of this clause, "Liability" means any debt or monetary liability or any other claim which is capable of being reduced to or expressed as a monetary liability, irrespective of whether the debt or monetary liability is future or present, actual or contingent.

30. VARIATION

- (i) We may vary all or any of the provisions of the Agreement including by introducing a new fee or charge under the Agreement, or by increasing an existing fee or charge, or the rate used to determine an existing fee or charge, at any time by giving you at least fourteen (14) days' notice in writing.
- (ii) We may change the Merchant Service Fee, including any rate used to determine the Merchant Service Fee, without notice to you to the extent the Merchant Service Fee was calculated on the basis of incorrect information provided by you or if the current Nominated Card Scheme interchange rates or fees are changed.
- (iii) You acknowledge that where we agree to an increase in your Refund limit, Authorized Floor Limit or tipping limit in respect of the Merchant Facilities, additional or increased incidence of liabilities or losses may arise as a result, including from erroneous or fraudulent Transactions.

31. NOTICE

- (i) You acknowledge that we may deliver notices to you in any of the ways listed in clause 31 (ii) and consent to notices being delivered in any of these ways. A notice sent to your Representative or any other person nominated by you will be deemed to be a notice sent to you.
- (ii) A notice must be in writing, in English and is taken to be received:
 - (a) if delivered personally, at the time of delivery;
 - (b) if sent by pre-paid post, on the third day after the posting;
 - (c) if sent by facsimile transmission, on the date the transmitting machine records transmission of the complete document; or
 - (d) when the party sending the notice is us, if sent by email, at the time when the email enters your information system;
- (iii) The address, facsimile number or email address to be used for notices to you is the address set out in the Merchant Application or the last address, facsimile number or email address advised by you and stored by us. You must inform us immediately of any change of your address, facsimile number or email address.
- (iv) Any notices under the Agreement from you to us must be delivered to:
Commercial Bank of Dubai PSC
PO Box 2668
Dubai – United Arab Emirates

32. RELATIONSHIP OF THE PARTIES

Nothing in the Agreement creates a relationship of joint venture, partnership or principal and agent between us and you. You must not act as if, or represent or attempt to represent to any person that, any such relationship exists.

33. OTHER ARRANGEMENTS

Nothing in the Agreement affects any existing arrangements we may have, nor does it restrict us from entering into any future arrangements with third parties to provide the Merchant Facilities in a similar capacity.

34. ASSIGNMENT

The Agreement is binding on the parties, their executors, administrators, successors and permitted assigns. You must not assign or transfer any of your rights or obligations under the Agreement unless we consent in writing. We may transfer any of our rights or obligations under the Agreement on giving fourteen (14) days prior notice to you. To remove any doubt we may at any time arrange for a third party to provide any of the services we are obliged to provide to you under the Agreement and/or exercise our rights under the Agreement.

35. SEVERABILITY

If any provision or part of the Agreement is held to be invalid, illegal, uncertain or unenforceable, the validity, legality, certainty and enforceability of the remaining provisions will not be in any way affected or impaired.

36. WAIVER

The rights we have under the Agreement cannot be waived except by us giving you written notice waiving the particular rights. In particular, we do not waive any right that we have in connection with the Agreement merely because we do not exercise it or do not exercise it as soon as we can. If we exercise a right once or partially, it does not mean we cannot exercise that right again or other rights.

37. MERCHANT'S CONTINUOUS OBLIGATIONS

- (i) You must immediately notify us in writing:
 - (a) if circumstances arise which may have a material adverse effect on your business, assets or financial condition or your ability to perform your obligations under the Agreement. It is advisable that you inform us promptly when you are in financial difficulty; or
 - (b) if you sell, lease or transfer your business or any of the Premises;
 - (c) if you change the address where you carry on business or otherwise change the contact details (e.g. telephone number, facsimile number or email address) or start carrying on business at any other place;
 - (d) if you change the nature, scope or type of your business including the goods or services sold;
 - (e) to inform us of any changes to your banking arrangements to allow us to update your direct debit authorities; and/or
 - (f) if you intend to begin offering mail (including fax and email), telephone or Internet orders.
- (ii) You must provide copies of your latest financial statements and any other financial information (including bank statements) reasonably requested by us within thirty (30) days of our request.
- (iii) When requested by us, you must promptly complete and submit all forms and documents supplied or requested by us within thirty (30) days of our request.

