



Merchant Service Agreement

for

BSP Pay Service

This **MERCHANT SERVICE AGREEMENT and DISCLOSURE** (the “Agreement”) applies to the Payment Services you receive from BSP Financial Group Limited (**BSP Limited**). This Agreement is provided to you in accordance with the requirements of the laws of Papua New Guinea. You should read this Agreement carefully to understand how the Payment Service works, as well as your rights and obligations if you enroll in and use the Payment Services.

1. Agreement and Acknowledgement

By using the Payment Services as defined below, you acknowledge that you have read, understood and agree to be bound by all of the terms and conditions of this Agreement and all documents incorporated by reference. These Agreements may be amended from time to time and we will provide notice of such changes to you as may be required by Applicable Law.

In this Agreement, “we”, “us” and “our” means BSP; and “you” and “your” means your merchant signing up to use the Services

2. Definitions

In this Agreement, unless the context otherwise requires, the following definitions govern the terms of this Agreement:

- **Agreement** means this Agreement, the **MERCHANT SERVICE AGREEMENT and DISCLOSURE**.
- **Authorization** means an authorization message you receive from a customer’s bank when you process a Transaction through BSP Pay.
- **BSP** means BSP Financial Group Limited.
- **BSP ID** means your BSP customer identification number.
- **BSP Pay** means a domestic e-Commerce service provided by BSP which enables BSP customers to pay for products or services sold over domestic third-party websites through the use of their BSP ID and a mobile number registered with BSP.
- **Confidential Information** means all information of either the Bank or you disclosed or communicated by one of us to the other (Recipient), or learnt or accessed by the Recipient, as a result of, or for or in connection with the transaction carried out using Payment Services. A list of confidential information is outlined in Clause 6.
- **Merchant** means a person or entity with whom BSP has entered into a **MERCHANT SERVICE AGREEMENT and DISCLOSURE** and has been authorised by BSP to accept payments for goods and services using BSP’s Payment Service.
- **Party** means of either BSP and Merchant and **Parties** means both of them.
- **Payment Services** means online payments on third-party websites using a BSP ID and mobile number registered with BSP.
- **Services** means the BSP Pay.

3. Interpretation

- (a) Headings are for convenience only and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) Unless defined in this Agreement, words beginning with capital letters and phrases comprising two or more such words bear the defined meanings given to them in the BSP Pay Terms & Conditions.
- (c) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

- (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a Clause is a reference to a clause of this Agreement;
 - (iv) a Schedule is a reference to a schedule to this Agreement;
 - (v) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (vi) anything (including a right, obligation or concept) includes each part of it.
- (d) A word importing the singular includes the plural and *vice versa*.
- (e) A word importing one gender includes the other genders.
- (f) If a word or phrase is defined, another part of speech or other grammatical form of the word or phrase has a corresponding meaning.
- (g) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (h) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (i) The words **subsidiary**, **holding company** and **related company** have the same meanings as in the Companies Act 1997.

4. **Term of Agreement**

This Agreement will come into effect on the day the Merchant commences using BSP Pay Services and remain in effect until Termination.

5. **BSP Pay Terms & Conditions**

Save to the extent of any inconsistency (in which case the terms and conditions set out in this Agreement shall prevail), the Parties hereby agree to be bound by BSP Pay Terms & Conditions. [Click here to access BSP Pay Terms & Conditions](#)

- (a) The Merchant will enter into a binding agreement with BSP to acquire Payment Services from BSP;
- (b) The Merchant will irrevocably instruct and procure BSP to remit the net proceeds of all payments received by or on behalf of the Merchant to one or more designated accounts maintained by the Merchant with BSP;

6. **Confidentiality**

- (a) As an operator of BSP Pay, you and your staff may come across Confidential Information. Confidential Information includes, but is not limited to, the following:
 - (i) Personal Information' as defined by any privacy legislation or common law in your jurisdiction;
 - (ii) information about customers of the Bank, including the fact that they are customers of the Bank of which you become aware as a consequence of providing BSP Pay;
 - (iii) information and material concerning the training methods, systems and manuals of the Bank;
 - (iv) the Manuals provided to you by us.
- (b) You acknowledge and agree that you will:

- (i) use or reproduce Confidential Information only for purposes under this Agreement;
- (ii) take all reasonable steps to maintain the confidentiality of the Confidential Information and to secure Confidential Information against theft, loss unauthorized use, modification, disclosure or other misuse;
- (iii) not disclose the Confidential Information to any person except where there is consent from the party of which the Confidential Information relates to, or where you are compelled by law;
- (iv) immediately notify us in the event that you become aware of any unauthorized access to, use, modification, disclosure or other act in relation to any Confidential Information which is not permitted;
- (v) deliver to the disclosing party or party of which the Confidential Information relates to all documents and other materials in your possession or under your power or control which contain or refer to any Confidential Information of the disclosing party or party of which the Confidential Information relates to on the earlier of:
 - (A) Demand by the disclosing party or party of which the Confidential Information relates to; or
 - (B) The time the documents and other materials are no longer required for the purposes of this Agreement

7. **Address or Banking Changes**

We will rely on your address as it appears on our records for any and all communications we send to you unless you notify us of a change of address through your secure online Message Center or, for Bank Accounts, by writing us at:

PO Box 78
Port Moresby
Papua New Guinea
Phone: (675) 320 1212 | 7030 1212
Email: servicebsp@bsp.com.pg

or by calling BSP Call Center anytime at 320 1212 or 7030 1212, and we have had a reasonable opportunity to act on such notice. You also agree to notify us in writing at the above address at least ten (10) Business Days in advance of any change in your banking status or other customer information, such as your e-mail address or phone number

8. **Virus Protection**

You agree that we are not responsible for any electronic virus that you may encounter using the Payment Services. We encourage you to routinely scan your computer and removable medium using any reliable virus protection product to detect and remove any viruses found. Undetected or unrepaired, a virus may corrupt and destroy your programs, files and even your hardware.

9. **Termination**

We reserve the right to terminate your use of the Payment Services for any reason, including inactivity, and at any time without notifying you. You have the right to terminate your use on the Payment Services by calling us at 320 1212 or 7030 1212 during normal business hours or by writing to us at:

Section 34, Allotment 6&7, Klinki Street, Waigani Drive
PO Box 78
Port Moresby
Papua New Guinea
Phone: (675) 320 1212 | 7030 1212
Email: servicebsp@bsp.com.pg

10. **Amendments**

We reserve the right, from time to time, to amend this Agreement or change the features offered by this Payment Services, in our sole discretion. In instances where such changes will have an adverse impact upon you, or we are otherwise required by Applicable Law or Regulation, we will send you written or electronic notice about the change at least twenty one (21) calendar days prior to the effective date of any such change. If however, the change is made for security purposes, the change will be implemented without any notice to you.

If any such required advance notice is returned to us as undeliverable because of a change in your address which you have not notified us about in writing or any other reason which is not our fault, the changes described in that notice are still binding on you. If you do not agree to the changes, you may terminate this Agreement in accordance with the terms of this Agreement. You will be deemed to accept any changes to this Agreement if you continue your enrollment in or use the online Payment Service after the date on which the changes became effective.

11. **Assignment or Delegation**

You may not assign this Agreement, in whole or in part, or delegate any of your responsibilities under this Agreement to any third party or entity. Any such attempted assignment or delegation will not be recognized by us unless and until acknowledged by us in writing. We are not, however, under any obligation to give you our written acknowledgment.

12. **Charges and Fees**

Each Party must bear its own legal and other costs of negotiating, preparing and executing this Agreement.

13. **No Waiver**

No delay of or waiver by us of any power, right, remedy or obligation under or in connection with this Agreement on any one occasion will constitute a waiver of that power, right, remedy or obligation on any later occasion. In any event, no such delay or waiver by us is effective unless it is in writing and signed by us.

14. **Limited Liability**

Except as specifically provided in this Agreement or where Applicable Law requires a different standard, you agree that neither we or any third party service provider engaged by us to perform any of the services related to the Payment Services, shall be responsible for any damages or losses, whether related to property or bodily injury, incurred as a result of your using or attempting to use the Payment Services, whether caused by equipment, software, Internet Service Providers, browser software or any agent or subcontractor of any of the foregoing. Without limiting the foregoing, we will not be liable for delays or mistakes which happen because of reasons beyond our control, including without limitation, acts of civil, military or banking authorities, national emergencies including plague, epidemic, pandemic or outbreak of a communicable disease leading to extraordinary restrictions including quarantine or movement of people or goods, insurrection, war, riots, acts of terrorism, failure of transportation, communication or power supply, or malfunction or unavoidable difficulties with our equipment. You also agree that we or any third party service provider that we engage with, will not be responsible for any direct, punitive, special or consequential, economic or other damages arising in any way out of the installation, use or maintenance of the equipment, software, the Payment Services or Internet Browser or access software, or from the unavailability of the Payment Services or for any errors in information provided through the Payment Services.

If a court finds that we are liable to you because of what we did (or did not do, as the case may be) under or in connection with this Agreement, you may recover from us only your actual damages, in an amount not to exceed the total fees and charges paid by you to us under and in connection with this Agreement during the 6 month period immediately preceding the event giving rise to our liability. You agree that the Kina limitation described in the preceding sentence is reasonable, to the extent permitted by Applicable Law.

IN NO EVENT WILL YOU BE ABLE TO RECOVER FROM US ANY SPECIAL CONSEQUENTIAL, EXEMPLARY, INDIRECT OR PUNITIVE DAMAGES OR LOST PROFITS, EVEN IF YOU ADVISE US OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, SUBJECT TO APPLICABLE LAW.

UNLESS THE DISCLAIMER OF SUCH WARRANTIES IS PROHIBITED BY APPLICABLE LAW, THE PAYMENT SERVICES IS PROVIDED AS IS, AND WE MAKE NO WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PAYMENT SERVICES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT

15. **Provisions Severable**

If any provision of this Agreement is held to be void or unenforceable by a court of competent jurisdiction, or any governmental agency that provision will continue to be enforceable to the extent permitted by that court or agency, and the remainder of that provision will no longer be treated as part of this Agreement. All other provisions of this Agreement will, however, remain in full force and effect.

16. **Governing law and jurisdiction**

This Agreement is governed by the laws of the Independent State of Papua New Guinea and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that country.

17. **Entire Agreement**

This Agreement may be amended by us from time to time and is the entire agreement between you and us with respect to the Payment Service and supersedes any and all prior communications and prior agreements between you and us with respect to the Payment Service.

EXECUTED BY THE PARTIES AS A DEED

SIGNED by **BSP Financial Group Limited** by its duly constituted Attorney in the presence of:

AND I certify that the person executing this instrument is personally known to me

Witness Signature

Witness Name (printed)

Position/Designation

) **BSP Financial Group Limited** by its Attorney who hereby states that at the time of his executing this instrument he has no notice of the revocation of the Power of Attorney Registered No.**S.65983**

) Under the authority of which he has executed this instrument

) _____
) **Robin Fleming**
) Group Chief Executive Officer

) Date: ____/____/____

Signed for and on behalf of **MERCHANT** by its duly Authorized Representative in the presence of:

Signature of witness

Name

Address

Signature of Authorized Representative

Name of Authorized Representative

Position of Authorized Representative

Date: ____/____/____