

INTERNET BANKING FACILITY AGREEMENT**BETWEEN****BANK GABORONE LIMITED**

Facsimile Number (00267) 3901125
Telephone Number (00267) 3671500
Private Bag 00325
GABORONE
Plot 5129, Queens Road, Gaborone

(Mark for attention of Supervisor: Electronic Channels)

(Bank Gaborone Limited)

and

(_____)

Corporate Account Holders

Application form for e-Pula Internet Banking Service

| | | | | | | | | | | | | | | |
|-------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| RIM Number: | | | | | | | | | | | | | | |
|-------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

| | | | | |
|------------------------|---------------------|--------------------------|---------|--------------------------|
| Type of Proprietorship | Sole Proprietorship | <input type="checkbox"/> | Company | <input type="checkbox"/> |
| | Partnership | <input type="checkbox"/> | Other | <input type="checkbox"/> |

1. Company Information – for billing purposes

| | |
|---------------------|--|
| Company Name | |
| Company Address | |
| Key Contact Person | |
| Telephone No | |
| E-mail | |
| Account Branch Name | |

2. Accounts Information

| ACCOUNT NUMBER | LIMITS | RIGHTS-VIEW OR TRANSACT |
|----------------|--------|-------------------------|
| | | |
| | | |
| | | |

3. Additional Users

| USER | ACCOUNT NUMBER | ACCOUNT LIMIT | RIGHTS-VIEW OR TRANSACT | CELL PHONE NO. | EMAIL ADDRESS |
|------|----------------|---------------|-------------------------|----------------|---------------|
| | | | | | |
| | | | | | |
| | | | | | |

4. Signing Powers (tick the appropriate rights)

Dual Signatory Sole Signatory

5. Authority to debit my/our account

I/we request and authorize Bank Gaborone to debit my/our bank account for the transaction charges as stated in Annexure A commencing on _____.

These instructions are to remain in force until cancelled by me/us in writing.

We hereby confirm that the information given is true and correct and we agree to abide by the terms and conditions for e-Pula internet banking Service.

Authorized Signature

Authorized Signature

Authorized Signature

Date: _____

3. BANK GABORONE INTERNET BANKING

STANDARD TERMS AND CONDITIONS OF USE

3.1 MEANING OF WORDS

In this Agreement, except in a context indicating that some other meaning is intended –

- 3.1.1 "the account" means the account held in the Client's name together with any other accounts in respect of which the Client holds a valid mandate;
- 3.1.2 "the Bank" means Bank Gaborone Limited (Registration Number 2004/8812), a registered bank duly incorporated in accordance with the laws of the Republic of Botswana;
- 3.1.3 "the Bank's Internet Banking site" means the e-pula site which is used for internal transfers and effecting electronic payments and external transfers;
- 3.1.4 "the Billing Account" means the Client's nominated account used for the purpose of debiting the fees payable in terms of this Agreement, the details whereof are contained in Annexure A hereto.
- 3.1.5 "commencement date" means the date of signature of this Agreement;
- 3.1.6 "e-pula" also means the Facility's interface for effecting electronic payments and external transfers
- 3.1.7 "the Facility" means Bank Gaborone Internet Banking, which for the time being includes the following services:
- 3.1.7.1 Obtaining information relating to the Client's accounts, including transactions and standing instructions.
- 3.1.7.2 Transferring funds to and from the account.
- 3.1.7.3 Requesting from the Bank the supply of statements and inquiries, which relate to the account.
- 3.1.7.4 The paying of accounts/third party payments by using the e-pula interface.
- 3.1.7.5 Effecting own defined payments.
- 3.1.8 "the Client" means the Person or Entity named in this Agreement and shall include any nominee and/or person acting on behalf of the Client.
- 3.1.9 "the Internet" means the global network accessible through an Internet Service Provider, by any person with a personal computer;
- 3.1.10 "the nominee" means any person authorised or deemed to be authorised by the Client to use the Facility, whose details appear in this Agreement to which these standard terms and conditions of use are annexed;
- 3.1.11 "the parties" mean the parties to this Agreement and "party" means any one of them;
- 3.1.12 "the Client's Password" means the confidential password chosen by the Client for himself/herself and for each nominee and used as a security and authentication measure.
- 3.1.13 "the Rules" mean the Rules for Electronic Fund Transfers as detailed on Annexure B to this Agreement;
- 3.1.14 "a valid mandate" means a legitimate instruction given to the Bank by a third party authorising the Client to act on behalf of the third party;
- 3.1.17 "Login ID" means the user name chosen for the Client for use on the Facility;
- 3.1.19 In this Agreement –
- 3.1.19.1 references to or expressions in the singular also denote the plural and *vice versa*;
- 3.1.19.2 words and phrases denoting natural persons refer also to juristic persons and *vice versa*; and
- 3.1.19.3 pronouns of any gender include the corresponding pronouns of other genders.

