

e-Merchant Agreement

Butterfield - e-Merchant Agreement & Addendum

This Agreement is made the _____ day of _____, 20____, between (a) _____, an Electronic Commerce Merchant (hereinafter referred to as "the Merchant"), and having its principal office at _____; AND (b) Butterfield Bank (Cayman) Limited, a company incorporated under the Laws of the Cayman Islands and having its principal office at 12 Albert Panton Street, Grand Cayman, Cayman Islands (hereinafter referred to as "the Bank").

This Agreement sets forth the terms of the Merchant's participation in the Bank's card system specific to electronic commerce. The Bank has online access and may monitor Electronic Commerce Transactions performed by a Merchant. The Merchant has indicated its acceptance of these terms, the attached schedule and other Addenda by signing this Agreement in duplicate where indicated below, and returning this Agreement to the Bank. This will indicate its acceptance of this Agreement by returning one fully executed copy to the Merchant.

1. DEFINITIONS

- a. "Authorisation" means the Bank authorisation obtained for each Electronic Commerce Transaction in excess of the Merchant's Floor Limit (defined below), and the code number indicating said authorisation.
- b. "Business day" means a day on which the Bank or its third party service providers are normally open for business.
- c. "Card Fees" means the interchange fee and assessments charged by a Card Organisation. This fee will increase or decrease as a result of changes in the fees or assessments set by the various card organisations from time to time.
- d. "Cardholder" means a holder of a valid, properly tendered card.
- e. "Cardholder Access Device" means a terminal, personal computer, or other device that a Cardholder uses to initiate an Electronic Commerce Transaction.
- f. "Cardholder Certificate" means an electronic document that authenticates a Cardholder in a Secure Electronic Commerce Transaction.
- g. "Card Organisation" means Visa or MasterCard
- h. "Chargeback" means a charge initiated either by the Cardholder through their issuing bank or an issuing bank itself against an Electronic Commerce Transaction Receipt previously presented by the Merchant.
- i. "Electronic Commerce Merchant" means a Merchant that conducts the sale of goods or services electronically over the Internet and other networks.
- j. "Electronic Commerce Transaction" means a transaction between the Merchant and a Cardholder over the Internet and other networks – inclusive of but not limited to Mail Orders and Telephone Orders - using a Cardholder Access Device.
- k. "Fees" means the fees as specified in Schedule A that the Bank charges the Merchant for the services specified in this Agreement, and may be amended from time to time.
- l. "Floor Limit" means the currency amount for a single transaction above which the Merchant shall contact the Bank prior to the sale. The Floor Limit for all transactions is set at zero.
- m. "Independent Sales Organisation" (ISO) means a non-member organisation whose primary bank card-related business relationship with a member is merchant solicitation, sales, and service or Cardholder solicitation.
- n. "Member Service Provider" (MSP) is a provider of programme services, other than transaction and Cardholder processing, to a MasterCard member in furtherance of the member's programme. By way of example and not limitation such services include merchant solicitation, Cardholder solicitation, and customer service.
- o. "Net Proceeds" are the net positive or net negative amount of the Merchant's card transactions consisting of (1) the amount of the Electronic Commerce Transaction receipts minus the card fee (2) Less the amount of credits minus the card fee (3) Less the Chargeback amounts (4) Less the processing Fees (5) less amounts to be credited to the Reserve Account.
- p. "Non-Authenticated Security Transaction" means an Electronic Commerce Transaction that has some level of security (such as commercially available data encryption) or that complies with the Secure Electronic Transaction Specification, but lacks a Cardholder Certificate.
- q. "Non-Secure Transaction" means an Electronic Commerce Transaction that has no data protection.
- r. "Purchaser" means a person who uses a card to complete an Electronic Commerce Transaction.
- s. "Return" means a charge initiated by the Cardholder through the Merchant or by the Merchant itself against an Electronic Commerce Transaction receipt previously presented by the Merchant.
- t. "Secure Electronic Transaction" means an Electronic Commerce Transaction that meets the Secure Electronic Transaction Specification.
- u. "Secure Electronic Transaction Specification" means a software development protocol that enables the secure processing of an Electronic Commerce Transaction over the Internet and other networks.
- v. "Transaction Date" means, with regards to transaction receipts (discussed in Clause 5 below), the date of consummation of the Electronic Commerce Transaction as a result of which the transaction receipt was generated.
- w. "Transaction Identifier" means a unique value that the Card Organisation assigns to each Electronic Commerce Transaction and returns to the Bank as part of the response to the request for Authorisation. The Card Organisation uses this value to maintain an audit trail throughout the life cycle of the Electronic Commerce Transaction and all related transactions such as charge-backs. These codes also identify the security conditions under which the transaction occurred, e.g., SSL –Secure Socket Layer, SET – Secure Electronic Transaction, etc.
- x. "Website" means one or more Internet addresses at which an individual or organisation provides information to others often including links to other locations where related information may be found.

