



LATITUDE TECHNOLOGIES LIMITED
HONG KONG
Incorporation No: 3197455

Merchant Agreement General Terms and Conditions

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Owner	Chief Risk Officer

1. Definitions

1.1. Unless the contrary intention appears, the following words have these meanings in this agreement:

authentication means any one of a number of processes whereby, in the context of an electronic commerce transaction, the identity of a cardholder is authenticated through the “3D Secure” platform or by other means reasonably acceptable to us having regard to the requirements of, or guidance provided by industry bodies. ‘Authenticate’, ‘authenticated’ and ‘authenticating’ have similar meanings.

authorisation means, in respect of a transaction, our confirmation that at the time at which authorisation is given the card number exists and is valid, the card has not been reported lost or stolen at the time of the sales transaction and that there are sufficient funds available in the account being accessed to cover that transaction.

banking day means a day on which we are open for general banking business in Hong Kong except for Saturdays, Sundays and National Public Holidays.

bureau means a third party used by you to transmit information between Latipay and you on your behalf, and includes any payment gateway used by you.

card schemes means:

(a) Visa, MasterCard and UnionPay.

card scheme rules means the rules and regulations which regulate participants in the card schemes.

cardholder means:

(a) for the purposes of clauses 5.6 to 5.8 (inclusive) and any other clauses relating to the authentication procedures, the person in whose name the credit or scheme debit card (as defined for the same purposes), has been issued;

(b) for the remainder of this agreement, the person in whose name the nominated card has been issued.

certified means that we have notified you in writing that you have the systems capability to participate in the authentication procedures.

chargeback means a debit entry to your account to reverse a credit previously made to your account in the circumstances described in clause 9.

chip card means a plastic card or phone, wearable or other device containing a computer chip that adheres to the EMV standards.

commercial card means a card which the card schemes recognise as being issued for predominantly business or commercial purposes.

confidential information means information and material we communicate to you in any form that we tell you is confidential or which we communicate to you in circumstances of confidence, in connection with this agreement. Confidential information includes any information relating to our business systems, customers, properties, assets or affairs or those of our related bodies corporate. It also includes all copies, notes and records and all related information based on, or arising out of, any disclosure by us of such information and material. Confidential information does not include information or material that is in the public domain (other than as a result of a breach of this agreement).

contactless card means a plastic card or other device containing a form factor capable of using radio frequency identification and near field communication in contactless transactions

contactless transaction means a transaction using a contactless card and a contactless reader or other compatible device approved by us and which is accepted by us.

credit card means a card that:

(a) has been designated by the issuer as a Visa or MasterCard card; and the card schemes recognise as being a credit card

data breach means any occurrence which results in the unauthorised access to, unauthorized disclosure of, or loss of confidential data or personal information relating to card transactions or cardholders stored by your business or any service provider or bureau providing storage or transmission services of that data.

data security standards means the Payment Card Industry Data Security Standards ("PCIDSS") mandated by the card schemes for the protection of cardholder details and transaction information, and any additional or replacement standards of which we advise you from time to time.

electronic commerce transaction means a transaction between you and a cardholder over the Internet and other networks using electronic equipment to initiate such a transaction.

electronic equipment means an electronic terminal, computer, television, or telephone and includes:

- (a) Electronic Funds Transfer at Point of Sale terminals (EFTPOS terminals); and
- (b) any other authorised electronic terminal or device connected to our electronic banking system from time to time.

EMV standards means the industry standards for chip-enabled cards established by Europay, Mastercard and Visa, and such replacement or additional standards as advised to you.

equipment means either manual equipment or electronic equipment, or both as the case may be.

fallback means a process in which details of a transaction are read and stored by equipment but are processed later than would normally be the case due to the equipment being unable to properly communicate with us for any reason.

Industry body means an industry association representing the interests of industry collectively, of which Latipay as an organization is a member, including the Hong Kong Payments Network.

intellectual property rights means all rights, titles and interests, wherever subsisting throughout the world, and whether registered or not, in and to:

- (a) copyright, author's rights, neighbouring rights, sui generis protection for the contents of databases, the protection of circuit layouts and rights of topography, designs; and
- (b) inventions, patents, utility models; and
- (c) trade secrets, know how, confidential information; and
- (d) trade marks, business names, trading styles and get up; and
- (e) any right contemplated by a treaty, convention or instrument administered by or under the auspices of the World Intellectual Property Organisation and includes the right to apply for the registration, grant or other insurance of such rights, titles and interests.

letter of offer means the letter of offer we give you in connection with the merchant services the subject of this agreement. manual equipment means any equipment, excluding electronic equipment, which is used to record a manual transaction. major currencies means those designated as such in your letter of offer or as otherwise agreed between us. manual transaction means a transaction, details of which are recorded manually.

merchant services means the services referred to in clause.

minor currencies means those designated as such in your letter of offer or as otherwise agreed between us.

moto transaction means a credit card or scheme debit card transaction involving an order for goods or services received by you by mail, facsimile, telephone or email.

nominated account means the account referred to in clause 10.1.

nominated card means a type of credit card or debit card as the case may be, details of which are identified as "nominated cards" in the letter of offer.

non-standard card means a type of card (if any) that is accepted by your equipment but is not a nominated card.

notice means any notice, request, consent or any other communication in connection with this agreement.

password means the password which we issue you with so that you can participate in the authentication procedures and includes any later password which is substituted for the original one issued by us.

person includes an individual, firm, body corporate, unincorporated body or association, partnership, joint venture and any government agency or authority.

personal information has the meaning given to that term in the privacy law.

personnel means your employees, agents, advisers, auditors, consultants or contractors.
point of sale transaction is a transaction where the card, cardholder, and you, are all physically present at the time of the transaction.

PIN means the personal identification number allocated by us or personally selected by the account holder.

pre-authorisation means that a transaction that is to be processed at a later time has been authorised up to the value of the proposed transaction.

pre-authorisation receipt means a document used to evidence pre-authorisation.
privacy law means all legislation and principles and industry codes or policies, relating to the collection, use, disclosure, storage and granting of access rights to personal information.

recurring transactions means multiple transactions processed at predetermined intervals, not to exceed one year between transactions, representing an agreement between a cardholder and a merchant to purchase goods or services over a period of time.

relevant law means any:

- (a) statute, ordinance, code or other law including regulations and other instruments under them; and
- (b) any code of practice, guidelines or standards issued by relevant regulators or industry bodies whether or not having the force of law; and
- (c) any card scheme rules applicable to the confidential information, the provision of the merchant services and any other obligations to be performed under this agreement.

remote transaction means a transaction where any of the card, cardholder, or you are not physically present together at the time of the transaction.

SCA means strong customer authentication and refers to a number of technology platforms which enable verification of a cardholder's identity through the use of at least 2 of 3 independent factors based on the something the cardholder knows (like a password), possesses (such as a mobile phone) or is, (including biometric data) and includes any technology which replaces or is replacing an existing technology.

supplementary conditions means the supplement to this agreement containing provisions relating to specialised merchant services or services enhancing the merchant services.
this agreement means all the documents referred to in clause 3.1.

token device means any equipment provided by us for reading cards which are not chip cards

transaction includes a sales transaction, refund transaction and cash transaction.

transaction receipt means a document used to evidence a transaction.

UnionPay means the card scheme known as UnionPay International.

UnionPay card means a debit card or credit card that is branded as a UnionPay card.

UnionPay terminal means an EFTPOS terminal that we have told you can be used to process UnionPay card transactions.

user guide means any guide, manual or instructions provided by us to you to enable you to use the merchant services. voucher means a document used to evidence a manual transaction.

we, our and us refers to Latipay.

you and your means the person or persons named as the addressee in the letter of offer. If there is more than one addressee, you refers to each addressee individually as well as collectively.

your electronic equipment means the electronic equipment controlled, provided, or approved by you to facilitate electronic commerce transactions.

1.2 In this agreement, unless the contrary intention appears:

(a) a reference to:

(i) this agreement, another instrument or any schedule, supplementary conditions or annexure includes any variation or replacement of any of them; and

(ii) a statute, ordinance, code or other law includes regulations and other instruments made under it and any consolidations, amendments, re-enactments or replacements of any of them; and

(iii) the singular includes the plural and vice versa; and

(iv) one gender includes the others; and

(v) a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes (including persons taking by novation); and

(vi) a day is to be interpreted as the period of time commencing at midnight and ending 22 hours later; and

(vii) any thing (including any amount) is a reference to the whole and each part of it, and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and

(viii) a dollar or the symbol “\$” is a reference to Hong Kong or US dollars; and

(b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally; and

(c) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and

(d) the words “including”, “for example” or “such as” are not to be used as, nor interpreted as, words of limitation.

1.3 Headings are inserted for convenience only and do not affect the interpretation of this agreement.

2. Merchant services

Subject to relevant law and this agreement, we will provide you with the merchant services as varied by us from time to time, described in the letter of offer, this agreement, the supplementary conditions and in any other agreement for specific merchant services that we enter into with you from time to time.

3. Your obligations

General obligations

3.1 You must comply with, and pay any fees that apply to you in relation to:

(a) these general terms and conditions; and

(b) the letter of offer signed or accepted by you; and

(c) the merchant user guide and any merchant services guide, manual or instructions provided by us to you for the purposes of this agreement, whether specifically mentioned in this agreement or not; and

(d) the terms and conditions relating to any specific merchant services whether or not contained in this or another agreement, including those in the supplementary conditions; and

3.2 To the extent of any inconsistency between the documents or provisions referred to in clause 3.1, the following rules shall apply:

(a) the letter of offer prevails over all other documents; and

(b) the terms and conditions for specific merchant services including those contained in the supplementary conditions prevail over these general terms and conditions; and

(c) these general terms and conditions prevail over the remaining documents.

3.4 You must:

(a) promptly notify us of any change to your financial position which may affect your ability to perform your obligations under this agreement; and

(b) promptly notify us of any change in your place of business

(c) not change your business name without giving us prior notice and not substantially change the type of goods and services you sell without our prior written consent; and

(d) inform us of, and seek our consent prior to any change in control of your business; and

(e) only process sale transactions where you are the seller and supplier of those goods and/or services; and

(f) not process transactions on behalf of a third party. For the avoidance of doubt, this includes not processing payments for goods or services sold on another person's website; and

(g) allow our employees, contractors or agents or those of any card scheme reasonable access to your premises during normal business hours to check your compliance with this agreement or for the purposes of the relevant card scheme rules; and

(h) provide us with all information and assistance we reasonably require to perform our obligations and to deal with any

queries in relation to our provision of the merchant services; and

(i) observe and implement the fraud prevention procedures from any fraud prevention material we provide you including fraud prevention packs, fraud prevention videos and fraud prevention fliers. You must also observe and implement any fraud prevention techniques demonstrated to you by us in any training sessions.

UnionPay card terms and conditions

3.5 Consistent with clause 3.2, this clause prevails over any other inconsistent provisions of this agreement. You agree that:

(a) You will follow the prompts on your terminal for any UnionPay card transaction

(b) UnionPay card transactions have a floor limit of zero and can only be processed and authorised electronically not manually or in fallback mode; and

- (c) a UnionPay card can only be processed on a UnionPay terminal by swiping the card through that terminal in the presence of the UnionPay cardholder; and
- (d) pre-authorisations on a UnionPay cards must be evidenced by the UnionPay card holder signing a pre- authorisation receipt or a transaction receipt as applicable; and.
- (e) a UnionPay card transaction can only be refunded if:
 - (i) the transaction is refunded to the UnionPay card used in the original sales transaction and in the presence of the UnionPay cardholder; and
 - (ii) the UnionPay card holder used their PIN and signed the transaction receipt in both the original UnionPay card transaction and the refund transaction; and
 - (iii) details of the original sales transaction match the details of the refund transaction; and
 - (iv) any other requirements set out in the UnionPay User Guide have been followed; and
- (f) a UnionPay card transaction must not be processed to give the UnionPay cardholder cash; and
- (g) if the transaction involves the delivery of goods or services you must retain evidence of that delivery by, amongst other things, retaining a copy of the delivery invoice noting expected delivery date on the original copy; and
- (h) a UnionPay card holder must enter their PIN in connection with a debit transaction but subject to clause 3.4(d)(ii) asking for a PIN is otherwise optional.

Data security standards

3.6 You acknowledge and agree:

- (a) you must protect stored cardholder data, regardless of the method used to store such data. Data storage also includes physical storage and security of cardholder data. Some examples of other data storage which must be secured include an access or excel database and hard copy files. Storage should be kept to the minimum required for business, legal, and/or regulatory purposes; and
- (b) you must not store the personal identification number (PIN), sensitive authentication or card verification data after authorization (even if encrypted); and
- (c) if you use a service provider who stores or transmits cardholder data, you are responsible for ensuring the security of that data; and
- (d) if we tell you that you must comply with the Payment Card Industry Data Security Standards, you must, at your cost, successfully complete the protocols for PCIDSS within the time frame stipulated by us or the card schemes. You acknowledge and agree that if you fail to do so:
 - (i) we may terminate the merchant services; and

(ii) you are liable for any fine imposed upon us by the card schemes as a result of your failure to comply; and

(iii) you are liable for any penalties which the card schemes levy in the event that you suffer a card data compromise incident, and have not complied with the PCIDSS Accreditation program; and

(e) you agree to comply with any guides, manuals or materials made available to you for the purposes of this agreement via our website, and any material published via Latipay as amended from time to time; and

(f) you agree that any software or hardware you purchase, create or otherwise utilise for the purpose of selling goods or services online does not retain its original password before installing a system on your network which is used for the acceptance of card payments or other security parameters. You agree that all passwords are changed on a regular basis; and

(g) you grant enduring right for Latipay to contact any Service Providers that enable you to acquire credit card transactions. This clause is limited to the purpose of determining the extent of a data breach, assessing remedies for that data breach and assessing the level of compliance with PCIDSS; and

(h) Latipay is obliged to report all data breach events to card schemes or any person involved in any card scheme, law enforcement agencies and or regulatory agency whether or not we have been requested by that agency to provide that information. You grant irrevocable and enduring consent for Latipay to release details of any such data breach to the aforementioned bodies; and

(i) if you have suffered a data breach you must notify Latipay within 22 hours and give Latipay and its agents full access to your systems and databases to facilitate a forensic analysis to ascertain:

(A) what data has been compromised and how; and

(B) what weaknesses in the system permitted the unauthorised access to the data base, disclosure or loss of data from the data base or of any device containing data; and

(C) whether data was created, deleted, altered, copied or manipulated in any manner; and

(D) how many cardholders have been affected and the nature of the data accessed, disclosed or lost.

(ii) if you use the services of any external Service Provider, you give Latipay and its agents full access to necessary outsourced components such as data bases and web hosting systems; and

(iii) all costs of the forensic analysis must be paid by you; and

(iv) in order to continue processing card transactions, you must undergo a full Payment Card Industry Data Security Standard ("PCIDSS") accreditation. All costs of this accreditation exercise must be paid by you.

Your duties to cardholders

3.7 Subject to the other provisions of this agreement, you:

- (a) must accept any valid and acceptable nominated card in a transaction; and
- (b) must only send us a sales transaction if the cardholder has received the goods and services from you, unless the cardholder has agreed to receive them later; and
- (c) must not accept a nominated card in a credit card transaction for the purpose of giving a cardholder cash; and
- (d) may accept any valid and acceptable nominated card in a debit card transaction for giving a cardholder cash but you must not charge a fee for this; and
- (e) must not sell, purchase, provide or exchange any information or document relating to a cardholder's account number, or nominated card number, or a transaction, to any person other than:
 - (i) us; and
 - (ii) the agents you use in your business for an approved purpose; and
 - (iii) the card issuer; and
 - (iv) any other person as required by relevant law; and
- (f) must, if you do sell, purchase, provide or exchange any such information referred to in clause 3.7(e), do so in compliance with all relevant law including privacy law; and must destroy any document that is no longer required to be retained, in a manner which makes the information unreadable; and
- (g) must take reasonable steps to ensure that the information and documents mentioned in clause 3.7(e) are protected from misuse and loss and from unauthorised access, modification or disclosure; and
- (h) must not indicate or imply that we or any card scheme endorse any goods or services or refer to a nominated card in stating eligibility for goods, services or any membership; and
- (i) must not accept a nominated card or a transaction which is of a type we have (acting reasonably) previously advised you is not acceptable to us; and
- (j) must provide sufficient training to your employees to ensure you meet your obligations under this agreement; and

(k) must prominently and unequivocally inform the cardholder of your identity at all points of cardholder interaction (including on any relevant web site, promotional material and invoice) so that the cardholder can readily distinguish you from any supplier of goods or services to you or any other third party; and

(l) must provide notice to any cardholder with whom you enter into a transaction that you are responsible for that transaction, including for any goods and services provided, any payment transaction, related service inquiries, dispute resolution and performance of the terms and conditions of the transaction; and

(m) must not unfairly distinguish between issuers of a nominated card when processing a transaction; and

(n) must not refuse to complete a transaction solely because a cardholder refuses to provide additional identification information in circumstances where you do not legitimately require that information and we do not require you to obtain it; and

(o) must, if we have notified you that you can offer cardholders an instalment option:

(i) disclose to them in writing whether the instalment terms limit the goods or services that the cardholder may

purchase. The disclosure must also include the shipping and handling charges and any applicable tax; and

(ii) inform a cardholder not billed in the transaction currency that each instalment amount may vary due to currency conversion rate fluctuations; and

(iii) ensure that the sum of the instalment transaction does not exceed the total price of the goods or services; and

(iv) obtain authorisation for all transactions; and

(v) not add any finance charges to the instalment transaction.

Surcharging

3.8 In respect of surcharging:

(a) you must disclose to a cardholder before a transaction is completed any fee that you will charge for completing the transaction and do it in such a way that allows the transaction to be cancelled, without the cardholder incurring any cost; and

(b) for each card type, the surcharge must not exceed your cost of acceptance including charges made by a third party service provider for that card type; and

(c) when refunding a transaction, you must refund any surcharge charged on the transaction amount. For partial refunds, the surcharge must be pro-rated.

4. Accepting nominated cards

4.1 You must:

- (a) use reasonable care to detect forged or unauthorised signatures or the unauthorised use or forgery of a nominated card; and
- (b) notify us if you become aware of or suspect fraud on the part of a cardholder; and
- (c) not deliberately reduce the value of any one transaction by:
 - (i) splitting a transaction into two or more transactions unless the first represents a deposit and the second the balance owing; or
 - (ii) allowing a cardholder to purchase items separately; and
- (d) establish a fair policy for dealing with refunds and disputes about transactions and include information about that policy on transaction receipts as required by us; and
- (e) only process a transaction as a refund to a cardholder if it is a genuine refund of a previous sale transaction. If you process a refund transaction, the refund must be processed to the same card that was used in the original sales transaction, for the original sale amount, and must not be given in cash or by cheque; and
- (f) not state or set a minimum or maximum amount for a nominated card transaction without our prior written consent; and
- (g) not ask a cardholder to reveal their Personal Identification Number (PIN) or any other secret identifier (other than by discretely entering it on the terminal when prompted to do so); and
- (h) contact us for instructions if the identification of a cardholder or the validity of the nominated card is uncertain; and
- (i) process a quasi-cash transaction (a purchase of goods easily converted into cash such as gaming chips, money orders or foreign cash) as a purchase transaction not a cash out transaction.
- (j) not accept any card in order to process any transaction if that card has been issued to you, a member of your immediate family or issued to another person under the terms of a facility in your name.

Website requirements

4.2 Where you wish to accept payments through your website, you must notify us of the URL and your website must clearly display the following information:

- (a) your business name (and Hong Kong Business Number as applicable) and with our approval the name that best identifies you for the purposes of the website; and
- (b) the address of your approved place of business; and
- (c) your business contact details, including telephone and facsimile numbers and an email address; and
- (d) a complete description of the goods and services available for purchase on your web site with the price advertised in dollars or the price advertised in a foreign currency we have authorised you to process transactions in; and
- (e) a clear statement that your business is Hong Kong domiciled business and that all transactions will be billed in dollars or in the foreign currency we have authorised; and
- (f) details of your return and refund policy, including how a transaction can be cancelled by a cardholder; and
- (g) details of your delivery times for goods and services. Delivery times are to be appropriate for your type of business. If the delivery is to be delayed, the cardholder must be notified of the delay and an option provided to them to obtain a refund; and
- (h) details of any Hong Kong export restrictions (if applicable); and
- (i) details of your privacy policy and how you intend to deal with, or share, personal information obtained from and about the cardholder; and
- (j) a description of the measures you have to maintain the security of:
 - (i) cardholders' account data; and
 - (ii) any other information which, by notice, we require you to display from time to time.

4.3 You must ensure the name of your web-site either corresponds with or otherwise connects with the name appearing on cardholder statements enabling your customers to identify you without confusion.

4.4 If you wish to undertake substantial changes to the payment pages of your web site including any changes which affect authentication, you must give us at least 10 banking days' prior notice. This will enable us to use a test mode while changes are being undertaken. We will not commence the live operation of the merchant services until we have completed acceptance tests of your website and are satisfied that it is compatible with the merchant services.

4.5 You must provide us reasonable access to view, monitor and audit the pages of your website and you must notify us of any change in your website URL.

4.6 Prior to commencing live operation of the merchant services on your web site, you must undertake your own testing in the test mode to ensure:

- (a) transactions are accessible by you through the Internet payments merchant reporting module; and
- (b) any reporting requirements you have are working to your satisfaction, and when we are satisfied all of our operational requirements are met, we will approve you for live operation.

4.7 Your web site payments page must be protected by Secure Sockets Layer or any other form of security method approved by us.

Recurring transactions

4.8 You may only process a transaction as a recurring transaction if:

- (a) you have obtained cardholder permission (either electronically or in hardcopy) to periodically charge for a recurring service; and
- (b) you retain this permission for the duration of the recurring services and make it available to us on request; and
- (c) you provide a simple and accessible online cancellation procedure, if the cardholder request for the goods or services was initially accepted online.

4.9 You must not:

- (a) include partial payment for goods or services purchased in a single transaction; or
- (b) add any additional finance charges on a recurring transaction; or complete a recurring transaction if you receive a decline response or a cancellation notice from the cardholder.

5. Authorisation and authentication

Authorisation

5.1 You must:

- (a) without limiting the remainder of this clause, comply with any authorisation procedures of which we advise you, including those relating to electronic commerce transactions; and
- (b) obtain authorisation from us prior to the relevant transaction:
 - (i) if the transaction is an instalment payment for goods or services; or
 - (ii) as instructed by us through the equipment or otherwise; and

(c) for an electronic commerce transaction, submit the expiration date of the nominated card to us, identify the transaction as an electronic commerce transaction and seek authorisation using the applicable equipment.

5.2 You must seek to recover or retain a nominated card by reasonable, peaceful means when we request you to do so.

You must notify us when you have recovered or retained a nominated card and comply with such further instructions we give you.

5.3 You acknowledge and agree that obtaining authorisation for a transaction is not a guarantee of payment arising from that transaction. An authorisation only confirms that at the time the authorisation was obtained that the card number exists and is valid and the card has not been listed as lost or stolen at the time of the transaction and that the card has sufficient funds to cover the transaction. For example, it does not guarantee that the person using the card is the genuine cardholder or that the card has not been compromised (ie card details improperly obtained or copied). If you have received pre- authorisation, you may cancel it up to thirty days from the time you obtained the pre-authorisation but only if:

(a) the transaction has not yet been processed; and

(b) at the time of cancellation, both the cardholder and the card are present at the time of cancellation; and

(c) the card to be used for the cancellation is the same card that was used in the pre-authorisation.

Electronic Commerce transaction authentication and verification

5.4 In respect of authentication

(a) you acknowledge and agree that to participate in the authentication procedures you must currently be receiving Internet merchant services from us; and

(b) comply with all manuals, guides or directions we or the card schemes give you from time to time regarding the authentication procedures; and

(c) unless we agree otherwise, send us an authentication request each time a cardholder wishes to purchase goods or services from you on your website; and

(d) carry out any additional authorisation procedures which arise out of authenticated transactions and of which we advise you in writing; and

(e) you must not change your payment processing systems, equipment or any bureau you use for the purposes of the authentication procedures unless we have first certified the proposed change to any of them; and

(f) if you send us an authentication transaction, or a transaction that you attempted to authenticate but couldn't with the confines of the scheme rules because either:

(i) the card issuer isn't a registered participant in authentication or,

(ii) the card issuer did not respond to your authentication request, which we then authorise and process, we will not charge it back to you on the basis that the cardholder claims that they were not the person who purchased goods and services from you on your website; and

(g) Authentication may not prevent you incurring a chargeback which is raised because you accepted an invalid transaction in breach of clause 9.

(h) the procedures relating to authentication have been established by the card schemes and may be varied by them from

time to time. You agree to comply promptly with any new or different requirements of which we notify you; and

(i) we may decide to terminate or suspend your participation in authentication at any time. We will endeavor to give you reasonable notice of this decision; and

(j) after termination or during any period of suspension of authentication we will process your transactions as if you had never been a participant in authentication and the usual chargebacks will apply.

(k) If you are experiencing a level of chargebacks which is unacceptable to us, having regard to relevant law or the guidance or requirements of any industry body, we may require that you participate in such authentication or card verification procedures as are reasonably necessary at your cost to reduce your chargebacks to an acceptable level including procedures which incorporate SCA factors. We may also, acting reasonably, require you to implement other measures necessary for chargeback reduction. Failure to do so within a reasonable timeframe as determined by us will be a material breach for the purposes of clause 20.

6. Transaction receipt

6.1 You must prepare a transaction receipt for each transaction (except a recurring transaction where the cardholder has elected not to receive a receipt) in accordance with clause 6.2, but you must not charge a fee for doing so.

6.2 The information contained on the transaction receipt must be identical with any other copy and must legibly include:

(a) the amount, date and time of the transaction; and

- (b) a brief description of the goods or services; and
- (c) details of any cash provided; and
- (d) any special terms or disclosures specified in the quick reference guide relevant to a subscription transaction;
- (e) the currency symbol if it is in a foreign currency; and
- (f) for electronic commerce transactions:
 - (i) the merchant's name most recognisable to the cardholder; and
 - (ii) contact information for service enquiries; and
 - (iii) terms and conditions of sale, if restricted; and
 - (iv) exact date free trial ends, if offered; and
 - (v) cancellation policy; and
 - (vi) web site address; and
- (g) any other information we advise you is required including any special terms or disclosures specified in the quick reference guide relevant to a subscription service.

6.3 You must give the cardholder a copy of the transaction receipt:

- (a) immediately after completing the transaction; and
- (b) for a remote transaction as soon as possible following their request unless it is generated automatically.

6.4 You must not require a cardholder to sign a transaction receipt or voucher until the final transaction amount is entered on the transaction receipt or voucher.

6.5 For at least 16 months after a transaction, you must retain:

- (a) for a point of sale transaction, the original transaction receipt; or
- (b) for a remote transaction the transaction receipt and any document that is evidence of the cardholder's request to you to charge amounts through the nominated card.

6.6. You must provide us with the transaction receipt and any other required evidence of the transaction within seven days if we ask for it. If you fail to do so to our satisfaction, we may

charge a sales transaction back to you if the amount cannot be collected from the cardholder.

6.7 You agree to allow us to examine your books of account or records relating to any transaction.

7. Processing transactions

7.1 We have no liability for any information given to us until we are satisfied it has been received in accordance with this agreement.

7.2 You must give us information about a transaction:

- (a) by entering the transaction immediately if you are using live equipment;
- (b) within the time frames we specify from time to time in relation to other transaction methods.

7.3 In giving us information on a transaction or otherwise for the purposes of this agreement, you must ensure that:

- (a) all the particulars are true; and
- (b) the transaction is valid and acceptable; and
- (c) the cardholder is not disputing the transaction or making a set-off or counterclaim.

7.4 In giving us the information on a transaction you give us an irrevocable order to act in relation to that information in accordance with this agreement.

7.5 You must give us information about a transaction only in the form and using a method approved by us for your use.

7.6 In addition to any other information you are required to give us about a transaction, you must separately and uniquely identify any transaction that we have previously advised you is a high-risk transaction.

8. Using a bureau

8.1 If you choose to use a bureau in connection with the transmission of information including any information in connection with authentication to us, you must:

- (a) notify us in writing before you commence using, or change your bureau; and
- (b) give us such information as we may reasonably require in relation to that bureau; and

- (c) only use a bureau that we have approved; and
- (d) ensure that any bureau you use has and maintains a bureau certification agreement or any other agreement we require with us; and
- (e) only use a bureau where that bureau is registered as a third party processor with the card schemes.

8.2 Any bureau you use is at your cost and risk.

8.3 You acknowledge and agree that we are not responsible for any losses, claims, damages, costs, terms or expenses suffered by you (including consequential loss) arising from or in connection with any act or failure to act by your bureau in connection with a transaction or the merchant services.

8.4 If you use a bureau to inform us about transactions, we may rely on any information or instruction that we receive as if that information or instruction was received from you.

8.5 This also applies to any information we process in reliance on the information received from the bureau on your behalf.

8.6 Should a bureau cease operating cease to be registered or cease to be approved by us we will no longer accept transactions sent by that bureau. Further, we will not be responsible for any ongoing costs, including migration which will be your responsibility.

9. Invalid or unacceptable transactions

9.1 A transaction is not valid if:

- (a) the transaction is illegal; or
- (b) the signature on the voucher, transaction receipt or authority is forged or unauthorised; or
- (c) the transaction is before or after any validity period indicated on the nominated card; or
- (d) we have told you not to accept the nominated card; or
- (e) the transaction is not authorised by the cardholder; or
- (f) the particulars on the copy of the voucher or transaction receipt given to the cardholder are not identical with the particulars on any other copy; or

- (g) you did not actually supply the goods, services or cash to a genuine customer as required by the terms of the transaction, or have indicated your intention not to do so; or
- (h) the transaction did not relate to the actual sale of goods or services to a genuine customer; or
- (i) the goods, services or cash were supplied outside Hong Kong without our consent; or
- (j) the transaction is offered, recorded or billed in a currency we have not authorised you to accept; or
- (k) this agreement was terminated before the date of the transaction; or
- (l) you have not complied with your obligations in clause 3.7; or
- (m) the details are keyed into electronic equipment and you did not legibly record on a transaction receipt the information required by clause 6.2; or
- (n) it is a point of sale transaction in which the nominated card was not presented; or
- (o) it is a remote transaction and you did not record the required details for the transaction; or
- (p) it is a debit card transaction in which you charged a cardholder a fee for the provision of cash; or
- (q) it is a credit card transaction in which:
 - (i) the amount of the transaction or transactions on the same occasion is more than your applicable floor limit unless you obtained authorisation from us; or
 - (ii) you collected or refinanced an existing debt including, without limitation, the collection of a dishonoured cheque or payment for previous card charges; or
- (r) it is an off-line debit transaction in which the amount of the transaction or transactions on the same occasion is more than your applicable floor limit for an off-line debit transaction, unless you obtained authorisation from us; or
- (s) it occurs during a period in which your rights under this agreement were suspended under clause 20.3 or after this agreement was terminated; or
- (t) you cannot give a transaction receipt as required by clause 6.1.

9.2. At our election, a transaction for a sale, refund or provision of cash is not acceptable if:

- (a) the cardholder disputes liability for the transaction for any reason or makes a claim for set-off or a counterclaim; or
- (b) it is of a class which we, acting reasonably, have previously notified you is not acceptable.

9.3. You acknowledge and agree that we may:

- (a) refuse to accept a transaction if it is invalid or unacceptable, or may charge it back to you if we have already processed it even if we have given you an authorisation (either electronically or by telephone); and
- (b) reverse a sales transaction as a chargeback for any of the reasons in clause 9.1 or any other reason we notify you of from time to time; and
- (c) without limiting the above, delay, block, freeze or refuse to accept any transaction, make any payment, or cease to provide the merchant services in whole or in part where have reasonable grounds to believe that failing to do so would breach Hong Kong law or sanctions or the laws or sanctions of any other country.

10. Settlement of transactions and your nominated account

10.1 You must have at least one account with us for recording transactions in dollars unless we agree otherwise.

10.2 If we have agreed with you to process transactions in foreign currency you must have an account for recording foreign

currency transactions.

10.3 The terms of this clause vary the terms that would otherwise govern your nominated account,

10.4 Under normal conditions we will pay to your nominated account the amount of all valid and acceptable sales and cash transactions processed by you and settled by us in the agreed currency or dollars as applicable within 5 banking days.

10.5 In respect of major currencies:

(a) if you send us a transaction in a major currency we will, subject to this clause, process and settle it to your Latipay foreign currency account held in that currency without conversion. If you send us a major currency transaction which we are unable to process for any reason we will convert the transaction to Hong Kong or US dollars and settle it manually to your nominated account (held in Hong Kong or US dollars). We may charge you the conversion fee.

(b) subject to sub-clause (c) below, refunds of major currency transactions are ordinarily settled to your foreign currency account in the appropriate currency so no conversion is applied. However, adverse movements in exchange rates may affect the value of the original transaction.

(c) if there are insufficient funds in your foreign currency account or you are otherwise unable to process a refund for any reason and we agree to process it for you, you acknowledge that we will perform the refund in Hong Kong or US dollars, using the Hong

Kong or US dollar equivalent of the original transaction value (converted as at the date of the original transaction, using rates supplied by a currency provider of our choice. You agree that we may access your Hong Kong or US dollar nominated account or any other foreign currency accounts you may hold with us to fund all or part of the refund.

(d) any chargebacks will be processed in Hong Kong or US dollars to your nominated Hong Kong or US dollar account, using the Hong Kong or US dollar equivalent of the original transaction value (converted as at the date of the original transaction, using rates supplied by the Currency provider).

(e) you should inform your customer that they may incur a foreign currency conversion fee in connection with a foreign currency transaction or in the event that the chargeback or refund processed by us is subsequently converted from Hong Kong or US dollars to the cardholder's domestic currency (e.g. by a card scheme or the card issuer).

10.6 In respect of minor currencies:

(a) if you send us a minor currency transaction the card schemes will convert it into Hong Kong or US dollars using their standard exchange rates at the time of the sale or refund conversion.

(b) minor currency refunds and chargebacks will be processed in Hong Kong or US dollars and debited against your Hong Kong or US dollar nominated account. You should inform your customer that they may incur a foreign currency conversion fee in the event that the chargeback or refund processed by us is subsequently converted from Hong Kong or US dollars to the cardholder's domestic currency (e.g. by a card scheme or the card issuer).

(c) From time to time one or more of the card schemes may determine (not necessarily after due notice) that a currency is no longer an authorised currency. In this event that currency ceases to be an authorised currency. If we receive a transaction from you in a currency which has ceased to be an authorised currency, but before we have been able to give you notice of the change, we will convert the transaction and process it in Hong Kong or US dollars without charging you a conversion fee.

(d) You may request in writing that additional currencies be designated as authorised currencies. We may approve or not approve this request at our discretion and notify you in writing accordingly.

(e) We may in our absolute discretion and at any time:

(i) suspend or terminate the entire multi-currency merchant services; or

(ii) withdraw our consent to processing foreign currency transactions in all or any of the authorized currencies. We may determine to do so for any reason whatsoever including but not limited to:

(iii) any change in relevant law; or

(iv) any change in national or international financial, political or economic conditions, currency exchange rates, currency availability or exchange controls; or

(v) any event or contingency which materially and adversely affects the interbank markets, the banking system or us generally.

(f) Where currency conversion is at rates used by the card schemes or supplied by Currency providers, we will not be aware of the applicable rates at the time of conversion and so cannot advise you of them. Please talk to us if you would like more information about this.

10.7 We will also debit your nominated account with the amount of all valid and acceptable refund transactions and chargebacks in the agreed currency or dollars as applicable.

10.8 Each month we will make available details of the amount of all transactions processed in the previous month. You must promptly review your statement and should raise any query within 3 months of the date of payment or the due date for payment. We may charge an investigation fee.

10.9 If you process a transaction, including a refund or chargeback in a foreign currency, other than one in respect of which we have an agreement with you, we will process it in dollars at a conversion rate determined by us.

10.10 You must use your nominated account primarily for business purposes.

Nominated accounts subject to fixed balance security

10.11 We may, having regard to our assessment of the risk to us in providing the merchant services to you, at any time decide that a nominated account is subject to or no longer subject to a minimum non-withdrawable balance (fixed balance) and the amount of that fixed balance. The fixed balance may represent the whole or any part of the funds in your nominated account.

10.12 A decision made under clause 10.11 will take immediate effect without notice to you. You will be notified in writing of our decision as soon as practicable after it being made.

10.13 Once a fixed balance has been imposed you cannot, without our written consent, substitute another account for the nominated account.

10.14 Once we have imposed a fixed limit on your nominated account you will be unable to withdraw funds other than any amounts which exceed that balance until we notify you in writing that we have determined that the fixed balance no longer applies.

10.15 We may reset the fixed balance by increasing or decreasing it at any time as many times as we determine to be necessary.

10.14 Without limiting our discretion in any respect, the amount of the fixed balance from time to time may be determined having regard to the following:

- (a) the volume or value of transactions processed; and
- (b) the nature of your business or of the industry in which your business operates including rates of chargebacks typical of that industry; and
- (c) your history of chargebacks, refunds and other transactions including disputed transactions; and
- (d) the future dated risk (payment received some time before goods or services delivered), associated with the goods and services you provide; and
- (e) the imposition, or potential for imposition, of fines levied on us by card schemes or an industry body because of your conduct or omission and the amount of those fines; and
- (f) the fees, charges and other payments you owe or may come to owe us under clause 13.2.

10.15 We will not lift the fixed balance from your nominated account until your entire liability to us whether actual or contingent has been satisfied in full. We are under no obligation to provide alternative financial accommodation in the interim.

10.16 You agree that the nominated account is not intended to be a 'circulating asset' for the purpose of the PPSA.

10.17 Nothing in this clause 10:

- (a) affects our ability to exercise any rights of set-off arising by relevant law, this agreement or the terms of the nominated account; or
- (b) is intended to create a charge.

10.18 Whether or not we have imposed a fixed balance if, due to increased transaction volumes, chargebacks, a change in the ownership of your business or in the nature of your business or the types of transactions you process, the risk we assume in providing the merchant services increases we may as a condition of continuing to provide the merchant services to you, require a guarantee and indemnity and or security over property of a type and value to be reasonably determined by us. If we take a charge in these circumstances or as a condition of approval we would not release until the expiration of 160 days to ensure that the secured chargeback liability had expired.

10.19 If your nominated account is held with another financial institution you irrevocably appoint any one of our employees whose title includes the words "head of" or "manager" as attorney and or agent to:

- (a) do any of the things you are obliged to do under this agreement with respect to your nominated account; and
- (b) request that the financial institution at which your nominated account is held to immediately advise us of:
 - (i) the balance of the nominated account; and
 - (ii) any steps you take to close the nominated account, subject it to any form of security; and
 - (iii) any action taken by any creditors with respect to its value; and
- (c) exercise any of these rights and entitlements pursuant to any direct debit request you have signed in our favour.

11. Non-standard cards

11.1 We agree to facilitate the transmission of non-standard card transaction information between you and certain non- standard card issuers provided that:

- (a) we are satisfied that you and the relevant non-standard card issuer can receive and participate properly in such transmission; and
- (b) you have given us your current merchant numbers for each of the relevant non-standard card issuers.

11.2 To accept non-standard cards, you must contact and establish a separate agreement with the card issuer.

11.3 We accept no responsibility for your acceptance of any non-standard cards, whether you do so with equipment supplied by us or otherwise.

12. Promotional material and advertising

12.1 You agree that we may publish or advertise your acceptance of and the manner in which you can accept nominated cards to current and potential cardholders.

12.2 You agree that we may publish promotional material relating to our products and services and material relating to product and services from other providers.

12.3 You must:

(a) display promotional material we supply you prominently at the point of sale at each of your business premises and on any web site you maintain to indicate you accept nominated cards for transactions except where we agree otherwise; and

(b) use advertising and promotional material for the nominated cards or which show a card scheme logo or mark only with our consent and in the manner we approve.

13. Costs, fees and other payments

13.1 You must pay us the amounts listed in clause 13.2.

13.2 You authorise us to withdraw, without notice, the following amounts from any account you have with us (including your nominated account):

(a) all fees, charges and costs in connection with the merchant services and any use of equipment as set out in the letter of offer; and

(b) any amount you owe us for a refund transaction which was paid to you, but which was not a valid or acceptable transaction; and

(c) all over-credits paid by us on sales and cash transactions due to errors or omissions; and

(d) all credits paid by us on sales and cash transactions which we have determined to chargeback under clause 9.3; and

(e) all stamp duties, taxes, and other government charges levied on the merchant services, equipment we supply, your accounts with us and this agreement; and

(f) any amounts found to be due to us during an audit or check by us; and

(g) all fees, charges and costs agreed to be paid to us for the processing of information in connection with a loyalty program; and

(h) all fines, penalties, or similar costs (however described) imposed on us by card schemes or because of your conduct in relation to the merchant services including where your conduct results in an unacceptable rate of chargebacks or because you failed to comply with the Data Security Standards or any other provision of this agreement. An unacceptable rate of chargebacks includes one which is declared unacceptable under card scheme rules or relevant law; and

(i) all costs, charges and expenses of any description incurred by us or any person referred to in clause 3.4(g) in connection with this agreement including our administration costs and the amount of any charges and disbursements for legal advice and assistance to us on a full indemnity basis or solicitor and client basis, whichever is the higher; and

(j) all other amounts you owe us under this agreement.

13.3 You must pay on demand from us any balance that remains unpaid because there are insufficient funds in your nominated account to pay the amounts due under clause 13.2.

13.4 We may vary existing fees or introduce new fees relating to this agreement at any time either in writing or by advertising in the national or local press.

13.5 If we require it, you must provide us with an authority and request in a form, and subject to terms and conditions we require, to direct debit your nominated account at another institution with the amounts referred to in this clause.

13.6 Unless otherwise specified, all fees payable under or in connection with this agreement are inclusive of GST.

13.7 If GST is imposed on the merchant services supplied by us under or in connection with this agreement, where any amount or consideration ("consideration") payable or to be provided by or on behalf of you under or in connection with this agreement in relation to the merchant services is exclusive of GST ("GST-exclusive consideration"), we may in addition to that GST-exclusive consideration, recover from you, or from a person acting on your behalf, an additional amount on account of GST.

13.8 The additional amount described in clause 14.7 is to be calculated by multiplying the GST-exclusive consideration for the relevant supply, by the GST rate prevailing at the time of the supply.

13.9 Any additional amount on account of GST recoverable from you under clause 13.7 shall be calculated without any deduction or set-off of any other amount.

14. Intellectual property

Ownership of intellectual property

14.1 Subject to the remainder of this clause, you acknowledge that all intellectual property rights subsisting in the materials provided by us or developed by or for us in relation to this agreement, vests in us and is our property including:

- (a) cardholder detail lists (whether personalised or not) and the promotional material we supply you; and
- (b) any trade mark, business name, trading style or get up; and
- (c) any computer program; and
- (d) any report, file, script, inventory, database, record or information required to be created, maintained or provided by you pursuant to, this agreement.

14.2 At our reasonable request, you undertake to swear all oaths, make all declarations, execute all documents and do all other things necessary to vest in us any intellectual property rights in which we have right, title and interest.

14.3 Without limiting the generality of the remainder of this agreement, you must not, without our consent:

- (a) use or alter our trade marks, business names, trading styles or get ups whether as part of your corporate or business name or on or in relation to any goods or services; or
- (b) reproduce or modify any of our computer programs; or

14.4 merge any report, file, script, inventory, database, record or information referred to in clause 14.1 (d) in or with any other information that is held by you and that is not obtained or generated by you. If we allow you to use one of our trade marks, business names, trading styles or get ups, we grant you a royalty-free, non-exclusive licence during the term of this agreement or for any shorter period that we specify. This licence will allow you to use that trade mark, business name, trading style or get up (as the case may be) in the manner and form which we notify you from time to time solely for the purposes of this agreement.

14.5 On termination of this agreement and at our request and cost, you will assign to us or our nominee all intellectual property rights in and to:

- (a) all software designed specifically for; and
- (b) all modifications, enhancements and application development undertaken by you to software specifically for the purposes of, the merchant services.

14.6 You acknowledge and agree that:

- (a) the card scheme logos, names and holograms and all intellectual property rights subsisting in those logos, names and holograms belongs to, and is or will be, vested in the card scheme; and
- (b) all rights, titles and interests in our trade marks and any intellectual property subsisting in them belongs to and is or will be vested in us and our related bodies corporate; and
- (c) all goodwill arising from the use of our trade marks, business names, trading styles or get ups pursuant to this agreement is for the benefit of us and is and will remain vested in us and our related bodies corporate.

15. Indemnity and set-off

15.1 You agree to indemnify us for all losses and liabilities we incur because:

- (a) you breach an obligation that you have under this agreement; or
- (b) of any dispute between you and a cardholder over a transaction; or

(c) of any wilful default, negligence, fraud, act or omission by you or any of your agents or representatives relating to this agreement; or

(d) of any infringement by you or your agents or representatives of another person's intellectual property rights; or

(e) we process or effect any part of or step relating to a transaction in a foreign currency, except to the extent that we have contributed to the loss or liability through our own negligence, breach or misconduct; or

(f) there are excessive chargebacks or fraudulent transactions, as determined by the card schemes or an industry body.

15.2 Subject to the other provisions of this agreement, we agree to indemnify you for any amounts processed in accordance with this agreement, keyed in properly into electronic equipment (where appropriate) and accepted as valid by our electronic banking system, but not paid into your nominated account.

15.3 We need not incur any expense nor make any payment before enforcing a right of indemnity conferred by this agreement.

15.4 This indemnity survives termination of this agreement.

15.5 If you have any liability to us under this clause or any other part of this agreement, we may set off that liability against any liability we have to you.

16. Limitation of liability

16.1 We try to maintain your facility, including all equipment and systems in good working order and with as little downtime as possible. However, there may be times where, due to technology issues or scheduled maintenance, you are unable to process transactions or experience slower transaction response times than usual. We recommend you have a backup payment method in place for when this occurs.

16.2 Except where due to our wilful breach or wilful misconduct, we are not liable for any loss you incur if any part of the merchant services or any equipment we or others supply is not working properly or you can't process transactions for any reason.

16.3 If the equipment that we have supplied you is defective, our liability under any applicable consumer guarantees or implied warranties will be limited to the cost of repairing or replacing the equipment.

Neither party will be liable to the other for any consequential or indirect loss however caused.

17. Confidential information and privacy

17.1 You:

- (a) must keep any confidential information confidential; and
- (b) may use the confidential information but only in relation to this agreement; and
- (c) may disclose the confidential information to enable you to perform your obligations under this agreement but only to your permitted personnel to the extent that they have a need to know; and
- (d) must not copy the confidential information or any part of it other than as strictly necessary for the purposes of this agreement and must mark if required by us any such copy "Confidential – Latipay".

17.2 On termination or expiry of this agreement, or earlier on reasonable request by us, you must promptly return to us or destroy any or all copies of confidential information, in which case any right to use, copy and disclose that confidential information ceases.

17.3 Your obligations under this clause continue indefinitely in relation to confidential information, even if that confidential information is returned to us or destroyed, or this agreement expires or is terminated.

17.4. This clause 17 does not apply to the extent that you are obliged by relevant law to disclose the confidential information. If you are so obliged to disclose any confidential information, you must before doing so at our reasonable cost notify us (if permitted by law) of the impending disclosure and inform the person to whom the disclosure is to be made that the information is confidential.

17.5 When you collect personal information about a cardholder you must treat that information in accordance with privacy law and any other relevant law of which we notify you from time to time.

17.6 You acknowledge and agree that:

- (a) we may obtain from any card scheme or a person who is involved in any card scheme; information about your merchant history or personal information about you, a related body corporate or your personnel for any purpose relating to the operation of those card schemes. This could include, for example, information relating to previous services that are similar to the merchant services; and
- (b) we can use information about your merchant history and your personal information and information about your personnel or a related body corporate, including information about you collected from third parties to assess and process your merchant application; and
- (c) we can disclose information about your merchant history, a data breach or relevant personal information in the following circumstances:

(i) to any card scheme, industry body (including the Hong Kong Payments Network), or any person who is involved in any card scheme or industry body, information about you for any purpose related to the operation of those schemes, card fraud detection agencies (including information about termination of merchant services and reason(s) for

termination of merchant services); and

(ii) where the relevant law or any card scheme requires us to do so; and

(iii) where we have reasonable grounds to believe that either you are involved in dishonest or criminal activity, are a victim of such activity, may have information relevant to an inquiry into such activity or have experienced a data breach, to any state or federal law enforcement or regulatory agency whether or not we have been requested by that agency to provide such information; and

(d) in addition to possible disclosure to the countries specified in Latipay's Privacy Policy, your personal information may be transmitted to backup servers; and

(e) we can disclose your information to any related entities of ours and to any outsourced service providers engaged by us (for example, terminal suppliers, mail houses, debt collection agencies (where necessary) or data analytics providers); and

(f) you may request details of confidential information we hold about you and correct any inaccuracies.

(g) we are bound by card scheme rules which make all correspondence and discussions between card schemes and us private and confidential and you are not entitled to participate in or otherwise request a copy of such correspondence.

17.7 You must ensure that your personnel comply with the provisions of this clause. 18.8. This clause survives termination of this agreement.

18. Variation and new services

18.1 When we can vary this agreement

We may make changes to any provision of this agreement from time to time. We can make changes without your consent under this clause 18. We promise to act reasonably when we make any changes and give you notice of any change, as set out in clause 18.4 ("Notice periods for changes to this agreement") below. The changes we can make include:

(a) withdrawing an existing merchant service, introducing new merchant Services, or replacing one or more of your existing merchant services with an existing or a new merchant service; or

(b) introducing a new fee or charge; or

- (c) varying the amount of an existing fee or charge, how it is calculated or when it is billed; or
- (d) varying the amount of an interest rate or how it is calculated; or
- (e) replacing, suspending or ceasing merchant services, or making other changes to this agreement:
 - I. where necessary to comply with changes in relevant law; or
 - II. where necessary to deal with significant fraud or security issues;
 - III. to reflect changes made by card schemes or other payment service providers or relevant service providers, or changes to our business or technological systems; or
 - IV. that are administrative or minor, that correct mistakes or omissions, or that we reasonably believe that you will benefit from.
- f) any other change we consider to be necessary or reasonable in the circumstances.

18.2 Notice of a new or replacement Merchant Service

- (a) We may introduce new merchant services from time to time.
- (b) When we introduce a new merchant service, we may give you advance notice, but this will not always be the case.
- (c) If however, the new merchant service replaces one of your existing merchant services, we will give you notice in accordance with clause 18.4 ("Notice periods for changes to this agreement") below
- (d) We may post details of any new or replacement merchant services on the Latipay website, including any new terms and conditions which apply to the Latipay website
- (e) You will be taken to have accepted the terms and conditions applying to any new or replacement merchant service when you download, use or access that merchant service for the first time (unless otherwise specified in any specific terms and conditions for that new or replacement merchant service).
- (f) You may need a new Offer before you can use a new merchant service.

18.3 Where any variation made by us has, or would have, an adverse impact on you, you may terminate this agreement,

18.4 Notice periods for changes to this agreement

We will notify you of changes to this agreement as follows and using the methods specified in clause 24 Notices:

Type of Change	Time frame
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Change which we believe are unfavourable to you

At least 28 days before the change takes effect.

However, we may give a shorter notice period or no notice if we believe it is necessary to avoid or reduce a material increase in our credit risk or loss.

Changes to interest rates

No later than the day the change takes effect, except where the interest rate is not set by us (such as a money market rate) in which case notice will be given in writing or by media advertisement within a reasonable period of the change being made, unless another entity has publicised the change.

Changes to government fees and charges

Reasonably promptly after the government notifies us of the change. However, we do not have to notify you if the government publicises the introduction of the change.

19. Representations and warranties

19.1 You represent and warrant to us that:

- (a) you are duly authorised to enter into this agreement and the obligations under this agreement are valid, binding and enforceable in accordance with its terms; and
- (b) if you are an incorporated body, you validly exist under the laws of your place of incorporation and have the power and authority to carry on your business as that business is now being conducted and using any name under which that business is being conducted; and
- (c) if you, a related body corporate or any officer, employee or agent of you or a related body corporate has at any time been listed on a database of terminated merchants maintained by any card scheme or have otherwise had merchant services terminated by another acquiring bank, you have disclosed that fact to us.

19.2 The representations and warranties set out in this clause 19 will be deemed to be repeated each day after the date you enter into this agreement.

19.3 If you have entered this agreement in your capacity as a trustee of any trust you confirm the following in relation to that trust:

- (a) the trust is validly formed and relevant documents comply with the relevant law; and
- (b) any copy of the trust document you have given us is a true and complete copy and discloses everything about the trust; and
- (c) you are and will remain properly appointed as the only trustee of the trust; and
- (d) there is currently no breach of the terms of the trust; and
- (e) you have and will do nothing to put at risk a full right of indemnity from the trust assets in respect of liability that has arisen or might arise under this agreement; and
- (f) this agreement and the transactions entered into under it are for proper trust purposes; and
- (g) you have done everything required under the trust document to enter into this agreement and the transactions it contemplates; and
- (h) none of the trust assets has or will be resettled or set aside; and
- (i) the trust has not terminated nor has any event for the vesting of the assets occurred.

20. Term, termination and suspension

20.1 This agreement commences on the date you accept our letter of offer and continues until terminated.

20.2 Either party may terminate this agreement for convenience at any time, upon 60 days' written notice to the other party.

20.3 You must stop accepting a nominated card immediately if:

- (a) we give you notice to do so; or
- (b) this agreement terminates.

20.4 We may suspend or terminate or suspend then terminate this agreement in whole or part at any time upon notice to you if:

- (a) you commit a material breach of this agreement which is incapable of being cured; or
- (b) you commit a material breach which is capable of remedy, but you fail to remedy the breach within 7 days of notice from requiring you to do so;

- (c) you are engaged in activity which exposes us or has exposed us to potential fines or penalties imposed under relevant law; or
- (d) you have in our reasonable opinion engaged in or are engaging in dishonest activity in connection with the merchant services; or
- (e) we suspect that your equipment or facility is being targeted by persons engaged in fraudulent or dishonest activity whether with or without your knowledge; or
- (f) your merchant services are the subject of a direction made under relevant law that your merchant services be suspended or terminated; or
- (g) you have experienced a material adverse change in financial circumstances; or
- (h) we have material concerns about your solvency or if you become bankrupt or insolvent or are subject to any form of insolvency administration or a resolution is passed or an order is made for winding up; or
- (i) you have a significant adverse credit event recorded against you; or
- (j) you or any service provider that you use in connection with your merchant services has suffered a data breach; or
- (k) you are in breach of any other agreement that you have with us and (if applicable) have not remedied the breach within any grace period allowed; or
- (l) you do not process any transactions for a continuous period of 6 months and you do not advise us that you still require the merchant services; or
- (m) for any other reason, in our reasonable opinion continuing to provide you with the merchant services would put us at risk.

The notice does not have to state a reason. The period of notice given will be determined by the risk that continuing to provide merchant services to you presents to us (and termination may be made effective immediately) but will, in any event, be no longer than 28 days. If we are unsuccessful in contacting you, we can still choose to terminate the facility, however, we will give you subsequent written confirmation that the facility has been terminated.

20.5 Where required by card schemes, you authorise us to disclose to any card scheme advice of termination of the merchant agreement and the reasons for the termination. You acknowledge that the information concerning termination of the merchant agreement then becomes available to any member of the card schemes. This information may be used in assessing subsequent applications for merchant facilities.

20.6 The ending (including by expiration of the term of this agreement or by termination by us) or suspension of this agreement or any part of it, does not affect any of your or our rights and obligations which arose before it ended or was suspended.

This includes our right to chargeback transactions and our right to recover accrued fees, charges and costs.

20.7 When this agreement ends for any reason you must:

- (a) not process any further transactions;
- (b) pay any outstanding fees, charges or costs due to us under this agreement;
- (c) continue to reimburse us for any fees, charges costs or chargebacks or other losses we incur;
- (d) maintain an account for 160 days so that we can continue to charge fees and process chargebacks to your account;
- (e) return to us within 14 days all equipment supplied by us and any other material that we supplied and specify requires returning; and
- (f) continue to pay rental fees (if applicable) for any equipment supplied by us until you return that equipment to us.

20.8 If a part of this agreement that requires us to supply equipment is ended by you, then you must pay us:

- (a) any fees, charges and costs we have prepaid for services in connection with the equipment; and
- (b) an amount to pay our costs of installation as determined by us if the part ends within 3 years of the equipment being installed.

20.9 You agree that we may disclose to any person the fact that all or part of this agreement or the merchant services has been terminated. You authorise us to disclose information concerning the termination to any credit provider for the purpose of notifying that credit provider of that termination and the reason for it occurring. Termination and subsequent listing of the termination may affect your ability to obtain merchant facilities with another acquirer.

20.10 This clause 20 survives termination of this agreement.

21. Our consent and discretion.

21.1 Any discretion conferred on us under this agreement will be exercised reasonably and in accordance with our legitimate business interests.

22. Cardholder's credit worthiness

22.1 You cannot infer from the fact that a cardholder has been issued with a nominated card, or that a transaction has been processed or an authorisation has been given, that we have guaranteed:

- (a) the cardholder's creditworthiness; or
- (b) the correct identity of the cardholder; or
- (c) that the transaction is valid and acceptable and will not be subsequently charged back or reversed

23. Rights of each party

23.1 You must not assign or charge your rights under this agreement without our consent.

23.2 We may enter this agreement as principal or agent.

23.3 We may assign or otherwise deal with our rights under this agreement or in equipment we own in any way we consider appropriate. We may not give you notice where we reasonably believe the assignment causes no detriment to you. You will have the same rights against an assignee as you do against us. We may disclose any information or document we consider desirable to help us exercise this right at any time to a person to whom we assign or propose to assign our rights.

23.4 We may, without your consent subcontract any of our obligations under this agreement and if we do you must allow access to our subcontractors to your business premises for the purpose of installing equipment or auditing your compliance with this agreement. You will have the same rights against us for any acts performed by a subcontractor on our behalf.

23.5 The rights, powers and remedies which you and we have under this agreement are in addition to the ones provided independently by law (including, without limitation, any rights conferred under trade practices legislation). You and we may exercise the rights, powers and remedies under the relevant law and in equity as well as any of those provided by this agreement

23.6 If you or we do not insist upon or enforce a right arising from a breach of this agreement, that does not mean that you or we have given up or waived that right or any other right arising from that breach or any later breach.

23.7 Nothing contained or implied in this agreement constitutes you as the partner, agent, or legal representative of us for any purpose or creates any partnership, agency or trust, and you have no authority to bind us in any way.

24. Notices

24.1 You agree that we may communicate with you in the following ways and a notice given to you by us is duly given if it is:

- (a) in writing; and
- (b) given personally to the addressee (which, in our case, includes by one of our officers at the address last advised); or
- (c) sent by prepaid post to the address last advised (and until advised otherwise, the address last advised shall be the address
for you and us as indicated in the letter of offer); or
- (d) sent by facsimile to the facsimile number last advised; or
- (e) sent by email to the email address last advised; or
- (f) by being made available at Latipay's website in which case Latipay will promptly notify you by way of statement message or electronic mail to your nominated electronic address that the information is available for retrieval and provide you with the ability to readily retrieve the information (eg. by providing you with a link to Latipay's website).
- (g) By being made available on Latipay HUB if that forms part of your merchant services, at the relevant time.

24.2 A notice given by you to us is duly given it is in writing signed by you and left at our address or sent by prepaid post to our address or sent by facsimile to our facsimile number.

24.3 Any legal process or notice of legal process (for example, a summons) may be served on you or us by delivering or leaving it at your or our last advised address or by any other method of service permitted by relevant law.

24.4 A notice takes effect from the time it is deemed to be received unless a later time is specified in it.

When notices are taken to be received

24.5 A notice is taken to be received:

- (a) for notices sent by post, on the 8th banking day after posting; and

- (b) for notices sent by facsimile, on production of a transmission report by the transmitting machine that indicates that the whole facsimile was sent; and
- (c) for notices sent by email, at the time that the communication enters your designated information system or is capable of being viewed from your computer, even if no person is aware of its receipt; and
- (d) for notices made available on our website, at the time that you are taken to receive the email or statement message that we send to you to advise you that the notice is available for retrieval.
- (e) If you have accepted Latipay HUB at the time they can be viewed by logging into Latipay HUB.
- (f) You must immediately advise us of any change in your address or contact details and we shall endeavour to do likewise.
- (g) You may change your nominated electronic address or withdraw your agreement to receive notices by electronic mail by giving us notice
- (h) You may request a paper copy of a communication given electronically for 7 years from the time the information is given.

25. Further assurances

25.1 You agree, at your own expense, to:

- (a) execute and do everything else reasonably necessary or appropriate to bind you under this agreement; and
- (b) use your best endeavours to cause relevant third parties to do likewise.

25.2 If we determine that this agreement (or a transaction in connection with it) is or contains a security interest, you agree to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which we ask and consider necessary for the purposes of:

- (a) ensuring that the security interest is enforceable, perfected and otherwise effective;
or
- (b) enabling us to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by us; or
- (c) enabling us to exercise rights in connection with the security interest.

Everything you are required to do under this clause 25.2 is at your expense (in particular, but not limited to, preparing, registering and maintaining any financing statement or financing change statement as required). You agree to pay or reimburse our reasonable costs, charges and expenses in connection with anything you are required to do under this clause 25.2.

26. Disputes and general information

26.1 We will provide you upon request with general information dealing with our procedures for handling disputes, the time within which disputes will normally be dealt with and indicating that disputes will be dealt by staff with appropriate powers to resolve disputes.

26.2 If you have raised an issue with Latipay but do not feel it has been resolved to your satisfaction, you can lodge a complaint with the Consumer council:

Website: www.consumer.org.hk

Telephone: (852) 2929 2222

In writing to: Consumer Council Services Centre (NorthPoint),
Room 1410, 14/F Kodak House II,
39 Healthy Street East,
North Point, Hong Kong

27. Publicity

27.1. You agree not to make any press or other announcements or releases relating to this agreement and the transactions, the subject of this agreement, without our prior approval.

27.2 The approval required under clause 27.1 shall include the manner in which the announcement or release is to be made and its form and its content, unless and only to the extent that the announcement or release is required by law.

28. Governing law

This agreement is governed by the law in force in Hong Kong.

29. Taxation

29.1 We may be required to disclose information about your merchant services (eg. total turnover processed through the merchant services) to the Hong Kong Inland Revenue Department.

29.2 We may be required by taxation laws to remit amounts to the Hong Kong Inland Revenue Department if you do not provide your tax file number to us.

30. Commissions

We may pay a referral fee to any person that introduces your business to us.

31. Hotel/motel reservation guarantee and advance accommodation deposit

31.1 This clause 31 only applies where you have been authorised to accept card transactions to guarantee hotel/motel reservations or for advance accommodation deposits.

31.2 Where you have accepted a card transaction to guarantee a hotel/motel reservation or to accept a deposit in advance towards an accommodation reservation, you agree to:

- (a) handle the reservations in accordance with the card scheme rules; and
- (b) honour these reservations in all circumstances; and
- (c) cancel the reservation and, where necessary, issue a refund to the cardholder if the cardholder cancels the reservation in accordance with card scheme rules.

31.3 In relation to a guaranteed reservation, You must:

- (a) accept all cancellations prior to the specified time; and
- (b) not require cancellation notification more than 72 hours prior to scheduled arrival date; and
- (c) if the cardholder makes the reservation within 72 hours prior to the scheduled arrival date, ensure that the cancellation deadline is no earlier than 6.00pm merchant outlet time on the arrival date or date guaranteed; and
- (d) if required that a cardholder cancel before 6.00pm merchant outlet time on the date guaranteed, a written copy of the

cancellation policy, including the date and time that cancellation privileges expire, must be provided to the cardholder; and

(e) if the cardholder has not claimed or cancelled the hotel reservation service accommodation by the specified time, you must hold the rooms available according to the reservation until check-out time the following day. You may then complete a transaction receipt that must contain the following:

- (i) amount of one night's lodging plus applicable tax; and
- (ii) cardholder's name, account number in an truncated format, and expiration date; and

(iii) the words “No Show” on the signature line of the transaction receipt.

31.4 You shall have the guaranteed room available for the arrival of the cardholder. If for any reason you are unable to provide the room, you shall provide at no charge a comparable room for one night at some other establishment and a three minute local or long distance telephone call. You shall not have to hold accommodation available for subsequent nights if the cardholder has failed to appear for their reservation guarantee by checkout time following the first night of the guaranteed reservation.

31.5 If there is a dispute, you shall accept a chargeback where the cardholder claims that they cancelled the guaranteed reservation.

31.6 If there is a dispute in relation to a guaranteed reservation or an advance accommodation deposit, you shall accept a chargeback where the cardholder claims that they cancelled the reservation.

32. Express checkout

32.1 This clause 32 only applies where you have been authorised to accept card transactions to permit express check out from hotels or motels.

32.2 You agree to handle the express checkout transactions as outlined in the card scheme rules. You shall, retain and make available to us the itemised hotel/motel bill. All disputes shall be resolved in accordance with the rules of the relevant card scheme.

33. Bank deposit

33.1 If, in your letter of offer or by some other document you agreed to give us a bank deposit or when we notify you that a bank deposit is required this clause applies to this agreement.

33.2 The following words have these meanings in this clause:

bank deposit means the deposit held pursuant to clause 33.

bank deposit account means the account in which the bank deposit is held.

bank deposit limit means, subject to clauses 33.3(f), (g) and (h), the amount described in your letter of offer under the heading ‘Deposit Schedule’ or otherwise notified in writing to you by us.

Latipay cash management account means Latipay’s cash management account, the terms of which are governed by the terms and conditions for Latipay Products as amended from time to time or a similar product replacing the cash management account from time to time.

transfer amount means the amount in dollars to be transferred whenever proceeds are credited to the settlement account, by debiting the settlement account and crediting the bank deposit account pursuant to clauses 33.3(f), (g) and (h).

Bank deposit

33.3 Terms of the bank deposit account:

- (a) Unless we otherwise agree, you must have a bank deposit of the bank deposit limit held in an account with us for the purposes of this clause recorded in dollars.
- (b) Unless we otherwise agree, the bank deposit account must be a Latipay Cash Management Account.
- (c) We may at any time determine that a bank deposit is required or is no longer required.
- (d) Unless otherwise agreed by us, you cannot alter the status of the bank deposit account.
- (e) You agree that to the extent required by this clause, the terms of this clause vary and form part of the terms and conditions of your bank deposit account.

Bank deposit limit

- (f) We may at any time increase or decrease the amount of the bank deposit limit and will notify you in writing if we do so.
- (g) In our discretion, we may determine that:
 - (i) you must immediately cause there to be a bank deposit of any amount up to the bank deposit limit; or
 - (ii) the balance of the bank deposit may be less than the bank deposit limit provided that the balance is being increased by regular deposits of transfer amounts.
- (h) All transfer amounts, initial deposits and all other deposits into the account shall be counted towards the bank deposit limit.

Transactions in respect of the bank deposit account

- (i) You agree and authorise us or, where your nominated account is held with another financial institution, to direct such financial institution to debit your nominated account with the transfer amount every time there are transactions processed to your nominated account pursuant to clause 10.
- (j) While the balance of the bank deposit amount is equal to or greater than the bank deposit limit, no amount shall be transferred under clause 33.3(g)(ii).
- (k) Unless otherwise determined by us and notified in writing, the transfer amount shall be 5% of the aggregate of the transaction amounts processed on the day in question. The transfer amount may be increased or decreased at any time in our absolute discretion.

(l) The transfer amount once received by us shall be credited to the bank deposit account.

(m) You may at any time deposit funds into the bank deposit account, provided you notify us and we agree prior to the deposit being made. Such deposit will be counted towards the bank deposit limit.

(n) We may at any time, in our discretion and without notice to you, apply any part or all of the bank deposit against the full amount of all valid and acceptable refund transactions processed by you in the applicable currency or any other liabilities arising under this agreement.

(o) We must give you information each month showing the full amount of all transactions processed by us during the previous month to the bank deposit account.

You must raise any issue that you have concerning an amount paid, or not paid to or from the bank deposit account within 3 months of the date of payment or of the date the payment was due. We may charge you a fee for investigating any such issue.

(p) We will not release the amount of the bank deposit up to the bank deposit limit to you or at your direction, unless and until your entire liabilities whether actual or contingent under this agreement have been satisfied in full. We are under no obligation to provide or make available banking facilities to you including withdrawal by any means in respect of the bank deposit, except as provided for in clause 33.3(r).

(q) For the avoidance of doubt, you agree that no liability shall arise for us not permitting withdrawals from the bank deposit account provided that we have acted reasonably having regard to our legitimate commercial interests

(r) Should the balance of the bank deposit exceed the bank deposit limit at any time and for any reason the amount exceeding the bank deposit limit shall be repayable upon demand in accordance with banking practice for such an account.

(s) You agree to do any reasonable act or execute any document including the direct debit documentation to provide for or facilitate the transfer of funds from the nominated account to the bank deposit account.

(t) You must not create any encumbrance over or affecting or otherwise dealing with the bank deposit.

(u) For the avoidance of doubt, any fees and charges in connection with or related to the implementation of this clause, including the use of direct debit, shall be borne by you and recoverable where applicable by us including by set-off against the bank deposit account.

(v) Nothing in this clause affects our ability to exercise rights of set-off arising by relevant law or under the merchant agreement.

(w) Nothing in this clause 33 is intended to create a charge.