3.2. RECORDAL

- 3.2.1 The Client wishes to conduct banking business from the Client's own premises.
- 3.2.2 The Bank will provide a Facility known as Bank Gaborone Internet Banking to the Client upon the terms and conditions as set out below. The Bank may vary the terms and conditions, insofar as they relate to the Client's use of the Facility, after giving the Client not less than one (1) month's written notice, except in circumstances where legislation requires an immediate change.
- 3.2.3 In pursuance of the foregoing the Client confirms that -
- 3.2.3.1 he is aware that all such changes shall be reflected on the Bank's Internet Banking site;
- 3.2.3.2 by entering the Client's Password to gain access to the Bank's Facility, he is bound to the terms and conditions in force at that time as they appear on the Bank's Internet Banking site;
- 3.2.3.3 the Bank may, in its sole discretion, compile an audit trail of all transactions made by the Client using the Facility, and the same shall be *prima facie* proof of any instruction given or request made to the Bank.
- 3.2.4 The Bank will make reasonable effort to ensure that the Facility will be available at all times specified by it from time to time, subject to the availability of the Internet connection and to any periods required for necessary maintenance of the Facility or the accounts.
- 3.2.5 The provision of the Facility will not entitle the Client to overdraw the account if borrowing arrangements have not been made with the Bank, nor to overdraw in excess of any borrowing limit agreed to by the Bank.
- 3.2.7 Provided that the transactions submitted by the Client to the Bank -

- 3.2.7.1 Comply with this Agreement and the Rules; and
 3.2.7.2 are suitable for processing by the Facility, the Bank shall on or after the operative date process such transactions in accordance with the Rules.

3.3. INTERNET

- 3.3.1 The Client must obtain access to the Facility via the Internet. For this purpose, the Client must, where applicable, register with an Internet Service Provider, before the commencement date.
- 3.3.2 The Client will be solely responsible for the acquisition, installation and maintenance of the connection to the Internet and any related costs or expenses will be borne by the Client.
- 3.3.3 Should the Internet software and hardware requirements be modified with a view to improving or upgrading the Internet and/or the Facility, the resultant cost of any hardware, software or Internet connection required so as to use the Facility will be for the Client's account.

3.4. FEES

- 3.4.1 The Client authorises the Bank to debit the Billing Account with the fees for the services selected by the Client from time to time.
- 3.4.2 The fees may be amended by the Bank from time to time.
- 3.4.3 The fees charged for the Facility includes Value Added Tax, which is for the Client's account.

