

Merchant Services Terms and Conditions

Terms and Conditions

Terms and Conditions For Providing Dynamic Currency Conversion at Point of Sale

Merchant Services Terms and Conditions

1. Introduction

1.1 The Merchant Agreement (defined below) governs the Merchant entire relationship and interaction with the Bank with regard to the Bank Services and will continue to apply throughout the Term.

1.3 These terms and conditions of the Merchant Agreement apply on the Merchant from the execution of the Subscription Application Form and/or taking any steps prescribed by the Bank from time to time, which amount to an acceptance (including completion of any form and/or use of the Bank Services),

1.4 By taking any step prescribed by the Bank from time to time which amounts to an acceptance (including completion of the Subscription Application Form, use of any of the Bank Services), the Merchant confirms that it has read, understood, accepted and agreed to be bound by these terms and conditions of the Merchant Agreement.

1.5 The Merchant also agree that any electronic or other method of acceptance of these Merchant Agreement Terms and Conditions prescribed by the Bank from time to time shall constitute Merchant's acceptance of and agreement to be bound by the Merchant Agreement, as if the Merchant had accepted and agreed to be bound by them in writing. This Merchant Agreement will be binding on the Merchant's heirs, successors and assigns in relation to any aspect of the Bank Services (defined below) and interaction with the Bank with regard to the Bank Services.

1.6 The Merchant agrees that these "Merchant Services Terms and Conditions", "Terms and Conditions", the "Terms and Conditions For Providing Dynamic Currency Conversion at Point of Sale" and the "Schedule of Fees and Charges" provided along with the Subscription Application Form or the Website or on such other forum as prescribed by the Bank from time to time, which along with the Operation Guide, the documents referred to in these terms and conditions, or any addendum for additional services one binding, legal agreement (the Merchant Agreement).

1.7 All capitalised terms used in these Merchant Services Terms and Conditions shall have the same meaning described in the Terms and Conditions (or otherwise in this Merchant Agreement).

2. Engagement of the Bank

2.1 The Merchant hereby engages the Bank, and the Bank agrees, during the Term to process Payment Transaction Requests in respect of Cards branded as follows:

- (a) Mercury;
- (b) Visa and Visa Electron;
- (c) MasterCard and Maestro;
- (d) Diners Club;
- (e) American Express (subject to Merchant entering into the relevant agreement with the American Express);
- (f) JCB; or
- (g) such other Cards with other branding as may be agreed by the Bank from time to time.

3. Term

3.1 This Merchant Agreement will commence on the date mentioned in the Subscription Application Form (the Commencement Date) and provided that this Merchant Agreement:

3.1.1 has not been terminated at an earlier date under clause 3.2;

3.1.2 has otherwise ceased to have effect (whether as a result of expiration, termination, frustration, avoidance or otherwise); or continue until terminated in accordance with Clause 3.2 (Termination Date).

3.2 Termination

3.2.1 Without prejudice to its other rights and remedies, the Bank shall have the right to terminate or suspend the Merchant Agreement (or, at its discretion, the provision of part of the Bank Services provided according to the Merchant Agreement), and to claim for any resulting Losses, without the need for a court or judicial order:

(i) by written notice to the Merchant, if the Merchant is in material breach of this Merchant Agreement (and for this purpose a material breach may be a single event or a series of events taken together) and either:

- (A) that breach is not capable of remedy;
- (B) that breach is capable of remedy and the Merchant has failed to remedy that breach within fifteen (15) days after receiving written notice from the Bank requiring it to do so; or
- (C) the Bank has given notice under this clause 3.2 within the preceding sixty (60) days for the same or a substantially similar breach, and for this purpose, a breach will be treated as:
- (D) capable of remedy only if the Bank can be put in the position that it would have been in but for the breach; and
- (E) remedied only if the Bank is put in the position that it would have been in but for the breach;

(ii) immediately and without notice, if the Merchant commits any act, or fails to take any action, which in the opinion of the Bank, the Bank considers to be an act: of deception; of dishonesty; of fraud; of wilful misrepresentation; or if in the sole discretion of the Bank, the Merchant's business practices and exception item activity may or has resulted in (or may or would result in) the commencement of any claim or demand against the Bank, or an order or judgment being made against the Bank, for the Bank to pay damages, costs, and/or expenses (including reasonable attorney's fees) or create harm or loss of goodwill to the Card Schemes or the Bank;

(iii) immediately and without notice, if the Bank is instructed to do so in writing by a governmental authority, a regulator or a Card Scheme;

(iv) by written notice to the Merchant and to claim for any damages, costs, and/or expenses (including reasonable

attorney's fees) if any step, process, application, filing in court, order, proceeding, notice or appointment is taken or made by or in respect of the Merchant for a moratorium, composition, compromise or arrangement with creditors (by way of voluntary arrangement, scheme of arrangement or otherwise), administration, liquidation (other than for the purposes of amalgamation or reconstruction), dissolution, receivership (administrative or otherwise), distress or execution, or a resolution or petition to wind up the Merchant is passed or presented; or if the Merchant is presented with or receives an order in bankruptcy or the Merchant becomes insolvent or is deemed unable to pay its debts as they fall due, or anything analogous to the foregoing occurs in any applicable jurisdiction; or

(v) without cause on giving not less than (ninety) 90 days' written notice to the Merchant.

3.2.2 Without prejudice to the other rights provided in this clause 3.2, the Bank may elect to terminate or suspend the Merchant Agreement pursuant to any event of force majeure as described in clause 17 of the Terms and Conditions.

3.2.3 The Merchant acknowledges and agrees that the right to terminate or suspend the Merchant Agreement pursuant to paragraph 3.2.1 (ii) above shall not prejudice any right or obligation that the Bank may have to report any suspected act to the police and law enforcement authorities. The Merchant further acknowledges and agrees that the Bank may retain information (including Confidential Information) for its own records, regarding any such act that the Bank considers to be an act: of deception; of dishonesty; of fraud; or of wilful misrepresentation during or after the Term of this Merchant Agreement, and the Bank may transfer such information to the Card Schemes, other banks or financial institutions, or the Issuers, which in turn may use such information to refuse to provide services to the Merchant which are the same or similar to the Bank Services in the future.

4. Services

4.1 In respect of the Cards identified at clause 2.1, the Merchant wishes to receive, and the Bank has agreed to provide to the Merchant, the Bank Services indicated in the Subscription Application Form.

4.2 To the extent that the Merchant wishes to receive CNP Payment Transactions, for the purpose of processing transactions, the Merchant's relevant details are mentioned in the Subscription Application Form (details of each acceptance mode are set out in the Terms and Conditions).

4.3 The Parties agree that the Equipment will be installed at the Merchant's premises as stated in the Subscription Application Form or as otherwise agreed with the Bank.

5. Fees

5.2 The Merchant shall pay to the Bank all Fees and charges as set out in the Merchant Agreement and the Schedule of Fees and Charges. The Merchant agrees to pay to the Bank all such other expenses that may otherwise be paid to the Bank by a third party as a result of processing the Payment Transaction Request for and on behalf of the Merchant.

5.3 Unless expressly specified or agreed otherwise by the Bank, all amounts (including any Fees) stated as being due from the Merchant to the Bank for the Bank Services are exclusive of VAT properly chargeable.

5.4 Unless expressly specified or agreed otherwise by the Bank, where Bank makes a taxable supply or deemed supply of goods or services to the Merchant, the payment or other consideration for that supply shall be exclusive of all VAT properly chargeable and the Merchant shall pay the VAT in addition to and at the same time as the payment or other consideration, or if earlier when the supply is made, and ADCB shall provide a valid VAT invoice or other documentary evidence in the form prescribed by the applicable laws and regulations applicable to VAT.

5.5 Where the applicable laws requires the Merchant to account for the VAT under the reverse charge mechanism or otherwise to the relevant tax authority, and the Bank is not liable to account for VAT on the supply to the Merchant, for example on a supply of goods or services which involves more than one jurisdiction, the Merchant will provide its relevant non-UAE VAT identification number to the Bank and will account for all VAT due in the relevant jurisdiction, and no VAT will be due to the Bank in addition to the consideration.

5.6 Where the Merchant has agreed to pay, repay or reimburse the costs, Fees, charges or expenses of the Bank in connection with goods or services provided by the Bank to the Merchant under the Merchant Agreement, other than where it gives rise to a taxable supply by the Bank, the Merchant shall also reimburse the Bank for any part of such cost, Fee, charge or expense (or proportion of it) which represents VAT, save to the extent that the Bank notifies the Merchant that it is satisfied that it will be entitled to credit or repayment in respect of such VAT from the relevant tax authority. Where pursuant to the Merchant Agreement the Merchant is rendering taxable supplies to the Bank, on which the Merchant is obliged to account for VAT, the consideration for such supplies shall be deemed inclusive of any VAT chargeable. Where the Merchant Agreement allows for suspension or termination where the Merchant fails to pay or delay in paying what is due to the Bank, this shall include failure to pay or delay in paying the VAT in addition to the consideration when due in accordance with the Merchant Agreement.

5.7 Where the consideration for any taxable supply of goods or services is subsequently adjusted including (without limitation) on a termination of the Merchant Agreement or the Bank Services, Merchant and the Bank will make all appropriate adjustments to the VAT including the repayment of VAT, the further payment of VAT and the issue of any credit note or further VAT invoice valid for VAT purposes.

