

UNIVERSAL MERCHANT AGREEMENT

This Agreement is made the ____ day of _____, 20____, and entered into by and among the party more particularly described in Item 1 of the Schedule (hereinafter referred to as the “Merchant”) and National Commercial Bank Jamaica Limited (hereinafter referred to as the “Bank”). In consideration of the agreements, premises, representations and warranties contained in this Agreement, Merchant and Bank agree as follows:

1. TERMS AND CONDITIONS.

This Agreement is subject to the Merchant Agreement Terms and Conditions (“T&Cs”), which are fully incorporated herein by reference, in effect on the Effective date, and made available to Merchant at www.jncb.com. Merchant has reviewed the T&Cs and agrees to the provisions of the T&Cs as hereby incorporated by reference as though repeated in this Agreement in their entirety. In the event of any conflict, the language of the main text of this Agreement will govern the T&Cs incorporated by reference.

2. TERM.

The term of this Agreement will begin on the date on which Merchant signs (the Effective Date”) and shall remain in full force and effect unless either party terminates it by giving thirty (30) day” written notice of termination to the other, upon the occurrence of an Event of Default, upon the Bank reasonably suspecting that an Event of Default has occurred or as is otherwise provided for in this Agreement.

3. SERVICES.

Subject to the terms of this Agreement, the Bank shall provide to the Merchant the Services described in Item 2 of the Schedule at the rates set forth in Item 3 of the Schedule, which may be amended in writing from time to time pursuant to the terms hereof.

4. FEES.

- 4.1 The Merchant will pay to the Bank such annual membership fees and rental for each imprinter, Point of Sale Terminal or other equipment supplied by the Bank to the Merchant from time to time in accordance with the Fee Schedule current from time to time. The Merchant acknowledges that details of the current Fee Schedule have been provided to it and that the Fee Schedule may be amended at any time by the Bank upon forty-five (45) days written notice to the Merchant.
- 4.2 The Merchant agrees to pay for the services as set forth in the Fee Schedule in accordance with this Agreement. The Bank may modify the pricing set forth in the Fee Schedule or terminate this Agreement in accordance with the provisions hereof.
- 4.3 In addition to the above, from time to time, the Bank may change its fees and discounts. The Merchant’s presentation of any Transaction Receipt to the Bank after the effective date will constitute acceptance of the new prices.
- 4.4 As to any price changes the Bank will provide the Merchant with at least forty-five (45) days’ notice of the effective date of this price change. Should the Merchant choose not to accept the new prices it agrees to notify the Bank, within fifteen (15) days of the Bank’s price change notice, of the Merchant’s intent to terminate this Agreement. Such termination shall be in accordance with the provisions of this Agreement, and existing prices will continue to operate through to the date of termination of the agreement.
- 4.5 The Merchant further agrees that all fees, charges, credits or adjustments pursuant to this Agreement that it may owe constitute a debt that is payable on demand and that the Bank may debit its account(s) with the Bank for this debt. If any such debit results in an overdraft on the Merchant’s account(s) it will pay the Bank the amount of such overdraft plus applicable interest and fees.

- 4.6 The Merchant agrees to notify the Bank in writing of any discrepancy or billing error within forty-five (45) days of the applicable statement or invoice. If failure to notify the Bank within the forty-five (45) days period, the Merchant will be deemed to have accepted the fees and charges set out in the applicable statement or invoice and the Bank will have no obligation to investigate.

5. CONFIDENTIALITY.

- 5.1 Any process, specifications, routines or techniques including software, (together called “supplied facilities”) which are disclosed and/or supplied by the Bank to the Merchant pursuant to this Agreement are the confidential proprietary information of the Bank and shall remain the property of the Bank.
- 5.2 The Merchant shall not, without the prior written consent of the Bank, disclose or make the same available to any person other than an employee of the Merchant for use for purposes of and as authorized by this Agreement.
- 5.3 The Merchant agrees to honour and be bound by any third-party copyright restrictions associated with the supplied facilities which the Bank is likewise bound to observe and shall indemnify the Bank for any third-party claim in breach of copyright pursuant to the disclosure by the Merchant of the supplied facilities.
- 5.4 Save and except for the sharing of information by the Bank with its subsidiaries and affiliates to facilitate the marketing of new products, to provide more efficient service to the Merchant, to ensure robust AML/CFT/PCI DSS compliance and any information required to be disclosed by and law, regulation, or order of the Court, neither party shall disclose any proprietary or confidential information relating to this Agreement or the business or operations of the other party without the prior written consent of such other party. Confidential and proprietary information shall include information in written or oral form relating to the Agreement or to any matter connected with either party which is not generally available to the other party and which comes into the possession of such other party by virtue of doing business under this Agreement.
- 5.5 The Merchant shall not assign, transfer or purport to assign the provisions of this Agreement or any part thereof to any person without the consent in writing of the Bank, such consent not to be unreasonably refused.
- 5.6 The Bank may at any time transfer or assign this Agreement to any of its subsidiaries or affiliates, or another Bank or financial institution and in such case shall give the Merchant reasonable notice thereof.