3.5. AUTHORIZATION AND SECURITY

- 3.5.1 The Client authorises the Bank to carry out any and all instructions given via the Facility, including the debiting of and transfer of funds from the account by way of the e-pula interface, and the furnishing of information on the accounts, provided that the instructions are authenticated by the use of:
- 3.5.1.1 The Client's username.
 3.5.1.2 The Client's Password.
 3.5.1.3 The Client's Transaction Password.
 3.5.1.5 Any other procedures which may be agreed to in writing between the Client and the Bank.
- 3.5.2 On request of paying of accounts/third party payments, the Client will not hold the Bank responsible for any loss, damage or liability which may arise out of the non-payment or late payment of any account for which a payment instruction has been given to the Bank, or which may arise out of the failure or unavailability of the third party's facilities or systems, or the inability of any third party to process a transaction.
- 3.5.3 The Client indemnifies the Bank in respect of any loss or damage or claim that may be instituted against the Bank arising from non-payment or late payment in this respect. For purposes of this clause, "third party", includes, without limitation, any Electronic Clearing House (ECH) and all other financial institutions where the destination accounts are kept.
- 3.5.4 The Client accepts the financial limits imposed on transfer and collection of funds, which limits may be altered at any time by the Bank.
- 3.5.5 It is the Client's responsibility to control and restrict access to the Facility. The Bank will supply the Client with the means to register Client's Passwords for each nominee. All nominees, accompanied by the Client, will need to call on the branch, identify themselves and select an individual Client's Password. The client can change his/her password on the site or by giving written instructions to the Bank at any time. It is the Client's responsibility to ensure that the Client's Passwords supplied to nominees are changed regularly.
- 3.5.6 The Client must keep the details of his Password secret. The Client must not disclose his Password, thereby giving access to any person. The Client must notify the Bank immediately on becoming aware that his Client's Password may have fallen into the hands of an unauthorised person. In the event that a Client believes that his Client's Password has been taken or used without authorization or permission, then the Client must take immediate steps to notify any branch of the Bank, in writing by letter/email or immediately change the passwords online.
- 3.5.7 If any unauthorised person obtains the Client's Passwords in any manner whatsoever, such person shall be regarded as the Client's duly authorised agent with full authority to use the Facility on the Client's behalf, unless the reason why such person has obtained the Client's password is due to a culpable mistake or internal fraud on the part of the Bank.
- 3.5.8 The Client must take all reasonable precautions to prevent unauthorised use of the Facility and unauthorised access to the account.
- 3.5.9 The Client warrants his authority to deal with the accounts in the name of a third party on the basis of a valid mandate.
- 3.5.10 Transactions made through the Facility will be recorded electronically. Transfers from one Bank Gaborone account to another Bank Gaborone account will be reflected as soon as reasonably possible. Transfers/payments to accounts held with other financial institutions will be debited immediately but will be reflected on the recipients' account within the shortest reasonable period thereafter depending on the third party service used.
- 3.5.11 The Client understands and accepts that any confirmed instruction given by the Client via the Facility is irreversible. The Client must, therefore, before confirming any instruction, ensure that account details and other information provided regarding the instruction, are correct.
- 3.5.12 The Client understands that for security purposes and to maintain the highest level of service, telephone conversations made by the Client to the Bank's Client Care Centre in respect of the Facility may be recorded.

3.6. DETERMINATION OF RISK AND INDEMNITY

- 3.6.1 The Client understands that the use of the Facility is at the Client's own risk and that the Bank shall not be liable for any damage, loss or consequential damage which the Client may suffer that include without limiting the generality of the foregoing -
- 3.6.1.1 any malfunction or defect in the hardware used by the Client (which shall include the personal computer);
 3.6.1.2 any defect in the software used by the Client to gain access to the Facility;
 3.6.1.3 any act or omission by the Internet Service Provider or any defect in the Internet network or any other medium by which access is gained to the system;

- 3.6.1.4 the Facility being off-line or unavailable in whole or in part due to the failure or breakdown of the Bank's communication network, ancillary equipment, computer systems or any other circumstance;
- 3.6.1.5 the incorrect or late execution of any instruction given by the Client due to the circumstances set out in 3.6.1.1 to 3.6.1.4 above;
- 3.6.1.6 any industrial action;
- 3.6.1.7 any failure or unavailability of the Facility, or the failure by the Bank to perform a transaction as a result of the loss or destruction of data, the deterioration or corruption of storage media, power failures, natural phenomena, riots, acts of vandalism, sabotage, terrorism or other circumstances/events not reasonably within the Bank's control; and

3.6.2 The Client indemnifies the Bank against any claim against the Bank or any loss which the Bank may suffer as a result of the Client's use of the Facility and, in particular as a result of any wrong, unauthorised and/or wrongful instructions or information given by the Client or any other person authorised or deemed to be authorised.

3.6.3 In the event that the Client elect to transmit or accept documents and/or instructions to or from the Bank by means of electronic mails (e-mails) or facsimile messages the Client accepts the risks associated with these forms of communication and hereby indemnify and hold the Bank harmless against all demands, actions and proceedings which may be made or instituted against the Bank, and all loss or damage which may be suffered by the Bank, whether directly or indirectly arising out of the Client's election to use electronic mails or facsimile messages in the Client's dealings with the Bank.

3.6.4 In the event that the Client experiences problems with the Internet and the Internet connection, it is the Client's responsibility to liaise with the Internet Service Provider prior to contacting the Bank.

3.6.5 Notwithstanding anything to the contrary contained in 3.6.2 the Bank shall not be indemnified in the event of any loss, costs, fees, damages, liabilities, claims, suits and demands which may result from any gross negligence or intentional act or omission on the part of the Bank

3.6.7 The Client furthermore:

3.6.7.1 Indemnifies the Bank and the Customer's bank and undertakes to hold each of them harmless from any and all loss, costs, fees, damages, liabilities, claims, suits and demands whatsoever which they may suffer, incur or be under or which may be made or brought against them by whomsoever, by reason of or in any way arising out of -

3.6.7.1.1 the payment of any debit or credit originated or purporting to be originated by the Client; or

3.6.7.1.2 the failure whether with or without cause and whether intentional or inadvertent, to pay any such transaction; save where such failure occurs as a result of the gross negligence and/or misconduct by the Bank; and

3.6.8 The warranty and indemnity given herein shall remain operative and enforceable, notwithstanding the termination of this agreement in respect of any such loss, costs, fees, damages, liabilities, claims, suits or demands as aforesaid, the cause of which arose during the existence and subsistence of this Agreement.

3.6.9 Notwithstanding anything to the contrary contained in 3.6.7.1 the Bank shall not be indemnified in the event of any loss, costs, fees, damages, liabilities, claims, suits and demands which may result from any gross negligence or intentional act or omission on the part of the Bank.

3.7. NOMINEES

3.7.1 The Client must provide the Bank with the necessary written authorizations in terms of which the nominees are authorised to use the Facility.

3.7.2 The Client is entitled to re-assign the nominees by providing the Bank in writing with an authorized amended resolution from time to time.

3.7.3 The said authorized resolution shall be attached to this Agreement from time to time.

3.8. DURATION

3.8.1 This Agreement shall commence on the commencement date and shall terminate upon expiry of thirty (30) days written notice given by either party to the other party.

3.8.2 The Bank shall be entitled, in its discretion, to terminate this Agreement at any time if –

3.8.2.2 the Client breaches any of these terms and conditions, without prejudice to any rights it may have to recover any amounts due to it, or any losses or damages suffered in consequence of such breach.

3.8.3 The Client will be liable for all transactions and/or obligations (and related charges) which are incurred up to and including the date of termination.

3.8.4 In the event of the Facility not being utilized for a period of six (6) months or longer, the Bank reserves the right to terminate the Facility without prior notice. The Client is at liberty to re-apply for the service at any time.

3.9. COMPLIANCE WITH RULES

3.9.1 The parties agree to adhere to the Rules as set out in Annexure B, prescribed and amended by the Bank, from time to time, governing the operation of the Service. Save for changes required to be made in terms of any applicable law in any shorter period, the Bank may amend the provisions of this Agreement and the Rules by

3.9.1.1 Publishing such changes on the Bank's Internet Banking Site.

3.9.2 Should the Client not be satisfied with the amendments the Client may give one (1) month's notice of his intention to terminate this Agreement.

3.10. NOTICES

- 3.10.1 The Client and Bank choose as their *domicilium citandi et executandi* for all notices and processes to be given and served pursuant to this Agreement, the addresses quoted in this Agreement.
- 3.10.2 All written notices given in terms of this Agreement by the Bank to the Client and *vice versa* shall be deemed duly given, provided they were sent by either party to the other party at the latter's *domicilium citandi et executandi*:
- 3.10.2.1 If by prepaid registered letter, five (5) days after having been posted.
- 3.10.2.2 If delivered by hand, on date of receipt.
- 3.10.2.3 If by telefax, at the time of transmission.
- 3.10.2.4 If by e-mail, by way of authorized messaging using the Facility, on the date of transmission of such message.
- 3.10.3 The Client undertakes to inform the Bank, in writing, immediately upon any change of his address occurring after the signature of this Agreement in order to avoid a dispute arising as to non-delivery or delivery, as the case may be, of notices and correspondence.
- 3.10.4 The Bank shall notify the Client of any amendment to the terms and conditions of this Agreement by way of e-mail messaging using the Facility, save where such notification contains any reference to confidential and/or personal information regarding the Client, in which event one of the methods described in clauses 3.10.2.1, 3.10.2.2 and 3.10.2.3 shall be used.
- 3.10.5 The Bank shall not be liable to the Client for any damage, loss or consequential damage which the Client may suffer as a result of not reading and/or opening such e-mail messages dispatched in accordance with clause 3.11.4, whether intentionally or negligently omitting to do so.