e-Merchant Application

2. APPLICATION OF THIS AGREEMENT TO VISA OR MASTERCARD

- a. This Agreement is used by the Bank whether the Merchant is agreeing to accept (i) bank cards bearing the distinctive Blue, White and Gold Bands design and bearing the name Visa, or (ii) bank cards bearing the distinctive MasterCard design and bearing the name MasterCard, or (iii) bank cards of both types (i) and (ii) above. The use of the words "card" or "cards" in this Agreement refers to types (i) and/or (ii) above, which apply to this Agreement only when stated so at the heading of this Agreement.
- b. Where in this Agreement any reference is made to specific procedures, obligations and forms, for example Floor Limits or Electronic Commerce Transaction Receipts (more fully defined in Clauses 4 and 5 respectively), such reference shall be deemed to refer to the appropriate procedures, obligations and forms applicable to the type of card in question.
- c. Where this Agreement applies to both types of cards a. (i) and (ii) above, the right of either party to terminate this Agreement under Clause 20 of this Agreement shall be a right to terminate in respect of one or both such types of cards specified in the notice to terminate, and where the Agreement is terminated in respect of one type of card only, this Agreement shall continue in full force and effect in respect of the other type of card.

3. GENERAL

The Merchant agrees to sell its goods and/or services to Cardholders and to accept the Cardholder's card in payment thereof without discrimination.

The Merchant agrees not to impose a surcharge on or discriminate against Purchasers who use a card. Advertising logos containing the card design will be furnished to the Merchant electronically so that the public will know that their cards will be honoured at its Website. The card system's operating procedures place certain restrictions on advertising. In order to adhere to the operating procedures the Merchant agrees to use only such advertising as has received the Bank's prior approval. The Merchant also agrees to prominently display the card logos.

4. AUTHORISATIONS FOR ELECTRONIC COMMERCE TRANSACTIONS

The Merchant agrees to comply with the following:

- a. That, for Non-Secure Transactions and Non-Authenticated Security Transactions, it shall obtain the Card Organisation expiration date and forward it as part of the request for Authorisation.
- b. That, if it offers an instalment option for an Electronic Commerce Transaction, it shall do all of the following:
 - i. Obtain Authorisation for each instalment Electronic Commerce Transaction. The Floor limit is zero. For goods to be shipped it may obtain Authorisation on any day up to seven (7) days prior to the Transaction Date. This Authorisation is valid if the Electronic Commerce Transaction amount is within 15% of the authorised amount, provided that the additional amount represents shipping costs
 - ii. Disclose, in writing, whether the instalment terms limit the goods or services that a Cardholder may purchase. The written disclosure must also include the shipping and handling charges and any applicable tax.
 - iii. Inform a Cardholder not billed in the Electronic Commerce Transaction currency that each instalment amount may vary due to currency conversion rate fluctuations.
 - iv. Ensure that the sum of the instalment Electronic Commerce Transaction does not exceed the total price of the goods.
 - v. Ensure that finance charges are not added to the instalment Electronic Commerce Transaction.

This Authorisation is valid if the Electronic Commerce Transaction amount is within 15% of the authorised amount, provided that the additional amount represents shipping costs.

