

**PAYMENT ACCEPTANCE FACILITIES AGREEMENT**

By signing the Application, you agree to accept the Payment Acceptance Facilities in accordance with the Terms and Conditions stipulated herein. You further agree to comply with and be bound by this Agreement as notified to you as such may be amended from time to time.

Now it is hereby agreed as follows: -

**A) THESE TERMS AND CONDITIONS**

Your agreement ("Agreement") consists of:

- (i) The Application
- (ii) The Letter of Offer including Acceptance;
- (iii) This Agreement;
- (iv) A Merchant Operating Guide (whenever notified by BR);
- (v) Any Additional Services Schedules set out in the Letter of Offer and Acceptance and the applicable Additional Service Schedule which contain the specific terms and conditions and operating instructions for the Additional Service(s);
- (vii) any documents relating to the Security (where applicable).

It is advisable that you read all documents comprising the Agreement under which we provide the Payment Acceptance Facilities.

You agree to be bound by the Agreement from the commencement date shown on the Letter of Offer and Acceptance

**B) DEFINITION**

This expression	Means
"Account"	means the respective bank account(s) maintained by the Merchant at BR to which charges payable by you under the Agreement may be debited.
"Agreement"	means the agreement constituted by your acceptance of our offer on the terms and conditions set out in the Letter of Offer and Acceptance and comprising the documents referred to in Clause A, as varied from time to time.
"Application"	The form you have completed and submitted to us to participate in the Card Service.
"Authorisation"	The process of obtaining an authorization from BR for a transaction which usually identified with an alpha numeric / numeric code prior to completion of the transaction in which a Card is being utilized.
"Business Day"	Any day on which BR is opened for business in Kuala Lumpur.

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"e-Commerce"	Electronic Commerce is the exchange of goods and services for payment made between the Cardholder and Merchant when all of the transactions are performed via electronic communications.
"Electronic Data Capture (EDC) Terminals"	Any electronic terminal which is capable of reading magnetic stripe or chip on Cards.
"Full Recourse"	Our right to payment from you of the full amount of the Charge as set out in these Terms and Conditions.
"GST"	means any tax imposed on the supply of goods or services tax within the meaning of the GST Act.
"GST Act"	means the Goods and Services Tax Act 2014 (as amended) and all related ancillary legislations which provides a broad based consumption tax on the supply of goods and services which becomes operative in respect of the provisions of this Agreement.
"Issuer"	Any bank or financial institution who are members of MasterCard International or other organisation or institution who are authorised to issue Cards to which BR is a member.
"Laws"	Subject to Clause 16.1 and includes any law, statute, regulation, ordinance, proclamation, by-law or statutory instrument or order, including codes of conduct issued by regulatory bodies, MasterCard International's Payment Card Industry (PCI) Security Standards or any Card Scheme Regulations.
"Letter of Offer"	The letter(s) of offer setting out terms specific on Payment Acceptance Facilities, which is issued by BR and duly accepted by the Merchant from time to time which letter(s) shall be an integral part of this Agreement.
"BANK RAKYAT" "BR" "the Bank" "we" "us" "our"	Bank Kerjasama Rakyat Malaysia Berhad (Company No. 2192), having its registered address at 35 <sup>th</sup> Floor, Menara KembarBank Rakyat, Menara 1, No 33 Jalan Rakyat , 50470 Kuala Lumpur.
"Merchant" "You" "your,"	Any retailer or other person, firm or corporation, its employees, servants or agents which pursuant to a Merchant Agreement agrees to accept or cause its offices, outlets and locations in Malaysia to accept Cards when properly presented.
"Merchant Discount"	Fee chargeable by BR to the Merchant at the agreed rate in percentage of the value of the Cards' transactions as further described in the Letter of Offer.

"Merchant Number"	The unique identification number assigned by BR to the Merchant under the terms of this Agreement for each of the Payment Acceptance Facilities or/and outlets as the case may be as further mentioned in the Letter of Offer and/ or Application.
"Payment Acceptance Facilities"	A facility granted by BR to the Merchant under the terms of this Agreement as further described in the Letter Of Offer and may include any of the following :-
(a) "EDC Transaction Acceptance"	A Card transaction performed through the use of EDC Terminals.
(b) "Mail Order Transaction Acceptance"	A Credit Card transaction performed via mail upon submission of an Authorisation Payment Form by Cardholder to the Merchant.
(c) "Sales Draft Transaction Acceptance"	A Credit Card transaction performed through the use of a manual Sales Drafts.
(d) "Telephone Order Transaction Acceptance"	A Credit Card transaction performed via telephone through the use of an Authorisation Payment Form.
"PIN"	In relation to a Cardholder, the Personal Identification Number which an Issuer has issued to the Cardholder which is to be used by the Cardholder to authorise any transaction.
"Pin Pad"	A device which is connected or is part of the EDC Terminal where the Cardholder authorises the transaction by entering his/her PIN on the Pin Pad.
"POS Transaction Acceptance"	A transaction performed at point-of sales consisting of either EDC transaction Acceptance or Sales Draft Transaction Acceptance.
"Prepaid Card"	A validly issued Prepaid Card issued by any banking or financial institution as the case maybe and may include new prepaid cards duly authorized by BR.
"Premises"	means the various locations or location where the Merchant conduct business and are authorised by BR to accept the Cards.
"Referral Response"	A response received at the EDC Terminal during the Authorisation process which requires the Merchant to contact BR for further instructions before completing the transaction.

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(d) "Sales Slip"	The relevant charge slip generated electronically after the completion of each transaction arising from the use of EDC Terminal evidencing purchases or services incurred by the Cardholder through the use of the Cards to be charged to the Cardholder's account.
"Wave Card" / "PayPass"	The Credit Card issued by any commercial banks which is capable of Contactless Payment System transactions.
"Wave Reader"	A device used for the purpose of completing a sales transaction when Cardholder flash or tap the Wave Card/PayPass on it.

### C) INTERPRETATION

- (i) If you consist of more than one person, the liability of those persons under the Agreement is joint and several.
- (ii) If there is an inconsistency between the following documents each forming part of the Agreement, the following order prevails:
  - (a) Letter of Offer and Acceptance; and
  - (b) these Terms and Conditions.

In the event there is an inconsistency between your Letter of Offer and Acceptance and these Terms and Conditions or the Merchant Operating Guide, the Letter of Offer shall prevail.

- (iii) A reference to an individual or person includes a reference to a company and any other entity the Law recognises.
- (iv) The singular includes the plural and vice versa.
- (v) A reference to the Agreement or any document forming part of the Agreement, or any Law is a reference to the Agreement, document or Law as amended, novated, supplemented, replaced or re-enacted.
- (vi) A reference to "mail" includes information sent or received by facsimile or email.
- (vii) The meaning of general words is not limited by specific examples introduced by "including", "for example" or similar expressions.
- (viii) A reference to a 'clause' is to a clause in these Terms and Conditions

## 1.0 FACILITY

## 1.1 Honouring The Cards

- 1.1.1 The Merchant agrees and confirms that it shall permit and accept payment by the Cardholders using any of the Cards as authorised by BR pursuant to this

- 1.1.2 The merchant agrees and confirm BR that is shall honour without discrimination Cards when properly presented to it as means of payment form Cardholder and shall maintain a policy that shall not discriminate among Cardholders seeking to make purchases of the merchant's goods and/or services at the Merchant's Premises or from the Merchant through the use of Cards.
- 1.1.3 The Merchant agrees to not Debit Cardholder any additional fees, increase your price or otherwise discriminate against the Cards or Cardholder, and, if you do, we reserve the right to recover any such amount from you.
- 1.1.4 The Merchant will honour the Card and will not attempt to impose any restrictions or conditions on the use or acceptance of the Cards.

