

**CONDITIONS FOR OPERATION OF ACCOUNTS**

Date: \_\_\_\_\_

THE UNDERSIGNED (the 'Customer') for valuable consideration hereby agrees with THE BANK OF NEVIS LTD. (the 'Bank') that the operation of each account which the customer now or hereafter has with the Bank at any branch or office of the Bank and the carrying on of other banking business by the Customer with the Bank at any branch or office shall be subject to the following terms and conditions:

1. **WAIVERS:** Subject to any specific instructions given to the Bank in writing by the customer,
  - (a) The Customer hereby waives presentment, notice of dishonour and protest of all bills of exchange, promissory notes, cheques and other instruments (each an 'instrument') drawn, made, accepted or endorsed by the Customer now or hereafter delivered to the Bank for any purpose whatever, and the Customer shall be liable to the Bank in respect as if presentment, notice of dishonour and protest has been duly made or given;
  - (b) If the Bank should consider it in best interest of the Customer or the Bank that any instrument should be noted or protested because of any endorsement other than that of the Customer or for any other reason, the same may be noted or protested at the discretion of the Bank, but the Bank shall not be liable for failure or omission to note or protest any such instrument.
2. **USE OF AGENTS AND TRANSMISSION SYSTEMS:**
  - (a) The Bank may use the services of any correspondent or other entity or any funds transfer method or system as it may deem best in doing any act or thing in the course of or in connection with the banking business of the Customer. Such correspondent or other entity, in providing such services, and the Bank, in using such services or funds transfer methods or systems, shall be deemed the agent of the Customer.
  - (b) The Bank shall not be liable to the Customer by reason of:
    - i. any act or omission of such correspondent or other entity in the performance of such services or the failure of any such funds transfer method or system due to any reason beyond the reasonable control of the Bank, or
    - ii. the loss, destruction or delayed delivery of any instrument, security, certificate, document, instruction or signal of any kind while in transit or while in the possession or control of a person other than the Bank.
  - (c) The Bank shall not be liable to the Customer for any delay in completing or failure to complete any funds transfer instructions:
    - i. through the use of any funds transfer method or system for any reason not within the reasonable control of the Bank, or
    - ii. due to any chronology in handling funds transfer instructions by the Bank or any other party or system.
3. **CREDITING ACCOUNTS AND CHARGES TO ACCOUNTS:**
  - (a) The Bank may charge against any account of the Customer:
    - i. the amount of any instrument drawn, made, accepted or endorsed by the Customer which is payable at any branch or office of the Bank or in respect of which the Bank must reimburse a third party.
    - ii. the amount of funds instructed by the Customer to be transferred to a third party or another account.
    - iii. the amount of any instrument cashed or negotiated by the Bank for the Customer or credited to the Customer's account for which payment is not received by the Bank.
    - iv. the amount credited to any account of the Customer pursuant to any instruction to transfer funds whether by the Customer or any third party, howsoever implemented, which is reversed in whole or in part for any reason or in respect of which settlement is not received by the Bank; and
    - v. any other indebtedness or liability of the Customer to the Bank, together with any expenses incurred by the Bank in connection therewith, whether or not the charging of such amount against any account of the Customer creates or increases an overdraft.

- (b) The Customer shall be and shall remain liable to the Bank in respect of each such amount so charged and hereby promises to pay on demand any overdraft, together with interest and interest on overdue interest thereon at the interest rate charged by the Bank from time to time for overdrafts. In any event, the Bank reserves the right to receive any instrument payable or endorsed to the Customer as a collection agent for the Customer and to delay crediting any account of the Customer with the amount of such instrument or the amount referred to in a funds transfer instruction pending collection upon such instrument or settlement of net position of participants in any funds transfer systems, as applicable. The Customer agrees to pay service charges at the usual rates charged by the Bank from time to time for services normally provided in connection with the operation of any account of the Customer, unless otherwise agreed, and to pay such other charges as may be agreed upon by the Customer and the Bank for such other services as the Bank may provide to the Customer from time to time and the Bank is hereby authorized to debit any of the Customer's accounts with the amount of such charges.