6. LIMITATION OF LIABILITY.

- 6.1 There are no conditions, warranties or representations, expressed or implied, oral or written, statutory or otherwise, except as herein expressly stated regardless of the form of action, whether in contract or in tort.
- 6.2 The Bank shall not be liable for indirect or consequential damages.
- 6.3 In no event shall the Bank’s liability exceed a maximum amount of Ten Thousand Jamaican Dollars (J\$10,000.00) for any one incident even if it has been advised of the possibility thereof, including loss of anticipated profits or savings or other economic loss in connection with or arising out of the existence, furnishing, functioning or the Customer’s use of the Services.
- 6.4 In no event will the Bank be responsible for the accuracy and completeness of any information provided to the Bank by third parties.

7. TERMINATION.

- 7.1 This Agreement shall become effective on the date first above written when accepted by the Merchant and shall remain in full force and effect unless either party terminates it by giving thirty (30) days’ written notice of termination to the other, upon the occurrence of any Event of Default, upon the Bank reasonably

suspecting that an Event Of Default has occurred or as is otherwise provided for in this Agreement.

- 7.2 The obligations of both parties for any particular Transaction completed on or prior to the date of termination shall survive termination.
- 7.3 The Bank may terminate this Agreement immediately if the Merchant becomes insolvent or bankrupt, becomes involved in any prohibited activity set out in clause 8 of the T&Cs or the Bank deems itself to be insecure with respect to the Merchant's business.
- 7.4 Following termination, the Merchant agrees, where applicable, that it will not represent that it honours any Card Organization's Card through participation in the Bank's card system as a Merchant.
- 7.5 Upon the occurrence of any circumstance which would enable the Bank pursuant to the terms of this Agreement to terminate this Agreement, the Bank shall be entitled, in lieu thereof, to suspend this Agreement, list the Merchant on terminated merchant files, freeze the Merchant's accounts with the Bank and take such other steps as it deems necessary.
- 7.6 An Event of Default shall occur if:
- The Merchant makes any warranty or representation hereunder which is or becomes incorrect in any material aspect;
 - The Merchant fails to observe or perform any of the terms and obligations contained herein, or any of the rules issued by the Bank from time to time;
 - The Merchant institutes, or does anything which would permit to be instituted, any proceedings leading to the Merchant being declared a bankrupt or being found insolvent;
 - The Bank feels unsafe or insecure in the manner in which the Merchant is conducting its business.
- 7.7 The Merchant shall be deemed inactive if there is no Transaction activity on the Merchant's account for a period of ninety (90) days. The Bank reserves the right to close/suspend the Merchant's account and retrieve any Point of Sale Terminal that has been assigned to the Merchant and not returned.
- 7.8 Within five (5) days of the termination of this Agreement, all equipment, advertising displays, stationery or other property provided by the Bank must be returned to the Bank, or if so elected by the Bank, destroyed.

8. WARRANTIES.

The Merchant warrants and/or agrees with the Bank as follows:

- 8.1 That no setoffs or counterclaims of any kind shall exist in favour of any Purchasers against the Merchant that may be asserted in defence of an action to enforce payment against such Purchaser for any goods and services purchased through the use of a card.
- 8.2 To indemnify and hold the Bank harmless against any dispute, claim, action or liability whatsoever which may arise in respect of this Agreement (where such dispute does not arise as a result of the breach of obligations of the Bank under this Agreement or the fraud or gross negligence of the Bank and or its servants or agents) and without prejudice to the generality of the foregoing the Merchant agrees that this indemnity shall include the reasonable fees and expenses of outside legal counsel on a full indemnity basis as well as the time and costs of in-house counsel. The Merchant shall forthwith upon demand pay such reasonable sums as the Bank may certify as due hereunder, and for these purposes a certificate given under the hand of an officer of the Bank shall (absent fraud or manifest error) be conclusive for all purposes in connection herewith.
- 8.3 That the Bank makes no representation as to the operation or fitness for any particular purpose of any equipment or virtual terminal, and shall not be liable for any loss of profit, loss of business, special, consequential or punitive damages arising out of or in connection with the use of any equipment or virtual terminal or in connection with the operation or termination of this Agreement.
- 8.4 That the Bank will, in no event, be responsible for the Merchant's acts or omissions or those of any third parties.
- 8.5 That the Bank reserves the right to suspend or completely cancel the Merchant's participation in any of the Bank's programmes offered pursuant to this Agreement, in accordance with the provisions of this Agreement.
- 8.6 To deliver to the Bank within five (5) Business Days its most recently prepared financial statements and credit information as the Bank may request from time to time.
- 8.7 That any Transaction Receipt sold or tendered by it to the Bank represents a valid bona fide obligation for the amounts set forth therein.
- 8.8 That each Cardholder appears to have legal capacity to contract at the time of purchase.
- 8.9 That all statements of fact contained in any document, including any Transaction Receipt, submitted to the Bank, are true and it has no knowledge that would impair the validity of such document or collectability of any such Transaction Receipt submitted to the Bank.
- 8.10 That the Merchant has checked the validity of any Card submitted by a Cardholder by obtaining the necessary information to properly complete the Transaction Receipt.
- 8.11 That the purchase of any single item of goods and/or services has not been consummated by the execution by Cardholder of more than one (1) Transaction Receipt and no attempt has been made to divide the amount of any Transaction by the completion of more than one Transaction Slip.
- 8.12 That a Transaction evidenced by a Transaction Receipt or a Transaction Slip does not involve any element of credit except a sale of goods and/or services.
- 8.13 That a Transaction Receipt has not been effected for the purpose of advancing any cash to a Cardholder, either directly or by deposit to the Cardholder's account.
- 8.14 That the Discount payable on any Transaction has not been passed on to the Cardholder as part of the purchase price for goods and services.
- 8.15 That the Merchant has good title to the Transaction Receipt which has not previously been assigned or encumbered and the Transaction Receipt does not represent any illegal sale.
- 8.16 That no claim or proceeding shall be brought by the Merchant, or by any person acting through or for the Merchant, against the Bank in respect of any Transaction entered into more than 18 months prior to the notification, institution or commencement of such claim or proceeding.
- 8.17 That in the event the Bank incurs any liability to the Merchant or to any person acting through or for the Merchant, such liability, if not otherwise excluded in this Agreement, shall in all circumstances be limited to J\$10,000.00.
- 8.18 That the Merchant understands that this Agreement, and the Schedules and Addenda that are incorporated herein, have been prepared based on the information submitted by the Merchant on the Merchant Application and the Merchant warrants, undertakes and agrees that all the information contained therein is true and correct.
- 8.19 That it will give to the Bank at least seven (7) days prior written notice of its intent to change location.
- 8.20 That it will give to the Bank at least thirty (30) days prior written notice of its intent to change the basic nature of its business, product line or services, trade name or style, or the manner in which it accepts cards. If the Bank in its sole discretion determines that such a change is material to this Agreement, the Bank reserves the right to refuse to process Transactions posted after the change. Further, the Bank will have the option of terminating the Merchant's participation in the Bank's card system.

9. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of Jamaica and shall be binding upon the parties hereto and upon their heirs, administrators, executors, successors and assigns.

ITEM 1: MERCHANT DETAILS

MERCHANT NAME:	
MERCHANT ADDRESS:	
MERCHANT TRN:	

ITEM 2: MERCHANT PRODUCTS AND SERVICES

PRODUCTS							
POINT OF SALE	BILL PAYMENT (PaySmart)	eCOMMERCE	OTHER SERVICES				
Countertop	IVR	Website Template					
Mobile	Internet Banking	Payment Buttons					
Hybrid Terminal		vPOS					
mPOS		Virtual Terminal					
ePOS		Customized Website					
Integrated POS		Hosted Payment Page					
Pin Pad		Marketplace					
Mail Order							

CARD TYPE SETUP, MERCHANT DISCOUNT RATE (MDR) & PER TRANSACTION FEES							
Visa		% +GCT	Multilink Debit Card at POS, mPOS, ePOS and PaySmart		JS		+GCT
Mastercard		% +GCT	JAM-DEX				+GCT
Discover		% +GCT	Lynk				+GCT
AMEX		% +GCT					
JCB		% +GCT	Non-Qualified /Downgraded Transaction Fee			0.50% + MDR + GCT	
UnionPay		% +GCT	Other:				
Other:			Other:				

Note: Multilink Debit Cards used on the eCommerce channels will attract the MDR above and not the flat per transaction fee.