5. ELECTRONIC COMMERCE TRANSACTION RECEIPT REQUIREMENTS

Each Electronic Commerce Transaction shall be reflected in an Electronic Commerce Transaction Receipt in the form furnished by the Merchant to the Bank, and which shall contain the following information:

- a. Electronic Commerce Merchant name*
- b. Electronic Commerce Merchant online address
- c. Electronic Commerce Transaction amount (or credit), indicated in transaction currency
- d. Electronic Commerce Transaction date (or credit), preparation date
- e. Unique Electronic Commerce Transaction identification number
- f. Cardholder name
- g. Authorisation code
- h. Electronic Commerce Transaction type (purchase or credit)
- i. Description of merchandise/services
- j. Return/refund policy (if restricted)
- k. Cardholder's concealed credit card account number
- l. A recommendation that the Cardholder/Purchaser print or save the transaction receipt for his/her records

**The Merchant name must not be the name of the network provider or other entity unless the Electronic Commerce Transaction represents membership service charges or merchandise/services provided by the network provider itself.*

e-Merchant Application

6. ELECTRONIC COMMERCE MERCHANT WEBSITE REQUIREMENTS

The Merchant agrees that its Website will contain all of the following information:

- Complete description of the goods or services offered
- Return/refund policy
- Customer service contact, including electronic mail addresses or telephone number
- Electronic Commerce Transaction currency (e.g., US dollars, Canadian dollars, Bermudian dollars)
- Export restrictions (if known)
- Delivery policy
- Country of Electronic Commerce Merchant Domicile

7. ELECTRONIC COMMERCE MERCHANT SOFTWARE REQUIREMENTS

The Merchant agrees that it will update its software to include Internet Transaction Identifiers and Secure Electronic Transaction Specifications in accordance with the requirements of its Internet service provider or gateway provider

8. SHIPPING AND DELIVERY

Within seven (7) days of the Transaction Date (including the Transaction Date) the Merchant agrees to ship and/or deliver the goods.

9. ELECTRONIC TRANSACTION PROCESSING

Each Electronic Commerce Transaction must be completed with the Electronic Commerce Transaction Receipt requirements as outlined in Clause 5, in sufficient detail to identify the transaction.

The Merchant must present the Electronic Commerce Transaction Receipt to the Bank within three Business Days of the Transaction Date, unless presented under an approved deferred or instalment plan, or within three Business Days of the date you receive the Cardholder's returned merchandise, cancellation of service, or a price adjustment request for a credit. Such Electronic Commerce Transaction Receipts must be presented in accordance with Clause 5.

The Bank reserves the right to refuse to process any Electronic Commerce Transaction Receipt presented by the Merchant if the Bank is unable to obtain an authorisation, if the Bank reasonably determines that the Electronic Commerce Transaction Receipt is or will become uncollectible from the Cardholder to which the card sale would be otherwise charged, or if the Bank determines that the Electronic Commerce Transaction Receipt was prepared in violation of any provision of this Agreement.

For Electronic Commerce Transactions, the Bank will process the Electronic Commerce Transaction Receipts in the applicable inter bank clearing systems. After the Bank receives such Electronic Commerce Transaction Receipts, the Bank will initiate transfer of the Net Proceeds to the Merchant's bank accounts with the Bank or any such other bank as requested, and as more specifically delineated in Schedule E of this Agreement. The Merchant agrees that the transfer of Net Proceeds to its bank account constitutes provisional credit for its Electronic Commerce Transaction Receipts so long as any Cardholder does not have a dispute or challenge with respect to the Electronic Commerce Transaction Receipts for any reason.

To the extent the Net Proceeds for any day are negative, the Bank may pursue one or more of the following options: (1) recoup all amounts due to the Bank from any funds otherwise due to the Merchant, including but not limited to the proceeds from the Merchant's next transmission of Electronic Commerce Transaction Receipts; (2) debit the Merchant's accounts with the Bank for the amount of the negative balance; (3) delay presentation of the Merchant's credits until it makes a payment to the Bank of a sufficient amount to cover the negative balance; (4) collect the negative balance from any of the Merchant's accounts at the Bank or any other financial institution without notice to the Merchant and (5) request (either verbally or in writing) payment for such amounts, and the Merchant agrees to resolve any negative balance within one Business Day of the Bank's advice of a negative balance.