38. SECURITY

- (i) At any time (including where you carry out Delayed Supply Transactions, but not limiting any Transaction type), we may request that you provide us with:
 - (a) a completed Merchant Prepayment Exposure Declaration; and/or
 - (b) Security of a type, and to secure an amount, specified by us, and you will provide us with such completed declaration and/or Security (as applicable).
- (ii) If we specify a time by which the Security must be provided, you must provide the Security to us by that time.
- (iii) Without limiting clauses 13 (Nominated Bank Accounts), 29 (Set-off) or 38 (i) above, if we believe there is a likelihood of any of the events in clause 28.2 occurring, or such events do occur, we may by notice in writing to you, in our absolute discretion, retain portions of your settlement proceeds in a separate suspense account. You acknowledge you have no ownership of these funds until they are transferred to your Nominated Bank Accounts and that no interest is payable on the funds while they are held in the suspense account.
We may retain the Security until we are satisfied that:
 - (a) the risk of any of the events in clause 28.2 occurring, or ceasing to occur, no longer exists; and/or
 - (b) no Transactions will be charged back by Cardholders.

39. OTHER

- (i) The Agreement is governed by the laws of the United Arab Emirates
- (ii) The Agreement may be varied by us and you without the approval of the Card Issuing Organizations.
- (iii) All warranties, descriptions, representations or conditions, whether implied by statute or by law, trade, custom or otherwise, are excluded to the extent permitted by law.
- (iv) The rights, powers and remedies provided in this Agreement are in addition to, and not exclusive of, any rights, powers or remedies provided by law.
- (v) You shall procure that all of your employees, agents, contractors and representatives comply with all of the terms and conditions in the Agreement, and for the purposes of clause 14.3, if you are a company, you shall also procure that your directors and shareholders, comply with that clause.

40. DISPUTE RESOLUTION PROCEDURES

- (i) Where you have a complaint in relation to the provision of the Merchant Facilities, you should speak with us in the first instance. If the complaint cannot be resolved promptly, one of our supervisors will take responsibility for resolution of the complaint. We aim to resolve any complaint within ten (10) Business Days. If this is not possible, we will keep you informed on the progress of the matter and how long we expect it will take to resolve the complaint.
- (ii) In the event a dispute arises in relation to the Agreement, we both agree to use our best endeavors to resolve the dispute through good faith negotiations.
- (iii) We both agree that:
 - (a) in the first instance one party shall give notice of, and attempt to resolve, any dispute with the other party;
 - (b) we shall both continue to perform our respective obligations under the Agreement as far as possible as if no dispute had arisen and pending the final settlement of any dispute.
- (iv) Nothing in this clause prevents us from taking immediate steps to seek any order before a court in the United Arab Emirates

41. CARDHOLDER DISPUTES

- (i) You acknowledge that any dispute between you and a Cardholder arising directly or indirectly out of the Agreement or the Card Payment System is entirely between you and the Cardholder and you shall not involve us in any such dispute although we may become involved if we consider it is in our best interests to do so.
- (ii) If you are unable to resolve the dispute with a Cardholder, you should refer the Cardholder to their Card Issuer.

42. ADDITIONAL SERVICES

- (i) We may offer Additional Services to you in connection with any of the Merchant Facilities offered under the Agreement. If you choose to use any Additional Services offered, we will notify you of the Merchant Service Fee(s) and/or other fees and charges at or as soon as practicable after, the time the Additional Service is provided.
- (ii) We may add new Additional Services from time to time and will set out the terms and conditions of these services in a new schedule in the Additional Services Schedules. If we offer that new service to you and provide you with a copy of the new schedule, and you choose to accept that service, then you agree to comply with the provisions of that new schedule.

43. CONFIDENTIALITY

Both parties agree not to:

- (a) disclose to any person any Confidential Information relating to the other party unless required to do so by law;
- (b) use any Confidential Information of the other party for its own purposes.

