

MEMORANDUM OF AGREEMENT LANDBANK LINK.BIZPORTAL

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement (the "Agreement") made and entered into this _____ day of _____, 20____ by and between:

The _____ (MERCHANT'S NAME),
principal office address with at

represented herein by its _____,
_____, hereafter referred to as "(MERCHANT)"

- and -

The **LANDBANK OF THE PHILIPPINES**, a government financial institution created and existing under and by virtue of the provisions of Republic Act No. 3844, as amended, with principal office address at 1598 M. H. del Pilar cor. Dr. J. Quintos Sts., Malate, Manila, represented herein by its President and Chief Executive Officer, _____, through his/her duly authorized representative, _____, hereinafter referred to as "**LANDBANK**" (whenever applicable, **PARTIES** or **PARTY** shall refer to both or either (MERCHANT) or **LANDBANK**)

WITNESSETH THAT:

WHEREAS, the (MERCHANT), pursuant to the provisions of Republic Act No. 8792, otherwise known as the "Electronic Commerce Act of 2000," is currently undertaking the modernization of its facility to provide fast and efficient alternative payment collection services to its clientele;

WHEREAS, **LANDBANK** designed and operated the **LANDBANK Link.BizPortal** to allow partner-merchants' clients to directly transact with the **LANDBANK** payment gateway or allow partner-merchants to directly interface with the **LANDBANK** payment gateway, whichever is applicable;

WHEREAS, under **LANDBANK Link.BizPortal**, (MERCHANT) clients may transact business and/or pay their monetary obligations to (MERCHANT) via the internet using any of the ePayment models being offered by **LANDBANK**, and subject to the terms and conditions appurtenant thereto;

WHEREAS, (MERCHANT) agrees to enter into direct agreement with **LANDBANK's** Payment Service Provider (PSP) to avail of the ePayment models offered by **LANDBANK**, as applicable;

WHEREAS, LANDBANK has been chosen as the sole depository and financial settlement bank of **(MERCHANT)**, subject to the following conditions mutually agreed upon by the **PARTIES**;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants stipulated herein, the **PARTIES** hereby agree as follows:

1. OBLIGATIONS OF LANDBANK

1.1 Provide the **LANDBANK Link.BizPortal** to be directly transacted by the **(MERCHANT)** clients or to interface, if applicable, with **(MERCHANT)**'s web application and be able to perform the following:

1.1.1 Online Payment by **LANDBANK** and **(MERCHANT)** Clients –

1.1.1.1 The **LANDBANK Link.BizPortal** shall be made accessible to the clients of both **(MERCHANT)** and **LANDBANK** through the web and be able to allow said clients to pay their transactional fees and charges assessed online/manually by **(MERCHANT)**;

1.1.1.2 The **LANDBANK Link.BizPortal** shall be available to cardholders/clients maintaining a Philippine Peso account either with **LANDBANK** or other banks;

1.1.1.3 The **LANDBANK Link.BizPortal** shall issue a Payment Confirmation Slip as proof of debit to account or an Electronic Official Receipt (eOR) as proof of payment, if available from the **(MERCHANT)**; and

1.1.1.4 The **LANDBANK Link.BizPortal** shall likewise allow the clients of **(MERCHANT)** and **LANDBANK** to print copy/ies of the aforementioned slips/receipts relating to their online transactions.

1.1.2 Inquiry by **(MERCHANT)** –

1.1.2.1 The **LANDBANK Link.BizPortal** shall provide information on the number and total amount of transactions/collections per day in accordance with the Report Format provided in the Merchant Payment Inquiry (MPI) Module.

