

**ELECTRONIC COMMERCE
MERCHANT AGREEMENT**

KNOW ALL MEN BY THESE PRESENTS:

This Electronic Commerce Merchant Agreement (“Agreement”) entered into by and between the **BANK OF THE PHILIPPINE ISLANDS**, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office address at BPI Card Center, 8753 Paseo de Roxas, Makati City, and is duly represented herein by its Vice President, Cecile Catherine A. dela Paz, (hereinafter referred to as “**BPI**”);

-and-

_____, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with business address at _____ and is duly represented herein by its _____ (hereinafter referred to as “**MERCHANT**”)

WITNESSETH THAT:

WHEREAS, BPI is engaged in the business of issuing and acquiring valid BPI Express Credit and MasterCard cards;

WHEREAS, BPI is duly licensed and authorized to enter into this Agreement with **MERCHANT** to honor all valid MasterCard cards and any other payment cards that **BPI** may be licensed to acquire in the future (hereinafter referred to as “Credit Cards”) and desires to make available to holders of said Credit Cards (hereinafter referred to as “Cardholders”) the opportunity to pay for goods, or services of **MERCHANT** with the use of such Credit Cards;

WHEREAS, MERCHANT intends to avail of the **BPI SecurePay** Internet Gateway Service facility of **BPI** for the payment of its goods and services over the Internet and is requesting **BPI** to accredit it as an Internet/Electronic Commerce merchant;

WHEREAS, BPI has agreed to the accreditation of **MERCHANT** as an Internet/Electronic Commerce merchant, subject to the following terms and conditions:

1. DEFINITION OF TERMS

- (a) *Merchant* – An entity selling goods/services to customers.
- (b) *BPI SecurePay*– A service offered by BPI as an acquirer that processes merchant authorization and payment messages, and interfaces with private financial networks.
- (c) *BPI SecurePay Merchant* – is an affiliated merchant of the BPI Internet Gateway Service system.
- (d) *CVC 2 (Card Verification Code 2)* – The last three digits printed on the signature panel of all MasterCard cards. It is uniquely derived for each account, and is printed rather than embossed.
- (e) *Authorization* – This is the process where permission is granted by the card issuer allowing the payment transaction to proceed. It is during this process that the card issuer checks the validity of the card and expiry date and that the available credit is not exceeded.
- (f) *Authorization Request* – is a request for credit card approval of a merchant to a financial institution.
- (g) *Capture* – A procedure performed on a previously authorized transaction after a merchant has shipped goods or services to the customer, signifying that a sale has been made.
- (h) *Merchant Reference Number* – A series of numbers assigned to identify a particular merchant.

- (i) *Purchase Reference Number* – A series of numbers generated to identify a particular transaction.
 - (j) *Payment Confirmation Number* – A series of numbers generated for an approved transaction.
 - (k) *Void Request* – Is a request or authorization reversal. Successful Void results to a credit back to the client's account.
 - (l) *HTTP or Hypertext Manipulation Language* – is the Internet communication protocol.
 - (m) *HTTPS or Secured HTTP* – is the secured counterpart of HTTP. Security is achieved by encrypting the messages being passed between conversing servers.
 - (n) *IP Address or Internet Protocol Address* – is the logical address assigned to a computer. IP Address is the basis for locating particular computers over a network.
2. **MERCHANT** shall be responsible for its website, including, among others, its development and operation.
- 2.1 The **MERCHANT**'s website must contain, at a minimum, the following information:
- (a) complete description of its goods and services
 - (b) customer service contact information
 - (c) transaction currency
 - (d) return/refund/cancellation/delivery policy (when applicable);
 - (e) country in which the seller is officially registered and located.
- 2.2 The **MERCHANT** shall be responsible for the customization of its website to conform to the technical requirements as specified by **BPI**.
- 2.3 Should the **MERCHANT** engage the services of a third party to develop and/or operate its online store, BPI shall not in any manner, directly or indirectly be bound and/or prejudiced by any of the terms and conditions agreed upon by the **MERCHANT** and such party.
- 2.4 The **MERCHANT** shall be responsible in developing its own order-entry server, in accordance with the merchant set-up requirements to be provided by BPI, which will communicate with the **BPI SecurePay** server.
3. An Annual Fee of PESOS: TWENTY THOUSAND (P20,000.00) Philippine Currency shall be collected from the **MERCHANT** payable within thirty (30) days from signing of this Agreement. This annual fee shall cover for the payment of expenses and other charges for the Payment Client license, as well as the technical resources needed to set-up the connectivity and testing facility.
4. **BPI**, through the **BPI SecurePay** interface program, will allow the merchant server to connect to the gateway and enable the **MERCHANT** to do any of the following:
- (a) Obtain online authorization and/or capture of credit card payments.
 - (b) Settle credit card transactions.
 - (c) Perform other functions (e.g. void a transaction, review a transaction, print a report).
5. Any modifications made by the **MERCHANT** on the **BPI SecurePay** interface program shall be subject to the review and approval of **BPI**.
6. **BPI** and **MERCHANT** shall not sell, provide or exchange Customer's name and address information obtained in connection with the use of the **BPI SecurePay** facility to any third party and shall treat all such data and/or information as strictly confidential.
7. **MERCHANT** shall undertake the necessary measures it deems appropriate to establish the authenticity and identity of its Customers. **MERCHANT** agrees that **BPI** is not responsible for the authenticity and identity of **MERCHANT**'s customers.

