

The Bank of East Asia, Limited

Merchant Service Agreement Terms and Conditions

SECTION 1 – Basic Terms and Conditions

WHEREAS:

- (A) Bank is engaged in general banking business, and Merchant is engaged in selling merchandise and/or services as described in the Application.
- (B) Merchant desires to use, and Bank agrees to provide, Bank's Card and Digital Payment Transaction processing services in connection with Merchant's sale of merchandise and/or services and the parties hereby agree to be bound by the provisions of these Terms and Conditions.

It is MUTUALLY AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

- (a) "Affiliate" shall mean any person(s) or body, whether incorporated or unincorporated, including Bank, participating in the card programme of a Card Association and entitled to issue Cards.
- (b) "Agreement" shall mean The Bank of East Asia, Limited Merchant Service Agreement entered into between Bank and Merchant, comprising the Application and the Terms and Conditions, as amended from time to time.
- (c) "Alipay Processing Services" shall mean the services as described in the Special Terms and Conditions set out in Section 9 of these Terms and Conditions.
- (d) "Annual Fee" shall mean the fee described in Clause 17 of the Basic Terms and Conditions.
- (e) "Application" shall mean the application form completed and signed by Merchant in favour of Bank whereby the parties agree to be bound by the Agreement.
- (f) "Authorisation Centre" shall mean the authorisation and administrative centre of The Bank of East Asia, Limited Card Programme as Bank may designate from time to time.
- (g) "Authorisation Code" shall mean the authorisation code issued by the Authorisation Centre of Bank to Merchant pursuant to Clause 4.2 of the Basic Terms and Conditions.
- (h) "Bank" shall mean The Bank of East Asia, Limited, whose registered office is at 10 Des Voeux Road Central, Hong Kong.
- (i) "Basic Terms and Conditions" shall mean the basic terms and conditions set out herein in Section 1, as the same may be amended from time to time.
- (j) "Business Day" shall mean every day except (1) Saturdays and Sundays in Hong Kong, and (2) where applicable, any other day on which principal commercial banks are not open for business in the countries in which the subject Transaction is effected.
- (k) "Card" shall, unless otherwise specified, mean a valid and unexpired credit card or debit card, other than any Restricted Card, issued by the licensees of a Card Association and bearing such designs or identifications as from time to time advised by Bank.
- (l) "Card Association" shall mean:
 - (1) VISA International;
 - (2) MasterCard International Inc.;
 - (3) UnionPay International Co., Limited;
 - (4) JCB International Co. Ltd., or
 - (5) Discover Financial Services(collectively, the "Card Associations").
- (m) "Card Programme" shall mean:
 - (1) the card programme administered by VISA International (the "VISA Card Programme");
 - (2) the card programme administered by MasterCard International Inc. (the "MasterCard Programme");
 - (3) the card programme administered by UnionPay International Co., Limited (the "UnionPay Card Programme");
 - (4) the card programme administered by JCB International Co. Ltd (the "JCB Card Programme");
 - (5) the card programme administered by Discover Financial Services (the "Discover® Global Network Card Programme").(collectively, the "Card Programmes").
- (n) "Card Sale" shall mean any purchase of goods and/or services from Merchant effected by means of a Card and processed by Bank pursuant to the provisions of this Agreement.
- (o) "Cardholder" shall mean the person to whom a Card is issued by an Affiliate and whose name appears thereon as an authorised user.
- (p) "Chargeback" shall mean any refund or reimbursement by Merchant in favour of Bank in respect of any payment made by Bank in connection with any Transaction as described in Clause 8 of the Basic Terms and Conditions and includes (but is not limited to) any refund or reimbursement in respect of a Transaction effected hereunder which is disputed by the relevant Customer and where notice of such dispute has been given to Bank or the bank issuing the subject Card or the relevant Digital Payment Service Provider.
- (q) "Chargeback Reserve" shall have the meaning given to that term in Clause 19.1(a) of the Basic Terms and Conditions.
- (r) "Credit" shall have the meaning given to that term in Clause 7.1 of the Basic Terms and Conditions.
- (s) "Customer" shall mean a Cardholder or a Digital Payment Service User.
- (t) "Digital Payment Service" shall mean:
 - (1) Alipay Services (as defined in Section 9 of these Terms and Conditions) provided by Alipay Payment Services (HK) Limited;
 - (2) WeChat Pay (as defined in Section 10 of these Terms and Conditions) services provided by WeChat Pay Hong

