



**MERCHANT INFORMATION**

Please write in BLOCK CAPITALS and tick where necessary

Legal Business Name		In Business Since	
Business Trade Name (DBA)			
Business Owner(s)			
Principal Contact Name			Title
PO Box	Postal Code	Physical Business Address	
Business Phone Number(s)		Cell Number(s)	
Email Address(es)			
Technical Contact Name		Phone Number	Email Address
Emergency Contact Name		Phone Number	Email Address
Expected Monthly Credit Volume (USD)		Expected Monthly Debit Volume (KYD)	Average Transaction Amount Per Card
Primary Banker			
Previously Accepted Credit/Debit Cards		Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, for how long?
Name of Financial Institution			
Previous or Current Discount Rate			
VISA <input type="checkbox"/>	MC <input type="checkbox"/>	DISCOVER <input type="checkbox"/>	AMEX <input type="checkbox"/>
Charge-Back Volumes		<b># OF TERMINALS REQUIRED</b>	IP
			Wireless <input type="checkbox"/>
Merchant Website URL		Merchant IP Address	Hosting Service Vendor Name
Hosting Service Physical Address		Hosting Service Phone Number	

**PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS INFORMATION (PCI DSS)**

**1. Type of merchant business (check all that apply & attach copy of Trade & Business License)**

Retailer  Telecommunication  Grocery & Supermarkets  Petroleum  Restaurant  Travel & Entertainment  Beauty Salon   
Service Industry  Water Sports  Other  (please specify)

**2. What types of payment channels will the business serve?**

Card present (face-to-face)  Card not present (E-commerce)  Card not present (mail/telephone order/virtual terminal)

Note: If the business has another payment channel or process that is not covered above, please explain:

**3. Description of proposed payment card business: (if additional space is required, please use separate sheet of paper):**

a) How will the business store the Sales Receipts & Audit Journals?

b) Please state level of authority, e.g.: Owner and/or Manager or Supervisor

c) Is the access Single or Dual? Single  Dual

d) Will the business transmit Cardholder data to any other system or program? Yes  No   
If yes, please explain including all systems, devices, filing and spreadsheet applications that the business will be using.

## PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS INFORMATION (Continued)

4. Locations: Please provide a summary of the business locations (for example, retail outlets, corporate offices, data centers, etc.)

TYPE OF FACILITY	LOCATION OF FACILITY

### 5. Relationships

Does the business plan to have a relationship with one or more Third Party Agents (for example, payment gateways, web-hosting companies, booking agents etc.)? Yes  No  If **Yes**, please provide details:

NAME OF THIRD-PARTY AGENT	DESCRIPTION OF SERVICES PROVIDED

c. Does the business have, or intend to have a Merchant Relationship with another Bank? Yes  No   
 If **Yes**, Name of Bank: \_\_\_\_\_

## MERCHANT SERVICES APPLICATION

Pursuant to Cayman National's Terms and Conditions for Merchant Services, the Merchant hereby requests to process Transactions as part of Cayman National's Merchant Services. Merchant confirms that all information in this Application Form is complete, true, and accurate, and agrees to inform Cayman National of any changes to the information supplied. Cayman National may obtain any other information that it may deem necessary in order to process this Application. By signing this Application and in consideration of the Merchant Services contemplated, the Merchant unconditionally accepts and agrees to be bound and follow Cayman National's Terms and Conditions for Merchant Services, as may be amended.

For and on behalf of: (Merchant's full business name)

Authorised  
Signature

Date DD / MM / YYYY

Authorised  
Signature

Date DD / MM / YYYY

To receive your Merchant Statement, sign up for Business Online Banking today at [caymannational.com/business/banking/online-banking](http://caymannational.com/business/banking/online-banking)

## FOR BANK USE ONLY

Accepted By	Assigned RSM	Date DD / MM / YYYY
Credit Merchant No	Debit Merchant No	
USD Bank Account No	KYD Bank Account No	
USD Credit Discount Rate VISA <input type="checkbox"/> MC <input type="checkbox"/> DISCOVER <input type="checkbox"/> AMEX <input type="checkbox"/>	KYD Debit Discount Rate VISA <input type="checkbox"/> MC <input type="checkbox"/>	
Approved/Declined By	Date DD / MM / YYYY	AMEX KYD <input type="checkbox"/> CNB MC BUS DEBIT <input type="checkbox"/>
Merchant Representative	MCC MC/VISA DISCOVER/AMEX	
Set-up Date & Time DD / MM / YYYY at HH : MM am/pm	Date Merchant Location Visited	Date DD / MM / YYYY
Comments		

## PART I | GENERAL TERMS AND CONDITIONS

### 1. DEFINITIONS

In these Terms and Conditions, the following words shall be having the meanings ascribed:

**Affiliate** means any other company that has Cayman National Corporation Ltd. as a shareholder (being the parent company of Cayman National), or any company that is held by the parent company of Cayman National Corporation Ltd. and its subsidiaries;

**American Express** means American Express and any affiliate thereof with responsibility for operations in the Cayman Islands, and any of their successors and assigns;

**Authorisation** means approval by, or on behalf of, the Card Issuer to validate a Transaction for a Merchant or another affiliate bank, indicating the availability of the Cardholder's credit limit at the time the Authorisation is requested;

**Authorisation Centre** means the Cayman National or other authorisation centre as established and notified to a Merchant;

**Authorisation Code** means an alphanumeric code advised by the Issuer to Cayman National that confirms the Card Transaction is approved;

**Banking Day** means any day Cayman National is open for business in the Cayman Islands;

**BIN** means Bank Identification Number.

**BIN Attack** means a type of fraudulent activity where attackers systematically use the first six digits of a BIN, which identifies the issuing bank of a payment card, to generate and attempt unauthorised transactions.

**Business** means the business as a Merchant as described in the application form for Merchant Services;

**CAPTCHA** means a security measure implemented on the Merchant's platform to verify that interactions, such as form submissions, transactions, or other activities, are conducted by human users and not automated systems (bots). This mechanism may require users to complete tasks such as identifying images, entering displayed text, or solving simple puzzles to proceed.

**Card** means all valid and current payment cards approved by Cayman National and notified to a Merchant in writing from time to time;

**Card Association Rules** mean the rules and operating instructions issued by particular Card Associations from time to time;

**Card Associations** include Visa International, Mastercard International Incorporated, Discover Financial Services, American Express or other entities providing global payment solutions that Cayman National processes for a Merchant under these Terms and Conditions;

**Card Not Present (CNP)** means a Transaction made where the Card is not physically presented by the Cardholder to a Merchant at the time that an order is given and payment effected;

**Card Number** means the number displayed on a Card identifying the Cardholder's Account;

**Card Present** means a Transaction where the Card is physically presented by the Cardholder to a Merchant as the form of payment at the time of a sale;

**Cardholder** means an individual, company, firm or other body to whom a Card has been issued and who is authorised to use that Card;

**Cardholder's Account** means an account in the name of the Cardholder, as identified in the Card Number;

**Cardholder's Information** means any information in relation to a Cardholder including any personally identifiable Card information and personal data;

**Cayman National** means Cayman National Bank Ltd.;

**Chargeback** means a demand by a Card Issuer or a Card Association to be repaid a sum of money by Cayman National in respect of a Transaction that has been previously subject to Settlement and for which Cayman National had been paid by the relevant Card Association;

**Chip** means a microchip embedded on the front or back of a Card;

**Contactless** means a technology that uses radiofrequency identification reader (RFID) or near field communication (NFC) to communicate with a Chip Terminal;

**CVV2/CVC2** means the three or four digit security code printed on the back or front of Cards;

**Data Security Standards** includes Payment Card Industry (PCI) Data Security Standards, Visa Account Information Security Programme, and the Mastercard Site Data Protection Programme, and any changes or replacements to those or similar programmes and standards, as amended;

**Discount Rate** means a percentage charge that Cayman National applies to the Merchant for the handling of Card Transactions;

**Discover** means Discover Financial Services and any affiliate thereof with responsibility for operations in the Cayman Islands, and any of their successors and assigns;

**Documentation** means any and all manuals, operating policies and procedures and other written materials in any form or format provided or made accessible to the Merchant in conjunction with any element of Merchant Services, as amended from time to time;

**ECommerce** (also referred to as Electronic Commerce) means a nonface-to-face online Transaction using electronic media in which Card details are transmitted by the Cardholder to the Merchant via the Internet, an extranet, or any other public or private network;

**Equipment** means all equipment provided to a Merchant by Cayman National, or its agents including in particular any imprinter, electronic data capture device, Sales Drafts or Terminal stands and including any replacements, substitutions or additions thereto;

**Fee Schedule** means the fees and charges (including the Discount Rate) payable by the Merchant to Cayman National as issued and varied by Cayman National in its absolute discretion from time to time;

**Floor Limit** means the amount above which Authorisation is required in respect of a Transaction, as determined by the relevant Card Association or Cayman National from time to time;

**Hypertext Transfer Protocol Secure (HTTPS)** means the protocol used for transmitting data between a user's browser and the Merchant's website or platform. HTTPS ensures that all data exchanged is encrypted, providing a secure communication channel that protects sensitive information, such as payment details and personal data, from unauthorised access or interception.

