

Merchant Service Agreement Addendum

This Amendment (the “**Amendment**”) is issued by CIBC Caribbean Bank Limited or its subsidiaries or affiliates, as applicable (the “**Bank**”), pursuant to section 6 (General Terms and Conditions) of the Merchant Agreement, as amended, (the “**Agreement**”) made by and between the Bank and the Merchant.

This Amendment shall be deemed received upon being sent by email to the Merchant (provided no automatic delivery failure notice is received) and shall become effective:

- 30 days after receipt in all jurisdictions, except for Jamaica;
- In Jamaica, 45 days after receipt.

All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement. In the event of any inconsistency or conflict between the terms of this Amendment and the Agreement in relation to the matters herein, the terms of this Amendment shall govern and control, to the extent of the inconsistency or conflict.

1. Recourse Against Principals

1.1 In the event that the Merchant enters into voluntary or involuntary liquidation, receivership, or any other form of insolvency proceeding, and the Bank is unable to recover outstanding amounts due under this Agreement from the Merchant’s account, the Bank shall have the right to pursue recovery from the Merchant’s directors, officers, or other principals who: (i) have signed or authorized the execution of this Agreement or any related documentation, or (ii) have executed a related personal guarantee, indemnity or similar document in favour of the Bank. This clause shall apply notwithstanding the absence of any security or guarantee and shall survive termination of this Agreement.

1.2 **Set-off.** The Merchant agrees that all fees, charges, credits, or adjustments that it may owe CIBC Caribbean constitute a debt that is payable on demand, and that CIBC Caribbean may debit the Merchant’s Account or any other account held: (i) in the Merchant’s name, (ii) jointly with another person; and (iii) in the name of Merchant’s affiliates, whether solely or jointly with another person. For clarity CIBC Caribbean may exercise its right of set-off in respect of each of the foregoing instances, in any territory in which CIBC Caribbean is licensed to do banking business. Notwithstanding anything contained herein or in the Agreement to the contrary, and subject to applicable law, CIBC Caribbean may exercise its right of set-off in respect of each of the foregoing immediately and without notice if: (a) it receives notice of the Merchant’s bankruptcy, insolvency or similar arrangement (including an assignment for the benefit of others); or (b) third parties have made demands on the Merchant. Any debt will create a right of set-off in favor of CIBC Caribbean and this right is in addition to any other rights CIBC Caribbean may have at law or in equity to set-off or to compensation.

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2. Trailing Chargebacks and Regulatory Compliance

2.1 The Merchant acknowledges that any chargeback liability will survive the termination of this Agreement or the cessation of business operations. Subject to all applicable operating rules and regulations of Visa, MasterCard Discover and any other payment card association or network organization that is applicable to this Agreement (the “**rules**”), the Bank shall retain the right to pursue recovery of such liabilities, including through any applicable liquidation, receivership, or insolvency proceedings, subject to applicable law.

2.2 Nothing in this section shall override or conflict with applicable laws or statutory rules governing set-off, liquidation priority, or the authority of court-appointed liquidators or trustees.

3. Non-Refund of Fees

3.1 The Merchant acknowledges and agrees that (i) the Merchant Discount Rate (“**MDR**”) and (ii) any applicable transaction fees and charges assessed in connection with the authorization, processing, clearing or settlement of a Transaction, including but not limited to fees for debit transactions, terminal transaction authorization and any further fees associated with services as may be purchased from the Bank from time to time (collectively, “**Fees**”) are charges for services rendered and are non-refundable.

3.2 Without limiting the foregoing, if the Merchant issues any refund, reversal, cancellation or other credit to a Cardholder (each, a “**Refund**”), then: (i) the Fees assessed on the original Transaction – including, for clarity, the MDR – will not be reversed, refunded or credited to the Merchant; (ii) the Bank may assess Fees applicable to the processing of a Refund itself; and (iii) any Fees assessed on a Refund will not be reversed, refunded or credited to the Merchant.

3.3. **Partial Refunds.** For any partial Refund, the Fees assessed on the original Transaction remain non-refundable in full, and Fees applicable to the processing of the partial Refund may be charged.

3.4 **Network Credits/Rebates.** Any rebates, credits, adjustments, “return interchange,” assessments or other amounts that the Bank may receive from a payment card association or network organization or other third party in connection with a Refund are for the account of the Bank; the Bank has no obligation to pass through any such amounts to the Merchant.

3.5 **Prevailing Law and Rules; Error Corrections.** This Section 3 is subject to applicable law and the Rules. Nothing in this Section 3 limits the Bank’s obligation to correct its own processing errors where required by applicable law or the Rules.

This Amendment forms part of the Agreement and is binding on the Merchant upon becoming effective, without the need for separate execution by the Merchant.