3.11. GENERAL

- 3.11.1 This document, together with the terms of the disclaimer contained on the Bank's Internet Banking site, constitutes the sole record of the agreement between the parties and, subject to what is stated in clause 3.2.2 above, no additions, variations and/or cancellations of this Agreement shall be valid unless it is in writing and signed by or on behalf of the parties.
- 3.11.2 The Client shall not cede or assign or otherwise make over or dispose of any of the Client's rights or obligations in terms of this Agreement without the prior written consent of the Bank first having been obtained.
- 3.11.3 Any disputes between the Bank and the Client arising from or in connection with these terms and conditions, including the implementation, execution, interpretation, rectification, validity, enforceability, termination or cancellation hereof shall be finally resolved in accordance with the provisions of the Arbitration Act (Cap 06:01), except where the Client is in breach of these terms and conditions, in which event, the Bank shall be entitled to litigate against the Client immediately.
- 3.11.4 The Client hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over him in respect of all proceedings arising from this Agreement and shall be liable for all attorney and client costs (including collection commission) which may be incurred by the Bank. The Bank shall have the right, however, in its sole discretion, to institute any action in the High Court of Botswana.
- 3.11.5 Should the Client be in arrears with any payment due by the Client in terms of this Agreement, a certificate given by any general manager, assistant general manager, senior manager or manager for the time being of the Bank (whose appointment and authority it is not necessary to prove) setting out such amount owing by the Client in terms of this Agreement or any other fact, shall be sufficient proof of that amount or fact and shall be valid as a legal document or for the purpose of obtaining any order or judgement thereon against the Client in any competent court.
- 3.11.6 As read together with the provisions of clause 3.4.10 in its entirety, the Bank cannot be held responsible for the confidentiality of information contained in documents that are sent to the Client's selected e-mail address, or for documents that do not reach the selected e-mail address.
- 3.11.7 In the event that these terms and conditions conflict with any other Bank agreement signed by the Client, the Client understands that the conflicting clauses will be interpreted so as to give effect to the intentions of the parties.
- 3.11.8 The Bank shall keep confidential and use its best endeavours to preserve the confidential nature of all data received from the Client.
- 3.11.9 Except in regard to the payment of any sum of money due and payable in terms of this agreement none of the parties shall be liable for failure to fulfil its obligations in terms of this Agreement if such failure is occasioned by *casus fortuitus, force majeure*, act of God, refusal of licence, act of government, fire, explosion, accident, industrial dispute, riot, civil commotion, national emergency, war (whether declared or not), inability to obtain materials or any other similar or different cause beyond the control of such party
- 3.11.10 This Agreement shall be governed by and interpreted according to the laws of the Republic of Botswana.

4. DECLARATION BY CLIENT

- 4.1. The Client confirms that all the information contained in this agreement is correct and that the Client shall have no claim against the Bank in the event of any of the information being incorrect.
- 4.2. The Client undertakes to notify the Bank in writing should any of the said information change at any time in the future.
- 4.3. The Client understands and accepts that the above Terms and Conditions for Use of the Bank Gaborone Internet Banking shall apply to the use of any Bank Gaborone Internet Banking Facility allocated to the Client pursuant to this application.

Signed at **ON**

WITNESSES:

.....
Name plus address

.....
THE CLIENT/FOR AND ON BEHALF OF THE CLIENT

.....

.....
Name plus address

.....
THE CLIENT/FOR AND ON BEHALF OF THE CLIENT

.....