5.8 If the Bank is uncertain about the VAT implications of any supplies of goods or services pursuant to the Merchant Agreement or the relevant tax authority determines that the parties' treatment of VAT on such supplies is incorrect in any respect, the Merchant and the Bank shall use all reasonable endeavours to cooperate and reach agreement with each other and with the tax authority, keeping each other fully informed, and make all appropriate adjustments. The Merchant will promptly provide ADCB with all information it requires or requests to comply with its VAT obligations arising from the Merchant Agreement.

5.9 The Merchant shall not have any recourse to the Bank in any way whatsoever for any error or failure by the Bank in relation to VAT, including without limit: (A) where the Bank is subject to a VAT ruling(s), determination, announcement or generally accepted practice in connection with any taxable supplies made under the Merchant Agreement. (B) where the Bank has assumed that it can recover input VAT and (for whatever reason) and this assumption is subsequently held to be incorrect or invalid; and/or (C) where the Bank's treatment of VAT in respect of any claim for payment made in respect of any taxable

supplies made under the Merchant Agreement is subsequently held to be incorrect or invalid.

6. Sales Proceeds

6.1 Subject to clause 5 above and other Terms and Conditions, the Bank shall remit to the bank account (the Bank Account) mentioned in the Subscription Application Form all Sales Proceeds resulting from processing Cards for and on behalf of the Merchant.

6.2 No proceeds may be remitted to the Bank Account in relation to a particular Payment Transaction Request unless payment for such Payment Transaction Request is approved, collected or received by the Bank from the Cardholder in accordance with this Merchant Agreement. The Merchant may amend the details held by the Bank in respect of the Bank Account by completing the addendum to the Terms and Conditions entitled: Merchant- Request to Amend Account Details or any other form duly acceptable to the Bank.

7. Representation

7.1 The Merchant represents and warrants as follows:

(a) it is duly organised and validly existing under the laws of incorporation with power to enter into the Merchant Agreement and to exercise its rights and perform its obligations hereunder and all corporate and other action required to authorise its execution of the Merchant Agreement and its obligations hereunder have been duly performed;

(b) the obligations expressed to be assumed by it in the Merchant Agreement are valid and legally binding obligations enforceable in accordance with the terms hereof;

(c) the execution and delivery of, the performance of its obligations under, and compliance with the provisions of the Merchant Agreement, will not:

(i) contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which it is subject;

(ii) conflict with, or result in any breach of any terms of or constitute a default under, any agreement or other instrument to which it is a party or is subject or by which it or any of its property is bound; or

(iii) contravene or conflict with any provision of its constitutive documents (where relevant);

(d) it has not taken any corporate action and no legal proceedings or other steps have been started or threatened against it for its winding up, dissolution, administration or reorganisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any or all of its assets or revenues;

(e) it will comply with all of its obligations under the Merchant Agreement;

(f) it will promptly notify the Bank of any changes in its business activities including any and all changes to the type of commercial products or services offered by the Merchant; and

(g) it is not aware of any material facts or circumstances that have not been disclosed to the Bank and which might, if disclosed, adversely affect the decision of a person considering whether or not to provide card payment processing services pursuant to the terms of this Merchant Agreement.

7.2 The Bank warrants that:

(a) it is and will at all times remain duly authorised or otherwise permitted under any relevant laws and regulations to perform the Bank Services and that it has obtained and will maintain in force all requisite government and other regulatory consents, exemptions, licences and approvals related thereto; and

(b) it will adhere to payment card industry data security standards (PCI DSS) for the purposes of providing the Bank Services.

8. Notices

All notices, notifications, requests, demands, consents, approvals, agreements or other communications (Notices) to a party to the Merchant Agreement shall be in writing addressed to the recipient at the address set out in the Subscription Application Form or at such other address as such party may specify from time to time in writing:

To the Merchant: using the details set out in the Subscription Application Form; and

To the Bank: using the details set out in the Subscription Application Form.

Notices shall be deemed to be duly given or made:

(a) when delivered to the recipient at such address;

(b) when sent to the email address noted above; or

(c) on receipt by the sender of confirmation of receipt by courier delivery service.

but if such receipt is later than 3.00 p.m. (UAE time) on a Business Day, it shall be deemed to have been given or made at the commencement of business on the next Business Day.

9. Governing Law and Jurisdiction

9.1 The Merchant Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of the Emirate of Abu Dhabi and the Federal Laws of the United Arab Emirates as applied in the Emirate of Abu Dhabi.

9.2 The courts of the Emirate of Abu Dhabi have exclusive jurisdiction to settle any dispute, claim or controversy arising out of or in connection with the Merchant Agreement (including a dispute, claim or controversy relating to any non-contractual obligations arising out of or in connection with Merchant Agreement) and the parties submit to the exclusive jurisdiction of the courts the Emirate of Abu Dhabi.

Terms and Conditions

1. Definitions

Unless expressly stated otherwise, in these Terms and Conditions:

3D Secure Programme means the Programme and software provided by the Card Scheme for CNP Payment Transaction.

Authorisation means the electronic process by which a Payment Transaction Request is transmitted for approval, referral or decline by the Bank, the Issuer or any Card Scheme and **Authorised** shall be interpreted accordingly.

Authorisation Centre means the centre dedicated by the Bank to process Payment Transaction Request which operates 24 hours, 7 days a week.

Bank means Abu Dhabi Commercial Bank PJSC

Bank Account means the bank account opened and held by the Merchant with the Bank which is specified in the Subscription Application Form.

Bank Services means the services provided by the Bank to the Merchant as specified by the Merchant and set out in clause 4 of the Merchant Services Terms and Conditions, which includes (to the extent relevant) processing Payment Transaction Requests, remitting Sale Proceeds and providing the necessary Equipment or Payment Client Software.

Business Day means a day, other than Friday, on which banks in the United Arab Emirates are generally open for business.

Card means a valid payment card (which includes an EMV Card) issued by the licenced Issuer which bears any of the internationally recognised logos of the Card Schemes or any such other cards as described in the Merchant Services Terms and Conditions.

Card Schemes means any of the respective internationally recognised licencing companies such as Visa International, MasterCard International, Diners Club, JCB, UPI or others.

Cardholder means an individual who is authorised to use the Card.

Cardholder Data means is any personally identifiable information (PII) associated with a person who has a credit or debit card and includes the primary account number (PAN) along with any of the following data types: cardholder name, expiration date or service code.

Confidential Information means all information disclosed by whatever means, in any medium or format (whether marked "confidential" or not) which the Recipient Party receives from the Disclosing Party, either directly or from any other person, which concerns the business, operations or customers of the Disclosing Party, its Affiliates or subcontractors including the provisions and subject matter of this Merchant Agreement.

CNP Payment Transaction Request means a payment request by the Merchant relating to a CNP Payment Transaction;

CNP Payment Transaction means Mail Order/Telephone Order ("MOTO"), transactions and all e-commerce transactions collectively, being a payment card transaction made where the cardholder does not or cannot physically present the card for a merchant's visual examination at the time that an order is given and payment effected, such as for mail-order transactions by mail or fax, or over the telephone or internet.

EMV Card means a card that carries an electronic chip for authenticating and processing Payment Transaction Requests.

Equipment means the Manual Imprinter, the POS Terminal, the PIN Pads, software programmes and all accessories, connections and peripherals provided by the Bank to the Merchant in connection with the Bank Services.

Fees means all fees, costs, expenses, levies or taxes charged in connection with the Bank Services as agreed upon in the Subscription Application Form or otherwise stipulated in these Terms and Conditions.

Floor Limit means (if assigned) the maximum value, as may be assigned by the Bank from time to time, permitted for the Merchant to accept for a single Payment Transaction Request without obtaining Authorisation.

Issuer means a bank, financial institution or other company that issued the Card to the Cardholder with the prior approval/permission of the respective Card Scheme.

Loss means each loss, damage, fine, penalty, cost, expense or other liability (including legal and other professional fees) and Losses shall be interpreted accordingly;

Manual Imprinter means the device supplied to the Merchant by the Bank to produce an imprint of the embossed characters of the Card on all copies of the Manual Sale Draft.

Manual Sale Draft means a hard copy of a sales record (in the form provided by the Bank) used to obtain the Card imprint from a manual imprinter.

Merchant means the legal entity that executed the Subscription Application Form.

Merchant Transaction means a transaction made by the Merchant to complete a Payment Transaction following a Pre-Authorisation.

Online Payment Order Form means the prescribed format of payment order approved by the Bank and which is used for initiating a Payment Transaction Request online.

Operation Guide means the operation guide available on each of the Card Schemes and the Bank's official website and which contain necessary instructions, rules and regulations in connection with each Card Scheme, as may be amended from time to time, at the sole discretion of each of the Card Schemes.

Payment Client Software means software that connects the Merchant to the payment gateway application (including a secure socket layer).

Payment Transaction Request means an offer or request by the Cardholder (including a CNP Payment Transaction Request) for Authorisation using the Equipment or Payment Client Software to use the Card to pay for goods or services supplied by the Merchant.

Personal Information means any information or data that personally identifies an individual, natural person or from which it is reasonably possible to identify an individual, natural person.

PIN means the personal identification number used by and known to the Cardholder for use of the Card.

PIN Pad means the device to be used in conjunction with a POS Terminal which enables the Cardholder to enter a PIN.

POS Record means the printed receipt produced on the POS Terminal recording a Payment Transaction Request.

POS Terminal means the point of sale machine supplied by the Bank to the Merchant for the purpose of obtaining Authorisation.

Prr-Authorisation means an electronic or voice process used by the Merchant to block or freeze certain funds on the Card for use in respect of or for approval of a subsequent Payment Transaction Request.