**Internet** means the Internet being a collection of various separate networks worldwide that are connected together, using a standardised set of communication protocols;

**Internet Service Provider (ISP)** means the provider of a service to enable Card details to be sent securely over the Internet to enable payment to be made for goods or services;

**Issuer** means a financial institution that issues Cards and whose name appears on the Card as the Issuer or who enters into a contractual relationship with the Cardholder for the use of the Card;

**Mail/Telephone Transaction** means the processing of a Transaction arising from an order for goods or services where the Card and the Cardholder are not physically present at the time of the Transaction;

**Mastercard** means Mastercard International Incorporated and any affiliate thereof with responsibility for operations in the Cayman Islands, and any of their successors and assigns;

**MATCH** means Mastercard's Member Alert to Control Highrisk Merchants list;

**Merchant** means the person or entity that has entered into these Terms and Conditions in order to receive Merchant Services;

**Merchant Information** means any information in relation to a Merchant including any personal data;

**Merchant Services** mean the Transaction Authorisation and Settlement services, and related services, provided by Cayman National to a Merchant pursuant to these Terms and Conditions;

**Merchant Services Application** means the application form completed and delivered by a person or entity that wishes to receive Merchant Services pursuant to these Terms and Conditions;

**Nominated Bank Account** means the bank account(s) that the Merchant has advised Cayman National is to be debited and credited with funds due by and to the Merchant;

**Operating Guide** means the operating guide issued and varied by Cayman National setting out detailed procedures and operating instructions that a Merchant must follow in connection with accepting and processing Transactions, and other obligations under these Terms and Conditions;

**Payment Service Provider (PSP)** means a provider of a service that enables Card payments to be made over the Internet;

**PIN** means personal identification number used by the Cardholder to authorise Transactions via a PIN Pad or PED;

**PIN Pad or PIN Entry Device (PED)** means a secure device with an alphanumeric keyboard that complies with the requirements established from time to time by Cayman National and through which the Cardholder can enter its PIN;

**Recurring Transaction** means a Transaction that the Cardholder has agreed can be debited or charged to their Cardholder's Account at agreed intervals or on agreed dates;

**Refund** means any sum the Merchant agrees to return to the Cardholder's Card in relation to an amount previously debited from the Cardholder's Account;

**Reserve Account** means an account under the sole control of Cayman National that Cayman National may debit if there are insufficient funds in the Nominated Bank Account;

**Sales Drafts** mean a manual charge form that has been imprinted to evidence a purchase by a Cardholder of goods or services rendered at a Merchant location;

**Secure Sockets Layer (SSL)** is a standard security technology used to establish an encrypted link between a web server and a browser, ensuring that all data passed between the Merchant's platform and users remains private and secure.

**Settlement** means the payment of amounts to be reimbursed by Cayman National to the Merchant or by the Merchant to Cayman National under these Terms and Conditions;

**Software** means all protocols, software components and other interfaces and software provided by Cayman National to a Merchant or accessed by the Merchant pursuant to these Terms and Conditions, and any and all updates;

**Terminal** means an electronic device used to capture Card details, for obtaining Authorisations and submitting Transactions to Cayman National for Settlement, and includes any PIN entry device (PED) if it is a separate device;

**Termination** means the termination of Merchant Services by any of the parties under these Terms and Conditions;

**Transaction** means the purchase or lease by a person or entity of goods and/or services from a Merchant (including a credit or refund) by use of a Card or an alternative payment method;

**Transaction Data** means all data relating to Transactions, including, but not limited to data or information related to the Cardholder, the Card, the products and services sold, pricing, refunds, shipping details and billing information;

**Transaction Record** means the particulars of a Transaction required from a Merchant by Cayman National in order to process a Transaction in the form as prescribed by it;

**Transport Layer Security (TLS)** means a cryptographic protocol designed to provide secure communication over a network by encrypting data transmitted between the Merchant's platform and users.

**Two-Factor Authentication (2FA)** refers to an additional security layer requiring users to provide two forms of identification to access their accounts or complete transactions on the Merchant's platform.

**Virtual Private Network (VPN)** means a private network that encompasses links across a shared or public network;

**Virtual Terminal** means a secure web page in the internet browser where a Merchant may process Card Transactions;

**Visa** means Visa International and any affiliate thereof with responsibility for operations in the Cayman Islands, and any of their successors and assigns;

**VMAS** means Visa Merchant Alert System;

**Website Page** means the collection of information provided by a website displaying products and/or services for sale by a Merchant over the Internet;

**WiFi Protected Access (WPA)** means a security standard for users of computing devices equipped with wireless internet connections.

**Wireless Equivalent Privacy (WEP)** means a security protocol for wireless local area networks;

**Wireless Local Area Network (LAN)** means a computer network that allows wireless communications using radio waves, microwaves or both to transmit Card or Cardholder data;

**Wireless Terminal** means a terminal that allows wireless processing of Card Data;

**3D Secure** means an XML-based protocol used by the Card Associations to authenticate the Cardholder in an ECommerce Transaction.

## 2. BINDING

- a. These Terms and Conditions apply to each Merchant and to Merchant Services, and replaces any prior Merchant Agreement or other terms and conditions relating to Merchant Services offered by Cayman National. Completion and delivery to Cayman National by the Merchant of a Merchant Services Application, and the processing of a Transaction by the Merchant or the acceptance of Equipment, shall constitute acceptance and agreement to be bound by these Terms and Conditions.
- b. Cayman National may change these Terms and Conditions at any time, with 30 days notice. Cayman National will give notice to the Merchant directly in writing, by posting notification in Cayman National Customer Service Centres, on its website, or via an electronic message through Online Banking, or email.
- c. Continued use of Merchant Services constitutes acceptance of these Terms and Conditions, as may be amended.
- d. These Terms and Conditions are in addition to any other agreements, notices or notifications, or terms and conditions for services that the Merchant may have with Cayman National at present, or in the future. If there is a conflict between these Terms and Conditions and any other agreement or other terms and conditions the Merchant may have with Cayman National, these Terms and Conditions govern to the extent of the conflict, unless the other agreement or terms and conditions expressly states otherwise. If there is a conflict between these Terms and Conditions and the Operating Guide, these Terms and Conditions govern.

- e. These Terms and Conditions, together with the Operating Guide, the Merchant Services Application, and any other documents as Cayman National may advise to all Merchants in relation to Merchant Services, and any other documents as the parties may from time to time agree to, constitute the entire agreement and obligations of the parties in respect of Merchant Services. The above referenced documents are (where relevant) incorporated into and form these Terms and Conditions, and set out the terms upon which the Merchant will receive Merchant Services.

- f. Any terms or expressions importing the singular shall include the plural and vice versa.

## 3. HONOURING OF CARDS

- a. The Merchant agrees, in consideration of receiving from Cayman National the right to participate in the Card Associations, to accept all valid and current Cards presented by Cardholders, and to provide its full range of goods and services at prices not greater than normal cash prices.
- b. The Merchant agrees not to deduct any part or the whole of the Discount Rate that will be deducted from Card Transactions prior to crediting the Nominated Bank Account, or other fees and Chargebacks that may be debited from the Merchant's Nominated Bank Account with Cayman National.
- c. The Merchant shall not require a minimum or maximum Transaction amount and shall not post signs requiring minimum or maximum Transaction amounts.

## 4. AUTHORISATION

- a. If a Cardholder wishes to purchase goods or services, the cost of which is equal to or more than the relevant Floor Limit for the Card concerned, the Merchant must obtain prior Authorisation for such Transaction before accepting it from the Cardholder.
- b. The Merchant must seek Authorisation from the Authorisation Centre before or at the time of accepting each Transaction by following the procedures set out in the Operating Guide, or as Cayman National may otherwise instruct. Authorisation does not guarantee payment for a Transaction, particularly where the Cardholder or the Card are not present; it merely verifies that there is available credit on the Card, and that the Card has not been reported lost or stolen at the time of the Authorisation.
- c. If Authorisation is granted, the Merchant shall (where relevant) record on the Transaction Record the Authorisation Code allocated to the Authorisation. If the Transaction so authorised is not forthwith concluded, the Merchant must immediately contact the Authorisation Centre to cancel/ reverse the Authorisation, except if otherwise provided in the Operating Guide.
- d. If Authorisation is refused, the Transaction must not proceed and the Merchant must not seek Authorisation for any different amount.
- e. Should a Cardholder deny having authorised or participated in a Transaction, Cayman National may, at its discretion, withhold or return the Transaction as unpaid.