ANNEXURE "A"**TRANSACTION CHARGES****Billing Account details:**

| | |
|------------------------------------|--|
| Branch name where account is held: | |
| Name of account: | |
| Account number: | |

e-pula for Corporate (VAT exclusive)

| | |
|---|----------------------|
| Monthly cost | Nil |
| Transfers within own accounts | BWP 1.16/transaction |
| Transfers to other Bank Gaborone Accounts | BWP 2.21/transaction |
| Utility Payments | BWP 3.26/transaction |
| Local Bank Transfer | BWP 3.26/transaction |
| Bulk Payments | BWP 2.36/transaction |

.....
Signature

All Online Banking Charges are subject to change at the Bank's sole discretion.

ANNEXURE "B"**ELECTRONIC FUNDS TRANSFER RULES**

The Electronic Clearing House requires that certain processes and standards be adopted by all participating banks in Botswana. These rules govern the operational processes and standards that need to be complied with to ensure effective interbank clearing of Electronic Transactions and Payment Instructions.

As a result the following rules apply to this agreement:

1. No payment instructions denominated in any currency other than Botswana Pula (BWP) shall be cleared.
2. Both debit and credit payment instructions may be cleared.
3. A payment instruction must not exceed the monetary value of the item and aggregate limit applied for and authorized by the Bank.
4. The Client may not, without the written consent of the customer, cede or assign any of its rights in terms of the written or recorded debit or credit order held by the Client, to any third party.
5. The Client must submit payment instructions on the required Action date before 14h00 on Monday to Fridays.
6. No payment instructions will be processed on a Public Holiday.
7. If, for any reason, a bank is unable to complete a transaction, it will return details of the transaction together with the reasons for non-payment to the Bank.
8. Clients and Banks may not generate debit payment instructions to reverse credit payment instructions passed in error.
10. No Bank may make a payment or act on a payment instruction unless properly mandated and authorized to do so by its Client.
11. The mandate or authority must be retained by the Client and the inability to produce a valid mandate on request shall be prima facie evidence that no valid mandate or authority existed or exists.
12. A mandate or authority may be withdrawn at any time by the Customer either verbally and recorded in writing or by declaring a disputed item.

ANNEXURE "C"

DRAFT - To be typed on letterhead (Applicable to Corporate Clients Only)

EXTRACT FROM THE MINUTES OF A MEETING OF THE MEMBERS. OF

Proprietary) Limited (**Company name**) HELD AT Gaborone On this ____ day of _____ 20__.

RESOLVED THAT:

"1. _ (Company Name) participates in the Bank Gaborone Internet Banking Facility offered by Bank Gaborone Limited ("the Bank").

2. In accordance with the resolution contained in 1 above, _ (Company Name) concludes and enters into the Bank Gaborone Internet Banking Facility Agreement with the Bank ("the Agreement") as a Client, a copy of which Agreement has been tabled and approved at this meeting.

3. The following person/persons, is/are authorized to –

3.1 conclude and sign the Agreement;

3.2 appoint and terminate the appointment of nominees for the purposes of the Agreement; and

3.3 perform any act or do anything that is required or prescribed in terms of the provisions of the Agreement:

Full Names and Signature

ID Number

| | |
|-------|-------|
| _____ | _____ |
| _____ | |
| _____ | |
| _____ | |
| _____ | |

Certified a true extract from the minutes.

Signed at Gaborone on this ____ day of _____ 20__.

To be signed by all members if it's a corporate.

FOR OFFICIAL PURPOSES

1. For completion by Electronic Banking Consultant:

- 1.1 Application form/s and agreement completed and signed by all parties to this Agreement
- 1.1.1 Signatures verified and copy of ID and related mandates checked
- 1.2 Terms and Conditions of Use completed and signed by all parties to this Agreement

2. Electronic Banking Supervisor's authorization:

- 2.1 Application/s accepted and approved
- 2.1.1 Credential communicated to client by phone and email
- 2.1.2 Facilitation given client: Date.....
- 2.2 Application/s rejected:
- 2.2.1 Reason for rejection:
- 2.2.2 Client notified of rejection:

MOBILE BANKING ADMINISTRATION:

Done by: **Date**

Name:
(Accesses captured and client informed)

Checked by: **Date**

Name: