

MERCHANT PARTICIPATION AGREEMENT. This Agreement (“**Agreement**”) is made by and between Blackhawk Network (Australia) Pty Ltd, a company registered in Australia (ACN 123 251 703) of suite 2.02, level 2, 6a Glen Street, Milsons Point, New South Wales, 2068, (“**Blackhawk**”) and the merchant (“**Merchant**”) whose details were set out on the online form which accompanies this Agreement (“**Online Form**”).

This Agreement is entered into on the date recorded in the Online Form.

Blackhawk and Merchant each may sometimes be referred to each as a “**Party**,” or collectively as the “**Parties**.”

RECITALS. Blackhawk operates an Alliance Partners Program (as that term is defined below) pursuant to which Blackhawk has agreements with various retailers (“**Retailers**”) to distribute their Products (as those terms are defined below). Merchant is also party to an agreement (“**TOUCH Agreement**”) with Touch Networks Pty. Ltd. ACN 091 258 650 (“**TOUCH**”) pursuant to which TOUCH provides the Merchant with connectivity to enable Merchant to sell and activate (as that term is defined below) the Products. Blackhawk and TOUCH have an agreement (the “**Connectivity Agreement**”) pursuant to which TOUCH has agreed to provide connectivity to enable Merchant to sell Products as part of the Alliance Partners Program. Merchant wishes to participate in the Alliance Partners Program and to distribute “**Products**”, defined as: (i) branded stored value or branded prepaid cards (including, without limitation, amusement, theme, and other admission tickets) that are gift facilities compliant with ASIC Class Order CO 05/738 or other electronic or digital debit payment mechanisms, which, when activated, can be used to purchase Retailers’ services and merchandise (“**Retailer Card**”); (ii) general use prepaid cards (including any stored value product, service and/or cards, that utilizes a card number, voucher number or reference number as part of the activation process) issued by a bank or other financial institution that participates in a network (being each payments network that is open to all participating merchants, including Visa[®], MasterCard[®] and EFTPOS (“**Network**”)) and that is redeemable for products or services at multiple, unaffiliated merchants that are participating members of the Network and who elect to accept such branded prepaid cards as payment (“**Open Loop Card**”) that are either gift facilities compliant with ASIC Class Order CO 05/738 or subject to a no action letter issued by ASIC, ruling or other relief from ASIC or any other regulatory authority permitting distribution (including any service enables funds to be added to Open Loop Cards subject to such no action letter or other relief); and (iii) branded stored value prepaid debit cards or other electronic or digital payment mechanisms that may be used to purchase telecommunications services. A holder of any of these Products is a “**Cardholder**”.

1. **Alliance Partners Program.** Merchant acknowledges that its participation in the Alliance Partners Program is subject to the terms of this Agreement and that Merchant shall comply with the instructions of Blackhawk based on the TOUCH Agreement and any amendments or modifications thereto. Merchant shall prominently display Products in high traffic areas in its mutually agreed participating retail sites (“**Merchant Stores**”). Merchant acknowledges and agrees that upon notice to Merchant, the Products of any Retailer may be withdrawn or temporarily unavailable. Merchant at its expense will utilize such display racks, end caps and/or similar equipment as are approved by Blackhawk. Merchant will promote the Products in the Merchant Stores only through in-store advertising and only in accordance with specifications provided by Blackhawk or as otherwise mutually agreed in writing by the Parties. Merchant acknowledges that particular Retailers may have Product placement restrictions and will comply with the Blackhawk’s instructions from Retailers relating to Product placement. If Merchant chooses to carry any Product of a Retailer that requires Merchant to sign a separate agreement, Merchant shall sign such agreement before distributing those Products. Merchant acknowledges and agrees that it will not directly contact Retailers in connection with the Products, and that Blackhawk will be the sole interface with all of the Retailers with respect to the Products and the Alliance Partners Program. At point of sale, Merchant Store personnel shall scan or swipe the un-Activated Gift Card through its terminals. Upon receipt of an acknowledgement via its terminals signifying that such Gift Card has been (or within 24 hours shall be) activated, the Merchant Store cashier will then write the purchase date on any Gift Card that is not an Open Loop Card and give the purchaser the Gift Card and a “gift receipt”. For Open Loop Cards, the Merchant Store cashier will then return the Open Loop Card and a “receipt” to the purchaser of the Open Loop Card. Once a Product is activated, Merchant shall not provide refunds, credits or exchanges, except at its sole cost and expense. The Parties acknowledge and agree that the existing practices for presenting and selling Products (posting or hanging non-activated Products on a card carrying rack in an aisle or adjacent to the check-out stand, and not behind any glass or enclosure) are deemed to be reasonable, non-negligent and acceptable measures for safekeeping of the non-activated Products. Merchant shall not permit any Retailer Card to be re-loaded through its terminals without Blackhawk’s prior written permission. “**Alliance Partners Program**” means the marketing, distribution and/or other programs operated by Blackhawk, related to Products, as may be amended from time to time or discontinued by Blackhawk. “**Affiliates**” means another corporation that is

related to the first Corporation within the meaning of section 50 of the *Corporations Act 2001*(C’wealth).

2. **Content License: Trademarks - Limited Usage.** Merchant acknowledges that listing Blackhawk or Retailers as a customer, client or otherwise has value and therefore agrees that it will submit to Blackhawk for Blackhawk’s approval all marketing, advertising, press releases, and all other promotional materials (including, without limitation, sales literature, trade shows, posters, reference lists, or similar public announcements) referring to any such Party or its trademarks, service marks, trade names, designs and logos (“**Marks**”), copyrights, or other intellectual property rights before the use or distribution of such materials. Merchant further acknowledges and agrees that: (i) the Marks, copyrights or other intellectual property rights of Blackhawk, the Retailers, and their Affiliates shall remain the sole property of Blackhawk, the Retailers, and their Affiliates, respectively; and (ii) nothing in this Agreement shall confer on Merchant any title to, right of ownership or, except to the extent expressly provided for herein, interest in any of their Marks, copyrights or other intellectual property. Notwithstanding the foregoing, Merchant hereby grants to Blackhawk and their Affiliates for the term of this Agreement and for the purpose of marketing the Alliance Partners Program, a non-exclusive, worldwide, royalty free license to use, host, display, reproduce, transmit, and digitally perform any advertisements submitted to Blackhawk by, for, or on behalf of Merchant or any Merchant Store, including without limitation all content and Marks contained therein.

3. **Exclusivity.** For the term of this Agreement, Merchant shall not, without Blackhawk’s written consent, enter into any agreement with any Retailer or other third party, other than through Blackhawk, for the sale or distribution of products that compete with those of the Retailer’s Products, which are stocked by the Merchant. For the term of this Agreement, Merchant shall not place on display racks bearing Retailers’ Products any other goods or materials without Blackhawk’s prior written consent.

4. **Payment.** Merchant shall remit payment to Blackhawk as provided in this Clause 4 less Merchant’s commission for the sale or activation of Products, plus a transaction fee, each as set forth on Schedule A. Merchant hereby authorizes TOUCH to sweep Merchant’s designated bank account by direct debit (“**ACH Debit**”) on a weekly basis for all amounts owed related to display stands under the Gift Card Mall Application signed by Merchant and approved by Blackhawk or for any and all Products sold or activated by the Merchant Stores under this Agreement. If Merchant operates a terminal supplied by a bank (or any other third party), it represents and warrants that it has given (and/or received) all requisite authority from that bank (or third party) to enable the ACH Debit to occur. Invoices, if any, from Blackhawk to Merchant shall be due and payable within ten (10) business days of issue. As a condition precedent to selling Products pursuant to this Agreement, Merchant shall complete, sign and deliver to TOUCH all forms necessary for TOUCH to perform the ACH Debit, as required by TOUCH in its sole discretion. Any failure by TOUCH to perform an ACH Debit as authorized hereunder shall not be construed in any manner as a waiver of the Merchant’s obligation to pay any amounts due hereunder. All amounts due from Merchant to Blackhawk hereunder shall be paid without any deduction, adjustment or set-off whatsoever (save as provided by this clause). In the event that adequate funds are not available at the time of any ACH Debit performed by TOUCH then, in addition to any other rights available in this Agreement or at law or in equity: (i) all unpaid amounts shall be subject to a late fee equal to one and one-half percent (1.5%) per month of the total unpaid balance payable to Blackhawk; and (ii) Blackhawk may immediately suspend the ability of the Merchant Stores to activate any Products until Blackhawk has received payment in full of all outstanding amounts owed for Merchant’s sale or activation of Products, including any late fees; and (iii) Blackhawk reserves the right to terminate this Agreement for nonpayment in accordance with Section 6 hereof. Additionally, Merchant shall be liable to TOUCH, for all banking charges or fees incurred by TOUCH as a result of any failed or rejected ACH Debit attempts in connection with Merchant’s designated bank account. In the event that any payment due Blackhawk is collected at law, through an attorney or through a collection agency, Merchant agrees, in addition to any other remedies provided in this Agreement or available at law or in equity, to pay all costs of collection, including without limitation, all court costs and reasonable legal fees of the collecting Party.

5. **GST.** Terms used in this Clause 5 have the same meanings as given to them in the A New Tax System (Goods and Services Tax) Act 1999. If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply, subject to the recipient of the supply receiving a valid tax invoice in respect of the supply (or issuing a recipient created tax invoice as agreed in writing with the supplier) at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this agreement. The Merchant’s GST registration number is recorded in the Online Form. Blackhawk’s GST registration number is 84 123 251 703.

6. **Audit Rights.** Blackhawk and Retailers for Products that Merchant sells shall have the right upon reasonable notice, during the term of this Agreement and for a period of one (1) year thereafter, to inspect and audit the relevant books and records of Merchant relating to its performance hereunder, provided that such audit is conducted at mutually agreed upon times and in a manner so as to minimize any disruption of Merchant's normal business activities. If Merchant is found not to have complied with its payment obligations hereunder by an amount equal to or exceeding five percent (5%) of such obligations for any calendar month, then Merchant shall reimburse Distributor for all reasonable costs associated with the audit. Any overpayment or underpayment revealed by such audit shall be reimbursed promptly after the completion of such audit, and in any event, within (5) five days after receipt of an invoice therefor.

7. **Term; Termination; Effect of Termination.** The term of this Agreement will commence as of the Effective Date and continue, unless earlier terminated, through the termination or expiration of the TOUCH Agreement or the Connectivity Agreement. Additionally, Blackhawk also may elect to suspend Merchant's participation in the Alliance Partners Program or terminate this Agreement at any time by giving written notice to Merchant of a failure to comply with any of the terms of this Agreement, due to Merchant's actual or pending insolvency or if Blackhawk eliminates the Alliance Partners Program. Upon expiration or termination of this Agreement for any reason, or upon notice from Blackhawk, Merchant shall (as directed by Blackhawk) either: (i) in the ordinary course, sell the inventory of the applicable Retailers' Products then in Merchant's possession; (ii) return any non-activated Products to Blackhawk; (iii) destroy any non-activated Products, providing Blackhawk with a written certification of destruction in a form required by Blackhawk; or (iv) undertake a combination of any of the foregoing.

8. **Representations and Warranties.** Merchant represents and warrants that it has the right, power and authority to enter into this Agreement, perform its obligations and grant the rights granted herein. Merchant also represents and warrants that: (i) it will transmit Product activation data only with respect to those Products that have been purchased by a consumer and such activation data will be accurate; (ii) it will comply with all Applicable Laws; (iii) it will properly operate its terminals and use its reasonable commercial efforts to promptly arrange for the proper maintenance and repair of its terminals (iv) it will be responsible for safekeeping of all un-activated Products in its possession or control in accordance with the Alliance Partner Program protocols and procedures established by Blackhawk and its Affiliates from time to time; (v) the Products will not be marketed, displayed, offered for sale, sold or activated by it except in accordance with the terms and conditions set forth in this Agreement and with such Alliance Partner Program protocols and procedures and Applicable Law; (vi) it has secured all necessary rights, releases, clearances and licenses with respect to all materials and elements embodied in and all persons appearing in the promotional materials furnished or created by it; (vii) it is the sole owner, or a licensee with right of sublicense, of the Marks and logos used by it in connection with performing its obligations or exercising its rights under this Agreement, and such do not infringe the intellectual property rights of any person or entity; (viii) each Merchant Store is wholly-owned by Merchant and there are no franchisor/franchisee agreements, or similar agreements, governing the Merchant's stores in a manner inconsistent with this Agreement; (ix) it will promptly notify Blackhawk of any changes in the ownership structure of Merchant, as well as that of such store locations that involve an entity not wholly-owned by Merchant, and the addition of any new store locations; (x) it shall sign any and all documents reasonably required by Blackhawk for the purpose of establishing Merchant's creditworthiness or ensuring Merchant's timely payment of its obligations under this Agreement; (xi) upon request from Blackhawk, Merchant will provide information regarding the Merchant, its subsidiaries, Affiliates, owners, operators, and store locations relevant to this Agreement as Blackhawk may reasonably request and (xii) it agrees to act as an agent for purposes of offering for sale and selling Australia and New Zealand Banking Group Limited's Visa® branded Products.

9. **Indemnification.** For purposes of this Section: (a) "**Claim**" means any complaint, action, suit, cause of action, proceedings, arbitration, debt due, accounts, costs and expenses (including any legal cost and expenses), claim, demand, verdict or judgment arising under the provisions of any statute, award, order or determination whether or not known at the date of this Agreement; and (b) "**Damages**" means an assessment, fine, bona fide settlements, costs, damages (including consequential, indirect, special, incidental or punitive damages), expenses (including without limitation reasonable legal fees, expenses and costs), judgments, liabilities, losses, or penalties, incurred in connection with a Claim. Merchant shall defend, indemnify and hold harmless Blackhawk and each Retailer, together with their respective officers, directors, shareholders, agents, Affiliates, employees, (each, an "**Indemnified Party**"), from and against any and all Claims and Damages arising out of, related to, or in any way connected with: (i) any Merchant's breach of its representations, warranties or covenants contained in this Agreement; (ii) the unauthorized activation of any Products as a result of the fraud, willful misconduct or negligence of Merchant or any of its

employees, agents or contractors; (iii) any act or omission of any Service Bureau (as that term is defined below) engaged by Merchant; (iv) Merchant's gross negligence, willful misconduct or fraudulent acts or omissions; (v) Merchant's infringement of the rights (including, without limitation, the intellectual property rights, proprietary rights and rights to privacy) of any person or entity; (vi) any violation of any Applicable Law by Merchant, the Merchant Stores, or a transaction processor ("**Service Bureau**") engaged by Merchant; and (vii) the infringement of the rights of any person or entity related to the permitted use of Merchant's Marks. The Indemnified Party shall provide Merchant with written notice of any Claim for which indemnity is sought hereunder, and will provide reasonable cooperation in the defense as Merchant may reasonably request. The Merchant may not settle any such Claim without the consent of each Indemnified Party if the proposed settlement would impose pecuniary or other liability or an admission of fault or guilt on such Indemnified Party or would require such Indemnified Party to be bound by an injunction of any kind. Consent to settlement shall not be unreasonably withheld by any Indemnified Party.

10. **Losses.** Any physical losses of un-activated Products (e.g., \$0.25-\$0.40/card) shall be borne by Blackhawk until the Products are delivered to Merchant, and thereafter shall be borne by Merchant until Cardholders leave the premises of the Merchant Store, with an activated Product.

11. **Confidential Information.** Merchant acknowledges that it may receive Confidential Information of Blackhawk, the Retailers, or their Affiliates (the "**Disclosing Party**"). For purposes of this Agreement, "**Confidential Information**" includes (without limitation) the terms of this Agreement, any trade secrets, financial data and budgetary or proprietary business information, income or sales data or projections, customer lists and information, marketing/promotional plans and techniques, business operations, methods, policies and procedures, any network technical information, software, reporting system information and access passwords and advertising summary or tracking reports or other reports generated in accordance with this Agreement. Merchant covenants and agrees that it will not publish, communicate, divulge, or disclose to any person, firm, or corporation any Confidential Information of any Disclosing Party. Merchant covenants and agrees that it will not use any Confidential Information, except for the benefit of the Disclosing Party(ies) and then only as necessary to fulfill its obligations under this Agreement. Merchant will take reasonable security precautions, at least as great as the precautions it takes to protect its own trade secrets, with respect to the Confidential Information of the Disclosing Party(ies) that it receives. Merchant will disclose Confidential Information of the Disclosing Party(ies) only on a need to know basis to its employees, officers, and directors; provided that such recipients are obligated to treat such Confidential Information in a manner consistent with all the obligations of this Agreement. Confidential Information excludes any information that: (i) is already in the possession of Merchant without being subject to any confidentiality obligation; (ii) becomes generally available to the public other than as a result, directly or indirectly, of a disclosure of the information by Merchant in breach of any obligation of confidentiality; (iii) becomes available to Merchant on a non-confidential basis from a source other than the Disclosing Party without a breach of any obligation of confidentiality; (iv) is independently developed by Merchant without the use of the Confidential Information of any Disclosing Party; or (v) is required to be disclosed pursuant to a court order (provided that Merchant will promptly notify the Disclosing Party of the ordered disclosure before making any such disclosure). This section augments and does not supersede any Non-Disclosure Agreement existing between any of the Parties. Notwithstanding anything to the contrary herein, this Agreement may be disclosed by Blackhawk to Retailers, subject to substantially similar confidentiality restrictions as set forth in this section. Each Party covenants that any collection, storage, disclosure, transfer or use of personal information (including any information about an identifiable individual) will comply with all Applicable Law governing the collection, storage or use of personal information, including without limitation, the *Privacy Act 1998 (C'wealth)* and the National Privacy Principles (extracted from the *Privacy Amendment (Private Sector) Act 2000 (C'wealth)*).

12. **Liability Limitations.** The following limitations shall not apply to any claim that:

- (i) is subject to indemnification under Clause 9 of this Agreement;
- (ii) arises out of a breach of confidentiality, or
- (iii) arises out of gross negligence, willful misconduct, or fraud.

Except as permitted by law, Blackhawk disclaims all, and in no event shall Blackhawk, or Retailer, or their Affiliates, be liable to any Party to this Agreement, or any third party, whether in contract, tort (including, without limitation, negligence), equity, statutory duty, pre-contract or other representations (other than fraudulent misrepresentations) or otherwise, for:

- (a) any indirect, incidental, consequential, or special losses or damages (even if such losses or damages are foreseeable, and whether or

not a Party has been advised of the possibility of such losses or damages) arising from or relating to this Agreement; or

(b) any loss of goodwill or reputation; or

(c) any economic losses (including without limitation, loss of revenue, profits, contracts, business or anticipated savings).