Recovery Bulletin means a bulletin, publication or written notice issued and updated by the Card Schemes from time to time which includes details of Cards that shall be recovered from their holders as a result of being stolen, forged or otherwise illegally held.

Refund Voucher means a credit note issued by the Bank confirming refund of a Payment Transaction Request to the Bank Account.

Representative means in relation to the Merchant, its specified officers, directors, employees or owners who are authorised to act for and on behalf of the Merchant and which may be changed by the Merchant upon completing and sending to the Bank the addendum entitled: Request to Change Authorised Contacts.

Sales Proceeds means any and all funds resulting from making a Payment Transaction Request which is Authorised and approved following Authorisation.

Subscription Application Form means the any manual or digital application form and addendum to the Subscription Application Form, if applicable, executed by the Merchant, under which the Merchant engages the Bank to provide the Bank Services, which may be completed: (A) in writing, in physical or electronic form; (B) by verbal instruction, in person or over the telephone; (C) via electronic or digital method of acceptance including but not limited to email or fax; and/or (D) any other means of instruction or confirmation prescribed by the Bank from time to time.

Term has the meaning given to it in clause 3.1 of the Merchant Services Terms and Conditions.

UAE means United Arab Emirates.

VAT means value added tax or any like tax imposed in any jurisdiction from time to time.

Website means adcb.com

2. Services

2.1 Upon execution of the Subscription Application Form by the Merchant, the Merchant shall receive and pay for the Bank Services from the Bank and the Bank shall provide the Bank Services to the Merchant, in each case, in accordance with the Merchant Agreement.

2.2 The Merchant acknowledges that the Bank is not committed to provide, perform or deliver any service other than the Bank Services.

3. Cards

3.1 Unless otherwise notified by the Bank, the Merchant shall accept the Cards, as a payment method (for prices not in excess of the Merchant's ticketed or posted prices for its goods or services) from the Cardholders, specified in the Merchant Services Terms and Conditions.

3.2 The Merchant agrees to display, announce or inform its customers of its acceptance of the Cards from the Cardholders as a payment method for the sale of its goods and services. The Merchant agrees to display in its premises (including on its website) such necessary signs and information to the extent provided by or otherwise approved by the Bank or an Issuer communicating its acceptance of the Cards as a payment method for the sale of its goods and services.

3.3 The Merchant shall not use or accept Cards as a payment method for the sale of its goods and services which are, in the Merchant's reasonable judgment:

- (a) expired at the time of the relevant Payment Transaction Request;
- (b) the subject of or identified in a Recovery Bulletin or pursuant to information earlier provided by the Bank to the Merchant;
- (c) presented by a person who is not the Cardholder; or
- (d) forged, not genuine, altered or otherwise damaged.

4. Equipment

4.1 By entering into the Merchant Agreement, the Merchant is granted a non-exclusive, non-proprietary, non-transferable licence to use the Equipment, Operation Guide and/or other materials for the sole purpose of receiving those specified Bank Services to be provided to the Merchant, and which the Merchant expressly acknowledges, in respect of the Payment Client Software includes only the right to install and use such software for the purposes of receiving the Bank Services.

4.2 As between the Merchant and the Bank, title to Equipment, Payment Client Software, Operation Guide and/or other materials provided by the Bank to the Merchant shall remain the exclusive property of the Bank at all times. The Merchant covenants and undertakes not to sell, lease, charge, pledge or otherwise dispose or encumber the Equipment, Payment Client Software, Operation Guide and/or other materials provided by or on behalf of the Bank without the Bank's express prior written consent.

4.3 The Merchant shall install the Equipment at the Merchant's premises as stated in the Subscription Application Form or otherwise use the Payment Client Software and/or other materials in accordance with the terms of the Operation Guide or as otherwise instructed by the Bank from time to time. On each occasion that the Merchant wishes to use or otherwise install the Equipment for use at premises other than those described in the Subscription Application Form, it shall inform the Bank and seek its written approval to do so by completing the addendum to this Merchant Agreement called: Addendum- Services for New Branch or any other form acceptable to the Bank.

4.4 The Merchant hereby acknowledges that the Equipment, Payment Client Software, Operation Guide and/or other materials will be exclusively maintained and serviced by the Bank or its duly authorised agents. The Bank shall have unrestricted access to the Equipment, Payment Client Software, Operation Guide and/or other materials during normal working hours for the purposes of maintenance, replacement or any other services.

4.5 The Merchant shall not move, alter, adjust or in any manner tamper with the Equipment. The Equipment shall at all times be operated solely by the authorised Representatives and in compliance with the Operation Guide or such other manual that may be provided by the Bank in this respect.

4.6 The Merchant shall keep the Equipment in good condition and shall be responsible for any damage to the Equipment save to the extent such damage is caused by normal and reasonable wear and tear through everyday use of the Equipment in the manner intended.

4.7 The Merchant agrees that it shall not make copies of the Payment Client Software, Operation Guide and/or other materials, modify or create derivative works of the Payment Client Software, Operation Guide and/or other materials, decompile or reverse engineer the Payment Client Software, Operation Guide and/or other materials or otherwise attempt to create the source code from the Payment Client Software and/or other materials (as applicable), or in any way attempt to, or encourage or assist any other person to, circumvent or modify any security technology or software that is part of the Payment Client Software, Operation Guide and/or other materials. No portion of the Payment Client Software, Operation Guide and/or other materials may be reproduced in any form or by any means other than as expressly permitted by the Bank for the receipt of the Bank Services. The Payment Client Software, Operation Guide and/or other materials, is provided "as is" and on an "as available" basis. The Bank gives no warranty that the Payment Client Software and/or other materials (as applicable), will be free of defects and/or faults. The Merchant agrees that to the maximum extent permitted by law, the Bank provides no warranties (express or implied) of fitness for a particular purpose, accuracy of information, compatibility and satisfactory quality of the Payment Client Software, Operation Guide and/or other materials.

4.8 The Merchant agrees that it shall not decompile or reverse engineer the Payment Client Software and/or other materials or otherwise attempt to create the source code from the Payment Client Software, or in any way attempt to, or encourage or assist any other person to, circumvent or modify any security technology or software that is part of the Payment Client Software. No portion of the Payment Client Software may be reproduced in any form or by any means. The Merchant agrees not to modify, rent, lease, loan, sell, or distribute the Payment Client Software, Operation Guide and/or other materials, in any manner, and you shall not exploit the Payment Client Software, Operation Guide and/or other materials in any unauthorised way whatsoever.

4.9 The Merchant shall ensure its Representatives are authorised by the Bank to use the Equipment, Payment Client Software, Operation Guide and/or other materials and are well trained or enrolled in the necessary training programmes provided by the Bank to enable them to use the Equipment, Payment Client Software, Operation Guide and/or other materials. The Bank may refuse to authorise any Representative if, in the sole opinion of the Bank, such Representative does not operate or use the Equipment, Payment Client Software, Operation Guide and/or other materials as instructed by the Bank. The Merchant shall remain solely responsible and liable for the actions or omissions of its Representatives and accordingly, the Merchant shall indemnify and hold harmless the Bank against such action or omission by a Representative that causes Loss to the Bank.

4.10 If one or more items of the Equipment sustains an error or malfunctions, the Merchant shall immediately notify the Bank on its 24-hour service telephone 600 546 678. The Bank will, upon such notification, arrange for the necessary repair or replacement, provided that such error or malfunction was not caused by use other than in accordance with the Operation Guide or other misuse, abuse or negligence of the Representatives.

4.11 The Merchant agrees that the Bank shall have no liability to the Merchant, its customers or prospective customers, the Representatives, the Cardholders or to any other person for any Loss whether caused directly or indirectly by the Equipment, Payment Client Software, Operation Guide and/or other materials or by a system malfunction, failure in connection or communication links or error in the design or manufacturing of any the Equipment, Payment Client Software, Operation Guide and/or other materials. The Merchant agrees to indemnify the Bank for any Loss that the Bank may suffer as a result of any claim, legal proceeding, order or judgment made or obtained against the Bank in connection with any failure or malfunction by any system, software or Equipment, Payment Client Software, Operation Guide and/or other materials used by the Merchant in relation to the Bank Services.

5. Payment Transaction Requests

5.1 The Merchant shall accept Payment Transaction Requests in strict adherence with this Merchant Agreement. The Merchant agrees not to refuse an offer by a Cardholder to purchase goods and/or services using a Card in favour of receiving cash (or any other payment for value or 'in-kind' consideration) for the purchase of any such goods and/or services.

5.2 The Merchant agrees that no Payment Transaction Requests shall be accepted by the Merchant for goods or services other than those goods offered, or services provided, by the Merchant as permitted in accordance with applicable laws and regulations.

5.3 Notwithstanding the requirement of observing the Floor Limit, the Merchant shall accept a Payment Transaction Request irrespective of its value. Except to the extent notified otherwise by the Bank, the Merchant shall not announce or preset any rule to accept any minimum or maximum value in respect of a Payment Transaction Request.

5.4 The Merchant shall ensure that in respect of all Payment Transaction Requests, the Cardholder shall verify the Card using the POS Terminal or obtain an imprint of the Card using the Manual Imprinter at the time of seeking an Authorisation. For a Payment Transaction Request in respect of an EMV Card, the Merchant may insert the EMV Card into the POS Terminal and – if prompted – shall request the Cardholder to enter the PIN.

5.5 The Merchant agrees that if a Payment Transaction Request is initiated using the Card which is issued by the Issuer outside the United Arab Emirates for an amount of more than the limit stated in the Schedule of Fees and Charges, the Merchant should:

- (a) verify the identity of the Cardholder;
- (b) record details of the identification document on the:

I. POS Record; or

II. Manual Sales Draft; and

in each case, obtain a photocopy of such documents and retain such documents for presentation to the Bank upon demand.

5.6 The Merchant shall not separate any individual Payment Transaction Request into multiple Payment Transaction Requests by seeking multiple Authorisations for one such Payment Transaction Request. The Merchant hereby acknowledges that separating a Payment Transaction Request may result in the Issuer's rejection of any or all such Payment Transaction Requests or related Payment Transaction Requests and the Bank shall be entitled to debit the values of the rejected Payment Transaction Requests plus all related expenses against future Sales Proceeds.

5.7 The Merchant shall make available to the Bank all details of Payment Transaction Requests within a maximum seven (7) days from a written request from the Bank to the Merchant.

5.8 The Merchant agrees that the value of Payment Transaction Requests shall be reduced in accordance with any discount that is offered on sale of goods and services by the Merchant. If any discount is offered, the Merchant agrees to apply the equivalent discount to the Payment Transaction Requests in relation to those goods and services.

5.9 The Merchant shall not accept a Payment Transaction Request, which is made

(a) to advance cash to the Cardholder (unless authorised by the Bank); or

(b) to refinance a debt of the Merchant, Representative or any Cardholder; or

(c) to debit any additional charge, surcharge, bank charge or any other charge which is:

I. not related to the sale and purchase of goods and services by the Merchant; or

II. constitutes additional commission for acceptance of a Card as the payment method for the sale and purchase of goods and services; or

(d) for goods which are not sold or for services which are not rendered, for or to the Cardholder, or upon the Cardholder's request.

5.10 The Merchant shall not submit a Payment Transaction Request to the Bank for Authorisation before the Merchant:

(a) verifies the format of the logo appearing on the Card with the approved format authorised by the relevant Card scheme as provided by the Bank;

(b) verifies the validity date on the Card;

(c) verifies the identity of the Cardholder; and

(d) uses reasonable efforts to verify the signature of the Cardholder on the Card and identify any forged signature or fraudulent act.

5.11 For the purpose of clause 5.10 above, the Merchant agrees that if:

(a) the signature on the Card does not match the Cardholder's signature at the time that such signature is requested by the Merchant; or

(b) the Merchant is unable to verify the validity of the Card,

the Merchant shall immediately contact the Authorisation Centre for Authorisation. If, at the discretion of the representatives of the Bank at the Authorisation Centre, insufficient information in respect of the identity of the Cardholder or the validity of the Card is provided, the Merchant shall rescind or no longer seek Authorisation for the Payment Transaction Request and shall use all reasonable means to recover the Card from the Cardholder and promptly send the Card to the Bank.

5.12 The Merchant agrees that all Payment Transaction Requests shall be processed for Authorisation using the Equipment or the Payment Client Software (as appropriate) and in the manner prescribed in the Operation Guide. The Merchant agrees that no Payment Transaction Request will be approved, accepted or processed by the Bank and no Sale Proceeds may be remitted to the Bank Account if the Payment Transaction Request is not processed through the Equipment or the Payment Client Software or, if processed by virtue of using a third party point of sale, Manual Imprinter or otherwise

5.13 The Merchant agrees that if, in seeking Authorisation for a Payment Transaction Request using the Equipment or the Payment Client Software, the Merchant receives messages such as "decline," "pick up" or "referral," the Merchant shall seek Authorisation by telephoning the Authorisation Centre. If the Authorisation Centre approves the Payment Transaction Request, the Merchant shall then use the code for Authorisation provided by the Authorisation Centre unless the Payment Transaction Request is declined by the Authorisation Centre, in which case, the Merchant shall comply with the instructions of the Authorisation Centre.

5.14 The Merchant agrees that when processing a Payment Transaction Request, the Merchant shall strictly adhere to terms of this Merchant Agreement updated and notified to the Merchant from time to time.

5.15 The Merchant agrees that any incorrect Payment Transaction Requests undertaken by the Merchant which are approved following Authorisation and require a credit to be provided to the Cardholder, shall be sent to the Bank to initiate a sale reversal. If as a result of such incorrect Payment Transaction Request any Losses are incurred by the Bank, those Losses shall be payable by the Merchant to the Bank and the Merchant authorises the Bank to recover such Losses by setting off such amount against future Sales Proceeds.

6. Operation

To the extent applicable for its business, the Merchant agrees to abide by the following obligations with respect to initiating and processing certain Payment Transaction Requests:

6.1 Pre-Authorisation:

6.1.1 If a Payment Transaction Request is not made at the time of contracting for the supply of services or the supply of goods, the Merchant shall request Pre-Authorisation to withhold the necessary funds on the Card to cover the cost of the anticipated services or goods in accordance with the procedure set out in this clause 6.1.1 and clauses 6.1.2 to 6.1.9.

6.1.2 For the purpose of Pre-Authorisation, the Merchant shall estimate the total value of the Payment Transaction Request

for the entire services to be rendered or goods to be supplied and agree such amount with the Cardholder.

6.1.3 The Merchant shall either:

- (a) verify the Card using the POS Terminal, save that in the case of an EMV Card, the Merchant may insert the Card into the POS Terminal and, if prompted, request the Cardholder to enter the PIN in order to obtain the required Pre-Authorisation; or
- (b) obtain and print a Manual Sale Draft in the case of a Manual Imprint, in which case, the Merchant shall at that time call the Authorisation Centre to in order to obtain Pre-Authorisation.

6.1.4 The Merchant shall inform the Cardholder of the amount for which the Pre-Authorisation was obtained at the time of contracting. The Merchant shall record:

- (a) the date on which the Pre-Authorisation was requested;
- (b) the amount requested for Pre-Authorisation; and
- (c) the Pre-Authorisation approval code received or obtained from the: (i) POS Terminal; or (ii) from the Authorisation Centre in respect of the Manual Sale Draft, as the case may be.

6.1.5 The Merchant agrees that, upon the completion of its services or the supply of the goods to or for the Cardholder, and in order for the Merchant to complete a Payment Transaction Request on the basis of the earlier Pre-Authorisation, the Merchant shall process a Merchant Transaction for value not exceeding 100% of the funds booked through Pre-Authorisation. The Merchant shall use the approval code obtained in respect of the Pre-Authorisation referred to in clause 6.1.4(c).

6.1.6 Following the grant of the Pre-Authorisation, the Merchant agrees that it shall not alter the terms of its services or the goods, as the case may be, or the underlying agreement with the Cardholder without obtaining the consent of the Cardholder.

6.1.7 If necessary, the Merchant may obtain Pre-Authorisation for additional amounts from the Cardholder. The Merchant agrees that Pre-Authorisation for additional funds may be necessary if the value of the services to be rendered exceeds or would exceed the sum of the funds Pre Authorised by more than ten (10%) percent.

6.1.8 The Merchant agrees that no Payment Transaction Request shall be made for services or goods not requested by the Cardholder unless the provision of such goods or services is agreed by the Cardholder. The Merchant shall obtain the Cardholder's written acceptance to such additional charges at the time of completion of the services or the provision of the goods. The Merchant shall process Payment Transaction Requests for additional charges approved by the Cardholder within ninety (90) days from the date the services are completed or the goods are provided. The Merchant agrees that the POS Records and/or Manual Sale Drafts used for the purposes of completing the Payment Transaction Request for additional services shall not be approved following Authorisation unless noted with a statement advising that the consent of the Cardholder is being or has been obtained in accordance with clause 6.1.9.

6.1.9 The Bank agrees that Payment Transaction Requests in relation to additional charges may, if approved by the Cardholder, be presented within ninety (90) calendar days from the date of last Payment Transaction Request. The Merchant acknowledges that the Bank shall only accept the POS Record/Manual Sale Drafts for such additional charges provided that such records are deposited within the described period above, without the Cardholder's signature, provided that the Merchant has already obtained the Cardholder's signature on the file, and the words "SIGNATURE ON FILE" are entered on the signature panel of the POS Record/Manual Sale Drafts.

Vehicle Rental Services

6.1.10 To the extent that the Merchant engages in vehicle rental services, the Merchant shall:

- (a) retain for five (5) years each of the: (i) vehicle registration card (ii) form signed by the Cardholder; (iii) the POS Record or the Manual Sale Draft; and (iv) the related traffic fines issued to the Cardholder during or in connection with the services;
- (b) not, unless agreed by the Cardholder, include charges for or representing: (i) vehicle insurance deductible/premium; (ii) any sum to cover potential damages when insurance coverage is waived at the time of renting the vehicle; (iii) traffic fines; (iv) taxes; (v) maintenance cost; (vi) fuel compensation; or (vii) other similar charges;
- (c) provide the Bank with a copy of the insurance policy entered into by the Cardholder, if the Cardholder pays an insurance deductible for damage; and
- (d) if the cost of repairing damages is to be charged to the Card, provide the Bank with a copy of: (i) an official accident report; (ii) the estimate by a competent repair workshop to conduct relevant repairs; and (iii) such other documents evidencing the Cardholder's consent to assume such charges.