1.2 Ensure that necessary **LANDBANK Link.BizPortal** security is in place;

1.3 Coordinate with the **(MERCHANT)** for the connectivity, user acceptance, and pilot testing, and full implementation of the **LANDBANK Link.BizPortal** project where **LANDBANK** is involved;

1.4 Allow the **(MERCHANT)** to put the **LANDBANK Link.BizPortal** link/URL on its website;

- 1.5 Collect, in accordance with standard business practices and as agreed upon by the **PARTIES**, reasonable transaction fees for both the existing and new payment options from the **(MERCHANT)** clients to recover the cost of the implementation of the LANDBANK Link.BizPortal enhancements on the use of various payment options, as follows:

PAYMENT OPTION	TRANSACTION AMOUNT	TRANSACTION FEE/MERCHANT DISCOUNT RATE (MDR)
LANDBANK ATM/Prepaid/Visa Debit Cards	No limit	P7.00
BancNet-Member Bank ATM/Debit Cards	No limit	P17.00
Globe G-Cash Accounts	P1.00 to P999.00	P25.00
	P1,000.00 and above	P35.00
Cash Payment	No limit	P30.00
PESONet	No limit	P17.00
*GPAP Credit Card Payment (Select applicable transaction amount).	P1,000.00 and below	P30.00
	Above P1,000.00	<ul style="list-style-type: none"> • Minimum MDR of 2.5%, if merchant is tax-exempt. • Minimum MDR of 3.0%, if merchant is not tax-exempt. • Cross-Border fee of 0.05% per transaction for the use of credit card from an issuing bank not located in the Philippines

* Required Monthly Sales (RMS) volume of P500,000.00, otherwise a Monthly Maintenance and Licensing Fee per Merchant ID of P2,000.00 per month in case the Merchant did not meet the RMS.

Any changes in the payment options and transaction fees shall be subject to the agreement of both **PARTIES**.

- 1.6 Provide the **(MERCHANT)** with the required reports and/or documentation as may be agreed upon by the **PARTIES**; and
- 1.7 Refer to **(MERCHANT)** any disputed transaction by the client and provide related information as necessary.

2. OBLIGATIONS OF (MERCHANT)

- 2.1 Ensure the availability of its internet facility to **LANDBANK**;
- 2.2 Provide relevant information, data, and/or technical support during the pre-implementation stage up to the full implementation stage of the **LANDBANK Link.BizPortal**;
- 2.3 Undertake to define and design the look and feel of the website in accordance with its corporate communications and marketing guidelines;
- 2.4 Commit to undertake the following:
 - 2.4.1 To designate **LANDBANK** as the sole depository and financial settlement bank and all of its offices under its jurisdiction;
 - 2.4.2 Assist **LANDBANK** in providing information to **(MERCHANT)** clients the appropriate transaction fees that **LANDBANK** may rightfully impose on said clients' ePayment transactions; and
 - 2.4.3 Submit additional documentary requirements as deemed necessary by PSP for the use of other internet payment gateways.
- 2.5 Responsible for the delivery of the products or provision of the services that are the subject of the transaction of the client with the **(MERCHANT)**; and
- 2.6 Resolve any disputed transaction wherein:
 - 2.6.1 The client disputes the nature, quality, use or fitness of the goods sold and/or services entered under the transaction, or alleges that the **(MERCHANT)** has breached the terms of the contract of sale or service entered into between the **(MERCHANT)** and the client or any representation or warranty made by the **(MERCHANT)** to the client; and
 - 2.6.2 The client disputes or denies that the transaction was effected by him or the contract of sale or service with the **(MERCHANT)** was entered into by him or delivery of the goods sold and/or performance of the services rendered under the transaction was received by him.
- 2.7 Adhere to the Minimum Guaranteed Transaction (MGT) requirement per year as follows:
 - 2.7.1 Zero transactions for the first year.
 - 2.7.2 At least 50 transactions for the second year.
 - 2.7.3 At least 100 transactions for the third year.