44. ANTI MONEY LAUNDERING AND SANCTIONS

- (i) You agree that we may, in our sole and absolute discretion:
- (a) delay, block or refuse to process any Transaction;
 - (b) delay, block or refuse to settle any Transaction; or
 - (c) refuse to perform any one or more of our obligations under the Agreement; without incurring any liability, if we suspect, for any reason, that:
 - (d) an action we are required or requested to take under the Agreement;
 - (e) our involvement in any Transaction that is any way connected with the Agreement; or
 - (f) our performance of any service for any person in connection with the Agreement; might in any way cause us:
 - (g) to breach any Law, regulation or other legal prohibition of any place or jurisdiction (including a foreign place or jurisdiction);
 - (h) to deal in any way with any person (natural, corporate or governmental) that is sanctioned, or is connected in any way to any person that is sanctioned, under economic and trade sanctions imposed by the United Nations, the European Union or any country;
 - (i) to breach any sanction of any kind imposed by any country (including any sanction that supports a decision or resolution of the United Nations Security Council);
 - (j) to deal in any way with any person (natural, corporate or governmental) that has been listed or named by any government, or independent authority (such as the United Nations or the European Union), as a person who is in any way suspected of being involved (or potentially involved) in terrorism or in any activities connected with terrorism; or
 - (k) to be involved (whether directly or indirectly) in any Transaction which involves the proceeds of unlawful conduct or which involves proceeds which might be applied for the purposes of unlawful conduct in the United Arab Emirates or any other country.

For the purposes of this clause, the circumstances listed in paragraphs (g) to (k) above are collectively described as “unlawful acts”.

- (ii) You must provide all information to us which we reasonably require in order:
- (a) to manage anti-money laundering, counter-terrorism financing and economic and trade sanctions risk;
 - (b) to comply with any Laws, regulations, or other prohibitions that may be applicable to us with respect to any Transaction, requested action or obligation applicable to us; and/or
 - (c) to avoid involvement in any unlawful act.
- (iii) You warrant and undertake to us that you will not request us to take any action, or to perform any obligation, in connection with the Agreement that might cause us to be involved in any unlawful act on our part. Should you become aware that we might become involved in an unlawful act in connection with the Agreement, you must immediately tell us of the fact or circumstance that might cause us to be at risk or have involvement in an unlawful act. Should you become aware that we have become involved in an unlawful act, as a result of our performance of any action or obligation in connection with the Agreement, you must immediately tell us of the facts or circumstances that have caused this to occur.
- (iv) You agree that we may disclose any information concerning you or any Transaction to any Law enforcement agency or court or any relevant authority where required to do so under any Law or regulation (including a Law or regulation of a foreign place or jurisdiction) or where we have a reasonable belief that the Transaction may contravene that Law or regulation, and we will not incur any liability to you as a result of that action.

45. MEANINGS OF WORDS AND EXPRESSIONS

In the Agreement:

“Additional Services” means any of the following services or any new service offered by us under the Agreement:

“Additional Services Schedules” means the schedule(s) listed in the Merchant Application and provided by us to you, which contain the specific terms and conditions and operating instructions relating to the Additional Services, as amended from time to time by us.

“Agreement” means the agreement constituted by your acceptance of our offer on the terms and conditions set out in the Merchant Application and comprising the documents referred to in clause 1, as varied from time to time.

“Application” means the application form (or other mode of application permitted by us from time to time) completed, and submitted to us, by you for the Merchant Facilities and, for the avoidance of doubt, includes all supporting documentation provided to us in connection with your application and the Secure Internet Site Declaration and Merchant Prepayment Exposure Declaration (if applicable).

“Appointee” has the meaning given to that term in clause 26.

“Authorisation” means the electronic process by which a payment transaction is transmitted for approval, referral or decline by CBD , Card Issuer or any card scheme.

“Authorisation Centre” or **“Credit Card Authorisation Centre”** means the authorisation center approved by us for the purposes of the Agreement and the details of which are notified to you by us. **“Authorized Floor Limit”** means the value of a sale or payment which you are authorized to make to a Cardholder in any one Transaction without having to get the Transaction authorized by us.

“Average Monthly Merchant Service Fee” means the average of the Merchant Service Fees charged to your account each month over the twelve (12) month period immediately preceding the date of such calculation, provided that if you have not been a merchant for twelve (12) months, then the Average Monthly Merchant Service Fee shall be calculated over the shorter period, as may be determined by us or if a Merchant Service Fee is yet to be paid under this agreement, the calculation will be based on anticipated volumes as defined on the Application where fixed Merchant Service Fees have been applied. **“Bank”** means your bank as notified in writing by you to us from time to time

“Bank account” means the bank account opened and held by the merchant as stated by the merchant in this application , or if changed from time to time subject to our approval and after providing all the required documents and authorizations .

“Business Day” means any day in the United Arab Emirates excluding a day of a weekend, a public holiday and any day on which trading banks are not open for retail business.