Hotel/Accommodation Services

6.1.11 To the extent that the Merchant provides hotel/accommodation services, the Merchant shall:

- (a) retain for five (5) years each of: (i) the guest registration form signed by the Cardholder; (ii) the POS Record or the Manual Sale Draft; and (iii) all related documents issued during or in connection with the services;
- (b) in the event that the Cardholder does not check-in in accordance with the terms and conditions agreed between or on behalf of the Cardholder and the Merchant, initiate a Payment Transaction Request for any agreed failure to check-in penalty. If, as a result of such Payment Transaction Request, those Losses shall be payable by the Merchant to the Bank and the Merchant authorises the Bank to recover such Losses by setting off such amount against future Sales Proceeds; and
- (c) not charge for any Losses (which for the avoidance of doubt shall not include charges such as room cost, food or beverage charges or tax duties).

Restaurant/Catering Services

6.1.12 To the extent that the Merchant engages in restaurant/catering services, the Merchant shall not alter or amend the amount of the tip agreed and written by the Cardholder.

6.2 CNP Payment Transactions

6.1.1 The Merchant agrees that to the extent that the Merchant wishes to submit CNP Payment Transaction Requests (according to agreed Bank Services to be provided according to the Merchant Services Terms and Conditions), the Merchant

shall do so by installing the Payment Client Software (which the Merchant agrees to maintain by installing any updates, patches, modifications or new versions issued by or on behalf of the Bank). The Merchant agrees that the Payment Client Software (and any updates, patches, modifications or new versions of it) shall be used in the manner and according to the instructions provided in the Merchant Agreement or as otherwise communicated by the Bank from time to time.

6.1.2 The Merchant agrees that if, pursuant to clause 6.2.1, the Merchant chooses, as set out in the Merchant Services Terms and Conditions, to use, as the method of submitting CNP Payment Transactions Requests:

(a) 3rd Party SSL+ then the Merchant acknowledges and accepts that the details of the Cardholder's Card and Personal Information relating to the Cardholder will not be disclosed to the Merchant, as the Bank will store and maintain those details and such Personal Information; and

(b) 3rd Party (MOTO), the Merchant acknowledges and accepts full responsibility for processing, storing, maintaining and protecting the information relating to the Cards and any personal information related to the Cardholder, as such details will be disclosed and available to the Merchant. On each occasion that the Merchant processes a Payment Transaction Request using the 2Party (MOTO), the Merchant shall provide the Cardholder a receipt, which at a minimum shall set out the following information:

I. the Merchant's name and website address (or uniform resource locator (URL));

II. amount referred to in the Payment Transaction Request;

III. currency of the Payment Transaction Request;

IV. date of the Payment Transaction Request and actual or intended shipping date of the goods or provision of the services referred to in the Payment Transaction Request;

V. unique identification number given to the Payment Transaction Request before Authorisation;

VI. unique identification number given to that Payment Transaction Request after Authorisation;

VII. expiry date of the Card used in respect of such Payment Transaction Request; and

VIII. description of goods or services referred to in such Payment Transaction Request.

6.2.3 The Merchant shall always use the CNP Payment Order Form (as described below) for accepting CNP Payment Transactions online.

6.2.4 The Merchant shall include the order reference number in each CNP Payment Transaction made. The Merchant agrees that the status of the Payment Transaction Request will be sent to the Merchant by the Bank, quoting the order reference number used by the Merchant when initiating the Payment Transaction Request.

6.2.5 The Merchant shall include on its website the following:

(a) complete description of goods or services provided;

(b) its refund or return policy;

(c) contact information for its customer service contact including its electronic mail address;

(d) transaction currency;

(e) any export restrictions, as applicable;

(f) its delivery mode and policy;

(g) its country of Domicile;

(h) logos of those Cards accepted, in the format authorised by the Bank;

(i) other related tariffs and/or regulations; and

(j) its security capabilities and policy for transmission of payment card details.

6.2.6 The Merchant shall notify the Bank, and keep it informed, in writing, of any new site or banner linked with the website of the Merchant that is used for initiating Payment Transaction Request. Notification shall include but not be limited to any recent modification or alteration of or external attack on or hacking of such website.

6.2.7 The Merchant authorises the Bank to hold service codes with respect to the Merchant website used for initiating Payment Transaction Requests.

6.2.8 The Merchant acknowledges and agrees that the Bank accepts no liability whatsoever arising out of or in connection with processing Payment Transaction Request referred to in clause 6.2.2 unless such liabilities arise from the Bank's gross negligence. For this purpose and for the purpose of complying with the applicable guidelines of the Card Schemes, the Merchant agrees that the Card Schemes may hold the Merchant liable for any Losses arising out of or in connection with CNP Payment Transaction Request made (including but not limited to those arising from the Card Schemes – liability only transfers for interregional transactions). The Merchant agrees that for this purpose the Bank is authorised to withhold from any Sales Proceeds from the Merchant or to debit the Bank Account accordingly.

6.2.9 Subject to clause 5.4 above, the Merchant shall use all reasonable endeavors to identify and satisfy itself as to the identity of the Cardholder (entirely at the Merchant's risk) for each CNP Payment Transaction Request. The Merchant accepts full liability for, and hereby agrees to indemnify the Bank for any Loss incurred or sustained in connection with, any dispute arising out of any CNP Payment Transaction Request.

6.2.10 The Merchant may seek Authorisation for CNP Payment Transaction Requests:

(a) using the manual data entry screen available via the Payment Client Software installed on the server controlled and maintained by the Merchant;

(b) using the POS Terminal; or

(c) by obtaining Authorisation through the Authorisation Centre.

6.2.11 The Merchant agrees that, following Authorisation for a CNP Payment Transaction Request, to the extent that the Bank approves such CNP Payment Transaction Request:

(a) the Bank does not guarantee that such CNP Payment Transaction Request is being authorised by the person whose card number and name appears on the Card;

(b) any approval code provided by the Bank does not guarantee the validity of the CNP Payment Transaction Request; and

(c) the charges that are presented to the Bank will be handled by the Bank in its ordinary course of business.

6.2.12 The Merchant agrees that if a CNP Payment Transaction Request is disputed by the Cardholder for any reason, the Sales Proceeds referred to in the relevant CNP Payment Transaction Request shall be subject to immediate charge back to the Cardholder.

6.2.13 The Merchant agrees to abide by the 3D Secure Programme at all times for CNP Payment Transaction and shall keep it updated at all time. The Merchant shall keep the 3D Secure Programme up and running at all times and shall not disable it under any circumstance whatsoever.

7. Fees

7.1 The Merchant agrees and undertakes to pay to the Bank the Fees and charges in accordance with the Schedule of Fees and Charges.

(a) the Fees accrued on each Payment Transaction

7.2 The Merchant agrees and undertakes at its own cost, to provide local telephone landline(s) for the exclusive use of the POS Terminal. The Merchant agrees that all periodical rental charges and call charges for the use of landline(s) shall be borne by the Merchant.

7.3 The Merchant agrees and undertakes to repay to the Bank, on demand, all of its Losses imposed on the Bank by the Card Schemes as a result of or in connection with Payment Transaction Requests initiated or made by the Merchant.

7.4 The Merchant agrees and undertakes not charge or seek to recover from the Bank any amount charged back to the Merchant or for any Refund Vouchers.

8. Settlement and Sales Proceeds

8.1 The Merchant agrees that:

8.1.1 all POS Records shall be transmitted electronically to the Bank at the end of each day but not later than three (3) Business Days from the date of a Payment Transaction Request; and

8.1.2 all Manual Sale Drafts shall be sent to the Bank within three (3) Business Days but not later than twenty-five (25) calendar days from the date of Payment Transaction Request.

8.2 The Merchant agrees that Sales Proceeds shall be paid to the Merchant following submission of the relevant Payment Transaction Request for Authorisation and the approval of the Payment Transaction Request by the respective Card Scheme.

8.3 Subject to clauses 8.4 and 8.5 below, the Bank agrees and the Merchant acknowledges that all Sales Proceeds shall be remitted to the Bank Account in the manner and frequency described in the Schedule of Fees and Charges.

8.4 The Merchant hereby authorises the Bank to deduct from the Sales Proceeds, or if the Sale Proceeds are already remitted to the Bank Account, the Merchant agrees to repay and hereby authorise the Bank to debit the Bank Account the amount of:

(a) the applicable Fees;

(b) any additional payment made by the Bank as a result of any failure or error in the system or pursuant to any negligence, misconduct, or fraudulent act of any employee of the Bank; and

(c) any other payment which is illegitimately or unlawfully received by the Merchant.

8.5 The Merchant hereby authorises the Bank to withhold from, and/or suspend the remission of any Sales Proceeds or any other funds to the Bank Account, if the balance in the Bank Account is not sufficient to meet the Merchant obligations arising out of chargeback claims, fees, expenses, adjustments or other charges that may be imposed on the Bank by any Card Scheme or competent authority in connection to Payment Transaction Requests made by the Merchant.

8.6 The Merchant acknowledges and accepts that the payment of Sales Proceeds by the Bank to the Merchant is subject to verification and audit by the Bank of the Payment Transaction Request to which the Sales Proceeds relate and, in the case of any inaccuracies, the Bank is hereby authorised to debit, hold, or credit the equivalent amount of such Sales Proceeds for any deficiencies or overages or invalid POS Records or Manual Sale Drafts.

