

Terms & Conditions

for Banking Relationship with
National Commercial Bank Jamaica Limited

VERY IMPORTANT: THE CUSTOMER MUST CAREFULLY REVIEW THE VERIFICATION CLAUSE AT CLAUSE 1.10 OF THIS DOCUMENT

1.1 Definitions and Interpretation

Throughout this Mandate where the context so requires, the singular includes the plural and vice versa and the masculine includes the feminine and neuter and the following expressions have the following meanings:

“ABM” means an automated banking machine operated by NCB or any other bank or financial institution participating in a network accessible using a Card issued by NCB.

“Access Code” means the combination of characters (which may include letters and numbers) that is needed to access the designated account through the Service, an ABM or Point-of-Sale Device or other means as may be defined by the Bank from time to time, and shall include any Personal Identification Number that may be needed for any of these purposes.

“Affiliates”, in relation to the Bank, includes entities in which it holds shares, its shareholders and other entities owned or controlled by its shareholders.

“Associated Accounts” means any accounts in respect of which there are cards approved by the Bank for use by the Cardholder from which the Cardholder can transfer funds, make payments or initiate other transactions as may be permitted by the Bank from time to time.

“Bank” means National Commercial Bank Jamaica Limited. Unless the context otherwise requires, “Bank” also includes National Commercial Bank Jamaica Limited’s agents engaged to provide some or all of the services provided by the Bank.

“Card” means the Bank Card issued to the Cardholders, which is a debit card.

“Cardholder” means any person to whom a Card is issued by the Bank.

“Customer” shall, unless the context otherwise requires, include Customers where more than one person is the Customer in respect of any account held with the Bank.

“Designated Bank Accounts” means those accounts which can be accessed through an ABM or Point-of-Sale Service or Touch Tone Telephone or such other means as may be defined by the Bank from time to time.

“Interactive Voice Recognition System” means the Bank’s telephone banking system through which the Customer is able to process transactions and access account information by responding to the Bank’s automated voice commands.

“Issuing Branch” means the National Commercial Bank Jamaica Limited branch at which the Customer opened his/her account or obtained his/her card (as the case may be).

“Point-of-Sale Device” means an electronic device used by merchants/retailers to transmit requests for authorization and settlement of transactions made by a Cardholder at a retailer’s establishment and evidenced by use of an Access Code, and “Point-of-Sale” shall have a corresponding meaning.

“Regulatory Authority” includes the Bank of Jamaica, the Financial Services Commission, the Director of Public Prosecutions, and the Minister with responsibility for Finance, as well as any agent acting on behalf of such persons and any other person who may by law be given power to regulate or supervise the activities of the Bank or its affiliates.

“Service” includes a telephone based service, the Bank’s Interactive Voice Recognition System and any other service providing the Cardholder with access to a designated account and/or approved associated accounts and a facility for paying funds to the accounts of other persons (wherever held), but shall not for the purposes of part 9 (Bank Card) include internet services.

The headings of these Terms and Conditions that accompany the part and clause numbers are for convenience and reference only, and in no way define or limit the scope and contents of the Terms and Conditions or in any way affect their provisions.

1.2 Account Opening

The Customer requests the Bank to open an account(s) in his/her name and to honour the signature(s) of the person(s) set out on the most recent Personal / Joint Relationship Form submitted by the Customer for each account.

1.3 Effective Date

These Terms and Conditions shall take effect upon the receipt by the Bank of the Personal / Joint Relationship Form executed by or on behalf of the Customer.

1.4 Scope of Application

These Terms and Conditions shall govern all accounts in the sole or joint name of the Customer (and any other person) with the Bank, including any accounts that may subsequently be opened in the sole or joint name of the Customer, unless otherwise agreed in writing by an authorized officer of the Bank. In the event of a written agreement between the Customer and the Bank as to the terms and conditions to be governed by a specific account or facility, these Terms and Conditions shall only apply to the extent that they are consistent with the terms and conditions applicable to the specific account or facility.

1.5 Status of Previous Mandates

Unless otherwise agreed in writing between the Bank and the Customer, any previous Mandates between the Bank and the Customer governing current accounts, deposit accounts or savings accounts are hereby terminated and replaced by these Terms and Conditions;

Provided that all authorities, instructions, instruments and transactions authenticated in accordance with any existing Mandate and purporting to have been given, made, issued or entered into prior to these Terms and Conditions taking effect shall have effect as between the Customer and the Bank as though this instruction had never been given.

1.6 Changes in Constitution etc.

In the event of any alteration in the constitution of the Customer or of others besides the persons specified on the Personal / Joint Relationship Form being authorized to sign, due notice in writing will be given to the Bank and such notice will be binding on the Customer if given by the person(s) specified on the Customer Account Form most recently submitted by the Customer to the Bank in respect of the Account, provided the notice is given in accordance with the Form. Despite any such change, these Terms and Conditions shall remain in force.

1.7 Instructions Regarding the Account

All instructions in connection with the Customer's accounts and in particular, but without limiting the generality of the foregoing, all instructions relating to instruments and securities, the charging pledging disposal and withdrawal of them, the taking of advances by way of discounts, loans, overdrafts or otherwise with or without security, withdrawals of any amount, whether principal or interest, which may be standing to the Customer's credit, and discharges on deposit receipts standing in the name of the Customer are in order if given by the person(s) notified by the Customer to the Bank, in a form acceptable to the Bank, as being authorized to give those instructions on the Customer's behalf.