“Card” means a valid payment card issued by licensed issuer which bears any of the international recognized logos of the card schemes or any of such other cards as described in the Merchant Application.

“Cardholder” means a person issued with a Nominated Card or authorized to use a Nominated Card.

“Cardholder’s Nominated Account” means any account which at the Cardholder’s request, has been approved by a Card Issuer as an account through which a Transaction may be made.

“Card Imprinter” means any card imprinter to be used to process Transactions manually.

“Card Issuer” means a valid payment card issued by licensed issuer which bears any of the international recognized logs of the Nominated Card or any of such other cards as described in the merchant application.

“Card Issuing Organization” means the organizations authorized to issue Credit Cards or, Or Debit Cards or Prepaid Cards or Private Label Cards.

“Card Not Present Transaction” means a Transaction where the Cardholder and Card are not present at the Merchant’s premises, including mail, telephone and Internet order Transactions.

“Card Payment System” means the arrangements between us, other banks and Card Issuing Organizations for, amongst other things, the payment of debt and the extension of credit using cards. **“Card Present Transaction”** means a Transaction where the Cardholder and Nominated Card are present.

“CBD” means Commercial Bank of Dubai,

“CBD Group” means Commercial Bank of Dubai PSC and its affiliates,

“Chargeback” means a Transaction that we charge back to you in accordance with clause 12 or when we receive chargeback from a Card Issuer.

“Chargeback to Transaction Ratio” means the number of Chargebacks against you in comparison to the number of Credit Card or International Debit Card Transactions initiated by you.

“Compliance Requirements” means all applicable Laws and the requirements of all applicable Nominated Card Schemes and regulatory bodies and includes the Payment Card Industry Data Security Standard and any other requirements advised to you by us.

“Confidential Information” means all information about your business and us, the Card Payment System, and includes without limitation the Agreement, and any material supplied by us to you relating to the Card Payment System but does not include any information that:

- (a) at the time of disclosure is published or otherwise generally available to the public; or
- (b) became part of the public domain after its disclosure, otherwise than through a disclosure by you or us in breach of the Agreement.

“Contactless Card” means any card which can be used for Contactless Transactions.

“Contactless Reader” means a device approved by us that reads Contactless Cards using radio waves rather than reading the card magnetic strip, stripe or chip.

“Contactless Transaction” means transmitting card data using radio waves instead of a device physically reading the card magnetic strip, stripe or chip.

“Credit Card” means all:

- (a) Nominated Card Scheme cards where the card is accessing a credit account;

“Transaction” means a Transaction where payment is made by us or another Card Issuer of a Nominated Card (being a Credit Card) on behalf of the Cardholder under a credit card contract between us and the Cardholder or the Cardholder and the other Card Issuer (as the case may be) in discharge of the Cardholder's debt for goods or services supplied by you to the Cardholder.

“Credit Vouchers” means a voucher we supply that you can use to provide Refunds for Credit Card Transactions manually.

“CSC” means Card Security Code, being the 3-digit number positioned on the back of a Nominated Card. **“Debit Card”** means any card issued by a financial institution used by a Cardholder to access a cheque or savings account and includes the Nominated Card Scheme debit and pre-paid products where the transaction is treated as a domestic Electronic Transaction.

“Debit Transaction” means a Transaction where payment is made by debiting funds in a cheque or savings account which is authorized for access by the Cardholder's Nominated Card.

“Delayed Supply Transaction” means a Transaction whereby payment is made by the Cardholder before the goods or services are supplied.

“E-Payment Service” means a service enabling Cardholders to pay for goods or services purchased from Merchant by an E-Transaction in a Card Absent Environment using the Payment Gateway.

“E-Commerce” means a bona fide transaction between yourself and Cardholder in which a Nominated Card is used for payment of goods and services over the Internet or for refunds or other money adjustments pursuant to a transaction.

“E-Transaction” means a bona fide electronic transaction between yourself and Cardholder in which a Nominated Card is used for payment of goods and services over the Internet or for refunds or other money adjustments pursuant to a transaction.

“Fees and Charges” means all fees, costs, expenses, levies or taxes charged in connection with CBD services as agreed upon in the merchant application or otherwise stipulated in these Terms & conditions or advised by CBD in writing from time to time.

“Fraud to Transaction Ratio” means the number of fraudulent Transactions processed by you in comparison to the number of Credit Card (or International Debit Card Transactions) initiated by you. **“Indebtedness”** or **“Debt”** includes an obligation (whether present or future, actual or contingent, secured or unsecured, joint or several, as principal, surety or otherwise) relating to the payment of money.