## 2.0 COMPLETION OF TRANSACTION& MERCHANT DISCOUNT

## 2.1 POS TRANSACTION ACCEPTANCE

When a Card is presented to the Merchant of payment, in accepting and honouring the Card, the Merchant shall ensure that the following acceptance procedures are strictly observed and complied with:-

- a) The merchant shall examine MasterCard Marks or MyDebit Marks or MEPS E-POS Marks or any security or distinctive features of the Card;
- b) The Merchant shall ensure that the Card so presented is valid and unexpired;
- c) The Merchant shall ensure that the Card so presented have not been altered and mutilated;
- d) If the Card bears the photograph of the Cardholder, the Merchant shall ensure positive identification of the Cardholder and where there are doubts, the merchant shall contact BR for instructions;
- e) All transactions shall be drawn in Ringgit Malaysia only.

## 2.2 MERCHANT DISCOUNT

- 2.2.1 BR will charge the Merchant a base Merchant Discount rate which is exclusive of GST for each Transaction performed via the use of EDC Terminal at such rate mentioned in the Letter of Offer.
- 2.2.2 Notwithstanding the Letter of Offer or anything mentioned in this Agreement, BR may at any time at its absolute discretion to change the base Merchant Discount pricing based on the prevailing MasterCard Worldwide credit card interchange rates.
- 2.2.3 In the event, the Merchant intend to initiate any further services to BR, the Agent Merchant must obtain a written consent from BR and must be agreed by both parties.

- 2.2.4 BR will generate a statement/report (which will include the tax invoice) of the total monthly sales volume transacted and actual discount charged to the Merchants and a copy of this statement/report will be forwarded to the Merchant on a monthly basis. The amount of the Merchant Discount charged to the Merchant shall be set out in such statement/report based on BR's record. BR's statement/report shall be conclusive and binding upon the Agent Merchant save for any manifest error. BR however reserves the right to make adjustments or variations to statements/reports issued by BR and such adjustments and variations shall also be conclusive and binding upon the Merchant save for any manifest error.

### 2.3 EDC TRANSACTION ACCEPTANCE

- 2.3.1 For EDC Transaction Acceptance, the merchant shall also ensure that the following acceptance procedures are strictly observed and complied with:-

- a) The Merchant shall process all transaction irrespective of through the use of EDC Terminal at all times.
- b) The Merchant shall ensure all the Cards so presented for the transactions are inserted using the EDC terminal where an Authorization shall be granted or declined electronically online. Only an approved transaction shall be accepted by the Merchant. It is mandatory that the Merchant process all EMV chip card presented by the cardholder via EMV chip card acceptance procedures.
- c) When a signature based Card is being utilized, the Merchant shall obtain the signature of the Cardholder in the appropriate place of the Sales Slips and shall always compare to ascertain that such signature shall be identical to that appearing on the Cardholder's Card and if such identification is uncertain, or in the event of the signature differs or in the event the Merchant believes there to be a discrepancy in the signature, the Merchant shall contact BR for instructions.
- d) As Prompted by the terminal, when a pin based Card is being utilized, the Merchant shall ensure that the Cardholder enters his/her PIN via the PIN Pad/key pad to authorize the completion of charges and shall ensure that the cardholder's PIN is not compromised at all times.
- e) The contactless Cardholder shall be allowed to flash or tap their contactless Card on the Wave Reader to initiate processing of the payment transaction; and they shall not be required to hand their Wave Card to the Merchant. The Merchant is not required to obtain the signature of the Cardholder on Sales Slip.
- f) The Merchant shall ensure that all completed Sales Slips bear an electronic imprint which includes:-
  - i) the name, validity/expiry date if the Card and Card account number of the Cardholder;
  - ii. the date of transaction(s);
  - iii. the Authorization code



- iii. total price of the transaction;
  - iv. the Merchant's name and business address;
  - v. whether a transaction is EMV chip card or magnetic stripe card;
  - vi. the application Identifier (AID)
  - vii. The transaction Certificate (TC)
- j) The Cardholder's copy of the completed Sales Slip is given to the Cardholder upon completion of each successful transaction.
- k) For those EDC terminals which are owned by Merchants, the Merchants shall take all necessary steps to ensure that the EDC terminals must be EMV chip compliant, the EMV software used must be in compliant to the Bank and the back end host system must be able to process EMV data. The installation and upgrading of EDC and host to EMV complaint standard is at the expense and cost of the Merchant.

2.3.2 In the event that any EDC Terminal is malfunctions, breaks down or is disconnected, the Merchant shall not accept any payment made by the Cardholder through the use of any Credit/Debit Cards.

2.3.3 The Merchant shall carry or perform a Settlement Function on a daily basis following the date of transaction to enable BR to capture all the transactions so as to allow BR to make payment to the Merchant as mutually agreed between BR and the Merchant as further described in the Letter of Offer. Failure on the merchant's part to perform or carry out the settlement function on a daily basis as stated above will result in penalty/compensation charges being imposed by the Card Association ie. MasterCard International. In the event BR becomes liable for such penalty/compensation charges and pays the same to MasterCard International, BR reserves the right to deduct and set-off the said penalty/compensation charges from any amount due and payable BR to the Merchant under the terms of this Agreement.

## 2.4. SALES DRAFT TRANSACTION ACCEPTANCE

2.4.1 Under the sales draft transaction acceptance the merchant shall also ensure that the following acceptance procedures are strictly observed and complied with:-

- (a) the amount to be charged by any Cardholder shall be within and not exceeding the Merchant's Authorised floor limit, and in this connection, no split sales shall be allowed.
- (b) in the event a cardholder seeks to make a purchase transaction over and above the merchant's authorized floor limit, the merchant shall seek authorization/approval from BR and shall write, type or print legibly the authorization / approval code evidencing any authorization so obtained on the sales draft before the completion of such transaction.
- (c) the sales draft shall be completed with the embossed data/ legends of the credit card including the following : -

- (i) the imprinted name, validity/expiry date of the credit card and credit card account number of the cardholder using a suitable imprinter
  - (ii) the date of transaction(s);
  - (iii) the total price of the transaction(s) (including any applicable taxes)
  - (iv) the authorization/approval code, if any
  - (v) the merchant's imprinted name, address or place of business; and
  - (vi) a description of goods sold or services rendered in details sufficient to identify the transaction.
- (d) The merchant shall obtain the signature of the Cardholder in the appropriate place on the Sales Drafts and shall always compare to ascertain that such signature shall be identical to that appearing on the Cardholder's Credit Card and if such identification is uncertain, or in the event of the signature differs or in the event the Merchant believes there to be a discrepancy in the signature, the Merchant shall contact BR for instructions.
- (e) The cardholder's copy of the completed Sales Draft is given to the cardholder upon completion of each successful transaction

## 2.5 MAIL ORDER & TELEPHONE ORDER (MOTO) TRANSACTION ACCEPTANCE

2.5.1 When a transaction is concluded by way of mail Order or telephone Order, in accepting and honouring the Credit Card, the Merchant shall ensure that the following acceptance procedures are strictly observed and complied with:-

- (a) In the event of Mail Order transaction, the Merchant shall ensure that the authorisation Payment Form presented by the Cardholder is legibly completed with the following :-
- (i) The Cardholder's Credit/ Debit Card number and expiry date;
  - (ii) the transaction amount in Ringgit Malaysia (including applicable taxes);
  - (iii) the cardholder name, home/office address and home/office telephone number;
  - (iv) a description of goods sold or services rendered in detail sufficient to identify the transaction;
  - (v) the signature of the Cardholder.
- (b) In the event of Telephone Order transaction, the Merchant shall based on the information given directly from the Cardholder complete the Authorisation Payment Form with the following :-
- (i) the Cardholder's Credit/ Debit Card number and expiry date;