- Kong Limited; and
- (3) Weixin Pay Cross-Border Payment Services (as defined in Section 11 of these Terms and Conditions) provided by Tenpay Payment Technology Co., Ltd.; and
- (4) such other digital payment service provided by a Digital Payment Service Provider.
- (u) "Digital Payment Service Provider" shall mean:
- (1) Alipay Payment Services (HK) Limited;
 - (2) WeChat Pay Hong Kong Limited;
 - (3) Tenpay Payment Technology Co., Ltd.; and
 - (4) such other digital payment service provider as designated by Bank from time to time.
- (v) "Digital Payment Service User" shall mean any person who from time to time is accepted by a Digital Payment Service Provider as a user of the Digital Payment Service provided by such Digital Payment Service Provider.
- (w) "Digital Payment Transaction" shall mean any purchase of goods and/or services from Merchant effected by the use of a Wallet and processed by Bank pursuant to the provisions of this Agreement.
- (x) "Discount Rate" shall mean the discount rate referred to in Clause 6 of the Basic Terms and Conditions, or, as the context requires, the discount rate referred to in the relevant Special Terms and Conditions in relation to a particular service, charged by Bank to Merchant at a percentage as advised by Bank from time to time.
- (y) "Dynamic Currency Conversion Programme" shall mean the services as described in the Special Terms and Conditions set out in Section 6 of these Terms and Conditions.
- (z) "E-Commerce Services" shall mean the services as described in the Special Terms and Conditions set out in Section 4 of these Terms and Conditions.
- (aa) "Electronic Data Capture Terminal Services" shall mean the services as described in the Special Terms and Conditions set out in Section 2 of these Terms and Conditions.
- (bb) "Floor Limit" shall mean an amount expressed in Hong Kong Dollars and notified to Merchant by Bank from time to time as being the maximum aggregate amount for which Merchant may accept one or more transactions made with a Card by one Cardholder in one day at any one service outlet operated by Merchant without first obtaining specific authorisation from Bank. Any transactions in excess of this amount require authorisation by the Authorisation Centre prior to execution.
- (cc) "Hong Kong Dollars" or "HKD" shall mean Hong Kong Dollars, the lawful currency of Hong Kong.
- (dd) "Instalment Services" shall mean the services as described in the Special Terms and Conditions set out in Section 5 of these Terms and Conditions.
- (ee) "Mail Order and/or Telephone Order Services" shall mean the services as described in the Special Terms and Conditions set out in Section 3 of these Terms and Conditions.
- (ff) "Merchant" shall mean the merchant whose details are set out in the Application signed by the parties.
- (gg) "Merchant Account" shall mean such account(s) referred to in Clause 6.1 of the Basic Terms and Conditions, in order to facilitate the transfer of payment, debits and credits between parties hereto.
- (hh) "Multi-Currency Pricing Programme" shall mean the services as described in the Special Terms and Conditions set out in Section 7 of these Terms and Conditions.
- (ii) "OFAC" shall mean the U.S. Department of the Treasury's Office of Foreign Assets Control.
- (jj) "Restricted Card" shall mean a Card which Bank had by written notice from time to time instructed Merchant not to accept for any transaction.
- (kk) "Restricted Services" means products or services that constitute, relate to or are ancillary or incidental or attached to, in whole or in part directly or indirectly:
- (1) pornographic or illicit material or activities of any type or nature;
 - (2) escort services;
 - (3) gambling operations, including but not limited to 'virtual casinos';
 - (4) ticket factoring;
 - (5) pyramid selling;
 - (6) goods, products, services or distributions prohibited by applicable laws or under the rules, regulations or directives of any Card Association or relevant governing body; or
 - (7) goods, products, services or distributions of any class or type, whether or not similar to those specified above, which may be designated from time to time by Bank (in its sole discretion) as being subject to this definition and notice thereof being given to Merchant, provided that no such designation or notice is required for any particular sale to be subject to this definition hereinabove mentioned
- (ll) "Sales Drafts" and "Credit Vouchers" will mean the respective forms provided by Bank to Merchant for the purpose of consummating sales or credits to be charged or credited to the Card account of a Cardholder.
- (mm) "Sanctions" shall mean the economic sanctions maintained under the laws and regulations of the United States of America, including, without limitation, the sanctions administered by OFAC, the sanctions maintained by the United Nations and the sanctions maintained by PRC.
- (nn) "Sanctioned Jurisdiction" shall mean the jurisdictions that are subject to comprehensive U.S. sanctions administered by OFAC, which may be listed on OFAC's Sanctions Programs and Country Information page.
- (oo) "Sanctioned Person" shall mean any individual, entity, or government that is the target of sanctions (1) administered by OFAC (including, without limitation, those persons on OFAC's Specially Designated Nationals and Blocked Persons List) as well as any individual or entity that is located or resident in or organized under the laws of a Sanctioned Jurisdiction, and/or (2) imposed by the UN, and/or (iii) imposed by PRC.
- (pp) "Special Terms and Conditions" shall mean the special terms and conditions set out herein in Sections 2 to 11 as the same may be amended from time to time.
- (qq) "Tap-to-Phone Terminal Services" shall mean the services as described in the Special Terms and Condition set out at Section 8 of these Terms and Conditions.

- (rr) "Terms and Conditions" shall mean the Basic Terms and Conditions and the Special Terms and Conditions.
- (ss) "Total Sale Price" shall mean the gross amount of any Transaction without discount, set-off or other adjustment.
- (tt) "Transaction" shall mean a Card Sale or a Digital Payment Transaction.
- (uu) "Wallet" shall mean a digital wallet operated by a Digital Payment Service Provider.

1.2 Interpretation

- (a) In this Agreement, words denoting one gender shall include all other genders and words denoting the singular shall include the plural and vice versa.
- (b) The parties hereby acknowledge and agree that the Application and the Terms and Conditions form a single agreement (collectively, the "Agreement") between the parties.
- (c) If there is any difference between the English language text of this Agreement and the Chinese language text, for all purposes the English language text shall be conclusive.

1A. Provision of Card and Digital Payment Transaction processing services

- 1A.1 This Agreement applies to all Card and Digital Payment Transaction processing services to be provided to Merchant by Bank. With respect to the provision of Digital Payment Transaction processing service by Bank to Merchant, Clauses 2 to 5 and Clause 6.2 to 6.4 of these Basic Terms and Conditions do not apply.
- 1A.2 The Special Terms and Conditions corresponding to the different payment processing service as enumerated below are annexed to these Basic Terms and Conditions, each of which sets out the terms and conditions on which Bank will provide the payment processing service therein described to Merchant.
 - (a) Section 2 – Special Terms and Conditions: Electronic Data Capture Terminal Services
 - (b) Section 3 – Special Terms and Conditions: Mail Order and/or Telephone Order Services
 - (c) Section 4 – Special Terms and Conditions: E-Commerce Services
 - (d) Section 5 – Special Terms and Conditions: Instalment Services
 - (e) Section 6 – Special Terms and Conditions: Dynamic Currency Conversion Programme
 - (f) Section 7 – Special Terms and Conditions: Multi-Currency Pricing Programme
 - (g) Section 8 – Special Terms and Conditions: Tap-to-Phone Terminal Services
 - (h) Section 9 – Special Terms and Conditions: Alipay Service
 - (i) Section 10 – Special Terms and Conditions: Wechat Pay Service
 - (j) Section 11 – Special Terms and Conditions: Weixin Pay Cross-Border Payment Service