## 5. ALL TRANSACTIONS

- a. All Transactions accepted must be in United States Dollars or Cayman Islands Dollars unless Cayman National has given prior consent in writing that payment in other currencies may be accepted.
- b. A Merchant who has been authorised to undertake Transactions is automatically authorised to provide Refunds of such Transactions. The Merchant is not permitted to process Refund Transactions to a Card that was not originally used to make such Transactions. The Merchant is not permitted to accept money from a Cardholder in connection with processing a Refund to the Cardholder's Account. The Merchant is not permitted to give cash as a Refund if the Transaction was performed with a Card. A Refund must be processed to the Card Account.
- c. The Merchant must provide evidence of the presence of the Card tendered for each Transaction (except for ECommerce Transactions and Mail/Telephone Transactions), either by the Chip being read or the Card being swiped through an electronic Terminal.
- d. The Merchant must not:
  - i. undertake Transactions for any purpose other than the genuine purchase of goods or services supplied by the Merchant to the Cardholder;
  - ii. impose any minimum or maximum Transaction values;
  - iii. discriminate against the use of Cards in any way;
  - iv. discourage the use of one Card over another;
  - v. split a Transaction into two or more Transactions;
  - vi. accept Transactions relating to goods or services that fall outside the description of the Merchant's Business without the prior written approval of Cayman National;
  - vii. accept a Transaction or present Transaction Data for processing that was not undertaken directly between the Merchant and the Cardholder;
  - viii. process Transactions on behalf of a third party, company or business, including any subsidiary or holding company of the Merchant, without the prior written consent of Cayman National;
  - ix. accept or process Transactions in order to give cash to the Cardholder;

- x. accept or process any Transaction for goods or services supplied outside of the Cayman Islands without the prior written approval of Cayman National;
  - xi. accept or process any Transaction representing payment for goods or services that are illegal both under the laws of the Cayman Islands and of the Cardholder's jurisdiction (called a Crossborder Illegal Transaction). The Merchant must not knowingly submit any Transaction that is illegal or that the Merchant should have known was illegal; or
  - xii. raise a Transaction Record prior to the goods being dispatched. If, for any reason, the Merchant does not have the goods available for dispatch to the Cardholder within 7 days of receipt of the order, or if multiple shipments or deliveries are required, the Cardholder must be notified accordingly and the order reconfirmed by the Cardholder.
- e. The appointment by the Merchant of a Payment Service Provider, or other form of intermediary, to process Transactions on the Merchant's behalf is subject to approval by Cayman National.
  - f. The Merchant agrees to operate as required and to comply with the Card Association Rules, and to process Transactions as required in, and in accordance with, these Terms and Conditions.
- 6. PROCESSING LIMITS**
- a. Cayman National may, at its discretion, impose a limit on the total value of Transactions it processes for the Merchant over a given period of time. The Merchant Services Application Form indicates the annual value and volume of Transactions that were anticipated to be processed. The limit may be amended from time to time, and if the Merchant exceeds an established limit, processing may be suspended/or funds held by Cayman National until a new limit is agreed.
- 7. SECURITY**
- a. The Merchant agrees to comply with all Data Security Standards. Cayman National will provide details of any Data Security Standards on request.
  - b. Before completing any Transaction, the Merchant is required to comply with all security procedures required by Cayman National, and to attempt, by reasonable, discreet and peaceful means, to retain a Card if so requested by Cayman National or the Card Associations.
  - c. The Merchant agrees to retain all Transaction Data in the strictest confidence, and in a secure environment where it can only be accessed by authorised members of staff, and to ensure that any such details stored electronically are fully protected. The Merchant must take all reasonable precautions to ensure that Cardholder's Information is not misused or disclosed to any person, other than Cayman National.
  - d. The Merchant may not retain or store Cardholder CVV2/CVC2 data after Authorisation for a Transaction that has been received.
- 8. PRESENTATION OF TRANSACTIONS**
- a. The Merchant may present Transactions to Cayman National for Authorisation and Settlement by way of electronic transfer (or other media as may be agreed in writing). Transactions are to be presented to Cayman National within one Banking Day of a Card being accepted as a means of payment or Refund. Cayman National will endeavour to settle Transactions within two Banking Days of receipt.
  - b. The Transaction Data requirements are set by the Card Associations and will be advised to the Merchant from time to time. Changes to such Transaction Data as advised must be implemented within the required timeframe as detailed with such notification(s).
  - c. The Merchant must not present, or allow anyone else to present, to Cayman National more than one set of Transaction Data for each Transaction.
  - d. If Transactions are not presented directly by the Merchant to Cayman National, any third party used to manage or send Transactions to Cayman National on the Merchant's behalf must be approved in advance in writing by Cayman National to handle Transactions.
  - e. Cayman National will endeavour to ensure continuity of Merchant Services but cannot guarantee that Merchant Services will always be available to process Transactions during specified times, and shall not be liable for any loss of business or any consequential damages arising out of Merchant Services not being available.
- 9. NOMINATED BANK ACCOUNT AND RESERVE ACCOUNT**
- a. During the period that Cayman National processes Transactions for the Merchant, the Merchant must maintain a Nominated Bank Account in United States Dollars and Cayman Islands Dollars, if applicable, for the purpose of enabling it to credit payments due to the Merchant, and to debit any sums payable by the Merchant.
- b. Cayman National may establish a Reserve Account or require the Merchant to provide guarantees or other security and to apply special terms and conditions in relation to the Merchant's acceptance of Transactions at any time, for the purpose of providing a source of funds to pay Cayman National for any and all amounts and liabilities owed by the Merchant to Cayman National for actual or contingent liabilities. The amount of the Reserve Account shall be set and increased by Cayman National, in its sole discretion as it may determine from time to time.
- c. The Reserve Account may, at the reasonable discretion of Cayman National be funded by the Merchant depositing into the Reserve Account an amount determined by Cayman National, Cayman National debiting the Nominated Bank Account for any amount for deposit to the Reserve Account, or Cayman National depositing into the Reserve Account any funds that it is obliged to pay to the Merchant.
  - d. Cayman National may, without notice, apply funds in the Reserve Account or any other security, against any outstanding or future charges, fees, penalties, Chargebacks and Refunds, amounts owing to it under these Terms and Conditions, or otherwise to Cayman National as a member of the Card Associations and Cayman National or any of its Affiliates or under any right of setoff, and amounts demanded by any competent authority or third party in response to a tax levy or other court order as necessary to comply with any applicable laws.
  - e. Any security held or funds held in the Reserve Account and not withdrawn or otherwise applied by Cayman National, will remain available to Cayman National until Cayman National no longer provides Merchant Services to the Merchant and the Merchant has paid in full all amounts owing, or that could ever be owing, under these Terms and Conditions or any right of setoff or any amount due under any applicable law.
  - f. Nothing in these Terms and Conditions prevents Cayman National from relying on any other guarantee or obligation or security provided to Cayman National.
  - g. The Merchant is not permitted to setoff against its customers in defense of an action to enforce payment against such customer for goods and services purchased through the use of a Card.
- 10. PAYMENT BY CAYMAN NATIONAL**
- a. In accordance with these Terms and Conditions, Cayman National will pay to the Merchant all sums due and recorded as Transaction Data submitted (less the amount of any sums payable by the Merchant), by crediting the Nominated Bank Account.
  - b. Cayman National may, with or without notice, change processing or payment terms and suspend credits or other payments of any and all funds, money and amounts now due or that subsequently become due to the Merchant pursuant to these Terms and Conditions if in good faith it suspects that any Transaction is fraudulent or involves other criminal activity, or that the Transaction was not in the ordinary course of the Merchant's Business, or if the number or size of the Transaction(s) is significantly greater than expected, or if it suspects that any such Termination event has, or is likely to occur (whether or not Cayman National has terminated Merchant Services). All payments so suspended may be retained by Cayman National until it has satisfied itself that such Transaction(s) is/are legitimate and no longer liable to be the subject of a Chargeback. No interest shall accrue in respect of any such amount that is so withheld.
  - c. Cayman National will not be held liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, but not limited to, any Card Association or any other financial institution.
  - d. In the absence of any information to the contrary, the Merchant accepts Cayman National's records of any Transaction and Transaction Data as accurate, correct, and binding on the Merchant.
- 11. INVALID CARD TRANSACTIONS/CHARGEBACKS**
- a. Card Issuers have a broad range of rights entitling them to refuse to settle a Transaction or to undertake the Chargeback of a Transaction undertaken and processed by a Merchant and presented to them by Cayman National. If a Card Issuer exercises its rights not to settle or to undertake a Chargeback, the Merchant consents that Cayman National may forthwith and without further notice debit the Merchant's Nominated Bank Account, or to recover from the Merchant by any other means (including any set off), the amount paid by Cayman National to the Merchant in respect of that Transaction. Cayman National's right to take such action will not be affected by any arrangement between the Merchant and the Cardholder.
  - b. Cardholders do not have to prove their claim to their Card Issuer for a Chargeback to occur; they simply have to advise the Card Issuer of their claim.
  - c. Cayman National is not under any obligation to notify the Merchant of any defect in any Transaction Data, or other liability to Chargeback except where a Chargeback is in fact made, or to procure, or assist the Merchant in procuring, payment from a Cardholder where the relevant Transaction has been charged back.