3. TERM AND TERMINATION

- 3.1 This Agreement is in effect when signed by the **PARTIES** and shall end when either or both **PARTIES** decide to terminate this Agreement in accordance with the provisions of this Agreement;
- 3.2 Upon termination of this Agreement, any supplementary agreements shall also be deemed terminated;
- 3.3 This Agreement may be terminated:
 - 3.3.1 Upon occurrence of the following events of default:
 - 3.3.1.1 The failure of either **PARTY** to perform any of its obligations pursuant to the terms of this Agreement due to no fault of the other;
 - 3.3.1.2 Any misrepresentation of a **PARTY**; and
 - 3.3.1.3 In the event of a pattern of continuing or repeated non-compliance, wilful violation, or non-performance of other terms and conditions hereof, which is hereby deemed a material breach of this Agreement.

In such cases, the non-defaulting **PARTY** may, after thirty (30) calendar days prior written notice, terminate this Agreement, provided, that if upon receipt of such notice, the defaulting **PARTY** shall promptly and with all due diligence, cure the default within the notice period, then such notice shall be of no force and effect.

 - 3.3.2 Upon modification resulting in inconsistencies to the provisions of this Agreement, revocation, or substitution with the written and mutual agreement of the **PARTIES** hereto; and
 - 3.3.3 Upon the **PARTIES'** mutual agreement in writing for any cause whatsoever.
- 3.4 Anything in this Agreement to the contrary notwithstanding, any delay in or failure of performance by either **PARTY** of its obligation under this Agreement shall not constitute default or give rise to any right to terminate this Agreement if, and to the extent that, such delay or failure is caused by an occurrence beyond the reasonable control of such **PARTY**, including, but not limited to the following: acts of God; compliance with any order of any governmental authority; acts of war, rebellion, insurrection, riots or sabotage; breakdowns; epidemics; or any other case, whether or not of the same class or kind as those specifically described above, not within the reasonable control of the **PARTY** affected.

Such causes or occurrences affecting performance by either **PARTY** shall not relieve such **PARTY** of liability in the event of its concurring negligence, or in the event of its failure to use due diligence to avoid or to remedy the situation.

The **PARTY** encountering the circumstances referred to above shall without delay provide the other **PARTY** with detailed information of the events constituting the same.

Upon consultation, both **PARTIES** shall, decide whether to terminate this Agreement, or to exempt, defer, or suspend the performance of part of obligations of either **PARTY**. Such decision shall be in writing and signed by their respective representatives.

4. CONFIDENTIALITY

- 4.1 The **PARTIES** mutually agree that it will hold any confidential information in strict confidence including personal information pursuant to Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012. Under the terms of confidentiality, the **PARTIES** agree that any such information will be treated with the utmost confidentiality, and that the **PARTIES** and their employees/representatives will use reasonable efforts to protect such information in their possession against any accidental or unlawful destruction, alteration and disclosure, as well as against any other unlawful processing. The **PARTIES** agree that such information shall not be disclosed to third **PARTIES** without the prior written consent of the other **PARTY**, and that the each **PARTY** will exercise the same degree of care as it applies to protect its own confidential information of similar nature that it does not desire to publish, disclose, or disseminate. This obligation shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement;
- 4.2 In accordance with R.A. 10173 (Data Privacy Act), **PARTIES** shall ensure that appropriate organizational, physical, and technical measures are in place to maintain the confidentiality, integrity and security of all personal data that may come to its knowledge or possession by reason of any provision of this Agreement and that its employees, agents, representatives, or any person acting under its authority shall hold personal information under strict confidentiality at all times; and
- 4.3 Any information received by either **PARTY** shall not be considered as confidential information if:
- 4.3.1 It has been published or is otherwise readily available to the public other than by a breach of this Agreement;
- 4.3.2 Which may now or hereafter come into public knowledge otherwise than as a result of a breach of an undertaking of

confidentiality, or which is obtainable with no more than reasonable diligence from sources other than any of the **PARTIES** hereto;

- 4.3.3 Which is required by law to be disclosed to any person who is authorized by law to receive the same;
 - 4.3.4 To a court, arbitrator or administrative tribunal, the course of proceedings before it to which the disclosing **PARTY** is a **PARTY**; and
 - 4.3.5 It was known to the receiving **PARTY** prior to its first receipt by such **PARTY**, shown by files existing at the time of initial disclosure.
- 4.4 No public announcement or statement regarding the signature, performance or termination of this Agreement shall be issued or made, unless prior thereto all **PARTIES** have been furnished a copy thereof and have approved the same.

