



STANDARD TERMS AND CONDITIONS FOR MERCHANT AGREEMENT

Between

STANDARD BANK PLC

and

THE MERCHANT

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1 DEFINITIONS

1.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context:

1.1.1 **3D Secure** means Verified by Visa and/or MasterCard Secure;

1.1.2 **Agreement** means the agreement set out in this document and includes the Application Form;

1.1.3 **AMT** means an authenticated mobile transaction, namely a Card not Present Transaction that is authenticated by a Cardholder using their mobile phone and entering their PIN;

Applicable Laws means all national legislation, regulations, statutes, by-laws, consents and/or other laws of any relevant governmental authority and any other instrument having the force of law as may be issued and in force from time to time relating to or connected with the activities contemplated under this Agreement

1.1.4 **Application Form** means the application form completed and signed by the Merchant, which form contains the Merchant's details, the type of Transactions for which the Merchant can accept Card payments and the applicable Fees;

1.1.5 **Authenticated Transaction** means:

1.1.5.1 any Card not Present Transaction that is authenticated by an Authenticated Procedure/s;

1.1.5.2 any POS Transaction that is authenticated by the Merchant verifying, where applicable, that:

1.1.5.2.1 the signature on the Transaction slip or Sales voucher is the same as that appearing on the reverse of the Card presented by the Cardholder;

1.1.5.2.2 the Cardholder enters their PIN for all Chip Card Transactions as prompted by the Equipment;

1.1.6 **Authenticated Procedure/s** means such authentication procedure/s approved by the Card Schemes that is/are used to authenticate, accept and process a Card not Present Transaction and includes AMT and/or 3D Secure;

1.1.7 **Authorisation** means the confirmation by the Issuer as to whether a particular Card has sufficient funds available to cover the amount of a Transaction;

1.1.8 **AutoSwitch Terminal** means a Standard Bank POS device that integrates with the Merchant's point of sale system and allows Transactions to be routed directly to Standard Bank (instead of through a Payment Service Provider);

1.1.9 **Bill Payment Transaction** means a Card not Present Transaction whereby a Cardholder pays the Merchant electronically for goods and/or services pursuant to the receipt of an electronic invoice;

1.1.10 **Business day** means any day of the week other than a Sunday or public holiday on which banks are open in Malawi;

- 1.1.11 **Cards** means, whether Magnetic Stripe or Chip, any cards issued by an Issuer pursuant to and in accordance with a licence granted by the respective Card Schemes and **Card** means any one of them, as the context requires;
- 1.1.12 **Cardholder** means the person or entity to whom a Card is issued by an Issuer and, where applicable, whose name or details are printed or embossed on a valid Card;
- 1.1.13 **Card Information** means any Personal Information associated with a Cardholder including the name of the Cardholder, the type and/or number of Card/s held by the Cardholder, the Card number/s, expiry date/s and/or CVC2/CVV2;
- 1.1.14 **Card Not Present Receipt** means a receipt that is used to evidence a completed Card not Present Transaction and is electronically submitted as an SMS or email to a predefined mobile number/email address of the Cardholder and Merchant;
- 1.1.15 **Card not Present Transaction** means a Transaction where the Cardholder presents the Card Information (and not the physical Card) to the Merchant to process that Transaction at the point of sale; or the Merchant is not attendant at the time the Transaction is processed. Types of Card not Present Transactions include:
- 1.1.15.1 a MOTO Transaction;
- 1.1.15.2 an Ecommerce Transaction;
- 1.1.15.3 a Bill Payment Transaction;
- 1.1.15.4 a Self-Service Terminal Transaction;
- By electing to process Card not Present Transactions (that are not Authenticated Transactions), the Merchant accepts the increased risk of processing Transactions where there is no physical Card and the Cardholder's identity or authority may at a later time be questioned;
- 1.1.16 **Card Schemes** means Visa, MasterCard, Amex, Diners, UPI and any other applicable card scheme and **Card Scheme** means any of them, as the context requires;
- 1.1.17 **Card Scheme Rules** means the rules and regulations which regulate participants in the respective Card Schemes;
- 1.1.18 **Chargeback** means a Transaction which Standard Bank may debit to the Merchant's Bank Account and the verb **to Chargeback** shall have a corresponding meaning;
- 1.1.19 **Chip** means the EMV certified chip on all cards that came into effect in 2015;
- 1.1.20 **Claim** means any claim, action, suit or proceeding asserted by any person whether actual or alleged and whether substantiated by a court of law, other tribunal or relevant arbitrator;
- 1.1.21 **Confidential Information** means all information (written, oral or electronic) disclosed by one Party to the other Party whether before or after the Effective Date and concerning the business affairs of the disclosing

Party, information relating to that Party's operations, processes, plans, intentions, product information, know-how, designs, trade secrets, software, market opportunities, customers and shall include the terms of this Agreement and any Data;

- 1.1.22 **CPA** means the Consumer Protection Act Cap 48:10 of the Laws of Malawi as amended from time to time;
- 1.1.23 **Credit Voucher** means any Transaction receipt evidencing a refund to be credited to a Cardholder;
- 1.1.24 **CVC2/ CVV2** means the last three digits that appear on the signature panel of a credit Card, being the card verification value 2 for Visa or the card verification code 2 for MasterCard;
- 1.1.25 **Data** means any data including Personal Information supplied by Cardholders or Processed on behalf of Standard Bank by the Merchant. For purposes hereof Data includes Transaction Data;
- 1.1.26 **Data Compromise** means the unauthorised access, transmission and/or use of the Data by a third party and/or the loss, theft, degradation, dissemination, distribution, erasure, copy and/or corruption of the Data in any manner;
- 1.1.27 **E-Commerce Transaction** means a Transaction entered into by a Cardholder with the Merchant via the Merchant's website;
- 1.1.28 **Effective Date** means the date that the Application Form submitted by the Merchant has been approved in writing by Standard Bank;
- 1.1.29 **EMV** means the Europay – MasterCard – Visa specifications for Chip Cards;
- 1.1.30 **Equipment** means the POS devices, PEDs and/or Imprinters;
- 1.1.31 **Fall back** means the processing of a POS Transaction by Magnetic Stripe technology where Chip technology is not available and/or not operative;
- 1.1.32 **Fees** means the Merchant Commission, administration fee, Chargeback fee, Terminal Rental and any other fee that Standard Bank may from time to time levy on the Merchant as more fully set out in the Application Form. Where applicable **Fees** shall also include the Termination Fee;
- 1.1.33 **Financially Distressed** means a condition when promises to creditors of a company are broken or honored with difficulty such that if the if the financial **distress** cannot be relieved, it can lead to bankruptcy.
- 1.1.34 **Floor Limit** means the Merchant amount which a Cardholder may spend on a single Transaction using their Card or their Card Information without obtaining Authorisation, which amount is set by the Issuer and/or Standard Bank and/or by the banking industry from time to time;
- 1.1.35 **Force Majeure** means any cause beyond the reasonable control of that Party, including acts of God, civil commotion, riots, insurrection, acts of government, fire, explosion, the elements, epidemics, government embargoes or like causes;

- 1.1.36 **Fraudulent Transaction** means any Transaction which, in terms of the law of Malawi, would constitute fraud (whether Authorisation was obtained or not) without it being necessary for Standard Bank to prove such fraud and will include:
- 1.1.36.1 any Transaction arising from the use of a Card or Card Information by a person other than the authorised Cardholder;
- 1.1.36.2 any Transaction not authorised by the authorised Cardholder;
- 1.1.36.3 the use of an invalid Card; and/or
- 1.1.36.4 the use of a Card which has not been issued by a bona fide Issuer;
- 1.1.37 **Hot Card List** means a list of Cards that have been rendered invalid due to loss or theft, whether or not they have been used fraudulently. The Hot Card List is downloaded to the POS device from time to time;
- 1.1.38 **Imprinter** means a Standard Bank owned imprinting Card machine or a Standard Bank approved imprinting booklet;
- 1.1.39 **Initial Period** means a period of 3 months, commencing with effect from the Effective Date;
- 1.1.40 **intellectual property** means any copyrights and copyrightable works (including drawings, designs, graphics, artworks, whether in physical form or in analogue or digital form, and all drafts or preliminary versions of any of the foregoing), patent, designs, know-how, rights in domain names and rights in trademarks, trade names, trade dress, service marks and designs (whether registered or unregistered), applications for registration, all goodwill associated with the foregoing and rights protecting such goodwill and reputation, and the right to apply for registration for any of the same; domain names and URLs; databases and database rights; graphics; schematics; marketing; sales and user data; topography rights; trade secrets, including confidential know-how, inventions, specifications, and processes; moral rights; and all other forms of intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;
- 1.1.41 **Issuer** means a financial institution or company that has been authorised to issue Cards;
- 1.1.42 **Losses** means all damages, losses, penalties, fines, costs and expenses of whatever nature (including legal costs) whether or not reasonably foreseeable by the Parties as at the Effective Date or at any time during the term of the Agreement;
- 1.1.43 **Magnetic Stripe** means the magnetic stripe affixed to the back of a Card which contains Card Information;
- 1.1.44 **Manual Card Entry** means a function on the POS device where the Merchant manually keys the Card Information into the POS device using the Supervisor PIN (instead of the Card being swiped through or inserted into the POS device);
- 1.1.45 **MasterCard** means MasterCard WorldWide, a card association with registration number 2001/004445/10 and any of its related companies;

- 1.1.46 **MasterCard SecureCode** means a payment authentication system used to authenticate, accept and process Card not Present Transactions which complies with MasterCard's authentication, acceptance and processing protocols;
- 1.1.47 **MCC** means the four-digit classification code assigned by Standard Bank to a Merchant to classify the Merchant's type of business;
- 1.1.48 **Merchant** means the entity that has entered into a Merchant Services Agreement with the Bank and whose details are provided in the Merchant Agreement Form.
- 1.1.49 **Merchant's Bank Account** means a banking account nominated and held by the Merchant with Standard Bank for purposes of this Agreement;
- 1.1.50 **Merchant Commission** means a percentage of Merchant sales payable by the Merchant to Standard Bank pursuant to a Transaction (including an Authenticated Transaction), as agreed by the Parties on the Effective Date and as amended by Standard Bank from time to time pursuant to the terms of the Agreement but being no less than the Minimum Merchant Commission per month;
- 1.1.51 **Merchant Identification Number** means the Merchant identification number/s allocated to the Merchant by Standard Bank;
- 1.1.52 **Merchant Portal** means the portal available to the Merchant via www.standardbank.co.mw to enable the Merchant to view and/or reconcile its processed Transactions;
- 1.1.53 **Merchant Statement** means the statement indicating the amounts due by the Merchant to Standard Bank and reflecting all batches of Transactions processed by Standard Bank in a particular month;
- 1.1.54 **Minimum Merchant Commission** means as set out in the Application Form or as amended by Standard Bank in writing from time to time;
- 1.1.55 **MOTO Transaction** means a Card not Present Transaction effected by mail order, telephone order or e-mail where the Cardholder is unable to authenticate such Transaction in person;
- 1.1.56 **Offline** means the processing of a POS Transaction via the Imprinter where the POS device is not functioning. Authorisation must be obtained telephonically, failing which an Offline POS Transaction shall not be accepted;
- 1.1.57 **Online** means the real-time processing of a POS Transaction directly from the POS device to the Issuer;
- 1.1.58 **Parties** means Standard Bank and the Merchant and each individual Party shall be referred to as the **Party**;
- 1.1.59 **Payment Service Provider** means a third party service provider that facilitates the routing of Transactions from the Merchant to Standard Bank and/or provides services to the Merchant for the purpose of accepting Card payments for Transactions;
- 1.1.60 **PCI** means Payment Card Industry;

- 1.1.61 **Personal Information** means information relating to an identifiable natural or juristic person, including information relating to race, gender, sex, marital status, nationality, ethnic or social origin, colour, sexual orientation, age, physical or mental health, religion, belief, disability, language, birth, education, identity number, telephone number, email, postal or street address, biometric information and financial, criminal or employment history as well as correspondence that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence. For purposes hereof **Personal Information** shall include the Merchant's details as set out in the Application Form;
- 1.1.62 **PED** means the pin entry device used by the Cardholder in a POS Transaction to enter their PIN;
- 1.1.63 **Phone for Approval** means a function displayed on the POS device for the Merchant to call for Authorisation;
- 1.1.64 **PIN** means personal identification number, which is a secret number issued to the Cardholder and which may facilitate a Transaction;
- 1.1.65 **POS device** means a point of sale device rented from Standard Bank, or alternatively owned by the Merchant or a third party, that electronically authorises, captures and transmits Transaction Data. A POS device includes a standalone POS device, integrated POS device and an AutoSwitch Terminal;
- 1.1.66 **POS Transaction** means a point of sale Transaction which is effected through a POS device or an Imprinter in circumstances where the Cardholder presents the Card to the Merchant when processing that Transaction;
- 1.1.67 **POS Transaction slip** means a voucher which is electronically generated by a POS device;
- 1.1.68 **Process** means any operation or activity or any set of operations, whether or not by automatic means, concerning Data, including its collection, receipt, recording, organisation, collation, storage, updating or modification, merging, linking, blocking, degradation, erasure or destruction retrieval, alteration, consultation, testing or use, dissemination or distribution by any means and **Processing** shall have a corresponding meaning;
- 1.1.69 **Receipts** mean Transaction slips, Sales vouchers, Card not Present Receipts and Credit Vouchers and **Receipt** means any one of them, as the context requires;
- 1.1.70 **RBM** means Reserve Bank of Malawi
- 1.1.71 **Rules** means all Card Scheme Rules as amended from time to time;
- 1.1.72 **Sales voucher** means a voucher supplied by Standard Bank which is used with the Imprinter for Manual Card Transactions and Offline Transactions and must bear an imprint of the Card;
- 1.1.73 **SB Group** means Standard Bank, the subsidiaries and holding company of Standard Bank, as well as any subsidiary of Standard Bank's holding company and all of its subsidiaries as at the Effective Date and as amended from time to time;
- 1.1.74 **Self-Service Terminal Transaction** means where a Cardholder uses their Card on a self-service terminal that dispenses the Merchant's goods or services but such goods or services are provided without the attendance of the Merchant to complete the Transaction at the self-service terminal;

- 1.1.75 **SMS** means a short message service, which is a communication protocol that allows the interchange of short text messages between mobile phones;
- 1.1.76 **Standard Bank** means Standard Bank Plc (registration number 1246), a public company duly incorporated with limited liability according to the laws of Malawi; and herein represented by the Manager Digital Banking
- 1.1.77 **Standard Bank Marks** means SB Group's and/or any third party service provider's names, trademarks, logos, designs or other intellectual property (whether registered or unregistered and whether owned, sublicensed or otherwise), used or to be used by the Merchant in terms of this Agreement, including all variations thereof and amendments thereto from time to time. For purposes hereof the Standard Bank Marks specifically include the Merchant Portal and any Card Schemes' intellectual property;
- 1.1.78 **Supervisor PIN** means the personal identification number known by the Merchant which can be used to override certain functions of the POS device;
- 1.1.79 **Terminal Rental** means the fee payable by the Merchant to Standard Bank in respect of the rental of the Equipment;
- 1.1.80 **Termination Fee** means the Terminal Rental and Minimum Merchant Commission for the remainder of the Initial Period;
- 1.1.81 **Transaction** means a transaction where a Merchant receives Card payments for the goods or services from the Cardholder. Unless otherwise indicated, a **Transaction** includes a POS Transaction and a Card not Present Transaction (including an Authenticated Transaction);
- 1.1.82 **Transaction Data** means data pertaining to a particular Transaction and would include the value of the Transaction, the details of the Cardholder as well as the Card Information;
- 1.1.83 **Transaction documentation** means all documentation (physical, electronic or otherwise) pertaining to a Transaction, including Card imprints, batch reports, purchase requests, written requests to debit a Cardholder's Card, information required in terms of clause 4.3.7.5, Authorisation slips, Receipts or proof of delivery;
- 1.1.84 **UPI** means Union pay International Limited (Registration Number 310000000114651), a company incorporated in the Peoples' Republic of China;
- 1.1.85 **valid** means in respect of:
- 1.1.85.1 a **Card**: a Card that is not expired and/or that is not listed on a Hot Card List;
- 1.1.85.2 a **Receipt**: a Receipt that has been completed in accordance with this Agreement, does not breach any provision of this Agreement and contains any other information that Standard Bank, at any time, notifies the Merchant should be recorded on it; and
- 1.1.85.3 a **Transaction**: a Transaction which has been completed in accordance with this Agreement, does not breach any provision of this Agreement and is not deemed to be an invalid Transaction pursuant to clause 8;

- 1.1.86 **VAT** means value added tax at the rate specified in the VAT Act, Cap 42:02 of the Laws of Malawi;
- 1.1.87 **Verified by VISA** means a payment authentication system used to authenticate, accept and process Card not Present Transactions and which complies with Visa's authentication, acceptance and processing protocols;
- 1.1.88 **Visa** means Visa International Service Association Incorporated, a card association with registration number BR001259 and any of its related companies.
- 1.2 Any reference in this Agreement to legislation is to such legislation at the date of signature hereof and as amended and/or re-enacted from time to time.
- 1.3 Words importing the singular shall include the plural, and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and *vice versa*, and words importing natural persons shall include legal persons, and *vice versa*.
- 1.4 The word **including** and its other grammatical forms shall not limit the general effect of the words which precede and shall be construed without any limitation.
- 1.5 The head notes to the clauses to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.6 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a Party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 1.7 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement which expressly provide that they shall operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.8 Notwithstanding anything to the contrary contained herein, it is specifically recorded that clauses 1 (Definitions), 3 (Duration), 4 (Merchant's Obligations), 6 (Card Scheme and RBM and Malawi National Switch Rules), 7 (Authorisations and Procedures) 8 (Invalid Transactions), 9 (Fraudulent Transactions) 10 (Fees), 11 (Chargebacks) 15 (Indemnity), **Error! Reference source not found.** (Terminal Rental Fees), 18 (Representations and Warranties), 19 (Confidentiality), 20 (Data Protection), 22 (Use of Standard Bank Marks) 25 (Breach), 26 (Termination), 27 (Limitation of Liability), 29 (Disputes and Resolution), 30 (Notices and Domicilia), 31 (Good Reputation), 32 (Audit) and 33 (General) shall survive the termination of the Agreement for any reason whatsoever.
- 1.9 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day.
- 1.10 Any schedules and/or annexures hereto will form part of this Agreement, unless specifically otherwise stated.
- 1.11 No provision herein shall be construed against or interpreted to the disadvantage of any Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.

2 INTRODUCTION

2.1 Subject to any applicable laws, the Application Form and this Agreement, Standard Bank has authorised the Merchant to accept Card payments for the Transactions types described in the Application Form.

2.2 The Parties wish to record the terms and conditions regulating their relationship as set out herein.

3 DURATION

3.1 This Agreement:

3.1.1 supersedes all prior agreements entered into between Standard Bank and the Merchant relating to the particular Merchant Identification Number/s allocated to the Merchant; and

3.1.2 will commence on the Effective Date and will endure for an Initial Period of 3 months with rates in annexure B and thereafter for a further period of 12 months with by mutual agreement between the Parties, subject to Standard Bank's right to terminate the Agreement at any time on written notice to the Merchant with immediate effect without giving reasons thereof and without incurring penalties. The Merchant may terminate this Agreement after the expiration of the Initial Period on 1 month's written notice to Standard Bank.

3.2 Notwithstanding the foregoing in the event that:

3.2.1 the Merchant terminates, or is deemed to have terminated, this Agreement, or any part of it, before the expiry of the Initial Period (other than as a direct result of Standard Bank having breached its obligations under this Agreement); or

3.2.2 Standard Bank terminates this Agreement before the expiry of the Initial Period because the Merchant has breached its obligations under this Agreement,

then the Merchant will on demand immediately pay to Standard Bank the Termination Fee, in addition to any other amounts that are payable by the Merchant under this Agreement.

3.3 Termination of the Agreement will not affect the rights and obligations of either Party arising before such termination.

4 MERCHANT'S OBLIGATIONS

The Merchant undertakes that it shall:

4.1 **in respect of its general obligations:**

4.1.1 not be entitled to set a minimum monetary value for Transactions or impose a maximum limit on Transactions;

- 4.1.2 keep all systems and media containing Transaction Data (including Transaction documentation) in a secure manner in line with best industry practice and as specified in the Card Schemes data security programs, to prevent unauthorised access or disclosure;
- 4.1.3 immediately advise Standard Bank in the event of any Data Compromise;
- 4.1.4 ensure that it is aware of and complies with the provisions of the CPA and all other applicable laws in:
 - 4.1.4.1 carrying on its business;
 - 4.1.4.2 entering into Transactions; and
 - 4.1.4.3 performing its obligations under this Agreement;
- 4.1.5 on an ongoing basis provide documents to Standard Bank as required in terms of Financial Crimes Act No. 14 of 2017;
- 4.1.6 not ask a Cardholder to reveal their PIN or any other secret identifier;
- 4.1.7 inform the Cardholder of all terms and conditions relative to a particular Transaction and perform all obligations that it is required to perform in connection with such Transaction prior to the presentation of payment;
- 4.1.8 provide sufficient training to its employees to ensure that the Merchant meets its obligations under this Agreement;
- 4.1.9 notify Standard Bank immediately if the Merchant becomes aware of or suspects fraud on the part of a Cardholder;
- 4.1.10 not in any way whatsoever state, imply or create the impression that Standard Bank and/or any of the Card Schemes endorse or guarantee any of the Merchant's goods and/or services;
- 4.1.11 comply with all instructions and terms or conditions which may be provided by Standard Bank from time to time in connection with the use of the Standard Bank Marks;
- 4.1.12 not apply a surcharge to a Transaction that does not bear a reasonable relationship to the Merchant's cost of accepting the applicable Card. Any surcharge must be clearly disclosed to the Cardholder at the time of purchase as a **Merchant** surcharge;
- 4.1.13 respond promptly to inquiries/complaints from Cardholders and resolve any disputes amicably;
- 4.1.14 keep all Transaction documentation for at least 180 (one hundred and eighty) calendar days after every Transaction (provided that any Transaction documentation in respect of a UPI Card Transaction must be kept for at least seven (7) years after such Transaction);
- 4.1.15 seek Authorisation of a Transaction more than 7 (seven) calendar days prior to the date on which payment of the Transaction is to be made;

- 4.1.16 supply a copy of any Transaction documentation to Standard Bank and/or the Cardholder within 7 (seven) calendar days of a request for it;
- 4.1.17 display all updated Card Schemes decals at all times where applicable;
- 4.1.18 display such promotional material (including the Standard Bank Marks) as Standard Bank may supply in such a way that the public can clearly see that the Merchant is willing to honour the Cards in payment of goods and/or services. In this respect the Merchant consents to Standard Bank advertising or publishing the Merchant's acceptance of the Cards to users or potential users of those Cards;
- 4.1.19 permit Standard Bank, PCI SSC and the Card Schemes (as applicable) or any of their respective employees, contractors or agents access to its premises at any time during normal business hours for the purpose of conducting an on-site inspection or investigation to check compliance with this Agreement or for the purposes of compliance with the relevant Rules;
- 4.1.20 provide Standard Bank with all information and assistance it requires in relation to any Transaction or the provision of the merchant services;
- 4.1.21 allow Standard Bank and the Card Schemes to conduct investigations when handling claims of Cardholders and cooperate fully with Standard Bank;
- 4.1.22 retain sufficient funds in the Merchant's Bank Account to cover all the amounts that are due by the Merchant in terms of this Agreement including Fees, Chargebacks and refunds;
- 4.1.23 supply goods and/or services to a Cardholder at prices no greater than the Merchant's normal prices and/or as reflected on its price tags;
- 4.1.24 ensure that all the Merchant's prices, at a minimum, are quoted in Malawi Kwacha currency;
- 4.1.25 inform Standard Bank of any material changes in and to its business;
- 4.1.26 inform Standard Bank in writing of all changes to its banking account arrangements, address, nature of business or trading name;
- 4.1.27 comply with the Rules as amended from time to time;
- 4.2 **in respect of POS Transactions (in addition to its general obligations set out in clause 4.1 of the Agreement):**
 - 4.2.1 accept only valid Cards presented by Cardholders for payment;
 - 4.2.2 honour each valid Card that is presented by the Cardholder for payment;
 - 4.2.3 only use POS Transaction slip tally rolls and Sales vouchers as specified by Standard Bank;
 - 4.2.4 obtain the signature of the Cardholder where stipulated on the POS Transaction slip or Sales voucher;

- 4.2.5 check that the Card number embossed or printed on the Card is the same as the Card number reflected on the POS Transaction slip or Sales voucher;
- 4.2.6 ensure that the signature on the POS Transaction slip (if any) or Sales voucher is the same as that appearing on the reverse of the Card presented by the Cardholder;
- 4.2.7 ensure that the Cardholder enters their PIN for all debit Card and/or Chip Card Transactions as prompted by the POS device and/or PED;
- 4.2.8 ensure that Card details are only captured on a POS device;
- 4.2.9 ensure that all POS Transactions are processed Online;
- 4.2.10 not deliberately engineer a situation in which a POS Transaction is processed through Fall-back whether by interfering with the POS device or otherwise;
- 4.2.11 if the signature panel on a nominated Card is blank, in addition to obtaining Authorisation for the POS Transaction, the Merchant shall ask the Cardholder for additional identification information but not record it. If the Merchant is satisfied that the information given is true and correct and that the Cardholder resembles the person in any photograph intended for identification on the nominated card, the Merchant shall ask the Cardholder to sign the nominated Card;
- 4.2.12 give the Cardholder a copy of the POS Transaction slip and/or Sales voucher as applicable immediately after completing the POS Transaction;
- 4.2.13 ensure that the complete Hot Card list is uploaded at least daily on the POS device;
- 4.2.14 ensure that debit Card Transactions are processed Online on a POS device. If, for any reason, the POS device is Offline, a debit Card may not be accepted for such Transaction;
- 4.2.15 ensure that, if the Merchant owns a POS device, that such POS device is EMV certified by MasterCard and Visa (and where applicable certified by UPI) and approved by Standard Bank in writing, failing which, Standard Bank will be entitled to effect Chargebacks for which the Merchant accepts liability;
- 4.2.16 ensure that all Equipment is used in accordance with the Equipment manual guide and Standard Bank's training in this respect;
- 4.2.17 ensure that it obtains Authorisation for all POS Transactions;
- 4.2.18 report faulty or damaged Equipment to Standard Bank within 24 (twenty four) hours;
- 4.2.19 **additional undertakings in respect of Manual Card Entry:**
 - 4.2.19.1 only proceed with Manual Card Entry where the Merchant, Cardholder and Card are present but where the POS device cannot read the Chip or Magnetic Stripe of the Card in question;

- 4.2.19.2 enter the Card details (Card number and expiry date) and value of the Transaction into the POS device, whereupon it will be printed on the Transaction slip;
- 4.2.19.3 in all cases control and be responsible for the security of the Manual Card Entry;
- 4.2.19.4 obtain an imprint of the Card by means of an Imprinter in order to prove that the Card was present at the time of the sale;
- 4.2.19.5 only use Imprinters as specified and approved by Standard Bank;
- 4.2.20 **where the POS device is Offline:**
 - 4.2.20.1 only proceed with an Offline POS Transaction where the Merchant, Cardholder and Card are present but where the POS device is not functioning;
 - 4.2.20.2 obtain Authorisation telephonically;
 - 4.2.20.3 record the Card details (Card number and expiry date), including the Authorisation code number and value of the Transaction in question directly onto the Sales voucher;
 - 4.2.20.4 use the Imprinter to take an imprint of the Card as confirmation that the Card was present (the imprint must be legible). The Merchant may not make a copy of the Card;
 - 4.2.20.5 ensure that the Cardholder signs the Sales voucher (the signature on the Sales voucher must match the signature on the reverse of the Card);
 - 4.2.20.6 ensure that all relevant Transaction Data from the Offline Transaction are recorded on the POS device via a Manual Card Entry as soon as the POS device is functioning but no later than 3 Business days after the original Transaction was processed;
- 4.3 **in respect of all Card not Present Transactions (in addition to its general obligations set out in clause 4.1 of the Agreement):**
 - 4.3.1 perform all obligations to Cardholders in relation to a Card not Present Transaction immediately after any such Transaction has been successfully completed including the dispatch or fulfilment of goods or services agreed to be supplied;
 - 4.3.2 not present the Card not Present Transaction for payment until the goods are shipped or the services are performed, unless the Cardholder has agreed to a delayed delivery of goods or performance of services that was properly disclosed to the Cardholder at the time of the Card not Present Transaction;
 - 4.3.3 not use any other means to process a Card not Present Transaction if, in response to an Authorisation request made by the Merchant in relation to that Transaction, that Transaction is declined;
 - 4.3.4 ensure that no Card not Present Transactions are processed offline;

- 4.3.5 procure that a Card not Present Receipt is given or sent to the Cardholder in respect of every Card not Present Transaction (other than in respect of a MOTO Transaction processed via a POS device);
- 4.3.6 seek Authorisation of all Card not Present Transactions;
- 4.3.7 **additional undertakings in respect of E-Commerce Transactions:**
- 4.3.7.1 not disclose encryption certificates, Card Information or other security features to any third party;
- 4.3.7.2 ensure that it has terms and conditions in place to keep Card Information secure and confidential at all times and such terms and conditions are in compliance with any applicable law or Rule;
- 4.3.7.3 only use the services of a Payment Service Provider approved by Standard Bank in writing and that such Payment Service Provider. The use of such Payment Service Provider is at the Merchant's own risk;
- 4.3.7.4 ensure that its website contains the following information:
- 4.3.7.4.1 details of the price of the goods, applicable taxes and shipping costs quoted in Malawi Kwacha currency;
- 4.3.7.4.2 details of the Merchant's customer services telephone number and physical address (including its country of domicile);
- 4.3.7.4.3 a full description of the goods and services offered;
- 4.3.7.4.4 the Merchant's refund/return policy;
- 4.3.7.4.5 the Merchant's delivery policy;
- 4.3.7.4.6 details of export restrictions; and
- 4.3.7.4.7 the Merchant's security and privacy policy;
- 4.3.7.5 ensure that the Merchant's website is enabled for any or all of the Authenticated Procedures as approved by Standard Bank in writing. In this respect the Merchant acknowledges and agrees that in order to participate in the Authentication Procedures it shall:
- 4.3.7.5.1 be enabled to accept E-Commerce Transactions;
- 4.3.7.5.2 have had its payment processing system and equipment and those of any Payment Service Provider it wishes to use approved by Standard Bank;
- 4.3.7.5.3 maintain and operate the merchant software in accordance with all the requirements as notified by Standard Bank or the Card Schemes;

- 4.3.7.5.4 keep any password secure and not disclose it to any third party who has not been authorised by Standard Bank or the Merchant;
- 4.3.7.5.5 comply with all manuals, guides or directions given by Standard Bank and/or the Card Schemes from time to time regarding the Authentication Procedures;
- 4.3.7.5.6 unless otherwise agreed by Standard Bank, send an authentication request each time a Cardholder wishes to purchase goods or services from the Merchant on its website using their Card;
- 4.3.7.5.7 carry out any additional Authorisation procedures which Standard Bank has advised the Merchant in writing;
- 4.3.7.5.8 immediately take action to remedy any default or non-compliance of which the Merchant becomes aware and promptly notify Standard Bank when it expects to be able to remedy the default or comply as the case may be;
- 4.3.7.5.9 not change its payment processing systems, equipment or Payment Service Provider used for the purposes of the Authentication Procedures unless Standard Bank has first approved the proposed change to any of them;
- 4.3.7.5.10 not use or alter any intellectual property for a Card Scheme for or in relation to the Authentication Procedures without Standard Bank's prior written consent;
- 4.3.7.6 ensure that the order form appearing on its website mandates completion of the fields as reasonably approved by Standard Bank in writing;
- 4.3.7.7 obtain online Authorisation for each E-Commerce Transaction;
- 4.3.7.8 procure that the Card not Present Receipt given to a Cardholder for an E-Commerce Transaction contains details of the Merchant's internet site address and email address;
- 4.3.8 **additional undertakings in respect of MOTO Transactions:**
- 4.3.9 use either a POS device to process the payment or a web-based payment processing system, which system must be approved by Standard Bank;
- 4.3.10 where it uses a web-based payment processing system, keep all access details secure and confidential and not disclose it to any third party who has not been authorised by Standard Bank or the Merchant;
- 4.3.11 where it uses a POS device to process the payment:
 - 4.3.11.1 enter the Card details (Card number and expiry date) and value of the Transaction into the POS device, whereupon it will be printed automatically on the Transaction slip;
 - 4.3.11.2 record the words **telephone, mail order or email** on the Transaction slip in the space provided for signature by the Cardholder;

- 4.3.11.3 obtain an imprint of the Card in order to prove that the Card was present at the time of the sale;
- 4.3.11.4 in all cases control and be responsible for the security of the Manual Card Entry;
- 4.3.11.5 provide a copy of the Transaction slip to the Cardholder when the goods are despatched to the Cardholder;
- 4.3.11.6 not accept debit Cards for a MOTO Transaction.

5 STANDARD BANK'S OBLIGATIONS

- 5.1 In addition to any obligations set out elsewhere in this Agreement, Standard Bank shall:
 - 5.1.1 maintain and service all Equipment rented to the Merchant, provided the Merchant has paid the monthly Terminal Rental and other Fees as set out in the Agreement;
 - 5.1.2 provide Merchant Identification Number/s and MCC/s to the Merchant after the Application Form has been approved by Standard Bank;
 - 5.1.3 ensure that training is provided to the Merchant on the use of the Equipment; and
 - 5.1.4 give value to the Merchant for all valid deposits of Receipts in terms of clause 7.4.2 below made by the Merchant, without prejudice to any of its rights it may have against the Merchant.

6 CARD SCHEME AND RBM AND MALAWI NATIONAL SWITCH

- 6.1 The Merchant agrees that it shall be bound by all applicable Rules. The Merchant also acknowledges that the Card Schemes, RBM and Malawi National Switch publish and make available updated rules and regulations, bulletins, alerts and directives from time to time and it is the Merchant's responsibility at all times to review and comply with any such publications as may be applicable to them for compliance with the Rules and this Agreement.

7 AUTHORISATIONS AND PROCEDURES

7.1 Merchant's authorised Floor Limit

- 7.1.1 The Merchant's authorised Floor Limits are set out in the Application Form.
- 7.1.2 Standard Bank shall have the right to vary such Floor Limit from time to time where necessary upon written notice to the Merchant.

7.2 Disputes

The Merchant acknowledges and agrees that any disputes that the Merchant may have with a Cardholder in respect of any Transaction shall be settled entirely between the Merchant and the Cardholder.

7.3 Authorisations

- 7.3.1 For any Transaction, the Merchant is required to:
- 7.3.1.1 make sure that the Cardholder has authorised such Transaction and the use of the Card, Card Information and/or PIN (where applicable); and
 - 7.3.1.2 get Authorisation from Standard Bank when accepting a Card for any amount in excess of the Floor Limit.
- 7.3.2 Standard Bank reserves the right to remove the Manual Card Entry facility and Phone for Approval facility on the POS device and/or to alter the Merchant's Floor Limit without providing notice to the Merchant.
- 7.3.3 For any Transaction requiring goods to be shipped or services to be provided, the Merchant may obtain Authorisation from Standard Bank up to 7 (seven) calendar days before the date on which the goods and/or services are actually shipped or performed. If the Merchant's delivery of goods is not completed or services are not performed within 7 (seven) calendar days of the date of such Authorisation, then that Authorisation will have expired and a fresh Authorisation must be obtained for the balance of such Transaction in respect of which delivery of goods has not been completed or services have not been performed.
- 7.3.4 Authorisation by an Issuer is given:
- 7.3.4.1 electronically, in which case it is recorded on the Transaction slip by the POS device or it is generated on the Card not Present Receipt;
 - 7.3.4.2 manually, as indicated by Phone for Approval or where the POS device is Offline. The Merchant must manually key in the Authorisation code obtained telephonically from Standard Bank into the POS device and thereafter make an imprint of the Card on the Imprinter. The Merchant must also record the Authorisation code number on the Sales voucher.
- 7.3.5 If the Merchant does not obtain Authorisation as required in this clause 7.3 and the Transaction is honoured by the Issuer, such honouring will not relieve the Merchant of its obligation to obtain Authorisation for subsequent Transactions.
- 7.3.6 The Merchant shall not reduce the value of any one Transaction below its Floor Limit by:
- 7.3.6.1 splitting a Transaction into two or more Transactions; or
 - 7.3.6.2 allowing a Cardholder to purchase items separately.
- 7.3.7 The Issuer may decline an Authorisation without giving any explanation or reason therefor.
- 7.3.8 An Authorisation granted by an Issuer merely indicates that the Cardholder has sufficient funds for the Transaction at the time. Such Authorisation does not warrant:
- 7.3.8.1 the validity or authenticity of the Card; or
 - 7.3.8.2 that the person presenting the Card or Card Information for payment is authorised to do so; or

7.3.8.3 that payment by the Issuer of the value of the authorised Transaction will not be subject to a Chargeback to the Merchant.

7.4 **Presentation of valid Receipts for Payment**

7.4.1 The Merchant must ensure that valid Receipts for specific processed transactions are provided to Standard Bank should there be any query on the said transaction.

7.4.2 Standard Bank will credit the Merchant's Bank Account with the amount of valid and correctly completed and processed Receipts within 2 Business days of the Merchant's presentation thereof subject to the provisions of this Agreement.

7.4.3 Any credit effected by Standard Bank in terms of clause 7.4.2 above does not deprive Standard Bank of its right to effect Chargebacks or to cancel payment of invalid Transactions by debiting the Merchant's Bank Account accordingly.

7.4.4 Standard Bank will be entitled to delay payment or withhold payment of any credit due to the Merchant in instances where such credit exceeds Standard Bank's internal and confidential risk detection parameters.

7.4.5 The presentation for processing and payment of a Receipt will be a warranty by the Merchant that:

7.4.5.1 the information on the applicable Receipt is correct;

7.4.5.2 other than in respect of a Credit Voucher or where the proviso in clause 4.3.2 applies, the Merchant has supplied the goods and/or services to the value stated on the Receipt to the Cardholder;

7.4.5.3 the Transaction was authorised by the Cardholder;

7.4.5.4 no fictitious Transactions were processed by the Merchant to increase the Merchant's cash flow;

7.4.5.5 the Transaction is not invalid or illegal; and

7.4.5.6 there has been due compliance with all the terms of this Agreement.

7.5 **Refund procedure**

7.5.1 If the Merchant agrees to furnish a refund to a Cardholder, the Merchant must submit the Credit Voucher electronically to Standard Bank for processing within 3 Business days of the refund Transaction.

7.5.2 The refund must be processed using the Card (or Card Information) that was used for the original Transaction.

7.5.3 A copy of the Credit Voucher must be given or sent to the Cardholder.

7.5.4 No cash refund may be made by the Merchant to a Cardholder for credit Card Transactions.

7.5.5 The Merchant must retain a copy of the Credit Voucher for a period of not less than 180 calendar days (or 365 days in the case of a UPI Card Transaction) and must produce it within 7 (seven) calendar days when called upon to do so by Standard Bank and/or the Cardholder.

7.6 **Authenticated Transactions**

7.6.1 Subject to the Issuer adhering to applicable Card Scheme Rules relating to authentication, if the Merchants sends an Authenticated Transaction which is then Authorised and processed by Standard Bank, the risk of Chargebacks to the Merchant will be reduced.

7.6.2 Subject to the Issuer adhering to the applicable Card Scheme Rules relating to authentication, if the Merchant sends:

7.6.2.1 a non-Authenticated Transaction; or

7.6.2.2 an incomplete or failed Authenticated Transaction,

Standard Bank may in its sole discretion decide to accept such Transaction for processing. If Standard Bank processes the said Transaction:

7.6.2.3 the usual Chargeback provisions for Transactions will apply; and

7.6.2.4 the Merchant acknowledges and agrees that Standard Bank may but is not obliged to accept any further non-Authenticated Transactions or incomplete Authenticated Transactions from the Merchant for processing.

7.6.3 The Merchant acknowledges and agrees that:

7.6.3.1 Authenticated Transactions are based on Card Scheme Rules which may vary from time to time. The Merchant agrees to promptly comply with any variations which are initiated by the Card Schemes or are introduced by Standard Bank from time to time;

7.6.3.2 any fines, penalties or similar costs imposed on Standard Bank by a Card Scheme because of the Merchant's conduct arising out of the Authenticated Transactions and/or its participation in the Authenticated Procedures are payable by the Merchant as a fine or penalty in accordance with 12.1.11 of this Agreement;

7.6.3.3 if the Merchant sends Standard Bank a non-Authenticated Transaction or an incomplete or failed Authenticated Transaction, the Merchant does so at its own risk and understands that in doing so Standard Bank may Chargeback the Transaction to the Merchant on the basis that the Cardholder alleges that they did not purchase goods or services from the Merchant.

8 **INVALID TRANSACTIONS**

8.1 A Transaction will be deemed invalid if:

8.1.1 the transaction it records is illegal;

- 8.1.2 Standard Bank has advised the Merchant not to accept the Card payment in question;
- 8.1.3 in the case of a POS Transaction, the Cardholder has tendered a Card, but no signature appears on the Transaction slip or Sales voucher or the signature is different from that appearing on the Card;
- 8.1.4 the applicable Receipt differs from the copy handed or sent to the Cardholder;
- 8.1.5 the applicable Card is not a valid Card;
- 8.1.6 the applicable Card is not current or has expired at the time of the Transaction;
- 8.1.7 a mutilated or defaced Card, which was illegible, was accepted by the Merchant;
- 8.1.8 the price charged for the goods or services under the Transaction is in excess of the Merchant's normal price for such goods or services;
- 8.1.9 the amount charged in a Transaction is in excess of the authorised Floor Limit;
- 8.1.10 no Authorisation has been obtained by the Merchant;
- 8.1.11 the Merchant fails to adhere to the terms of this Agreement;
- 8.1.12 it reflects an Authorisation given 7 (seven) calendar days or more prior to the date of the Transaction;
- 8.1.13 a Manual Card Entry was effected or an Offline Transaction was processed and the Merchant failed to make an imprint of the Card using an Imprinter;
- 8.1.14 it is subject to a Chargeback in terms of the Rules; and
- 8.1.15 the Transaction does not comply with the terms of any warranty contained in clause 7.4.5 above.
- 8.2 Standard Bank may withhold payment for invalid Transactions for 180 calendar days (or 365 days in the case of a UPI Card Transaction) and/or set such payment off against any Chargeback requests at any time.
- 8.3 Notwithstanding any provision to the contrary, Standard Bank may, in its sole discretion, elect to treat any of the abovementioned Transactions as valid.
- 8.4 In the event of an invalid Transaction as set out above, Standard Bank shall have the right to Chargeback the invalid Transaction as set out in clause 10.4 below.

9 FRAUDULENT TRANSACTIONS

- 9.1 The Merchant will not present Transactions to Standard Bank to be processed that it knows or should have known are unauthorised or Fraudulent Transactions.
- 9.2 The Merchant agrees that it will be responsible for the actions of its employees at all times.

9.3 Standard Bank will be entitled to debit the Merchant's Bank Account at any time with the value of all Transactions deposited by the Merchant which Standard Bank believes, in its sole discretion, are unauthorised and/or Fraudulent Transactions.

9.4 Standard Bank reserves the right to terminate this Agreement immediately or at any time without prejudice to any of its rights in terms of this Agreement if it suspects, in its sole discretion that the Merchant and/or any of its employees, agents or representatives has perpetrated a fraud or entered into or is a party to a Fraudulent Transaction, which rights will be retained notwithstanding the cancellation of this Agreement.

9.5 If detected before settlement, Standard Bank reserves the right to delete Fraudulent Transactions or duplicated Transactions before settlement takes place.

10 FEES

10.1 The Merchant shall pay the Merchant Commission pegged as indicated in annexure B on International, Credit cards and on Debit cards and any monthly fees, and transactional fees, to Standard Bank as amended by Standard Bank from time to time.

10.2 Standard Bank reserves the right to vary the Merchant Commission and/or other Fees from time to time upon written notice to the Merchant.

10.3 Standard Bank reserves the right to introduce any new fees within 30 (thirty) calendar days of advising the Merchant in writing of such fees.

10.4 Standard Bank may, in respect of any overdue amounts under this Agreement, charge the Merchant interest at a rate of 2% (two percent) above the Base lending Rate or such rate as may be prescribed from time to time by Standard Bank. Such interest will be due and payable immediately and calculated as from the date:

10.4.1 of the Transaction;

10.4.2 on which the Merchant received payment; or

10.4.3 the date of the Chargeback,

whichever is the later. Interest is calculated on a daily basis on the outstanding balance and charged monthly in arrears.

11 CHARGEBACKS

11.1 The Merchant acknowledges and agrees that Standard Bank may refuse to accept, or having accepted may Chargeback to the Merchant, any Transaction if:

11.1.1 the Transaction is an invalid Transaction and/or a Fraudulent Transaction;

11.1.2 the Cardholder disputes their liability for any reason (other than in the case of a valid Authenticated Transaction);

- 11.1.3 Standard Bank disputes liability for any reason;
- 11.1.4 A Chargeback is effected in terms of the Rules;
- 11.1.5 the Merchant is unable to make available to Standard Bank copies and records of Transaction Documentation as required by this Agreement; and
- 11.1.6 the Merchant has failed to provide the Cardholder with the goods or services covered by the Transaction or such goods or services are faulty or incomplete.

12 STANDARD BANK'S AUTHORITY TO DEBIT THE MERCHANT'S BANK ACCOUNT

- 12.1 The Merchant is liable for and irrevocably authorises Standard Bank to debit the Merchant's Bank Account with:
 - 12.1.1 any Fees that is or becomes payable by the Merchant to Standard Bank pursuant to this Agreement;
 - 12.1.2 any Chargebacks effected in accordance with this Agreement;
 - 12.1.3 the Merchant amount of any Credit Voucher which the Merchant fails to process;
 - 12.1.4 any overpayments made to the Merchant due to errors or omissions, whether such errors were made by the Merchant or Standard Bank;
 - 12.1.5 any credits due to Standard Bank arising in respect of Transactions that are invalid and/or Fraudulent;
 - 12.1.6 the Merchant amount of lost POS Transaction batches where the Merchant has failed to provide valid Merchant copies within 7 (seven) calendar days of being requested to do so by Standard Bank;
 - 12.1.7 any interest payable by the Merchant to Standard Bank on any sum due to Standard Bank;
 - 12.1.8 the cost of new Equipment should the Merchant fail to return same to Standard Bank within 24 hours, alternatively if the Merchant returns same to Standard Bank in an unsatisfactory condition, fair wear and tear excluded, on termination of this Agreement;
 - 12.1.9 the cost of any Equipment that is lost, stolen or damaged while in the possession of the Merchant;
 - 12.1.10 the value of any Transaction slip and/or Sales voucher where the Merchant failed to obtain an imprint of the Card as required in terms of this Agreement; and
 - 12.1.11 any fines imposed by the Card Schemes on Standard Bank as a result of non-compliance with the Rules and/or any act or omission of the Merchant, its employees, officers or agents, as advised by Standard Bank to the Merchant from time to time.
- 12.2 The Merchant hereby authorises Standard Bank to deduct the Fees and amounts set out in clause 12.1 from the Merchant's Bank Account or any other bank account of the Merchant or from any investment held with any third party if the Merchant's Bank Account is not adequately funded to allow a debit.

- 12.3 The Merchant hereby authorises Standard Bank to set off any debits due by the Merchant in terms of this Agreement against any credits due to the Merchant.
- 12.4 The Merchant shall notify Standard Bank in writing of any change to its banking arrangements which will become effective once received by Standard Bank.
- 12.5 The Merchant shall ensure that Standard Bank has the correct banking details and in this respect shall be obliged to confirm in writing to Standard Bank, no later than 60 (sixty) calendar days after the first payment has been made by Standard Bank in terms hereof, that the credits due to the Merchant in terms of this Agreement are being deposited by Standard Bank into the correct bank account.
- 12.6 Standard Bank may change its settlement procedure for the Merchant Commission from monthly settlements to daily settlements on written notice to the Merchant.

13 MONTHLY STATEMENTS

- 13.1 Standard Bank will provide the Merchant Statement to the Merchant on a monthly basis.
- 13.2 All information appearing on the Merchant Statement shall be deemed final, accurate and affirmed by the Merchant unless the Merchant objects by written notice to Standard Bank specifying the particular item in dispute within 60 (sixty) calendar days of the date of the Merchant Statement. Standard Bank shall have no responsibility or liability for any errors or omissions that are brought to their attention more than 60 (sixty) calendar days after the date of the Merchant Statement.

14 OWNERSHIP OF THE EQUIPMENT

- 14.1 Any Equipment supplied by Standard Bank to the Merchant on a rental basis will remain the property of Standard Bank at all times. A monthly Terminal Rental is payable by the Merchant to Standard Bank for all Equipment as set out in the Application Form. The Terminal Rental may be increased from time to time by Standard Bank on written notice to the Merchant. On termination of this Agreement the Merchant must return all Equipment to Standard Bank within 24 (twenty four) hours failing which Standard Bank will be entitled to debit the Merchant's bank account as set out in 12.1.8 above.
- 14.2 The Merchant has a duty of care to Standard Bank in respect of the Equipment and must take due and proper care of it at all times. The Merchant must obtain and maintain adequate insurance for the Equipment at its replacement value, which replacement value can be obtained from Standard Bank. Standard Bank reserves the right not to replace the Equipment until it receives the replacement value thereof.
- 14.3 Installation and maintenance of all Equipment owned by Standard Bank will be undertaken by Standard Bank and/or its contractors and in this respect the Merchant shall allow the Standard Bank employees, contractors and/or agents to enter the Merchant's premises as reasonably required to install, maintain and/or remove the Equipment and inspect the condition and operation of Equipment owned by others.
- 14.4 The Merchant shall not permit any persons other than the authorised representatives or contractors of Standard Bank to adjust, maintain, program or repair any Equipment covered under this Agreement.

- 14.5 A Merchant who rents premises must inform the landlord of the rented premises that the Equipment belongs to Standard Bank, in order to ensure that the Equipment is not subject to the landlord's hypothec in the event of a claim from the landlord against the Merchant.

15 INDEMNITY

The Merchant hereby indemnifies Standard Bank against any Losses and/or Claims of any nature suffered or incurred by Standard Bank or for which Standard Bank may be sought to be held responsible as a result of or in connection with:

- 15.1 the failure of the Merchant to comply with any of its obligations under this Agreement, the Rules, CPA and/or any other applicable laws;
- 15.2 any incorrect or misleading information supplied to Standard Bank by the Merchant or any information withheld by the Merchant that would have made any information provided to Standard Bank incorrect or misleading;
- 15.3 any other act or omission of the Merchant, its employees, agents or representatives arising out of the terms of this Agreement (including the completion of a Transaction, the processing of refunds, the use of the Equipment, the completion and/or presentation of a Receipt, the Processing of Data and/or any Data Compromise);
- 15.4 any action taken by Standard Bank or the Card Schemes as a result of any act of, or omission by, the Merchant or any of its employees, officers or agents, including any fees, fines, penalties or other amounts imposed by the Card Schemes on Standard Bank as a result of any such act or omission; and
- 15.5 any dispute between any or all of the Merchant, Standard Bank, any Cardholder, and any third party.

16 MONTHLY RENTAL FEES

- 16.1 The Merchant shall pay a monthly rental fee of \$0 per device per month for the period of this contract as stipulated in annexure B, Schedule of fees .

17 CLOSURE, RESTRICTED ACTIVITY OR SUSPENDED ACCESS TO ACCOUNT

Standard Bank reserves the right to close, restrict activity or suspend access to any of the Merchant's bank accounts held at Standard Bank, if in any way Standard Bank knows or suspects that the Merchant's bank accounts are being used fraudulently, negligently or for illegal activities or if Standard Bank must do so to comply with any applicable laws. The Merchant hereby indemnifies Standard Bank for any direct, indirect, consequential or special Losses and/or Claims arising from any act or omission by Standard Bank or any third party for whom Standard Bank is responsible, whether arising in contract, delict or statute, if Standard Bank closes, restricts or suspends access to any of the Merchant's bank accounts, as contemplated herein.

18 REPRESENTATIONS AND WARRANTIES

- 18.1 The Merchant warrants to Standard Bank that:
- 18.1.1 it has full capacity, power and authority to enter into this Agreement and to perform all of the obligations recorded in this Agreement and this Agreement shall, when executed, constitute valid and binding obligations on the Merchant;

- 18.1.2 the execution and performance by it of this Agreement will not cause a breach of any other agreement to which it is a party;
- 18.1.3 it has full capacity, power and authority to enter into this Agreement and to perform all of the obligations recorded in this Agreement;
- 18.1.4 it is not aware of anything which might or shall adversely affect its ability to perform its obligations under this Agreement;
- 18.1.5 it shall ensure that all information supplied to Standard Bank is true, accurate and complete in all respects;
- 18.1.6 it has obtained and shall maintain in force, in relation to the conduct of its business, all the necessary consents, registrations, filings, certificates, licences, approvals, permits and insurances;
- 18.1.7 the performance of its obligations under this Agreement shall fully comply with applicable laws;
- 18.1.8 if applicable, it shall notify Standard Bank in writing, immediately upon the occurrence of any of the following events:
- 18.1.8.1 when the board of the Merchant becomes aware that it is Financially Distressed;
- 18.2 The Parties acknowledge and agree that the written notice referred to in clause 18.1.8 above shall set out the full details of the Financial Distress or the actual or proposed activity or event, as the case may be.
- 18.3 This Agreement shall bind the Merchant as presently constituted and all its successors in title and assigns, if any.

19 CONFIDENTIALITY

- 19.1 Except as otherwise provided in this Agreement (in particular clause 21), the Parties shall treat the Confidential Information as confidential. No Party shall reveal or otherwise disclose such Confidential Information to any third party without the prior written consent of the other Party hereto. Any third party that may become privy to such information shall first undertake in writing to protect the confidential nature thereof. The foregoing restrictions shall not apply to the disclosure of necessary Confidential Information to employees and professional advisors of the Parties provided that such persons are made aware of and comply with their obligations of confidentiality under this Agreement as if they were a Party.
- 19.2 The confidentiality undertaking in this clause 19 shall not apply in respect of confidential information:
- 19.2.1 within the public domain;
- 19.2.2 within a Party's knowledge at the commencement of this Agreement;
- 19.2.3 to disclosure required to satisfy the order of a court of competent jurisdiction; or
- 19.2.4 to comply with the provisions of any law or regulation in force from time to time.

- 19.3 The Parties shall not at any time during the term of this Agreement, release any statement to the press, or make any other public statement of any nature which could reasonably be expected to be published in any media regarding the relationship or the subject matter of this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- 19.4 Any material relating to this Agreement (including any intellectual property rights) which is intended for publication in any form by the Merchant must first be submitted in draft form to Standard Bank for approval.
- 19.5 Upon the termination of this Agreement for any reason whatsoever the Merchant shall promptly return to Standard Bank and permanently delete from all computer and/or electronic media all Standard Bank's Confidential Information (including all copies thereof) and shall provide to Standard Bank a certificate signed by the Merchant's authorised representative confirming that the Merchant has not retained such Confidential Information. Where electronic back-ups containing Confidential Information exist, to the extent that the Merchant is unable to remove the relevant information from the back-ups, it hereby undertakes that such Confidential Information shall remain confidential indefinitely.
- 19.6 The Merchant acknowledges and agrees that any breach of its obligations under this clause shall be deemed a material breach of the Agreement.

20 DATA PROTECTION

- 20.1 The Merchant shall receive Data pertaining to or from the Cardholder -
- 20.1.1 which the Merchant shall treat as confidential and not use other than as strictly necessary for the Transaction;
- 20.1.2 in terms whereof the Merchant shall disclose only to parties involved in the Transaction and then only as is necessary to give effect to the Transaction.
- 20.2 The Merchant shall keep all system and media containing Data, whether physical or electronic, in a secure manner, to prevent access by or disclosure to anyone other than the Merchant's authorised employees or Standard Bank.
- 20.3 The Merchant shall destroy in a manner that will render the Data unreadable, all such media that is no longer necessary or appropriate to store.
- 20.4 The Merchant will at all times be liable for any Losses resulting from any misuse of Data by the Merchant, any failure to keep Data secure and/or a Data Compromise.
- 20.5 The Merchant acknowledges and agrees that any breach of its obligations under this clause shall be deemed a material breach of the Agreement.

21 CONSENT TO CREDIT REFERENCES AND DISCLOSURE OF INFORMATION

- 21.1 The Merchant acknowledges that without its Personal Information, Standard Bank may be unable to offer or continue to offer services to the Merchant. Accordingly the Merchant hereby authorises and consents to Standard Bank Processing the Merchant's Personal Information:
- 21.1.1 to provide the Merchant with any combination of services, analysis, advice or intermediary service;

- 21.1.2 to carry out statistical and other analyses to identify potential markets and trends. Standard Bank conducts research to improve its services and products and, on occasion uses third parties to conduct the research on its behalf and accordingly the Merchant consents to Standard Bank providing such third parties with its Personal Information to conduct such research on behalf of Standard Bank. These research companies follow strict codes of conduct and treat all information given to them as confidential;
- 21.1.3 to develop new products and services and make same available to the Merchant;
- 21.1.4 to monitor and analyse the conduct of the Merchant's Bank Account for credit, fraud, compliance and other risk related purposes, including:
 - 21.1.4.1 making enquiries about its credit record with any credit reference agency and any other party to confirm the details contained in this Agreement and/or any information provided by the Merchant in terms hereof;
 - 21.1.4.2 providing regular updates regarding the conduct of the Merchant's Bank Account to the credit reference agencies;
 - 21.1.4.3 allowing the credit reference agencies to, in turn, make these records and details available to other credit grantors;
 - 21.1.4.4 carrying out identity and fraud prevention checks and sharing information relating to the Merchant's Bank Account ;
- 21.1.5 releasing information to third parties for recovery and/or debt collection purposes;
- 21.1.6 disclosing information concerning the Merchant and the Merchant's Bank Account to the Card Schemes and/or other financial institutions for use in any fraud prevention schemes they may set up and to comply with such institutions' rules;
- 21.1.7 disclosing information to such entities as may be prescribed by the laws and regulations that Standard Bank complies with.
- 21.2 The Merchant further agrees that:
 - 21.2.1 Standard Bank may Process and disclose the Merchant's Personal Information to any member within the SB Group for the purposes set out in 21.1; and
 - 21.2.2 Standard Bank may disclose the Merchant's Personal Information to any third party who provides services to or on behalf of Standard Bank with regards to its merchants. The Merchant acknowledges that these third party service providers may be located in countries outside of Malawi. These third parties treat all information given to them as confidential.
- 21.3 Without limiting the generality of the foregoing, the Merchant agrees that Standard Bank will at all times remain responsible for determining the means for processing the Merchant's Personal Information as set out herein.

22 USE OF STANDARD BANK MARKS

- 22.1 The Merchant will ensure that it shall use the Standard Bank Marks if applicable strictly in accordance with such criteria provided by Standard Bank.
- 22.2 The Merchant shall respect the trademark and other intellectual property rights contained in the Standard Bank Marks and shall not infringe such rights. The Standard Bank Marks shall not be used by the Merchant for purposes not contemplated under this Agreement or for any purpose not agreed to by Standard Bank.
- 22.3 In using any of the Standard Bank Marks the Merchant shall in no way represent, except as specifically permitted under this Agreement, that it has any right, title or interest in or to the Standard Bank Marks or in any application or registration therefor which may be granted.
- 22.4 Upon termination of this Agreement or earlier if required by Standard Bank, the Merchant shall:
- 22.4.1 immediately cease all use whatsoever of the Standard Bank Marks (including as set out on its website);
- 22.4.2 deliver to Standard Bank and/or destroy any and all materials in its possession or control that bear the Standard Bank Marks and confirm in writing to Standard Bank that it has done so.
- 22.5 The Merchant acknowledges and agrees that any breach of its obligations under this clause shall be deemed a material breach of the Agreement.

23 FORCE MAJEURE

- 23.1 If either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under the Agreement by a force majeure event, the Party so affected shall, to the extent so prevented, be relieved of its obligations hereunder during the period of such event and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damage either general, special or consequential which the other Party may suffer due to or resulting from such delay or failure; provided always that written notice of the occurrence constituting force majeure shall be given within 24 hours by the affected Party, if reasonably possible.
- 23.2 The Parties agree that, should the force majeure last more than 30 (thirty) calendar days, the Party who has not invoked force majeure to excuse any non-performance of its obligations may terminate this Agreement by giving 10 (ten) Business days' written notice to the other Party.

24 NATURE OF RELATIONSHIP

This Agreement does not create a partnership, joint venture or agency between the Parties and neither Party shall be liable for the debts of the other Party, howsoever incurred.

25 BREACH

- 25.1 Subject to the provisions of clause 25.2 and **Error! Reference source not found.**, should any Party (defaulting Party) commit a breach of any provision of this Agreement and fail to remedy such breach, or if the breach is not capable of remedy, fail to implement remedial action acceptable to the other Party, within 14 days of receiving a written notice from the other Party (aggrieved Party) requiring the defaulting Party to do so, the aggrieved Party shall be entitled in addition to its other remedies in law or in terms of this Agreement to cancel this Agreement forthwith

and without prejudice to its rights to claim damages; provided that if the defaulting Party commits two or more breaches of any material provision of this Agreement in any 6 month period of this Agreement, the aggrieved Party shall be entitled without prejudice to any of its other rights or remedies in law or under this Agreement to terminate this Agreement forthwith by notice in writing to the defaulting Party.

25.2 Notwithstanding anything to the contrary contained herein where Standard Bank is the aggrieved Party and the Merchant has failed to remedy the breach in question, or if the breach is not capable of remedy, fails to implement remedial action acceptable to Standard Bank, Standard Bank shall have the right, in its sole and absolute discretion and without prejudice to Standard Bank's rights hereunder or in law, to:

25.2.1 Suspend this Agreement and/or any part thereof until same has been remedied;

25.2.2 Exercise its rights in terms of clause 10.2 and/or 10.3; and/or

25.2.3 terminate this Agreement immediately.

26 TERMINATION

26.1 Notwithstanding anything to the contrary contained herein, either Party shall be entitled to terminate this Agreement immediately if the other Party:

26.1.1 takes steps to place itself, or is placed in liquidation, whether voluntary or compulsory or under judicial management in either case whether provisionally or finally;

26.1.2 takes steps to deregister itself or is deregistered;

26.1.3 commits an act which would be an act of insolvency as defined by the Insolvency Act of 1986 as amended from time to time if committed by a natural person;

26.1.4 fails to satisfy a judgement in excess of the Malawi Kwacha equivalent of R300 000.00 (three hundred thousand Rand) entered against itself within 21 (twenty one) days after it becomes aware of the judgement, except if it provides evidence on an ongoing basis to the reasonable satisfaction of the other Party that steps have been initiated within the 21 (twenty one) days to appeal, review or rescind a judgement and to procure suspension of execution of the judgement and that such steps are being expeditiously pursued; the period of 21 (twenty one) days shall run from the date on which the judgement becomes final, or the date on which the attempt to procure the suspension of the execution fails;

26.1.5 commits a material breach (including a series of minor breaches which together are considered material) of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 5 Business days of that Party being notified in writing of the breach; or

26.1.6 Standard Bank exercises its rights in terms of clause 9.4; or

26.1.7 is subject to a force majeure event giving rise to a right to terminate this Agreement in accordance with clause 23.2.

26.2 Termination of this Agreement will not relieve a Party of obligations imposed upon such Party by statute or regulation or by this Agreement prior to its termination.

27 LIMITATION OF LIABILITY

27.1 Notwithstanding anything to the contrary contained in this Agreement, Standard Bank shall not be liable to the Merchant for any indirect or consequential Losses and/or Claims (including loss of profit, revenue, anticipated savings, business transactions or goodwill or other contracts whether arising from negligence or breach of contract) arising from Standard Bank's obligations in terms of the Agreement.

27.2 Without limiting the generality of the foregoing, Standard Bank shall not be responsible to the Merchant for any loss or consequential loss arising from any failure or malfunction in the Equipment, any Card payment system, electronic device or any delay in an electronic communication, including a communication via cellular telephones, or failure or malfunction in any supporting or shared networks, where applicable. The use of any electronic means of communication is entirely at the Merchant's risk.

27.3 Standard Bank does not warrant that any electronic communications or services provided by it under this Agreement will be error-free or will meet any particular criteria of accuracy, completeness or reliability of information, performance or quality.

27.1 This clause does not exclude or limit any liability which, by law, is not capable of exclusion or limitation. Standard Bank's maximum liability in respect of the Agreement is nevertheless limited to the resupply of the services provided to the Merchant under this Agreement, the payment of the cost of having such services supplied again or the amount of Fees collected from the Merchant in any 12 month period, at the sole discretion of Standard Bank.

28 CESSION AND ASSIGNMENT

28.1 The Merchant shall not be entitled to cede, assign, transfer or make over any of its rights or obligations in terms of this Agreement without obtaining the prior written consent of Standard Bank, which shall not be unreasonably withheld.

28.2 Any cession or assignment agreed to by Standard Bank will not relieve the Merchant of any obligations with respect to any covenant, condition, or obligation required to be performed by the Merchant under this Agreement.

29 DISPUTE RESOLUTION

29.1 If a dispute of any nature arises between the Parties, including in regard to the interpretation of, the effect of, the Parties' respective rights or obligations hereunder, a breach of or the termination of this Agreement, then, upon written request of either Party, each of the Parties will appoint a senior representative whose task it will be to meet for the purposes of resolving such dispute. Such representatives will discuss the matter in dispute and negotiate in good faith in an effort to resolve the dispute on amicable terms within 14 days. No formal proceedings may be commenced until the designated representatives conclude in good faith that an amicable resolution of the matter is not likely to occur.

29.2 Should the representatives of the Parties be unable to resolve a dispute in accordance with the foregoing, such dispute will be submitted to and decided by a court of competent jurisdiction or, upon agreement between the Parties, by arbitration in terms of this clause 29.

- 29.3 The arbitrator shall be appointed by the Parties, and failing agreement, shall be nominated by the Chairman for the time being of the Malawi Law Society
- 29.4 The arbitration shall be held in Lilongwe.
- 29.5 The arbitration shall be held in accordance with the Arbitration Act, Cap 16:03 of the laws of Malawi and any statutory modification or re-enactment thereof.
- 29.6 The arbitrator shall be entitled to: -
- 29.6.1 determine and settle the formalities and procedures, which shall be in an informal and summary manner, that is, it shall not be necessary to observe or carry out either the usual formalities or procedure or the strict rules of evidence;
- 29.6.2 investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with any matter referred to him for decision;
- 29.6.3 decide the matters submitted to him according to what he considers just and equitable in all the circumstances, having regard to the purpose of this Agreement; and
- 29.6.4 make such award, including an award for specific performance, an interdict, damages or a penalty or the costs of arbitration or otherwise as he in his discretion may deem fit and appropriate.
- 29.7 The arbitration shall be held as quickly as possible after it is demanded, with a view to it being completed within 30 (thirty) calendar days after it has been so demanded.
- 29.8 This clause is severable from the rest of the Agreement and shall therefore remain in effect even if this Agreement is terminated.
- 29.9 This clause shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 29.10 The Parties hereby consent to the non-exclusive jurisdiction of the High Court of Malawi where applicable, and the above Court shall have jurisdiction to enforce any award made by an arbitrator under this clause 29.

30 NOTICES AND DOMICILIA

- 30.1 The Parties choose their respective addresses set out in clause 30.2 below (**domicilia**) for the valid service or delivery of all processes and notices arising out of or in connection with this Agreement, its breach or termination.
- 30.2 For the purposes of this Agreement the Parties' domicilia are:
- 30.2.1 as regards Standard Bank at:
- Standard Bank Centre
African Unity Avenue

Capital City, Lilongwe 3
Malawi
Attention: The Manager Digital Banking
Telephone Number: +265 (0) 1 774 688

30.2.2 as regards the Merchant at:

See the contact details contained in the Application Form

or at such other physical address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

30.3 Any written notices required in terms of clause 30 shall only be satisfied if such notice is given in a written, paper based form.

or at such other address of which the Party concerned may notify the other in writing.

30.4 Any notice given in terms of this Agreement shall be in writing and shall, unless the contrary is proven:

30.4.1 if delivered by hand, be deemed to have been received on the date of delivery;

30.4.2 if posted by prepaid registered post, be deemed to have been received 7 (seven) Business days following the date of such posting;

30.4.3 if transmitted by facsimile, be deemed to have been received 1 Business day following the successful transmission thereof as evidenced by the facsimile confirmation of receipt;

30.4.4 if sent electronically, be deemed to have been received 1 (one) Business day following the successful transmission thereof as evidenced by the electronic confirmation of receipt. The Parties record that whilst they may correspond via email during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement may be given or concluded via email.

31 GOOD REPUTATION

31.1 The Merchant shall not do anything, or engage in any activity, which is likely to adversely affect or damage SB Group's good name and/or reputation and shall procure that its employees, agents and/or representatives involved in fulfilling its obligations in terms of this Agreement do not do any such thing or engage in any such activities.

31.2 The Merchant acknowledges and agrees that any breach of its obligations under this clause shall be deemed a material breach of the Agreement.

32 AUDIT

- 32.1 Standard Bank and/or the Card Schemes may, at their discretion audit the Merchant's compliance with this Agreement including, but not limited to the Merchant's financial statements, data protection policies, information pertaining to the Merchant's financial condition, an audit of the Merchant's premises, the Merchant's systems (including finance systems) and the physical and information technology security in place; provided that any such audit is carried out with reasonable prior notice and in a reasonable way so as to cause as little disruption as is reasonably possible to the performance of the Merchant's business.
- 32.2 Where Standard Bank and/or the Card Schemes have reasonable grounds to believe that the Merchant is not complying with its obligations under this Agreement, an audit may be carried out without prior notice.
- 32.3 The Merchant shall, at no cost to Standard Bank, provide all assistance reasonably requested in relation to any audit, including access to the Merchant's employees, records and premises.
- 32.4 Standard Bank and/or the Card Schemes may engage third party advisers to audit the Merchant's compliance with this Agreement.
- 32.5 Standard Bank and/or the Card Schemes may allow any regulator and any persons appointed by such regulator to participate in any audit and to receive the results of that audit.

33 GENERAL

- 33.1 Any relaxation or indulgence or extension of time granted by Standard Bank to the Merchant will not constitute nor be deemed to be a novation or waiver of Standard Bank's rights against the Merchant.
- 33.2 The laws of Malawi shall govern the validity, interpretation and performance of this Agreement.
- 33.3 The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the validity, legality and enforceability of the remaining provisions of this Agreement.
- 33.4 This Agreement embodies the entire Agreement between the Parties hereto. No amendment or variation off any of the provisions of this Agreement or consensual cancellation of this Agreement shall be of any force or effect unless reduced to writing and signed by both Parties.
- 33.5 This Agreement may be signed in counterparts and the copies signed in counterparts shall constitute the Agreement. This shall include faxed copies of this Agreement.
- 33.6 Each Party shall pay its own costs of negotiating, drafting, preparing and implementing this Agreement.
- 33.7 Any actual costs, including all legal costs on an attorney and own scale, incurred by Standard Bank arising out of or in connection with a breach by the Merchant of the Agreement shall be borne by the Merchant.