The Merchant shall not to settle any Electronic Commerce Transactions, thereby causing a charge to the Purchaser, until the date of shipment and/or delivery of the goods. However you may obtain an authorisation as allowed under section 2.b.i above

e-Merchant Application

10. ADJUSTMENTS WITH PURCHASERS

The Merchant shall use its best endeavours to maintain a fair policy with regards to the exchange, return, cancellation or adjustment of Electronic Commerce Transactions (the "return/cancellation policy"). The Merchant's policy shall be applied equally to all Cardholders and shall be clearly posted on its Website or disclosed to Purchasers by some other means of which the Bank has notice. If the Merchant allows an exchange (which results in a lower charge to the Cardholder), return of goods, cancellations of services or any other adjustments in connection with a transaction receipt resulting from a prior Electronic Commerce Transaction, the Merchant will prepare and deliver to the Bank a credit receipt to offset the specific transaction receipt previously presented by the Merchant. The amount of the credit receipt shall not exceed the amount shown as the total on the original transaction receipt except by the exact amount required to reimburse the Cardholder for postage that the Cardholder paid to return goods, in accordance with the above return/cancellation policy. The Merchant agrees not to accept cash or any other consideration from a Cardholder in return for preparing a credit receipt to be deposited to the Cardholder's account, nor to give cash refunds to Cardholders in connection with an Electronic Commerce Transaction.

The Merchant agrees to submit a copy of its return/cancellation policy to the Bank at the date of this Agreement. Any subsequent changes to such policy shall be submitted in writing to the Bank not less than thirty (30) days prior to such change. The Bank reserves the right to refuse to process any credit receipt prepared in accordance with a revised return/cancellation policy deemed not acceptable by the Bank.

11. CHARGE-BACKS

The acceptance by the Bank of transaction receipts for deposit to the Merchant's account shall be without recourse to the Merchant in any event except as indicated in Clause 10 of this Agreement and except as follows:

- a. The transaction receipt is in excess of the Merchant's Floor Limit. The Bank has established the Merchant's Floor Limit at zero, and may from time to time raise or lower the amount thereof upon notice to the Merchant. It is understood and agreed that no transaction receipt for a total amount in excess of the Merchant's Floor Limit in effect from time to time must be accepted by the Bank unless the Merchant has obtained Authorisation for such sale and the code number given to it to indicate said Authorisation appears on the Electronic Commerce Transaction Receipt.
- b. The Electronic Commerce Transaction Receipt is an attempt to circumvent the Floor Limit by ticket splitting or otherwise.
- c. The Electronic Commerce Transaction Receipt is based on a pre-authorisation form and the card on which the pre-authorisation form was based has been revoked and the Merchant was so notified.
- d. The card giving rise to the sale has been placed on the caution list by the issuer and prior to the sale the Merchant had received notice of such listing in writing or otherwise. If such card appears on a caution list, the Merchant shall immediately call the Bank.
- e. The transaction receipt was not generated through the use of a validly issued card whether or not the Electronic Commerce Transaction was authorised.
- f. The Electronic Commerce Transaction Receipt does not contain the unique Electronic Commerce Transaction identification number (as required in Clause 5 (e)).
- g. The Electronic Commerce Transaction Receipt does not contain the required information indicated in Clause 5 hereof
- i. The Electronic Commerce Transaction Receipt is unpostable due to illegibility or the Merchant's inability to forward all required data.
- j. The Electronic Commerce Transaction Receipt was not delivered to the Bank within the allowable time period contained in Clause 9 hereof.
- k. The Electronic Commerce Transaction Receipt contains an over the Floor Limit Authorisation that expired prior to the Transaction Date. Such Authorisation is valid for thirty (30) days.
- l. The Electronic Commerce Transaction Receipt represents an Electronic Commerce Transaction on which the Bank has received a complaint from the Cardholder stating that there is a dispute between the Merchant and the Purchaser as to whether or not such Purchaser is entitled to a credit.
- m. The Cardholder makes written complaints to the Bank that he did not make or authorize the Electronic Commerce Transaction.
- n. The Bank received a complaint from the Cardholder that the amount of the Electronic Commerce Transaction Receipt was altered after the transaction (or transaction receipt lowered).
- o. The Electronic Commerce Transaction Receipt or credit form used is not the form furnished by the Bank.
- p. The Merchant believes that the card may be counterfeit or stolen or that the Electronic Commerce Transaction is in some manner suspicious. In any such case, the Bank shall not be obligated to accept an Electronic Commerce Transaction Receipt for deposit or payment. If a transaction receipt has previously been accepted, the Merchant agrees that the Bank may charge-back the amount thereof, which amount the Merchant agrees to pay, pursuant to whatever method is appropriate under the terms of its deposit and payment arrangements with the Bank.