“Initial Term” means the period beginning on the commencement date shown in the Merchant Application and ending on the last day of the Initial Term set out in the Merchant Application. **“Insolvent”** means:

- (a) you:
 - (i) become insolvent or are unable to pay your Indebtedness as Debts fall due;
 - (ii) stop or suspend, or threaten to stop or suspend, payment of any of your Debts, or begin negotiations or take any proceedings to reschedule any of your Debts; or
 - (iii) make or propose to make, an assignment, arrangement or composition with, or for the benefit of, your creditors in respect of or affecting any of your Indebtedness;
- (b) a receiver, receiver and manager (including statutory), administrator or similar official is appointed in respect of you or your business or any of your assets;
- (c) a distress, attachment, execution or other legal process is levied or enforced on or against any of your assets and is not discharged or stayed within fourteen (14) days;
- (d) an order is made, resolution passed or other step taken by any person for your dissolution, except for the purpose of and followed by a reconstruction or re-organization (not involving or arising out of insolvency) on terms approved by us before that step is taken; or
- (e) you cease or threaten to cease to carry on the whole or any substantial part of your business, or transfer, threaten to transfer or agree to transfer (whether by one or a series of transactions) the whole or any substantial part of your assets other than for reasonable consideration.

“Internet” means the public on-line computer network of that name or any successor of it.

“Internet Payment Gateway” means a gateway on the Internet that you can use to accept Credit Card Transactions safely and securely.

“Internet Order” means a bona fide transaction between yourselves and Cardholder in which any Nominated Card is used for payment of goods and services over the Internet or for refunds or other money adjustments pursuant to a transaction.

“International Debit Card” means a card issued outside of the United Arab Emirates where the card is accessing a cheque or saving account.

Internet Transactions means a bona fide electronic transaction between yourselves and Cardholder in which any Nominated Card is used for payment of goods and services over the Internet or for refunds or other money adjustments pursuant to a transaction.

“Invalid Transaction” means a Transaction that is invalid under clause 10.

“IVR Authorisation and Settlement Service” means the automated phone service you can call to obtain an authorisation for a Credit Card Transaction.

“Law” includes any law, statute, regulation, ordinance, proclamation, by-law or statutory instrument or order, including codes of conduct issued by regulatory bodies or any Nominated Card Scheme Regulations.

“Merchant Application” means the application in which we made the offer of Merchant Facilities to you setting out terms specific to you and enclosing the contract documents pertaining to the Agreement.

“Merchant Agreement” means the Merchant Application, these Terms and Conditions, the Merchant Operating Guide and each addendum made thereto.

“Mail, Telephone and Internet Order Transaction Voucher” means a voucher we supply to you for recording the details of mail, telephone and Internet order Transactions as set out in the Merchant Operating Guide.

“Merchant” means the person or retail outlet or company, as the legal entity named as Merchant in the Merchant Application and accepted these Terms and Conditions.

“Merchant Facilities” means the services and facilities we make available to you under the Agreement. **“Merchant Operating Guide”** means the Merchant Operating Guide which is provided by us to you, as varied from time to time by us and the guide available on each of the Nominated Card Schemes official website and which contain necessary instructions, rules and regulations in connection to each Nominated Card Scheme as may be amended from time to time at the sole discretion of each of the Nominated Card Scheme.

“Merchant Prepayment Exposure Declaration” means the form of that name provided by you to us (whether included in the Merchant Application or otherwise), as updated or revised by you and us from time to time.

“Merchant Service Fee” means the Merchant Service Fee set out in the Application as amended by us from time to time.

“Merchant Summary Voucher” means a voucher we supply to you for listing your Sales Vouchers and Credit Vouchers as set out in the Merchant Operating Guide.

“Merchant Transaction” means a transaction made by you to complete a payment transaction. **“Nominated Card”** or **“Card”** means each card which is a Debit Card or Credit Card or Prepaid Card or Private Label or all, a charge card or International Debit Card, and which in each case has been authorized by us for the purposes of the Agreement and notified to you in writing.

“Nominated Card Scheme” means any scheme established to manage and establish standards and procedures for the issuance and acceptance of Nominated Cards and the settlement of Transactions and includes any other payment industry body notified to you by us from time to time.