5. LIMITATION OF LIABILITY

The **PARTIES** shall hold each other free from any damage and or liability that may arise from or occasioned by the exercise of their rights and obligations under this Agreement except when such damage or liability is attributable to the gross negligence or willful misconduct of a **PARTY** or any of its officers, representatives or employees. The **PARTIES** further hold each other free and harmless from any claim or demand brought by their employees, agents, representatives, sub-contractors, clients, or other third persons arising from or related to non-payment of any obligation contracted by either **PARTY** in connection with the services or obligations undertaken pursuant to this Agreement.

6. COMMON PROVISIONS

- 6.1 The **PARTIES** shall jointly formulate and abide by the guidelines and procedures in the implementation of the LANDBANK Link.BizPortal, which shall be supplementary to this Agreement and form an integral part hereof, as applicable;
- 6.2 The **PARTIES** shall put in place and maintain throughout the Project a mechanism for ongoing consultation between the representative/s of both **PARTIES** on the progress, implementation, and other issues which may arise in connection with the LANDBANK Link.BizPortal and the terms and conditions of this Agreement; and

- 6.3 All rights, determinations, discretions, or approvals that may be provided for in this Agreement shall be reasonably exercised in good faith and shall not be unreasonably withheld by any of the **PARTIES**.

7. GENERAL PROVISIONS

- 7.1 *Amendment.* Any amendments or additional terms and conditions to this Agreement must be in writing, signed, and acknowledged by the **PARTIES**.
- 7.2 *Review.* This Agreement shall be subject to a yearly review by the **PARTIES** for the purpose of determining necessary amendments or the continued effectivity hereof.
- 7.3 *Severability.* If any provision of this Agreement is held by competent judicial authority to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the other provisions shall be unaffected.
- 7.4 *Effect of Waiver.* An effective waiver under this Agreement must be in writing signed by the **PARTY** waiving its right. A waiver by either of the **PARTIES** of any instance of the other's non-compliance with any obligation or responsibility under this Agreement shall not be deemed a waiver and shall not affect its right to enforce any provision of this Agreement at a subsequent time. All rights and remedies existing under this Agreement are cumulative, and not exclusive of, any rights or remedies otherwise available.
- 7.5 *Venue of Action.* The **PARTIES** shall endeavor in good faith to settle any claim, dispute or controversy through compromise or amicable settlement. However, in the event that the **PARTIES** fail to reach any settlement within a reasonable period, all claims, disputes, and controversies arising from or relating to this Agreement shall be brought before the proper courts of the City of Manila to the exclusion of all other courts.
- 7.6 *Assignment.* A **PARTY** shall not assign, transfer or encumber its right, title and/or obligation under this Agreement without the other's prior written consent, which shall not be unreasonably withheld, and no right, title, interest and/or obligation herein shall be conferred on or vested in any **PARTY** without said written consent. It is understood that no assignment shall release the assigning **PARTY** from any of its obligations hereunder.

8. MISCELLANEOUS PROVISIONS

- 8.1 *Authority.* Each **PARTY** represents and warrants that it has taken all appropriate and necessary corporate actions to authorize the execution

and delivery of this Agreement, and to perform and be bound by the terms and conditions hereof.

- 8.2 *Force Majeure.* No **PARTY** shall be deemed to have defaulted or breached this Agreement for any delay or failure to fulfill any obligation by reason of force majeure or fortuitous event, including, but not limited to, strikes, accidents, acts of war or terrorism, civil or military disturbances, natural calamities or acts of God, loss or malfunction or utilities, communications or computer software or hardware; Provided, however, that the **PARTIES** shall resume performance of their respective obligations as soon as reasonably practicable under the circumstances.
- 8.3 *Indemnity.* The **MERCHANT** shall defend, indemnify, and hold **LANDBANK**, its officers, representatives, and employees, free and harmless from and against all claims, damages, liabilities and costs of every kind and character resulting from or relating to the inaccuracy, nonfulfillment or breach of any representation, warranty, covenant, or obligation of the **MERCHANT**.
- 8.4 *Further Assistance.* Subject to the terms and conditions herein provided, each of the **PARTIES** shall use its best efforts to take such action and execute and deliver such additional documents and instruments as may be reasonably requested or necessary to carry out the intents and purposes of this Agreement.

IN WITNESS WHEREOF, the **PARTIES**, through their authorized representatives have hereunto signed this instrument this ____ day of ____, 20__ at _____, Philippines.

MERCHANT'S NAME

By:

LAND BANK OF THE PHILIPPINES

By:

(Authorized Representative)

Title/ Position:

Date: _____

CECILIA C. BORROMELO

President and CEO

Date: _____

WITNESSES:

ACKNOWLEDGMENT

Republic of the Philippines)
_____)S.S.

BEFORE ME, a Notary Public for and in _____ personally
appeared:

NAME OF CONTRACTING PARTIES	COMPLETE EVIDENCE OF IDENTITY	DATE/PLACE ISSUED

known to me and to me known to be the same persons who executed the foregoing instrument and acknowledged that the same is the free and voluntary act and deed and those of the Agency and Bank represented.

This instrument refers to a Memorandum of Agreement consisting of _____ (____) pages, including this page on which this Acknowledgment is written, duly signed by the authorized representatives of the **PARTIES** and their witnesses on each and every page hereof.

IN WITNESS WHEREOF, I hereunto set my hand and set this _____ day of _____, 20____.

NOTARY PUBLIC

Doc. No. _____;
Page No. _____;
Book No. _____;
Series 20 _____.



LANDBANK

Branch _____

LANDBANK LINK.BIZPORTAL MERCHANT PAYMENT INQUIRY USER ENROLLMENT FORM

☐ New Enrollment ☐ Update Information (Pls. specify: _____) ☐ Delete Enrollment

Enrollment Date _____

TYPE OF PARTNER-MERCHANT:

GOVERNMENT INSTITUTION ☐ NGA ☐ GOCC ☐ SUC ☐ LGU ☐ OTHERS: (Pls. specify _____)

PRIVATE INSTITUTION ☐ UTILITY/ SERVICE ☐ CORPORATION/ ENTERPRISE ☐ SCHOOL/ UNIVERSITY ☐ COOPERATIVE

MERCHANT/AGENCY NAME	MERCHANT CODE
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NAME (USER 1)			TEL. NO.		
LAST NAME	FIRST NAME	MIDDLE NAME	AREA CODE	TEL.	EXT.

USER ID (Max of 15 characters)	USER NAME (Max of 20 characters)	FAX NO.	ALTERNATE TEL. NO.		
		AREA CODE TEL. EXT.	AREA CODE	TEL.	EXT.

DEPARTMENT	E-MAIL ADDRESS	MOBILE NO.
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NAME (USER 2)			TEL. NO.		
LAST NAME	FIRST NAME	MIDDLE NAME	AREA CODE	TEL.	EXT.

USER ID (Max of 15 characters)	USER NAME (Max of 20 characters)	FAX NO.	ALTERNATE TEL. NO.		
		AREA CODE TEL. EXT.	AREA CODE	TEL.	EXT.

DEPARTMENT	E-MAIL ADDRESS	MOBILE NO.
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NAME (USER 3)			TEL. NO.		
LAST NAME	FIRST NAME	MIDDLE NAME	AREA CODE	TEL.	EXT.

