

MERCHANT AGREEMENTS

THIS AGREEMENT is made and entered in to at Colombo on this day of20 by and

BETWEEN:

(1) **BANK OF CEYLON**, a Banking Corporation duly established by the Bank of Ceylon Ordinance (Cap.397) and having its Central Office in the city of Colombo in the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as **"the Bank"** which term or expression as herein used where the context so requires or admits shall mean and include the said Bank of Ceylon its successors) of the **ONE PART:**

AND

(2) **FOR COMPANIES ONLY***

And MESSRS a company duly incorporated in Sri Lanka bearing Company Registration No: and having its registered office at in the said Republic (hereinafter sometimes called and referred to as the said **"Merchant"** which term or expression as herein used where the context so requires or admits shall mean and include the said and its successors and assigns) of the **OTHER PART;**

(2) **FOR PARTNERSHIPS ONLY***

(1) Mr./Mrs in the said republic (herein after sometimes called

(2) Mr./Mrs.....
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(3) Mr./Mrs.....
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(4) Mr./Mrs.....
.....
carrying on business in partnership as MESSRS.....
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(Hereinafter sometimes called and referred to as the said **"Merchant"** which term or expression as herein used where the context so requires or admits shall mean and include the said
(1) Mr./Mrs
.....
(2) Mr./Mrs.....
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(3) Mr./Mrs.....
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(4) Mr./Mrs.....
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jointly and each of them severally and the heirs executors and administrators of them and each of them and the survivors of them jointly and severally with executors or administrators of any of them) of the **OTHER PART;**
(2) FOR SOLE PROPRIETORSHIP ONLY*
Mr./Mrs.
.....

and referred to as the **"The Merchant"** which term or expression as herein used where the context so requires or admits shall mean and include the saidan d his/her heirs executors or administrators) of the

OTHER PART

(* Please strike off whichever not applicable)

1. Acceptance of Cards

1.0 The Merchant

1.1 Shall promptly honor all valid Cards subject to other conditions hereinafter specified and presented in consideration of goods or services supplied,

1.2 may accept Mail and Telephone Orders, but at the risk of the Merchant for its genuineness and authenticity, provided the bank shall refuse to honor or reverse entries relating to such transaction, if the Cardholder denies any such transaction.

1.3 shall offer goods and services to customers paying with a card on terms identical to those, which would be offered to customers paying by cash.

1.4 shall not accept a Card in order to provide cash or for any unlawful purpose.

2. Authorization and security

2.0 The Merchant

2.1 shall, if the total amount of a prospective Card Transaction exceeds the current Floor Limit (but is within a range permitted by the Bank from time to time), Telephone the Ceybank card center immediately to request authorization and shall record on the sales voucher the approval code so obtained. The Ceybank card center will be open at the hours notified by the Bank from time to time.

2.2 shall telephone the Ceybank card center to cancel the authorization, if authorization has been given but the card transaction is not immediately finalized.

2.3 shall not use two or more sales vouchers or accept part payment by means other than a Card in order to avoid making an authorization call (SPLIT SALES).

2.4 may use a magnetic stripe-reading terminal to obtain authorization, if agreed by the Bank, if a POS (Point of Sales)EDC(Electronic Data Capture)authorization system is provided.

2.5 shall check any current card recovery bulletin and the Black List supplied by or on behalf of the Bank and telephone the Ceybank Card Center for instructions when the card is so listed, before completing any card transaction, which does not otherwise require authorization.

2.6 shall before completing any Card Transaction, comply with any security procedures that the Bank may require from time to time and shall attempt by reasonable, discrete and peaceful means to retain a card if so requested.

3. Sales Vouchers

3.0 Each Card transaction shall be recorded on a sales voucher supplied by the bank.

3.1 Each sales voucher shall be passed through the Imprinter and would show clearly,

- i. the transaction date and amount
- ii. a description of the goods or service and the price thereof
- iii. sufficient details to identify the transaction.
- iv. the cardholder's name
- v. the cardholder's account number
- vi. the card expiry date
- vii. Merchant number, Merchant Name and Address.
- viii. Authorization code, if any

3.2 For each card Transaction that is not a mail or telephone order, the Merchant shall

- i. Imprint the card on the sales voucher together with the Merchant's name and address.
- ii. obtain the cardholder's signature on the voucher.
- iii. check that the signature on the sales voucher appears to be the same as that on the card.
- iv. telephone the Ceybank card center for instructions in case of any doubt.
- v. ensure that the sales voucher is not altered in any way after the above procedures have been completed.

3.3 Carry out the process referred to in 3.2 above in the case of telephone orders where the customer subsequently collects the goods from the merchant within three days of the order.

3.4 The Merchant shall for each mail order transaction, obtain and retain for a period of nine calendar months following its receipt the cardholder's written authority for the card transaction in a form approved by the Bank, complete the sales voucher or other approved

document fully in accordance with 3.1 above and write "MO" in the signature space.

3.5 The Merchant shall for each telephone order transaction, make an immediate written record of the Cardholder's authority for the card transaction in a form approved by the Bank, complete the sales voucher fully in accordance with clause 3.1 above and in addition, insert the cardholder's address and write "TO" in the signature space.

3.6 The cost of all items sold in a single transaction shall be included in a single sales voucher, unless it represents a part payment and the balance is either paid in cash or cheque at the time of the sale, or is not payable until delivery of the goods or performance of the service at a later date, sales in separate departments of a departments store are regarded as separate transactions for this purpose.

3.7 The Merchant shall offer the cardholder an accurate and complete copy of the sales voucher, on delivery of the goods or on performance of the services in question, and in the case of a mail or telephone order, shall send such copy to the cardholder.

3.8 The Merchant will not supply any other person or firm with the Imprinters or sales vouchers provided by the bank.

4. Refund Vouchers

4.0 The Merchant shall not make any cash refund, if a refund becomes payable to a cardholder in respect of any transaction for which a sales voucher has been presented, but shall record it on a refund voucher in the approved form to include the information referred to in clause 3.1 above and the Merchant address.

4.1 The Merchant shall imprint the card on the refund voucher, where the cardholder is present, obtain the cardholder's signature, and offer him a copy and where the cardholder is not present, the Merchant shall complete the refund voucher in a manner approved by the bank and send the cardholder a copy. The refund voucher shall be authenticated by the signature of the merchant or an authorized employee.

5. Presentation of Vouchers

5.0 The Merchant shall present each sales and refund voucher at a Bank nominated by the Merchant within three days of issue. At presentation, it shall be construed to constitute a warrant by the Merchant that the relevant goods or services have been duly supplied.

5.1 The Merchant shall, if the amounts of refund vouchers exceed the amount of any sales vouchers presented at the same time, accompany them with cash or cheque in favor of the bank for the amount in excess. In all other cases, the bank may deduct the amount of Refund voucher from the amount of sales voucher presented at the same time and Merchant shall only be entitled to the difference.

5.2 The Merchant shall not present a sales voucher in respect of a transaction to which the Merchant is not a party, and in the case of a mail or telephone order, should present the sales voucher strictly in accordance with the cardholder's authority.

6. Bank's Obligations

6.0 The Bank will pay to the Merchant the amount of all sales vouchers issued and presented in accordance with this Agreement at a Bank nominated by the Merchant at a branch within Sri Lanka, less commission charged by the bank.

6.1 The Bank shall provide periodic statement to the Merchant showing the value of sales vouchers processed during the statement period and the amount of the percentage charged and other sums due to the Bank.

6.2 The Bank shall not be liable if it is unable to perform its obligations due to anything beyond the control of the bank or any of its agents or subcontractors.

7. Charge Backs

7.0 The Bank may withhold payment in respect of a Sales voucher or, if the Merchant has received payment, the amount of the Sales voucher shall be immediately repaid or recovered by the Bank from his Deposits or his Bank account notwithstanding that the debit created an overdraft,

- i. If the Sales voucher is issued or presented in breach of the terms of this Agreement.
- ii. If the Cardholder makes a claim against the Bank in respect of the transaction.
- iii. If the Cardholder denies having authorized a telephone order transaction.
- iv. If the Merchant is unable on request to produce to the Bank the cardholder's written authority for a mail order transaction.
- v. If there has been a warning notice issued and the Merchant has failed to act on it.

7.1 The Merchant shall not represent details of the transaction, if a Sales voucher has been charged back, and the Bank shall be under no duty to seek payment from the Cardholder in respect thereof.

8. Cardholder Disputes

8.0 The Merchant shall co-operative fully with the Bank in attempting to resolve any dispute with a Cardholder which arises from a Card transaction. The Bank may in its absolute discretion decide to defend or to settle any claim against it by a Cardholder and such decision shall be binding on the Merchant.

8.1 The Merchant shall indemnify the Bank against all losses, costs and liabilities whatsoever arising from any claim, counterclaim or defense raised by a Cardholder arising out of any card transaction.

9. Charges

9.0 The Bank may make a charge, which is subject to variation as referred to in paragraph 6.1 a maximum of% and any other charges that may be imposed by the Government or Local Authority from time to time, on the value of all Sales Vouchers presented for payment.

9.1 The Merchant shall, where applicable, pay to the Bank a joining fee of Rs.750- or other rates along with the Application and the Bank shall provide an imprinter which will be used by the Merchant and which would remain the sole property of the Bank.

10. Set-Off

10.0 The Bank may set off any sums whatsoever owed to it by the Merchant against any sums, which would otherwise be due to the Merchant from the Bank, arising out of any transaction flowing from this Agreement.

10.1 No right of set off is available to the Merchant in any circumstances.

11. Direct Debts

11.The Merchant shall authorize the Bank nominated by the Merchant to pay upon presentation all requests for payment of a direct debit initiated by the bank in respect of amounts due to the Bank under this Agreement.

12. Interest on Late Payments

12.0 Any sum due to the Bank shall be immediately payable, and the Bank may charge interest on daily basis at the rate of 2.5% per calendar month payable at the end of each calendar month on amount which the Merchant fails to pay.

13. Use of Names and Logos

13.0 The Merchant shall comply with all instruction given by the Bank as to the adequate display of the VISA, Master logo DECAL so as to

inform the public that cards will be honored at the Merchants place(s) of business.

13.1 The Merchant may use names and logos approved in writing by the Bank to indicate in promotional material and advertisements that cards are accepted for payment, and for no other purpose.

13.2 The Merchant shall not refer to VISA/Master or to the Bank or any of its associated companies in any other Promotional materials without the Bank's prior written approval.

13.3 The Merchant shall not have a concurrent agreement to accept VISA/Master card and sign up Merchant Agreement with any other institution without the Bank's prior written approval.

14. Confidentiality

14.0 The Merchant shall not, except for the purpose of this Agreement compile or make use of any confidential information relating to the Bank's business (information as to the names and addresses of the Bank's Cardholders are confidential information)

14.1 The Merchant shall not disclose any information as to the floor limit, any of the Bank's operating procedures, business dealings, transactions or affair of the customer, which may come to the Merchant notice during the continuance of this Agreement to any third party.

15. Assignment

15.0 This Agreement is not assignable by the Merchant, but where the Merchant is the sole trader or partner, it shall bind their personal representatives.

16. Variation

16.0 The Bank reserves the right to vary any term or terms of this Agreement upon written notice to the Merchant, provided that any variation by the Bank of the rate or basis of the charges mentioned shall require one month's notice to the Merchant in writing.

17. Termination

17.0 This Agreement shall remain in force until terminated by either party, upon giving one month's written notice to the other or immediately upon the occurrence of any of the following:

- i. Death of the Merchant.
- ii. Institution of insolvency proceedings against the Merchant.
- iii. The dissolution of the Partnership where the Merchant is a partnership firm.

iv. On a resolution for winding up or on a petition of winding up as the case may be where the Merchant is a Limited Liability Company.

17.1 Termination of this Agreement shall not effect obligations already incurred.

18. Notices

18.0 Any written notice to be given under this Agreement may be sent by Registered post to the last known place of business or registered office of the Merchant and in the case of the Bank to the Ceybank Card Center at the Head office and shall be deemed to have been received at the expiry of 48 hours after it was posted.

19. Waiver

19.0 Any delay or omission on the part of the Bank in exercising any right, power or remedy under this Agreement shall not constitute a waiver and shall not preclude any further exercise of such right, power or remedy.

20. General

20.0 The Merchant shall submit accounts and any other information that is required by the Bank from time to time. The Officer of the Bank may visit the Merchant's place of business at any convenient time to examine the books of accounts and any other records connected with the Card transaction. The Bank agrees to mail on behalf o the Merchant any sales information without responsibility. A "Black List" provided by the Bank shall be referred to by the merchant before accepting the Credit Card Transaction. The Merchant shall be responsible for transactions made by him where a Card has been black listed for lost, fraudulent stopped cards, etc.

21. Definitions

21.0 'Card means any valid Ceybank Visa/Master Card or any other card approval by the Bank from time to time, 'Floor Limit' means in respect of a Card transaction the maximum amount permitted and the Sales voucher without authorization being obtained by the Merchant. The Floor limit at each place of business of the Merchant will be notified to the Merchant by the Bank from time to time. In the absence of such notification, the floor limit will be Rs. 'Imprinter' means an imprinter supplied or approved by the Bank and which (together with any other equipment supplied by the Bank) shall remain the Bank's property and shall be returned on request. 'Refund Voucher' and 'Sales Voucher' mean in each case such vouchers supplied or approved by the Bank.

'Warning Notice' means a notice issued by the Bank to advise merchants that the card referred to in the notice is not be accepted.

22. Governing Law

22.0 This Agreement is governed by the laws and trade practices in Sri Lanka.

IN WITNESS WHEREOF the Parties, acting through their authorized representatives, have put their respective hands of this agreement on the day, month and year first above mentioned

On behalf of the Merchant

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2
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On behalf of the Bank

1
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(Marketing Manager)
2
.....
(Chief Manager)

WITNESSES: -

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