- d. If the Merchant fails to provide Cayman National with any requested Transaction Data within the time frames required, or if the information is illegible, the Merchant shall be obligated to pay the disputed amount as required by Cayman National. Chargebacks for nonreceipt of Transaction Data cannot be reversed and the Merchant will lose its rights under the Card Association Rules and regulations.
- e. If the Merchant requests that a Chargeback be submitted to the applicable Card Association for arbitration or compliance, then the Merchant agrees to pay all fees and filing costs.
- f. The Merchant will be obligated to pay to Cayman National the amounts for any credits to Cardholders that are delivered to Cayman National either by paper voucher or electronically via the Terminal. If funds held are insufficient to cover Chargebacks and adjustments, the Merchant agrees to pay Cayman National promptly for any shortfalls upon request.
- g. The Merchant agrees to allow Cayman National to hold sufficient funds as Cayman National deems appropriate where the Merchant's Chargeback ratio has reached or exceeded 1% of the total sales volume, or where Cayman National assesses the Merchant's Business or means of acquiring Transactions has a high rate of Chargebacks.
- 12. PROMOTION**
- a. The Merchant is required to comply with all instructions given by Cayman National as to the adequate and correct display of promotional signs or other materials provided to indicate that Cards issued under the Card Associations are accepted as a means of payment. The Merchant shall not use any other material associated with the Card Associations without Cayman National's prior written approval.
- 13. TERMINALS AND EQUIPMENT**
- a. The Merchant shall use only the Terminals, associated Equipment and peripherals supplied by Cayman National solely for the purposes of using Merchant Services. The Merchant shall return on request the Terminals and Equipment. The Merchant must supply and be responsible for all necessary power and telecommunications links for the Terminals and Equipment, and Cayman National shall not provide a Terminal or associated Equipment if such links are not in place. The Merchant may not remove any labels or tags that Cayman National has attached to any Terminals or Equipment. At its option, during business hours, Cayman National may enter the premises where Terminals or Equipment are located to take possession of such Terminals or Equipment at the Merchant's expense.
- b. The Merchant will permit Cayman National's employees or agents to have full and free access to the Terminals and Equipment belonging to Cayman National during normal business hours for the purpose of servicing and maintenance. The Merchant may not permit any person other than Cayman National employees or its authorised agents to programme, adjust, repair or otherwise maintain Terminals and Equipment.
- c. The Merchant must maintain the Terminals provided by Cayman National in good working order. If the Terminals require repair, maintenance, or replacement due to conditions beyond Cayman National's control, including damage from an electrical power surge, theft and negligence on the Merchant's part, such repair, maintenance or replacement will, at the sole discretion of Cayman National, be at the Merchant's expense.
- d. The Merchant must ensure that any equipment not provided by Cayman National, including but not limited to the Merchant's Terminal or Terminal software, comply with the relevant hardware, software and other requirements for connection to Merchant Services. The Merchant is fully responsible for all repairs and maintenance of equipment not provided by Cayman National.
- e. The Merchant must inform Cayman National immediately of any problems relating to Merchant Services. Cayman National is not obliged to provide the maintenance services in respect of any fault resulting from:
- the improper use, operation or neglect of the Equipment or Software;
  - modification of the Equipment or Software or its use or merger (in whole or in part) with any other Software not approved by Cayman National;
  - use of the Equipment other than that stipulated as compatible by Cayman National from time to time;
  - failure by the Merchant to implement recommendations in respect of, or solutions to, faults previously advised by Cayman National;
  - any repair, adjustment, alteration or modification of the Equipment or Software by any person and/or company other than Cayman National, or other person and/or company nominated by Cayman National from time to time;
  - use of the Equipment or Software for a purpose for which it was not designed; or
  - power, internet or telecommunications faults.
- f. The Merchant must install at the Merchant's expense suitable equipment or make modifications to existing equipment, as may be necessary to install and operate the Terminals. The Merchant also agrees to provide the electricity, a surge protector for and a suitable place to install the Terminals.
- g. Terminals and associated Equipment on the Merchant's premises shall be at the Merchant's sole risk. With respect to Terminals and peripheral Equipment, the Merchant will ensure that adequate insurance cover is in place at all times.
- h. Cayman National shall not be liable to the Merchant for any direct or other loss resulting from any breakdown of, or fault in, any Terminals or Equipment unless that breakdown or fault is caused by Cayman National's material breach of these Terms and Conditions.
- i. The Merchant may not sublet, assign, pledge, or transfer any Terminals or Equipment without Cayman National's prior written consent.
- j. The Merchant may not transport any Terminals or Equipment outside the Cayman Islands.
- 14. FEES AND CHARGES**
- a. The Merchant agrees to pay all fees and charges in relation to Merchant Services at Cayman National's then current rates.
- b. Cayman National may also require the Merchant to make one or more of the following payments:
- the amount of any Refunds issued (if not already deducted from sums paid by the Merchant);
  - the full amount of any overpayments made in respect of Transaction Data, howsoever caused;
  - the full amount of any payments made in respect of invalid Transaction Data;
  - the full amount of any Chargebacks;
  - the amount of any fees, fines, penalties and other charges payable to a Card Association, or any other person, as a result of any failure by the Merchant to comply with these Terms and Conditions; or
  - any other sums due and payable by the Merchant under these Terms and Conditions.
- c. Charges and other sums payable by the Merchant may be debited from the Nominated Bank Account or Reserve Account.
- 15. RELEASE, INDEMNITY, COMPROMISE AND LIABILITY**
- a. The Merchant hereby releases and forever discharges Cayman National, its Affiliates, and suppliers from any liability for any losses, damages, costs or expenses that may occur as a result of Cayman National's provisions of Merchant Services pursuant to these Terms and Conditions.
- b. The Merchant agrees to indemnify Cayman National, on a full and continuing basis, against all claims, damages, demands, losses, costs and expenses, fines, penalties or liability, including Card Associations' fines for noncompliance, howsoever arising, suffered, made against or incurred by Cayman National and arising from or in connection with:
- the Merchant's breach of these Terms and Conditions;
  - any dispute between the Merchant and a Cardholder in relation to a Transaction;
  - any loss of Cardholder's Information or Transaction Data by the Merchant;
  - any violation by the Merchant, or its employees, officers, agents or subcontractors of any of the Data Security Standards;
  - any breach of Card Association Rules, or any other reason where a Card Association levies a fee, fine, penalty or charge against Cayman National due to any action or inaction by the Merchant;
  - the Merchant's excessive level of Chargebacks; or
  - any loss or sequestration of any goods or property or service as a result of any act or Transactions carried out by or for the Merchant.
- c. The Merchant shall, at its own expense, provide Cayman National with all reasonable assistance to resolve any dispute arising under the Card Association Rules. Cayman National shall have complete discretion to decide whether or not to resist or defend any claim made against Cayman National by any Card Association or Cardholder, or whether to compromise any such claim, and the decision of Cayman National shall be binding on the Merchant.
- d. The Merchant agrees that if Cayman National is threatened with the loss or sequestration of any goods or property or service as a result of any act or Transactions carried out by or for the Merchant, the Merchant will immediately cease the relevant business.
- e. For all Transactions between the Merchant and a Cardholder, the Merchant carries the onus to provide evidence to the satisfaction of Cayman National that the charge on the Cardholder's Account was authorised by the Cardholder. Without prejudice to the foregoing, or to the indemnities set out in these Terms and Conditions, the Merchant also agrees that Cayman National shall have discretion to accept, dispute, compromise or otherwise deal with any claim made against the Merchant or Cayman National arising out of a Transaction accepted by the Merchant for loss or liability in respect thereof on the Merchant's behalf.
- f. The Merchant will, at its expense, provide Cayman National or its agents with all information and assistance that Cayman National may reasonably require in relation to any Transaction between the Merchant and any Cardholder.