USER ID (Max of 15 characters)	USER NAME (Max of 20 characters)	FAX NO.	ALTERNATE TEL. NO.		
		AREA CODE TEL. EXT.	AREA CODE	TEL.	EXT.

DEPARTMENT	E-MAIL ADDRESS	MOBILE NO.
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I/We hereby agree to the terms and conditions governing the LANDBANK Link.BizPortal

I/We declare under oath that this LANDBANK Link.BizPortal Merchant Payment Inquiry User Enrollment Form has been accomplished by me/ourselves, and is true, correct and complete statement pursuant to the provisions of pertinent laws, rules and regulations of the Republic of the Philippines.

I/We also authorize the Land Bank of the Philippines and/or its authorized representative to verify/validate the contents stated herein.

Signature Over Printed Name

Signature Over Printed Name

Notes: 1. It is the responsibility of the client to inform the Bank should there be any changes in the MPI Enrollment Form

BANK USE ONLY

FOR BRANCH:			FOR EPD ENROLLMENT:	
Signature Verified by:	Checked by:	Approved by:	Encoded by:	Approved by:
_____ Signature Over Printed Name	_____ Signature Over Printed Name	_____ Signature Over Printed Name	_____ Signature Over Printed Name	_____ Signature Over Printed Name

Distribution: Copy 1: MCMD Copy 2: Merchant Copy 3: LBP Depository Bank

Note: 1. Please write "Not Applicable" or N/A for fields with no applicable date and/or "Nothing Follows" immediately after the last item.
2. Please use additional sheets, if necessary

PAYMENT INSTRUCTION FORM

Date: _____

We understand that Land Bank of the Philippines ("**LBP**") has partnered with Global Payments Asia Pacific Philippines, Inc. ("**Global**") to provide us, the Sponsored Merchant, with merchant acquiring services to enable us to accept credit, debit and prepaid cards, specifically those branded as MasterCard, Visa, JCB, UnionPay, and ATM/debit cards issued by BancNet and/or Megalink member-banks, for the payment of goods sold and/or services rendered.

_____ ("**Sponsored Merchant**") understands that LBP will provide and continue to provide customer support and billing associated technology services. Sponsored Merchant has read, understands and agrees to be bound by the Merchant Card Services Terms and Conditions (attached to the MOA) which may be modified or amended from time to time, and Sponsored Merchant further understands and agrees that it constitutes a "Merchant" as defined in the Merchant Card Services Terms and Conditions.

Sponsored Merchant hereby authorizes Global to credit the daily settlement proceeds through LBP, and LBP will then further credit Sponsored Merchant's deposit account maintained with LBP as designated below. The settlement proceeds will be net of (1) the Merchant Discount Fees, and other charges incurred in connection with Sponsored Merchant card processing (2) all chargebacks and adjustments; (3) arbitration fees, fines, penalties, etc. charged by the associations incurred as a result of Sponsored Merchant card processing; and (4) any other amounts described in the Merchant Card Services Terms and Conditions.

Please credit our settlement proceeds as follows:

Pay to Land Bank of the Philippines

For further credit to our -

LBP Account Number: _____

Account Name: _____

Branch Name: _____

SPONSORED MERCHANT AUTHORIZED SIGNATORY

By:

Name:

Title:

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement is entered into by and between the (MERCHANTS NAME), herein referred to as (MERCHANT) and **LAND BANK OF THE PHILIPPINES**, hereinafter referred to as "**LANDBANK**"

WITNESSETH: THAT

WHEREAS, LANDBANK and (MERCHANT) mutually agree to work together for the development and implementation of electronic banking services that will allow cashless payments of various fees, dues and charges.

WHEREAS, in the process, certain confidential information may be exchanged and disclosed between LANDBANK and (MERCHANT).

