



BSP



Bank South Pacific

Merchant Agreement

Merchant Copy/Bank Copy

This Agreement made the _____

Between: _____ ('the Merchant')

(Registered company name or names of partners for a partnership or full name of sole proprietor) of: _____ (Registered business address) and **Bank South Pacific** ('the Bank')

Provides as follows:

- 1) The following expressions used in this Agreement have, except where not appropriate in the context, the following meanings:
 - (i) 'Card' means each of the charge cards or debit cards referred to in the schedule hereto;
 - (ii) 'Cardholder' means a person to whom a Card has been issued;
 - (iii) 'Authorised Floor Limit' means the total value of sales which the Merchant is authorised from time to time to make to a Cardholder on any one occasion in respect of any one Card without the Bank's consent;
 - (iv) 'Merchant Operating Guide' means each Merchant Operating Guide issued to Merchants by the Bank and re-issued and amended from time to time and which shall form part of this Agreement.
- 2) In consideration of the Bank agreeing to make payment to the Merchant of the price of goods and services supplied to Cardholders in discharge of the Cardholder's debt for such price, the Merchant undertakes to the Bank that the Merchant will:
 - (i) At all times observe the provisions of this Agreement and the Merchant Operating Guide;
 - (ii) Honour all valid Cards presented by Cardholders by supplying goods and services to the Cardholder at the prices at which the Merchant would supply such goods and services to the Cardholder for cash;
 - (iii) Use only authorised sales and credit vouchers and imprinters provided or approved by the Bank;
 - (iv) Establish a fair policy for the exchange or return of merchandise and give credit upon each such return, not in cash but by the issue of a credit voucher and process thereof as prescribed in the Merchant Operating Guide;
 - (v) Obtain prior authorisation for any sale in excess of the Authorised Floor Limit applicable in respect of a particular Card and not split sales which would otherwise be in excess of such limit;
 - (vi) Perform all obligations to Cardholders in connection with the transaction giving rise to the issue of the sales voucher prior to submitting such sales voucher to the Bank;
 - (vii) Present all sales and credit vouchers to the Bank within three Bank business days after their issue;

- (viii) If less than the full amount of any sales transaction is included in a sales voucher, obtain cash payment in full for the balance due at the time the sale is completed. However, where the amount of such voucher represents payment of a deposit for the relevant goods or services, a Card may (subject always to the terms of this Agreement) be accepted by the merchant on a subsequent occasion in payment of the outstanding balance;
 - (ix) Permit the Bank to debit the account of the Merchant with:
 - a) Such charges (including service charges, fees and other charges) as are set by the Bank from time to time and which are notified by the Bank to the Merchant.
 - b) The full amount of the credit vouchers issued by the Merchant hereunder, less any charges referred to in sub-paragraph (a) hereof already debited to the Merchant's account in respect of the transactions.
 - c) Any over credits made by the Bank in respect of sales vouchers due to errors or omissions;
 - d) Any credits made by the Bank in respect of sales vouchers which are not valid;
 - e) All stamp duties, postages, commissions, charges, exchanges, re-exchanges and expenses according to the usage and course of business of the Bank;
 - f) And other moneys due to the Bank by the Merchant pursuant to this Agreement.
 - (x) Permit the Bank to charge or credit to the account of the Merchant without notice any deficiencies or overcharges established after audit or check by the Bank of such account;
 - (xi) Pay on demand the amount of any debit as aforesaid which may remain unpaid;
 - (xii) Not make any warranty or representation whatsoever in relation to any goods or services supplied by the Merchant which may bind the Bank;
 - (xiii) Use reasonable care in the sales transaction to detect forged or unauthorised signatures or the unauthorised use of a Card;
 - (xiv) Indemnify the Bank from and against all losses, expenses and damages which the Bank may suffer or incur as a result of the failure of the Merchant to observe any of the Merchant's obligations hereunder, or arising from any dispute between the Merchant and any customer in respect of goods or services;
 - (xv) Display prominently in the Merchant's place or places of business the card decal insignia supplied to the Merchant by the Bank;
 - (xvi) Not use any advertising or promotional material in relation to the Cards, except as authorised by the Bank;
 - (xvii) Not refer to the Cards in stating eligibility for any goods and/or services supplied by the merchant;
 - (xviii) Permit the Bank to inspect and examine the books of account and records of the Merchant relating to any Card transactions.
- 3) The Bank agrees with the Merchant that the Bank will:
- (i) Accept all valid sales vouchers and credit vouchers issued by the Merchant pursuant to this Agreement;
 - (ii) Credit the account of the Merchant with the full amount of all valid sales vouchers issued by the Merchant hereunder and signed by the Cardholder or authorised user of the Card, on the basis that the debt due by the Cardholder is extinguished;
 - (iii) Supply the Merchant with imprinters, sales vouchers and other supplies including Card decals and promotional material and upon terms and conditions agreed to from time to time between the Merchant and the Bank.
- 4) A sales voucher shall not be valid if:

- (i) The transaction it records is illegal;
 - (ii) The signature on the sales voucher is forged or unauthorised;
 - (iii) The particulars inserted in the sales voucher are not identical with the particulars inserted in the copy given to the Cardholder;
 - (iv) The Card relating to that sales voucher is not current at the time of the transaction;
 - (v) The Card relating to that sales voucher is listed on any Warning Bulletin or Restricted Card list issued to the Merchant;
 - (vi) The price charged to the Cardholder for any item of goods or services on the sales voucher is in excess of the price at which the Merchant would supply any such item to the Cardholder for cash, as mentioned in Clause 2(ii);
 - (vii) The amount of the sales voucher, or the amount of the sales voucher when added to the amount of other sales vouchers for goods and services supplied on the same occasion and charged to a particular Card was in excess of the Authorised Floor Limit applicable in respect of that Card, unless authorisation has been obtained;
 - (viii) The voucher is incomplete or illegible;
 - (ix) The Merchant has failed to observe this Agreement in relation to the transaction;
 - (x) The Card relating to that sales voucher was used without the authority of the Cardholder.
- 5) The Bank may refuse to accept or, having accepted, may charge back any sales voucher if:
- (i). The sales voucher is not a valid sales voucher;
 - (ii) The Cardholder disputes liability for any reason;
 - (iii) The Cardholder asserts a claim for set-off or a counterclaim.
- 6) The presentation by the Merchant to the Bank of any voucher shall constitute warranties to the Bank:
- (i) That all statements of fact therein are true;
 - (ii) That the voucher is valid;
 - (iii) That the sales are not subject to any dispute, set-off or counterclaim.
- 7) The Merchant is authorised to accept only those types of Cards referred to in the Schedule hereto, or which the Bank notifies the Merchant as being authorised and which the Bank has not subsequently notified the Merchant as having ceased to be authorised.
- 8) The Merchant agrees and undertakes to return to the Bank any imprinters and decal insignia, sales vouchers, Card decals and promotional material upon the termination of this Agreement.
- 9) This Agreement may be terminated by either party at any time by not less than one week's written notice, but termination shall not affect obligations incurred prior to termination.
- 10) In so far as any representation or assurance concerning the credit worthiness of a Cardholder may be inferred from the issue of a Card to that Cardholder, the Merchant waives such rights (if any) which the Merchant may have against the Bank by reason of such representation or assurance.
- 11) Any notice under this Agreement may be signed on behalf of the party or parties giving it and will, in addition to the ordinary modes of service, be deemed to be duly served if posted in a prepaid envelope addressed to the party to be served, in the case of the Merchant at the Merchant's address above and in the case of the Bank at the Bank's principal place of business in Samoa.

12) This Agreement shall be binding upon the parties, their executors, administrators, successors and assigns, provided that the Merchant may not assign this Agreement without the written consent of the Bank. Where the Merchant consists of any two or more persons, their obligations hereunder shall be joint and several.

13) The Bank reserves the right to vary the terms of this Agreement from time to time and to notify the Merchant of such variation by such means as the Bank thinks fit. Any such variation will become effective upon such notification.

14) In this Agreement, unless the context requires otherwise, words denoting the singular number include the plural number and vice versa.

15) This Agreement shall be governed by and construed in accordance with the laws of Samoa.

The Schedule:

1. A Charge Card or Debit Card issued by a member or affiliate of MasterCard International Inc. on which the MasterCard or Master Card II marks appear, and any other card conforming to the standards established by MasterCard International Inc. in, respect of which details have been advised to the Merchant by the Bank.
2. A charge card or debit card issued by a member or affiliate of Visa Card International on which the Visa marks appear and any other card conforming to the standards established by Visa Card International in respect of which details have been advised to the Merchant by the Bank;
3. Or any other Charge Card or Debit Card which the Bank requests the Merchant and the Merchant agrees to honour.

Signed for and on behalf of (Merchant Trading Name)

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Merchant's Authorised Signatory (ies)

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Date

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Signed for and on behalf of Bank South Pacific :
Bank South Pacific Representative

Name (Please print)	Title	Signature
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Branch/Department

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In the presence of

Name (Please print)	Title	Signature
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Date

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