

## FIRST DATA MERCHANT SOLUTIONS SERVICES AGREEMENT

### 1 PROCESSING REQUIREMENTS

#### 1.1 Your obligations

- (a) During the term of this Agreement, we will provide you with the Services subject to the terms and conditions of this Agreement.
- (b) You agree:
  - (i) To accept the use of a Card in payment of the purchase price by the Cardholder of goods or services purchased from you and not promote any payment method more favourably than others;
  - (ii) That the use of the Services is not an endorsement of your business by us and to display a notice to that effect on your website; and
  - (iii) Not to enter into or otherwise be bound by any arrangement and/or agreement with any other person for the collection of any of the Charges effected by a CUP Card.

#### 1.2 Transaction procedures

- (a) You must follow all procedures and requirements relating to Card transactions set out in this Agreement, including complying with the Operating Procedures and applicable Association Rules, as amended from time to time. Please take the time to read the Schedule 1 Operating Procedures, as they set out important information regarding the processing of Card transactions. If there are any inconsistencies between the General Terms and the Schedule 1 Operating Procedures, the General Terms prevail.
- (b) To process transactions correctly:
  - (i) you must accept any Card type listed on your Merchant Processing Application Form, but you must not favour one Card type over another and not discriminate between Cardholders;
  - (ii) you must only process transactions if the Cardholder has received the goods or services from you, unless the Cardholder has agreed to receive them later;
  - (iii) you must not split a single sale into more than one transaction;
  - (iv) you must not process a transaction after receiving a decline response, and must stop accepting any Card as soon as we tell you to do so;
  - (v) you must obtain an authorization code and show that clearly on the Sales Receipt and you must not give a cash refund for a Card purchase, and any refund must go back to the same Card account used for the purchase transaction;
  - (vi) all details on the Sales Receipt must be true;
  - (vii) the Card transaction must not be subject to any dispute, set-off or counterclaim;
  - (viii) you must have no knowledge or notice of any fact or circumstances which would indicate that the Card transaction was fraudulent or not authorised by the Cardholder;
  - (ix) the Card transaction must be made in accordance with this Agreement, including any applicable Association Rules and Schedule 1 Operating Procedures;
  - (x) the Card transaction must not be a payment for goods or services that violates any applicable law;
  - (xi) for Debit Card transactions, at your discretion, provide the Cardholder with cash either with or without a purchase of goods or services from you, only when Authorisation is given. Cash advances are not permitted on Credit Cards; and,

- (xii) unless required or permitted by law, you must not impose or require the Cardholder to pay surcharge, commission, discount whether through any increase in price or otherwise, or any other term or condition whatsoever on any Cardholder desirous of using the Card.
- (c) Without prejudice to the generality of the aforesaid, you must not allow the use of the Card for transactions forbidden by the Card Association's operating regulations including but not limited to:
  - (i) the use of the Card to refinance an existing debt or Cardholder;
  - (ii) the use of the Card as payment for dishonoured cheque;
  - (iii) the use of the Card as payment by Cardholder of charges already charged to a Card;
  - (iv) the use of the Card for cash disbursement;
  - (v) the use of the Card for internet gambling;
  - (vi) the use of the Card as payment by the Cardholder of debt or charges owed to any party other than the Merchant.

#### **1.3 Transaction records**

You must:

- (a) provide us with your records, and all information and assistance that we may reasonably require, relating to any Card transactions when we request them;
- (b) keep in a secure manner all Card transaction records for at least 18 months (for Visa or MasterCard) or 24 months (for CUP) or 36 months (for JCB) from the date of delivery of the goods or services in case a Cardholder disputes the transaction or such longer timeframe as may be required by the applicable Association Rules from time to time;
- (c) give us a clear and legible copy of any voucher or other transaction record that we ask for (otherwise the transaction may be charged back to you); and
- (d) stop accepting Cards as and when notified to you by us.

#### **1.4 Invalid transactions**

A transaction is invalid and may be a Charged Back if:

- (a) the Card was not valid at the time of the transaction (for example, the Card has expired, is not yet valid, has been cancelled or has been altered, mutilated, punched, damaged and/or contains any mark, trace and/or indication that it has been cancelled or revoked);
- (b) the customer was not verified in accordance with the Association Rules or procedures notified by us to you from time to time;
- (c) the Cardholder did not participate in or authorise the transaction;
- (d) the Card transaction is subject to dispute, set-off or counterclaim;
- (e) it was processed to your own Credit Card;
- (f) Authorisation for the transaction was declined for any reason or does not match our records of the authorisation codes issued;
- (g) it represents the refinance of an existing debt or the collection for dishonoured cheque;
- (h) it is not entered into by you and the Cardholder or is submitted by any third party; or
- (i) it is not processed in accordance with this Clause 1, the Schedule 1 Operating Procedures or any other term of this Agreement.

You must not issue a credit which does not have a previous offsetting sale. Our record of each Authorisation code issued and of the amount authorised under a transaction shall be conclusive for all purposes and intents in the absence of manifest error. However, the requirement of authorisation is solely for our protection and does not constitute any warranty or representation by, or give rise to any variation, waiver or estoppel of whatsoever nature against us, in relation to any transaction.

#### **1.5 Floor Limit**

- (a) By prior written notice we will designate a Floor Limit in respect of each service outlet or department of a service outlet operated by the Merchant and may similarly vary any such Floor Limit by giving a written notice in accordance with clause 10.6. In the absence of such notice the Floor Limit shall be non-existing.
- (b) In the case of the Visa Electron Card, transactions must be on an "on-line" mode and Floor Limit shall be non-existing.

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**3 SETTLEMENT OF CARD TRANSACTIONS**

- (a) We will only acquire and settle Card transactions for Card types specified in your Merchant Processing Application Form. The parties agree that we will be responsible for both:
- (i) the acquisition and settlement of Credit Card transactions with Issuers in accordance with the Association Rules; and
  - (ii) the acquisition and settlement of Debit Card transactions in accordance with any rules relating to such transactions in your country.
- (b) You must keep a bank account (Settlement Account) with a financial institution, into and from which we can initiate credits and debits in connection with this Agreement.
- (c) Promptly after presentation of a Sales Receipt pursuant to the Schedule 1 Operating Procedures, we will pay into your Settlement Account(s) for the value of all valid sales and cash out transactions less any refund transactions, Discount (if applicable), Chargebacks or other debits you processed in accordance with the following:
- (i) we will initiate a credit into your Settlement Account no earlier than two (2) Business Days after the day the transactions are processed (which is the next Business Day if transactions are submitted before merchant cut-off); or
  - (ii) subject to clause 6.2 of Schedule 1, for CUP transactions, we have no liability to pay in respect of a transaction, and you have no right of demand and/or claim of payment and/or any other remedies, damages and/or compensation against us. We will notify you as soon as practicable (i) upon CUP's refusal and/or delay in paying us for a transaction; and/or (ii) if we are not satisfied that all the information in relation to a transaction for which you claim payment accords with our own records.
- (d) We will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties such as an Association, your financial institution or any failure in an electronic funds transfer system or telephone lines or internet or due to or arising from any of the following events:
- (i) the occurrence of any of the events set out in clause 2.4 herein;
  - (ii) the non-availability or disruption to any relevant payment or operating systems in connection with the remittance of the Card transactions;
  - (iii) if your Settlement Account is dormant or closed or the cheque or cheques that you issue are frequently dishonoured;
  - (iv) if you provide incomplete or incorrect information (including but not limited to information of your Settlement Account); and
  - (v) any other event or occurrence beyond our control or knowledge.

You agree that payment into your nominated Settlement Account constitutes full and final discharge of our obligation to credit any one of you with Card transactions processed for you or on your behalf.

**4 CHARGE CARDS**

- (a) We may help you accept transactions by Charge Card provided you advise us of the merchant number issued to you by the relevant Charge Card Association.
- (b) Our only obligation to you in relation to any Charge Card transaction is to send the transaction details to the relevant Charge Card Association which issued the Card.
- (c) We make no representations and give no warranties whatsoever in relation to the credit worthiness of the person presenting a Charge Card. Charge Card transactions are governed by the terms of the separate agreement between you and the relevant Charge Card Association.

**5 INFORMATION**

**5.1 Cardholder information**

- (a) You acknowledge that Cardholder information derived from a Card transaction (including the names, addresses and Card account numbers of Cardholders) is confidential and constitutes personal information defined in the data privacy and protection laws in your country and under any agreement the Cardholder has with the Issuer). You will comply with all applicable Privacy Laws and the PCI security requirements as published from time to time on either the Visa or MasterCard websites, and keep such information safe and secure. This obligation survives termination of this Agreement.
- (b) Without limiting the above, and unless otherwise permitted or required by law, you must:
  - (i) only use Cardholder information for the purposes of authorising, completing and settling Card transactions and resolving any Chargebacks;
  - (ii) not provide (other than to us or if required to do so by law), buy, sell or exchange a Cardholder's name or information in any form;
  - (iii) use proper controls for all records containing Cardholder information, and limit access to selected Employees;
  - (iv) send Card information across the internet or other networks only after encrypting or scrambling it, and protect access to Card information on the internet and other networks you use by password;
  - (v) after the period you need to retain the records has ended, destroy the records and any information in a way that ensures any card details are unreadable; and
  - (vi) provide to us and/or an Association as relevant access to, inspection rights and to access to examine documents, instruments and notes (or any part thereof); and/or provide to us or our agent, the aforesaid documents, instruments and notes (or any part of them) for our own and the relevant Association's use and verification and/or our account to Associations, for such period of time as we may deem fit at our absolute discretion, all from time to time and at any time. You will, upon our reasonable prior notice, provide to us all documents, instruments, notes, figures, data and information of whatsoever nature (including but not limited to the Credit Receipts, Sales Receipts and Merchant Deposit Slips) generated out of, evidencing, arising out of and/or in connection with a transaction as we may from time to time or at any time request at our absolute discretion.
- (c) You acknowledge that you do not own any information relating to and derived from Card transactions. During the term of this Agreement, you may only use, store, copy and disclose transaction data as necessary for the purposes of assisting us and the relevant Card Association to complete the transaction, supporting any loyalty program associated with the Card or Services, providing fraud control services or for purposes specifically required by law. If you use any third party to handle transaction data, you must ensure those third parties handle that data in compliance with laws and this provision of this Merchant Agreement. You are responsible for the transaction data handling actions of your third party suppliers.