The Parties acknowledge and agree that the maximum liability of Blackhawk, or Retailer, or their Affiliates in contract, tort (including without limitation, negligence), equity, statutory duty, pre-contract or other representations (other than fraudulent misrepresentations) or otherwise arising out of or in connection with this Agreement and each part thereof, including its execution and performance shall, in respect of any one or more events or series of events (whether connected or unconnected) taking place within any twelve (12) month period, be limited to the commission earned by Blackhawk in the twelve (12) months immediately preceding the date such Claim arose or \$20,000, whichever is the greater. For the avoidance of doubt, Blackhawk limits its liability to the Merchant for a breach of any non-excludable condition (other than one implied by Section 69 of the *Trade Practices Act 1974* (C'wealth)) at Blackhawk's option, to any one of the replacing, repairing, or paying the cost of replacing or repairing, the goods or supplying again, or pay the cost of supplying again, the Services in respect of which the breach occurred. In this Clause 12, the reference to "non-excludable condition" means an implied condition or warranty, the exclusion of which from a contract with a consumer (as defined in the *Trade Practices Act 1974*) would contravene a statute or cause part or all of the Clause, excluding that implied condition or warranty, to be void. Except as expressly provided in this Agreement, Blackhawk does not make any representation or warranty, and hereby expressly disclaims all warranties, express, implied, statutory, or otherwise, relating to or arising out of this Agreement, including without limitation, any warranty of non-infringement, any implied warranty of merchantability or fitness for a particular purpose and implied warranties arising from course of dealing or course of performance.

13. **Miscellaneous. Assignment.** Merchant may not transfer or assign this Agreement or its obligations under this Agreement, in whole or in part, without the prior written consent of Distributor. A merger, consolidation, reorganization, sale or similar transaction involving all or substantially all of the assets of Merchant or a change of ownership or control of Merchant or its successor thereto, shall be deemed an assignment. Any purported assignment in violation of this Section shall be null and void. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New South Wales, without giving effect to the conflict of law principles thereof. **Dispute Resolution.** (i) Unless a Party has complied with this Clause and the following Clauses (ii) to (iii), that Party may not commence court proceedings or arbitration relating to any dispute or difference (the "**Dispute**") arising from this Agreement, except where the Party seeks urgent injunctive, declaratory or interlocutory relief in which case that Party need not comply with this Clause before seeking such relief. (ii) A Party claiming that a Dispute has arisen under this Agreement shall give notice, in writing, of the Dispute to the other Party adequately identifying and providing details of the Dispute ("**the Notice of Dispute**"). (iii) If the Dispute is not resolved within the Initial Period (or within such further period as the Parties may agree as appropriate) the Parties agree that the Dispute must, at the request of any Party be referred to: (a) mediation, in accordance with the Australian Commercial Dispute Centre ("**ACDC**") mediation guidelines; (b) to a mediator agreed on by the Parties; or (c) if the Parties are unable to agree on a mediator within seven days after the end of the Initial Period, a mediator appointed by the then current Chief Executive Officer of ACDC or the Chief Executive Officer's Nominee (or if no such other person is available or willing to nominate a mediator, by the then President of the Law Society of New South Wales). (iv) The role of any mediator is to assist the Parties in negotiating a resolution of the Dispute. The mediator may not make a decision that is binding on a Party unless that Party has so agreed in writing. (v) The Parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this Clause is to attempt to settle the Dispute between the Parties and accordingly the Parties agree that any such information or documentation is exchanged on an entirely "without prejudice" basis. The Parties agree that any information or documents so exchanged must be kept confidential and may not be used except to attempt to resolve the Dispute. (vi) Each Party must bear its own costs including legal costs of complying with this Clause and the Parties must bear equally the costs of any mediator appointed pursuant to this Clause. (vii) After the Initial Period, a Party that has complied with Clauses (i) to (iv) above may, by notice in writing, terminate the dispute resolution process and may then refer the Dispute to arbitration or commence court proceedings, provided however, that if at any time a Party considers that the other Party is not making reasonable efforts to resolve the Dispute that Party may, by notice in writing, terminate the dispute resolution process and may then refer the Dispute to arbitration or commence court proceedings. **Force Majeure.** No Party shall be liable to any other Party for any delay or failure in performance under this Agreement (other than the payment of money) arising out of a