12. PROVISION FOR CHARGE BACKS

In accordance with Schedule B, the Merchant agrees to maintain funds on deposit with the Bank in a minimum amount of US\$_____ (the "Deposit"). The Deposit will be blocked so that the balance does not fall below US\$_____ at any time, and the Merchant agrees that the Bank may appropriate the Deposit at any time, without notice, to satisfy any obligations which may arise from time to time in the Bank's favour by way of settlement of any payments for Chargebacks, potential Chargebacks and adjustments on any Electronic Commerce Transaction made with the Merchant.

The Merchant also agrees that the Bank may review the minimum amount of the Deposit from time to time at its discretion, and the Bank reserves the right to increase the required minimum amount accordingly.

e-Merchant Application

12. PROVISION FOR CHARGE BACKS (CONTINUED)

In the event the Bank does increase the required minimum amount, the Merchant must meet the new minimum amount within five (5) days. In the event that the Merchant's participation in the Bank's card system is terminated the Merchant agrees that the Bank will retain the Deposit for a minimum period of eighteen (18) months or for such further period as may be required to satisfy any obligations which were entered into before the termination date, but which may arise after the termination date in the Bank's favour by way of settlement of any charge-backs on any Electronic Commerce Transaction made with the Merchant.

The Merchant further agrees not to grant or purport to grant to any other person any security or other legal or beneficial interest in such funds.

13. WARRANTIES AND AGREEMENT

The Merchant warrants and agrees with the Bank as follows::

- a. That no setoffs or counterclaims of any kind shall exist in favour of any Purchasers against the Merchant that may be asserted in defence of an action to enforce payment against such Purchaser for the goods and services purchased through the use of a card.
- b. That the Bank shall have the right at any reasonable time to verify all sales and to audit the Merchant's books, accounts, records and other electronic reports provided over the Internet relative to transaction receipts deposited or tendered to the Bank hereunder.
- c. The Merchant agrees to indemnify and hold the Bank harmless against any dispute, claim, action or liability whatsoever which may arise in respect of this Agreement and without prejudice to the generality of the foregoing the Merchant agrees that this indemnity shall include the fees and expenses of outside legal counsel on a full indemnity basis as well as the time and costs of in-house counsel. The Merchant shall forthwith upon demand pay such sums as the Bank may certify as due hereunder, and for these purposes a certificate given under the hand of an officer of the Bank shall (absent fraud or manifest error) be conclusive for all purposes in connection herewith.
- d. The Bank makes no representation as to the operation or fitness for any particular purpose of any virtual terminal, and shall not be liable for any loss of business or any other direct, indirect or consequential damages arising out of or in connection with the use of any virtual terminal, nor in connection with termination of this Agreement..
- e. The Bank will, in no event, be responsible for the Merchant's accounts or omissions or those of any third parties.
- f. The Bank reserves the right to suspend or completely cancel any portion of the Merchant's participation in the Bank's card system as an Electronic Commerce Merchant, at any time, without giving it prior notice.
- g. The Merchant agrees to deliver to the Bank within five (5) business days its most recently prepared financial statements and credit information as the Bank may request from time to time.

The Merchant agrees to give the Bank at least thirty (30) days prior written notice of its intent to change the basic nature of its business, product line or services, trade name or style, or the manner in which it accepts cards. If the Bank in its sole discretion determines that such a change is material to this Agreement, the Bank reserves the right to refuse to process Electronic Commerce Transactions posted after the change. Further, the Bank will have the option of terminating the Merchant's participation in the Bank's card system, and it shall be liable to the Bank's termination fee in accordance with its scale of fees as may be amended from time to time.