## 5.2 Your information

- (a) You authorise us to obtain from third parties financial and credit information relating to you, your directors, officers and principals in connection with our determination whether to accept this Agreement and our continuing evaluation of the financial and credit worthiness of you, your directors, officers and principals.
- (b) We will handle any information we collect about you, your directors, officers and principals in accordance with Privacy Laws, our privacy collection statements and privacy policies. We will implement all data security measures required by such laws and policies.
- (c) You, your directors, officers and principals acknowledge that information relating to you, your directors, officers and principals and your accounts and dealing relationships with us, including but not limited to details of your facilities, any security taken, transactions undertaken and balances and positions with us, as well as information in your Merchant Processing Application Form ("Information") is collected or held by us.
- (d) The Information may be shared with our head office and any of its subsidiaries (including, representative and branch offices in any jurisdiction and our agent, contractor and its related entities in any jurisdiction ("Permitted Parties") in connection with this Agreement and in accordance with our privacy collection statements and privacy policies, and you, your directors, officers and principals consent to such sharing of information.
- (e) You authorise us, the Permitted Parties and our respective Employees and advisers to disclose Information to:
  - (i) the Permitted Parties;

- (ii) professional advisers, service providers, independent contractors to, or agents of, the Permitted Parties, such as debt collection agencies, data processing firms and correspondents, who are under a duty of confidentiality to the Permitted Parties;
  - (iii) the Associations and Charge Card Associations (which may be located overseas) as relevant to the transaction;
  - (iv) any actual or potential participant or sub-participant in relation to any of our obligations under this Agreement, or assignee, novatee or transferee (or any Employee or adviser of any of them);
  - (v) any credit reference agency, rating agency, business alliance partner, insurer or insurance broker of, or direct or indirect provider of credit protection, of the Permitted Parties;
  - (vi) any financial institution which you have or may have dealings with for the purpose of conducting credit checks (including in the form of bank references);
  - (vii) any court, tribunal, regulatory, supervisory, governmental or quasi-governmental authority which has jurisdiction over the Permitted Parties (which may be located overseas); and
  - (viii) anyone we consider necessary in order to provide you with the services under this Agreement, whether they are located in or outside your country.
- (f) You irrevocably authorise us to discharge and/or release to the relevant Associations all or any of the documents (including but not limited to the form and the content of this Agreement), figures, codes, data and information of whatsoever nature which from time to time or at any time you disclose or release to us and/or we may have access to under or by virtue of your participation in the Associations, any transaction contemplated in this Agreement and/or in relation to or in connection with this Agreement; and/or which an Association may lawfully require us to provide to it from time to time or at anytime.
- (g) Every provision of this clause 5.2 survives termination or expiry of this Agreement.

### 5.3 Confidential Information

You and we agree to keep all Confidential Information of the other of you and FDMS, including the terms of this Agreement, confidential and to only use and disclose Confidential Information of the other of you or either of us as required for the purposes of this Agreement.

This clause shall survive termination or expiry of this Agreement.

### 6 FEES

- (a) You must pay us the fees for the Services as set out in the Merchant Processing Application Form, as well as any additional fees or pricing set out in this Agreement. Those fees are payable when the services are provided. You must also keep a bank account (Fees Account) (which may or may not be the same as your Settlement Account) at a financial institution, from which we may collect fees for the Services as set out in the Merchant Processing Application Form, as well as any additional fees or pricing set out in this Agreement. If you do not nominate in the Merchant Processing Application Form a Fees Account or if there are insufficient funds in the Fees Account from which to debit fees, the Settlement Account will be the Fees Account and you authorise us to collect fees from the Settlement Account. You agree to provide us a direct debit request to enable us to debit to the Fees Account fees for the Services as set out in the Merchant Processing Application Form, as well as any additional fees or pricing set out in this Agreement. You agree to reimburse us for the amount of any charges we incur as a result of any debit to the Fees Account being rejected.
- (b) The fees for Services may be adjusted by us upon 30 days' notice:
  - (i) if the actual volume or average transaction size are not as expected or if you significantly alter your method of doing business; or
  - (ii) to reflect increases or decreases by Associations or government and regulatory bodies in interchange, assessments and other fees, or to pass through increases charged by third parties for on-line communications and similar items.
- (c) We may also increase our fees for Services for any other reason by notifying you in writing 30 days prior to the effective date of any such change.
- (d) We may charge additional one-time only fees for responding to specific requests from you, for example fees for extra statements, investigations of account activity requested by you, fees associated with dishonoured payments and fulfilling data access requests. These additional fees may be charged on a time and materials basis or based on the cost of fulfilling such requests averaged across all merchants and represent additional work required to manage your account with us in respect of these requests, which are not part of the Services provided under this Agreement. For the additional fees that may be charged by us, refer to the First Data Merchant Solutions website.

## 7 TAXES

- (a) In this clause 7 words and expressions which have a defined meaning in the relevant Taxes Act(s) in your country have the same meaning as in those Taxes Act(s).
- (b) Unless otherwise expressly stated, all consideration to be provided under this Agreement is expressed exclusive of Taxes.
- (c) If Taxes are payable by us on any supply made under this Agreement, you will, upon receiving a tax invoice from us, pay us an amount equal to those Taxes payable on the supply.
- (d) This amount will be paid in addition to, and at the same time, as the consideration for the supply is to be provided.

## 8 CHARGEBACKS

### 8.1 Chargebacks and other liabilities

- (a) You must compensate and indemnify us for any claims, loss, expenses or liability we incur arising out of:
  - (i) a Card transaction between you and any Cardholder;
  - (ii) all Card transactions you submit that are charged back;
  - (iii) your failure to produce a Card transaction record requested by us within the applicable time limits;
  - (iv) you or any of your Employees processing a transaction with wrong transaction information;
  - (v) any error, negligence, wilful misconduct or fraud by you or your Employees;
  - (vi) any dispute over goods or services between you and a Cardholder;
  - (vii) any warranty or representation whatsoever in relation to any goods or services supplied by you;
  - (viii) your failure to comply with any of your obligations under this Agreement;
  - (ix) any losses suffered by us as a result of failures to meet your obligations under this Agreement; or
  - (x) in the case of CUP transactions, the amount of the Card transaction where the Issuer or CUP denies liability and/or claims refunds from us or the difference between the amount of the Card transaction and the amount we receive from CUP in respect of the Card transaction.
- (b) We may refuse to accept any transaction if it is invalid and may charge it back to you if we have already processed it.
- (c) Each of your liability in respect of Chargebacks and the indemnity obligations under clause 8.1 are debts owed to us.
- (d) We may marshal and exercise our rights under any security we hold from you or in relation to your indebtedness to us in respect of your Chargeback liability.

### 8.2 Debits and set off

We may as relevant (and you agree to do all acts and execute all relevant documents for the following purposes):

- (a) instruct and you hereby authorise us to instruct your bank to debit your Settlement Account and/or your Fees Account;
- (b) deduct and set off from settlement funds due to you; or
- (c) invoice you separately for, any of the following amounts:
  - (i) funds credited to your account in error;
  - (ii) invalid transactions (including Chargebacks and our related losses) and reimbursements to be made to us pursuant to clause 8.5;
  - (iii) merchant services fees and any other fees or charges set out in your Merchant Declaration and Agreement;
  - (iv) fees and fines imposed by the Associations resulting from exchanges or your Chargebacks or your acts or omissions;
  - (v) government charges; and

- (vi) any other amounts then due from you to us, whether or not arising out of or related to this Agreement.

We may also charge interest on amounts outstanding where there were insufficient funds in your account to satisfy the above amounts.

#### **8.3 Security**

We may from time to time request security from one or more of you or a guarantor to secure performance of your obligations under this Agreement. You agree to do all things necessary to put in place enforceable security as requested by us.

#### **8.4 Reserve account**

- (a) You hereby authorise us (and you agree to do all acts and execute all relevant documents to enable us) to instruct our bankers to establish a reserve account (Reserve Account) on the terms set out in this clause 8.4;
- (b) We may, in our absolute discretion, require by notice to you, that a portion of the value of any Card transactions payable to you in accordance with clause 3(c), be deposited into the Reserve Account;
- (c) Any funds paid into the Reserve Account in accordance with paragraph (b) represent a debt owing by us to you and are not held by us on trust for you;
- (d) You authorise us to set-off all or part of the monies owing to you under this clause 8.4 against any outstanding obligations you have to us under this or any other agreement including, without limitation, any obligation under clause 8.1(a)(ix) and the indemnities in clauses 8.1 and 10.17 and notwithstanding that this agreement may have terminated;
- (e) Monies deposited into the Reserve Account under this clause 8.4 which are owing to you by us will not accrue interest;
- (f) We may, in our absolute discretion, repay to you all or part of any money deposited by you or on your behalf into the Reserve Account. Such repayment is not a waiver of our right to require further deposits by you into the Reserve Account; and/or
- (g) Within the greater of ten (10) months following termination of this Agreement or such longer period of time as is consistent with our liability for Card transactions in accordance with the Association Rules, we will repay to you any monies owing by us to you under this clause 8.4.

#### **8.5 Delayed Settlement**

- (a) We may, in our absolute discretion:
  - (i) whether as a result of a change in your credit profile or the nature of your business activity or any other reason, withhold payment to you of the full amount of any Card transaction less the Discount or any part thereof for such period as we shall in our absolute discretion deem fit; or
  - (ii) if we suspect any Card transaction to be counterfeit or in any way tainted or affected by fraud or forgery, or if we receive a request for transaction documentation in respect of any Card transaction, withhold payment to you of the full amount of the Card transaction less the Discount or any part thereof for such period as we shall in our absolute discretion deem fit, or if payment has been made to you, to seek immediate reimbursement from you of such sum, until and unless you shall prove to our satisfaction that the Card transaction is genuine and valid. For the avoidance of doubt, we shall not owe you any obligation to take any steps to verify the genuineness or validity of the Card transaction.
- (b) Any funds withheld and/or reimbursed under paragraph (a) are not held by us on trust for you, and will not accrue interest.
- (c) You authorise us to set-off all or part of the monies owing to you under this clause 8.5 against any outstanding obligations you have to us under this or any other agreement including, without limitation, any obligation under clause 8.1(a)(ix) and notwithstanding that this Agreement may have been terminated.
- (d) We may, in our absolute discretion, release to you all or part of any money withheld and/or reimbursed under paragraph (a).
- (e) Within the greater of ten (10) months following termination of this Agreement or such longer period of time as is consistent with our liability for Card transactions in accordance with Association Rules, we will repay to you any monies owing by us to you under this clause 8.5.

## **8.6 Financial and Other Information**

- (a) Upon request, you will provide us with quarterly financial statements and/or annual audited financial statements, prepared in accordance with generally accepted accounting principles.
- (b) Upon request, you shall provide to us or our representatives reasonable access to your facilities and records for the purpose of performing any inspection and/or copying of your books and/or records deemed appropriate and otherwise allow us or a Card Association representative access after reasonable notice to your records to audit compliance with data security requirements, for example after a security intrusion.
- (c) You must advise us immediately of any change in circumstances affecting your business including any Insolvency Event, Change in Control or change in business name, business address, legal status or other business details.