- g. The maximum aggregate liability of Cayman National (and any services used by Cayman National to perform Merchant Services) for all claims or losses, whether arising in contract or any tort or otherwise, shall not exceed the amount of fees and commission received by Cayman National from the Merchant in consideration for the provision of Merchant Services to the Merchant hereunder in the 12 months preceding in which the claim arises.
- h. Cayman National (and any services used by Cayman National to perform Merchant Services) shall have no liability to the Merchant whether in contract or tort or otherwise and whatever the cause for any increased costs or expenses, loss of profit, loss of business, loss of goodwill, loss of data, or loss of revenue or anticipated savings, or special, indirect or consequential loss or damage of any nature whatsoever.

## 16. WARRANTIES

- a. In presenting Transaction Data to Cayman National, the Merchant warrants that:
  - i. all statements contained in the Transaction Data are true, accurate and complete;
  - ii. the Merchant has supplied (or, where the Transaction Data relates to a prepayment or deposit, the Merchant has agreed to supply) the goods or services to which the Transaction Data relates and to the value stated therein;
  - iii. there is no element of credit given with the exception of a Refund;
  - iv. no other Transaction has been or will be processed in respect of the same goods or services;
  - v. each Transaction has been entered in good faith and the Merchant is not aware of any disputes relating to or any matter that may affect the validity of the Transaction;
  - vi. each Transaction is made in accordance with these Terms and Conditions and the Card Association Rules;
  - vii. the Merchant's receipt, and the processing of Cardholder's Information and Transaction Data supplied by the Merchant to Cayman National in the course of administering and discharging its obligations and liabilities under these Terms and Conditions, will not infringe the rights of any third party; and
  - viii. the Merchant complies with all applicable obligations and laws, including but not limited to data privacy and protection laws.

## 17. OTHER AGREEMENTS

- a. The Merchant agrees to notify Cayman National forthwith in the event that the Merchant has or enters into an arrangement with any other party operating in or through any of the Card Associations other than through Cayman National.

## 18. FINANCIAL INFORMATION AND TRANSACTION DATA

- a. Upon request, the Merchant will provide Cayman National or its agents with such certified copies of financial accounts (including management accounts), trading terms, business plans, and such other documentation or information concerning the Business as Cayman National requests to assist it with its determination as to whether to provide Merchant Services to the Merchant, or with its continuing evaluation of the Merchant's financial and credit status. The Merchant authorises Cayman National and its agents to obtain such documents or information from third parties.
- b. Upon request, the Merchant will provide Cayman National or its representatives, reasonable access to the Merchant's facilities for the purpose of performing an inspection of books, records and/or systems, and to take copies of such books and records as Cayman National requires.
- c. The Merchant authorises Cayman National to contact the individuals at the Merchant's Business as identified in the Merchant Services Application or as the Merchant may notify Cayman National from time to time.
- d. The Merchant must advise Cayman National immediately of any change in the circumstances affecting the Business including:
  - i. any insolvency event (or impending insolvency event);
  - ii. any actual or impending change of voting control in the Merchant;
  - iii. any actual or impending change in trading terms, directors, other officers members or partners, business or trading name, legal status, business or trading address or in any other details provided to Cayman National; or
  - iv. any actual or impending sale or other disposal of all or any material assets, that may result in a material adverse change to the Business.
- e. The Merchant must retain in a safe, secure and confidential manner legible copies of all Transaction Records and receipts, vouchers, Terminal reports, invoices, receipts or equivalent documents relating to each Transaction for 13 months from the date of the Transaction or such other period as may from time to time be required by the Card Association Rules and/or regulatory requirements.
- f. The Merchant must produce copies of Transaction Records or Transaction Data to Cayman National within the time specified when requested to do so. The Merchant agrees to be liable for any Chargeback imposed as a result of the Merchant's failure to properly and promptly deliver such documents. All documents may not be less than half the size of the original document and must be legible.

- g. The Merchant is responsible for ensuring that all Transaction Data retained or submitted to Cayman National is correct, complete, and not lost or damaged, and that all Transaction Data is confidentially and securely held in accordance with this Section and the Operating Guide, and can be reconstituted, in a complete and easily legible form. Cayman National will not be liable in any circumstances (other than if due to its gross negligence) in respect of the facevalue of any Transaction Data, or the costs of reconstituting such data, or for any other loss or damage arising from any loss of Transaction Data.

## 19. TERMINATION OF MERCHANT SERVICES

- a. These Terms and Conditions shall remain in force unless either party terminates it by giving 30 days prior written notice to the other. In the event of termination of Merchant Services, Cayman National will disable the Merchant's access to Merchant Services.
- b. Either Cayman National or the Merchant may end the provision of Merchant Services at any time with immediate effect by notice to the other party if the other party materially breaches these Terms and Conditions which is not remedied within 30 days written notice, including (without limit) any of the other parties become insolvent, or any step is taken for the liquidation, bankruptcy, receivership, administration, dissolution, business rescue or other similar action of another party, or if another party makes any agreement with its creditors generally.
- c. Cayman National will be entitled to end the provision of Merchant Services at any time with immediate effect by notice if the Merchant fails to pay any amount due to Cayman National under these Terms and Conditions, on the due payment date.
- d. In addition, Cayman National will also be entitled to end provision of Merchant Services with immediate effect at any time by notice to the Merchant if:
  - i. the Merchant is a partnership and the partnership ends;
  - ii. the Merchant changes its Nominated Bank Account, other than as permitted by these Terms and Conditions or with the approval of Cayman National;
  - iii. the Merchant is an individual and the Merchant dies (in which case notice will be sent to personal representatives);
  - iv. there is any significant change, or Cayman National suspects a significant change is impending, in the nature, level, scope or control of the Merchant's business activities or financial condition, or legal status;
  - v. Cayman National becomes aware of fraud or holds a suspicion of fraud or other criminal activity in respect of the Business or use of Merchant Services;
  - vi. the Merchant processes a Transaction for its own Card, or any Card, without the sale of any goods or services;
  - vii. in Cayman National's opinion, the Merchant's ability or willingness to comply with the terms of these Terms and Conditions is at risk;
  - viii. any of Cayman National's efforts to comply with statutory obligations under applicable laws, the Card Association Rules or a binding court order, are obstructed;
  - ix. Cayman National is required to do so by any regulator or the Card Associations, or the integrity or reputation of the Card Associations or of Cayman National, in Cayman National's opinion, is brought into disrepute by the Merchant;
  - x. the Merchant's activities are, or are likely to have, in Cayman National's opinion, a material impact on Cayman National's business, commercial arrangements, reputation and/or goodwill;
  - xi. the Merchant's activities contravene any Cayman Islands or other national or international laws and regulations, or any relevant codes of practice, or that otherwise relate directly or indirectly to matters that Cayman National may view as being unlawful or otherwise objectionable in kind and nature; or
  - xii. the Merchant has not sent Cayman National a Transaction for six consecutive months.
- e. The termination of Merchant Services will not affect any actual or contingent liabilities or claims of any party hereto which accrue before Merchant Services end. The Merchant will continue to be responsible for all Chargebacks, fees, credits and adjustments resulting from Transactions processed pursuant to these Terms and Conditions, all other amounts then due or that may thereafter become due, and breaches of Card Association Rules that are notified to Cayman National at any time after these Terms and Conditions have ended.
- f. The obligation of both parties for Transactions completed on or prior to the termination date shall continue after termination until completed, including Chargebacks, adjustments and processing charges received after termination. Chargebacks and adjustments may be processed up to 120 days after the Transaction date. Chargebacks received after the Merchant terminates Merchant Services with Cayman National or the Merchant's Nominated Bank Account is closed, become the liability of the Merchant's business owner/s and/or directors. Cayman National may hold sufficient funds, equivalent to

10% of the previous six months sales volume, to be maintained in an interestbearing account at Cayman National for six months after termination to allow for processing of potential Chargebacks and adjustments.