Indemnity

The Merchant agrees to indemnify and hold us harmless against any dispute, claim, action or liability whatsoever which may arise in respect of this Addendum or touching upon the operation of the Merchant Agreement and without prejudice to the generality of the foregoing you agree that this indemnity shall include the fees and expenses of outside legal counsel on a full indemnity basis as well as the time and costs of in-house counsel. You shall forthwith upon demand pay such sums as we may certify as due hereunder, and for these purposes a certificate given under the hand of an officer of the Bank shall (absent fraud or manifest error) be conclusive for all purposes in connection herewith.

14. PROHIBITED ACTIVITIES

The Merchant agrees to observe and comply with any Electronic Transactions laws that may be enacted in the Cayman Islands and with general standards for Electronic Transactions, as follows:

- a. The Merchant agrees to observe business integrity and accordingly will not conduct any activity prohibited by any law in the Cayman Islands.
- b. The Merchant will know its customer, and accordingly will not knowingly aid or abet any activity prohibited by any law in the Cayman Islands.
- c. The Merchant will know its own business, and accordingly will inform itself and exercise good judgement so as not knowingly to render any service in respect of any electronic record of information which contravenes sub-clauses (a) and (b) of this Clause, or which ought reasonably to be considered as likely to contravene or already to have contravened The Proceeds of Criminal Conduct Law (1999 Revision), as may be amended from time to time;
- d. The Merchant will protect personal data, and accordingly will respect the privacy, accuracy and security of personal information.
- e. The Merchant will avoid abusive language, and accordingly not send bulk, unsolicited emails, seek unauthorised access to other people's systems or seek to interrupt other people's use of electronic communications, or enable others to do so.

e-Merchant Application

14. PROHIBITED ACTIVITIES (CONTINUED)

Online Gambling

The Bank will not facilitate any Electronic Commerce Transactions where it suspects the purchase of any form of gambling services over the Internet or other networks ("online gambling"). Gambling services include, but are not limited to the following:

- a. Betting;
- b. Lotteries;
- c. Casino-style games;
- d. Funding an account established by the Merchant on behalf of the Cardholder;
- e. Purchase of value for proprietary payment mechanisms, such as electronic gaming chips.

Adult Entertainment

The Bank will not facilitate any Electronic Commerce Transactions where the Bank suspects the purchase of any form of adult entertainment / services over the Internet or other networks. Adult entertainment includes, but is not limited to the following:

- a. Obscene photographs, images or articles involving such things as extreme violence, bestiality and pornography;
- b. Indecent photographs or indecent pseudo-photographs of a child.

Should the Bank detect that the Merchant is or has been involved in any of the foregoing in this Clause 14 since the date of this Agreement, the Bank will have the option of terminating their participation in its card system as a Merchant, and the Merchant shall be liable to the Bank's termination fee in accordance with its scale of fees as may be amended from time to time.

15. OPERATING INSTRUCTIONS

The Merchant agrees to comply with such other operating instruction and regulations as may be issued from time to time. The Merchant's continued acceptance of cards subsequent to any such instruction or regulation shall constitute its acceptance of the instruction or regulation.

16. FURTHER RESPONSIBILITIES

- a. The Merchant shall not electronically transmit or otherwise process any Electronic Commerce Transactions with Visa and/ or MasterCard resulting from merchandise sold or services performed (or alleged to have been sold or performed) by parties other than itself.
- b. The Merchant agrees not to disclose or remit to any third party any credit card account information or other documents or forms evidencing such information, except to its accountants or lawyers or under compulsion of law.
- c. The Merchant agrees to comply with the operating guidelines the Bank will issue to it from time to time, in accordance with Visa and MasterCard and the ETA.
- d. The Merchant agrees to accept responsibility for incorrect data it provides or provided by its employees or agents or any other persons inputting data through any virtual terminal installed on premises that it controls..
- e. The Bank will, in no event, be responsible for the Merchant's accounts or omissions or those of any third parties.
- f. The Merchant agrees to retain the "Merchant copy" of each completed Electronic Commerce Transaction Receipt and credit form and any other records relating to the Electronic Commerce Transaction for at least three years in original and/or disk, microfilm or microfiche form or such other period as may from time to time be required by the rules of either the Bank's credit card processing bureau, MasterCard International, Inc. or Visa International Inc.
- g. The Merchant agrees to produce any requested electronic data to the Bank within four (4) days (including non-business days and public holidays). The Merchant understands and agrees that it will be liable for any charge-backs imposed as a result of its failure to deliver requested documents within the specified time period.
- h. The Merchant agrees that the Bank's records as to whether any transaction has been performed, and the Bank's account or determination of the details of any Electronic Commerce Transaction will be correct and binding on them in the absence of any contrary evidence that is satisfactory to the Bank.
- i. The Merchant agrees not to settle any Electronic Commerce Transactions, thereby causing a charge to the Purchaser, until the date of shipment and/ or delivery of the goods.
- j. The Merchant agrees that the Merchant shall not hold itself out in any way as the agent of the Bank for any purpose and further agrees that Merchant shall not link to or frame any Website or portion thereof belonging to the Bank, Promisant or the Card Organisations without their specific permission in writing. The Merchant shall not infringe any copyright of the Bank's Promisant's or the Card Organisations nor appropriate in anyway any of their Intellectual Property. Neither the Bank, Promisant nor the Card Organisations accept any liability for any statement that the Merchant may make about the Bank, Promisant, this Agreement or the card processing system generally.