2. Honouring use of Cards and Completion of Sales Drafts

- 2.1 In effecting Card Sales, Merchant will honour properly tendered Cards and will not discriminate between Cardholders and cash customers or between Cardholders of different Cards. Merchant will sell Merchant's goods and/or services at its regular cash prices, including any special sales price then in effect, without service or carrying charges of any kind and will make no special charge (including what is commonly known as a 'surcharge' or 'commission') or extract any special agreement, condition or security from a Cardholder and without otherwise requiring any Cardholder to pay any part of the discount charged Merchant hereunder and will not refuse to exchange, return, or adjust merchandise purchased if any such exchange, return or adjustment is permitted to cash customers.
- 2.2 Merchant shall record each Card Sale and Credit on an appropriate Sales Draft or Credit Voucher (as the case may be) as provided by Bank. Merchant shall complete all Sales Drafts and Credit Vouchers in accordance with instructions furnished by Bank. All Sales Drafts and Credit Vouchers shall be drawn in Hong Kong Dollars.
- 2.3 All Card Sales processed by Bank with respect to Merchant will represent obligations of Cardholders in amounts set forth therein for merchandise sold or services rendered only, and shall not include or involve any element of credit for any other purpose.
- 2.4 No Card Sale shall be effected when only a part of the amount due is included on a single Sales Draft except under the following circumstances:
 - (a) when the balance of the amount due is paid by Cardholder at the time of sales in cash or by cheque; or
 - (b) when the merchandise and/or service is to be delivered or performed at a later date and one Sales Draft represents a deposit and the second Sales Draft represents the balance of the purchase price, the latter Sales Draft being conditional upon delivery of merchandise and/or performance of services. Authorisation is required if the total amount of the two Sales Drafts exceeds the applicable Floor Limit in the authorisation schedule, as provided in Clause 4 of these Basic Terms and Conditions, and if obtained, such authorisation shall be effective for both Sales Drafts. Merchant shall note on the Sales Drafts the words 'deposit' or 'balance' as appropriate. The Sales Draft labelled 'balance' shall not be presented until the merchandise is delivered or the services performed.
- 2.5 Bank shall have the right, upon notice to Merchant, to accept such other credit and debit and similar cards from such other Card issuers as it may designate from time to time.

3. Unqualified Sales

- 3.1 Merchant shall be fully liable to Bank and fully indemnify Bank and keep Bank fully indemnified against any action, claim, proceeding, demand, cost, expenses, damage, loss, charge, liability of whatever nature arising from or incidental to any Card Sale and Bank shall also have the right at any time to charge Merchant or Merchant's Merchant Account therefor, without notice, in any situation relating to a Card Sale or Merchant's obligations under this Agreement, in particular, where:
 - (a) the Card is invalid or forged issued or has been altered, damaged or defaced; or
 - (b) the Personal Identification Number ("PIN") entered is invalid; or

- (c) the Card appears on any current restricted Card notifications and other current warning notices which are provided to Merchant by or on behalf of Bank at the time the Card Sale was consummated; or
- (d) the signature on the Sales Draft is not the same as the signature on the Card; or
- (e) Merchant has not implemented and examined all necessary security features of the Card before completing the Card Sale, or Merchant has implemented and examined all necessary security features of the Card before completing the Card Sale but there is/are suspicious circumstance(s) about the Card or the Cardholder; or
- (f) merchandise is returned or rejected for whatever reasons or services are disputed or dissatisfied or complained by Cardholder whether or not a Credit is issued or delivered to Bank; or
- (g) the Cardholder alleges that the Card Sale has been accepted or requested or entered into improperly or wrongfully or incorrectly or without lawful authority or if the authenticity or validity of the transaction is disputed by Cardholder for whatever reason; or
- (h) the Cardholder disputes the sale, quality, quantity or delivery of merchandise or the performance or quality of services rendered or maintenance or repair and after sales services in relation to such merchandise and services for any Card Sale accepted by such Cardholder or authorised agent or user; or
- (i) the Card Sale is drawn by, or Credit has been given to, Merchant in circumstances constituting a breach of any term, condition, representation, warranty, or duty of Merchant under the Agreement; or
- (j) the Card Sale is drawn on redemption of other merchandise; or
- (k) the extension of credit for merchandise sold or services performed was in violation or breach of any laws or rules or regulations of any governmental agency, local or otherwise; or
- (l) the Card Sale relates or involves in whole or in part to Restricted Services;

3.2 Bank's decision made in good faith under this Clause 3 of the Basic Terms and Conditions shall be conclusive between the parties herto. Without prejudice to other rights or remedies which Bank is entitled and without limitation to Bank's rights of set-off, lien, charge, pledge, transfer and application of funds however arising, if Bank is entitled to payment or reimbursement from Merchant of any amount however becoming due and payable under this Agreement, Merchant hereby agrees that Bank hereby agrees that Bank may at its absolute discretion and without prior notice, give effect to such entitlement by deducting the relevant amount or any part thereof from any accounts whatsoever of Merchant held with Bank. For the avoidance of doubt, Merchant hereby agrees that Bank may, at its sole discretion, combine Merchant's accounts held with Bank when exercising the aforesaid rights.

4. Obtaining Authorisation

4.1 In any of the following circumstances, Merchant shall obtain authorisation before completing the transaction:

- (a) the Total Sale Price exceeds the Floor Limits of the then effective authorisation schedule provided to Merchant by Bank, which schedule may be amended by Bank from time to time;
- (b) Merchant desires to deliver a Sales Draft beyond the period specified in Clause 2 of these Basic Terms and Conditions;
- (c) the customer does not present his Card; or
- (d) Merchant believes the Card may be counterfeit or stolen;
- (e) if the Sales Drafts are drawn improperly or if the Sales Drafts are incomplete, unsigned or illegible;
- (f) if the presentation of the Card or the proposed transaction arouses suspicion;
- (g) if the Sales Draft is drawn in circumstances constituting a breach of any term of the Agreement; or
- (h) if the use of a Card therefor contravenes the laws or regulations of any governmental agency, local or otherwise.