8.7 The Merchant shall retain the POS records, the Manual Sale Drafts and related sale invoices for a period of five (5) years from the date the Payment Transaction is completed. If requested by an advance notice; the Merchant agrees to permit the Bank or its representatives to reasonably access and investigate the Merchant's records in relation to Payment Transactions. At no additional cost to the Bank, the Merchant shall permit, the Bank, its internal and external auditors, inspectors, regulators and such other representatives as the Bank may designate from time to time will have the right to perform audits and inspections of the Merchant and its sub- contractors to:

8.7.1 verify the make-up and accuracy of all the POS records, the Manual Sale Drafts and related sale invoices;

8.7.2 verify an examine the systems that process, store, support and transmit Payment Transaction Requests;

8.7.3 verify and examine the Merchant's security practices and procedures and contingency plans and the Merchant's compliance with all applicable regulatory requirements; and accordingly

8.7.4 the Merchant shall give the Bank and its audit representatives full access at all reasonable times and on reasonable notice to the premises at which or from which the Merchant conducts business, including those facilities where any of the Merchant's Representatives, equipment, software, data, records and systems relating are located; and

8.7.5 for the purposes of complying with this clause 8.7, the Merchant will provide full co-operation to the Bank and its internal and external auditors, inspectors, regulators and representatives.

9. Dispute and Charge Back

9.1 The Bank may withhold Sales Proceeds in relation to a Payment Transaction Request or may charge back and debit the amount to the Merchant (including after termination or expiration of the Merchant Agreement) as permitted in accordance

with this Merchant Agreement including, without limitation, in any of the following circumstances where:

- 9.1.1 the supply of goods or services in respect of the Payment Transaction Request is illegal according to the applicable law;
- 9.1.2 approval following Authorisation for a Payment Transaction Request is not obtained in accordance with the Merchant Agreement;
- 9.1.3 Personal Information obtained from a Cardholder following the processing of a Payment Transaction Request is processed, transferred, stored or used by the Merchant other than as permitted by this Merchant Agreement;
- 9.1.4 the particulars inserted in the POS Record or the Manual Sale Draft are not identical to the particulars inserted in the equivalent POS Record or the Manual Sale Draft given to the Cardholder;
- 9.1.5 the Card relating to the Payment Transaction Request is not valid or has expired;
- 9.1.6 the Payment Transaction Request is not authorised by the Issuer or by the Card Schemes;
- 9.1.7 the POS Record or Manual Sale Draft held by the Merchant is incomplete or illegible;
- 9.1.8 the Merchant fails to produce to the Bank, within five (5) Business Days of a written request from the Bank to do so, relevant information relating to the transaction in question including, for example, evidence of the approval of the Cardholder to process the Payment Transaction Request and/or a copy of the signed POS Record or Manual Sale Draft and other supporting documents related to the Payment Transaction Request;
- 9.1.9 the signature of the Cardholder on the POS Record or the Manual Sale Drafts is not reasonably similar to the signature on the Card or is a forged signature (determined at the Bank's discretion);
- 9.1.10 a single Payment Transaction Request is separated into multiple Payment Transaction Requests, each of which is submitted separately for Authorisation by the Merchant;
- 9.1.11 the Merchant has submitted for Authorisation a fictitious, suspicious, and/or counterfeit Payment Transaction Request or otherwise defrauded or attempted to defraud the Bank or the Cardholder;
- 9.1.12 a "chargeback window" has been opened by the Card Schemes for excessive fraudulent or chargeback Payment Transaction Requests;
- 9.1.13 the Payment Transaction Request does not relate to a legitimate, lawful or valid supply of goods or services; or
- 9.1.14 the Payment Transaction Request relates to goods or services not rendered or in respect of which the Cardholder disputes any obligation to pay for such goods or services for any reason and/or the Cardholder makes a claim for set off, or a counterclaim against the Bank or the Card Scheme in respect of the goods and services referred to in the Payment Transaction Request.

10. Data Protection

10.1 The Merchant shall:

- (a) Use, access, retain, disclose or otherwise process any Personal Information in accordance with reasonable instructions from ADCB and only to the extent, and in such manner, as is necessary for the performance of its obligations pursuant to this Agreement or as is required by law or any regulatory body relating to privacy and the protection of Personal Information;
- (b) not do any act or engage in any practice that would violate the secrecy of any individual's Personal Information;
- (c) implement appropriate technical and organisational measures to protect the Personal Information against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Information and take into consideration the nature of the Personal Information which is to be protected and accordingly, the Merchant shall notify the Bank immediately in relation to any unauthorised use or disclosure of Personal Information or upon becoming aware of or being in receipt of a complaint relating to a breach of this clause 10.1.
- (d) limit access to Personal Information only to those employees or permitted subcontractors strictly on a need-to-know basis and take reasonable steps to ensure the reliability of any employee or permitted subcontractor who has access to the Personal Information;
- (e) make sure that all employees and permitted subcontractors who have access to Personal Information are aware of the confidential nature of the Personal Information and do not publish, disclose or divulge any of the Personal Information to any third party unless directed or approved in writing to do so by the Bank;
- (f) Ensure that any third party (including subcontractors) who may be engaged to provide Professional Services is subject to an enforceable agreement which contains the same or similar provisions as this clause 10.1.
- (g) to the extent permitted by applicable law, and to the extent that it concerns information held by the Bank pursuant to the provision of the Bank Services, notify the Bank of any requests for access to Personal Information (by individuals of government agencies) or any complaints regarding the processing of Personal Information; and
- (h) comply with the laws of the UAE governing privacy, secrets and/or data protection, or with the same or similar laws in the other jurisdiction(s) from which the Merchant will provide goods or services.

10.2 **Security measures:** In addition to and notwithstanding any other right or obligation arising under this Agreement, the merchant:

- (a) shall (and shall ensure that its sub-contractors shall) take all appropriate technical and organisational security measures to ensure that Cardholder Data is protected against loss, destruction and damage, and against unauthorised or accidental access, processing, erasure, transfer, use, modification, disclosure or other misuse, and immediately notify ADCB when it becomes aware of a breach of this Clause;
- (b) acknowledges that any unauthorised access, destruction, alteration, addition or impediment to access or use of Cardholder Data when stored in any computer, or the publication or communication of any part or document by a person which has come to his knowledge or into his possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Merchant is authorised to publish or disclose the fact or document) may be a criminal offence; and

10.3 **Indemnification for claims relating to data:** The Merchants shall indemnify ADCB and keep ADCB fully and effectively indemnified on demand (and shall pay such sums to ADCB as would indemnify and keep indemnified ADCB) in respect of any type of liability, loss, damage, claims, demands, actions, charges, costs (including legal/attorney fees) and expenses incurred

by ADCB arising out of or in connection with any wrongful disclosure or misuse of Cardholder Data as a result of a breach of this Clause.

11. Information Security

11.1 Security Policies and Technologies: In signing this Agreement the Merchant undertakes to maintain its own security technologies and techniques, which are to be prepared and maintained in accordance with its policies.

11.2 Network and Application Security: Without limiting the generality of the foregoing, Merchant will implement and use appropriate network management and maintenance applications and tools, appropriate fraud prevention and detection, and data confidentiality/protection/encryption technologies, including for endpoints, servers and mobile devices. This must include mechanisms to identify vulnerabilities and apply security patches. Merchant will also physically and logically separate different customers' networks.

11.3 Security Programme: Merchant will establish and maintain a continuous security programme as part of its obligations under this Agreement and as a recipient of the Bank Services.

11.4 Security Maturity Level:

In no event may Merchant's action or inaction result in any situation that is less secure than:

- (a) the security that Merchant provides for its own systems and data, whichever is greater;
- (b) moreover, and without limiting any other obligation under this Agreement, Vendor is obliged to comply with the following information security standards:

11.5 PCI-DSS: Without limiting the foregoing, the Merchant shall maintain full compliance with the Payment Card Industry Data Security Standard (PCI-DSS) at its own cost and at all times where:

- (a) Merchant's payment services require such compliance, according to PCI-DSS;
- (b) the Merchant's use of the Bank Services, payment services involve the use and/or capture of any payment card information (such as card numbers, Cardholder names, card security and/or similar information).

11.6 Physical Access: Merchant will ensure physical security for and at its premises including:

- (a) Physical access to any equipment that is on the premises of Merchant's facilities and contains any Cardholder Data; and
- (b) Scenarios for moving and storing electronic data off-site (or hot site).

12. Confidentiality

12.1 Limitations on disclosure: Except to the extent that the Bank is required to disclose Confidential Information for the purposes of fulfilling its obligations according to this Merchant Agreement (and in which case to the fullest extent necessary for the Bank to discharge such obligation), neither party may during the term of this Merchant Agreement or thereafter disclose to any person or use for any purpose any Confidential Information obtained by it (the **Recipient Party**) from the other (the **Disclosing Party**) in connection with this Merchant Agreement, but the Recipient Party may:

- (a) disclose Confidential Information to such of its employees or professional advisors (which shall include lawyers, accountants and auditors) who have a need to know such Confidential Information for the proper performance of their duties provided that the Recipient Party has given prior written instructions to employees and, where relevant, professional advisors as to the restrictions on use and disclosure contained in this Merchant Agreement; and
- (b) use Confidential Information in the proper exercise of its rights and the performance of its obligations under this Merchant Agreement.

12.2 Minimising risks of disclosure: The Recipient Party must use its reasonable endeavours to minimise the risk of unauthorised disclosure or use and undertake to take proper care and all reasonable measures to protect the confidentiality of the Confidential Information using not less than the standard of care as it applies to its own Confidential Information.