e-Merchant Application

17. FEES

- a. The Merchant agrees to pay for the services as set forth in Schedule A in accordance with this Agreement. The Merchant acknowledges that the pricing in the said Schedule is based on the Merchant's representation as to the volume of Electronic Commerce Transactions, method of processing, type of business, and interchange qualification criteria as represented in the Merchant Application and Schedule A. To the extent that the Merchant's actual volumes, method, type, and criteria differ from this information, the Bank or Promisant may modify the pricing set forth in Schedule A or terminate this Agreement in accordance with Clause 20.
- b. In addition to the above, from time to time, the Bank or Promisant may change its fees, charges and discounts resulting from increases in Card Fees or the charge of any third vendor by giving the Merchant notice of the change. Any price change that is caused by changes in the Card Fees will be applicable to the Merchant as of the effective date established by the Card Organisation. The Merchant's presentation of any Electronic Commerce Transaction Receipt to the Bank after the effective date will constitute acceptance of the new prices.
- c. As to any price changes not caused by Card Organisation increases, the Bank will provide the Merchant with at least thirty (30) days notice of the effective date of this price change. The Merchant's presentation of any Electronic Commerce Transaction Receipt to the Bank after the effective date will constitute acceptance of the new prices. Should the Merchant choose not to accept the new prices it agrees to notify the Bank, within fifteen (15) days of the Bank's price change notice, of the Merchant's intent to terminate this Agreement. Such termination shall be in accordance with Clause 20 of this Agreement.
- d. If the Merchant terminates this Agreement prior to the expiration of the original or any renewal item, the Merchant agrees that the future harm to the Bank or Promisant would be difficult to calculate. Accordingly, in the event of the Merchant's early termination of this Agreement for any reason other than an increase in the Processing Fees as provided in Clause 17 (c), or material breach of this Agreement, in order to compensate the Bank for any loss and not as a penalty, the Merchant agrees to pay to the Bank as liquidated damages an amount calculated by multiplying the average monthly Processing Fees from the prior six months by the number of months remaining in the contract term. Such amount will be funded, to the extent possible, according to the same methods for collecting amounts under Clause 12 hereof.
- e. The Bank processes all Electronic Commerce Transaction Receipts in a manner so that each transaction will have the potential to qualify under the rules of the Card Organisations for the reduced Card Fees charged by the Card Organisations. These reduced rates are known as qualifying rates. For those Electronic Commerce Transaction Receipts that cannot qualify, the Bank's standard interchange rate as set by the Card Organisation for its region will apply, which includes a non-qualification surcharge for those transactions. If the Bank determines that an excessive amount of Electronic Commerce Transaction Receipts do not qualify, the Bank may review the Merchant's internal procedures relating to the acceptance of Cards and the Bank may notify the Merchant of new procedures the Merchant should adopt. For purposes of this agreement, an excessive number of Electronic Commerce Transaction Receipts which do not qualify for qualifying rates is two (2) per one hundred (100) Electronic Commerce Transaction Receipts.
- f. The Merchant further agrees that all fees, charges, credits or adjustments that it may owe constitute a debt that is payable on demand, and that the Bank may debit its account(s) with the Bank for this debt. If any such debit results in an overdraft on the Merchant's account(s) it will pay the Bank the amount of such overdraft plus applicable interest and fees

18. ASSIGNMENT

This Agreement shall be binding upon the parties, their heirs, successors and assigns, provided that the Merchant shall not assign this Agreement without the Bank's written consent

19. AMENDMENTS

The Bank may from time to time at its discretion, amend this Agreement by giving the Merchant thirty (30) days written notice. The Merchant's continued transmittal of transaction receipts and/or electronic transaction records to the Bank after an amendment's effective dates shall constitute the Merchant's acceptance of the amendment.