4.2 Authorisation must be obtained from the Authorisation Centre. If authorisation is given by the Authorisation Centre, Merchant must complete the Sales Draft by writing on the appropriate area of the Sales Draft the Authorisation Code given by the Authorisation Centre. In the event that Merchant is requested to withhold a Card from a Cardholder (by Bank or issuer of the Card), Merchant shall use its best efforts, by reasonable and peaceful means, to retain the Card or to comply with advice or instruction given by the Authorisation Centre. Merchant will hold Bank harmless from any claims arising from injury to persons or property or other breach of peace. Except in the case of purchases in separate departments of a multiple department store, Merchant shall not use two or more Sales Drafts to circumvent authorisation and shall include all items, goods and services purchased in a single transaction in the total amount on a single Sales Draft.

4.3 At all times, Merchant shall obtain an Authorisation Code by using the point-of-sale device/terminal except in the event where the equipment is out of order, where Merchant shall obtain the Authorisation Code by telephone call to the Authorisation Centre and a manual-imprinted Sales Draft shall be used accordingly. Notwithstanding the aforesaid, such manual process is prohibited for Card Sales involving any UnionPay (UP) Card or any Card the account number of which is not embossed thereon. Merchant shall compare the embossed account number with the number displayed and/or printed from the point-of-sale device/terminal. In respect of any Card Sale, such as UnionPay (UP) Card transaction, which requires a customer to enter the PIN for the purpose of authentication, Merchant shall require the customer to input the PIN. The Bank shall provide a Merchant Operation Guide to Merchant and Merchant shall comply with the instructions contained in such Merchant Operation Guide as amended from time to time of Bank.

5. Sales Draft/Credit Voucher Deposit

5.1 Without prejudice to the generality of Clause 12 of the Basic Terms and Conditions, Merchant agrees, warrants and represents, and shall be deemed to agree, warrant and represent at the time of each delivery of a Sales Draft and/or Credit Voucher to Bank, that:

- (a) each Sales Draft and Credit Voucher deposited to Bank has been properly imprinted and/or completed at the time of sale with the Card honoured by Merchant and will not constitute as an unqualified sale pursuant to Clauses 3.1(a) to 3.1(l) of these Basic Terms and Conditions and will fully comply with such operating rules and/ or card acceptance procedures or such other rules, regulations or procedures as Bank may from time to time establish;
- (b) the price, taxes, date, description of merchandise and services, and all other information written on each Sales Draft

- and Credit Voucher is complete, legible, true and accurate, and the Cardholder has received his copy thereof;
- (c) unless authorisation has been obtained from the Authorisation Centre, the Transaction reflected on each Sales Draft does not exceed the Floor Limit imposed by Bank;
 - (d) Merchant has performed or will fully and promptly perform all obligations owing to Cardholder resulting from the Transaction represented by each Sales Draft or any other Transaction;
 - (e) Bank may at any reasonable time inspect and/or require production to Bank of and/or make copies of Merchant's books, records and other related supporting documents pertaining to Transactions including but not limited to Merchant's copy of Sales Drafts and/or Credit Voucher, sales order and invoice, suppliers' invoice / order / contract / receipt and other related supporting document, and Merchant agrees to preserve such records for a period of at least 18 months from the date of the Sales Drafts and/or Credit Vouchers. Notwithstanding the aforesaid, if the Transactions involve a debit card or credit card issued by any licensee of UnionPay International Co., Limited, Merchant agrees to preserve all such records, in particular, the Sales Drafts for a period of at least 24 months from the date of the Sales Drafts and/or Credit Vouchers. Merchant shall indemnify and hold Bank harmless in respect of any loss, costs, claim or expense incurred by Bank resulting from loss of such records;
 - (f) all Transactions have been completed in accordance with written instructions from Bank;
 - (g) Merchant shall not present Sales Drafts relating to Transactions which it knows or should have known to be fraudulent or not authorised by the issuer of the Card;
 - (h) if any Sales Drafts that have been submitted for payment as determined by Bank and/or confirmed by the issuer of the Card are deemed as fraudulent sales transactions, Merchant shall indemnify in full and hold Bank harmless should Bank delay/refuse payment or reject processing and return these fraudulent Sales Drafts;
 - (i) Merchant may not present for processing, directly or indirectly, any Sales Draft which did not originate as a result of a genuine transaction between the Cardholder and Merchant;
 - (j) upon request of Bank, Merchant shall submit full or updated (as directed by Bank) financial statement of Merchant to prove that stock intake corresponds/matches with sales turnover to Bank within 7 Business Days; and
 - (k) upon termination of the Agreement and upon the request of Bank, Merchant shall submit all Sales Drafts and/or Credit Vouchers and/or other related supporting documents of the recent 18 months immediately before such request within 7 Business Days.

6. Payments

- 6.1 In order to facilitate the transfer of payment, debits and credits between parties hereto, Merchant may maintain a commercial checking account with Bank, subject to Bank's usual commercial account service charges ("Merchant Account").
- 6.2 Each Sales Draft and each Credit Voucher shall be directly delivered by Merchant not later than the third banking Business Day following the date of its issuance, except under the circumstance of any delayed delivery sale where the Sales Draft for the balance of the purchase price is not to be presented until the merchandise is delivered or the services performed.
- 6.3 Subject to the provisions of the Agreement, payment shall be effected by credit to the Merchant Account or by cheque drawn on Bank payable to Merchant or in such manner as may be agreed between Bank and Merchant. Bank shall pay to Merchant the Total Sale Price of each Card Sale, within such period of time as it may in its absolute discretion predetermine and notify to Merchant, less a percentage (the "Discount Rate") of such Total Sale Price, such Discount Rate to be notified by Bank to Merchant, and less the Chargeback Reserve if any. The Discount Rate may be amended, from time to time, upon 30 days written notice to Merchant. The Discount Rate to be deducted from the Total Sale Price shall be at that Discount Rate which is in effect at the time of the Card Sale. Bank may require Merchant to open or maintain a current or other account with or procure any other service of Bank, which is sufficient if Bank believes that it is advisable or essential to the operation of the applicable card plan, from Bank or its subsidiaries.
- 6.4 Merchant shall be liable for any loss of Sales Drafts and Bank reserves all rights to make adjustment on such payment after reconciliation of Sales Drafts. The full amount of Credit Vouchers, if any, will be deducted from the amount of Sales Drafts deposited before charging the Discount Fee. All figures are subject to final audit and checking by Bank, and Merchant agrees that in case of any inaccuracies Bank may charge or credit Merchant's Merchant Account, without notice, or bill Merchant, such bill to be payable upon receipt, or send its cheque to Merchant, for any deficiencies or overages, as the case may be, and Bank's decision made in good faith shall be conclusive between the parties for this purpose. The preparation and delivery of Card Sales to Bank by Merchant shall constitute an endorsement to Bank by Merchant of each Card Sale for processing, and Sales Drafts will be deemed presented to Bank upon receipt by the Authorisation Centre or at such other location as bank designates in writing.
- 6.5 Except as set forth in Clause 7 of the Basic Terms and Conditions, Bank shall have the sole right to receive payments on Transactions processed by Bank. Merchant agrees not to sue or to make any collections thereon, except as may be specifically authorised by Bank in writing. In the event of such authorisation, Merchant agrees to hold all collections, if any, on trust for Bank only and to deliver it immediately to Bank upon receipt. All electronic and digital records, electronic sales drafts, electronic credit vouchers, electronic acknowledgements and other supporting records as may be required from time to time by Bank with respect to Transactions should be provided to Bank by Merchant in accordance with the rules and regulations of the Card Association applicable to the Card or the rules and regulations of the Digital Payment Service Provider applicable to the Wallet (as the case may be) utilised in the relevant transactions.

7. Credits

- 7.1 All disputes between Merchant and Customer or any other person (including a situation where the purchaser in respect of a Card Sale is not the person whose name appears as Cardholder) shall be settled between Merchant and such Customer or other person. Merchant will establish a fair policy for adjustments, including the exchange or return of merchandise and correction of unsatisfactory service, and process a credit ("Credit") and issue a Credit Voucher therefor in accordance with requirements of Bank. Such requirements may change from time to time as Bank sees fit and necessary.
- 7.2 No cash refunds will be given on any items originally purchased through the use of a Card or a Wallet. Bank, upon receipt of

such Credit Vouchers, will charge Merchant's Merchant Account, if one is maintained, and if none is maintained, will bill Merchant such bill to be payable upon receipt or by deduction from any amount payable to Merchant in such manner as determined by Bank, for the face amount of the Credit Vouchers. Concurrently therewith, thereafter or by direct deduction prior to the charge to said Merchant Account or issuance of said bill, as determined by Bank at its option, Bank will refund to Merchant, through said Merchant Account, or by credit to said bill the applicable Discount Fee if previously collected by Bank.

7.3 If a dispute arises or exists between Merchant and any other person in relation to the quality, condition, characteristics or delivery of any goods and services, or any other representation made in connection with the Transaction, Merchant agrees to defend Bank against all claims and to indemnify in full and hold Bank harmless from all costs, losses and liability (including attorney's fees) resulting from such dispute.

8. Chargebacks

If Bank determines that any warranty made by Merchant has been breached, that any representation made by Merchant was untrue when made or deemed made, or that a bona fide dispute has arisen or exists between Merchant and the Customer in relation to merchandise or services as described in Clause 7 of these Basic Terms and Conditions then Bank shall refuse to pay Merchant on account of any Transaction or Sales Drafts deposited (if applicable), and Merchant shall forthwith pay to Bank or Bank may withdraw from the Merchant Account or from any other account which Merchant may maintain with Bank the amount which Bank previously paid to Merchant on account of any Transaction or Sales Drafts (if applicable) which Bank determines to be affected thereby (a "Chargeback"). Bank's good faith determination made under this Clause shall be conclusive between the parties and in the event that such Chargeback, as provided in this Clause results in an overdraft to the Merchant Account, if one is maintained, Merchant shall pay such overdraft to Bank immediately.

9. Collections on Transactions

Bank shall have the sole right to receive payment on Transactions effected under the Agreement and/or on Sales Drafts tendered to Bank (if applicable), unless charged back to Merchant in accordance with Clause 8 of the Basic Terms and Conditions. Merchant will not accept any such payments or agrees not to sue or make any claim or any collection thereon and hereby assigns to Bank all its right, title and interest in and to all Transactions (whether or not evidenced on Sales Drafts).

10. Debt Collections

Should Merchant become indebted to Bank because (a) the total amount of Credit Vouchers deposited exceeds the total amount of Transactions effected; (b) Bank has paid Merchant amounts greater than Merchant is entitled to hereunder; (c) Merchant has failed to pay any amount due under Clause 8 of these Basic Terms and Conditions; (d) Merchant has failed and/or refused to deliver to Bank all the Sales Drafts and/or Credit Vouchers as described in Clause 6 of these Basic Terms and Conditions; (e) Merchant has failed to comply with the provisions of the Clause 5 of these Basic Terms and Conditions; or (f) for any other reason, Bank shall either retain such amounts from payments then or thereafter due to Merchant or collect such debt(s) in whatever way Bank thinks fit. Merchant further agrees that Bank has the right to charge, combine and consolidate any of Merchant's account(s) maintained with Bank with or without prior notice. Bank may levy a handling fee for its good faith collection process and may employ debt collection agencies to collect the outstanding amount. Merchant authorises Bank to disclose information regarding Merchant's details and account to debt collection agencies employed by Bank. Merchant shall indemnify Bank in respect of all fees, costs and expenses incurred in the debt recovery process.

11. Promotion of the Card and Digital Payment Services

Merchant shall promptly and adequately display and exhibit such decals, advertising displays (including digital or electronic displays) and other promotional material concerning the Card Programmes and the Digital Payment Services, as may be furnished to it by Bank for advising the public that payment by means of Cards and/or Wallets will be honoured by Merchant or for any other promotional purposes. Merchant will not charge Customer any additional amount for making a purchase by the use of a Card or a Wallet as opposed to any other method of settling the cost price of the provision of goods and services. Merchant will not display any other advertising materials that identify or make use of the service mark or name of any Card Association or Digital Payment Service Provider unless approved by Bank. Merchant irrevocably authorises Bank to include Merchant's name in any directory or promotional material produced in connection with the Card Programmes and the Digital Payment Services.

12. Representations and Warranties

12.1 As to each Transaction Merchant delivers to Bank and the transaction it evidences, Merchant will be deemed to represent and warrant to Bank that:

- (a) it represents a bona fide sale of only merchandise or services in the ordinary course of business for the Total Sale Price;
- (b) Merchant has duly performed all its obligations to the Customer in connection with the transaction evidenced thereby including but not limiting to the provision of such after-sales services for the goods sold or services rendered to Customer and to ensure that all goods (including the packaging thereof) are in good and merchantable condition in conformity in all respects with the description and specifications set out in all advertising materials;
- (c) it is, in all respects, as required by and in compliance with the Agreement, and all laws, rules and regulations, governing the same, including that the subject Transaction is not with respect to or in connection with prohibited activities under Clause 13 of these Basic Terms and Conditions or Restricted Services;
- (d) Merchant has no knowledge or notice whether actual or implied that would impair or affect the validity of the sale or the enforceability or collection thereof as against the named Customer;
- (e) it will not incur any liability on behalf of Bank or in any way pledge or purport to pledge Bank's credit or accept any

order or make any contract binding upon Bank or give or make or purport to give or make any warranty or representation on behalf of Bank; and/or

- (f) if any dispute arises between Merchant and a Customer in relation to the Transaction, to forthwith inform Bank of the dispute and not without Bank's consent in writing take any proceedings in respect of or compromise the dispute or grant any release thereto if any liability on the part of Bank may thereby arise.

12.2 As to any access of the system for processing services provided by Bank for Transactions made by Merchant, Merchant will be deemed to represent and warrant to Bank that:

- (a) it shall maintain confidentiality of the authentication method, including but not limited to any user ID or password, that it uses to access such system;
- (b) it shall comply with the Personal Data (Privacy) Ordinance in relation to personal data sent to such system, which may be used by Bank or for the purposes of its operation or otherwise;
- (c) it shall not access, or permit any party to access, such system for any purpose other than to access an available service; and
- (d) it shall comply with the guidelines or directions with regard to such system as prescribed by Bank from time to time.

12.3 Merchant further warrants that (a) it is not a Sanctioned Person and (b) it is not located in or organized under the laws of a Sanctioned Jurisdiction.

13. Prohibited activities and Restricted Services

13.1 Merchant will not engage or be involved in any money laundering activities or any other illegal activities or the sale of Restricted Services.

13.2 Merchant hereby covenants and agrees to fully indemnify and save harmless Bank from and against any loss or damage suffered by Bank and/or any of their respective employees, officers and directors and their respective successors and assigns as a result of any breach or non-compliance of the provisions of Clause 13.1 of these Basic Terms and Conditions by Merchant, including, without limitation, all costs and expenses (including legal fees incurred in connection with any such loss or damage as incurred or will be included by Bank).

14. Covenants and undertakings

14.1 Merchant covenants and undertakes to and with Bank to:

- (a) observe and comply with the applicable legislative and regulatory requirements, rules, regulations, codes and promulgated procedures as Bank, Card Associations or Digital Payment Service Providers may prescribe for credit, debit and similar card sales and digital payment transactions (as the case may be), from time to time. Merchant acknowledges and agrees that all such rules, regulations, codes and procedures shall be deemed to form a part of the Agreement and are incorporated herein by reference;
- (b) unless otherwise prescribed in the applicable Special Terms and Conditions, preserve all digital, electronic and other records pertaining to Transactions and Credits as may be required by Bank for a period of at least three years from the date thereof and permit Bank to examine and verify such records at any reasonable time as requested by Bank;
- (c) execute and file such statement and notices as Bank may request to preserve or protect their respective interests hereunder;
- (d) agree to fully indemnify and save harmless Bank and their respective employees, officers and directors and their respective successors and assigns against all actions, causes of action, proceedings, liability, claims, damages and costs whatsoever (including without limitation legal costs and expenses), interposed by any party or persons by way of action, claim, suit, defence, dispute, offset, cross-claim or counterclaim, that may now or at any future time directly or indirectly arise relating to any Transaction processed by Bank or out of the processing of Transactions, provided that such claim, damage or other liability is not attributable to any gross negligence or wilful misconduct on the part of Bank;
- (e) subject to Clause 9 of these Basic Terms and Conditions, waive notice of default or non-payment, protest or notice of protest, demand for payment and any demand or notice in connection with any Transaction, or the Agreement, and consents to all extensions or compromises given to any Customer and Merchant agrees that such does not affect any liability of Merchant hereunder;
- (f) not license or purport to license any sub-merchants or sub-licensees with respect to the services provided by Bank hereunder;
- (g) not violate any Sanctions, and to co-operate fully with Bank, Card Associations and Digital Payment Service Providers with any requests related to Sanctions screenings;
- (h) not (i) make or offer to make or solicit any payment or gift directly or indirectly to or (ii) accept any payment or gift directly or indirectly from, any government entity, public entity, state-owned enterprise, political party (or candidate for political office), privately-owned entity, or any employee, officer, or representative thereof under circumstances in which such payment or gift could constitute a bribe, kickback or illegal payment under all applicable laws in relation to anti-bribery and anti-corruption (including but not limited to the U.S. Foreign Corrupt Practices Act, UK Bribery Act, the Prevention of Bribery Ordinance (Cap. 201) of the laws of Hong Kong, the Criminal Law of the People's Republic of China, and the Anti-Unfair Competition Law of the People's Republic of China); and
- (i) make, cause or authorise any third party to make or cause any bribes, kickbacks, or illegal payments for the purpose of influencing a person's acts or decisions or in order to obtain or retain business, or obtain undue competitive advantages, in connection with the services provided/received hereunder under any circumstances.