- g. Upon termination of Merchant Services, the Merchant must:
- i. return to Cayman National or its agents, all Terminals, associated Equipment and any other materials supplied by Cayman National;
  - ii. pay Cayman National all amounts owed by the Merchant under these Terms and Conditions; and
  - iii. refrain from using the names of Cayman National, the Card Associations, or any of Cayman National's trademarks, or logos or any promotional materials provided to the Merchant in respect to the provision of Merchant Services by Cayman National to the Merchant.
- h. Cayman National may notify the Card Associations of the termination and the reasons for termination of Merchant Services.

## 20. INTELLECTUAL PROPERTY RIGHTS

- a. The Merchant acknowledges that the provision of Merchant Services, and that the Equipment and Software represent and will continue to represent the valuable, confidential and proprietary property of Cayman National and its suppliers (collectively, "Intellectual Property Rights"). Specifically, the Merchant acknowledges that aspects of the Intellectual Property Rights and associated documentation, including the specific design and structure of individual programmes, may be protected by patent, copyright, trademark, service mark, trade secret, trade name or other rights owned by Cayman National or its suppliers. The Merchant shall not disclose, provide or otherwise make available such Intellectual Property Rights in any form to any third party without the prior written consent of Cayman National. Cayman National conveys no Intellectual Property Rights to the Merchant in the provision of Merchant Services under these Terms and Conditions, except that the Merchant will have the limited rights expressly set forth herein.
- b. All Intellectual Property Rights with respect to Merchant Services and Cayman National, and/or any licensors' names and trademarks/brands, whether now existing or in the future, are reserved to Cayman National.
- c. The Merchant may not:
- i. use, reproduce, distribute, or permit others to use, reproduce, or distribute the Intellectual Property Rights of Cayman National or its suppliers for any purpose other than as specified for Merchant Services;
  - ii. make any Intellectual Property Rights available to unauthorised third parties;
  - iii. rent, electronically distribute, timeshare, or market any Intellectual Property Rights by interactive cable, remote processing services, service bureau or otherwise; or
  - iv. directly or indirectly modify, reverse engineer, decompile, disassemble, or derive source code relating to any Intellectual Property Rights.
- d. The Merchant will promptly notify Cayman National of any infringement or threatened infringement, or of any challenges to validity or ownership of any Intellectual Property Rights or other rights belonging to Cayman National known to the Merchant, and the Merchant will provide reasonable assistance to Cayman National, at Cayman National's reasonable expense, in connection therewith.
- e. The Merchant may display any graphic and hyperlink provided to the Merchant by Cayman National on its website(s), without altering the form or presentation of such graphic, and in no way that implies or represents that the Merchant operates or owns any element of Merchant Services and Cayman National's related brands.
- f. The Merchant understands and acknowledges that Cayman National may use a Payment Service Provider to provide Merchant Services for ECommerce. That service provider may be a whollyowned subsidiary of a United States company, subject to regulation by agencies of the United States government that prohibits export or diversion of certain products and technology to certain countries, persons, or other entities. Any and all obligations to provide Merchant Services shall be subject to all applicable export laws and restrictions and regulations. The Merchant agrees not to export or reexport any such intellectual property in violation of any such restrictions, laws or regulations, or supply such intellectual property to any person or entity if the Merchant believes that such person or entity intends to export or reexport the intellectual property in violation of such restrictions, laws or regulations. The Merchant agrees not to download or export or reexport any such intellectual property:
- i. into (or to a national or resident of) any country to which the United States has embargoed goods including, without limitation, Iran, Cuba, Syria and North Korea; or
  - ii. to any person on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Denied Person's List.

## 21. GENERAL

- a. Cayman National may transfer all or any of its rights and obligations under these Terms and Conditions at any time. Any such transfer will not reduce the Merchant's rights unless agreed otherwise. The Merchant authorises disclosure of details relating to the Merchant and its arrangements to any prospective persons or entity related to a potential transfer or assignment.
- b. The Merchant is not permitted to assign any rights or obligations under these Terms and Conditions without the prior written consent of Cayman National. Cayman National may assign or novate these Terms and Conditions, and transfer or sublicense any or all of its rights and obligations under them, at any time and the Merchant hereby expressly consents to any such assignment, novation, transfer or sublicense.
- c. The Merchant shall not, except for the purposes of these Terms and Conditions, compile or make use of any information relating to Cayman National, its Affiliates, the Card Associations, any Card, any Cardholders or the terms of these Terms and Conditions or any related documents, except where necessary for the performance of Merchant Services. The Merchant shall use its best endeavours to ensure that its employees and agents will maintain strictest confidence with respect thereto and not divulge or communicate information concerning its Business or Transactions of Cardholders which may come to notice during the provision of Merchant Services to any thirdparty. Cayman National will use its reasonable endeavours to ensure that its employees and agents maintain such information in strictest confidence.
- d. The Merchant acknowledges and consents that Cayman National may disclose relevant and applicable information about the Merchant's business to an Affiliate, the police, the Card Associations, regulator or any other investigating body for use in the prevention or detection of fraud or other criminal activity, or to any credit reference agency which is used as a source of information.
- e. None of the parties (or any of their agents or subcontractors) shall be liable for any failure to perform any of their obligations under these Terms and Conditions where such failure arises directly or indirectly through any circumstances whatsoever beyond their reasonable control and is not a result of their negligence or willful default.
- f. Cayman National may at any time (without notice to the Merchant) set off and apply any or all sums due and payable by it to the Merchant under these Terms and Conditions, or under some other agreement with the Merchant, and/or any or all sums of money held in accounts with Cayman National, against:
- i. any or all sums due and payable by the Merchant to Cayman National; and
  - ii. the amount of any liability incurred by the Merchant to Cayman National.

In addition, if Cayman National has reasonable grounds for believing that the Merchant is likely to incur any liability in relation to (i) or (ii) above, Cayman National may retain any sums that would be payable to the Merchant until such time as either:

- a. the liability is actually incurred and determined within a mutually acceptable period of time (if this occurs Cayman National will promptly pay the balance of such sums after deducting the amount of any liability); or
  - b. Cayman National is satisfied that no such liability is likely to be incurred.
- Should such liability be subsequently incurred, the Merchant is obliged to reimburse Cayman National the full amount on demand.
- g. No waiver by any party of any breach of these Terms and Conditions or any delay or omission by any party in enforcing any term or condition shall prejudice their rights, or operate as a waiver of any subsequent or continuing breach.
- h. If any provision of these Terms and Conditions is or becomes illegal or invalid, that provision will be deemed deleted from these Terms and Conditions and the remaining provisions shall continue in force.
- i. Any notice provided by Cayman National to all Merchants may be provided pursuant to Clause 2.b. of these Terms and Conditions. Any notice required to be given under these Terms and Conditions must be in writing and shall be served on the other party, by personal delivery, by reputable courier, or by registered post, in an envelope properly addressed and marked for the attention of the Merchant or Cayman National Merchant Services, or by electronic message through Online Banking, or by email: (a) if to Cayman National, at Cayman National Bank Ltd. P.O. Box 1097, Peter A. Tomkins Building, 200 Elgin Avenue, Grand Cayman, KY11102, Cayman Islands (email: cnmerchantservices@caymannational.com); or (b) if to the Merchant, at the most recent address / email address particulars on file with Cayman National; or (c) at such other address as the parties notify the other in writing. Proof of delivery or posting shall be deemed to be proof of receipt, or (i) in the case of a notice or communication personally delivered, on the date of delivery; (ii) in the case of a notice or communication sent by registered post, on the fifth day after posting; and (iii) in the case of a notice or communication sent by electronic message through Online Banking or email electronic mail, the date it was sent or, if sent after 5.00pm, the following day, if the sending party does not receive a message indicating nondelivery.