Unless otherwise communicated to the Bank in writing, the Bank is authorized and requested to act on the instructions of the person(s) notified by the Customer to the Bank, as provided in this clause, and the said person(s) is/are authorized:

1.7 Instructions Regarding the Account (cont'd)

- (a) to deposit with or negotiate or transfer to the Bank (but only for the credit of the Customer) all or any cheques, promissory notes, bills of exchange, order for payment of money and other paper negotiable or otherwise, interest or dividend coupons and warrants, securities maturing or called for redemption, and the proceeds of any of them, and for such purpose to make, draw, endorse, sign, execute and deliver all or any of the following or deliver all or any thereof to the Bank endorsed with the name of the Customer impressed thereon by rubber stamp or otherwise;
- (b) to receive all paid cheques and vouchers and sign and deliver to the Bank the Bank's form of settlement of balances and release, and to arrange, settle, balance and certify all books and accounts between the Customer and the Bank, and to receive all commercial and other paper, and to sign and deliver to the Bank receipts for all or any of the foregoing;
- (c) to make, draw, accept, endorse, sign and execute cheques, promissory notes, bills of exchange, orders for the payment of money and other instruments, whether negotiable or not, and agreements obligating the Customer to the Bank in respect of obligations or liabilities incurred or to be incurred by the Bank for the account or benefit of the Customer;
- (d) to borrow money from the Bank on the credit of the Customer in such amounts and on such terms as may be deemed expedient by obtaining loans or advances or by way of overdraft or otherwise;
- (e) to mortgage, hypothecate, charge, pledge, convey, assign or transfer to or in favour of the Bank or otherwise give security to the Bank upon all or any of the property, real or personal, immovable and movable, present and future, owned by the Customer or in which it may have any interest and to empower the Bank or any person or persons to sell at public or private sale, assign, transfer and convey from time to time any or all property or interest therein upon which security is held by or for the Bank, and execute in the name of the Customer or otherwise and deliver all assignments, transfers, conveyances, powers of attorney and other documents which may be deemed necessary or useful for the purpose of effecting or completing any such sale, assignment, transfer or conveyance, the nature and form of any such security and the rights, powers and authorities exercisable by the Bank or any person or persons thereunder or in respect thereof to be satisfactory to the Bank;
- (f) to sign or execute and deliver all such assignments, transfers, conveyances, hypothecations, mortgages, charges, pledges, agreements, deeds, releases, discharges and other documents and writings as the person(s) so notified to the Bank, in his/her/their discretion, may consider necessary or useful in connection with the Customer's business with the Bank or as the Bank may request;
- (g) to withdraw from the Bank all or any securities and property held by the Bank for safekeeping on behalf of the Customer or as collateral security or otherwise and sign and deliver receipts therefor or to direct the Bank by written instructions to deliver all or any such securities and property to any person or persons named in such instructions,

and it is agreed that all instruments, whether negotiable or not, documents and writings made, drawn, accepted, endorsed, signed or executed as herein provided and delivered by any bearer thereof shall be valid and binding upon the Customer, and the Bank is hereby authorised to act thereon and give effect thereto.

1.8 Authority to Act on Instructions re: Securities

The Bank is authorised and requested to honour and comply with all instructions to deliver or dispose of any securities, documents, foreign currency or property held by the Bank or on the Customer's behalf; to hold the Customer liable on all agreements and indemnities in connection with the issue of letters of credit, drafts and telegraphic transfers and with all banking transactions PROVIDED any such instructions, agreements and indemnities are signed by the person(s) notified by the Customer to the Bank, in a form acceptable by the Bank, as being authorized to do so.

1.9 Authority re: Endorsements on Bills of Exchange

The Bank is authorised and requested to treat all cheques, drafts, bills of exchange, promissory notes, acceptances, negotiable instruments and orders as being endorsed on the Customer's behalf and to discount or otherwise deal with them provided such endorsements purport to be signed by the person(s) notified by the Customer to the Bank, in a form acceptable by the Bank, as being authorized to do so.

1.10 Verification Clause

The Customer agrees with the Bank that:

- (a) In respect of each account with the Bank, now or hereafter kept by the Bank at any of its branches or agencies, the Customer will verify the correctness of each statement of account and (when received) the regularity and validity of all cheques, instruments analogous to cheques and/or vouchers received from the Bank.
- (b) If a statement of account and (if accompanying the statement) the cheques, instruments analogous to cheques and/or vouchers relating to it are not received by the Customer by the 10th day after the end of each month or, if statements are not to be prepared monthly, by the 10th day after the end of the term agreed on for their preparation the Customer will collect and obtain them from the Bank. Whether or not the Customer actually collects it, the statement of account and any accompanying documents shall be deemed to have been received by the Customer on the said 10th day.
- (c) If, on the Customer's instruction, statements of account are to be held by the Bank rather than sent to an address, or if the Customer fails to supply the Bank with an address to which a statement may be mailed, each statement shall be deemed to have been sent to the Customer on the day after the date of the statement.
- (d) If statements are mailed by the Bank to the Customer and are returned to the Bank on more than one occasion, this shall be deemed to be an instruction by the Customer for the Bank to stop mailing these statements and for the purposes of these Terms and Conditions and this clause in particular, the statements and all future statements addressed to the Customer shall be treated as being held by the Bank on the Customer's instruction.
- (e) Within 15 days after the day when each statement of account and the cheques, instruments analogous to cheques and/or vouchers relating to and accompanying it (if any) are issued by the Bank, the Customer will notify the Bank in writing at the Issuing Branch of any alleged omissions from, errors or debits wrongly made to, or inaccurate entries in the account as so set out in the statement, including but not limited to debits wrongly made as a result of or arising out of any negligence, forgery or fraud whatsoever and by whomsoever caused, including the forgery of a drawer's signature on any cheques, instruments analogous to cheques and/or vouchers and also of anything which impairs or affects the regularity, validity or negotiability of any such cheques, instruments analogous to cheques and/or vouchers.

1.10 Verification Clause (cont'd)

- (f) At the end of the said 15 days, the said statement shall be conclusive evidence as against the Customer without any further proof that (except as to any alleged errors, omissions, wrongful debits or inaccuracies notified as provided by this clause) the statement contains all credits that should be contained therein and no debits that should not be contained therein, and all the entries therein and the closing balance on the statement are correct, and subject to the above exception (relating to Customer notification to the Bank) the Bank shall be entitled to rely upon the statement and shall be free from all claims in respect of the account.
- (g) **In agreeing to these Terms and Conditions, the Customer further declares and agrees that it is essential and important that the examination and verification of all statements of account, and (if accompanying the statements) the cheques, instruments analogous to cheques and/or vouchers relating to such statements of account be carried out by the Customer in the manner and within the time stipulated in this clause and that the statements of account shall have conclusive effect against and be unchallengeable by the Customer in relation to such entries or items or the closing balance in respect of which no notification of errors, omissions, wrongful debits or inaccuracies has been given by the Customer as required by this clause.**

1.11 Customer's Obligations and Negligence

The Customer shall at all times in respect of his/her accounts and in his/her dealings with the Bank act in good faith and with due diligence, and take all necessary precautions in all acts and matters relating to the operation and maintenance of his/her accounts with the Bank. The Customer alone will bear all the consequences of his/her negligence and shall indemnify and hold the Bank harmless in respect of any and all losses or damages arising due to the fault or negligence of the Customer.

1.12 Authority to Correct Errors

In the event of any error made by the Bank in recording any entry in or to the Customer's accounts, the Bank shall have the right to make the necessary correction and may accordingly reverse or adjust the entry without notice to the Customer and recover the amount (if any) due from the Customer. The Bank shall not be liable for any damage or loss arising as a result of any such error.

1.13 Consolidation and Transfers Between Accounts

In addition to any powers of combining or consolidating the accounts and liabilities of a Customer, or of set off, conferred upon the Bank by law, the Customer agrees that the Bank may at any time without prior notice to the Customer SET OFF, COMBINE or CONSOLIDATE any or all of such sums of money or part or parts thereof as may now stand or hereafter may from time to time be standing to the Customer's credit upon any account with any or all of such sums of money or part or parts thereof as may now be or hereafter may from time to time become due or owing to the Bank from or by the Customer, either as principal or surety, and either solely or jointly with any other person, upon current account, bills of exchange or promissory notes or upon loan or any other account whatsoever, or for actual or contingent liability including all usual banking charges; AND the Customer further agrees that the Bank shall be at liberty, without any notice to or further or other consent from the Customer, to apply or transfer any money now or at any time hereafter standing to the Customer's credit upon current account, deposit account or savings account as aforesaid in payment or in part payment of any such sums of money as may now be, or hereafter may from time to time become, due or owing to the Bank from or by the Customer as aforesaid and that the Bank may refuse payment of any cheque, bill, note or order drawn or accepted by the Customer or upon which the Bank may be otherwise liable and which, if paid, would reduce the amount of money standing to the Customer's credit as aforesaid to less than the amount for the time being so due or owing to the Bank from or by the Customer as aforesaid.

1.14 Amalgamation and Bank Changes

These Terms and Conditions and the Personal / Joint Relationship Form signed by the Customer shall continue to bind the Customer notwithstanding any amalgamation or reconstruction that may be effected by the Bank with any other company or person, or any transfer of the Bank's business or any part thereof, or any change in the Bank's constitution, and shall enure additionally for the benefit of any new company or corporation so formed and for the time being carrying on the Bank's business or any part thereof as successor to the Bank, whether such new company or corporation shall or shall not differ in its name, objects, character and constitution from the Bank, it being the intent that the Terms and Conditions and the Personal / Joint Relationship Form shall remain valid and effectual in all respects and for all purposes in favour of and with reference to any such new company or corporation or other of the Bank's successors or assigns as well as the Bank, and may be proceeded on and enforced in the same manner to all intents and purposes as if such new company or corporation or other of the Bank's successors or assigns had been expressly named and referred to in these Terms and Conditions and on the Personal / Joint Relationship Form instead of the Bank.

1.15 Agreement Surviving Death, etc.

These Terms and Conditions shall continue notwithstanding the death, insanity, bankruptcy, winding up or dissolution of the Customer, or any of the Customers.

1.16 Bills of Exchange Dishonoured etc.

The Bank is authorised to debit any of the Customer's accounts with any cheques, bills of exchange or other instruments that were previously credited to an account of the Customer which were either not paid when presented by the Bank or which if paid the Bank may be required to refund or which may be dishonoured for any reason whatsoever, and to also debit the Customer's account with all the Bank's costs, charges and expenses incurred in connection therewith.

1.17 Collection of Instruments for Customers

Where the Bank accepts for collection on the Customer's behalf any cheques, drafts, bills, dividend or interest warrants or other instruments issued in favour of Customer, the following provisions shall apply:

- (a) The Bank shall be entitled to charge, and to debit any of the Customer's accounts with the Bank's collection charges as well as any fees or charges incurred by the Bank in connection therewith.
- (b) The Bank does not accept any responsibility for loss, delay, mutilation or interception of the instruments in postal or courier transit.
- (c) The Bank does not accept or share any responsibility for realization of such instruments or for the genuineness, validity or correctness of the signatures or endorsements thereon.
- (d) The Bank shall be entitled, but not obliged, to prohibit withdrawals against such instruments prior to realization by the Bank of the amounts for which the instruments were issued.
- (e) Where the Bank accepts for collection cheques or other instruments payable outside Jamaica, the Bank may require compliance with the relevant laws and regulations of the country in which the cheques or other instruments are payable, whether or not those laws and regulations are applicable to similar business in Jamaica.

1.18 Keeping Account and Debiting Charges

The Bank may from time to time make and debit the account(s) without prior notice with the Bank's usual charges which the Customer agrees to pay, and the amount of which charges are available at each Branch of the Bank upon enquiry and which may also from time to time be available on the Bank's website. The Customer asks that the Bank open and maintain such account(s) subject to the regulations relating to the respective account(s) for the time being in force. The Customer further agrees that, in respect of any Customized Banking Package provided by the Bank, the Customer will pay such service charge, maintain such minimum account balance and make such regular deposits as may from time to time be required for the Customized Banking Package, failing which the Bank is authorized, without prior notice, to debit any accounts in the Customer's name with the Bank's service charges.

1.19 Debiting Taxes Payable

The Bank shall be entitled to debit the Customer's account with any taxes associated with the operation of the account, interest earned thereon, charges applied by the Bank or services provided by the Bank, and this authority shall (without limiting the generality of the foregoing) include:

- (a) the authority to withhold income tax on interest earned on any savings or deposit account and debit the account with the tax so withheld; and
- (b) the authority to debit the account with General Consumption Tax on any charges associated with the operation of the account or services provided by the Bank to the Customer.

1.20 Disclosure

Where the Bank considers it appropriate to do so, the Bank is authorised, but not required, to disclose information to third parties about the Customer and the Customer's Account in the following circumstances:

- (a) in order to verify the existence and condition of the account for a Merchant with whom the Customer is conducting a transaction using the Customer's Debit or Credit Card;
- (b) in order to comply with a request for such disclosure by another bank, financial institution, credit agency or credit bureau;
- (c) if the Bank considers such disclosure necessary or appropriate in order to facilitate an investigation of or prosecution for fraud, money laundering or offences associated with terrorism or terrorist financing;
- (d) in order to comply with disclosure requirements imposed by law;
- (e) where the disclosure is to and among the offices, affiliates and subsidiaries of the Bank;
- (f) in order to facilitate the carrying out of transactions on the Customer's account(s) and the provision of services (including, but not being limited to, mailing of documents, and the operation of customer call centres) in respect of the Customer and his/her account(s) by persons who may from time to time be contracted by the Bank to do so and who may not be officers or agents of the Bank;
- (g) where the Bank considers it necessary or appropriate to do so; or
- (h) in any other circumstances, if the Customer (or any of them, if more than one) gives the Bank written permission.

1.21 Revocation of Authority

Subject to clauses 1.25 and 1.28, these Terms and Conditions shall continue in force until the person(s) specified by the Customer, in a form acceptable to the Bank, as having the authority to revoke the Bank's authority shall have expressly revoked it by notice in writing delivered to the Issuing Branch of the relevant account(s), or such other branch at which the account(s) may for the time being be kept, and it shall not be revoked by the death of any of the Customers. After any such death, the signature of the survivor(s) may be accepted as a sufficient discharge for any balance on this account or any part of such balance.

1.22 Address Changes

The Customer will immediately notify the Bank in writing at the Customer's Issuing Branch of any address changes and all notices mailed to the Customer's last known address will be effective as though received.

1.23 Written Information

The Bank shall not be bound by any information provided by the Bank to the Customer that is not provided in writing (which shall include information provided on the Bank's website or by e-mail) or through the Bank's Interactive Voice Recognition System. The Bank shall not be liable to the Customer in respect of any information alleged to have been provided orally by the Bank or its employees to the Customer or by the Customer to the Bank, unless such information is confirmed or recorded in a written or other permanent form.

1.24 Consent to Bank Initiated Contact

The Customer consents to the Bank, its agents and/or affiliates communicating with the Customer by e-mail, telephone, fax, post or other means of communication in relation to the account, any products or services they may wish to offer to the Customer, or for any other purpose the Bank, its agents or affiliates may consider it appropriate to communicate with the Customer.

1.25 Variation in Terms

The Customer agrees that the Bank may vary the terms and conditions of these Terms and Conditions (and any special conditions applicable to the Customer's Account(s) or Customized Banking Package(s)) by way of written notice to the Customer communicated by any appropriate means/media, which may include posting in the Customer's Issuing Branch or on the Bank's website, or alternatively sending by mail, bearer, fax or electronic mail to the mailing address, fax number or e-mail address (as the case may be) of the Customer in the Bank's records as at the date such notice is sent. The variation shall take effect 14 days after the date of the notice or on such later date as may be specified in the notice.

1.26 Indemnity and Release

In consideration of the Bank complying with these Terms and Conditions, the Customer hereby undertakes and agrees to indemnify the Bank against any loss, charge or expense which the Bank may suffer or sustain thereby and to absolve and hold the Bank harmless from all liability for loss or damage which the Customer may sustain, howsoever caused, provided the Bank has not acted contrary to these Terms and Conditions.

1.27 Release and Indemnity Regarding Remittance Instructions

The Customer agrees that instructions as to the payment or transmission of remittances if made through the Bank are done at the Customer's risk and cost, and the Customer releases the Bank, its correspondents and agents and agrees to indemnify and hold them harmless from and against the consequences of any irregularity, delay, telegraphic error, omission, error or misinterpretation that may arise and from and against any loss which may be incurred through the Bank's correspondents failing to properly identify the person named in the instructions or retaining the funds pending confirmation of the identity of the person, or of the instructions. The Customer further agrees to so release, indemnify and hold the Bank harmless in relation to any risks that may arise from exchange fluctuations.

1.28 Closure of Accounts by Bank

The Bank may at any time in its discretion and with immediate effect close any account of the Customer and discharge its entire liability with respect to that account by mailing to the Customer, at the address noted for the Customer in the Bank's records, the Bank's draft in the currency of the account without recourse to the Bank as drawer, payable to the order of the customer (or if more than one to any of them) in the amount of the then credit balance in the account.

1.29 Governing Law and Jurisdiction

The obligations of the parties under these Terms and Conditions shall be governed by the Laws of Jamaica. The exclusive jurisdiction for any legal proceedings regarding or arising out of these Terms and Conditions or the operation of the Customer's account(s) shall be the courts of Jamaica.

1.30 Notices

Unless otherwise agreed by the parties in writing or otherwise required by these Terms and Conditions or by law, any notice must be in writing and

- (a) in the case of a notice to the Customer, be sent to the Customer's mailing address, fax number or e-mail address in the records of the Bank; and
- (b) in the case of a notice to the Bank, be delivered to the Issuing Branch of the Bank.

1.31 Severability

The parties agree that:

- (a) the provisions of these Terms and Conditions shall be severable in the event that for any reason whatsoever any of the provisions hereof are invalid, void or otherwise unenforceable;
- (b) such invalid, void or otherwise unenforceable provisions shall be automatically replaced by other provisions which are as similar as possible to the replaced provisions but are valid and enforceable; and
- (c) the remaining provisions shall remain valid and enforceable to the fullest extent permitted by law.

2. CUSTOMER WARRANTIES AND UNDERTAKINGS

2.1 Undertaking Regarding Account Use

The Customer undertakes to use his/her accounts with the Bank solely for the Customer's own transactions, and to indemnify and hold the Bank harmless in respect of any losses or damage (whether due to fraud, wilful or negligent conduct) that may result if the Customer uses or permits the use of the Customer's accounts for the benefit or on behalf of third parties.

2.2 Solvency Warranty

The Customer, and the persons signing the Personal / Joint Relationship Form on its behalf, warrant that no winding up, bankruptcy or other insolvency proceedings have been instituted against the Customer, nor has a receiver or manager been appointed in respect of the Customer or any of its assets. The Customer and the said signatories undertake to immediately advise the Bank in writing in the event that this warranty ceases at any time to be correct.

3. CONDUCT OF ACCOUNT

3.1 Uncleared Funds

Any credit entry made in any account of the Customer in respect of cheques received does not make the funds so credited available for withdrawal until the proceeds of the cheque have actually cleared and been realised by the Bank. Further the Bank reserves the right to debit the account in reversal of the relevant credit entries if such cheques are returned unpaid, and to charge a fee for the reversal of the entry. Cheques returned unpaid may be mailed to the Customer's address if not collected within 7 days of the date of the reversal.

3.2 Interest, Overdrawn Accounts and Bank Charges

In the event of any account of the Customer becoming overdrawn at any time, the Customer hereby agrees that the Bank shall be entitled to charge compound interest on the sum by which the account is overdrawn calculated on daily balances with monthly rests and that the rate charged from time to time shall be such rate as the Bank may charge at its sole discretion.

The Bank shall also be entitled to apply charges to the Customer's account(s) whether or not the account(s) are overdrawn, and the rate of such charges from time to time shall be such rate as the Bank may charge at its sole discretion.

The Bank shall not be bound to notify the Customer in advance of any change in the rates of interest or charges, but on receipt of a written request from the Customer, the Bank shall be obliged to specify the rate being charged at the time of such request. The interest and charges the Bank is entitled to charge, by these Terms and Conditions or otherwise by law, may be debited to any account in the name of the Customer.

This agreement as to interest and charges (including in particular the charging of compound interest) shall continue notwithstanding the death, insanity, bankruptcy, liquidation or dissolution of the Customers or any of them, and notwithstanding any demand for repayment, the termination of the banker/customer relationship, or that the relevant bank account may cease to be operated and, for the avoidance of doubt, it is hereby declared that the Bank shall be entitled to charge compound interest, and apply charges, on the foregoing basis both before as well as after judgment and up to the time that the Customer's indebtedness to the Bank on all accounts whatsoever is fully and finally paid.

3.3 Dormant Account Classification

Any account of the Customer may be classified as dormant if there are no Customer generated transactions effected by the Customer for a continuous period as determined by Bank from time to time. The Bank has the right to debit charges applicable to dormant accounts. Once the account becomes dormant the Bank will have the right, but not the obligation, to suspend all transactions (including inter-branch payments) on the dormant account and suspend or cancel all NCB cards linked to that account without notice to the Customer. The Bank may at its sole discretion determine whether to honour any cheque drawn on a dormant account. A dormant account may be reactivated, if so permitted by law, subject to such procedures and charges as the Bank may have for reactivation from time to time. The Bank shall be obliged to notify the Customer of its procedures for reactivation, charges applicable to dormant accounts and periods after which accounts may be classified as dormant following a request by the Customer for such information.

3.4 Suspending Transactions

The Bank shall be entitled to suspend some or all transactions (including withdrawals and the honouring of cheques and instruments) on the Customer's account(s) if:

- (a) the Bank considers that such suspension would facilitate compliance by the Bank, or the Customer, with an order (by a court or any other authority) in relation to the Customer or the account(s) of which the Bank becomes aware (whether or not the order properly interpreted strictly requires such suspension);
- (b) the Bank suspects that the account(s) has/have been, is being or may be used for any unlawful activity or any activity the Bank may consider to be improper (such activities shall include, but not be limited to, money laundering and the financing of terrorist activities);
- (c) the Bank considers such suspension to be necessary or appropriate having regard to directives or communication received from a Regulatory Authority; or
- (d) the Bank otherwise considers such suspension to be in the best interest of the Bank and or the Customer.

The Bank's liability for suspending transactions on the Customer's account(s), or for the consequences thereof, shall be limited to the interest that would otherwise have been paid by the Bank to the Customer on the credit balances in the said account. The Bank shall not be liable to the Customer for suspending transactions on accounts with a zero balance or which are overdrawn.

3.5 Stop Payment Instructions

The Bank shall be entitled, but not obliged, to refuse to accept a stop payment instruction of any cheque in the absence of a written instruction to stop payment signed by the persons authorized to give the Bank such an instruction. The Bank shall accordingly be entitled, but not obliged, to treat any oral instruction to stop payment of a cheque as not binding on the Bank unless such instructions are immediately confirmed in writing and acknowledged by the Bank.

3.6 Faxed Instructions

The Customer hereby agrees as follows in relation to the faxing of instructions to the Bank:

- (a) The Bank may in its sole discretion act on instructions received from the Customer via fax, but shall not be obliged to so act. The Bank may therefore, in its sole discretion, decline to act on or in accordance with the whole or any part of a faxed instruction for any reason, so however that the Bank shall not be under any obligation to so decline in any case, and the Bank shall in no event or circumstances be liable in any respect of the Bank either acting on or declining to act on the faxed instruction.
- (b) In the event that at any time the Bank chooses to act on any instructions it receives via fax, the Customer agrees that the Customer shall not send the Bank any original or further copy of the same instruction by any other means, and the Customer understands and accepts that any such original or further copy of the same instruction may result in a duplication by the Bank of the carrying out of the instruction.
- (c) The Customer voluntarily and with full knowledge takes and assumes any and all risks associated with the giving of instructions via fax.
- (d) Once such instructions have been sent to the Bank purportedly by the persons authorized to give the Bank instructions on behalf of the Customer, the Bank shall have no obligation to check or verify the authenticity or accuracy of such faxed instructions purporting to have been sent by the Customer and may act on such instructions as if same had been duly given by the Customer.

3.6 Faxed Instructions (cont'd)

- (e) In acting on faxed instructions the Bank shall be deemed to have acted properly and to have fully performed all obligations owed to the Customer, notwithstanding that such faxed instructions may have been initiated, sent or otherwise communicated in error or fraudulently, and the Customer shall be bound by any faxed instructions on which the Bank may act if the Bank has acted in the belief that such faxed instructions were given by or on behalf of the Customer.
- (f) The Customer releases the Bank from liability for and shall indemnify the Bank against all claims, losses, damages, costs and expenses howsoever arising in consequence of, or in any way related to, the Bank having acted in accordance with the whole or any part of any faxed instructions or having exercised (or failed to exercise) the discretion referred to in paragraph (A) above, or any duplication that may arise as provided in paragraph (B) above.

3.7 Application of Payments to Account

Any payment or other credit to an account of the Customer may be applied to any debit on the account in such order as the Bank considers fit, or to the balance on the account, and any presumption to the contrary is hereby excluded. In particular, the presumption recognized in *Clayton's Case* shall not apply to accounts with the Bank.

4 JOINT ACCOUNTS

4.1 Joint and Several Liability

The Customers declare themselves jointly and severally liable in respect of all transactions involving their accounts with the Bank, including but not being limited to any overdraft, loan or other credit facilities or accommodation which shall be granted on any account in their joint names, together with all interest, commissions and other banking charges and expenses incurred in connection with the accounts.

In cases of joint accounts accessible using a Card issued by the Bank, where any one *or more* of the Customers is empowered to deal with the Designated Bank Accounts or Associated Accounts, all the Customers will be jointly and severally liable for transactions effected by one Customer, regardless of whether all the Customers are Cardholders or not. The designation of one Cardholder as principal and others as supplemental shall not affect their joint and several liability as Customers.

4.2 Effect of Joint Account Holder's Death

All moneys standing to the credit of a joint account and all interest thereon shall be the joint property of the Customers in whose name the joint account is held. In the event of the death of any one or more of the Customers the survivor(s) shall have full control of all moneys then and thereafter standing to the credit of the Customers' account(s) and of all securities and articles deposited with the Bank in their joint names, and the Bank may pay or deliver to or to the order of the survivor(s) all money, securities, deeds, documents and other property (including security boxes and their contents) whatsoever standing to the credit or held by the Bank for any account in the Customers' joint names.

5 ACCOUNTS

5.1 Acceptance of Signatures

The Bank shall be entitled to accept the signatures of the persons who shall become entitled to sign in respect of the account(s), and who shall be notified to the Bank as signatories, as a sufficient discharge and receipt for all moneys withdrawn from the said account(s) without any signature in consent of the other(s).

5.2 Co-operation Against Fraud etc.

The Customer will take such steps as are reasonable to avoid fraud, forgery and other illegal activities from taking place in respect of the Customer's accounts, including the issuing and negotiating of cheques and other bills of exchange. These steps shall include, but not be limited to, providing such information and instituting such measures as the Bank shall request for the prevention of such activities involving accounts kept with the Bank. If the Customer fails to take such reasonable steps, the Customer shall take the full risk associated with any fraud, forgery or other illegal activity in respect of the Customer's accounts, and shall release, indemnify and hold the Bank harmless in respect of any damages or losses arising therefrom.

5.3 Account Features and Brochures

At the time of opening each account, the Bank may supply the Customer with a brochure detailing further conditions and features applicable to that account. Those conditions and features shall form a part of the conditions on which that account is held with the Bank, and shall be subject to change by the Bank from time to time in the manner in which these Terms and Conditions may be varied as provided in clause 1.25.

6. FIXED DEPOSITS

6.1 Certificate of Deposit

Where the Bank accepts from the Customer sums on deposit for a fixed period, the Bank may issue to the Customer a certificate evidencing that deposit or a deposit advice with details of the deposit. If a certificate of deposit is issued, the Bank may (but is not obliged to) require that the certificate be produced to the Bank before accepting any instruction regarding such deposit, including any instruction as to the return of any funds so deposited.

FOR THE PROTECTION OF DEPOSITORS, THE THEFT OR LOSS OF A CERTIFICATE MUST BE REPORTED, WITHOUT DELAY, TO THE BANK.

6.2 Premature Closure

Fixed deposit accounts may be closed prior to their maturity dates only at the discretion of the Bank. In the event of such premature closure, interest may be paid at the rate applicable on the date of deposit for the period for which the deposit has remained with the Bank less a charge for premature closure and the adjustment rate for replacing the deposit at the rate of interest obtaining at the date of premature closure.

6.3 Renewal

Where by the maturity date no written instructions are received by the Bank as to what should be done with the proceeds of deposit, those proceeds will be reinvested at such interest rate and for such period as the Bank in its sole discretion shall determine to be applicable. The proceeds of deposit are the amount deposited together with interest earned thereon net of Bank charges and taxes withheld.

6.4 Advice

Upon the maturity of each deposit, the Bank will issue an advice in respect of the deposit, which will specify the amount deposited and the interest earned up to the maturity date. Clause 1.10 of these Terms and Conditions shall apply to such Advices as though the said clause referred to an advice instead of a statement of account.

7. SAVINGS ACCOUNT CONDITIONS

7.1 Passbooks

It is understood and agreed that in the event the Bank issues a passbook to the Customer, it is for convenience only and the account kept in the Bank's books and/or statement of account issued to the Customer shall be conclusive evidence against the Customer that the balance shown therein is correct. Clause 1.10 shall not apply to Savings Account passbooks. The Customer shall, however, check the accuracy of the passbook each time it is returned to him by the Bank after he conducts business with the Bank.

FOR THE PROTECTION OF DEPOSITORS, THE THEFT OR LOSS OF A PASSBOOK MUST BE REPORTED, WITHOUT DELAY, TO THE BANK.

7.2 Interest on Savings Account

The Bank offers various types of savings accounts, some of which attract interest. Accordingly, the Customer undertakes to consult with the Bank's website or, during normal banking hours of a branch, with a branch of the Bank, to confirm the interest and other product features of the Customer's accounts, which information to be binding on the Bank shall be provided in written form. Where interest is paid, it is understood that any interest rate, minimum monthly balance required and intervals at which interest is paid are to be determined from time to time by the Bank in its sole discretion. For accounts requiring a minimum monthly balance, the Bank may decline to pay interest and/or may debit the Customer's accounts with a charge where the minimum monthly balance is not maintained.

7.3 Withdrawals

Withdrawals can be made at any branch of the Bank or (subject to the provisions regarding their use) using the Bank Card. The passbook facilitates the easy processing of transactions involving the Customer's account, including withdrawals, which are not done using the Bank Card. The Bank may require that the passbook be produced before accepting any instruction to withdraw funds from or otherwise debit the Customer's account. Alternatively, the Bank may, in its sole discretion, permit such a transaction in the absence of a passbook where the Bank is satisfied that there is genuinely an instruction from the Customer. When a passbook is presented, the Bank will enter the amount withdrawn, and return it to the Customer. Exceptionally, the Bank may, at its discretion, permit a withdrawal against a written order of the Customer, duly authenticated and accompanied by the Customer's passbook. The Bank reserves the right to require three (3) business days' notice of withdrawal of the whole or part of the Customer's balance.

8. CURRENT ACCOUNT CONDITIONS

8.1 Authority to Honour Cheques etc.

The Bank is authorised and requested to honour and comply with all cheques, drafts, bills of exchange, promissory notes, acceptances, negotiable instruments and orders expressed to be drawn, accepted, made, or given by the person(s) notified to the Bank in a form acceptable to it at any time or times, whether the Customer's banking account is overdrawn or any overdraft is increased by any payment thereof or in relation thereto, or is in credit or otherwise, but without prejudice to the Bank's right to refuse to allow any overdraft or increase of overdraft and (except in the case of accounts in the name of a single individual or company) for any balance on the said account which may become due to the Bank at any time the Customers agree to be jointly and severally liable PROVIDED any such cheques, drafts, bills of exchange, promissory notes, acceptances, negotiable instruments and orders are signed by the said person(s) notified to the Bank.

8.2 Cheque Leaves

All cheques and other payment items used with respect to the Customer's account(s) shall be on leaves supplied by the Bank or otherwise encoded in a manner satisfactory to the Bank, and the Customer agrees to use only such cheques as may be drawn on cheque leaves supplied to the Customer by the Bank or authorized by the Bank for use by the Customer at the time the cheque is presented to the Bank for payment. The supply of leaves shall be subject to Bank charges, which may be applied to the Customer's account(s). The Customer agrees to release, indemnify and hold the Bank harmless in respect of any damages or losses arising from the Customer's failure to comply with this clause, or which could have been prevented by the Customer complying with this clause. The Bank shall not be bound to honour cheques and items that do not comply with this clause.

9. BANK CARD

9.1 General

These Terms and Conditions for the issue and use of a Card are in addition to such terms and conditions as apply to Associated Accounts the Customer may have with the Bank.

The Customer and each Cardholder warrants to the Bank that each of them is over the age of twelve (12) years and it is agreed as follows:-

- (a) The Card is not a credit card and its issuance does not permit the Cardholder to overdraw his/her account or to otherwise obtain credit from the Bank except where the Card is used to access funds on a credit facility previously approved by the Bank from a Designated Bank Account or to make a payment through the Bank's Service using an associated credit card.
- (b) The Card shall remain the property of the Bank at all times and shall be returned to the Bank by the Cardholder on demand.
- (c) The Card shall be used solely by the Cardholder. The Card must be signed by the Cardholder immediately on receipt and may only be used by the Cardholder subject to the Bank's terms and conditions that prevail from time to time.

9.2 Supplementary Cards and Cancellation of Cards

The Bank in its absolute discretion may cancel, refuse, renew or replace any Card at any time without notice to the Cardholder. Upon request by the Principal Cardholder, the Bank may at its own discretion issue Supplementary Cards and Access Codes subject to the terms and conditions contained therein, for use by any person nominated by the Principal Cardholder on the Card Account. The Bank may cancel any Card at any time upon request in writing by the Cardholder and in such an event the other Cardholder(s) shall remain liable for all amounts debited to the Card Account and/or any damage or related costs that may be incurred by the Bank in respect of the Card Account.

9.3 Precautions by Cardholder

The Cardholder shall use all reasonable precautions to prevent the loss, theft or destruction of the Card and undertakes to verbally notify the Bank immediately of such loss, theft or destruction and the circumstances thereof and further to confirm in writing such loss, theft or destruction and the circumstances thereof within 24 hours of any such occurrence and until receipt of such written notice by the Bank, the Cardholder shall be liable for any transaction to the account accessed by the Card the subject of the notice.

9.3 Precautions by Cardholder (cont'd)

The Cardholder shall in addition be liable for any and all uses of the Card and the transactions created thereby within a forty-eight (48) hour period after his Issuing Branch of the Bank has received written notification of the loss or theft of the Card.

The Cardholder shall memorize his Access Code in order to prevent the misuse of the Card. The Cardholder agrees not to allow anyone to gain access to the services facilitated by the use of a Card through his Access Code, and agrees to assume responsibility for all transactions initiated through the use of his Card and/or Access Code and to hold the Bank harmless in the event of any unauthorized use.