ITEM 3: SERVICE FEES

The Bank may charge fees in respect of the Services as set forth in its Fee Schedule which is made available in the Bank's branches and on the Bank's website at www.jncb.com. Such fees shall include the fees set forth in the table below and may be amended by the Bank from time to time upon the provision of not less than forty-five (45) days' notice to the Merchant:

FEES							
PER OCCURRENCE		MONTHLY		ONE TIME SETUP FEE			
Chargeback	US\$12.00 + GCT or JS Equivalent	Countertop	JS\$2,300.00 + GCT	POS	JS\$2,000.00 +GCT per location		
Arbitration (unsuccessful party pays)	US\$500.00 +GCT or JS Equivalent	Mobile	JS\$4,400.00 + GCT	eCommerce	US\$200.00 +GCT or JS Equivalent		
POS Reactivation Fee	JS\$2,000.00 + GCT	Hybrid Terminal	JS\$2,500.00 + GCT				
LOST / STOLEN / DAMAGED TERMINALS		mPOS	JS\$1,000.00 + GCT				
Countertop	US\$150 +GCT	ePOS	JS\$500.00 + GCT				
Mobile / Hybrid	US\$250 +GCT	Integrated POS	JS\$ + GCT				
mPOS	US\$50 +GCT						
Peripherals	JS\$1,800 +GCT						
PAYSMART & eCOMMERCE							
eCommerce: per transaction fee	US\$0.25 +GCT or JS Equivalent	PaySmart File Download Fee	JS\$1,500.00 + GCT / month				
eCommerce: Maintenance Fee	US\$50.00 + GCT or JS Equivalent	PaySmart Reactivation Fee	JS\$2,000.00 + GCT				
eCommerce Reactivation Fee	US\$50.00 +GCT or JS Equivalent						
PCI BREACH FINES:		PCI NON-COMPLIANCE FEE:					
1 st Breach	US\$50.00 +GCT or JS Equivalent	POS: After 30 Days	JS\$5,000.00 + GCT / month				
2 nd Breach	US\$75.00 +GCT or JS Equivalent	POS: After 90 Days	JS\$10,000.00 +GCT / month				
3 rd Breach	US\$100.00 +GCT or JS Equivalent	eCommerce: After 90 Days	JS\$5,000.00 + GCT / month				
		eCommerce: After 365 Days	JS\$15,000.00 +GCT / month				

Warranty: Each of the undersigned owner/officer of the merchant also represents and warrant that he/she has read and agreed to the fees set forth herein;

THIS AGREEMENT SHALL BE DEEMED EXECUTED AND EFFECTIVE AS OF THE DATE ON WHICH ALL PARTIES HAVE SIGNED BELOW. SIGNED FOR AND ON BEHALF OF THE MERCHANT, THE UNDERSIGNED HAVING BEEN DULY AUTHORISED TO DO SO, AND HAVING READ AND FULLY UNDERSTOOD THIS AGREEMENT.

(If a limited company, you may be required to complete a corporate resolution to be returned to the Bank.)

MERCHANT	
AUTHORISED SIGNATURE:	
NAME:	
TITLE:	
TRN:	
ID DETAILS:	
DATE (dd/mm/yyyy):	
AUTHORISED SIGNATURE:	
NAME:	
TITLE:	
TRN:	
ID DETAILS:	
DATE (dd/mm/yyyy):	
AUTHORISED SIGNATURE:	
NAME:	
TITLE:	
TRN:	
ID DETAILS:	
DATE (dd/mm/yyyy):	
AUTHORISED SIGNATURE:	
NAME:	
TITLE:	
TRN:	
ID DETAILS:	
DATE (dd/mm/yyyy):	

NATIONAL COMMERCIAL BANK JAMAICA LIMITED (INTERNAL USE)	
AUTHORISED SIGNATURE:	
NAME:	
TITLE:	
DATE (dd/mm/yyyy):	