12.3 Restrictions not applicable: The restrictions on use and disclosure of Confidential Information under 12.1 shall not apply to any Confidential Information which the Recipient Party can prove:

- (a) was already known to it prior to its receipt thereof from the Disclosing Party;
- (b) was subsequently disclosed to it lawfully by a third party who did not obtain the same (whether directly or indirectly) from the Disclosing Party;
- (c) was in the public domain at the time of receipt by the Recipient Party or has subsequently entered into the public domain other than by reason of the breach of the provisions of this clause 12.3 or any obligations of confidence owed by the Recipient Party to the Disclosing Party; or
- (d) is required to be disclosed by law, regulation, order or regulators including as may be required by any of the Card Schemes.

12.4 Means of disclosure immaterial: Confidential Information shall be subject to the obligations of confidence in this Merchant Agreement, irrespective of whether communicated orally or in writing by the Disclosing Party or obtained through observations made by the Recipient Party at the premises of the Disclosing Party.

12.5 Not exempt: Confidential Information shall not be exempt from restriction under this Merchant Agreement by reason only that:

- (a) some or all of its features (but not the combination and/or principle thereof) are or become public knowledge or are in the possession of or become available to the Recipient Party; or
- (b) such information could be derived or obtained from information which is or becomes public knowledge or is in the possession of or becomes available to the Recipient Party if so to obtain or derive the information would require substantial skill, labour or expense.

13. Audit

13.1 At no additional cost to ADCB:

- (a) ADCB and its internal and external auditors, inspectors, regulators and such other representatives as ADCB may designate from time to time will have the right to perform audits and inspections of the Merchant and its sub-contractors to:
 - (i) verify the make-up and accuracy of all charges and invoices;
 - (ii) verify the integrity of Cardholder Data and examine the systems that process, store, support and transmit Cardholder Data;
 - (iii) examine the Merchant's performance of the Services including verifying compliance with applicable Service Levels

and performing audits of Merchant's practices and procedures, Merchant's systems, Merchant's general controls and security practices and procedures, Merchant's disaster recovery and back-up procedures and contingency plans and Merchant's compliance with all applicable regulatory requirements, in particular relating to all equipment and services supplied to ADCB.

(b) The Merchant will give ADCB and its audit representatives full access at all reasonable times and on reasonable notice to the premises at which or from which the Merchant supplies the Services, including those facilities where any Merchant Staff, equipment, software, data, records and systems relating to the Services are located.

(c) The Merchant shall make available promptly to ADCB the results of any internal or external review or audit conducted by the Merchant or its contractors, agents or representatives, relating to the Merchant's operating practices and procedures to the extent relevant to the Services provided by the Merchant under this Agreement.

13.2 For the purposes of complying with this Clause, the Merchant will provide full co-operation to ADCB and its internal and external auditors, inspectors, regulators and representatives.

13.3 In case of any suspected breach on Merchants, ADCB can appoint a PCI Forensic Investigator (PFI) to investigate and provide an independent investigation report. In addition, merchants can also appoint PFI which in case the supplier should share the copy of the report with ADCB.

14. Data Destruction

At the end of term or after the completion of each engagement, the Merchant shall ensure that any ADCB information is destroyed or permanently erased, wherever applicable.

15. Covenants

15.1 The Merchant hereby covenants as follows:

(a) To complete a certain value of Payment Transaction per month as specified in the Subscription Application Form, if applicable;

(b) to establish a fair policy for the exchange or return of goods purchased pursuant to or by virtue of Payment Transaction Requests and shall give credit upon each such return, not in cash but by means of Refund Vouchers;

(c) to process any refund through the "Refund" function at POS terminal or if a Payment Transaction is initiated through Manual Imprinter or if the POS Terminal accepts, no Merchant shall issue a Refund Voucher to the Bank;

(d) not to refuse to exchange or return goods or services merely because they were originally purchased by Cards;

(e) exert its best endeavours to assist the Bank in preventing and detecting fraud. In this respect the Merchant undertakes to inform the Bank, as soon as reasonably practicable, of any fraudulent activity of which the Merchant becomes aware or any such activities which, in the opinion of the Merchant, are fraudulent, constitute a misrepresentation or other illegal activity in relation to a Card.

(f) to abide by and fully comply with the applicable Card Schemes rules and regulations in connection to payment card industry (PCI), data security standards (DSS) and business risk assessment and mitigation (BRAM) and notify the Bank as soon as the Merchant becomes aware of any actual or suspected breach by it of any such rules or standards.

For this purpose, if the Merchant engages in one or more of the following practices, it will be treated as non-compliance with BRAM:

I. make an aggregate Payment transactions for multiple content suppliers.

II. not to submit Payment transactions for or on behalf of a third party (i.e. other business entities); and

III. not to submit a Payment transaction that may, in the sole discretion of the Card Scheme, damages the goodwill or reflect negatively on the Card Scheme's brand;

(g) to notify the Bank of any sale, restructuring, acquisition, merger or any other material change in the nature or size of its business; and

(h) not to make any use of the mark or logo of the Bank or the Card Schemes that would infringe any rights held by the Bank or the Card Schemes, or otherwise use the mark or logo of the Cards in such a manner as to create the impression that the Merchant's goods and services are sponsored, produced, affiliated with, offered, or sold by the Bank and/or any of the Card Schemes.

15.2 Except as expressly authorised by the Bank in writing, neither the Merchant nor any of its Representative shall have any power:

(a) to bind, make any commitment or give any instructions on behalf of the Bank;

(b) to borrow on behalf of the Bank or in any way pledge the Equipment;

(c) to settle any claims, demands or actions against the Bank; or

(d) to enter into or to conclude any contract on behalf of the Bank.

16. Limitation of Liability and Indemnity

16.1 Nothing in this Merchant Agreement excludes or limits either party's liability:

(a) for fraud, theft or any similar dishonesty offence;

(b) to the extent that any applicable laws precludes or prohibits any exclusion or limitation of liability.

16.2 Subject to clause 13.1, the aggregate liability of the Bank to the Merchant under or in connection with this Merchant Agreement, whether arising in tort (including negligence), for breach of contract or otherwise shall be no more than the total amount of Fees and charges paid by the Merchant to the Bank under this Merchant Agreement. The Banks shall not be liable to the Merchant for any indirect or consequential or Loss, whether arising in tort (including negligence), breach of contract or otherwise, whether or not such Loss was foreseeable.

16.3 Regardless of any insurance available to the Bank, the Merchant at all times indemnifies and hold harmless and shall keep indemnified the Bank, its respective directors, officers, employees and agents, against all claims, damages, costs, expenses and liabilities arising out of or in connection with:

(a) the performance of the Bank Services in respect of any Payment Transaction Request made by the Merchant;

(b) failure of any of the Equipment due to inadequate application of appropriate securities measures by the Merchant; and/or

(c) any failure by the Merchant to install, update, maintain the Payment Client Software in accordance with the Bank's instructions;

(d) any failure by the Merchant to observe or abide by its obligations under the Merchant Agreement and in particular the Operation Guide.

16.4 The indemnity contained in Clause 16 shall apply regardless of any wilful or negligent act or omission by the Bank, its directors, officers, employees or agents.

16.5 The termination or expiration of the Merchant Agreement shall not affect any right of indemnity which have accrued to the Bank before such termination or expiration.

17. Force Majeure

17.1 The Bank shall not be liable to the Merchant or to any other party for any delay or non-performance of its obligations under this Merchant Agreement arising directly from any of the following cause or causes beyond its reasonable control and reasonable ability to plan for or avoid: any act of God including fire, flood, earthquake, wind storm or other natural disaster; any terrorist attacks, war, invasion, act of foreign enemies, hostilities, labour dispute including strike, lockout or boycott, act of or failure to act by any Card Scheme or any other regulatory body; 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; and any other cause beyond the reasonable control of either party but not including causes related to the parties (Force Majeure Event).

17.2 If a Force Majeure Event occurs and the Bank has not restored full and uninterrupted Service within three (3) months, the Bank may elect to terminate the Merchant Agreement by notice to the Merchant.

17.3 The provisions of clause 17 are the Merchant's exclusive remedy in respect of any Force Majeure Event (including in relation to any Loss suffered or incurred by the Merchant as a result of or in connection with a Force Majeure Event).

18. General

18.1 The Merchant Agreement will remain valid and enforceable notwithstanding any change in its constitution or ownership, merger or amalgamation of the Merchant or the Bank.

18.2 No delay or omission of the Bank in exercising or enforcing (whether wholly or in part only) any right or remedy hereunder shall impair such right or remedy of the Bank and shall not be construed as a waiver of such right or remedy.

18.3 The invalidity 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.

18.4 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.

18.5 No failure or delay on the part of the Bank in exercising any right, power or privilege under this Merchant Agreement and no course of dealing with the Merchant shall operate as a waiver thereof.

18.6 In the event of conflict or inconsistency between any provision of the Merchant Services Terms and Conditions, these Terms and Conditions, Terms and Conditions for Providing Dynamic Currency Conversion At Point Of Sale, a term in any of the appendices or addendum to the Merchant Agreement, the Operation Guide and any term included in any other document incorporated by reference into this Merchant Agreement, the provisions of the Merchant Services Terms and Conditions shall apply and thereafter, the term falling into the category first appearing in the list above shall, unless expressly stated otherwise, take precedence.

18.7 These Terms and Conditions are made in the English language only.

18.8 This Merchant Agreement (and the documents referred to in it) contains the whole agreement between the parties relating to the transactions contemplated by this Merchant Agreement, and supersedes all previous agreements between the parties relating to these transactions. The Merchant acknowledges that, in agreeing to enter into this Merchant Agreement, it has not relied on any express or implied representation, warranty, collateral contract or other assurance.

18.9 Nothing in this Merchant Agreement shall be deemed to constitute a partnership between the parties, nor constitute to any party the agent of any other party for any purpose.