cause beyond its control and without its fault or negligence. Such causes may include, but are not limited to fires, floods, earthquakes, strikes, unavailability of necessary utilities, blackouts, acts of God, acts of declared or undeclared war, acts of regulatory agencies, or national disasters. However, the foregoing shall not excuse a Party from (i) safeguarding its systems, data or facilities, (ii) preventing computer network or system security breaches, (iii) the unauthorized release of Confidential Information, or (iv) any Claim or Damages due to fraudulent activity of such Party. **Severability and Waiver.** If any provision of this Agreement (or any portion thereof) is determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall be binding upon the Parties and shall be enforceable, as though said invalid or unenforceable provision (or portion thereof) were not contained in this Agreement. The failure of any Party to insist upon strict performance of any of the provisions contained in this Agreement shall not constitute a waiver of its rights, at law or in equity, or a waiver of any other provisions of this Agreement or subsequent default by the other Party in the performance of or compliance with any of the terms and conditions set forth in this Agreement. **Assignment of Contractual Rights** The Parties agree that, notwithstanding anything to the contrary in this Clause 13 with respect to assignment, Blackhawk may assign to Retailer any rights provided to Blackhawk by Merchant under this Agreement, including without limitation, the right to receive payment. In the event of Retailer's breach of any of this Agreement, and Blackhawk's failure or refusal in writing to enforce its rights as identified in such provisions against such Retailer within thirty (30) days of Merchant's written request for such enforcement, then by this Clause Blackhawk shall be deemed to have assigned to Merchant its rights with respect to such provisions for the sole and exclusive purpose of Merchant enforcing such rights as to the breach identified by Merchant in its written request for enforcement. Notice of such assignment shall then be jointly given by Merchant and Blackhawk to Retailer within five (5) business days thereof, along with a statement that all legal and other remedies for the breach in effect at the time of notice to Retailer, and the power to give a good discharge for the same without the concurrence of the assignor, are vested in the Merchant. The Merchant shall be responsible for the representations, warranties, acts and omissions of the Merchant Stores as if such representations, warranties, acts and omissions were those of the Merchant under this Agreement mutatis mutandis. **Independent Contractor.** The Parties are independent contractors. Nothing in this Agreement shall be construed to create a joint venture, partnership, or an agency relationship between the Parties. No Party has the authority, without the other Party's prior written approval, to bind or commit the other Party in any way. **Applicable Law** means all Australian federal and Victorian local laws, rules, regulations, or ordinances applicable to a Party, in light of that Party's role with respect to Products and the Alliance Partners Program (e.g., issuer, seller, redeemer, etc.).

The Merchant has agreed to be bound the terms and conditions of this Agreement in the Online Form.

Annexure A

MERCHANT COMMISSION SCHEDULE

PRODUCTS

COMMISSION EXHIBIT GIFT							
REGION: AUSTRALIA (STATED IN AUSTRALIAN DOLLARS)							
Effective Date: April 15, 2010							
Vendor Name	UPC Code	Check Digit	Card Amount (\$)	Alliance Partner Commission (%)	Alliance Partner Commission (\$) (Excl GST)	GST (\$)	Alliance Commission (Incl GST) (\$)
GIFT							
iTunes	7675004586	8	\$ 20	6.00%	\$ 1.20	\$ 0.12	\$ 1.32
iTunes	7675004587	5	\$ 30	6.00%	\$ 1.80	\$ 0.18	\$ 1.98
iTunes	7675004588	2	\$ 50	6.00%	\$ 3.00	\$ 0.30	\$ 3.30