9.4 Use of Card and Bank's Obligations

The Cardholder may, subject to the availability of the system, execute such transactions as the Bank shall from time to time make available to be executed by the Cardholder using the Service. The Bank shall not be liable for the unavailability at any time of the system, whatever shall be the cause of such unavailability.

The Bank shall not be responsible for goods or services purchased by the Cardholder using the Card and in all circumstances the Cardholder must honour all obligations entered into using the Card.

By using such services as shall become available for access using the Card, the Cardholder agrees to be bound by the Terms and Conditions here provided in so far as they are applicable to the said services and to any additional provisions that may be applicable to those services.

9.5 Required Account Balances

For transactions on Designated Bank Accounts, the Customer shall be required to maintain at all times in addition to the amount required for all relevant charges, a cash balance no less than the amount being withdrawn on any transaction, except where the Customer has previously established with the Bank credit facilities in respect of the Designated Bank Accounts, and the Customer hereby charges the said cash balance to the Bank as security for the repayment of any unauthorized credit that may be obtained by him through an ABM, Point-of-Sale Device or such other device as may be introduced by the Bank. The Bank reserves the right to decline any transaction where both the relevant fee and the sum being withdrawn cannot be accommodated at the time the transaction is executed.

The Cardholder shall not, whether by use of the Card or any other means, withdraw any cash or make any debit transfer or payment against effects uncleared by the Bank

9.6 Transaction Limits

The Bank may from time to time introduce (and thereafter vary) limits on the number and/or amount of transactions (including withdrawals) that may be carried out within a designated period using the Card, by a particular Cardholder, or on particular accounts. The Bank may from time to time introduce (and thereafter vary) other measures for the protection of the Bank, the Merchant, the Cardholder and/or the Customer against wrongful use of the Card. The Bank's discretion to introduce such limits and measures shall not include any requirement so to do, and unless otherwise agreed in writing to the contrary between the Bank and the Customer, the Bank may permit transactions in excess of the limits and outside of the measures introduced, and shall not be liable to the Customer for so doing. The ABM or Merchant may in some circumstances retain the Card and not return it to the Cardholder.

9.7 Transaction Verification by Bank

All withdrawals, deposits, transfers, payments and other transactions made by the Cardholder through the Service, ABM, Point-of-Sale or any other device as may be introduced by the Bank, if disputed are subject to verification by two of the Bank's officers whose verification, the Customer and Cardholder agree, shall be binding and conclusive evidence of the fact of and actual amount involved in any such transaction.

9.8 Effective Date of Transactions

All deposits made, or payments or other transactions requested shall be effected within 24 hours after the time at which the said deposit, payment or other transaction was made or requested, subject to any applicable periods for the clearing of instruments being deposited to a Designated Bank Account.

9.9 Customer Verification of Statements and Checking of Passbooks

The Cardholder may request a receipt for each transaction made at an ABM with the Card, and shall receive a receipt for each transaction made using the Card at a Point-of-Sale Device. These receipts should be retained for reconciling the transactions on the periodic statement/passbook. On completion of each Transaction using the Service, the Cardholder will be advised of a Transaction Reference Number. This Reference Number must be retained by the Cardholder as this number will appear along with an appropriate narrative on the Customer's statements of account or savings passbook (as the case may be) in order to facilitate the easy reconciliation of his Transactions. The obligation to reconcile the statements, and the consequences of failing to do so, shall be as provided in clause 1.10.

If the Customer fails to effect written notification within the period provided in clause 1.10 the Bank shall not be liable for any loss arising from the disputed transaction nor shall the Bank be liable to reverse or refund the effect of any such transaction, including interest and transaction fees accruing or charged thereon.

9.10 Disputed Transactions

If the Customer disputes the amount debited to his/her account in respect of a transaction with a Merchant, the Bank may credit the Card Account with the amount that had been charged to the account in respect of the transaction upon the dispute being notified to the Bank in a form acceptable to the Bank and with such information regarding the dispute as the Bank may require. If the Merchant does not agree with the Cardholder in respect of the dispute, the Bank may (a) again debit the Customer's account with the disputed amount; (b) place the disputed amount in escrow pending resolution of the dispute; or (c) allow the disputed transaction amount to remain credited in the Customer's account.

9.11 Transaction Fees

The Bank may charge fees in respect of each transaction approved or declined, transacted or sought to be transacted at the Bank's ABM location, at the ABM of any other participating financial institution on the MultiLink or other applicable networks within or outside Jamaica, or at Points-of-Sale where Merchants are authorised to accept the Card, or through the Service. A schedule of such fees shall be available in the Bank's branches and may also be available on the Bank's website.

9.12 Exclusion of Liability for Losses from Use of Service

The Bank shall not be liable for the operational failure of the Service, or of any participating ABM or Point-of-Sale Device or for any injury, loss or damage howsoever arising (whether from criminal activity or otherwise) that may be suffered by the Customer or Cardholder in the use of the ABM or Point-of-Sale Devices or on or near premises housing same, or in the use of the Service. The Bank shall not be liable for any unauthorized use of the Card or for any loss resulting from circumstances over which the Bank has no direct control including but not limited to the Cardholder's failure to input complete and accurate information, failure of electronic or mechanical equipment or communication lines, telephone or other interconnection problem, operator error, log in sequences, severe weather, earthquakes, flood or other acts of God. In no event will the Bank be liable for damages in excess of a Customer's or Cardholder's actual loss due to the Cardholder's failure to complete a transaction and the Bank will not be liable for any indirect, incidental or consequential damages.

9.13 Cancellation

The Customer may cancel the facility involving use of the Card upon giving the Bank 7 days' written notice of such intended cancellation and such notice shall, to be effective, be accompanied by the Card.

9.14 Network Regulations

Transactions conducted on the Multilink or other networks are subject to the rules and regulations of those networks. The Bank will not be responsible for any delay in refunds or other inconveniences faced by the Customer or Cardholder arising from the rules, regulations or operations of those networks.