20. TERMINATION

- a. This Agreement shall become effective on the date first above written when accepted by the Merchant and after our separate notice to you that the Bank shall accept for deposit your Electronic Commerce Transaction Receipts, and shall remain in full force and effect for a minimum period of 3 (three) years unless either party terminates it by giving thirty (30) days' written notice of termination to the other. If the Merchant wishes to renew the Agreement from the date this Agreement terminates and shall not less than 90 (ninety) days prior to the termination date give to the Bank notice in writing of such desire then provided the Merchant has reasonably performed and observed the terms and conditions contained in this Agreement, the Bank shall grant to the Merchant a further Agreement for a further term of 3 (three) years and upon the same terms and conditions as this Agreement save and except the option to renew set forth in this sentence..
- b. The obligations of both parties for any particular Electronic Commerce Transaction completed on or prior to the date of termination shall survive termination.
- c. The Bank may terminate this Agreement immediately if the Merchant becomes insolvent or bankrupt, or the Bank deems itself to be insecure with respect to the Merchant's business.
- d. Following termination, the Merchant agrees that it will not represent that it honours Visa or MasterCard cards through participation in the Bank's card system as an Electronic Commerce Merchant.

e-Merchant Application

21. FEES

Any notice given under this Agreement shall be delivered either personally, by registered or recorded delivery mail, by telex or facsimile transmission (the latter confirmed by telex or post) or by any other form of electronic transmission, or by any other means which either one of the parties specifies by notice to the other. Notice shall be served at the parties’ respective addresses shown above or such other address as either one specifies by notice to the other. A notice shall be deemed to have been served:

a.

if it was served in person, at the time of service,

b.

if it was served by post, three (3) business days after it was posted if posted within Bermuda, or seven business days after it was posted if posted outside of Bermuda, (including the day of posting in either circumstance) and

c.

if it was served by telex, facsimile transmission or by any other form of electronic transmission, at the time of transmission.

22. APPLICABLE LAW

This Agreement is governed by and construed in accordance with the laws of The Cayman islands. The Merchant submits to the exclusive jurisdiction of the Courts of The Cayman Islands for all purposes in connection with this Agreement and appoints Messrs.,of _____ (being a Cayman law firm) to be its agent for receipt of service of legal process. The Merchant agrees that service on such an agent shall be as effectual and binding as service directly on you. The Merchant waives any right to assert that the Cayman Islands is not a proper or convenient forum for the adjudication of any disputes, which may arise between the Bank. The Merchant agrees that, notwithstanding the foregoing, the Bank shall be entitled to commence and conduct legal proceedings against the Merchant in any jurisdiction that the Bank may consider appropriate.

The Electronic Commerce Merchant understands that this Agreement, and the Schedules and Addenda that are incorporated herein, have been prepared based on the information submitted by the Merchant on the Merchant Application that the Merchant certifies, subject to criminal penalties for false certification, that all the information is true and correct. In addition, the Merchant agrees that the information included in this Agreement, the Schedules and Addenda attached herein are to be treated as secret and of a strictly confidential nature. The terms of this Agreement form the whole agreement between the Bank and the Merchant and shall not be removed, or varied in any way, other than as provided for in the Agreement. No other express terms, written or oral, shall be incorporated into the Agreement.

All pages should be initialled by the signatories at the foot of the page as indicated. Upon acceptance of this Agreement by Butterfield Bank (Cayman) Limited, a copy should be sent to the Merchant.

Signed for and on behalf of merchant	Authorized signature	Name
--------------------------------------	----------------------	------

FOR BANK USE ONLY

Signed for on behalf of Butterfield Bank	Authorized signature	Name
--	----------------------	------