“Nominated Card Scheme Regulations” means any standards, procedures, rules, regulations, programs or requirements of, or issued by, a Nominated Card Scheme.

“Nominated Bank Accounts” means the Nominated Charges Bank Account and/or the Nominated Settlement Bank Account as the context permits.

“Nominated Charges Bank Account” means the bank account(s) to which charges payable by you under the Agreement may be debited.

“Nominated Settlement Bank Account” means the bank account you ask us to pay your settlements into.

“Off-line Payment Limit” means the maximum amount set by us that you are allowed to process a Transaction for using a Sales Voucher or Credit Voucher.

“Off-line Transaction” means a Transaction where electronic authorisation cannot be obtained and where we have therefore given you permission to authorize manually at your discretion, subject to the terms and condition of the Agreement

“Off-line Transaction Voucher” means a Transaction Voucher we supply to you for use for Off-line Transactions.

“On-line Transaction” means a Transaction where electronic authorisation has been obtained.

“Payment Transaction” means an authorized transaction made by the cardholder using the card to pay for goods or services supplied by you.

“PCI DSS” means Payment Card Industry Data Security Standard. It applies to all entities that store, process, and/or transmit cardholder data. It covers technical and operational system components included in or connected to cardholder data. If you are a merchant who accepts or processes payment cards, you must comply with the PCI DSS.

“PIN” means the Personal Identification Number selected by a Cardholder, which when used in conjunction with a Nominated Card, enables the Cardholder to make Electronic Transactions.

“Premises” means the various locations or location where you conduct business and are authorized by us to accept Nominated Cards.

“Private Label Card” means a card that are issued by a Bank or any other institution and not carrying the logo of the Nominate Card Scheme.

“Recurring Transaction” means Transactions that occur where you have an ongoing signed authority from the Cardholder to process Transactions against a Cardholder’s credit card, scheme debit or charge card account (as applicable).

“Representative” means each party’s representative with authority to represent it as notified to the other party from time to time.

“Refund” means, in respect of a sales Transaction, the reversal in accordance with the Merchant Operating Guide of that sales Transaction.

“Secure Socket Layer (SSL)” means a method of encrypting data as a form of security.

“Sales Voucher” means a voucher we supply that you can use to process a Card Transaction when Electronic Transaction authorisation is unavailable or we have agreed you can process Card Transactions manually and subject to the terms and conditions of the Agreement.

“Secure Internet Site Declaration” means the form of that name provided by you to us (whether included in the Merchant Application or otherwise), as updated or revised by you and us from time to time relating to the security of your website to accept a Nominated Card as payment for goods or services ordered via the Internet .

“Security” means any guarantee or guarantee and indemnity or bill of sale, mortgage, charge, letter of credit, deposit, security interest, any authority to appropriate and set-off deposits or any other security that we may request from you to provide to us under clause 38.

“Service Level” means the Support Services as set forth in Annexure I to this Agreement.

“Surcharge Fee” means a fee you may apply to some or all Nominated Card Scheme and Card Transactions in accordance with clause 21, calculated as a percentage of the Credit Card Transactions or a flat amount.

“Subsequent Term” means each term following the completion of the Initial Term or any subsequent term where the Agreement is renewed in accordance with clause 2 (iii).

“Switch” means the network that securely transmits Cardholder details to and from us or the Card Issuing Organization from Internet Payment Gateways for the purposes of authorizing Transactions.

“Taxes” includes a present and future tax, levy, impost, duty, rate, charge, fee, deduction and withholding of any nature regardless of where and by whom imposed, levied, collected, withheld and assessed and includes interest, penalties, fines, costs, charges and expenses and other amounts relating to and arising in connection with taxes.

“Term” means any Initial Term or Subsequent Term.

“Terms and Conditions” means these Merchant Agreement Terms and Conditions.

“Transaction” includes a Payment Transaction, sales transaction (being the supply of goods or services or both), Refund transaction or cash transaction in which a Nominated Card or a card number of a Nominated Card is used and which is processed by you manually or electronically.

“Transaction Voucher” includes a Sales Voucher or Credit Voucher used for any Card Transaction processed manually.

“We, us, and our” means CBD.

“You, your and yours” means the Merchant, and where that Merchant comprises more than one person, means each of them jointly and severally.