4. **OVERDRAFT:**

The Bank may charge compound interest on any sum by which the said account is overdrawn calculated on daily balances and debit against the account monthly or as often as may otherwise agreed which rate of interest shall be \_\_\_\_\_ percent per annum subject to variation in the Bank's sole discretion as to rate or rates up to but not exceeding either ten (10%) per cent per annum above the Bank's minimum commercial rate in force from time to time or any prescribed maximum legal rate or as to any other terms, as the Bank may from time to time stipulate by notice in writing published in a local newspaper or sent to the Customer, provided that:

- a. any omission to give notice of any such variation or the non receipt of such a notice by the Customer shall not affect the change, but on receipt of a written request from the customer the Bank will specify in writing the rate of interest being charged at the time of request;
- b. if the Customer's indebtedness to the Bank or any part thereof is also secured to the Bank under an instrument or agreement reserving a higher rate of interest than that charged hereunder nothing herein contained shall affect the Bank's right to recover such higher rate of interest or as the case may be the difference between such higher rate paid or payable hereunder,
- c. and interest at the rate in force at the time of the termination of the banking facilities granted to the Customer shall continue to be payable both after as before judgement at such rate until payment in full of the Customer's indebtedness to the Bank.

5. **INSTRUCTIONS AND CONFIRMATIONS:**

Where the Bank is requested to act upon any instruction respecting banking business of the Customer, the Bank shall incur no liability in acting upon such instruction including, without limitation, telephoned, oral, telex, electronic or other instructions or directions which the Bank believes in good faith to have been given by the Customer or by an authorized representative or attorney of the Customer. In the event of a discrepancy between any such instruction and any written confirmation thereof, such instruction as understood by the Bank is agreed to be paramount.

6. **USE OF CHEQUES AND STOP PAYMENT INSTRUCTION:**

- a. It is understood and agreed that in the ordinary course all cheques issued by the Customer will be drawn on the branch or office of the Bank where the account is maintained and on forms satisfactory to the Bank for each type of account. The Customer expressly relieves the Bank of any and all responsibility which it may incur on account of the Bank refusing to honour any cheque or other order of payment not drawn on such branch or office of the Bank at which the Customer maintains the account, and on any cheque or other order for payment not made on forms satisfactory to the Bank.
- b. The Customer further agrees to fully indemnify and save harmless the Bank against all damages, costs and expenses which the Bank may incur through refusing payment of any cheque(s) or reversing or revoking any transfer instruction for which the Customer issues or communicates a stop payment, reversal or revocation order the Bank, and discharges the Bank from any responsibility resulting from payment of such cheque(s), or completion of any reversed or revoked instruction being made due to Customer's failure to furnish the Bank with accurate information as the cheque(s) to be countermanded or its instruction(s) to be reversed or revoked provided that the Bank treat all fund transfer instructions as final and not subject to stop payment or recall and the Customer shall not have the right to reverse, adjust or revoke any instruction after it is received by the Bank except with the consent of the Bank, such consent to be invalid if the instruction shall have already been acted upon by the Bank prior to its acting upon the adjustment, reversal or revocation.
- c. The Bank may, in its sole discretion, refuse to honour any instruction, instrument, cheque or other order for payment if drawn or made with respect to an account impressed with a trust,

expressed, implied or constructive. The Bank shall not incur liability as a consequence of such refusal.

**7. MAILING OF ACCOUNTS RECORDS:**

In respect of those accounts in which a statement is issued, the Customer hereby instructs the Bank to mail a statement of account from time to time to the Customer at the address of the Customer recorded in the books of the Bank. This instruction will continue in force until a contrary instruction in writing is received by the Bank from the Customer. The Customer agrees that if a statement of account is not received within 10 days after the end of the cycle established for their preparation, the Customer will notify the Bank not later than 5 days thereafter.

**8. VERIFICATION OF ACCOUNT:**

- (a) Upon receipt from the Bank from time to time of a statement of account of a Customer, the Customer will check the credit and debit entries in the said statement and examine all cheques and vouchers included therewith;
- (b) The Customer will within thirty (30) days of the delivery of a statement to the Customer, or if the Customer has instructed the Bank to mail the said statement, within thirty (30) days of the mailing thereof to the Customer, notify the Bank in writing of any errors or omissions or therefrom;
- (c) At the expiration of the said thirty (30) days, except as to any errors or omissions of which the Bank has been so notified, and except as to any amounts improperly credited to the Customer's account, it shall be finally and conclusively settled in all respects save as set out in (d) below, as between the Bank and the Customer that:
  - i. the amount of the balance shown in such statement is true and correct,
  - ii. the said cheque and vouchers are genuine,
  - iii. all amounts charged to the said account are properly chargeable to the Customer
  - iv. the Customer is not entitled to be credited with any amount not shown on the said statement,
  - v. the Bank is totally and irrevocably released from all claims by the Customer in respect of any and every item in the said statement, and,
  - vi. the Customer fully and completely acknowledges that the Customer will have no further action against or recourse to the Bank in respect of the debit entries in the said statement, and all cheques and vouchers included therein.
- (d) Nothing herein contained shall preclude the Customer from later objecting to any payments made on unauthorized or forged endorsements provided notice in writing is given to the Bank forthwith after the Customer has acquired knowledge thereof.

**9. VERIFICATION OF TRANSMISSION OF FUNDS:**

- (a) With respect to any funds transfer implemented by or through any transmission system, the Customer shall review promptly the written or electronic notification of transfer sent to the Customer by the Bank after each transfer and promptly, and in any event within twenty-four (24) hours of receipt or deemed receipt of same, report to the Bank any discrepancy or objection concerning such transfer. The Customer expressly agrees that the failure to promptly report any such discrepancies or objections shall relieve the Bank of any liability with respect to such discrepancies or objections.
- (b) Such notification may be sent to the Customer by mail at its last known address and shall be deemed to have been received five (5) business days subsequent to mailing or by electronic notification to the Customer and shall be deemed received twenty-four (24) hours subsequent to sending such notification. Any delay due to an interruption in any authorized communication service shall extend the date of deemed receipt commensurately.

**10. FORGERY AND UNAUTHORIZED SIGNATURES:**

- (a) The customer shall:
  - i. Maintain systems and controls sufficient to prevent and detect thefts of instruments or loss due to forgeries or fraud involving instruments; and
  - ii. Monitor the conduct of employees and agents having banking functions.

(b) The Bank shall not be liable for any loss due to a forged or unauthorized signature, unless the customer proves that

- i. the forged or unauthorized signature was made by a person who at no time was the Customer’s employee or agent;
- ii. the loss was unavoidable despite compliance with 10(a) above and
- iii. the loss was unavoidable despite steps to prevent forgery, unauthorized signature and any loss resulting therefrom.

11. **LIMITATION OF LIABILITY:**

- (a) Notwithstanding any oral or written advice from any person respecting the purpose of any instrument or instruction, the Bank shall not be liable for any consequential or special damages.
- (b) The Bank shall have no responsibility or liability to any person for any reduction in any account due to taxes or depreciation in the value of the funds credited to the account, or for the unavailability of such funds due to restrictions on transfer, payment or convertibility, or due to any requisitions, involuntary transfers, distress of any character, exercise of military or usurped power or any other cause beyond the control of the Bank.

12. **DISCLOSURE OF INFORMATION:**

The Bank may disclose any information about the Customer and the Customer’s accounts:

- a) in response to credit inquiries;
- b) if the Bank in its discretion deems such disclosure necessary or desirable;
- c) pursuant to legal process or subpoena;
- d) if disclosure is necessary to protect the Bank’s interest.

The Customer hereby consents to and authorizes any such disclosure, and the Bank shall not become liable by reason of the giving of such information or of its being inaccurate or incomplete.

13. **GOVERNING LAW:**

This agreement and any account of the Customer with the Bank shall be governed in all respects by the laws of the Federation of Saint Christopher and Nevis.

14. **JURY TRIAL WAIVER**

The Customer hereby irrevocably waives all right to trial by jury in any action, proceeding, or counterclaim, including, but not limited to, actions sounding in tort, ‘bad-faith’, fraud or otherwise, arising because of or in any way relating to this Agreement.

REGISTRATION OF BUSINESS (Delete if not applicable)

I confirm that I am carrying on business alone under the name and style of

“ \_\_\_\_\_ ”

which I have registered under the Registration Of Business Names Act

Customer acknowledges receiving a copy of This Agreement

\_\_\_\_\_  
Name of Customer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

If the Customer is a Corporation,  
the Corporation Seal should be affixed.

Date Received:
.....
Recorded: .....
Approved by Supervisor:
.....