## **9 ENDING THE AGREEMENT**

### **9.1 Termination**

- (a) We may terminate this Agreement immediately and then notify you if any of the following events of default occur (or we may elect, at our sole discretion, to temporarily suspend your card payment facility until such events of default are remedied):
  - (i) there occurs irregular, invalid or illegal Card sales by you, excessive Chargebacks or any other circumstances which, in our sole discretion, may increase our exposure to financial or security risk;
  - (ii) we are notified that you or your directors appear in MasterCard's Member Alert to Control High Risk (MATCH) list, or the equivalent list of any other Card Association;
  - (iii) there occurs any material adverse change in your business, financial condition, business procedures, prospects, goods or services;
  - (iv) you suffer an Insolvency Event;
  - (v) you purport to assign this Agreement or there is a Change in Control in you or your corporate parent; you fail to comply with any relevant laws by which you are bound;
  - (vi) we are required to cease providing the merchant processing facility by any law, regulation or Association Rule by which we are bound;
  - (vii) any of your representations or warranties in this Agreement are breached or are incorrect when made or deemed to be made
  - (viii) you breach any term of this Agreement (including without limitation, the Association Rules) or
  - (ix) you have a loan or similar obligation for borrowed money and we require you to repay prematurely as a result of your default or failure to make payment of the loan on its due date
- (b) You acknowledge that under MasterCard and Visa and CUP and JCB Association Rules, MasterCard, and Visa and CUP and JCB respectively have the right to direct amendment or termination of this Agreement.
- (c) We may terminate this Agreement by prior written notice stipulating the date upon which termination to take effect, without us having to assign any reason for such termination.
- (d) You may terminate this Agreement on 30 days' written notice to us if we notify you of a modification in the terms of this Agreement, which materially increases your obligations or diminishes your rights, and you provide notice of termination within 30 days. Please note that your continued use of our Services after that date will be deemed acceptance of the increased fees for Services or modification of the terms, throughout the remaining term of this Agreement.
- (e) If this Agreement ends:
  - (i) all amounts payable under this Agreement become immediately due and payable in full on demand;
  - (ii) you must not process any Card transactions through us, and we have no further obligations to accept transactions from you after the termination date;
  - (iii) any rights and obligations of either of us which arose before the termination date will continue, including:

- a. your obligations to pay or reimburse us for any obligations associated with transactions you have submitted to us; and
  - b. your responsibility for all Chargebacks, fees, refunds and adjustments resulting from Card transactions processed under this Agreement and all other amounts then due or which thereafter may become due under this Agreement.
- (f) We may advise the Associations about your details and the reason we terminated this Agreement if we have terminated this Agreement under clause 9.1(a). The Associations may give this information to another financial institution if you apply for new card processing facilities. This information may then affect your ability to obtain another card processing facility.
  - (g) You agree that if you terminate this Agreement before the end of the term except where we are in breach of this Agreement, You and we agree that this amount is a genuine pre-estimate of the loss which we will suffer as a result of you terminating this Agreement early and does no more than compensate us for the loss we will suffer as a result of the early termination.
  - (h) Notwithstanding anything to the contrary herein contained, you hereby irrevocably agree, that in the event of any termination of this Agreement, we have the right to withhold any amount and/or payment due to you in our sole and absolute discretion, provided always that such amount and/or payment may only be withheld by us for purposes of, or relating to chargeback issues and provided further that such amount and/or payment may only be withheld for a period of 6 months after the effective date of termination. We shall provide to you prior written of our intention to withhold such amount and/or payment, togetherwith amount to be withheld.

## **9.2 Effect of termination**

Any termination of this Agreement does not affect the rights and obligations of any party that have accrued before the termination.

# **10 GENERAL PROVISIONS**

## **10.1 Term**

This Agreement commences on the date of the first Card transaction on the Equipment or when it is signed by us, whichever is the earlier, and continues for 3 years (unless terminated earlier in accordance with this Agreement). After the 3 years, this Agreement will automatically continue for twelve (12) month periods until either you or we terminate it upon 30 days' written notice to the other. Notwithstanding the foregoing, clause 5 commences on the date that you submit a completed Merchant Declaration and Agreement and survives termination of this Agreement.

## **10.2 Limitations on Liability**

- (a) To the extent permitted by law, we disclaim all representations or warranties, express or implied, made to you or any other person, including any warranties regarding quality, suitability, merchantability, fitness for a particular purpose or otherwise of any services or any goods provided incidental to the services provided under this Agreement and the Merchant Declaration and Agreement.
- (b) In no event will we be liable for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect or consequential damages.
- (c) To the extent permitted by law, our cumulative liability for all losses or damages you may suffer arising out of or related to this Agreement and the Merchant Declaration and Agreement will not exceed your local currency equivalent of US\$1,000,000.
- (d) Our liability under this Agreement and the Merchant Declaration and Agreement is limited to the extent of our obligations under clause 3.
- (e) We are not liable for any loss, expenses or damage whatsoever caused by:
  - (i) the failure for whatever reason of a Card or the system to function properly or at all; or
  - (ii) the acquisition by any person of information through any unauthorised electronic or other interception of communication on the system.

It is your responsibility to ensure that you have other means available to accept payments if there is any malfunction of the system.

## **10.3 Assignments**

- (a) You must not assign or transfer your rights or obligations under this Agreement and the Merchant Declaration and Agreement (including by way of a Change in Control or operation of law), or create any security interest in this Agreement and the Merchant Declaration and Agreement, without obtaining our prior written consent.
- (b) We may novate the rights and obligations of us under this Agreement and the Merchant Declaration and Agreement upon

notice to you.

(c) Subject to Association Rules:

- (i) Services may be provided by one or more of our affiliates;
- (ii) we may assign or transfer this Agreement and the Merchant Declaration and Agreement and our rights and obligations hereunder and/or may appoint an agent or subcontractor to perform our duties hereunder, in whole or in part, to any other third party without notice to you.

**10.4 Compliance with Laws**

In performing its obligations under this Agreement and the Merchant Declaration and Agreement, each party agrees to comply with all laws, regulations and rules applicable to it, including without limitation, the Association Rules and mandatory online payment standards.

**10.5 Force Majeure**

Except in respect of your obligations under the Schedule 1 Operating Procedures, no party shall be liable for any default or delay in the performance of its obligations under this Agreement and the Merchant Declaration and Agreement if and to the extent such default or delay is caused, directly or indirectly, by:

- (a) fire, flood, elements of nature or other acts of God;
- (b) any outbreak or escalation of hostilities, war, riots or civil disorders in any country;
- (c) any act or omission of the other party or any government authority;
- (d) any labour disputes (whether or not Employees' demands are reasonable or within the party's power to satisfy); or
- (e) except in respect of your obligations under clause 5.1(c), the non-performance by a third party for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications or other equipment or delay or failure of a Card Association to pay settlement amounts.

**10.6 Notices**

- (a) Except as otherwise specifically provided, all notices and other communications required or permitted hereunder (other than those involving normal operational matters relating to the processing of Card transactions) must be in writing and sent by mail, courier, facsimile or email the relevant address appearing in the Merchant Declaration and Agreement or as otherwise notified by us from time to time.
- (b) Notices are deemed to have been given:
  - (i) if sent by mail, on the third day after posting;
  - (ii) if sent by facsimile machine, at the time and on the date specified in the transmission receipt produced by the machine from which it is sent stating that the facsimile has been sent in full; and if sent in any other manner, when actually received.

**10.7 Consents**

A party may conditionally or unconditionally give or withhold any consent to be given under this Agreement and is not obliged to give its reasons for doing so.

**10.8 Amendment**

We may vary any provision of this Agreement, including the Schedule 1 Operating Procedures by giving you written notice. If the variation is of a general nature, it will start and be binding on you on the date you receive the notice (or such later date that we state in the notice).

**10.9 Severability**

The parties intend every provision of this Agreement to be severable. If any part of this Agreement is not enforceable, it is severed and the remaining provisions remain valid and enforceable.

**10.10 Waiver**

If we do not enforce a right for breach of this Agreement, this does not mean that we have waived our rights for that or any other breach.

**10.11 Governing Law**

This Agreement is governed by the laws of Hong Kong. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Hong Kong.

**10.12 Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes any previous agreements and understandings. If this Agreement is provided in a language other than English and there is a discrepancy between the English version and your local language version, the English version prevails.

#### **10.13 No partnership**

Nothing in this Agreement constitutes you and us as partners, joint venture parties or principal and agent, unless otherwise stated.

#### **10.14 Representations**

You represent to us the following:-

- (a) you have a good reputation, good internal and financial management system;
- (b) you have not been and are not black-listed or forbidden by an Association from participating in the Association;
- (c) All information (including but not limited to your particulars and business set out in Merchant Declaration and Agreement) and all documents you have provided and will provide to us are true, complete and accurate.
- (d) In respect of participation for CUP Cards, you do not carry on any business under any capital project or company trading project, any business prohibited by the laws of the People's Republic of China and/or the Hong Kong laws, and any business on gambling or otherwise affecting or prejudicing the morals and/or the orders of society; and

All representations by you are deemed to be repeated on each day during the term of this Agreement.

#### **10.15 Further Agreements**

You shall execute such other agreements as we may in our absolute discretion deem necessary for you to carry out your obligations under this Agreement upon notification from us.

#### **10.16 Cardholder Complaints**

- (a) We shall not be responsible to Cardholders in any manner for any goods and/or services supplied by you.
- (b) You will endeavour in good faith to satisfy any claims or complaints made by Cardholders concerning goods and/or services purchased from you by the use of a Card. Failing such settlement you shall reimburse the amount of the relevant transaction (less the Discount) to us and this Agreement shall thereupon cease to apply to that transaction.

#### **10.17 Indemnities and Expenses**

- (a) You shall indemnify us and keep us indemnified against all losses, claims, demands, damages, proceedings, liabilities, costs (including all legal costs on a full indemnity basis) and expenses ("Losses") incurred or suffered by us arising out of or in connection with any breach of any provision of this Agreement and/or the enforcement thereof and/or the payment of any Sales Receipt submitted to us.
- (b) Without prejudice to the generality of the aforesaid indemnity, you hereby agree and undertake to indemnify us completely and absolutely, against all claims made against us concerning and arising out of:
  - (i) Cardholder complaints, claims, goods and/or services purchased from you by the use of a Card and all losses, costs and expenses (including legal fees) incurred by us in connection with such claims;
  - (ii) any statement action or matter relating to the return or repossession of any Card by you or the surrounding circumstances, including any action of you, including in particular any defamatory statements made by you or any of your Employees and all losses, costs and expenses (including legal fees) incurred by us in connection with such claims;
  - (iii) the contents of any promotional material supplied by you including but not limited to direct mailing promotions;
  - (iv) any unauthorised, illegal or fraudulent claims and transactions;
  - (v) us allowing the use of both Electronic Data Capture and/or Manual Imprint transactions, particularly, but not limited to any missing signatures.
  - (vi) any claim or proceeding initiated by the Cardholder or any party against us as a result of our payment of the Sales Receipt.
- (c) Additional charges for any services which we may from time to time provide, including but not limited to deposit and/or rental

for the use of Equipment and/or Terminals, maybe levied at such rate and in such manner as we may in our absolute discretion deem fit.

#### **10.18 Anti-money Laundering and Counter Terrorism Financing**

- (a) In order to comply with anti-money laundering laws, counter terrorist financing laws, regulations and policies, including our policies, reporting requirement under financial transactions legislation and requests of authorities, we maybe :

Prohibited from entering or concluding transaction involving certain persons or entities; or

Required to report suspicious transaction to an authority. Transactions impacted included those that may :

Involve the provision of finance to any person involved or suspected of involvement in terrorism or any terrorist act;

Be relevant to investigation of an actual or attempted evasion of tax law, investigation of a prosecution of a person for an offence against any applicable law; or

Involve persons or entities which may be the subject of sanctions.

- (b) We may intercept and investigate any payment messages and other information or communications sent to or by you or on your behalf and may delay, block or refuse to make any payment. Payment screening may cause a delay in processing certain information.

- (c) We shall not be liable for any loss arising out of any action taken or any delay or failure by us, or any of the Permitted Parties, in performing any of its duties or other obligations, caused in whole or in part by any steps taken as set out above.

#### **11. GLOSSARY**

As used in these General Terms, the following terms mean as follows:

**Agreement:** The agreement between the Merchant and FDMS comprising the Merchant Processing Application, the General Terms (including the Schedule 1 Operating Procedures), the Privacy Statement and Consent and all documents incorporated by reference (including the Association Rules), each as amended from time to time.

**Association:** Any entity formed to administer and promote Cards, including without limitation MasterCard International Inc, Visa International Association, China CUP Company Limited, JCB International Co., Ltd and any applicable Debit networks.

**Association Rules:** The rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Association.

**Authorisation:** The confirmation by the card Issuer that the card number exists and that enough funds are available to allow the transaction to go ahead.

**Business Day:** A day other than Saturday or Sunday or public holiday in the country indicated in Part A of the Merchant Declaration and Agreement, except in Bangladesh where it is a day other than a Friday, Saturday or public holiday in Bangladesh.

**Card:** A Credit Card or Debit Card specified on the Merchant Declaration and Agreement as amended from time to time.

**Cardholder:** Means the individual whose name is embossed on a Card and any authorised user of such Card.

**Change in Control:** Any of the following:

- (a) the Merchant agrees to acquire or dispose of, or acquires or disposes of, a substantial asset or assets;
- (b) a person (alone, through or together with their associates) acquires a legal or beneficial interest in 50% or more of the issued securities in the Merchant;
- (c) the Merchant is or agrees to be controlled by a person who did not or was not entitled to control the Merchant on the date of commencement of this Agreement; or
- (d) a person who has not appointed or is not entitled to appoint a majority of directors to the board of directors of the Merchant on the date of commencement of this Agreement does, or becomes entitled to, appoint a majority of directors to the board of directors of the Merchant.

For the purposes of the above definition "agrees" means an agreement which is written or oral, express or implied, conditional or unconditional and includes an obligation for a party to use its "best" or "reasonable" endeavours;

**Chargeback:** The reversal of a Sales Receipt (or other indicia of a Card transaction) and reversal of any associated credit to your Settlement Account because a Cardholder or Card Issuer disputes the transaction or which is required by the Association Rules or can be reversed under the Schedule 1 Operating Procedures.

**Charge Card:** A card issued by a Charge Card Association.

**Charge Card Association:** American Express Company, Diners Club International Ltd, JCB International Co., Ltd and any other such charge card associations agreed by the parties.

**Confidential Information:** Any information relating to the business of FDMS or you or concerning the financial transactions or affairs or the identity of any of them or a Cardholder or the details of a Card transaction and any relevant Association Rules.

**Credit Card:** A valid Card bearing the service mark of Visa or MasterCard or CUP or JCB (and any other card agreed by the parties), the use of which accesses the Cardholder's credit facility or a debit facility through one of the credit card schemes.

**Credit Receipt:** A document (for CUP transactions in the form provided by FDMS from time to time) evidencing the return of merchandise by Cardholder to a Merchant, or other refund made by the Merchant to the Cardholder.

**CUP Card Programme** means the financial services Card programme administered by China UnionPay Company Limited.

**Discount:** The amount calculated in the manner and at the rate notified by us from time to time, which we are entitled to deduct from the value of the valid sales and cash out transactions presented to us in accordance with this Agreement, including terminal rental fees, prior to payment of the balance to You.

**Debit Card:** A valid Card the use of which accesses the Cardholder's cheque or savings account facility made available by the Cardholder's Issuer.

**Employees:** Employees, contractors, officers, agents and secondees.

**Face Amount** means the original face amount of the Foreign Transaction in your local currency prior to conversion to an Approved Currency.

**First Data Merchant Solutions, FDMS, Us, We:** means the relevant First Data Merchant Solutions entity in each of the countries as listed in the Privacy Statement and Consent.

**Floor Limit** means the amount of a transaction or series of transactions made with a Card by one Cardholder in one day at any one service outlet or department or a service outlet operated by the Merchant in excess of which the Merchant must seek specific authorisation from FDMS prior to completing the relevant transaction.

**Foreign Cardholder** means a Cardholder, whose Card is denominated in an Approved Currency.

**Foreign Transaction** means transaction between you to a Foreign Cardholder (excluding Cards from Issuers excluded from DCC by us or an Association), as more specifically provided in this Agreement.

**General Terms:** The terms and conditions set out in this document, as amended from time to time.

**Insolvency Event:** Any of the following:

- (a) an order is made or an application is made to a court for an order that a party be wound up;
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator or a liquidator or provisional liquidator is appointed in respect of a party;
- (c) a party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any classes of its creditors, or it proposes a re-organisation, moratorium or other administration involving any of them;
- (d) a party resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the other party or is otherwise wound up or dissolved;
- (e) a party is or states that it is unable to pay its debts when they fall due;
- (f) a party takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a party; or
- (g) anything analogous or having a substantially similar direct effect to any of the events specified in paragraphs (a)- (f) above happens under the law of any applicable jurisdiction.

**Issuer:** Cardholder's bank, or the bank which has issued a Card to an individual.

**Merchant:** The party identified as "Merchant" on the Application. The words "you" and "your" refer to Merchant.

**Merchant Incentive** means the amount if any specified in the Merchant Declaration and Agreement as an incentive for your participation in DCC.

**Merchant Processing Application Form:** The application form signed by the Merchant and Stripe Payment Europe Limited.

**Operating Procedures:** The manual attached as Schedule 1 to this document containing operational procedures, instructions and other directives relating to Card transactions, as amended from time to time.

**PCI** means PCI Co Limited, the promulgator of Credit Card information security requirements for Visa and MasterCard Cardholder and

transaction information.

**Privacy Law:** Any statute, regulation, guideline or quasi legislative instrument having the force of law that regulates the collection, use, storage or disclosure of personal information about an identifiable individual, any common law privacy obligations.

**Sales Receipt:** Evidence of a purchase of goods or services by a Cardholder from a Merchant using a Card, (regardless of whether the form of such evidence is in paper, electronic or otherwise) which conforms to Association Rules and unless otherwise indicated to the contrary, includes EDC Sales Receipt by which a party is bound and any industry code (whether voluntary or not) by which a party is bound.

**Schedule 1** to this document containing operational procedures, instructions and other directives relating to Card transactions, as amended from time to time.

**Services:** The activities undertaken by FDMS to authorise, process and settle all Credit Card transactions and Debit Card transactions under taken by Cardholders at the Merchant's location(s) in the country specified in Part A of the Merchant Declaration and Agreement, and all other activities necessary for FDMS to perform the functions required by this Agreement for all other Cards covered by this Agreement (including where applicable, the provision and maintenance of Supplied Equipment).

**Settlement Account:** Means the account referred to in clause 3(b).

**Taxes** includes (without limitation) all taxes (including goods and services or value added taxes), levies, duties, imposts, charges and withholdings of any nature whatsoever, and of any jurisdiction, together with all penalties, charges and interest relating to any of them or to any failure to file any return required for the purposes of any of them.

**Taxes Act** means the statute, regulation, guideline or quasi legislative instrument having the force of law that regulates the assessment and collection of Taxes in your country.

**You, Your:** The Merchant and where the context prescribes a procedure includes your Employees, agents and contractors.

## Schedule 1 Operating Procedures

### PART A: CREDIT CARDS

We provide processing services to facilitate the passage of your Sales Receipts back to the thousands of institutions who issue the MasterCard® and Visa® and CUP and JCB Cards carried by your customers. This part of the Operating Procedures describes the procedures and methods for submitting Credit Card transactions for payment, obtaining Authorisations, responding to Chargebacks and Media Retrieval requests, and other aspects of the operations of our services.

They seek to provide you with the principles for a sound Card program. They are designed to help you decrease your Chargeback liability and train your Employees.

The Operating Procedures contained in this part focus primarily on the MasterCard, Visa Associations' operating rules and regulations. In the event we provide Authorisation, processing or settlement of transactions involving Cards other than MasterCard and Visa, you should also consult those independent Card Issuers' proprietary rules and regulations.

The requirements set out in these Operating Procedures will apply unless prohibited by law. You are responsible for following any additional or conflicting requirements imposed by the laws of the country specified in the Merchant Declaration and Agreement.

#### 1 MASTERCARD AND VISA AND CUP AND JCB CARDS ACCEPTANCE

##### 1.1 RECURRING TRANSACTION AND PREAUTHORISED ORDER REGULATIONS

- (a) If you process recurring transactions and charge a Cardholder's account periodically for recurring goods or services (e.g., monthly insurance premiums, yearly subscriptions, annual membership fees, etc.), the Cardholder shall complete and deliver to you a written request for such goods or services to be charged to the Cardholder's account. The written request must at least specify the transaction amounts, the frequency of recurring charges and the duration of time for which the Cardholder's permission is granted.
- (b) If the recurring transaction is renewed, the Cardholder must complete and deliver to you a subsequent request for the continuation of such goods or services to be charged to the Cardholder's account. You must explain to the Cardholder how to stop receiving the goods and services. You may not complete a recurring transaction after receiving a cancellation notice from the Cardholder or Issuer or after a request for Authorisation has been denied.
- (c) You must obtain an Authorisation for each transaction and write "Recurring Transaction" (or "P.O." for MasterCard transactions) on the Sales Receipt in lieu of the Cardholder's signature.
- (d) A Recurring Transaction or Preauthorised Order may not include partial payments for goods or services purchased in a single transaction.
- (e) You may not impose a finance charge in connection with a Recurring Transaction or Preauthorised Order.
- (f) If you process recurring payment transactions, the Recurring Payment Indicator must be included in each Authorisation request. Penalties can be assessed by the Associations for failure to use the Recurring Payment Indicator.

##### 1.2 HONOURING CARDS

The following rules are requirements strictly enforced by Visa or MasterCard or JCB:

- (a) You cannot establish any special conditions for accepting a Card. However, for Credit Card transactions, where permitted by the Association Rules you may charge a surcharge in addition to the cash price of the goods or services.
- (b) You cannot establish procedures that discourage, favour or discriminate against the use of any particular Card.
- (c) You cannot require the Cardholder to supply any personal information (e.g., home or business phone number; home or business address; or driver's licence number) unless instructed by the Call Centre operated by First Data Merchant Solutions Pte Limited ("Call Centre"), in which case you (and FDMS) must comply with Privacy Laws in your country. The exception to this is for a mail/telephone order or delivery-required transactions.
- (d) Any tax required to be collected must be included in the total transaction amount and not collected in cash.
- (e) You cannot submit any transaction to re-finance or transfer of an existing Cardholder obligation deemed uncollectable or to cover a dishonoured cheque.
- (f) You cannot submit a transaction or sale that has been previously charged back.
- (g) You must deliver at least one copy of the Sales or Credit Receipt to the Cardholder. Failure to comply with any of the Association Rules may result in fines or penalties.

#### 1.3 DEPOSITS OF PRINCIPALS

You are prohibited from depositing transactions originating from Cards of owners, partners or officers of your business establishment except for transactions that are routine in type, size and frequency for your business and that represent actual sales of goods or services. Submission of sales transactions on Cards in order to obtain a cash advance is strictly prohibited and may result in immediate cancellation of your account.

#### 1.4 DISPLAYS AND ADVERTISING

You must display appropriate Visa or MasterCard or CUP or JCB and, if applicable, other Association decals and program marks on promotional materials as required by Association Rules. You may not indicate that Visa or MasterCard or CUP or JCB any other Association endorses your goods or services. You will permit any Issuer of CUP Cards to include the names and addresses of all or any sales/service outlets operated by you in any directories, guides or other promotional material (including but not limited to the Marketing Materials) used in connection with the CUP Card Programme.

You confirm and acknowledge that all intellectual properties (including but not limited to trade mark) in the JCB Logo Mark, CUP symbol, the Visa symbol or the MasterCard symbol and in all the Marketing Materials which are produced and/or provided by JCB, CUP Visa and MasterCard are and shall remain the sole property of JCB, CUP, Visa and MasterCard respectively and for their branded Marketing Material. You have no right, interest and benefit of whatsoever nature in any of the intellectual properties (including but not limited to the trade mark) in the JCB Logo Mark, CUP symbol, the Visa symbol or the MasterCard symbol or in any of the Marketing Materials. You will not modify, alter and/or change and shall not apply and/or use, the JCB Logo Mark, the CUP symbol, the Visa symbol or the MasterCard symbol or in any of the Marketing Materials in any respect or any manner save and except as expressly permitted by and in strict accordance with the terms and conditions in this Agreement.

#### 1.5 CASH PAYMENTS BY AND CASH DISBURSEMENTS TO CARDHOLDERS

You must not accept any direct payments from Cardholders for charges of merchandise or services which have been included on a Sales Receipt; it is the right of the Card Issuer to receive such payments. You may not make any cash disbursements to a Cardholder as part of a Card transaction except to the extent expressly authorised by the Agreement or the Association Rules.

#### 1.6 SUSPECT TRANSACTIONS

- (a) Fraud-Prone Merchandise Tips:
  - (i) Jewellery, video, stereo, computer and camera equipment, shoes and men's clothing are typically fraud-prone because they can easily be resold.
  - (ii) Be suspicious of high dollar amounts and transactions with more than one fraud-prone item, e.g., two VCRs, three gold chains, etc.
  - (iii) If you suspect fraud, call the relevant customer care line. If the terminal does not display the Card number, call the FDMS POS Help Desk for terminal assistance.
- (b) Remember: An Authorisation code only indicates the availability of a Cardholder's credit at the time of the transaction. It does not warrant that the person presenting the Card is the rightful Cardholder. If proper procedures are not followed at the time of the transaction, you are subject to a Chargeback and your account may be debited for the amount of the transaction.
- (c) Card cancellation

From time to time we will issue instructions, through terminals and/or verbal and/or written instructions, to you concerning the presentation by customers of cancelled Cards and situations where the presentation or use of a Card arouses suspicion that a Card may be being used improperly. You must comply with our general and specific instructions to obtain the return of or repossession of any Card. You must ensure in so doing that such return or repossession of any Card will not give rise to any claim against us.

### 2. COMPLETION OF SALES AND CREDIT RECEIPTS

- (a) Internet transactions have a substantially higher risk of Chargeback. Since you will not have an imprinted or magnetically swiped transaction and you will not have the Cardholder's signature on the Sales Receipt as you would in a face-to-face transaction, you will assume all risk associated with accepting a mail/telephone/Internet order transaction. The following procedures, while they will not eliminate Chargebacks, are useful in reducing them:
  - (i) Obtain the expiration date of Card.
  - (ii) You may not submit a transaction for processing until after the merchandise has been shipped or the service has been provided to the customer. (Visa will permit the immediate billing of merchandise manufactured to the customer's specifications [i.e., special/custom orders] provided the Cardholder has been advised of the billing details.)
  - (iii) Notify the Cardholder of delivery time frames, special handling or of a cancellation policy. Merchandise shipping dates must be within seven (7) days of the date Authorisation was obtained. If, after the order has been taken, additional delays will be incurred (e.g., out of stock), notify the Cardholder and re-Authorise the transaction.
  - (iv) You may not require a Cardholder to complete a postcard or other document that displays the Cardholder's

- account number in clear view when mailed.
- (v) If you accept orders via the Internet, your web site must include all the following information in a prominent manner:

Complete description of the goods or services offered Merchandise return and refund policy

Customer service contract, including email address and/or telephone number

The transaction currency being your local currency, unless permission is otherwise received from

FDMS) Any applicable export or legal restrictions

Delivery policy Privacy policy

A description of the transaction security used on your website and policy for the transmission of payment card details.

A statement that the Merchant is responsible for the transaction, including the delivery of goods or services and for disputes and complaints in accordance with the terms applicable to the transaction.

Country of your domicile.

- (vi) The sale or disclosure of databases containing Cardholder account numbers, personal information, or other Card transaction information to third parties is prohibited
- (vii) Ensure the Card is not included in any notification (including any Joint Card Recovery Bulletin or Stop List) issued from time to time by the Associations to You regarding Cards that have been cancelled by a Card issuer.
- (viii) You must not require a Cardholder to waive their dispute rights or rights to Chargeback transactions in accordance with the Association Rules.
- (b) If You engage in internet orders You may submit information that would otherwise be recorded on a Sales and Credit Receipt to us via the internet.
- (c) You agree that we are not liable to You for any loss or damage caused by or arising from any failure by You or Your inability to submit Sales and Credit Receipt information to us via the internet.
- (d) If the relevant Cardholder denies liability in respect of any /Internet transactions initiated or concluded by telephone or mail or internet, we shall be entitled to reimbursement of the amount paid to you. For the purpose of this clause 2(d) it is irrelevant whether you have observed the terms and conditions of this Agreement or obtained an Authorisation Approval Code from us.

### **3. INTENTIONALLY NOT USED**

### **4 DATA SECURITY**

#### **4.1 OBLIGATIONS**

Following is important information regarding the protection of cardholder data. Please review carefully as failure to comply can result in substantial fines.

- (a) You may be subject to an audit to verify your compliance with security procedures.
- (b) For Internet transactions, copies of the transaction records may be delivered to Cardholders in either electronic or paper format.
- (c) You may not transmit Cardholder account numbers to Cardholders for Internet transactions.
- (d) You cannot store or retain Card Validation Codes.
- (e) Destroy or purge all Media containing obsolete transaction data with Cardholder information.

- (f) In the event that transaction data is accessed or retrieved by any unauthorised person or entity, contact us immediately. You may be asked to conduct an investigation, at your expense, into the unauthorised access.
- (g) You must adhere to the PCI Security or other data security requirements found on either the Visa or MasterCard or CUP or JCB websites.

#### 4.2 VISA'S ACCOUNT INFORMATION SECURITY PROGRAM ("AIS")

- (a) Visa implemented AIS to protect Cardholder data. AIS applies to anyone who stores, processes or transmits Cardholder data. You must comply with the 12 basic AIS requirements shown below:
  - (i) Install and maintain a working network firewall to protect data accessible via the Internet.
  - (ii) Keep security patches up-to-date.
  - (iii) Encrypt stored data.
  - (iv) Encrypt data sent across networks.
  - (v) Use and regularly update anti-virus software.
  - (vi) Restrict access to data by business "need to know".
  - (vii) Assign a unique ID to each person with computer access to data.
  - (viii) Don't use vendor-supplied defaults for system passwords and other security parameters.
  - (ix) Track access to data by unique ID.
  - (x) Regularly test security systems and process.
  - (xi) Maintain a policy that addresses information security for Employees.
  - (xii) Restrict physical access to Cardholder information.
- (b) You should complete the AIS Self-Assessment Questionnaire, a copy of which can be obtained from Visa's AIS website:  
<http://www.visa-asia.com/ap/sea/merchants/riskmgmt/ais.shtml>
- (c) You may have additional requirements, imposed at your expense, based on your transaction volume. These additional requirements may include, without limitation:
  - (i) an annual onsite review and an Annual Report on Compliance, performed by a Qualified AIS Security Assessor and in accordance with the AIS Security Audit Procedures and Reporting document; and
  - (ii) a System Perimeter Scan performed on your external-facing IP addresses, by a Qualified AIS Scan Vendor. For more information about the applicability of these additional requirements, contact our Customer Service department or visit the AIS website.
- (d) Visa may impose fines or penalties, or restrict you from participating in Visa programs if it is determined that you are not compliant with the applicable AIS requirements.

### 5 AUTHORISATIONS

#### 5.1 GENERAL

- (a) You must obtain an Authorisation Approval Code from us for all transactions. Failure to obtain an Authorisation Approval Code for a sales transaction may result in a Chargeback and/or the termination of your Agreement. Authorisation Approval Codes can be obtained through your POS Terminal or a Voice Response Unit ("VRU") or a Call Centre

representative. Any fees related to Authorisations will be charged for a request for an Authorisation Approval Code, whether or not the transaction is approved.

- (b) Do not attempt to obtain an Authorisation Approval Code provided by someone other than us. If a Cardholder or another service provider provides you with either an Authorisation number or with a telephone number for obtaining Authorisations, the Authorisation Approval Code you receive may not be valid. Even if the transaction is initially processed and funded, it may be charged back at a later date. Also, if you receive a purported Authorisation Approval Code from someone other than us, we will not have the supporting records and will be unable to verify that you received the Authorisation if that is later questioned in a Chargeback.
- (c) An Authorisation Approval Code only indicates the availability of credit on an account at the time the Authorisation is requested. It does not warrant that the person presenting the Card is the rightful Cardholder, nor is it a promise or guarantee that you will not be subject to a Chargeback.
- (d) If you receive a Referral response to an attempted Authorisation, you may not submit the transaction without calling for and receiving a voice Authorisation. After receiving a Referral response you may not attempt another Authorisation on the same Card through your POS Terminal.
- (e) If you fail to obtain an Authorisation Approval Code or if you submit a Card transaction after receiving a decline (even if a subsequent Authorisation attempt results in an Authorisation Approval Code), your transaction may be assessed fines or fees by the Card Associations for which you will be responsible. To avoid these costs, always obtain an Authorisation Approval Code directly from your terminal before submitting a transaction for settlement.
- (f) You may not attempt to obtain multiple Authorisations for a single transaction. If a sale is declined, do not take alternative measures with the same Card to obtain an approval of the sale from other Authorisation sources. Instead, request another form of payment. If you accept and process a transaction that was declined, or attempt multi-transactions and/or multi-Authorisations, you are subject to a Chargeback, Association Fines and/or cancellation of your Agreement.

## 5.2 AUTHORISATIONS VIA INTERNET

If you use the internet to obtain an Authorisation Approval Code, all sales should be authorised through the internet and the Authorisation Approval Code captured and recorded via the internet. Authorisations through other methods will result in additional charges to you.

## 6 SUBMISSION/DEPOSIT OF SALES AND CREDIT RECEIPTS

### 6.1 SUBMISSION OF SALES FOR MERCHANTS OTHER THAN YOUR BUSINESS

You may present for payment only valid charges that arise from a transaction between a bona fide Cardholder and your business. If you deposit or attempt to deposit transactions that arise from sales between Cardholders and a different business than the one approved by us in our agreement with you, then the transaction may be charged back, we may suspend or debit funds associated with all such transactions, and we may immediately terminate your account and the Agreement.

### 6.2 TIMELINESS

In order to receive funds same day (where applicable), all Sales and Credit Receipts must be properly completed and submitted daily. For CUP transactions (including the Merchant Deposit Slip), all Sales and Credit Receipts must be properly completed and submitted:

- (a) within five (5) Business Days of the date of the transaction if You operate no more than one Primary Location; or
- (b) within ten (10) Business Days of the date of the transaction if You operate more than one Primary Location.

Late Submission of Sales or Credit Receipts may result in a Chargeback to you. If you have not received payment for submitted Sales Receipts after one (1) week from your normal payment date, contact Customer Service.

In respect of each completed Sales Receipt, provided that all the terms and conditions of this Agreement have been complied with by you, we will pay to you the transaction payment:-

We will notify you as soon as practicable (i) upon CUP's refusal and/or delay in paying us the transaction value (or any part thereof), and/or (ii) if we are not satisfied that all the information in relation to a transaction for which you claim payment accords with our own records.

### 6.3 ELECTRONIC MERCHANTS: DAILY BATCHING REQUIREMENTS & MEDIA SUBMISSION

- (a) Batches must be transmitted to us by the time notified by us to you as varied from time to time in order to be processed on the date of transmission. Additionally, if you deposit via magnetic tape, electronic transmissions, or electronic draft

capture terminal (EDC), and have contracted to send the actual Sales and Credit Receipts to us for microfilming and Retrieval, the Sales and Credit Receipts (Media) must be batched daily by register/terminal following the procedures below. Failure to do so may result in a processing fee and/or a Chargeback due to our inability to retrieve the Media as requested by the Issuer.

- (b) A register/terminal Batch header form must be filled out for each Batch of Media.
- (c) The Batch header must be imprinted with your Merchant Identification Card, and all areas completed properly (i.e., Batch number, date, amount, number of items, etc.).
- (d) The Batch/deposit total must match to the settled/reconciled amount displayed on the terminal upon closing the Batch.
- (e) Any discrepancies between the actual Media and electronic display must be reconciled and corrected before storing the Media (for merchants who contract to hold their Media) or before sending us the copies of the deposit. Otherwise, transactions may appear to be a new Submission and maybe manually keyed (causing duplicate billing to Cardholders and resulting in Chargebacks) or we may not be able to retrieve an item when requested by the Issuer.
- (f) It is your responsibility to ensure that the actual Media is batched correctly and, depending on the terms of your Agreement, either securely stored at your location or sent to us. (In some cases, the actual Media is sent daily to your head office, and forwarded to us for microfilming.)
- (g) You must confirm that your equipment has transmitted its Batches to us at least once daily. Even if your equipment is designed or programmed to close and submit Batches without your intervention, it is ultimately your responsibility to confirm that the Batches have been transmitted to us for processing.

## **7 REFUNDS/EXCHANGES (CREDITS)**

### **7.1 REFUNDS**

- (a) You must promptly complete and submit a Credit Receipt (with your name, city, state and Merchant Account Number) for the total amount of the refund due a Cardholder.
- (b) Full refunds must be for the exact dollar amount of the original transaction in the currency of the original transaction including tax, handling charges, etc. (You must identify the shipping and handling charges incurred.)
- (c) A description of the goods or services is required.
- (d) The transaction date of the Credit must appear on the Draft.
- (e) All dollar amounts and other handwritten information must be clearly written. (Stray marks on the Credit Receipt will render it unscannable/illegible.)
- (f) Do not circle or underline any information on the Credit Receipt.
- (g) Imprint the draft with the same Card used by the Cardholder to make the original purchase. Never give cash, cheque or in-store Credit refunds for Credit Card sales. You should not credit an account that differs from the account used for the original transaction.
- (h) Have the Cardholder sign the Credit Receipt, give the Cardholder the appropriate copy, and deposit the Credit Receipt immediately. Failure to process a Credit within five (5) calendar days may result in a Chargeback.
- (i) Authorisation is not required for refunds.
- (j) You cannot intentionally submit a sale and an offsetting Credit at a later date solely for the purpose of debiting and crediting your own or a customer's account.
- (k) You are responsible for paying all refunds submitted to us on your merchant account. We assume no responsibility for verifying any Credits or refunds.
- (l) You are responsible to secure your terminals and terminal passwords and change to its default passwords and to institute

appropriate controls to prevent Employees or others from submitting refunds that do not reflect bona fide returns or reimbursements of prior transactions.

## 7.2 EXCHANGES

- (a) No additional paperwork is necessary for an even exchange. Just follow your standard company policy.
- (b) For an uneven exchange, complete a Credit Receipt (follow the procedures outlined in Section 9.1) for the total amount of only the merchandise returned. The Cardholder's account will be credited for that amount. Then, complete a new Sales Receipt for any new merchandise purchased.

## 8 RETENTION OF RECORDS FOR RETRIEVALS AND CHARGEBACKS

### 8.1 RETAIN LEGIBLE COPIES

You must retain legible copies of all Sales and Credit Receipts or any other transaction records for a period of at least eighteen (18) months from the date of each transaction (for Visa and MasterCard) and 24 months (for CUP) and 36 months (for JCB) or any longer period as may be required by law or Association Rules from time to time.

### 8.2 PROVIDE SALES AND CREDIT RECEIPTS

You must provide all Sales and Credit Receipts or other transaction records recorded in accordance with the terms of this Agreement that may be requested by us within the lesser of five (5) Business Days or the short test time limits established by Association Rules. You are responsible for any deficiencies in Card transaction data transmitted or otherwise delivered to us.

### 8.3 ENSURE PROPER RETRIEVAL FULFILLMENT

To ensure proper Retrieval fulfillments and/or Chargeback processing, Sales and Credit Receipts must contain the full sixteen (16) digit account number and expiration date. Failure to retain this information could result in a future Chargeback to your account.

## 9 CHARGEBACKS

### 9.1 GENERALLY

Both the Cardholder and the Card Issuer have the right to question or dispute a transaction. If such questions or disputes are not resolved, a Chargeback may occur. A Chargeback is a Card transaction that is returned to us by the Card Issuer. As a result, we will debit your Settlement Account or settlement funds for the amount of the Chargeback. It is strongly recommended that, whenever possible, you contact the Cardholder directly to resolve a disputed transaction or Chargeback. You are responsible for all Chargebacks and related costs arising from your transactions.

### 9.2 TRANSACTION DOCUMENTATION REQUESTS

- (a) In some cases, before a Chargeback is initiated, the Card Issuer will request a copy of the Sales Receipt, via a request for transaction documentation. We will forward the request to you. You must respond to the request within the time frame and manner set out in the request. We will then forward your response to the Card Issuer. If you fail to timely respond, we will so notify the Card Issuer and a Chargeback may result. Upon receipt of a transaction documentation request, immediately retrieve the requested Sales Receipt(s) using the following guidelines:
  - (i) Make a legible copy, centred on A4 paper (only one (1) Sales Receipt per page).
  - (ii) Write the 'case number' from the request for transaction documentation on each copy.
  - (iii) If applicable, make copies of a hotel folio, car rental agreement, or mail/phone order form.
  - (iv) If a Credit transaction has been processed, a copy of the Credit Receipt is also required.
  - (v) Letters are not acceptable substitutes for Sales Receipts.
  - (vi) Fax or mail legible copies of the Sales Receipt(s) to the fax number or mail address provided on the request form.
  - (vii) If you fax your response, please set your fax machine to print your fax number and name on the documents that you send. We can use this information to help know immediately where the documentation received originated from and to

know whom to contact in the event the transmission is not clear or complete.

- (vii) Additionally, please set the scan resolution on your fax machine to the highest setting. The higher resolution setting improves the clarity of characters and graphics on the Sales Receipts transmitted and helps reduce the number of illegible fulfilments and/or Chargebacks.
- (b) If we do not receive a clear, legible and complete copy of the Sales Receipt within the timeframe specified on the request, you may be subject to a Chargeback.
- (c) A handling fee may be charged by the Issuer and will be debited from your Settlement Account or settlement funds if, a transaction documentation request results from a difference in the following information on the Sales Receipt and the transmitted record: merchant name or an incorrect city, state, foreign country and/or transaction date.
- (d) You need to respond to all transaction documentation requests within the specified timeframe indicated on the request, or you may be without recourse of a Chargeback. You must respond to all requests related to fraud investigations. Subsequent Chargebacks for "non receipt of requested item relating to a transaction for fraud request" cannot be contested or represented.

### 9.3 CHARGEBACK PROCESS

- (a) Regardless of whether you respond to a transaction documentation request, a Chargeback may be debited to your Settlement Account for numerous reasons (see below). If the Card Issuer submits a Chargeback, we will send you a Chargeback notification, which may also include a request for transaction documentation. Due to the short time requirements imposed by MasterCard and Visa and CUP and JCB, it is extremely important that you respond to a Chargeback notification and transaction documentation request within the time frame set out in the notification. Do not process a Credit transaction once a Chargeback is received; the Card Issuer will credit the Cardholder's account (unless the Chargeback is reversed).
- (b) If the information you provide is both timely and, in our sole discretion, sufficient to warrant a representation of the transaction and/or reversal of the Chargeback, we will do so on your behalf. However, representation and/or reversal is ultimately contingent upon the Card Issuer and/or Cardholder accepting the transaction under applicable Association guidelines. Representation or reversal is not a guarantee that the Chargeback has been resolved in your favour.
- (c) For Visa Chargebacks, if we reverse the Chargeback and represent the transaction to the Card Issuer, the Card Issuer, at its sole discretion, may elect to submit the matter for arbitration before Visa. Visa may charge a fee for which you will be responsible. If a decision is made in favour of the Cardholder and/or Card Issuer, and the Chargeback is upheld, you will be responsible for all such fees and any other applicable fees and penalties imposed by Visa; such fees and penalties will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.
- (d) If MasterCard refuses to accept our representation, it may resubmit the Chargeback. In such event, we will debit your Settlement Account or settlement funds for the Chargeback. You authorise us to do this. However, if you feel strongly that that it is an invalid Chargeback, we may, on your behalf and at your request, submit the matter for arbitration before MasterCard. MasterCard may charge a fee for which you will be responsible. If a decision is made in favour of the Cardholder and/or Card Issuer, and the Chargeback is upheld, you will be responsible for all such fees and any other penalties imposed by MasterCard; such fees and penalties will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.
- (e) If the Chargeback is not disputed within the applicable time limits set out by MasterCard or Visa regulations, reversal rights are lost. Our only alternative, on your behalf, is to attempt a "good faith collection" from the Card Issuer. This process can take from 30 to 100 days. Good faith collections must meet the Card Issuer's criteria (e.g., above a set dollar amount, usually your local currency equivalent of US\$50; within a specified time limit; etc.). Sometimes Card Issuers will only accept good faith collections after assessing collection fees. A good faith collection is not a guarantee that any funds will be collected on your behalf. If the good faith collection case is accepted by the Card Issuer, you will receive the amount that we are able to recover from the Card Issuer (which may be reduced by fees Card Issuers sometimes impose for accepting good faith collection claims).
- (f) Association Rules and regulations require that a merchant must make a good faith attempt and be willing and able to resolve any disputes directly with the Cardholder. Due to Association Rules, you may not re-bill a Cardholder after a Chargeback is received for that transaction, even with Cardholder Authorisation.
- (g) We strongly recommend that you include a detailed rebuttal letter along with all pertinent documents when responding to a transaction request or a Chargeback notification (e.g., rental agreement, imprinted portion of the invoice or Sales Receipt; the portion signed by the Cardholder; and the area where the Authorisation codes, with amounts and dates, are located).
- (h) Due to the short time frames and the supporting documentation necessary to successfully (and permanently) reverse a Chargeback in your favour, we strongly recommends the following:

- (i) Avoid Chargebacks by adhering to the guidelines and procedures outlined in these Operating Procedures.
- (ii) If you do receive a Chargeback, investigate, and if you dispute the Chargeback, submit the appropriate documentation within the required timeframe.
- (iii) Whenever possible, contact the Cardholder directly to resolve the dispute.
- (iv) If you have any questions, call CustomerService.

#### 9.4 CHARGEBACK REASONS

The following section outlines the most common types of Chargebacks. This list is not exhaustive. For ease of understanding, we have combined like Chargebacks into seven groupings. We have included recommendations on how to reduce the risk of Chargebacks within each group. These are recommendations only, and do not guarantee that you will be able to prevent Chargebacks.

##### (a) Authorisation Issues

The Following scenarios could cause an Authorisation related Chargeback to occur :

- No account number verification
- Negative account number verification
- Full Authorisation not obtained
- Fraudulent transaction – noAuthorisation
- Fraudulent transaction prior to embossed validate
- Authorisation request declines
- Expired Card
- Early Warning Bulletin/JCB Stop List
- Non-matching account number
- Mail order transaction on expired or never issued account number.

*To reduce your risk of receiving an Authorisation-related Chargeback:*

- (i) Authorise all transactions and use the proper method of Authorisation.
- (ii) A valid approval Authorisation response indicates the Card is valid and can be accepted for payment. An approval code is usually a 4-6 digit number, along with an Authorisation response of "approval."
- (iii) A decline Authorisation response indicates the Card should not be accepted for payment. Request a different form of payment from the Cardholder or do not release the merchandise.
- (iv) "Pick-up" Authorisation response from the Issuer indicates the Credit Card account number is lost or stolen.

The Credit Card should not be accepted for payment. Additionally, you can choose to retain the Credit Card and return it to the Acquirer for a reward. If you retain a JCB Card, you must return it to us as soon as possible, but in any case within 7 calendar days.