- j. Cayman National may appoint at any time, and without notice, an agent or subcontractor to perform any of its obligations under these Terms and Conditions.
- k. The Merchant may not appoint a subcontractor or agent in connection with Merchant Services without the prior written approval of Cayman National. Notwithstanding any such approval, the Merchant will remain primarily liable for anything done (or omitted to be done) by any such subcontractor or agent.
- l. Each party shall comply with all laws, regulations, Card Association Rules and codes of practice, which they are each obliged to follow for the purposes of these Terms and Conditions.
- m. If the Merchant comprises more than one person, the liability of such persons to Cayman National, and the Card Associations shall be joint and several, and if such persons are a partnership then any act or omission of any one partner shall be deemed to be an act or omission of all the partners.
- n. Any person that is not a party to these Terms and Conditions shall not have any rights under or in connection with them except where such rights are expressly granted, and nothing in these Terms and Conditions conveys any rights to any third party under The Contracts (Rights of Third Parties) Law, as amended.
- o. Except where expressly agreed otherwise in these Terms and Conditions, the rights and remedies of the parties herein are cumulative, may be exercised as often as the parties consider appropriate and are in addition to their rights and remedies under general law.
- p. Notwithstanding anything else contained in these Terms and Conditions, the obligations of each party in relation to Merchant Services shall be suspended during the period and to the extent that such party is prevented or hindered from complying therewith by any cause preventing or delaying the performance by a party of its obligations hereunder arising from acts, events, omissions or other circumstances beyond its reasonable control including, but not limited to acts of God, acts of governmental authorities, disease, pandemics or epidemics, hurricanes, strikes, war, riot and any other causes of such nature (including Merchant Services being suspended or Merchant Services being unavailable by reason of Cayman National being unable to provide authorisation services and/or by reason of the failure of any other person to provide goods or services including telecommunication services). In the event of either party being so prevented or hindered, such party shall give notice of suspension as soon as possible to the other party stating the date and extent of such suspension and the cause thereof. Any party whose obligations have been suspended as aforesaid shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause and shall so notify the other party. In the event that such cause continues for more than 6 months, either party may terminate Merchant Services without further liability to the other on 30 days prior written notice.
- 22. GOVERNING LAW**
- a. The Terms and Conditions shall be governed by and construed in accordance with the laws of the Cayman Islands and the parties irrevocably agree that the courts of the Cayman Islands shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms and Conditions and the provision of Merchant Services.
- 23. USE OF INFORMATION**
- a. Cayman National is a data controller within the meaning of the Data Protection Law, as amended, and its Privacy Notice sets out how it may collect, use and share information in relation to the provision of its services. The Privacy Notice, as it may be amended, is incorporated as part of these Terms and Conditions.
- b. The information that Cayman National holds now, or obtains and holds at any time in the future, about the Merchant and its relationship with Cayman National may, subject to all applicable laws, regulations, rules and guidance, be disclosed by Cayman National and recorded, analysed, assessed, used and held by Cayman National for the purposes set out below. This information includes any Merchant Information that relates to or comes from:
- information, appraisal, proposal, referral or application forms or other dealings with Cayman National;
  - products and services that are chosen by the Merchant;
  - the conduct of Merchant Services, Merchant accounts and other Merchant agreement(s) with Cayman National, including details of Transactions, with whom and how payment is effected; or
  - information supplied by others or obtained by Cayman National as a result of enquiries made, and from such third parties associated with the Merchants and licensed credit reference agencies.
- c. When considering Merchant Services Applications or reviewing the Merchant's facility, Cayman National may use credit scoring and other automated decisionmaking systems. Cayman National may also use some information and other Merchant Information to develop standard scoring criteria to assist it in assessing future Merchant Services Applications and in reviewing the Merchant's facility. Cayman National may search its own records and a credit search may be made with one or more credit reference agencies that will record the making of such search.
- d. To ensure Cayman National carries out instructions accurately, to help improve its services and in the interests of security, Cayman National may monitor and/or record telephone calls with the Merchant.
- e. Cayman National may give details of the Merchant's arrangements and its conduct to licensed credit reference agencies or its legal advisers and to applicable regulatory authorities, where appropriate. In particular, Cayman National may give those entities details of nonpayment where:
- any monies are not paid in accordance with the Merchant's obligations under these Terms and Conditions;
  - the Merchant has not made proposals satisfactory to Cayman National for repayment of debt, following formal demand; or
  - fraud has been suspected relating to the Merchant's facility.
- f. The Merchant consents that Cayman National may also seek and obtain information relating to the Merchant's financial situation from any other financial institution.
- g. The Merchant consents to Cayman National reporting to VMAS and MATCH listings, the Merchant's business name and principals, as required under their rules. The Merchant releases and forever discharges Cayman National and agrees to hold Cayman National harmless from all claims and liabilities it may have arising from the listings.
- h. Credit searches and other information provided to Cayman National and/or the credit reference agencies about the Merchant and those with whom the Merchant are financially linked may be used by Cayman National and other companies if credit decisions are made about the Merchant. This information may also be used for debt tracing and the prevention of money laundering as well as the management of Merchant arrangements.
- Cayman National may:
- exchange its Merchant Information with an Affiliate; and
  - disclose information about the Merchant and its relationship with the Merchant to the Card Associations where the Card Association Rules require Cayman National to do so or to any regulatory body as required under any applicable law or regulations;
- i. Cayman National may disclose information about the Merchant and its relationship with the Merchant to:
- any party, including their advisers, to whom they are transferring or propose to transfer their business;
  - any party, including their advisers, to whom they transfer or assign, or propose to transfer or assign, their rights and obligations under these Terms and Conditions;
  - any party who participates or wishes to participate, wholly or in part, in the financing of any of their products and services;
  - any insurance company for the purposes of insuring risk;
  - any Affiliate for regulatory or business development reasons; and
  - any law enforcement authorities or any relevant regulator where required by law.
- j. All Transaction Data shall be and remain at all times the property of Cayman National or its agents. As long as Merchant Services are provided under these Terms and Conditions, Cayman National hereby grants the Merchant a revocable, nonexclusive, nontransferable license to use, store, copy and distribute the Transaction Data as necessary solely for the performance of a Transaction or Merchant Services.
- k. The Merchant must not give, sublicense, sell, or in any way transfer, dispose of or grant any kind of right in any Transaction Data, or part thereof, to any third party.
- l. The Merchant must only process Cardholder's Information in accordance with these Terms and Conditions, or the written instructions of Cayman National. The Merchant must not directly transfer Cardholder's Information to a country outside the Cayman Islands without Cayman National's prior written approval, except to perform its obligations under these Terms and Conditions.
- m. The Merchant must ensure that it has implemented appropriate technical and organisational measures that ensure an appropriate level of security for the processing of Cardholder's Information and protect Cardholder's Information against accidental or unlawful destruction or accidental loss or alteration or unauthorised disclosure access or processing.
- n. To process, use, record and disclose Cardholder's Information and Merchant Information, Cayman National may transfer such Cardholder's Information and Merchant Information to agents in countries outside of the Cayman Islands. The Merchant consents to any such Transfer of Cardholder's Information and Merchant Information. Cayman National is responsible for ensuring that personal data continues to be adequately protected during the course of, and after, any such transfer.

**PART II**

**24. CHIP AND CONTACTLESS TRANSACTIONS**

For Transactions with Chip or Contactless Cards, the following Terms and Conditions apply in addition to the Terms and Conditions set out in Part I above. In the event of any inconsistency, this Part II of the Terms and Conditions shall prevail.

- a. The Merchant agrees and acknowledges that the Merchant is required to use Chip technology for each Transaction and shall incur full liability for fraudulent Transactions that arise from failure to do so including, without limitation:
  - i. Transactions where a Chip or Contactless device is accepted;
  - ii. Transactions using any Terminal that incorporates Chip and Contactless technology without using the Chip or Contactless functionality to accept the Transaction;
  - iii. failing to use a PIN Pad or obtaining signature to authenticate the Chip Transaction; or
  - iv. failing to obtain PIN or signature if the Transaction is above the Contactless Floor Limit.
- b. If the Merchant fails to accept Chip or Contactless Card Transactions using a Chip and Contactless Terminal, and after notification by Cayman National to rectify the issue, the Merchant continues to fail to accept such Transactions, the Merchant's right to process Transactions may be terminated immediately.
- c. The Merchant may not request a Cardholder to disclose their PIN at any point during a Transaction. The Merchant must provide a reasonably secure place for the Cardholder to enter their PIN into the PIN Pad. The Merchant shall require that every Cardholder enters their PIN using the PIN Pad when initiating a Chip and PIN Transaction.
- d. The Cardholder's PIN may not be printed on a Transaction receipt or recorded or stored in any way.

**PART III**

**25. WIRELESS NETWORKS AND TERMINALS**

If a Wireless Local Area Network (LAN) or Wireless Terminal is used by the Merchant, the following Terms and Conditions apply in addition to the Terms and Conditions set out in Parts I and II above. In the event of any inconsistency, this Part III of the Terms and Conditions shall prevail.

- a. If wireless technology connects networks or servers that process or store Transactions or account data, the Merchant must comply with the following requirements:
  - i. WiFi Protected Access (WPA) technology must be implemented for encryption and authenticated when Wireless LAN technology is WPACapable;
  - ii. use of a Virtual Private Network (VPN) is recommended. When the Wireless LAN is not WPACapable, a VPN must be implemented; and
  - iii. Wireless Equivalent Privacy (WEP) must not be the sole method used to protect confidentiality and access to a wireless LAN.
- b. The Merchant acknowledges and agrees that it is aware of the limitations affecting the use of wireless technology (due to technical and geographical factors) that may affect the security, performance, coverage and reliability of Wireless Terminals and their processing ability. If for any reason, the Merchant's ability to process wireless Transactions is limited or prevented, the Merchant agrees to process Transactions by an alternative method.
- c. If the Merchant undertakes a Transaction without an Authorisation or stores data in the Terminal for subsequent Authorisation that is not given by the Issuer, the Merchant does so at its own risk.