- (ii) the Cardholder's name, home/office address and home/office telephone number;
    - (iii) the transaction amount in Ringgit Malaysia (including applicable taxes);
    - (iv) a description of goods sold or services rendered in detail sufficient to identify the transaction.
  - (c) The Merchant shall accept only the Credit/Debit Card that is within the validity period expressed by the Cardholder and unexpired;
  - (d) In the event EDC Terminal is provided to the Merchant in connection with the Mail Order/Telephone Order Acceptance, the Merchant shall complete the Authorisation and charging of the Cardholder's account via the used of the EDC Terminal. If no EDC Terminal is provided to the Merchant in connection with the Mail Order/ Telephone Order Acceptance, the Merchant shall seek Authorisation/approval from BR and shall write, type or print legibly the Authorisation/approval code evidencing any Authorisation to obtained on the Authorisation Payment Form before the completion of such transaction.
  - (e) The Merchant shall retain proof that the Cardholder or the Cardholder's agent signed a carrier delivery receipt for merchandise delivered to the Cardholder's billing address or delivery address. You are responsible for ensuring delivery to the appropriate Cardholder's billing address or delivery address.
  - (f) If the goods are to be collected by the Cardholder, the Credit/Debit Card must be presented by the Cardholder upon collection and all the provisions of Clause 2.1 above, must be complied with; and
  - (g) If a Cardholder notifies you or us of a dispute, complaint or query concerning a Charge made by Mail or Telephone Order and;
    - (i) the cardholder has not signed a Mail Order form for the goods or services; or
    - (ii) you have not obtained a signed receipt confirming delivery of goods or services to the Cardholder's billing address; then, in addition to any other rights we have under this Agreement, we are entitled to Full Recourse for the Charge. For the avoidance of doubt, we are entitled to Full recourse whether or not we have given Authorisation of the Charge.
- 2.5.2 Every Authorisation Payment Forms shall be delivered directly by the Merchant to BR not later than the third (3rd) Business Day following the date of the transaction for payment.
- 2.5.3 In the event of EDC Terminal is provided, the Merchant shall carry or perform a Settlement Function on a daily basis to enable BR to capture all the transactions so as to allow BR to make payment to the Merchant as mutually agreed between BR and the Merchant as further described in the Letter Of Offer.

### 3.0 BR EDC TERMINALS

The following provisions apply if we supply you with the EDC Terminal(s):

- a. You agree to allow us to enter any of your Premises to install, inspect, repair, service or remove the EDC Terminal(s) for any reason during business hours or at any other reasonable time.
- b. You will not move or part with possession of the EDC Terminal(s) provided the proposed new location is acceptable to us in our discretion
- c. We will be responsible for maintenance and repair of the EDC Terminal(s). You agree to cooperate fully in our maintenance and repair efforts. Although we shall endeavour in good faith to keep the EDC Terminal(s) in good repair, we shall not be liable to you for our failure to do so or otherwise for the failure of the terminal(s) to operate properly.
- d. The EDC Terminal(s) are and will remain our property at all times. The Merchant shall take reasonable care of them and return to us promptly upon our request. You also agree to take all necessary steps to prevent any person from acquiring any rights in the EDC Terminal(s), and to indemnify us against any loss and expense arising from the acquisition of such rights by any person. You further agree that you shall not permit any other person to tamper, reverse-engineer, or otherwise misuse the EDC Terminal(s).
- e. The Merchant agrees to reimburse BR an amount of RM1,500 for each lost or damaged EDC Terminal whether or not the lost or damaged resulted from causes within your control. This includes but is not limited to damage caused by:
  - i. The usage of EDC Terminal(s) for purposes other than those described in these Special EDC Terms and Conditions; or
  - ii. Alterations and attachments to the EDC Terminal(s) which were not previously authorised in writing by us; or
  - iii. The acts or omissions of you, your employees, agents, other representatives or contractors; or
  - iv. The negligent or otherwise improper care or operation of the EDC Terminal(s); or
  - v. Fire, theft, acts of God, or other causes
- f. The Merchant shall promptly make a police report in the event of any lost or damaged EDC Terminal(s).
- g. The Merchant agrees not to assign, transfer or sell the services provided by the EDC Terminal(s), not to allow any other party to use the EDC Terminal(s) or to benefit from the EDC Terminal(s), unless otherwise agreed to in writing by us.
- h. The Merchant shall operate the EDC Terminal(s) only in accordance with the procedures and instructions advised to you by us from time to time. We agree to train your then current employees, agents, servants, contractors and

representatives in the operation of the EDC Terminal(s) at the time of installation by us. You agree to train new employees, agents, servants, contractors and representatives at your own cost after the initial training.

- i. You must give us at least thirty (30) days prior written notice if you plan to sell, transfer, close or otherwise dispose of one or more locations at which our EDC Terminal(s) are installed or if you wish us to remove EDC Terminal(s) from such locations. Upon receipt of that notice, we may remove the EDC Terminal(s) from the applicable locations, and we may notify you that these Special EDC Terms and Conditions shall cease to apply to such locations or generally (except in relation to antecedent transactions) and we may take such other steps as we deem appropriate.
- j. You agree to pay us for each terminal a monthly rental fee exclusive of GST as specified on the Letter of Offer via direct debit, cheque payment or any other method acceptable to us and notified to you from time to time. We reserve the right to change this fee from time to time at our discretion with seven (7) days prior written notice to you.
- k. The monthly terminal rental fee shall be non-refundable, even if you cease to have any EDC Terminal(s) supplied by us or upon termination of the Agreement.
- l. The Merchant shall promptly inform us of any faults and / or breakdown in the EDC Terminal(s). You shall not by itself or by its agent or servant, repair or rectify or attempt to repair or rectify any such faults or breakdown in the EDC Terminal(s).
- m. We shall not be responsible or liable in any way for any loss or damage or injury suffered by the Merchants arising out of or due to the breakdown or faults or delay in response by the EDC Terminal(s).
- n. You shall return the EDC Terminal(s) to BR in perfect condition upon termination of this Agreement. The Merchant shall continue to be liable for all cost for repairs or replacement if found such EDC Terminal(s) returned damaged, faulty or not in satisfactory condition.

#### **4 PAYMENT BY BR**

- 4.1 Upon Completion of a Settlement Function or receipt of Transaction Slips by BR (whichever is applicable), BR shall pay to or credit the account of the merchant with the value of each successful Card's transactions less the Discount at the agreed rate and rental fee as prescribed in the Letter of Offer. The parties further agree that the Discount rate and rental may be revised from time to time.
- 4.2 The Merchant shall be informed by written notice of the Discount to be charged for new cards.
- 4.3 Upon receipt of payment from BR, the merchant shall reconcile their sales records against the report provided by BR or any other Merchant's reconciliation methods. If discrepancies or non-receipt of payment on any of the transaction item is detected,

BR is to be notified of the same. Such notification is to be submitted to BR within a period of seven (7) days following the transaction date.

- 4.4 Payment by BR to the Merchant shall be subject to refusal or chargeback by BR in accordance with Clause 5 hereof or withholding or refusal of payment under Clause 7.6.