- (v) Referral Authorisation response prompts you to call us for further instructions.

##### (b) Cancellations and Returns

The following scenarios cold cause a cancellation and return related chargeback to occur

- Credit Transaction not processed
- Cancelled recurring transaction
- Cancelled guaranteed reservation
- Advance deposit service
- Cardholder not aware of your cancellation/return policies

*To reduce your risk of receiving a cancellation and return related Chargeback:*

- (i) For recurring transactions – ensure your customers are fully aware of the conditions of this type of transaction.
- (ii) Process Credits daily.

- (iii) All Credits must be applied to the account to which the debit originally posted.
- (iv) Pre-notify the Cardholder of billing within 10 days (domestic) and 15 days (international) prior to billing, allowing the Cardholder time to cancel the transaction.
- (v) Do not continue to bill after proper cancellation or after receipt of Chargeback.
- (vi) Ensure proper disclosure of your refund policy is on the Sales Receipt, the words "No Exchange, No REFUND," etc. must be clearly printed on the Sales Receipt (or electronic equivalent, i.e., the receipt printed when a Card is swiped through a terminal) near or above the Cardholder's signature.
- (vii) Do not issue Credit in the form of a cheque.
- (viii) Do not issue in-store or merchandise Credit.
- (ix) For travel and entertainment transactions, provide the cancellation policy at the time of reservation.
- (x) For Internet transactions ensure that there is an area on the web page where the Cardholder must acknowledge an understanding of the cancellation policy prior to completing the transaction.

**(c) Fraud**

The following scenarios could cause a fraud related Chargeback to occur

- Unauthorised or fictitious account number
- Fraudulent processing of a transaction
- Fraudulent mail/phone order transaction
- Counterfeit Transaction
- Fraudulent transaction – no imprint obtained
- Fraudulent transaction – no signature obtained
- Risk Identification Service
- Advance Deposit Service

*To reduce your risk of receiving a fraud-related Chargeback:*

**(d) Non Receipt of Goods and Services**

- Services not rendered
- Non receipt of merchandise
- Advance Deposit Service

*To reduce your risk of receiving a Non Receipt of Goods and Services related Chargeback:*

- (i) Do not process a transaction until the merchandise is shipped.
- (ii) Do not process any Credit Card transaction where the Cardholder has already paid for the goods or services using another method of payment.
- (iii) Inform the cardholder of any specific cancellation policies or Advance Deposits.

**(e) Processing Errors**

The following scenarios could cause a processing error related Chargeback to occur

- Late Presentment of Sales Receipt
- Services or merchandise paid by other means
- Addition to transposition error
- Altered amount

- Incorrect account number, code or amount
- Duplicate processing
- Transaction exceeds limited amount
- Services not rendered
- Credit post as Debit
- Incorrect transaction amount
- Transaction amount changed
- Merchandise paid by other means

**(f) Quality of Goods and Services**

The following scenarios could cause a Quality of Goods and Services related Chargeback to occur :

- Defective merchandise
- Not as described

*To reduce your risk of receiving a Quality of Goods and Services related Chargeback:*

- (i) Ensure all merchandise is shipped properly.

Ensure all return policies are properly disclosed to the Cardholder at the time of sale.

**(g) Non Receipt of Information**

The following scenarios could cause a Non Receipt of Information related Chargeback to occur :

- Transaction receipt not received
- Copy illegible
- Cardholder does not recognise transaction
- T&E document not fulfilled

*To reduce your risk of receiving a Non Receipt of Information related Chargeback*

- (i) Prepare clean, legible Sales Receipts at the point of sale and send in your Media daily and/or respond to Media Retrieval requests within the required time frame (failure to properly respond to a fraud related Media Retrieval request eliminates any opportunity for a Chargeback reversal).
- (ii) Retain copies of transaction documents for at least eighteen (18) months from the original sales/post date (or any longer period as may be required under law).
- (iii) Ensure that the most recognisable merchant name, location, and/or customer service phone number is provided on all transaction documentation.
- (iv) Timely respond to all notifications and requests.

**10 OTHER DEBITS AND ADJUSTMENTS**

**10.1 DEBITS**

We may also instruct and you hereby authorise us (and you agree to do all acts and execute all relevant documents to enable us) to

instruct your bank to debit your Settlement Account or your settlement funds in the event we are required to pay Association fees, charges, fines, penalties or other assessments as a consequence of your sales activities. Such debits shall not be subject to any limitations of time specified elsewhere in the Agreement. The following is a list of reasons for other debits. We may add to or delete from this list as changes occur in the Association Rules or our operational requirements:

- Association fees, charges, fines, penalties, registration fees, or other assessments including any fees levied against us.
- Currency conversion was incorrectly calculated.
- Fees not previously charged
- Reversal of deposit posted to your account in error.
- Debit Summary Adjustment not previously posted
- Reversal of credit for deposit previously posted
- Debit for Chargeback never posted to your account.
- Association Merchant Chargeback Monitoring Fee - Excessive Chargeback Handling Fee.
- Failure of transaction to meet Member Controller Authorisation Service (MCAS) - Cardholder account number on exception file
- Original transaction currency (foreign) not provided.
- Travel voucher exceeds maximum value
- Debit and/or fee for investigation and/or chargeback costs related to our termination of the Agreement for cause, or for costs related to our collection activities.
- Costs arising from replacement or damage to equipment rented.
- Payment of current or past due amounts for any equipment purchase, rental or lease
- Incorrect merchant descriptor (name and/or city, state) submitted.
- Incorrect transaction date submitted.

#### 10.2 SUMMARY (DEPOSIT) ADJUSTMENTS/ELECTRONIC REJECTS

Occasionally, it is necessary to adjust the dollar amount of your summaries/Submissions (deposits) and credit or debit your Settlement Account or settlement funds accordingly. The following is a list of the most frequent reasons for Summary (Deposit) Adjustments/Electronic Rejects:

- Your summary reflected an arithmetic error.
- Submitted sales not included in your Agreement (e.g. Diners Club, American Express)
- The dollar amount is unreadable/illegible
- The Cardholder's account number is unreadable/illegible
- Duplicate Sales Receipt submitted.
- Credit Card number is incorrect/incomplete

#### 10.3 Summary indicated credits, but no credit were submitted DISPUTING OTHER DEBITS AND SUMMARY ADJUSTMENTS

- (a) In order to quickly resolve disputed debits and Summary Adjustments, it is extremely important that the items listed in this section be faxed or sent to the address listed on the notification.

- (b) If the Summary Adjustment is for unreadable or incorrect Cardholder number, resubmit the corrected Sales Receipt with your next deposit. Also, if the transaction is over thirty (30) calendar days old, you must reauthorise and obtain a valid Authorisationcode.
- (c) A clear and legible copy of the Sales Receipt containing the following should be obtained from your files :
  - Date of Sales/Credit
  - Cardholders' account number, name and signature.
  - Total amount of the sale and description of goods and services
  - Date and Authorisation Approval Code
- (d) A dated cover letter detailing the reasons for requesting a review of the debit or Summary Adjustment and documentation to support your dispute. (You should retain a copy of the correspondence and all documentation for your files.) If the inquiry is related to prior correspondence, be sure to include the control number we previously used.
- (e) Immediately fax or mail the Sales or Credit Receipts to the fax number or address provided on your notification letter.
- (f) If you have any questions, please call the Customer Service number provided on the last page of this Program Guide. If a Customer Service Representative informs you that additional documentation is required in order to fully review the item, please immediately submit your rebuttal and transaction documentation to the fax number or address listed on the debit notification.

## **11 ACCOUNT MAINTENANCE**

### **11.1 CHANGE OF SETTLEMENT ACCOUNT**

If you change the Settlement Account in which you receive the proceeds of your transactions, you must call Customer Service or your Relationship Manager immediately. If you accept payment types other than Visa and MasterCard (such as the American Express Card), you are also responsible for contacting the Associations or companies governing those Cards to notify them of this change.

### **11.2 CHANGE IN YOUR DETAILS**

- (a) If there is change in your legal entity name or structure, you must call Customer Service or your Relationship Manager and request a new Agreement.
- (b) To change your company trading name, address or telephone/fax number, you must send the request in writing to the address on your statement.

## **12 ASSOCIATION COMPLIANCE**

MasterCard and Visa and where relevant for your country CUP and JCB, have established guidelines, merchant monitoring programs and reports to track merchant activity including, but not limited to excessive Credits and Chargebacks, and increased deposit activity. In the event you exceed the guidelines or submit suspicious transactions as identified by an Association or any related program or reports, you may be subject to:

- (i) operating procedure requirement modifications;
- (ii) incremental Chargebacks and/or fees;
- (iii) settlement delay or withholding;
- (iv) termination of your Agreement; or
- (v) audit and imposition of fines.

## **13 MASTERCARD BUSINESS RISK ASSESSMENT AND MITIGATION**

- 13.1 You must not submit for payment, any transaction that:
- (a) is illegal; or
  - (b) may, in the sole discretion of MasterCard, damage the goodwill of MasterCard or reflect negatively on the MasterCard brand including, but not limited to:
    - (i) the sale or offer of a good or service other than in full compliance with law then applicable to us, the card issuer, you, the cardholder or MasterCard; and
    - (ii) the sale of a good or service, including an image, which is patently offensive and lacks serious artistic value or any other material that MasterCard, in its sole discretion, deems unacceptable for sale in connection with the MasterCard mark.
- 13.2 You agree that we must notify MasterCard if you process or intend to process transactions relating to Internet gambling or the non face to face sale of prescription drugs or tobacco products or such other business as MasterCard may advise from time to time.
- 13.3 If you process or intend to process any transactions listed in clause 13.2 above, on execution of this Agreement and once annually during the Term, you must allow us to view all such information as we reasonably request in order to obtain a written opinion from an independent, reputable and qualified legal counsel that the business carried on by you complies with all laws applicable to you, any of your prospective customers, us, the card issuer or MasterCard. You acknowledge that you will not be permitted to process transactions until such time as this opinion has been provided to the satisfaction of MasterCard each year during the Term.
- 13.4 In the event that we receive notification from MasterCard that you are alleged to have sold goods that infringe a third party's intellectual property rights, we will notify you within five (5) business days of receiving such notice and you agree to provide us with all such information and records as are necessary to enable us to investigate the allegation and provide an appropriate response to both MasterCard and the person that alleged the infringement. You agree to indemnify us for all such loss and damage that we may sustain arising from or in connection with these allegations.
- 13.5 You acknowledge that we are required to regularly monitor your website to ensure that you are processing transactions in accordance with this Agreement, all applicable laws and Card Association Rules.

#### **PART B: DEBIT CARDS**

### **14 SPECIAL PROVISIONS FOR DEBITCARD**

#### **14.1 DEBIT CARD ACCEPTANCE**

All Debit Cards can be accepted. If the Debit Card is valid and issued by a participating network, you must comply with the following general requirements for all participating networks, in addition to the specific requirements of the network:

- (a) You must honour all valid Debit Cards when presented that bear authorised network marks.
- (b) You must treat transactions by Cardholders from all Issuers in the same manner.
- (c) You may not establish a minimum transaction amount for Debit Card acceptance.
- (d) You may not require additional information, besides the Personal Identification Number, for the completion of the transaction unless the circumstances appear suspicious. A signature is not required for Debit Card transactions.
- (e) You shall not disclose transaction related information to any party other than your agent, a debit card network, or issuing institution and then only for the purpose of settlement or error resolution.
- (f) You may not process a Credit Card transaction in order to provide a refund on a Debit Card transaction.