**PART IV**

**26. MAIL / TELEPHONE**

If the Merchant accepts Mail/Telephone Transactions, relying on the number and details of the Card without its actual presentation as the means of effecting payment for goods and services, or if the Merchant submits Mail/Telephone Transactions to Cayman National, the following Terms and Conditions in Part IV apply in addition to the Terms and Conditions set out in Part I and Part III above. In the event of any inconsistency, this Part IV of the Terms and Conditions shall prevail.

- a. The Merchant confirms that it will be liable for all Chargebacks that occur as a result of accepting a CNP Transaction and then manually keying the Transaction Data to an electronic Terminal.
- b. The Merchant shall not submit paper vouchers to Cayman National, but rather shall seek Authorisation and payment in the manner set out in Part I of these Terms and Conditions where the Merchant uses Sales Drafts.
- c. The Merchant must verify the Cardholder's address and ensure the goods are dispatched to this address. Cayman National will not provide name and address verification as part of the Authorisation process.
- d. The Merchant will retain and produce upon request all Transaction Data for all Mail/Telephone Transactions, for a period of 13 months from the date of the Transaction, including the following information or particulars:

- i. masked Card number and the expiry date of the Card which is being used for the purpose of such order;
- ii. name, billing and delivery address of the Cardholder;
- iii. date of the order;
- iv. email address and telephone number;
- v. amount and currency of the Transaction;
- vi. Cardholder's written order in the case of mail order Transactions;
- vii. date and number of the Authorisation; and
- viii. date of invoicing the goods.

**PART V**

**27. ECOMMERCE (ALSO KNOWN AS ELECTRONIC COMMERCE)**

If the Merchant accepts ECommerce Transactions, relying on the number and details of the Card without its actual presentation, as the means of effecting payment for goods and services and Cayman National, or if the Merchant submits any ECommerce Transactions, the following Terms and Conditions apply in addition to the Terms and Conditions set out in Part I above. In the event of any inconsistency, this Part V of the Terms and Conditions shall prevail.

- a. The Merchant warrants and represents to Cayman National that:
  - i. it will not, and it will also ensure its agents and customers do not use any website in any way that might jeopardise the integrity, confidentiality, or security of its or Cayman National's Terminals, associated Equipment, any computer system, servers or network used by the Merchant to communicate with Cayman National or with Cardholders or other computer systems including through disabling devices and unsolicited emails;
  - ii. it will display and maintain an appropriate privacy policy on each website and provide information on the website's security capabilities. The privacy policy and information on security capabilities must be in accordance with the requirements in all applicable laws, regulations and codes of practice; and
  - iii. its products and services do not infringe on or violate the intellectual property rights of any third party and will not contain any content that violates any applicable law, regulation or third party's right.
- b. The Merchant agrees that it will operate within all legal and regulatory requirements which may apply and will meet all Card Associations' terms and conditions for ECommerce Transaction acceptance advised to the Merchant by Cayman National. The Merchant hereby confirms and warrants that the Merchant is, and that the Merchant shall remain throughout the term of these Terms and Conditions, fully compliant with all Data Security Standards and with industry best practices for handling sensitive information, and has implemented all necessary and appropriate technical and organisational measures to secure its systems and personal data contained therein against unauthorised access, use, or disclosure. The Merchant confirms that it is responsible for and will undertake to meet all costs associated with achieving and maintaining compliance, and any fines, costs or charges arising from being compromised or not being compliant or data held from being compromised and/or used for fraudulent purposes.
- c. The Merchant confirms that only those goods and services specified in the Merchant Services Application, or subsequently agreed to by Cayman National in writing, will be offered on the Merchant's website. Cayman National may stop accepting Transactions immediately if it determines that any goods or services offered may affect its or the Card Associations' reputation negatively.
- d. The Merchant agrees and confirms that the Merchant will not accept or process ECommerce Transactions other than through a Payment Service Provider (PSP) agreed by Cayman National.
- e. The Merchant agrees to maintain its website and related technology to ensure encryption and secure transmission of Transaction Data provided by the Cardholder when ordering goods or providing Card details.
- f. Cayman National may require the Merchant to undertake Transactions using 3D Secure programmes. If, when so requested, the Merchant fails to implement 3D Secure within 30 days, Cayman National may require additional amounts be held in the Reserve Account, or if Chargebacks reach an unacceptable limit to Cayman National, Cayman National may terminate Merchant Services. The penalty for not implementing will result in your account being restricted or subsequently terminated.
- g. Merchants are required to implement security measures in accordance with industry standards and applicable laws to protect customer data and transaction information. This includes, but is not limited to:
  - i. Implementing robust security measures to detect and prevent fraudulent activities at the earliest stage possible.
  - ii. Ensuring the Merchant's website uses HTTPS to encrypt data transmitted between the user and the server.

- iii. Implementing two-factor authentication (2FA) to add an extra layer of security.
  - iv. Setting transaction limits and monitoring for unusual transaction patterns.
  - v. Implementing fraud detection tools and services that can identify suspicious activities.
  - vi. Implementing Secure Sockets Layer (SSL) or Transport Layer Security (TLS) for data transmission.
  - vii. Adhering to Payment Card Industry Data Security Standard (PCI DSS) requirements.
  - viii. Using strong encryption methods for storing sensitive data.
  - ix. Regularly updating software to protect against vulnerabilities.
  - x. Users are responsible for ensuring that any devices or systems they use to access the Services are secured against unauthorised access, malware, and other security threats.
- h. Users must immediately report any actual or suspected data breaches, security incidents, or vulnerabilities to Cayman National.
- i. To prevent BIN attacks and other fraudulent activities, a Merchant must:
- i. Implement CAPTCHA or other verification mechanisms to prevent automated scripts from making unauthorised transactions.
  - ii. Monitor and limit transaction attempts from a single IP address within a short period.
  - iii. Use address verification systems (AVS) and card verification codes (CVV) to authenticate transactions.
  - iv. Set up transaction velocity controls to limit the number of transactions within a specified timeframe.
  - v. Regularly audit and update their fraud detection systems and protocols.
- j. The Merchant ensures that the Transaction amount authorised matches the value of the goods in an individual shipment, including any additional charges for shipping, posting and packing. The Merchant must notify the Cardholder if the total authorised amount increases due to additional shipping costs and the Merchant must obtain Authorisation for the additional amount.
- k. The Merchant agrees to provide confirmation immediately after each order has been dispatched.
- l. The Merchant must clearly display on any website:
- i. a complete and accurate description of all goods and services offered for sale;
  - ii. a full description of the contractual arrangements with the Cardholder;
  - iii. full details of delivery, cancellation, and return policy;
  - iv. promotional marks or logos of the Card Associations obtained from Cayman National;
  - v. information that the Cardholder is committing to a Transaction before the Cardholder selects the "Pay Now" button (or equivalent), with an obvious option to cancel the payment at this point as an alternative to paying;
  - vi. Customer Service and contact details including billing and physical address, email, telephone;
  - vii. notification that subsequent charges will be debited to the Cardholder's Account and details of online cancellation requirements if recurring Transactions are being offered;
  - viii. a printable Transaction confirmation receipt or page detailing the Cardholder's name, billing and shipping addresses, date, order number, purchase price, shipping method, shipping date or estimated shipping date, goods and/or services purchased, payment method and/or truncated Card number, and any other pertinent information for each order;
  - ix. the Merchant's country of domicile, and details of currencies accepted; and
  - x. an appropriate data privacy policy.
- m. Cayman National may terminate provision of Merchant Services to the Merchant if Cayman National considers that in its opinion, the content of the Merchant's website does not meet the Terms and Conditions outlined herein.
- n. The Merchant must verify the Cardholder's address and ensure the goods are dispatched to this address.
- o. The Merchant must provide the Cardholder with a facility to track or query the shipping status of an order.
- p. At any time and at the Merchant's cost, Cayman National may require an attestation of compliance of Business to ensure certification under any Data Security Standards. This attestation of compliance must be undertaken and completed before the Merchant is authorised to undertake ECommerce Transactions hereunder and may be performed by a certified security audit company approved by the Card Associations.

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[caymannational.com](http://caymannational.com)