## **5. CHARGEBACK BY BR**

- 5.1 It is hereby expressly agreed that BR shall be entitled to refuse payment to the Merchant or reject any Transaction Slips presented by the Merchant for payment or withhold payment on all or part of the amount of any transaction and further in the event where payment has been made by BR to the Merchant. BR may set-off against Merchant's sales proceed or debit the Merchant's banking account with BR the relevant amount of whatever description and wherever located upon the occurrence of any of the following:-

- a) The transaction is in-completed and was or has been discovered to be illegal;
- b) The Merchant has performed a late settlement Function or late submission of Transaction Slips for payment to BR as mentioned hereinbefore.
- c) The transaction is found to be duplicate transaction;
- e) Credit or refund to a Cardholder has not been processed even though the Merchant has issued a Credit Voucher or Credit note the Cardholder for the return of goods sold, services cancelled, adjustment made, or otherwise;
- f) The Cardholder's signature on the Transaction Slips is missing or differs from the specimen signature on the Card of the Cardholder;
- g) The copy of the Transaction Slips to be presented to BR for payment differs from Merchant's or Cardholder's copy;
- h) the entries on the Transaction Slips are incomplete or illegible;
- i) The Card concerned is found to have expired or is invalid for any reason whatsoever;
- j) The transaction is found to be one with a "Declined Authorisation" i.e. where the Merchant has been previously notified by BR in response to an Authorisation/approval's request that the particular Card is not to be honoured;
- k) The Sales Draft/Sales Slip does not bear an imprint of the embossed legends of the Card but which is hand written on and where the Cardholder has disputed the transaction;
- l) The Transaction Slips was prepared by use forged Card, or by other fraudulent means;
- m) The transaction was not entered into nor authorised by the Cardholder;
- n) The transaction involved is a cash disbursement, cash refund or cash payment which is without the approval from BR;



v. A description of the merchandise to returned, service cancelled, adjustment made or otherwise.

vi. Authorised signatory of the Merchant

6.1.3 The Merchant shall deliver the said Credit Vouchers to BR within the third (3rd) Business Day following the date of issuance thereby authorizing BR to credit the account of the Cardholder concerned and to Debit the Merchant's account or set-off against the Merchant's sales proceed accordingly.

## **7.0 MERCHANT RECORDS**

7.1 The Merchant shall at its own costs and capacity keep proper account and correct copies of all documents relating from the use of the Cards, and shall allow BR at any reasonable time to inspect and/or take copies of all such documents, accounts and Transaction Slips or any charge forms and shall preserve such documents and records for a period of at least twenty four (24) month from the transaction date.

7.2 The Merchant shall provide a legible copy of the relevant Transaction Slips or any related documents upon request made by BR in writing to the Merchant for the purpose of Clause 5 and/or 7.6 hereof and shall be within any specific time required by BR.

7.3 The Merchant is obliged to provide full cooperation toward any investigations or inquiries made by BR relating to any of the transactions which is within the period of twenty four (24) months from the transaction date including furnishing and delivering of transaction document to BR.

### **7.4 Unsigned Sales Draft**

Where a Cardholder has been undercharged for goods sold or services rendered by the Merchant, the Merchant may raise a new and unsigned Sales Draft for the additional amount and produce the same BR for payment. Without prejudice to BR's right under Clause 5 hereinabove or otherwise, BR may, at its sole discretion, make payment to the Merchant for the additional amount less the Discount as stated in Clause 4.1 and to bill Cardholder accordingly.

### **7.5 Prohibited Transactions**

7.5.1 The Merchant shall not accept the Card nor use its participation in the Card Service for purposes of transactions other than bona fide purchases by Cardholders of goods and services from you. This means, by way of example and not limitation, that the Merchant may not accept the Card for any of the following:

- i. Gambling goods or services;
- ii. Pornographic goods or services or prostitution;
- iii. Goods or services for which the provision thereof if illegal(e.g. drug trafficking)
- iv. Sales where the amounts charged do not correspond with the value if the goods or services purchased or rendered;
- v. Sales made under a name which is different from the name of the Merchant





## 7.8 Suspension

Notwithstanding any other rights available to BR under this Agreement, BR shall be entitled to suspend the Merchant from accepting any Card's transaction under the terms of this Agreement with immediate effect for a period of time which shall be identified by BR upon the occurrence of any of the following:-

- a) In BR's reasonable opinion that the Merchant is engaged in irregular or fraudulent or illegal transactions.
- b) The Merchant is identified by MasterCard International or suspected by BR to be the Point-Of-Compromise(Compromising Customer Account)

## 7.9 Merchant Number

7.9.1 Under the terms of this Agreement, BR shall provide the Merchant with a Merchant Number for the following:

- a) each of the Payment Acceptance Facilities provided to the Merchant
- b) each of the Merchant's outlet including but not limited to place of business, shop, counter or temporary or permanent booth where Payment Acceptance Facilities is / are to be made available to Cardholders.

7.9.2 In the event the Merchant wishes to extend any of the Payment Acceptance Facilities to its new outlet(s) or to accept new Payment Acceptance Facilities under the terms of this Agreement, the Merchant shall obtain prior written approval from BR and in the event BR approves such request, BR shall provide the Merchant with a Merchant Number for each of the Merchant's outlets and / or Payment Acceptance Facilities Requested. The Merchant shall ensure that all Cards transactions transacted at any of the Merchant outlets and / or through any of the Payment Acceptance Facilities granted to the Merchant use/quote the correct Merchant Number assigned by BR.

## 8.0 COVENANTS BY MERCHANT

The Merchant hereby covenants with BR as follows:-

- 8.1 It shall at all times observe the guidelines and procedures on the acceptance of Cards as instructed and required by BR as set out hereinbefore including but not limited to the provisions in Clause 2 hereof;
- 8.2 Unless otherwise provided by any written law for the time being in force, it shall not impose or require Cardholder to pay any surcharge, commission, discount whether through any increase in price or otherwise, or any other term or condition whatsoever on any Cardholder desirous of using the card.
- 8.3 It shall not require minimum transaction amount below which shall refuse to honour otherwise valid Card;
- 8.4 It shall include in the value of the Transaction Slips any tax or carrier charges required to be collected and shall not collect it separately in cash;

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- 8.5 It shall observe and perform all obligations under its contract with the Cardholders including but not limited to the nature, quality and delivery of goods and service contracted to be sold and supplied to the Cardholder;
- 8.6 It shall not reveal, sell, purchase, provide or exchange Card account number or/and PIN (where applicable) and other information in any form obtained by reason of Cards transactions to any third party;
- 8.7 It shall obtain approval from BR in writing prior to any publication or advertisement of promotional materials relating to the new credit/debit cards;
- 8.8 It shall adequately display any distinctive feature of any new credit/debit cards and MasterCard Marks or any such Marks for credit/debit that the Bank acquires from time to time and/or product names on promotional materials provided by BR to inform the public that the Cards will be honoured at the Merchant's premises, place or business or its outlets;
- 8.9 It shall, at all times maintain in good order and keep in safe custody all Transaction Slips, Credit Vouchers, Imprinters and/or EDC Terminals and/or PIN Pads supplied by BR which shall remain BR's property, and to return all such Transaction Slips, Credit Voucher, Imprinters and/or EDC Terminals and/or PIN Pads forthwith to BR upon demand and / or upon termination of this Agreement under Clause 14.
- 8.10 Where there is uncertainty or ambiguity in the terms of this Agreement or any guidelines or requirements pertaining to the use of the MasterCard Marks or MEPS or any security or distinctive features of the new credit/charge/debit cards the Merchant shall countercheck with BR for its construction and meaning and the same when given by BR shall be final and binding.
- 8.11 The Merchant shall use its best Endeavour to promote the use Cards and to render its cooperation to BR and Cardholders in connection with the use of the Cards.
- 8.12 It shall indemnify BR should its employees or agents obtain with an intention to defraud the Card and/or the PIN from the Cardholder through any means.
- 8.13 It shall indemnify and hold BR harmless from and against all liabilities, claims, damages, losses, costs, and expenses whatsoever, arising out of or un any way connected to the Merchant's negligent act or commission in the operation of the Cards acceptance programme.
- 8.14 It shall immediately notify BR if the Merchant sell, lease or transfer its business or any of the Premises.
- 8.15 It shall notcharge the Cardholders any surcharge fee when the Cards are used in a Transaction.