15. Notices

- 15.1 All notices, requests, demands or other communications required or permitted to be given by one party to another under the Agreement must be given in writing by personal delivery, or by registered mail, postage prepaid, addressed to the other party or parties at the address set out on the Application or at such party or parties' other address if changed by notice given in accordance with this Clause 15.1 or Clause 15.2 of these Basic Terms and Conditions. Such notices, requests, demands or other communications will be deemed to have been received when delivered if delivered personally (unless the date of delivery is not a Business Day or is delivered or sent after Bank's working hours in which case the notice, request, demand or other communication shall be deemed to have been received on the next following Business Day). During any interruption in regular postal service, all notices, requests, demands or other communications must be delivered personally or sent by facsimile transmission.
- 15.2 Notwithstanding Clause 15.1 of these Basic Terms and Conditions, all notices, requests, demands or other communications required or permitted to be given by one party to another party under the Agreement may be sent to the receiving party's facsimile number as notified by such party to the other in accordance with either Clause 15.1 or this Clause 15.2 of these Basic Terms and Conditions. Notices, requests, demands or other communications sent by facsimile transmission will be deemed to have been received when transmitted (provided that the transmission is confirmed by the transmission report) unless the date of delivery is not a Business Day or the transmission is sent after Bank's working hours, in which case the notice, request, demand or other communication shall be deemed to have been received on the next Business Day.

16. Protection of Personal Data and Confidentiality

- 16.1 Any information obtained by Merchant from a Customer by reason of Merchant's participation in The Bank of East Asia, Limited Merchant Card Programme and other payment processing service programmes shall not be disclosed (except in the ordinary course of Merchant's business) in any way by Merchant to any person other than Bank without the Customer's written consent. Each party shall fully and strictly comply with all requirements of the Personal Data (Privacy) Ordinance in respect of personal data relating to a Customer.
- 16.2 Bank and Merchant each acknowledges that it may acquire information about the business, operations, customers and financial condition of the other and Bank in connection with Transactions, and that this information and the provisions of the Agreement are confidential ("Confidential Information"). Bank and Merchant each agrees that it shall not disclose Confidential Information about the other party to any third party without obtaining prior written consent, except that Bank will be entitled to disclose information concerning Merchant to any agent or subcontractor appointed or engaged by Bank or to any other persons for any purpose in connection with any Card or other payment processing products. Confidential Information does not include information in the public domain or otherwise publicly disseminated. Confidential Information may be disclosed by Bank concerning Merchant pursuant to the request or requirement of the Card Associations, the Digital Payment Service Providers, any governmental agency, applicable stock exchange, securities commission or similar statutory or regulatory authority, pursuant to a court or administrative subpoena, order or other such legal process or requirement of law, or in defence of any claims or causes of action asserted against it.
- 16.3 The provisions of this Clause 16 shall continue in force after the termination of the Agreement in respect of the information obtained during the period for which this Agreement is otherwise effective.

17. Other Fees

Bank may levy Merchant an annual fee ("Annual Fee") and/or licence fee, to be determined by Bank and subject to change from time to time at its absolute discretion by giving 30 days prior notice to Merchant.

18. Pledge

Upon request of Bank, a pledge, charge, lien, mortgage or likewise of pre-determined type of securities and properties with value, including but not limited to Time Deposits, Bank Guarantees, Standby Letters of Credit and Properties, both real and personal, shall be provided by Merchant to Bank forthwith for the services provided to Merchant under the Agreement.

19. Chargeback Reserve

- 19.1 Merchant hereby agrees that Bank shall have the right to:
- (a) retain such percentage of the total gross sales from all Transactions or such other amount as Bank deems fit in any particular period as security for Chargebacks ("Chargeback Reserve") without giving any prior notice. Bank may retain such amount as security for as long as Bank may require and at the end of which such amount retained as security shall be released to Merchant without interest; and/or
 - (b) require that Merchant deposit and pledge with Bank and/or provide a personal guarantee in favour of Bank, as security for any Chargeback, an amount equal to a percentage of the anticipated total gross sales from all Transactions for a period of one year or such other period as Bank may require, such amount to be determined by Bank in its sole discretion. Merchant hereby agrees that Merchant shall execute in its own capacity and/or procure such person to execute the relevant documents as required by Bank forthwith to effectuate such arrangement.
- 19.2 Bank shall be entitled to exercise its rights under Clause 19.1 of these Basic Terms and Conditions as many times as it thinks fit and such provision shall continue to apply on a rolling basis until termination of this Agreement at which Bank shall be entitled to continue to hold such amount as the security for any Chargeback for 180 days from the date of such termination.
- 19.3 (a) The percentage of gross sales or the amount (as the case may be) to be secured against Chargebacks will be reviewed periodically and adjusted as necessary by Bank and Merchant shall consent to such change or adjustment without objection thereto.
- (b) In the event of a Chargeback or other financial adjustment to a Merchant Account is made, Bank shall be entitled to first offset such Chargeback or financial adjustment against any outstanding funds payable by Bank to Merchant in respect of Transactions delivered to that Merchant Account.

- (c) Thereafter, if the outstanding funds payable by Bank to Merchant for Transactions are insufficient to satisfy that Chargeback or financial adjustment, then Bank will so notify Merchant and give Merchant an opportunity to satisfy or otherwise provide security for such Chargeback or financial adjustment within three Business Days of Merchant's receipt of such notice as Bank sees fit. If Merchant fails to satisfy or otherwise provide security for such Chargeback or financial adjustment within the prescribed time, then Bank may at its sole discretion debit any other accounts of Merchant maintained with Bank.