#### **14.2 TRANSACTION PROCESSING**

The following general requirements apply to all Debit Card transactions:

- (a) All debit transactions must be authorised and processed electronically. There is no Voice Authorisation or Imprinter procedure for Debit Card transactions.
- (b) You may not complete a Debit Card transaction that has not been authorised. If you cannot obtain an Authorisation at the

time of sale, you should request another form of payment from the customer or process the transaction as a Store and Forward or Resubmission, in which case you assume the risk that the transaction fails to authorise or otherwise decline. The Cardholder should be instructed to contact the Issuer to find out why a transaction has been declined.

- (c) You may not complete a Debit Card transaction without entry of the Personal Identification Number (PIN) by the Cardholder.
- (d) The PIN must be entered only by the Cardholder. You cannot accept the PIN from the Cardholder verbally or in written form.
- (e) You must issue a receipt to the Cardholder upon successful completion of a transaction. The Cardholder account number will be masked so that only the first 6 and last 3 digits will appear. The masked digits will appear as a non-numeric character such as an asterisk. This is referred to as PAN truncation.
- (f) You may not manually enter the account number..
- (g) Any applicable tax must be included in the total transaction amount for which Authorisation is requested. Tax may not be collected separately incash.
- (h) You are responsible to secure your terminals, terminal passwords and change to its default passwords and to institute appropriate controls to prevent Employees or others from submitting refunds and voids that do not reflect bona fide returns or reimbursements of prior transactions.
- (i) You must not store any PIN and you must securely store any account information so as to prevent unauthorised access, use or disclosure.

#### 14.3 RECONCILIATION

Within one Business Day of the original transaction, you must balance each location to the system for each Business Day that each location is open.

#### 14.4 ADJUSTMENTS.

- (a) An adjustment is a transaction that is initiated to correct a Debit Card transaction that has been processed in error.  
You will be responsible for all applicable adjustment fees that may be charged by a Debit Card network. Some networks may have established minimum amounts for adjustments.
- (b) There are several reasons for adjustments being initiated:
  - (i) The Cardholder was charged an incorrect amount, either too little or too much.
  - (ii) The Cardholder was charged more than once for the same transaction.
  - (iii) A processing error may have occurred that caused Cardholder to be charged even though the transaction did not complete normally at the point of sale.

All parties involved in processing adjustments are regulated by time frames that are specified in the operating rules of the applicable Debit Card network and other applicable law.

## PART C: GLOSSARY

As used in these Operating Procedures, terms defined in the General Terms have the meanings set out in the General Terms and the following terms have the meanings set out below.

**Authorisation Approval Code:** A number issued to a participating merchant by the Authorisation Centre which confirms the Authorisation for a sale or service.

**Authorisation Centre:** A department that electronically communicates a merchant's request for Authorisation on Credit Card transactions to the Cardholder's bank and transmits such Authorisation to the merchant via electronic equipment or by voice Authorisation.

**Batch:** A single Submission to us of a group of transactions for settlement. A Batch usually represents a day's worth of transactions.

**Card Validation Codes:** A three-digit value printed in the signature panel of most Cards and a four-digit value printed in the front of an American Express Card. Visa's Card Validation Code is known as CVV2; MasterCard's Card Validation Code is known as CVC2. JCB's Card Validation Code is known as CAV2. Card Validation Codes are used to deter fraudulent use of an account number in a non-face-to-face environment, (e.g. MOTOs and Internet orders), which must not be stored after Authorisation.

**General Terms:** The terms and conditions set out in this document, as amended from time to time.

**Imprinter:** A manual or electric machine used to physically imprint the merchant's name and ID number as well as the Cardholder's name and Card number on Sales Receipts.

**Media:** The documentation of monetary transactions (i.e., Sales Receipts, Credit Receipts, computer printouts, etc.)

**Merchant Identification Card:** A plastic embossed Card supplied to each merchant to be used for imprinting information to be submitted with each Batch of paper Sales Receipts. Embossed data includes Merchant Account Number, name and sometimes merchant ID code and terminal number.

**Merchant Account Number (Merchant Number):** A number that numerically identifies each merchant, outlet, or line of business to us for accounting and billing purposes.

**PAN Truncation:** A procedure by which a Cardholder's copy of a Sales or Credit Receipt will only reflect the first 6 and last 3 digits of the Card.

**PIN:** A Personal Identification Number entered by the Cardholder to submit a Debit Card transaction.

**Recurring Payment Indicator:** A value used to identify transactions for which a consumer provides permission to a merchant to bill the consumer's Card account at either a predetermined interval or as agreed by the Cardholder for recurring goods or services.

**Referral:** The message received from an Issuer requiring Authorisation to be obtained by means of a call to us or Voice Response Unit (VRU).

**Resubmission:** A resubmission of a debit transaction (at the Merchant's risk) that the Merchant originally processed as a Store and Forward transaction but received a soft denial from the respective debit network.

**Retrieval Request/Transaction Documentation Request:** A request for documentation related to a Card transaction such as a copy of a Sales Receipt or other transaction source documents.

**Sales/Credit Summary:** The identifying form used by a paper Submission merchant to indicate a Batch of Sales Receipts and Credit Receipts (usually one day's work).

**Store and Forward:** A transaction that has been authorised by a merchant when the merchant cannot obtain an Authorisation while the customer is present, typically due to a communications failure. The merchant will store the transaction electronically in their host system and retransmit the transaction when communications have been restored.

**Submission:** The process of sending Batch deposits to us for processing, electronically or by mail.

**Summary Adjustment:** An adjustment to your Submission and/or Settlement Accounts in order to correct errors.

## PRIVACY STATEMENT AND CONSENT

By entering the Merchant Declaration and Agreement, you agree to the uses and disclosures of your personal information as set out in this Privacy Statement and Consent, which forms part of the Merchant Agreement.

### IMPORTANT:

An individual who is an applicant, a proposed guarantor, a director of an applicant or guarantor company or account signatory must read this Statement. All Parts of this Statement apply to you.

If a company is an applicant or is proposed as a guarantor, a copy of this Statement must be read by each director unless we agree to it being signed by an authorised representative of the company. Parts 1, 2 and 4 of this Statement apply to any authorised representative.

This Statement explains how First Data Merchant Solutions ("us/we") collect, use and disclose personal information. The uses and disclosures of personal information set out in this Privacy Statement and Consent remains subject to any prohibitions (except those capable of being overcome by consent) under laws applicable in the country corresponding to that in your trading address specified in Part A of the Merchant Processing Application Form or in your HQ/ Corporate address specified in the same if your trading address is left blank.

"Personal information" is information about or which identifies individuals and includes without limitation trading history information. It includes information obtained from any source. Credit information (see Part 3) is a sub-set of personal information.

We will not use or disclose information collected about you otherwise than as set out in this Statement, for a purpose you would reasonably expect, a purpose required or authorised by law, or a purpose otherwise disclosed to, or authorised by, you.

This Statement also contains your consent for us to send communications about products and services including commercial electronic messages.

### PART 1 – Personal information about third parties

You represent that, if at any time you supply us with personal information about another person (i.e. an individual – for example, a referee, a director, or a person to whom the payment is to be directed), you are authorised to do so and you agree to inform that person who we are, that we will use and disclose that personal information for the relevant purposes set out in Parts 2 and 3 below and that they can gain access to the information we hold about them in accordance with Part 4 below.

### PART 2 – Uses and disclosures of personal information

#### A. Purposes for which we collect and use personal information:

- (i) Personal information about you which may at any time be provided to us in connection with the provision of acquiring services may be held and used by us to assess and process the Merchant Processing Application Form received from you, to establish, provide and administer the acquiring services and to consider and execute your instructions.
- (ii) You agree that, in assessing your Merchant Declaration and Agreement, we may seek and obtain from a credit reporting agency a commercial and or consumer credit report or opinion or bank reference about you, and may give personal or credit information about you to the credit reporting agency or us or another financial institution for this purpose. You agree to the exchange of information between us and to a credit reporting agency or another financial institution providing reports and information to us and to the credit reporting agency creating and maintaining a credit information file containing information about you.
- (iii) You also agree that personal information about you which may at any time be provided to us in connection with the acquiring services, including any commercial or consumer credit report we obtain about you, may be held and used by us for the purposes (as relevant) of:
  - assessing your merchant services application or whether we will accept and indemnify from you or any other person in relation to your merchant services facility;
  - providing the acquiring services to you;
  - complying with legislative and regulatory requirements or as otherwise permitted or authorised by law;
  - performing our administrative operations, including accounting, risk management, record keeping, archiving, systems development and testing, credit scoring and staff training;
  - managing our rights and obligations in relation to external payment systems e.g. Credit Card Associations and debit payment schemes;
  - conducting market or customer satisfaction research;

- developing, establishing and administering alliances and other arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of our respective products and services;
    - developing and identifying products and services; and
- (iv) The collection of information about you is not required by law, but without it, we may not be able to provide you with the services for which application is made.
- (v) Where personal information, which we collect about you, is sensitive information (such as information about health status, religious belief, membership of a professional or trade association or a criminal record), by disclosing that information to us, you nevertheless consent to its collection by us.

#### **B. Disclosure of personal information**

You agree that we may receive personal information about you from, and disclose it to the following, as appropriate, even if the disclosure is to an organisation located in another country which is not subject to the privacy obligations which are equivalent to those which apply to us:

- our agents, contractors and external advisers whom we engage from time to time to provide services to us or carry out, or advise on, our functions and activities and you authorise them to seek disclosure of your credit information for this purpose including but not limited to First Data Merchant Solutions and First Data Resources Australia Limited and their respective related bodies corporate involved in the provision of acquiring services to you;
- your agents and contractors, including your referees and your legal or financial adviser;
- your executor, administrator, trustee, guardian or attorney if you authorise them in writing to seek disclosure of this information;
- your franchisor (if applicable);
- any financial institution with whom you have a merchant account;
- regulatory bodies, government agencies, multi-jurisdictional agencies, law enforcement bodies and courts;
- debt collecting agencies;
- any person or organisation who introduces you to us;
- other organisations with whom we have alliances or arrangements (including reward programs) for the purpose of promoting our respective products and services;
- anyone supplying goods or services to you in connection with a rewards program or other alliance associated with the facility;
- external payment systems operators and participants (e.g. credit card payment systems (e.g. Visa and MasterCard, CUP or JCB) or debit payment systems);
- your and our insurers or prospective insurers and their underwriters;
- any person considering purchasing a contract entered into by you from us and that person's advisers, persons involved in assessing the risks and funding of the purchase and, after purchase, the purchaser and any manager on an ongoing basis;
- any person to the extent necessary, in our view, in order to carry out any instruction you give to us;

#### **PART 3 – What credit information can be disclosed?**

Relevant Laws may allow us to disclose certain credit information about you.

Subject to restrictions under relevant laws in your country, the information about you that we disclose to credit reporting agencies is:

- your identity particulars – including your name, sex, address (and the previous two addresses), date of birth, name of employer, and drivers licence number;
- the fact that you have applied for the services;
- the fact that we are providing the services to you;
- repayments overdue by more than 60 days, and for which debt collection action has started;
- dishonoured cheques – cheques drawn by you which have been dishonoured more than once, according to statutory limits

applicable in the country corresponding to that in your Trading address specified in Part A of the Merchant Processing Application Form or in your HQ/ Corporate address specified in the same if your Trading address is left blank.

- that your overdue repayments have been paid; and

This information may be given before, during or after the provision of services to you.

The credit information about you that we disclose to the other organisations listed in this Privacy Statement and Consent is the above information, together with any information contained in or derived from a credit report obtained from a credit reporting agency including information about your credit worthiness, credit standing, credit history or credit capacity but only to the extent permitted by law and/or regulation.