NOW, THEREFORE, the parties hereto agree, as follows:

1. DEFINITION OF CONFIDENTIAL INFORMATION

All communications or data, in any form, whether tangible or intangible, which are disclosed or furnished by any director, officer, employee, agent, or consultant of any party hereto, including their affiliates and subsidiaries, (hereinafter referred to as "Disclosing Party") to the other party, including their affiliates and subsidiaries, (hereinafter referred to as "Receiving Party") and which are to be protected hereunder against unrestricted disclosure or competitive use by the Receiving Party shall be deemed to be "Confidential Information."

As used herein, the term "Confidential Information" shall mean all non-public, confidential or proprietary information disclosed hereunder, in any tangible or intangible form, such as but not limited to written, oral, visual, audio, those produced by electronic media, or through any other means, that is designated as confidential or that by its nature or circumstances surrounding its disclosure, should be reasonably considered as confidential.

Confidential information shall include, but not limited to products or planned products, processes and/or procedures, technological achievements and interests, customers and potential customers, business prospects, financial statements and information, financial situation and corporate plans, internal activities, future plans of both parties, and all technical, financial or business information, data, ideas, product strategies, business strategies, details of the employees of the Disclosing Party, software, intellectual property rights or processes proprietary to the Disclosing Party, or any other matter in which the Disclosing Party may have any interest whatsoever.

Each Disclosing Party hereby represents and warrants to the Receiving Party that it has lawful rights to provide the confidential information, either in writing, by delivery of items, by initiation of access to information, such as may be in a database, or by audio, oral or visual presentation.

Confidential information should be marked with a restrictive legend of the Disclosing Party. If information is not marked with such legend or is disclosed orally, the information will be identified as confidential at the time of disclosure. Documents will be considered confidential if they are marked with a restrictive legend or they are clearly recognizable as confidential information to a prudent person with no special knowledge of the Disclosing Party's industry.

2. EXCEPTIONS TO THE SCOPE OF CONFIDENTIAL INFORMATION

Confidential information does not include information which:

- 2.1 has been or becomes now or in the future published in the public domain without breach of this Agreement or breach of a similar agreement by a third party;
- 2.2 prior to disclosure hereunder, is properly within the legitimate possession of the Receiving Party, which fact can be proven or verified by independent evidence;
- 2.3 subsequent to disclosure hereunder, is lawfully received from a third party having rights therein without restriction on the third party's or the Receiving Party's right to disseminate the information and without notice of any restriction against its further disclosure;

- 2.4 is independently developed by the Receiving Party through persons who have not had, either directly or indirectly, access to or knowledge of such information which can be verified by independent evidence; or
- 2.5 is disclosed with the written approval of the other party or after the applicable period of confidentiality.

3. SCOPE OF USE

Both parties agree that all or any portion of the confidential information exchanged during discussions, meetings and during the business relationship entered into shall not be used except in the manner set forth in this Agreement.

In accordance with R.A. 10173 (Data Privacy Act), Parties shall ensure that appropriate organizational, physical, and technical measures are in place to maintain the confidentiality, integrity and security of all personal data that may come to its knowledge or possession by reason of any provision of this Agreement and that its employees, agents, representatives, or any person acting under its authority shall hold personal information under strict confidentiality at all times.

4. OBLIGATIONS OF THE RECEIVING PARTY

With respect to the confidential information provided under this Agreement, the Receiving Party, its principals, directors, officers, representatives, employees, existing and prospective clients, associates, agents, affiliates, consultants and entities under the same management as its own, working with the Receiving Party on this matter, shall:

- 4.1 hold the confidential information (regardless of whether it is specifically marked confidential or not) with confidentiality, protect it adequately and retain it in a secure place with access limited only to the Receiving Party's employees or agents who need to know such information for purposes of this Agreement;
- 4.2 restrict disclosure of the confidential information solely to those persons with a need to know and not disclose it to any other person;
- 4.3 advise those persons of, and ensure of their compliance with, their obligation with respect to the confidential information;
- 4.4 not use the confidential information for its own benefit, commercial or otherwise, or that of any other person, directly or indirectly, in any manner whatsoever; and
- 4.5 use the confidential information only strictly for the purposes set forth herein and no other purpose, except as may otherwise be specifically agreed upon in writing.