46. INTERPRETATION

- (i) If you consist of more than one person, the liability of those persons under the Agreement is joint and several.
- (ii) If there is an inconsistency between the following documents each forming part of the Agreement, the following order prevails:
 - (a) your Merchant Application;
 - (b) Additional Services Schedules; and
 - (c) these Terms and Conditions.In the event there is an inconsistency between your Application and these Terms and Conditions or the Additional Service Schedules and the Merchant Operating Guide, the Merchant Operating Guide shall prevail.
- (iii) A reference to an individual or person includes a reference to a company and any other entity the Law recognizes.
- (iv) The singular includes the plural and vice versa.
- (v) A reference to the Agreement or any document forming part of the Agreement, or any Law is a reference to the Agreement, document or Law as amended, novated, supplemented, replaced or re- enacted.
- (vi) A reference to “mail” includes information sent or received by facsimile or email.
- (vii) The meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar expressions.
- (viii) A reference to a ‘clause’ is to a clause in these Terms and Conditions.

47. COVENANTS

- (i) You hereby agree to the covenants as follows:
- a. All Payment Transactions tendered to us will represent obligations of Cardholders to you for bona-fide transactions in the amount set forth thereon for goods sold and/or services rendered only, and that such Payment Transactions involve no element of credit for any other purpose.
 - b. To establish a fair policy for the exchange or return of goods purchased pursuant by virtue of Payment Transactions and shall give credit upon each such return, not in cash but by means of Refund, which shall be disclosed in a clear way to the customers, as well as providing the Bank (CBD) with a copy.
 - c. Not to refuse exchanging or returning of goods or services merely because there were originally purchased by Cards.
 - d. Exert its best effort to assist us, if requested from time to time, in preventing, detecting fraud. In this respect, you undertake to inform us, as soon as reasonably practicable, of any fraudulent activity you become aware or any such activities in your opinion would be involving fraud, misrepresentation, or other illegal activities in relation to a Card.
 - e. To abide by and fully comply with the Nominated Card Schemes' rules and regulations in correct to Payment Card Industry (PCI), Data Security Standards (DSS) and Business Risk Assessment & Mitigation (BRAM)
For this purpose, if you engage in one or more of the following practices, it will be treated as non-compliance of BRAM:
 - i. Make an aggregate Payment Transactions for multiple content suppliers
 - ii. Not to submit Payment Transactions for or on behalf of third party (i.e. other business entities).
 - iii. Not to submit Payment Transaction that may in the sole discretion of the Nominated Card Scheme damages the good will or reflects negatively on the Nominated Cards Scheme's brand.
 - iv. To notify us of or any sale, restructure, acquisition, merger or any other material changes in nature or size of your business.
 - v. Not to infringe upon our mark or logo, or the Nominated Card Scheme, nor otherwise use the mark or logo of Cards, in such a manner as to create the impression that the Merchant goods or services are sponsored, produced, affiliated with, offered or sold by us and / or any of the Nominated Card Scheme.
- (ii) Except as expressly authorized by us, in writing, neither you or any of your representative or staff shall have any power:
- i. To bind, make any commitment or give any instructions on our behalf
 - ii. To borrow on our behalf or in any way pledge the equipment's
 - iii. To settle any claims, demands or actions against us ; or
 - iv. To contract on our behalf.

48. FORCE MAJEURE

- (i) Should any event of force majeure delay our obligations under Merchant Agreement, we shall notify you in writing within (10) days of such event. Our future obligations hereunder shall cease until the event of force majeure has been remedied after which, the obligations will resume. Should an event of force majeure delays the performance of our services a period of three (3) months, we may elect to terminate the Merchant Agreement by notice to you.
- (ii) For the purpose of the Merchant Agreement, a force majeure event means any act of God including fire, flood, earthquake, wind storm or other natural disaster ; act of any sovereign including terrorist attacks, war invasion, act of foreign enemies, hostilities, labor dispute including strike, lockout or boycott ; act of or failure to act by any Nominated Card Scheme ; interruption or failure of utility service including electric power, gas, water or telephone service ; acts or failure to act on rulings of administrative boards, government authorities, any other cause beyond the reasonable control of either party but shall not include causes related to the parties.

49. GOVERNING LAW AND JURISDICTION

- (i) The Merchant Agreement shall be governed and construed in accordance with the laws of the United Arab Emirates.
- (ii) Each of CBD and the Merchant hereby irrevocably and unconditionally submit their disputes in connection to the Merchant Agreement to the non-exclusive jurisdiction of the courts of Dubai.
- (iii) Without prejudice to the foregoing, we shall have the right to take any action against you in any court of a competent jurisdiction.
- (iv) You hereby irrevocably waive (to the extent permitted by applicable law) any objection which, now or hereafter, it may have to the laying of venue of any action or proceeding brought in the forgoing court and any objection on the ground that any such action or proceeding in such court been brought in an inconvenient form.

We (Merchant) accept CBD Services offered under the Merchant Application Dated_____and CONFIRM that we (Merchant) have read and accepted these Terms and Conditions and agreed to abide by the same.

50. INDEMNITY

The merchant further re-iterates agreement to the below indemnity clauses:

- 1. The merchant AGREES to keep Commercial Bank of Dubai (CBD) indemnified from and against all actions, claims, damages, losses, costs, scheme penalties and expenses (including legal fees and expenses on a full indemnity basis) made against you or which you may incur or sustain for any reason whatsoever either directly or indirectly with reference or because of the merchant's participation in the eCommerce gateway service agreement.
- 2. The merchant understands that this eCommerce gateway facility entails completing a transaction in a card not present environment and that such transactions are likely to be disputed by the cardholder in the future and charged back in terms of card scheme rules which will also include reported fraud transactions from a 3D Secured merchant as well.
- 3. In such an event the chargeback amount along with related charges will be debited from our account. Notwithstanding the above, I/ We understand that Commercial Bank of Dubai (CBD) has the right to recover the chargeback amount and the related card scheme charges from our account, and I/We undertake to pay the same on demand by Commercial Bank of Dubai (CBD).
- 4. In case of any chargeback dispute arising out of these transactions by the cardholder, the merchant accepts full liability of such transactions and other scheme related fees. I/We understand the high risks involved in card not present transaction environment and undertakes to bear any losses or card scheme fines that can be levied due to fraud or chargebacks.
- 5. Commercial Bank of Dubai (CBD) is further fully authorized to debit the merchant's account(s) with the whole or any part of any amount incurred due to fraudulent E-commerce transactions, whether any such account or account shall be overdrawn or may become overdrawn due to unauthorized fraudulent transactions.
- 6. The merchant also understand that the E-Payment service provided by the Bank is subject to termination with immediate effect, without any notice, in the event of the first occurrence of any unsecured fraudulent transactions received as payment for goods / services provided through our website.
- 7. This Indemnity shall be additional to any other security, which CBD may now or hereafter hold at their own discretion.
- 8. This Indemnity shall be governed by and construed in accordance with the law of United Arab Emirates. Any dispute arising in correction with this Indemnity shall be settled by the competent Courts in the United Arab Emirates.

51. AMENDMENTS

Either party may, from time to time and in consultation with the other Party, amend the terms of this Agreement and any supplemental agreement upon Fifteen (15) Working Days written notice to Merchant. Upon expiry of this notice period the amended terms shall become part of this Agreement and shall be binding on both Parties.

Date:

FOR AND ON BEHALF OF:

MERCHANT NAME:

.....

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.....

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(Authorized Signatory)

(Authorized Signatory)

SERVICE LEVEL AGREEMENT

- From Cutover Date, Bank shall provide the following maintenance and support services (the “**Support Services**”) for Merchant.
- The period of such Support Services shall be for the duration of the Term of this Agreement.

SERVICE LEVELS

For the Support Services as described in this contract, Bank shall to its best endeavors provide the Services in accordance with the service Levels specified in the table below:

Severity Level	Description of Severity Level	Response Time	Resolution Time
S1	A failure in a major functional area as determined by Merchant and agreed /accepted in writing by the bank such that the function is not working to Merchant's satisfaction and in Merchant's opinion no reasonable workaround is available.	Within 30 minutes during business hours and within two hours outside of business hours.	Within 4 hours to provide a fix or a reasonable workaround.
S2	A failure in a major functional area as determined by Merchant and agreed /accepted in writing by the bank such that the function is not working to Merchant's satisfaction and in Merchant's opinion a reasonable workaround is available.	Within 1 hour if received before 3 p.m. of the business day, otherwise the next business day.	Within ten (10) business days to provide a fix or a reasonable workaround
S3	All other failures subject to agreement and acceptance in writing by the bank such that the function is not working to Merchant's satisfaction and in Merchant's opinion a reasonable workaround is available.	Within 1 hour if received before 3 p.m. of the business day, otherwise the next business day.	By the end of next full code push cycle to provide a fix or a reasonable workaround.