#### **9.0 WARRANTIES BY MERCHANTS AS TO TRANSACTION SLIPS**

The presentation of each Transaction Slips by the Merchant to BR shall be a warranty by the Merchant:-



approvals/consents in all applicable jurisdictions) to authorise the execution, delivery and performance of this Agreement;

(d) it has been provided with sufficient information to ascertain the scope of this Agreement and has satisfied itself that it has in its possession all necessary and relevant data, information and computer software, together with all necessary licenses and intellectual property rights for the use thereof, reasonably required by BR for the purpose of performance of this Agreement;

(e) it shall undertake to abide and shall ensure that its employees or contractors perform the requirement under this Agreement faithfully and fully and shall at all times comply with a code of conduct known as the Code of Practice, Ethics & Conduct herein mentioned below:

- i. at all times, act promptly, diligently, and in a manner which is legal, ethical and reasonable, and which is in accordance with accepted business practice.
- ii. must not communicate with the Cardholder in a threatening or abusive manner.
- iii. at all times, as the case may be must not sign any document and/or application on behalf of the Merchant, even if explicitly requested or authorised by the said Merchant.
- iv. strictly forbidden to collect any annual fee, service charges, other fees or compensation from the Cardholder.
- v. must strictly observe and follow the notification from BR.
- vi. must never copy or duplicate the Cardholder's personal data or information, for personal reference or use.
- vii. as the case may be are bound by the secrecy declaration and confidentiality clause, never to disclose any confidential data of the Cardholder, to a third party, unless authorised in writing by BR or required by any subsisting and valid law in force.
- viii. In the event of detection or knowledge of any dishonest practices within the merchant workplace, the Merchant is obliged to inform BR at the earliest instance.
- ix. as the case may be must not give any false report to BR.
- x. unless permitted by BR, must never talk to the media, on any BR matters, be it implied or otherwise.
- xi. should ensure that all transaction are promptly and accurately recorded, and advised to BR.
- xii. should ensure that all complaints received are made known to BR and handled promptly and satisfactorily.
- xiii. shall ensure its employee or contractor be presentable at all times, with regard to dress, personal hygiene, language, etc., in keeping with the professional public image.

- xiv. shall report any transactions that they deem to be suspicious, irregular or to be in violation of any law or regulation or of the code of conduct, and where necessary, shall assist in any investigation conducted by BR in relation thereto.
  - xv. shall ensure its employee or contractor at all times maintain the confidentiality of all information in respect of the Merchants and their proposed transactions and relationship with BR.
- (f) the Merchant has the necessary skills, knowledge, experience, expertise, required capital, net worth, adequate and competent employees or agents, systems and procedures, infrastructure, including adequate office space, and capability to duly perform obligation under this Agreement to the satisfaction of BR;
- (g) the execution of this Agreement and the provision of this Agreement, does not and will not violate or breach any covenants, stipulations or conditions of any agreement or deed entered into by the Merchant with any third party; and
- (h) save and except as expressly permitted by BR in writing, not to at any time use and/or deal with the name and/or trademark and/or logo of BR in any sale or marketing or advertisement or make any public statement, announcement or communication for matters relating to this Agreement in any manner whatsoever.
- (i) the Merchant shall perform the obligation set out in this Agreement in compliance with the requirements of Bank Negara Malaysia, MasterCard Worldwide and other relevant authorities, all laws, regulations, rules and guidelines and regulatory requirements affecting the provision of this Agreement including without limitation to devising and putting in place appropriate systems and internal controls, measures as well as a business resumption/continuity plan to ensure that BR's business will not be impaired or disrupted in case the Merchant fails to provide to perform such obligation.
- (j) the Merchant shall procure that each of its employees, agents, servants, contractors and representatives warrant and undertake, that it and its employees, agents and/or subcontractors have not done and shall not do or, where they have a duty to act, have not omitted to do and shall not omit to do data protection laws of Malaysia. The Merchant shall furnish BR with a list of its employees, agents, servants, contractors and representatives engaged for the purposes of this Agreement upon BR's request from time to time, and to immediately notify BR of any new appointment of its employee and the termination of such employees, agents, servants, contractors and representatives within seven (7) days from such appointment or termination.
- 10.2 In the event of any misrepresentation or breach of the abovesaid warranties and representations by the Merchant, without prejudice to the Merchant's other liabilities herein contained, the Merchant shall be responsible for all and any losses and/or penalties that may be imposed by MasterCard Worldwide and/or any other Regulatory Authorities.

- 11.1 It is hereby agreed by the Merchant that BR is authorised to disclose, divulge, reveal and/or provide any information concerning the Merchant including but not limited to the particulars herein to its agents, servants and/or subcontractor appointed/engaged by BR or to any person/party for purposes connected with the products.
- 11.2 The Merchant hereby authorizes BR and/or its officers to make use of, disclose, divulge or reveal any information relating to its accounts for purposes of or in connection with any action or proceeding taken for the purpose of chargeback under Clause 5 or towards the recovery of monies due and payable by the Merchant to BR.

## 12.0 SERVICES OF LEGAL PROCESS

- 12.1 The Parties hereby agree that the service of any Writ of Summons or any legal process in respect of any claim arising out of or connected with this Agreement may be effected by forwarding a copy of the same by hand or by prepaid registered or ordinary post to the respective address of the Parties hereinbefore mentioned and such service shall be deemed to be duly served after the expiration of five(5) days from the date it is posted and, if delivered by date, on the day it is delivered.
- 12.2 No change of address of either Party herein mentioned shall be affective or binding on either Party unless that Party has given to the other actual notice of the change of address and nothing done in reliance on sub-clause (1) above shall be affected or prejudiced by any subsequent change in the said address over which the other Party has no actual knowledge of at the time the act was done or carried out.

## 13.0 CONFIDENTIALITY

Notwithstanding Clause 11, this Agreement and all matters pertaining here to including but not limited to, all information relating to Cardholders shall be considered as confidential in nature and shall not be disclosed by the Merchant to any third party unless the said disclosure is mandatory by law. You shall keep confidential any information you receive from us that is not publicly available and this Agreement and its terms and conditions, including, without limitation, your Merchant Discount. You shall take all steps necessary to prevent the transfer or disclosure of Cardholder information to any third party and will not copy, reproduce or store in any form the names and address of Cardholders for any purpose whatsoever. For the avoidance of doubt, the obligations of this Clause 13 shall survive the termination or expiration of this Agreement.

Without limiting the generality of the foregoing, the Merchant hereby acknowledges that it is aware and understands the effect of, and agrees and undertakes to observe the provisions of and Section 119 of the Development Financial Institutions Act 2002 of Malaysia in connection with the provision of this Agreement and further agrees and undertakes that it shall not do anything which will cause BR to violate any provision of act or otherwise be guilty of an offence thereunder;

## **14.0 TERMINATION**

14.1 Notwithstanding any other provision in this Agreement, BR may immediately by notice in writing to the Merchant to terminate this Agreement if;

- i. become insolvent or enter bankruptcy, receivership or administration or make an assignment for the benefit of creditors generally;
- ii. suffer an execution, attachment, repossession of or foreclosure on all or substantially all assets;
- iii. cease all or a substantially all of its assets;
- iv. undergo a merger or substantial change in ownership or control; or
- v. Any event occurs, or series of events occur, whether related or not, which in our opinion may affect the Merchant's ability or willingness to comply with any of the Merchant obligations under this Agreement or to the Cardholder(s) in question;
- vi. Any breach of default on the part of the Merchant under the terms of this Agreement and/or if BR has reason to believe or at its absolute discretion is of the view that the Merchant has presented a fraudulent or counterfeit transaction for payment and/or where the Cardholder denies/disputes such transaction and/or the Merchant has been identified by MasterCard International as engaging in the compromising of the Cardholder's accounts activity;

Then in any such events, this Agreement shall terminate automatically and all debts and obligations owed to us shall be deemed immediately due and payable. BR shall be entitled to maintain a reserve from payments due to the Merchant and/or take such other actions as BR may be entitled to under this Agreement or under applicable law or equity;

- 14.2 Upon termination of this Agreement, BR's obligation to reimburse the Merchant under Clause 4 shall cease on the effective date of any of such termination aforesaid, and BR shall not be obliged or bound to make any payment on Transaction Slips presented thereafter.
- 14.3 Notwithstanding the aforesaid, BR's right and entitlement under this Agreement (including its right and entitlement of Chargeback under (Clause 5) hereof against the Merchant shall survive the termination of this Agreement for or relating to any Card Transaction Slips presented by the Merchant prior to the date of termination.
- 14.4 The Merchant hereby agrees that notwithstanding anything contained herein, this Agreement may be terminated by BR by giving to the Merchant (without need to assign any reason) not less than seven (7) days prior written notice.

## **15.0 NOTICE**

- 15.1 All notices to the Merchant concerning this Agreement will be given to the Merchant in any of the following manner:-



- (a) by ordinary post to the Merchant's last known address in the Bank's records and such notification shall be deemed received after Three (3) Business Days from the date of posting; or
  - (b) by electronic mail to the Merchant's last known e-mail address in the Bank's records and such notification shall be deemed received after Twenty-Four (24) hours from the time of transmission; or
  - (c) by displaying notices in any of the Bank's premises or branches or website and such notification shall be deemed notified after three (3) days from date it was 1st displayed; or
  - (d) by verbal tele-communication to the Merchant's telephone details submitted in the application forms and such notification shall be deemed received instantly; or
  - (e) text-message notification via short message service to the Merchant and such notification shall be deemed received after Twenty-Four (24) hours from the time of transmission; or
  - (f) by advertisement made once in any national newspapers in the English language or national language and such notification shall be deemed notified after three (3) days from date it was 1st displayed; or
  - (g) by inserting a notice in the Bank's statements/report sent to the merchant's last known address in the Bank's records be deemed received after Three (3) Business Days from the date of posting; or
  - (h) if notified to the Merchant in any other manner agreed by an earlier instruction of the Merchant.
- 15.2 All notices to the Bank shall be in writing, signed by the Merchant and sent to the Bank at the following address or in such other manner as the Bank may notify the Customer in writing from time to time :-
- 14th Floor, Menara 1,  
Menara Kembar Bank Rakyat,  
No. 33, Jalan Rakyat  
50470 Kuala Lumpur**
- 15.3 For avoidance of doubt, all such other notification shall be deemed effective after three (3) days from the date of such notice been issued or any other date specifically mentioned in such notice;
- 15.4 In the event of any unauthorised disclosure of or misuse of information by a third party arising through the usage of facsimile or e-mail, as a mode of communication, the Merchant hereby undertakes to indemnify BR, for all losses, claims, demands, actions, proceedings, damages, costs and expenses incurred by BR.

**16.0 MISCELLANEOUS****16.1 Compliance With Laws**

This Agreement shall be governed by Laws of Malaysia and the Parties hereby agree to submit to the exclusive jurisdiction of the Malaysia Courts. You agree to comply with all laws, regulations and rules applicable to you.

**16.2 Notice Requirement**

Where the Merchant is a sole-proprietorship or a partnership, failure of the Merchant to notify BR of the change as required hereunder shall result in the sole-proprietor or partners (as the case maybe) of the Merchant (as notified to BR prior to the change) shall be liable for any loss or damage suffered by BR there from.

**16.3 Costs**

16.3.1 The Merchant agrees to pay legal fees (on a solicitor and client basis) and other costs and expenses incurred and / or suffered by BR in connection with or incidental to this Agreement including the fees and stamp duty (if any) in connection with the preparation and execution of this Agreement.

16.3.2 The Merchant agrees to pay legal fees (on a Solicitor and Client Basis) and other costs and expenses incurred and / or suffered by BR in the lawful enforcement of BR's rights and entitlement under this Agreement.

**16.4 Binding Effect**

The Agreement is binding on the parties, their executors, administrators, successors and permitted assigns.

**16.5 Variation**

Notwithstanding any other provisions herein, BR reserves the right at all times to add, waive or vary any of these terms and conditions. Any such addition, waiver or variation shall become effective upon notification to the Merchant by any means BR deems fit.

**16.6 Severability**

The invalidity or non-enforceability of any of the provisions herein shall not substantially nullify the underlying intent of this Agreement and the invalid or unenforceable provisions shall be severable and the invalidity or non-enforceability of any terms or provisions herein contained which shall remain in full force and effect.

**16.7 Letter of Offer**

The Letter of Offer issued by BR to the Merchant in respect of this Agreement shall form part of this Agreement and shall be read, taken and construed as an essential part of this Agreement. In the event of inconsistencies between the terms of Letter of Offer and this Agreement, the terms in the former would prevail.

**16.8 Merchant's Participation**

This Agreement covers the Merchant's participation in the Card's services for all the offices, outlets and locations of the Merchant in Malaysia at the date of this

Agreement and such other offices, outlet and locations as may be agreed upon by BR from time to time.

#### 16.9 Communication

All communication between the Parties pertaining to this Agreement shall be in Bahasa Malaysia or English Language.

#### 16.10 Indemnity

16.10.1 You indemnify us and agree to keep us indemnified against all claims, damages, actions, proceedings, expenses (including legal costs) losses and liabilities (including all fines, penalties and other charges) whether in contract, under statute, in tort (including negligence) ("Liabilities") suffered or incurred at any time by us arising out of or as a consequence of the Agreement, except that you are not obliged to indemnify us against any Liabilities to the extent such Liabilities are solely the result of our fraud, wilful default or negligence.

16.10.2 Without prejudice to clause 16.10.1, you indemnify us and the Issuer (the "Indemnified Parties") and agree to keep the Indemnified Parties indemnified against all Liabilities which an Indemnified Party suffers or incurs arising directly or indirectly from:

- (a) your negligence or fraud or the negligence or fraud of an employee, contractor or agent of yours;
- (b) your failure, or the failure of an employee, contractor or agent of yours, to observe any of your obligations under the Agreement;
- (c) any dispute arising between you and the Cardholder in respect of the supply, use, quality or fitness for purpose of goods or services or the provision of cash;
- (d) any dispute between us or the Issuer, as the case may be, and any Cardholder where the Cardholder or us or the Issuer, as the case may be, dispute liability for any reason;
- (e) any use of an EDC Terminal by you or your employees, contractors or agents;
- (f) any representation, warranty or statement made by you or your employees, contractors or agents to the Cardholder; or
- (g) any misrepresentation, breach of contract and/or failure of consideration relating to any contract for the supply of goods or services by you to a Cardholder, except that you are not obliged to indemnify an Indemnified Party against any Liabilities to the extent such Liabilities are solely the result of the fraud, wilful default or negligence of that Indemnified Party.

16.10.3 Without prejudice to 16.10.1, if you breach the Agreement including, for the avoidance of doubt, any provision of any material provision of any Laws applying generally across all merchants and notified by us in writing then, in addition to any remedy we may have elsewhere in the

Agreement, you agree to indemnify and keep indemnified the Indemnified Parties against all Liabilities suffered or incurred by an Indemnified Party under any such Laws as a result of your breach.

- 16.10.4 You authorise us to withdraw from your Accounts or any other account you have with us the amount determined by us to be the amount payable under this indemnity.

#### 16.11 Waiver

No failure or delay on the part of BR in exercising nor any omission to exercise any right, power or privilege or remedy accruing to BR upon default on the part of the Merchant shall impair such right, power, privilege or remedy or be construed as a waiver thereof or as an acquiescence in such default; nor shall any action by BR in respect of any default or any acquiescence in any such default affect or impair any right, power, privilege or remedy of BR in respect of any other or subsequent default.

#### 16.12 Assignment

BR may at its sole and absolute discretion assign any of its rights and obligations under this Agreement to its subsidiary or affiliates or nominee to supervise Merchant's performance of its obligations under of this Agreement.

You must not assign or transfer any of your rights or obligations under the Agreement unless we consent in writing.

#### 16.13 Force Majeure

BR shall not be liable for breach of this Agreement caused by circumstances beyond your or our reasonable control.

#### 16.14 Relationship of Parties

Nothing in the Agreement creates a relationship of joint venture, partnership or principal and agent between BR and the Merchant. The Merchant must not act as if, or represent or attempt to represent to any person that, any such relationship exists.

### 17.0 CERIFICATE OF INDEBTEDNESS

- 17.1 A certificate signed by any officer of BR as to the monies for the time being due and owing to BR from the Merchant in respect of Merchant Discount, EDC Terminal(s) rental, Chargeback or otherwise shall be conclusive evidence or proof that the amount appearing therein is due and owing and payable by the Merchant to BR and shall be binding on the Merchant for all purposes, including legal proceedings.

### 18.0 PAYMENT CARD INDUSTRY DATA SECURITY STANDARD (PCIDSS) TERMS AND CONDITIONS

#### 18.1. RESTRICTIONS REGARDING PROCESSING OF CARD TRANSACTIONS

- 18.1.1 The Merchant may only store the following information:

- Cardholder number

- Cardholder name
- Cards expiry date

If you decide to store the Card Account Number (often referred to as the Primary Account Number "PAN" or Cardholder Number), it is your obligation to ensure security and protection by using encryption or other methodologies that precludes unauthorized individuals from deciphering the card number.

Under no circumstances may you store the CCV2 number, the PIN or the Magnetic stripe data.

18.1.2 You must ensure that your business, and any service provider who participates in the processing, transmission or storage of card payment details on behalf of your business, fully complies with the PCIDSS and completes the validation requirements compatible with their level.

18.1.3 You must ensure that your business and any service provider who, participates in the transmission, acceptance or storage of card payment details for your business on your behalf, fully complies with the PCI standard.

Upon request, you must disclose details of any service providers who facilitate transactions on your behalf to Bank Rakyat.

18.1.4 You must follow the Data Breach Procedures immediately upon suspected or know breaches on your system, or that of any service provider who has access to stores or transmits credit card payment details. You must:

- Identify the cause of the event and immediately notify Bank Rakyat
- Isolate or unplug and affected systems from all networks involved in the services
- Cease installing or making any changes to software related to the services
- Tighten security controls pertaining to all networks relating to the services
- Implement and follow the Disaster Recovery Plan
- Maintain a rigorous audit trail of all actions taken to isolate and rectify the event
- Commence calculating the gross potential exposure that may arise from such event and notify Bank Rakyat in writing of the results of such calculations as soon as possible, but within a 24 hour period.

18.1.5 You must ensure that any software or hardware your purchase, create or otherwise utilise for the purpose of selling goods and / or services online does not retain its original password before employing it for the acceptance of credit cards. You must also ensure that all passwords are changed in a regular basis.

## **19.0 INDEMNITIES IN RELATION TO PCIDSS**

19.1 Notwithstanding any other provisions of this Agreement, the Merchant agrees that it shall fully indemnify BR for and against any loss or damage, costs and expenses including legal fees stated in Clause 15.3 which BR may incur in enforcing or seeking to enforce the payment of the value on the Transaction Slips by the Cardholder and in enforcing the terms of this Agreement against the Merchant.

19.2 You will indemnify us on demand against all losses, expenses and damages we may suffer:

- § As a result of your failure to observe your obligations under the Agreement including any procedures set out in the Manuals;
- § As a result of MasterCard or other card schemes imposing fees, fines or penalties on us in accordance with the Rules as a direct or indirect result of your failure to observe your obligations under the Agreement including any procedures set out in the Manuals;
- § Arising out of any dispute between you and a Cardholder;
- § As a result of any error, negligence or fraud relating to a transaction by you, your servants, agents, employees or contractors;
- § Arising out of any dispute between you and the Terminal Supplier;
- § As a result of any fees, fines or penalties that the Bank is required to pay pursuant to the rules, by-laws or regulations of any Card Scheme that the Bank is a member of or participates in, as a direct or indirect result of your failure to observe any of the procedures, requirement or obligations required to be complied with by you under any Card Scheme used in providing the Banking Services.

19.3 If you have suffered a data compromise:

You will have to give Bank Rakyat and its agent full access to your systems and databases to facilitate a forensic analysis to ascertain:

- i. What Cards data has been compromised;
- ii. What weaknesses in the system permitted the unauthorized access to the data base; and
- iii. Whether Cards data was created, deleted, altered, copied or manipulated in any manner.

If you use the services of any external Service Provider, you will have to ensure Bank Rakyat and its agents are given full access to necessary outsourced components such as data base, web hosting systems, etc.

All costs of the forensic analysis will be passed on to you. In order to continue processing card transactions, you will have to undergo a full PCIDSS accreditation. All costs of this accreditation exercise will be borne by you.

19.4 Excessive Chargeback: Bank Rakyat will notify you if your chargeback in any particular category has or is in threat of exceeding the threshold. You must take immediate action to rectify the situation. Failure to resolve the cause of the problem will result in "Excessive Chargeback fines" imposed by the Card Schemes which will be passed on to you.

**19.5 PCIDSS accreditation program**

- a. You are required to complete the PCIDSS accreditation program within 3 months of being granted the merchant facility, or within 3 months of our notification to you to comply with the requirement.
- b. Non completion of the PCIDSS accreditation program will place your facility in the non-compliant status. This non-compliant status will attract non-compliance fines from the Card Scheme which will be passed on to you.
- c. In the event that your organization suffers a card data compromise incident and you have not complied with the PCIDSS accreditation program the Card schemes will levy heavy penalties. Bank Rakyat will pass these penalties on to you.
- d. All costs in relation to completion of the PCIDSS accreditation program will be borne by you.

**19.6 Consent to share information**

- a. Acceptance of these terms and conditions gives your consent to Bank Rakyat sharing details of a suspected and / or confirmed data compromise to law enforcement agencies, Bank Negara Malaysia and other relevant regulatory and / or statutory bodies and / or as required by any written law or regulations, Card schemes and other parties at Bank Rakyat's discretion. This consent is irrevocable and enduring.
- b. Bank Rakyat is obliged to report all data compromise events to card schemes, law enforcement agencies and / or other government regulators. Your acceptance of these Terms and Conditions confirms that you understand this obligation and grant irrevocable and enduring consent for Bank Rakyat to release details of the compromise to the aforementioned bodies.
- c. Your acceptance of these Terms and Conditions irrevocably confers upon Bank Rakyat the enduring right to contact all services providers that enable you to acquire credit card transactions. This clause is limited to the purpose of determining the extent of a data compromise, evaluating, remedies to that data compromise and assessing your level of compliance with PCIDSS.

**20.0 GOODS AND SERVICES TAX**

- 20.1 Merchant Discount, EDC Terminal(s) rentals or any other fees quoted above is excluding the present Malaysian 6% GST (and/or other taxes such as Goods and Services Tax as may be imposed by the Government).
- 20.2 Subject to the provisions contained herein, the Merchant hereby agrees that BR shall be entitled to charge the Merchant the prescribed GST in addition to the Merchant Discount, EDC Terminal(s) rentals or any other fees payable by the Merchant to BR. The Merchant shall pay the amount of the GST in the manner prescribed by BR from time to time; and

- 20.3 Each Party agrees to do all things, including providing invoices or other documentation in such form and detail that may be necessary to enable or assist the other Party to claim or verify any input tax credit, relief, refund or remission in relation to any GST payable under this Agreement.
- 20.4 Each Party agrees to do all things, including providing invoices or other documentation in such form and detail that may be necessary to enable or assist the other Party to claim or verify any input tax credit, relief, refund or remission in relation to any GST payable under this Agreement or in respect of the said participation of Products and/or services under this Agreement.

## **21. SECURITY**

- 21.1 At any time (including where you carry out Delayed Supply Transactions, but not limiting any Transaction type), we may request that you provide us with:
- (a) a completed Merchant Prepayment Exposure Declaration; and/or
  - (b) Security of a type, and to secure an amount, specified by us,
- and you will provide us with such completed declaration and/or Security (as applicable).
- 21.2 If we specify a time by which the Security must be provided, you must provide the Security to us by that time.

## **22. PROMOTIONAL MATERIAL**

- 22.1 BR may supply the Merchant with the Card Service signs, decals and other promotional material we have authorised.
- 22.1 The Merchant must prominently display in your Premises each Card Service decal and other promotional material supplied by BR or BR's authorised representative.
- 22.1 Where the Merchant are authorised in writing by BR to accept Internet orders, the Merchant must display logos, signs or other promotional material supplied by BR or BR's authorised representative on the Merchant website wherever payment options are presented to the Cardholder.
- 22.1 The Merchant must not use any promotional material in relation to BR or any Card except as authorised by BR. The Merchant must not use the name, logo, any trademarks, brand names, business names or copyright belonging to BR or any Cards without our prior written approval.
- 22.1 The Merchant must only advertise goods and services which can be purchased with the Card Service in Malaysia currency or any other currency authorised in writing by BR.



**23. PERSONAL DATA PROTECTION**

23.1 The Merchant hereby agrees to strictly comply with the following terms and conditions relating to Personal Data Protection Act 2010 ("PDPA 2010"):

- (i) Where the Merchant receives any personal data (as defined by PDPA 2010) from the Cardholder or BR:-
  - (aa) it shall ensure that it fully complies with the provisions of PDPA 2010 in respect of such personal data received and only deals with such personal data to fulfil its obligations under this Agreement; and
  - (bb) it shall take all reasonable steps to ensure that its employees, servants or agents, and sub-contractors comply with the requirements imposed under Clause 23.1 (i)(aa) above in case they are dealing with the personal data; and
- (ii) the Merchant shall indemnify BR for any breach of PDPA 2010 by the Merchant that its employees, servants or agents, and sub-contractors which if such breach renders BR liable to any party for any cost, claim or expense.

23.2 Transactional Information

- (i) The Merchant must destroy any Cardholder information about the Transaction on the later of:
  - (a) the expiry of the eighteen (18) month period; or
  - (b) the date on which you have no further business or legal reason for retaining the information.
- (ii) The Merchant must ensure that Cardholder data is destroyed in the following manner:
  - (a) shred, incinerate or pulp hardcopy materials so that Cardholder data cannot be reconstructed; and
  - (b) render Cardholder data on electronic media unrecoverable so that Cardholder data cannot be reconstructed.

**24. ANTI MONEY LAUNDERING AND SANCTIONS**

24.1 You agree that we may, in our sole and absolute discretion:

- (a) delay, block or refuse to process any Transaction;
- (b) delay, block or refuse to settle any Transaction; or
- (c) refuse to perform any one or more of our obligations under the Agreement; without incurring any liability, if we suspect, for any reason, that:
- (d) an action we are required or requested to take under the Agreement;
- (e) our involvement in any Transaction that is any way connected with the Agreement; or

- (f) our performance of any service for any person in connection with the Agreement; might in any way cause us:
- (g) to breach any Law, regulation or other legal prohibition of any place or jurisdiction (including a foreign place or jurisdiction);
- (h) to deal in any way with any person (natural, corporate or governmental) that is sanctioned, or is connected in any way to any person that is sanctioned, under economic and trade sanctions imposed by Malaysia, the United Nations, the European Union or any country;
- (i) to breach any sanction of any kind imposed by any country (including any sanction that supports a decision or resolution of the United Nations Security Council);
- (j) to deal in any way with any person (natural, corporate or governmental) that has been listed or named by any government, or independent authority (such as the United Nations or the European Union), as a person who is in any way suspected of being involved (or potentially involved) in terrorism or in any activities connected with terrorism; or
- (k) to be involved (whether directly or indirectly) in any Transaction which involves the proceeds of unlawful conduct or which involves proceeds which might be applied for the purposes of unlawful conduct in Malaysia or any other country.

For the purposes of this clause, the circumstances listed in paragraphs (g) to (k) above are collectively described as "unlawful acts".

24.2 You must provide all information to us which we reasonably require in order:

- (a) to manage anti-money laundering, counter-terrorism financing and economic and trade sanctions risk;
- (b) to comply with any Laws, regulations, or other prohibitions that may be applicable to us with respect to any Transaction, requested action or obligation applicable to us; and/or
- (c) to avoid involvement in any unlawful act.

24.3 You warrant and undertake to us that you will not request us to take any action, or to perform any obligation, in connection with the Agreement that might cause us to be involved in any unlawful act on our part. Should you become aware that we might become involved in an unlawful act in connection with the Agreement, you must immediately tell us of the fact or circumstance that might cause us to be at risk or have involvement in an unlawful act. Should you become aware that we have become involved in an unlawful act, as a result of our performance of any action or obligation in connection with the Agreement, you must immediately tell us of the facts or circumstances that have caused this to occur.

24.4 You agree that we may disclose any information concerning you or any Transaction to any Law enforcement agency or court or any relevant authority where required to do so under any Law or regulation (including a Law or regulation of a foreign place or jurisdiction) or where we have a reasonable belief that the Transaction may

contravene that Law or regulation, and we will not incur any liability to you as a result of that action.

## **25. AUDIT**

25.1 The Merchant shall permit auditors nominated by the BR or Bank Negara Malaysia from time to time during normal business hours to undertake such audits as the BR or Bank Negara Malaysia may consider necessary for the purpose of determining and verifying that the Merchant:-

- a) adheres to all Payment Acceptance Facilities and Authorisation procedures in order to minimise chargeback and disputes; and
- b) complies with all its obligations under this Agreement;

25.2 If there is a dispute involving a Transaction or BR suspect that fraud is involved or suspected breach of any term and condition in this Agreement, the Merchant hereby authorise BR, or BR's agent, to enter the Merchant Premises at any time to examine and take copies of the Merchant's book of accounts and records.

## **26. BR LIABILITY**

26.1 To the extent permitted by Law, BR will not be responsible for any Liabilities (whether direct, indirect, consequential or otherwise) ("Merchant Liabilities") suffered or incurred by you under or in connection with the Agreement including, but not limited to, Merchant Liabilities suffered or incurred because an EDC Terminal, the Payment Acceptance Facilities, or any telephone line or other communications device or service is malfunctioning or not operating and Merchant Liabilities resulting from our failure to credit the Cards settlement bank account due to technical or administrative difficulties relating to the banking system or Payment Acceptance Facilities used for the transfer of funds to the Cards settlement bank account.

26.2 To remove any doubt and without limiting the generality of this provision, our services and Payment Acceptance Facilities are dependent on messaging, communications, processing and other systems which are subject to interruption or breakdown for a variety of reasons. We will take all commercially reasonable steps to reduce the duration should such interruption or breakdown occur but will not otherwise have any liability for any failure, delay or other matter resulting from it.

26.3 If, despite the other provisions of the Agreement, we are found to be liable to you under or in connection with the Agreement then, without limiting your obligation to indemnify us as set out in Clause 16.10, our total liability to you in connection with each event or series of events giving rise to liability is limited to an amount equal to two (2) months' Merchant Discount at the rate prevailing at the time the liability arose.