5. PROPERTY OF THE DISCLOSING PARTY

All confidential information, unless otherwise specified in writing, shall remain the sole and exclusive property of the Disclosing Party and shall be used by the Receiving Party only for the purpose intended, except as may be required by applicable laws or legal process.

If the Receiving Party required to disclose any confidential information in order to comply with any applicable law, or legally binding order of any court, government, administrative or judicial body, it will promptly inform the disclosing Party of the full details of the circumstances of the purpose use or disclose and of the relevant confidential information to be used or disclosed and will give the Disclosing Party reasonable opportunity to seek a protective order or take other appropriate action. The Receiving Party shall also cooperate in the Disclosing Party's efforts to obtain a protective order or other reasonable assurance that confidential treatment will be afforded the information. If in the absence of a protective order and the Receiving Party is compelled as a matter of law to disclose the information, based upon the written option of the Receiving Party's counsel addressed to the Disclosing Party, the Receiving Party may disclose to the party compelling the disclosure only the part of the confidential information as required by law to be disclosed. The Receiving Party shall advise and consult with the Disclosing Party and its counsel as to such disclosure and the Receiving Party shall use its best efforts to obtain confidential treatment thereof.

6. RETURN OF CONFIDENTIAL INFORMATION

All confidential information, including but not limited to copies, summaries, excerpts, extracts or other reproduction thereof, shall be returned to the Disclosing Party or destroyed after the Receiving Party's need for it has expired or upon request of the Disclosing Party, and certify that the same have been destroyed.

Further, in any event at any time a Receiving Party ceases to have an active interest in the Project, the Receiving Party shall immediately return to the Disclosing Party all copies of confidential information in its possession without retaining any copies or excerpts thereof. That portion of confidential information shall be destroyed immediately upon the Disclosing Party's request and any verbal confidential information shall continue to be subject to the terms and conditions of this Agreement.

7. REPRESENTATION OR WARRANTY

The Disclosing Party makes no representation or warranty as to the accuracy or completeness of the confidential information and the Disclosing Party and its employees and agents shall have no liability to the Receiving Party for any loss or damage resulting from any use of or reliance on any of the confidential information, except as otherwise provided in a formal written agreement executed between the parties.

However, this disclaimer shall, in and of itself, not apply to or limit any specific warranties that the Disclosing Party may expressly give in other agreements between the Disclosing Party and the Receiving Party. The Receiving Party agrees that it will form its own conclusions as to the reliability of any confidential information and as to any conclusion to be drawn therefrom, and will not charge the Disclosing Party with liability for any damage resulting from mistakes, inaccuracies or misinformation contained therein. The Receiving Party understands and acknowledges that the Disclosing Party does not undertake any obligation to provide any party with access to any specific or additional information.

8. MISCELLANEOUS

No waiver or modification of this Agreement or any of its terms shall be valid or enforceable unless it has been reduced to writing and signed by both parties.

If any provision of this Agreement is illegal, inconsistent or unenforceable, its invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision.

Each party expressly understands that the confidential information is of commercially valuable and highly sensitive nature. In the event that the Disclosing Party discovers that the Receiving Party has made or makes or intends to make or causes to be made any unauthorized disclosure of the confidential information, the Disclosing Party shall be entitled to take out an injunction against the Receiving Party or any third party involved in such unauthorized disclosure, to restrain if from making any such disclosure. In addition to or in the alternative, as the case may be, the Disclosing Party shall be entitled to exercise any and all other legal and equitable remedies as are available in respect of the breach of this Agreement and to further protect the confidential information.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures this ____ day of _____, 20__ in the City of _____.

(MERCHANT)

LAND BANK OF THE PHILIPPINES

President and CEO

President and CEO

SIGNED IN THE PRESENCE OF:
