

BANK OF THE COOK ISLANDS

Merchant Services Terms and Conditions

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GENERAL TERMS AND CONDITIONS FOR MERCHANT SERVICES

It is important that you read and understand these Terms and Conditions before agreeing to them and before you start using our Merchant services.

If you have any questions or concerns regarding the content of these Terms and Conditions or would like to get a better understanding of how the services work, please do not hesitate to contact us.

INTRODUCTION

This document contains the General Terms and Conditions for the provision of merchant services by BCI to the Merchant and forms part of the Agreement between BCI and the Merchant.

- a. Bank of the Cook Islands Limited, operating under the brand name BCI ("Bank of the Cook Islands", "BCI", "Us", "We", "Our"), is legally licensed to provide banking services in the Cook Islands, whose registered office is in Avarua, Rarotonga, COOK ISLANDS.
- b. Merchant, (User, You) being a person, legal or natural, who benefits from the use of the merchant services.

The Agreement consists of:

- a. The General Terms and Conditions herein, for Merchant Services.
- b. Merchant Agreement including any special conditions contained therein
- c. Merchant Fees Schedule

1. DEFINITIONS

Merchant Services	means a range of financial solutions that enable businesses to accept and process payments, including card transactions, online payments, and alternative methods. Services typically include payment processing, POS systems, SoftPOS solutions, merchant accounts, fraud prevention, and sales analytics.
Merchant Facilities	means a component of Merchant Services that provides businesses with the tools to accept customer payments, including merchant accounts, payment processing, gateways, and SoftPOS solutions.
Merchant Account	BCI bank account designed for business transactions rather than personal, for self-employed, companies, partnerships, trusts, registered and unregistered societies.
Nominated Card Scheme Rules	means the specific set of regulations, standards, and operational requirements established by a Card Scheme (e.g., Visa, Mastercard) that merchants, acquirers, and other participants must adhere to when processing transactions under that scheme. These rules cover areas such as transaction processing, fraud prevention, chargebacks, and compliance obligations.
Transaction	means any exchange of payment information between a Cardholder and a Merchant for the purchase of goods or services, including the initiation, processing, and settlement of a payment through a Nominated Card, as facilitated by the Merchant's payment system.
Merchant	means a business or individual authorized to accept payments from customers for goods or services, typically through card transactions, online payments, or other electronic payment methods. Merchants operate under agreements with acquiring banks or payment processors and are responsible for complying with applicable payment scheme rules and regulations.
Nominated Card	means a payment card, such as a credit, debit, or prepaid card, that a Cardholder has specifically authorized for use in making transactions. This

	includes the cardholder's name, card number, expiration date, and security features required for payment processing.
BCI Merchant Support Team	refers to the BCI team responsible to provide merchant service and support during and after working hours.
Merchant Category Code (MCC)	A 4-digit code that categorizes the type of business and its transactions set by the major card schemes and assigned to a merchant by a financial institution or payment processor.
PCI Data Security Standard (PCI DSS)	Set of security standards designed to protect card information during and after a financial transaction.
SoftPOS	means a software-based point-of-sale solution that enables a Merchant to accept contactless card and device-based payments (including NFC-enabled cards, mobile wallets, and wearable devices) directly on a certified commercial off-the-shelf (COTS) device such as a smartphone or tablet, without the need for additional physical card reading hardware, operated in accordance with applicable card scheme and PCI SPoC or CPOC standards.
COTS Device	means a Commercial Off-The-Shelf device, being a smartphone, tablet, or similar consumer-grade computing device used by the Merchant as the primary payment acceptance instrument in connection with SoftPOS services.
Aggregator / Payment Facilitator	means a Merchant that accepts payments on behalf of Sub-Merchants under a Merchant of Record model, as further described in Condition 3.1
Sub-Merchant	means any underlying or downstream merchant, operator, service provider, or counterparty on whose behalf an Aggregator or Merchant of Record processes transactions.

GENERAL CONDITIONS

2. GENERAL OBLIGATIONS OF THE MERCHANT

2.1 Provision for Merchant Facilities

- a. BCI agrees to provide the merchant with the merchant service and facilities in accordance with the merchant agreement. BCI agrees to do this in exchange for the merchant carrying out the merchant's obligations in accordance with the terms of the merchant agreement.
- b. BCI will provide the merchant facilities unless:
 - i. the merchant facilities are suspended in accordance with condition 9.1;
 - ii. the merchant agreement is terminated in accordance with condition 9.2; or
 - iii. there is a change in law or to the regulations, by-laws or rules of a nominated card scheme that prevents BCI providing the merchant facilities.

2.2 Conditions Precedent

BCI's obligation to make any of the merchant facilities available to the merchant is conditional upon BCI being satisfied that:

- a. the merchant has accepted BCI's offer in accordance with the method of acceptance. By clicking 'I Accept' during the registration process the merchant accepts, confirms understanding and agrees to comply with these general terms and conditions;
- b. if the merchant is a company, BCI has received all company documents requested by BCI prior to entering into the merchant Agreement;

- c. if the merchant is a trustee of a trust, BCI has received a copy of the trust deed, and any variations or amendments to the trust deed, each certified to be a complete, correct and up-to-date copy;
- d. if the merchant is a partnership, BCI has received a copy of the partnership deed and any variations or amendments to the partnership deed, each certified to be a complete, correct and up-to-date copy.

2.3 Merchant Account

The merchant shall hold a Merchant Account with BCI, in the name of the merchant, for the settlement of funds.

2.4 Honouring Nominated Cards and Permitted Uses

- a. The merchant must accept valid nominated cards.
- b. A nominated card is valid if:
 - i. the nominated card has current validity dates;
 - ii. for card present transactions, the nominated card has not been visibly altered or tampered with in any way;
 - iii. for card present transactions, the nominated card is signed on the back in the designated area for card signatures;
 - iv. for card present transactions, the card number appearing on the nominated card corresponds with the truncated number printed on the transaction voucher or encoded on the nominated card;
 - v. for card present transactions, the signature on the reverse of the nominated card has not been altered or defaced.
- c. The merchant must not:
 - i. make any representation in connection with any goods or services or any nominated card which may bind BCI;
 - ii. make any representations to any cardholder concerning BCI's products or policies;
 - iii. pledge the credit of BCI in any way;
 - iv. take part in the preparation of any documents purporting for credit to be provided by BCI to the cardholder;
 - v. engage in any conduct which is false, misleading or deceptive concerning goods or services supplied by the merchant, BCI's products or policies, or in any other dealings with the cardholder.
- d. Accept any cardholder making enquiries concerning the matters raised in paragraphs (c)(ii) to (c)(iv) above must be directed to contact BCI customer service and support.

3. MERCHANT CATEGORY

Merchants must ensure that they are accurately assigned the correct Merchant Category Code (MCC) that reflects their merchant business type.

Merchants must notify the bank when there is a shift in the type of business practice as this will require an update in MCC.

Certain MCC may be deemed unacceptable to BCI due to high risks associated with them. These unacceptable MCC typically belong to industries that experience higher rates of chargebacks, fraud or regulatory scrutiny. Such industries may include but not limited to adult entertainment, gambling and online gambling. Check with BCI for acceptable and unacceptable MCC.

3.1 Aggregator / Merchant of Record (MOR) Arrangements and Sub-Merchants

a. Appointment and Model Acknowledgement

The Merchant acknowledges and agrees that where the Merchant operates as an aggregator, payment facilitator, or Merchant of Record (MOR) the Bank's acquiring relationship is solely and exclusively with the Merchant, and not with any underlying or downstream merchants, operators, service providers, customers, or counterparties (each a Sub-Merchant).

b. Relationship with Sub-Merchants

All Sub-Merchants must have an account with BCI. Notwithstanding any requirement for Sub-Merchants to maintain an account with the Bank, the parties acknowledge and agree that:

- i. All Sub-Merchants must hold and maintain an active account with the Bank, in a form and manner acceptable to the Bank, as a condition of participation in the Merchant's Merchant of Record (MOR) arrangement.
- ii. The existence of such an account constitutes the full and complete extent of the relationship between the Bank and any Sub-Merchant. Nothing in this Agreement, nor the provision of an account, shall be construed as creating any acquiring, sponsorship, agency, partnership, fiduciary, or contractual relationship between the Bank and any Sub-Merchant.
- iii. All onboarding, due diligence, know-your-customer (KYC), risk assessment, contractual arrangements, commercial terms, monitoring, and ongoing conditions applicable to Sub-Merchants shall be the sole responsibility of the Merchant, and shall be governed exclusively by the arrangements between the Merchant and each Sub-Merchant.
- iv. The Bank shall have no responsibility or liability whatsoever in respect of the onboarding, conduct, compliance, business activities, products, services, customers, or transactions of any Sub-Merchant, notwithstanding that such Sub-Merchant maintains an account with the Bank.

No Sub-Merchant shall be deemed to be approved, endorsed, accepted, or sponsored by the Bank by virtue of:

holding an account with the Bank;

- i. participating in the Merchant's MOR program; or
- ii. the Bank's awareness of, or access to information regarding, Sub-Merchant activity.

c. Regulatory and Scheme Compliance

The Merchant is solely responsible for ensuring that it and all Sub-Merchants comply, at all times, with:

- i. all applicable laws and regulations (including AML/CFT, sanctions, consumer protection, data protection, and payments regulation);
- ii. all applicable Visa rules, operating regulations, and scheme requirements; and
- iii. all requirements applicable to merchant acquiring services.

Any breach, failure, violation, or non-compliance by the Merchant or any Sub-Merchant shall be the exclusive responsibility of the Merchant, and shall not give rise to any liability, remediation obligation, investigation responsibility, or scheme exposure for the Bank.

d. No Liability or Remediation by the Bank

The Bank shall bear no liability in any form (whether direct, indirect, consequential, regulatory, or otherwise) arising from or in connection with:

- i. the acts or omissions of any Sub-Merchant;
- ii. chargebacks, fraud, refunds, consumer claims, or disputes involving Sub-Merchants;
- iii. regulatory or scheme actions taken in respect of Sub-Merchants; or
- iv. any requirement to suspend, remediate, investigate, or compensate Sub-Merchant activity.

The Merchant shall fully indemnify, defend, and hold harmless the Bank against all losses, claims, costs, penalties, fines, assessments, and liabilities arising from or relating to Sub-Merchants or the MOR model.

e. Sub-Merchant Accounts with the Bank

All Sub-Merchants must maintain an active account with the Bank, in a form and manner acceptable to the Bank. The Bank reserves the right to decline, suspend, or close any such account in accordance with its standard account terms and regulatory obligations. Nothing in this Agreement obliges the Bank to maintain any Sub-Merchant account or to continue to provide banking services to any Sub-Merchant.

f. Bank Discretion and Continuity Rights

The Bank reserves the absolute and unfettered right, at its sole discretion, to:

- i. approve or decline the continuation of acquiring activity involving any Sub-Merchant;

- ii. require the removal, suspension, or termination of any Sub-Merchant from the Merchant's program; and
- iii. terminate or restrict the Merchant's acquiring services where the Bank determines that the MOR or Sub-Merchant model presents unacceptable risk.

No approval, inaction, or prior acceptance by the Bank shall be construed as endorsement or ongoing approval of any Sub-Merchant.

g. Non-Exclusivity

This Agreement is non-exclusive. The Bank may provide acquiring or related services to other merchants, aggregators, or payment facilitators, and the Merchant may engage other acquiring institutions, subject always to compliance with this Agreement and applicable scheme rules.

h. Exit and Termination

The Bank may terminate or suspend this Agreement, or the Merchant's MOR activities, immediately upon written notice where:

- i. the MOR or Sub-Merchant model breaches applicable law or scheme rules;
- ii. the Bank determines that risk, regulatory exposure, or reputational impact is unacceptable; or
- iii. continued participation would expose the Bank to scheme, regulatory, or supervisory action.

Upon termination, the Merchant remains fully liable for all Sub-Merchant activity, including post-termination chargebacks, disputes, or regulatory actions.

4. PROCESSING TRANSACTIONS

4.1 Processing

- a. Where the merchant is authorised by BCI to accept a nominated card as payment for goods, the merchant must ensure such goods are dispatched to the cardholder immediately after processing that sales transaction.
- b. The merchant must use reasonable care in processing a transaction to detect forged or unauthorised signatures or the unauthorised use or forgery of a nominated card.
- c. When the transaction is made, the merchant must maintain a record of that receipt number, and provide the cardholder with a receipt number for the transaction if requested.
- d. If BCI determines that the conduct of a merchant in processing transactions may cause loss to the merchant or BCI (through fraudulent activities or otherwise), BCI may:
 - i. where the merchant is authorised by BCI to accept a nominated card as payment for goods or services ordered by mail, mobile or the internet, withdraw that authorisation and require the merchant to only process transactions where the nominated card is presented by the cardholder;
 - or
 - ii. Terminate the merchant agreement pursuant to condition 9.2.
- e. The merchant must comply with all applicable laws in carrying out its obligations in processing transactions under the merchant agreement. For the avoidance of doubt, a breach of any law including any code of conduct specifically regulating or prohibiting the retention by merchants of cardholders' personal identification numbers, passwords or other codes or information that can be used to access a cardholder's account will constitute a breach of this undertaking.
- f. The merchant must ensure that it processes all transactions in accordance with the requirements of any nominated card scheme rules.
- g. The chip card and cardholder must be present for all chip-initiated transactions.

4.2 Refunds

The Merchant must:

- a. establish a fair policy for giving refunds and for exchanges or return of goods for sales transactions;
- b. only give a refund by means of:
 - i. via the same payment channel to the same nominated card on which the original transaction was made;
 - ii. a credit note issued by the merchant; or

- iii. an exchange of goods, and not in cash or by cheque;
- c. disclose the merchant's refund policy to the cardholder prior to undertaking any transaction;
- d. Obtain the account signature(s) of the cardholder(s) for manual refunds.

4.3 Transaction Information

- a. The merchant must retain information about transactions for a period of eighteen (18) months.
- b. Any transaction and card data must be stored in compliance with PCI DSS standards.
- c. At the end of the relevant record retention period specified in paragraph (b), or such other period notified by BCI from time to time, the merchant must destroy any information about the transaction. The merchant must ensure that any document containing a nominated card's card number is securely destroyed in a manner which makes that information unreadable.
- d. Within five (5) business days of a request from BCI, the merchant must provide to BCI information about any transaction as set out in the request.

4.4 Settlement of Transactions

- a. BCI agrees to accept:
 - i. sales transactions processed by the merchant, and in particular condition 4.1, and all to credit the merchant account with the settlement amount of such transactions on the basis that the debt due by the cardholder to the merchant in respect of the transaction is extinguished; and
 - ii. all refund transactions processed by the merchant, in particular condition 4.3, and to debit the merchant account with the refund transaction.
- b. Where BCI is aware or has reason to believe that a transaction or invalid transaction is fraudulent, or a counterfeit nominated card has been used for that transaction, BCI reserves the right for a period of thirty (30) days to:
 - i. withhold payment to the merchant account; or
 - ii. freeze funds from the merchant account; and
 - iii. unless it otherwise agrees in writing, prevent the debit of that part of the balance of the merchant account or any account held by the merchant with BCI, as is equal to the amount BCI estimates may become owing to it by the merchant in respect of that transaction.
- c. During that thirty (30) day period specified in paragraph 4.4(b), BCI will investigate the transaction to determine whether BCI will:
 - i. either: refuse to process the transaction and return the transaction to the merchant; or if the transaction has been processed, charge that transaction back to the merchant; and
 - ii. set-off amounts owing to it by the merchant in respect of that transaction against funds standing to the credit of the merchant account or any account held by the merchant with BCI.
- d. Where BCI is aware or has reason to believe that a transaction or invalid transaction is fraudulent; the merchant has breached the merchant agreement and the terms herein; or BCI otherwise determines on reasonable grounds that deferred settlement is justified in order to prevent loss to the merchant or BCI — BCI may defer settlements of any transaction which occurs during a period of up to six (6) months. Such settlement may be deferred for up to two (2) business days. Immediately prior to the end of any deferred period, BCI will review the relevant circumstance and advise the merchant in writing of its decision upon completing the review.
- e. If a transaction is an invalid transaction, BCI may, at its sole discretion (and without a request or demand from a cardholder):
 - i. refuse to accept the transaction; or
 - ii. if the transaction has been processed, at any time within 180 calendar days of the date of the transaction processing date; or if the goods or services were to be provided after the transaction processing date, 180 calendar days from the last date the cardholder expected to receive the goods or services (or became aware the goods and services would not be provided); charge that transaction back to the merchant by debiting the merchant account or otherwise exercising its rights under the agreement.
- f. If BCI receives a payment from a cardholder relating to an invalid transaction that has been charged back to the merchant, BCI will pay an amount equal to that payment to the merchant less any amount which BCI is entitled to withhold or set-off under the merchant agreement.
- g. Despite any contract, arrangement or understanding to the contrary, in respect of all transactions processed by the merchant, the cardholder will be entitled to initiate a charge back of the

transaction to the merchant where permitted in accordance with the rules of the relevant Nominated Card Schemes.

- h. A transaction is invalid if:
- i. the transaction is illegal, including, without limitation, because it is in breach of any law governing;
 - ii. the date of the transaction is a date after the merchant agreement was suspended or the merchant account frozen in accordance with condition 9.1 or terminated in accordance with condition 9.2;
 - iii. the merchant processed the transaction knowing (or in circumstances where the merchant should have known) that the signature on the transaction voucher is forged or unauthorised;
 - iv. the merchant processed the transaction knowing (or in circumstances where the merchant would reasonably be expected to know) that the nominated card is used without the authority of the cardholder;
 - v. the merchant was notified by BCI not to accept the nominated card used in the transaction;
 - vi. the nominated card used in the transaction is not used within the current validity dates shown on the nominated card;
 - vii. the transaction price charged for the goods or services to which the transaction relates is more than the merchant's normal price which is charged to the general public;
 - viii. the merchant has arranged without BCI's consent for a person other than the merchant to supply the goods, services or cash the subject of the transaction;
 - ix. the merchant processed the transaction knowing (or in circumstances where the merchant should have known) that the transaction is fraudulent;
 - x. the merchant has not otherwise complied with the merchant agreement in connection with the transaction and BCI is of the reasonable opinion that such non-compliance may result in either BCI or the merchant suffering a loss;
 - xi. the transaction is processed by the merchant on behalf of another person, or has allowed another person to use the merchant facilities in connection with the transaction, except under a bona fide agency arrangement;
 - xii. the same transaction is erroneously processed by the merchant more than once; the merchant key-enters incorrect transaction details into the electronic terminal;
 - xiii. if, in BCI's reasonable opinion, the cardholder justifiably disputes liability for the transaction for any reason;
 - xiv. if the cardholder makes a claim for set-off or counter claim in respect of the transaction against BCI;
 - xv. the transaction was processed in breach of the requirements of any nominated card scheme rules notified by BCI to the merchant;
 - xvi. the transaction is not authorised by BCI or the authorisation request is declined for any reason;
 - xvii. the merchant charges any credit or debit card surcharge or any other charge not approved by BCI for the use of the nominated Card by the cardholder; or
 - xviii. the merchant notifies BCI of a transaction that is not credited to the merchant account more than 30 days after the transaction has been processed by the merchant on the BCI POS terminal provided. BCI at its sole discretion, may reprocess the transaction as an unbanked transaction however the merchant accepts liability if this is disputed by the cardholder and/or issuing bank due to a late presentment.

4.5 Merchant's Account

- a. The merchant authorises BCI to debit and credit the merchant account for the purposes of the merchant agreement and merchant services.
- b. The merchant must maintain a minimum credit balance in the merchant account during the term of the merchant agreement and six (6) months post termination of the merchant agreement. Any such minimum credit balance will be specified in the merchant agreement or notified by BCI to the merchant from time to time.

5. ELECTRONIC TERMINALS

5.1 Electronic Terminals

- a. Unless otherwise agreed, the merchant must arrange, at the merchant's cost, for an approved telecommunication supplier to install and maintain all necessary telecommunications infrastructure and associated services (including, for example, a telephone line or wireless communication device) to enable the use of the electronic terminal. BCI is not responsible for maintaining any telecommunications requirements to enable an electronic terminal.
- b. The merchant must arrange at the merchant's cost for the preparation of the location of the electronic terminal in accordance with BCI's requirements, including those requirements applicable to site security standards and suitable power supply. The electronic terminal site must enable the cardholder to use the electronic terminal instruction keypad without the cardholder's use of the keypad being observed by security cameras, observation mirrors, and reflective surfaces or by any other person.
- c. The merchant must notify BCI immediately if any electronic terminal (or part of an electronic terminal) is not operating or is malfunctioning.
- d. The merchant must use reasonable care and diligence to prevent and detect unauthorised use of any electronic terminal.
- e. If BCI determines that the continued use of the electronic terminal by the merchant may cause loss to the merchant or BCI (through fraudulent activities or otherwise), BCI may require the merchant to replace that electronic terminal with another electronic terminal nominated by BCI.

5.2 Electronic Terminals — Use

- a. The merchant must:
 - i. use the electronic terminal for the purposes of the merchant agreement; and
 - ii. use the electronic terminal in accordance with the merchant agreement and any applicable manufacturer's manual, warranty or conditions of use.
- b. The merchant must notify BCI in the event that the merchant is aware or should reasonably be aware that the electronic terminal is being used fraudulently or otherwise improperly.
- c. The merchant is responsible for any loss, theft or damage to the electronic terminal at the merchant's premises.
- d. The merchant must take proper care of and maintain regular servicing of the electronic terminal as directed by BCI. The merchant is responsible for all maintenance costs including payment for any repairs to the electronic terminal which are necessary because of the merchant's neglect or misuse.

5.3 Electronic Terminals — Security

- a. The merchant must take all steps that are, in the circumstances, reasonable to ensure that each electronic terminal is protected against loss, theft, unauthorised access or use, modification or other misuse. The merchant agrees that such steps include, without limitation, ensuring that, at the start and at the close of business each day, each electronic terminal is secure and has not been lost or stolen.
- b. The merchant must notify BCI in writing as soon as the merchant becomes aware (or should reasonably have become aware) that an electronic terminal has been stolen, lost or may otherwise have been altered, tampered with or compromised.
- c. Any breach of this condition 5.3 by the merchant may result in the merchant being liable for any loss suffered by BCI as a result of theft or loss of, or other breach of security in connection with, an electronic terminal, including, without limitation, any loss arising from any unauthorised or fraudulent use of an electronic terminal that occurs before the merchant gives notice to BCI in accordance with paragraph 5.3(b).
- d. If the merchant:
 - i. ceases trading;
 - ii. no longer requires the merchant facilities; or
 - iii. the merchant agreement is terminated, the merchant must, within 7 days of either paragraphs 5.3d(i) or (ii) above occurring, terminate the merchant agreement in accordance with condition 9.2, and within 7 days of paragraphs 5.3d(i), (ii), or (iii) occurring, return all stationery, promotional material, transaction vouchers, or equipment (including electronic terminals) supplied in connection with the merchant agreement to a location designated by BCI.

5.4 SoftPos Services

5.4.1 SoftPOS — Overview and Scope

BCI may make available to the Merchant a SoftPOS solution that enables the Merchant to accept contactless card and device-based payments, without the need for a separate physical card terminal.

These conditions (5A.1 to 5A.7) apply in addition to all other applicable conditions in these Terms and Conditions. In the event of any inconsistency between this section and another section, this section shall prevail with respect to SoftPOS services.

BCI reserves the right to withdraw or suspend SoftPOS access at any time in accordance with these Terms and Conditions.

5.4.2 Eligibility and Onboarding

- a. The Merchant must apply to BCI to access SoftPOS services and receive confirmation of approval before commencing use.
- b. BCI may impose conditions of use, including transaction limits, merchant category restrictions, or enhanced monitoring requirements, as a condition of SoftPOS access.

5.4.3 SoftPOS — Use and Obligations

- a. The Merchant must use the SoftPOS application solely for the purposes of processing authorised payment transactions under this Agreement.
- b. The Merchant must not:
 - i. use SoftPOS to process transactions that are prohibited under these Terms and Conditions, the applicable card scheme rules, or applicable law;
 - ii. permit any third party to use the Merchant's Device or SoftPOS application for payment acceptance without BCI's prior consent;
 - iii. use SoftPOS on a device that has been flagged by BCI or the application provider as compromised, non-compliant, or unsuitable for payment acceptance; or
 - iv. attempt to modify, reverse engineer, or tamper with the SoftPOS application or its security components.
- c. The Merchant must ensure that each SoftPOS payment transaction is conducted in a manner that protects the confidentiality of cardholder data
- d. The Merchant acknowledges that PIN entry, where required by the card scheme, must be conducted through the approved PIN mechanism certified for the SoftPOS solution, and must not be entered through any other interface on the device.
- e. The Merchant must provide customers with a clear and accurate transaction receipt, whether electronic or printed, for each SoftPOS transaction.

5.4.3 Device Security

- a. The Merchant is responsible for the physical security and integrity of each Device used for SoftPOS at all times.
- b. The Merchant must:
 - i. implement a device lock/screen lock using a strong PIN, password, or biometric authentication;
 - ii. ensure the SoftPOS application is kept up to date with all security patches and updates released by BCI or the application provider;
 - iii. immediately remove and report to BCI any Device that is lost, stolen, compromised, or suspected of tampering; and
 - iv. not share device credentials, application login credentials, or any SoftPOS authentication factors with any unauthorised person.
- c. The Merchant must notify BCI in writing as soon as practicable upon becoming aware that a Device used for SoftPOS has been lost, stolen, tampered with, or otherwise compromised.
- d. BCI may, at its discretion, remotely disable or deactivate a SoftPOS application on a Device where BCI determines there is a risk of fraud, data compromise, or scheme non-compliance.

5.4.4 SoftPOS — Liability

- a. The Merchant accepts full responsibility for all transactions processed through SoftPOS on the Merchant's Device(s), including any fraudulent, erroneous, or invalid transactions resulting from:
 - i. loss, theft, or misuse of the Device;
 - ii. use of an uncertified or non-compliant device or application;
 - iii. failure by the Merchant to implement or maintain required security controls; or
 - iv. failure by the Merchant to notify BCI of a compromised device in a timely manner.
- b. BCI shall not be liable for any loss or damage suffered by the Merchant or any cardholder arising from SoftPOS downtime, application failure, network interruption, or device incompatibility, except where such loss is directly attributable to BCI's own fraud, wilful default, or gross negligence.
- c. The Merchant indemnifies BCI against all claims, losses, costs, fines, penalties, and scheme assessments arising from the Merchant's use of SoftPOS in breach of these conditions, applicable scheme rules, or applicable law.

5.4.5 SoftPOS — Scheme Compliance

- a. The Merchant must at all times ensure that its SoftPOS operations comply with the applicable rules and technical standards of all relevant card schemes, including (without limitation) any Visa or Mastercard requirements relating to SoftPOS, PIN, or mobile acceptance.
- b. The Merchant acknowledges that card schemes may update their SoftPOS requirements from time to time. The Merchant must comply with any updated requirements within the timeframe specified by BCI or the relevant scheme.
- c. BCI may suspend or withdraw SoftPOS services immediately if the Merchant's use of SoftPOS is found to be non-compliant with applicable scheme rules, without liability to the Merchant.

5.4.6 SoftPOS — Suspension, Return and Termination

- a. BCI may suspend the Merchant's access to SoftPOS services immediately upon notice to the Merchant if:
 - i. the Merchant's SoftPOS usage indicates suspected fraud or a pattern of invalid transactions;
 - ii. the Merchant has breached any condition in this section 5A;
 - iii. BCI determines that the Device or SoftPOS application poses a risk to the security of cardholders or the BCI payment environment; or
 - iv. the relevant card scheme(s) direct BCI to suspend SoftPOS access.
- b. Upon termination or suspension of SoftPOS access, the Merchant must:
 - i. immediately cease using the SoftPOS application for payment acceptance;
 - ii. uninstall or disable the SoftPOS application from all Devices as directed by BCI; and
 - iii. retain all transaction records in accordance with condition 4.3.
- c. Termination of SoftPOS access does not affect the Merchant's broader obligations under this Agreement, including the obligation to indemnify BCI in respect of transactions processed prior to termination.

6. INFORMATION COLLECTION, STORAGE, DISCLOSURE AND AUDIT

BCI accepts no liability for how the merchant handles data or how the data is managed, stored, or disclosed, and does not guarantee the security or accuracy of information provided. It is the merchant's responsibility to uphold data protection legislation.

6.1 General

- a. The merchant must not sell, purchase, provide or exchange any information or document relating to a cardholder, a card number or a transaction to any person other than BCI, the nominated card issuer or as required by law. The merchant may disclose such information or document to the merchant's employees, contractors or agents in the course of conducting the merchant's business.
- b. The merchant must ensure that information relating to any cardholder accessed by the merchant in connection with a transaction is maintained in a secure environment with restricted access.

- c. The merchant must not take an imprint of, or record any information relating to, a nominated card or cardholder, unless the imprint or information is required to process a transaction being made at that time.
- d. If permitted to record any information under paragraph (c) in respect of the nominated card, the merchant may only record account number, expiration date and name of the cardholder.
- e. Except with BCI's prior written consent, the merchant must not request or retain a cardholder's personal identification number, password or other code or information that can be used to access a cardholder's account. Consent will only be given by BCI in exceptional circumstances and conditions may apply. This condition is a material obligation of the merchant under the merchant agreement.
- f. The merchant must not record, store, replicate or otherwise use full card-read data, and not record, store, replicate or otherwise use the full contents of any track from the magnetic stripe located on the back of a nominated card, contained in a chip or elsewhere, for any purpose other than as set out in the merchant agreement.

6.2 Privacy and Confidentiality

- a. This condition sets out when and how BCI may collect and share the merchant's information.
- b. If the merchant is a corporation, the merchant agrees to obtain the consent of the merchant's directors and shareholders for BCI to use and disclose their personal information as provided in this condition.
- c. BCI may collect the merchant's information:
 - i. to provide information about a product or service;
 - ii. to consider the merchant's request for a product or service;
 - iii. to provide the merchant with a product or service;
 - iv. to tell the merchant about other products or services;
 - v. to assist in arrangements with other organizations (such as loyalty partners, third party processors) in relation to the promotion and provision of a product or service;
 - vi. to perform administrative and operational tasks (including, for BCI Group, risk management, debt collection, systems development and testing, credit scoring, staff training, and market or customer satisfaction research);
 - vii. to prevent or investigate any fraud or crime (or a suspected fraud or crime); and
 - viii. as required by relevant laws of or outside the country of domicile of the merchant and external payment systems.
- d. If the merchant does not provide some or all of the information requested, BCI may be unable to provide the merchant with a product or service (including the merchant facilities).
- e. The merchant agrees that BCI may provide its information to:
 - i. any other member of BCI;
 - ii. any outsourced service provider to BCI (for example mailing houses, debt collection agencies or third party processors);
 - iii. an alliance partner for the purpose of promoting or using its products or services (and any of its outsourced service providers);
 - iv. credit reporting agencies;
 - v. regulatory bodies, government agencies, law enforcement bodies and courts of or outside the country of domicile of the merchant;
 - vi. other parties BCI is authorised or required by law to disclose information to;
 - vii. participants in the payments system (including nominated card schemes, payment organizations and merchants) and other financial institutions (such as nominated card issuers);
 - viii. insurers and re-insurers;
 - ix. any person who introduces the merchant to BCI; and
 - x. the merchant's referee(s) or its representative (for example the merchant's lawyer, administrator, attorney or executor).
- f. Where the merchant does not want BCI or BCI's alliance partners to tell the merchant about their products or services, the merchant may withdraw its consent by calling the BCI merchant support representative.
- g. The merchant further agrees that any BCI Group member may, to the extent permitted by law, transfer any of the above information to any party to whom it is authorized to disclose the same referred to above notwithstanding that such party's principal place of business is outside the country of domicile of the merchant.

- h. To the extent permitted by law, the merchant may access any personal information at any time by calling the merchant's BCI merchant support representative. BCI may charge the merchant a reasonable fee for access.
- i. If the merchant can show that information about it is not accurate, complete and up to date, BCI must take reasonable steps to ensure it is accurate, complete and up to date.
- j. BCI will not collect sensitive information about the merchant, such as health information, without the merchant's consent.
- k. If the merchant gives BCI information about someone else, the merchant must show that person a copy of this condition 6.2 so that they may understand the manner in which their information may be used or shared by BCI group.

7. FEES, CHARGES, PAYMENTS AND COMMISSIONS

7.1 Payment of Fees and Charges

- a. The merchant must pay to BCI the fees and charges at the times and in the manner set out in the merchant fees schedule, as varied under paragraph 7.1(f) from time to time.
- b. The merchant authorises BCI to debit the merchant account, without notice for:
 - i. all fees, charges and costs owing to BCI by the merchant pursuant paragraph (a);
 - ii. all other credits paid by BCI in respect of transactions due to errors and omissions;
 - iii. all credits paid by BCI in respect of transactions which are invalid transactions;
 - iv. the full amount of any refund transaction less any amounts in respect of such transaction already debited to the merchant account;
 - v. all taxes incurred or payable by BCI in connection with the merchant facilities, any transaction contemplated by the merchant account or any electronic terminal;
 - vi. all fines, penalties and other charges incurred by BCI as a result of any act or omission of the merchant; and
 - vii. all other amounts owing to BCI by the merchant pursuant to the merchant agreement.
- c. If BCI debits the merchant account for reasons other than specified above in paragraph (b), BCI will provide the merchant with notice that this has occurred.
- d. The merchant must pay, on demand by BCI, any amount referred to in paragraph 7.1(b) which remains unpaid by the merchant because there are insufficient funds in the merchant account to satisfy the payment of that amount in full.
- e. BCI reserves the right to vary the fees and charges in accordance with condition 13.1.
- f. The merchant is not permitted to charge cardholders' fees, surcharges or commissions (including sub-charges) without prior written agreement or approval from BCI.

8. LIABILITY, INDEMNITY AND SET-OFF

8.1 Indemnity

The merchant indemnifies BCI against all claims, damages, actions, losses and liabilities (including, without limitation, all fines, penalties and other charges incurred by BCI as a result of any act or omission of the merchant), whether made by the merchant, cardholder or other third party, which BCI or any of its employees, contractors or agents suffers or incurs arising directly or indirectly from:

- a. the negligence or fraud of the merchant or an employee, contractor or agent of the merchant;
- b. the failure of the merchant, or an employee, contractor or agent of the merchant, to observe any of the merchant's obligations under the merchant agreement;
- c. any dispute arising between the merchant and the cardholder in respect of the supply, use, quality or fitness for purpose of goods or services or the provision of cash;
- d. any use of an electronic terminal or SoftPOS application by the merchant or its employees, contractors or agents;
- e. any representation, warranty or statement made by the merchant or its employees, contractors or agents to the cardholder; or
- f. any misrepresentation, breach of contract or failure of consideration relating to any contract for the supply of goods or services by the merchant to a cardholder, except that the merchant is not obliged to indemnify BCI or its employees, contractors or agents against any claims, damages,

actions, losses or liabilities which are solely the result of the fraud, wilful default or gross negligence of BCI or its employees, contractors or agents.

8.2 BCI Liability

- a. To the extent permitted by law, BCI will not be responsible for any loss or damage (including consequential loss or damage) suffered by the merchant or any third party including, but not limited to, loss or damage arising from:
 - i. a terminal or any telephone line or other communications device or service malfunctioning or not operating;
 - ii. software failure;
 - iii. insufficient available funds in the merchant's account for a transaction to proceed or be completed;
 - iv. the merchant having insufficient cash funds for a transaction to proceed or be completed;
 - v. BCI delaying, blocking or refusing to process a transaction for any reason;
 - vi. the inability of the merchant's terminal or SoftPOS application to access or use the merchant facilities;
 - vii. a force majeure event, including during scheduled downtime;
 - viii. any loss or damage or claim from a cardholder or any other third party as a result of the merchant completing an invalid transaction; or
 - ix. an act of fraud or negligence on the merchant's part (either alone or together with another person), including an employee, contractor or agent of the merchant.
- b. BCI is liable for direct loss that:
 - i. is attributable to the negligence or wilful default of BCI;
 - ii. is caused by fraudulent or negligent conduct by employees or contractors of BCI;
 - iii. Results from the same transaction being incorrectly debited more than once, by BCI, to the same account(s), provided such loss was not caused or contributed to as a result of fraud, negligence or an unlawful act by the merchant.
- c. To remove any doubt and without limiting the generality of this provision, BCI services and merchant facilities are dependent on messaging, communications, processing and other systems. BCI will endeavour to ensure continuous access to the BCI merchant facilities, however, BCI is not responsible for any loss the merchant suffers as a result of the merchant being unable to use the merchant facilities, or as a result of delays or errors in processing the merchant's instructions.
- d. In the event a terminal supplied by BCI is malfunctioning or not operating, BCI's liability is only to repair or replace the terminal.
- e. BCI is not liable for any loss, liability or damage which a merchant may suffer or incur resulting from BCI's failure to credit the merchant account when required due to technical or administrative difficulties or any other reason whatsoever.

8.3 Third Party Agency Services

BCI is not responsible for the acts or omissions of any third party which provides services, including without limitation, processing services, to the merchant in connection with the merchant facilities. For the avoidance of doubt, BCI is not liable for any losses, claims, damages, costs, terms or expenses suffered by the merchant (including consequential loss) arising from or in connection with any act or failure to act by such third party in connection with a transaction.

8.4 Set-off

- a. BCI may at any time without notice to the merchant set-off any liability owed by BCI to the merchant on any account against any liability owed by the merchant to BCI under or in connection with this merchant agreement. For the purpose of this condition, "Liability" means any debt or monetary liability, irrespective of whether the debt or monetary liability is future or present, actual or contingent.
- b. If BCI exercises its right of set-off under paragraph (a) in respect of a contingent debt or monetary liability owed by the merchant and the actual liability proves to be less than the amount set-off, BCI must pay the merchant the amount of the difference.
- c. Where the merchant is a partnership, unincorporated joint venture or sole trader and the merchant account is in the name of one or more, but not all partners or joint ventures, or is a joint account in the names of the sole trader and one or more other persons, the merchant must

procure that an "irrevocable authority to debit" in a form approved by BCI is completed and signed.

8.5 Third-Party Processing Errors, Unauthorised Routing and Scheme Liability

Where any transaction data, including but not limited to authorisation requests, authorisation responses, or related transaction messages, are processed, routed, submitted, or otherwise transmitted using the Bank's acquiring identification numbers (including but not limited to BINs, CAIDs, or other scheme-assigned identifiers) as a result of any system configuration error, misrouting, processing failure, or operational act or omission by a third-party service provider, processor, agent, correspondent bank, or any party acting on their behalf, and where such activity occurs without the Bank's prior knowledge, approval, merchant onboarding, or settlement involvement, the Bank shall bear no responsibility or liability whatsoever for such activity.

For the avoidance of doubt, the Bank shall not be deemed to be the acquiring bank, merchant sponsor, or responsible institution solely by virtue of the use of its acquiring identifiers where:

- i. the merchant has not been contracted, onboarded, approved, or maintained by the Bank;
- ii. transaction settlement or clearing is effected through another acquiring institution; or
- iii. the relevant activity occurs outside the Bank's systems, controls, contractual arrangements, or operational visibility.

The Bank shall not be liable for, and expressly disclaims all responsibility in respect of, any losses, damages, fines, penalties, assessments, sanctions exposure, regulatory actions, scheme compliance actions (including those imposed by Visa or any other card scheme), suspension of scheme funds or reserves, investigations, costs, or reputational harm arising directly or indirectly from such unauthorised or misrouted activity.

Any third-party service provider, processor, agent, or other party responsible for, or contributing to, such system configuration error, misrouting, or unauthorised processing shall be fully liable for, and shall indemnify, defend, and hold harmless the Bank from and against, all claims, losses, liabilities, costs, expenses, fines, penalties, scheme assessments, investigative costs, and regulatory actions arising out of or in connection with such activity, whether incurred directly or indirectly.

This indemnity shall apply notwithstanding any limitation of liability, exclusion of damages, or liability cap contained elsewhere in these Terms and Conditions and shall survive termination or expiry of this Agreement.

9. SUSPENSION AND TERMINATION

9.1 Suspension of Merchant Facility or Freezing of Merchant Account

- a. BCI reserves the right to suspend the merchant facilities or freeze the merchant account and refuse to allow withdrawals of funds from the merchant account, or both suspend the merchant facilities and freeze the merchant account, immediately upon notice to the merchant if any of the events listed in condition 9.2(b) occur. When exercising this right BCI is not required to notify the merchant of the date upon which the suspension or freezing of the merchant account, or both, as the case may be, will end.
- b. When BCI suspends the merchant facilities or freezes the merchant account, or both, as the case may be:
 - i. the merchant must not accept any nominated cards as payment for goods or services; and
 - ii. BCI is not obliged to accept any transactions processed by the merchant after notification of suspension.
- c. BCI may during the period of suspension or freezing of the merchant account, or both, as the case may be, terminate the merchant facilities pursuant to condition 9.2.

9.2 Termination

- a. Either the merchant or BCI may at any time terminate the merchant agreement by giving the other notice in writing. The notice does not need to include any reason and will take effect thirty (30) days after the date on which it is given.
- b. BCI may terminate the merchant agreement immediately by notice to the merchant should any of the following occur:

- i. an insolvency event occurs in relation to the merchant;
 - ii. the merchant breaches any of its material obligations under the merchant agreement;
 - iii. the merchant does not process any transactions with BCI for a continuous period of six (6) months;
 - iv. if, in BCI's reasonable opinion, the merchant is involved in an unacceptably high number of chargebacks, refund requests or retrieval requests, without justification acceptable to BCI;
 - v. it becomes illegal or impossible in practice for BCI to continue to provide the merchant facilities to the merchant;
 - vi. the merchant agreement becomes wholly or partly void, voidable or unenforceable or a claim is made to that effect;
 - vii. The merchant processes a transaction that the merchant knew, or ought to have known, was fraudulent or illegal;
 - viii. BCI reasonably determines that the continued provision of the merchant facilities to the merchant may damage the reputation of BCI or otherwise reasonably considers that BCI or the merchant may suffer loss if it continues to provide the merchant facilities to the merchant;
 - ix. any of the information provided by the merchant in the application or otherwise is or becomes incorrect, or false or misleading in a material respect;
 - x. the merchant's details and other information disclosed in the application materially changes, including, but not limited to, a change to the nature and type of business conducted by the merchant;
 - xi. the cardholder has not received the goods or services as required by the terms of the transaction and the merchant has failed to provide BCI with proof of receipt of, and satisfaction with, the goods or services by the cardholder within five (5) business days of BCI's request to do so;
 - xii. upon the request of the nominated card scheme(s); or
 - xiii. BCI is required to do so by law.
- c. Termination of the merchant agreement or any part of it does not affect any rights or obligations of the merchant or BCI that arose prior to termination. In particular, any obligation the merchant has under the merchant agreement to indemnify BCI or to pay BCI any amounts (including costs), is a continuing and independent obligation and survives even if the merchant agreement is terminated. All transactions made prior to termination are subject to the terms of the merchant agreement.
- d. In the event that BCI receives a transaction voucher after termination of the merchant agreement, BCI reserves the right, at its option, to return the transaction voucher to the merchant or to retain the transaction voucher. If BCI decides to retain the transaction voucher, the merchant is not entitled to any payment for the transaction in respect of the transaction voucher until such time as BCI has received payment and no chargeback claim can be made by the issuer of the nominated card in connection with the transaction voucher.
- e. Upon termination of the merchant agreement, the merchant must immediately return to BCI all stationery, promotional material, transaction vouchers, equipment (including electronic terminals) supplied in connection with the merchant agreement.
- f. If the merchant facility is terminated for any reason within the time period set out in the merchant agreement or any other agreement between BCI and the merchant, BCI reserves the right to charge the merchant a termination fee, in accordance with the merchant fees schedule or other agreement, as the case may be.
- g. The Merchant authorises BCI to:
- i. disclose to any person the fact that all or part of the merchant agreement has been terminated;
 - ii. disclose information concerning the termination and reasons for termination of all or part of the merchant agreement to any credit provider or nominated card scheme; and
 - iii. give a banker's opinion to other financial institutions with whom the merchant may make application for other merchant facilities.

The merchant acknowledges that the disclosure of this information may affect the merchant's ability to successfully apply for merchant facilities in the future.

10. COMPLAINTS

10.1 Complaints

If you have any complaints you will need to let us know about this. You can do this by contacting us and advising us of your complaint. Your complaint will be registered and will be dealt with by a bank officer. We will advise you of any decision or outcome after we have carefully considered your complaint.

11. CHARGEBACKS

Chargebacks may have a financial impact on your business. A chargeback occurs when a cardholder or their bank disputes a transaction, leading to the reversal of the credited amount from your settlement account. You are financially liable for all chargebacks that occur against your business, including the loss of the sale amount and any applicable fees.

Chargebacks can arise for various reasons, including:

- a. Processing errors
- b. Unauthorized use of a card
- c. Missing signatures on receipts
- d. Invalid card account numbers
- e. Expired cards
- f. Incorrect transaction amounts
- g. Illegible details on sales vouchers
- h. Failure to respond to retrieval requests
- i. Non-receipt or incorrect goods sent

Cardholders or their banks can raise chargebacks within 540 days of the expected delivery date, up to 120 days from the transaction date or the date goods/services should have been provided. You must retain all cardholder signed transaction receipts and validating documents for a minimum of 18 months.

In case of a disputed transaction, if sufficient proof cannot be provided, you will be notified and asked to respond within seven days with necessary documentation. Failure to respond may result in the chargeback being upheld, leading to the debit of your account.

Excessive chargebacks may lead to additional processing fees and the termination of your merchant facility.

11.1 Avoiding Chargebacks

- a. Abide by the terms and conditions outlined in this document, merchant agreement, and any additional service schedules.
- b. For card-not-present transactions, take reasonable measures to reduce the risk of fraud, as it may result in chargebacks after goods have been sent.

END OF TERMS AND CONDITIONS

Bank of the Cook Islands Limited | Avarua, Rarotonga, Cook Islands