20. Termination

- 20.1 This Agreement may be terminated by either party effective immediately upon receipt of written notice of termination by personal delivery, telegram, registered mail or any other means.
- 20.2 Without prejudice to any right which Bank may have against Merchant prior to the termination of this Agreement, upon the happening of all or any of the following events this Agreement shall automatically and without any prior notice determine:
- (a) if Merchant is a limited company or corporation, Merchant is petitioned to be wound up or Merchant is dissolved whether voluntarily or compulsorily;
 - (b) if Merchant is an individual or partnership, such individual or any one of the partners receives a statutory demand under the Bankruptcy Ordinance, Cap. 6, has a bankruptcy petition against him by any person for any reason whatsoever or otherwise becomes insolvent;
 - (c) Merchant enters into any arrangement or composition with Merchant's creditors or if a substantial part of Merchant's property is seized or suffers any distress or execution to be levied on or appointment of a receiver over or exercise of a lien over Merchant's goods;
 - (d) if Merchant is in breach of any of its obligations under this Agreement; or
 - (e) if Merchant discontinues the operation or changes the form, management, operations or ownership of his business.
- 20.3 Notwithstanding the foregoing in this Clause 20, Bank reserves the right to terminate this Agreement with immediate effect by written notice should Bank suspect on reasonable grounds that Merchant is involved in any fraudulent Transaction, any money laundering activities or any other illegal activities, or any prohibited activities as described in Clause 13 of these Basic Terms and Conditions or the sale of Restricted Services.
- 20.4 Termination of this Agreement shall not relieve either party of any liability or obligation either arising prior to termination or for breach of this Agreement or as may be otherwise established. Any unfulfilled orders placed by Customers and accepted by Bank before such termination shall continue to be fulfilled by Merchant subject to the provisions of this Agreement.
- 20.5 All items supplied to Merchant by Bank in connection with The Bank of East Asia, Limited Merchant Card Programme or payment processing services, such as Sales Drafts imprinters (except where Merchant has purchased such imprinters from Bank, in which case Bank is no longer liable therefore), blank Sales Drafts, Credit Vouchers, authorisation terminals and promotional materials, are supplied upon the condition that they remain at all times the property of Bank and will be returned to Bank upon such termination. Merchant shall compensate Bank for any alteration or damage to such items. In no event shall Merchant display any signs or notices to the effect that Cards are no longer accepted by Merchant.
- 20.6 At any time before termination of this Agreement, Bank may at its sole discretion, serve notice in writing to Merchant with immediate effect, to suspend the service provided by Bank to Merchant pursuant to the terms of the Agreement and/or suspend payment as described in Clause 6 of these Basic Terms and Conditions or in the applicable Special Terms and Conditions upon suspected fraud, irregular transactions or disputes or freeze or suspend Banking / Time Deposit / Current Account / Saving Account, maintained by Merchant with Bank for the purpose of investigation and inspection of documents, for such period as Bank thinks fit and Merchant hereby agrees to waive all its rights to claim against Bank for any loss, damage, compensation, cost, interest whatsoever arising therefrom. Reinstatement by Bank of services to Merchant pursuant to the terms of this Agreement shall be at the sole discretion of Bank and on such terms and conditions as Bank shall determine absolutely.

21. Force Majeure

Neither party shall be in breach of this Agreement or liable to the other with respect to any complete or partial failure performance by its duties or obligations under this Agreement occasioned by any act of God, fire, active government or state, war, civil commotion, insurrection, embargo, or other cause beyond the control of either party. For greater certainty, the provisions of this Clause shall apply to Bank and Bank shall have no responsibility with respect to or arising out of any disruption of its processing services. If either party is unable to perform its duties and obligations under this Agreement as a direct result of the effect of one or more of any such causes the operation of this Agreement shall be suspended during the period (and only during the period) during which such cause continues to have effect.

22. Terms Relating to Intellectual Property

- 22.1 Nothing in this Agreement grants either party any rights in or under the intellectual property (whether trademarks, copyrights, patents, know-how or otherwise) of the other party and neither party shall use the intellectual property of the other party without prior written consent, such consent to be subject to such terms and conditions as the party granting such consent may require. No use by one party under this Agreement of the other's intellectual property shall confer upon the first party any rights in or under such intellectual property. All rights connected with or rising out of such use accrue to the owner of the intellectual property in question.
- 22.2 Each party agrees that it will fully indemnify the other party against all liabilities, costs, charges and expenses (including legal expenses) arising out of all actions, claims, demands and proceedings brought against that party (including without limitation claims of infringement brought by third parties) arising out of or connected with its use of the first party's intellectual property if such use was approved according to Clause 22.1 of these Basic Terms and Conditions.

23. Amendment

The terms and conditions of this Agreement may be amended, altered or qualified by Bank at any time and from time to time by giving 30 days' prior notice in writing from Bank to Merchant, and such amendment, alteration or qualification shall be deemed to be effective and binding on Merchant upon expiry of such 30 days' notice.

24. Miscellaneous

- 24.1 Bank shall have the right, on written notice to Merchant, to assign this Agreement or all or any portion of its right hereunder to any party which Bank sees fit. Merchant shall not have the right to assign this Agreement or its rights hereunder without the prior written consent of Bank.
- 24.2 This Agreement is binding upon and shall ensure to the benefit of the parties and their respective successors and permitted assigns.
- 24.3 Time is of the essence of this Agreement and of every part thereof.
- 24.4 Where Merchant is more than one person, all or any of the provisions of this Agreement are and shall be deemed to have been made by Merchant jointly and severally.
- 24.5 Bank shall be entitled to reimbursement from Merchant for all legal costs, including without limitation those of internal legal counsel, and other costs incurred in any dispute concerning this Agreement.
- 24.6 If any provision of this Agreement is ruled invalid or unenforceable, the remaining provisions of the Agreement shall continue in full force and effect as if the invalid portion had been omitted from this Agreement.
- 24.7 This Agreement constitutes the entire agreement between Merchant and Bank relating to its subject matter, and supersedes all proposals or other communications oral or written, relation to that subject matter. The execution of this Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, warranties, conditions, promises, agreements or statements whatsoever not incorporated herein and made a part hereof.
- 24.8 This Agreement shall not operate to constitute Merchant a partner agent or representative of Bank and Merchant shall not represent itself as such agent or as having any power or authority to incur any obligation of any nature express or implied on behalf of Bank and shall not bind or pledge the credit of Bank or attempt or purport to do any of such things.
- 24.9 No person other than Merchant, Bank or the applicable Digital Payment Service Provider will have any right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce or enjoy the benefit of any of the provisions of this Agreement.
- 24.10 This Agreement shall be construed and enforced in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") and the parties submit to the non-exclusive jurisdiction of the courts of Hong Kong.