18.10 Save as expressly set out otherwise, the Bank may amend the terms of this Merchant Agreement from time to time upon notice in writing to the Merchant. The Merchant agrees that if it objects to any such changes, the Merchant's sole and exclusive recourse shall be to cease receiving the Bank Services or those Bank Services which are the subject of any change. The continued use and receipt of the Bank Services following any such change shall indicate the Merchant acknowledgment and agreement to this Merchant Agreement.

18.11 The Merchant may not assign, transfer or otherwise dispose of any of its rights or subcontract, transfer (including by way of novation) or otherwise dispose of any of its obligations under this Merchant Agreement without the prior written consent of the Bank.

18.12 Nothing in this Merchant Agreement shall prevent or restrict the Bank from assigning, transferring, novating or otherwise disposing of any of its rights or from subcontracting, transferring, novating or otherwise disposing of any of its obligations under this Merchant Agreement.

19. Governing Law and Jurisdiction

19.1 These Terms and Conditions any non-contractual obligations arising out of or in connection with it shall be governed by the laws of the Emirate of Abu Dhabi and the Federal Laws of the United Arab Emirates as applied in the Emirate of Abu Dhabi.

19.2 The courts of the Emirate of Abu Dhabi have exclusive jurisdiction to settle any dispute, claim or controversy arising out of or in connection with these Terms and Conditions (including a dispute, claim or controversy relating to any non-contractual obligations arising out of or in connection with these Terms and Conditions) and the parties submit to the exclusive jurisdiction of the courts of the Emirate of Abu Dhabi.

TERMS AND CONDITIONS FOR PROVIDING DYNAMIC CURRENCY CONVERSION AT POINT OF SALE

These terms and conditions shall apply to the Bank's Dynamic Currency Conversion service (the Programme) in the Subscription Application Form.

Except as specifically modified herein, all terms and conditions of the Merchant Agreement for providing the Bank Services remain unchanged and in full force and effect. All capitalised terms used herein shall have the same meaning as given in the

Merchant Agreement. These Terms and Conditions shall not be effective until the Merchant has received notice from the Bank that its participation in the Programme has been approved.

1. Description of Programme

I. The Programme enables certain of the Merchant's customers, whose Cards are denominated in certain currencies (Programme Currency) other than the United Arab Emirates Dirham (Foreign Cardholders), to present a Card at the Merchant's point of sale and to pay for a purchase in the currency of the Foreign Cardholder, based upon a rate of exchange determined by the Bank, while the Merchant receives settlement of the foreign transaction in United Arab Emirates Dirham (collectively, a Foreign Transaction).

II. The Merchant acknowledges and agrees that a Foreign Transaction will be converted to the Programme Currency in which the Card is denominated based upon an exchange rate in effect at the time of authorisation for retail transactions, and that the Foreign Transaction, as converted, will be cleared through the Card Schemes, in the currency in which the Card is denominated. The Programme shall apply only to those Cards issued by the Card Schemes that approve the Programme, or under the brands of such other Card Schemes included within the Programme that are billed to the Foreign Cardholder in a Programme Currency. Additionally, the Programme may not apply to credit return transactions, or certain Foreign Transactions that are referred to the Bank for Authorisation or otherwise authorised by the Merchant via telephone. The Bank reserves the right to add, delete or suspend any currency to or from the Programme, as the case may be, at any time without notice to the Merchant. Further, the Bank may terminate or suspend the Programme for any reason.

2. Programme Requirements

The Merchant will comply with all reasonable instructions provided by the Bank pertaining to the Merchants, participation in the Programme. Without limiting the foregoing, the Merchant agrees to comply with the following specific requirements of the Programme:

I. **Programme Disclosure:** The Merchant agrees to comply with all instructions and specifications applicable to the Programme as provided by the Bank from time to time. Without limiting the generality of the foregoing, the Merchant shall follow Programme procedures, as may be amended by the Bank from time to time.

II. **Foreign cardholder opt in:** The Merchant shall, based upon the instructions provided by the Bank and/or the Card Scheme from time to time, provide Foreign Cardholders with the ability to "opt in" or consent to participate in the programme. In the event that a particular Foreign Cardholder, elects not to opt in, it is understood that the Bank will process that Foreign Cardholders Transaction in United Arab Emirates Dirham. The Merchant agrees to make such reasonable modifications as the Bank may request to increase the likelihood of Foreign Cardholders opting into the Programme. It is understood that any Foreign Transaction for which the Merchant fails to provide a Foreign Cardholder with the opt-in procedure as described herein may be subject to a chargeback as defined in the Merchant Agreement. It will be the responsibility of the Merchant to seek prior consent of the Cardholder for participation in the Programme.

III. **Timely Presentment of Foreign Transactions:** The Merchant acknowledges that the timely presentment of Foreign Transactions is necessary for participation in the Programme. For the avoidance of doubt, Foreign Transactions must be presented within twenty-four (24) hours of the completion of the Foreign Transaction. Notwithstanding the foregoing, Foreign Transactions submitted by the Merchants involved in the hotel, lodging and cruise industries must be submitted within twenty-four (24) hours of a Foreign Cardholder's checkout from the Merchant's establishment. The Merchant acknowledges that following its failure to present a Foreign Transaction within the specified timeframe, the Bank may reduce the amount of the Programme Participation Payment (as defined below).

IV. **Credits>Returns:** Unless the Merchant uses point of sale technology that is not capable of processing credit, returns in the Programme Currency in the manner required by the Bank or credit return to a Foreign Cardholders account reflecting either the partial or complete return or reimbursement of a Foreign Transaction will be converted to the Programme Currency using the exchange rate applicable on the date of presentment of the credit by the Merchant, and the credit, as converted, will be cleared through the applicable Card Scheme in the Programme Currency in which the Card is denominated, and if such support is not in place, then such credit or return transaction will be processed in United Arab Emirates Dirham, subject always to applicable Card Scheme rules. The Merchant acknowledges and agrees that the original amount of the credit/returns will likely differ from the original settlement amount received by the Merchant for the Foreign Transaction in United Arab Emirates Dirham and that the Merchant may incur Losses as a result of the credit/return. Notwithstanding anything herein to the contrary, the Merchant acknowledges that it will be responsible for the full amount of the credit/return under the terms of the agreement.

V. **Chargebacks:** A chargeback incurred in connection with a Foreign Transaction will be transmitted to the Bank by the applicable Card Scheme in the Programme Currency and converted by such Card Scheme into United Arab Emirates Dirham at the Card Scheme's designated foreign exchange rate. Given the potential variances in exchange rates applied to the underlying Foreign Transaction and chargeback, the Merchant acknowledges and agrees that the original amount of the chargeback will likely differ from the original settlement amount received by the Merchant for the Foreign Transaction in United Arab Emirates Dirham and that the Merchant may incur Losses as a result of the chargeback. Notwithstanding anything herein to the contrary, the Merchant acknowledges that it will be responsible for the full amount of the chargeback under the terms of the agreement.

VI. The Merchant agrees that commission as applicable due to participation in this Programme shall be borne by the Merchant. All current charges will be applicable on the purchase amount under the DCC programme.

VII. The programme will apply only for currencies approved by the Bank from time to time.

VIII. The Merchant agrees that it will display marketing collaterals as may be deemed necessary by the Bank in order to create necessary awareness and offer an option to the Cardholder.

IX. The Merchant agrees that the Bank will have sole rights to offer a card acceptance service for the Merchant for the Term of the Merchant Agreement. In the event the Merchant decides to use any other service provider, it shall reimburse all the incentives earned in previous twelve (12) calendar months under this programme.

3. Programme Participation Payment

I. As consideration for its participation in the Programme, the Bank will pay the Merchant an amount equal to percent, specified in the Schedule of Fee of the amount of Foreign Transactions settled on behalf of the Merchants under the Programme, calculated in United Arab Emirates Dirham prior to any conversion of the Foreign Transaction amount under

the Programme (the Programme Participation Payment). The settlement of this amount will be as per pre-defined frequency agreed and accepted between the merchant and the Bank. The same should be treated as confidential.

II. The Programme Participation Payment shall be denominated and paid in United Arab Emirates Dirham. Net payment (after deducting the applicable commission) shall be made by the end of the calendar month following the month in which the Programme Participation Payment was earned.

III. The programme is initially valid only for approved card schemes but may be extended to other Card Schemes.

4. Indemnification

The Merchant agrees to indemnify the Bank, the Card Scheme, and any other Card sponsor against any and all Losses to which the Bank, the Card Schemes and any other Card sponsors may be subjected arising in whole or in part from the Programme, any Transaction involving the Merchant, any act or omission of the Merchant in connection with any such Transaction, use of any third party vendor, any breach of the Merchant Agreement or these terms and conditions by the Merchant, or the Merchant's or any third party vendor's violation of applicable laws or Card Scheme operating regulations, or any return of goods, price adjustment or other dispute with or claim by a Foreign Cardholder with the Merchant (whether or not such Foreign Cardholders claim is valid), including, but not limited to, claims or Losses of any foreign Cardholder or of any third party. Without limiting the generality of the foregoing, the Merchant agrees to be solely responsible for its actions in honouring or refusing to honour cards, including without limitation any failure to adequately provide required or recommended disclosure or notification, and in retaining Cards in accordance with the Card Scheme the Merchant operating procedures; and the Merchant will indemnify, defend and hold the Bank, the Card Scheme and other Card sponsors harmless from any Losses arising from any injury to persons, property or reputation which occurs as a result thereof.