8. Credit Card transactions shall require the approval of **BPI**. BPI's approval, however, shall be limited only to verification of the validity and expiry date of the Credit Card, including CVC2, and availability of credit limit at the time of the authorization of the transaction.

Transactions approved under the "Authorize Only" mode should be captured within seven (7) days after such authorization. For transactions captured after the said period, **BPI** reserves the right to reject the transaction or charge back the amount paid to **MERCHANT** on account of such transaction.

9. **BPI** at its discretion may impose a daily transaction limit on the amount involved at anytime without prior notice to the **MERCHANT**.

10. **MERCHANT** shall ensure that the following transaction data are available, whenever requested by **BPI**, up to eighteen (18) months from date of transaction;

- (a) MERCHANT name
- (b) MERCHANT on-line address
- (c) Transaction amount and currency
- (d) Transaction date
- (e) Delivery Address
- (f) Order Number
- (g) Customer Name
- (h) Name on Card
- (i) Transaction Amount
- (j) Description of merchandise/service
- (k) Delivery Receipt or equivalent proof of delivery
- (l) Additional information specific to the industry as contained in Annex "D"

Subsequently, retrieval requests must be responded to within fifteen (15) banking days from request. Failure to produce the accomplished form shall be a ground for chargeback.

11. **BPI** undertakes to pay the **MERCHANT** the proceeds of the sale net of _____(%) discount rate computed on the face value of the transaction, chargeback, if applicable, and one-half percent (0.5%) withholding tax within two (2) banking days after settlement. For the purpose of crediting the proceeds, the **MERCHANT** shall maintain an account (the "Account") with the Bank of the Philippine Islands (BPI).

12. **MERCHANT** shall establish a fair policy for credits, refunds and cancellations. In all instances when such credits, refunds, or cancellations of Internet transactions of Cardholder are granted, **MERCHANT** shall transmit/submit to BPI a corresponding credit advice. No cash refund shall be given on any item originally charged to a credit card account. Said adjustments will be netted off against the **MERCHANT**'s daily settlement.

13. **BPI** shall provide the **MERCHANT** with the Merchant Operating Guide (MOG) upon the execution of this Agreement. The MOG will serve as the **MERCHANT**'s reference manual in carrying out the settlement and administrative processes required in the proper operation of this **BPI SecurePay** facility. BPI shall be held free and harmless from any liabilities, claims or demands that may result from **MERCHANT**'s non-conformity with the MOG.

14. **BPI** shall refer all transaction/s disputed by the Cardholder to the **MERCHANT** and the latter undertakes to resolve the issue with its Customer immediately upon the receipt of advice from **BPI** of Cardholder dispute or chargeback, as the case may be.

Disputed transaction/s shall be automatically charged back in full to the **MERCHANT** and **MERCHANT** undertakes to receive said chargeback which **BPI** shall offset against future billings.

Simultaneously with **MERCHANT's** resolution with its Customer regarding a particular dispute, **MERCHANT** shall furnish **BPI** within ten (10) calendar days copies of its communications with the Customer and such other pertinent documents, i.e., order forms, to enable **BPI** to properly document its case file on the Cardholder with respect to the disputed transaction.

15. "Chargeback" shall mean the process by which **BPI** will charge to the **MERCHANT** the amount of the Internet transaction which have been paid by **BPI** under such circumstances or situations as provided herein:
 - (a) The **MERCHANT** by this Agreement agrees that in case of its failure to comply with any or all the conditions and procedures herein resulting to the non-acceptance of the transaction by **BPI** and resulting to its subsequent chargeback, **BPI** shall issue the corresponding Chargeback Advice to the **MERCHANT**.
 - (b) **BPI** upon issuance of the Chargeback Advice will deduct the amount in the Chargeback Advice from the next payment to the **MERCHANT**. If none is due, **BPI** will charge the **MERCHANT** such bill to be payable immediately upon receipt, for the face amount of the Chargeback Advice.
 - (c) If **MERCHANT** fails to make timely payment of the chargeback, **BPI** shall, at its option, impose a finance charge on the amount due based on the prevailing bank lending rate, and computed from the time the **MERCHANT** received payment up to the time **BPI** is reimbursed by the **MERCHANT**.
16. The **MERCHANT** assigns to **BPI** effective upon its failure to pay, without need of further act of demand, its obligations arising from excessive chargeback or refunds, any moneys, securities and things of value which are now or may hereafter be in the hands of **BPI** or **BPI** Family Bank, or any of their subsidiaries or affiliates, on deposit or otherwise to the credit of, or belonging to the **MERCHANT**, and **BPI** is authorized to sell the same at public or private sale and apply the proceeds thereof to such obligation.
17. The **MERCHANT** shall hold **BPI**, or any of its officers or representatives, free and harmless from any and all liabilities, claims, suits or causes of action that the **MERCHANT's** Customers may pursue against **BPI** in connection with the implementation of this Agreement, except those liabilities, claims, suits or causes of action arising from gross negligence of **BPI**.
18. This Agreement shall become effective upon the signing by both parties and shall remain in full force and effect until terminated by either party upon sixty (60) days prior written notice, provided that, **BPI** reserves the right to terminate this Agreement effective immediately without the need of prior notice when **BPI**, at its sole discretion, deems necessary, or when mandated by MasterCard International for reasons including but not limited to, excessive chargeback, disputed Cardholder transactions, fraud or counterfeit card transactions, or if **MERCHANT** has breached the fraud threshold imposed by MasterCard International.
19. The enforceability and validity of this Agreement, in whole or in part, shall not be affected by the unenforceability or invalidity, whether temporary or permanent, of any particular provision hereof because of restrictive laws, regulations, or judicial or administrative determinations obtained during any period hereof or for any other cause.
20. Only **BPI** may modify, amend or revise the terms and conditions applicable to any to the services provided through the e-moto facility from time to time upon mailing or delivering to the **MERCHANT** a written notice of the modifications, amendments or revised terms and conditions at the address shown on the **MERCHANT's** account records. The modifications, amendments, and revised terms and conditions shall be effective upon receipt of such modifications, amendments and revised terms and conditions by the **MERCHANT**, provided, however, that such modifications, amendments or revisions shall not in any way affect or change the rights and obligations of each of the parties under this Agreement nor affect or change the rights and obligations of the **MERCHANT**

in the use of the e-moto facility. All other modifications, amendments or revisions will need prior written consent from the **MERCHANT** before its effectivity.

21. Neither party has the right to assign, transfer, charge, or sub-license any or all of the respective rights and obligations due or pertaining to them under this Agreement without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties have hereunto signed this Agreement on this _____ day of _____, 2008 at Makati City.

Bank of the Philippine Islands

MERCHANT

By:

By:

CECILE CATHERINE A. DELA PAZ
Vice President

SIGNED IN THE PRESENCE OF
