



PCI COMPLIANCEMANAGER.COM AUTHORIZATION AGREEMENT AND RELEASE

THIS PCICOMPLIANCEMANAGER.COM AUTHORIZATION AGREEMENT AND RELEASE is entered into this the _____ day of _____, 20____ by and between _____ ("Merchant") and _____ ("Agent").

WHEREAS, Merchant is required to certify annually that it is in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") by completing a Self-Assessment Questionnaire ("SAQ") on an annual basis; and

WHEREAS, Prime Payment Services ("PPS") offers the SAQ through its website, PCICOMPLIANCEMANAGER.COM (the "Website");

WHEREAS, Merchant desires to authorize Agent to, among other things, register Merchant with the Website and assist Merchant to complete the SAQ annually;

WHEREAS, subject to the terms and conditions contained herein, Agent is willing to register Merchant with the Website and to assist Merchant to complete the SAQ annually.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Authorization. Merchant hereby authorizes Agent and Agent hereby agrees to undertake and perform the following services (the "Services") on Merchant's behalf (collectively, the "Authorization"):

- a. Registration of Merchant to the Website;
- b. Annually answering security questions of the SAQ on the Website on behalf of and with input from Merchant relating to the PCI DSS; and
- c. Annually submitting the results of the SAQ from the Website to relevant authorities.

The Authorization shall include the ability to take such incidental acts, and execute any and all documents, as are reasonably required to carry out and perform the specific authorities granted herein. Merchant agrees to provide Agent with any and all necessary information for Agents completion of the above referenced actions covered by the Authorization. Merchant hereby represents and warrants that all information provided by Merchant hereunder or to Agent in connection with the Services shall be true, complete and accurate.

2. Service Fee. In consideration for Agent performing the Services, Merchant agrees to pay Agent \$35.00/year subject to an annual increase upon prior written notice to Merchant by a statement message (the "Scan Setup Fee"), which Service Fee shall be delivered by Merchant to Agent upon the execution of this Agreement for the first year and within thirty (30) days of receipt of a statement message for the Services each year thereafter.

3. Release. Merchant, intending to be legally bound on behalf of itself, its shareholders, partners, members, directors, officers, managers, agents and employees and their respective predecessors-in-interest, successors-in-interest, heirs, executors and assigns (collectively, with the Merchant, the "Releasing Parties"), hereby irrevocably, unconditionally, and fully releases, remises, acquits and forever discharges and covenants not to sue each of Agent and PPS and their respective officers, directors, shareholders, predecessors, successors, employees, agents and affiliates (collectively, the "Released Parties") of and from any and all debts, demands, actions, causes of action, dues, accounts, reckonings, bonds, bills, covenants, contracts, controversies, promises, liens, expenses, costs (including attorneys' fees and litigation costs), suits, claims, judgments, damages and liabilities of every kind, character, nature and description, whether now known or unknown, accrued or hereafter maturing or whether at law or in equity, which any of the Releasing Parties ever had or now has, arising out of any action or inaction by the Agent pursuant to this Authorization and the Services.

4. Severability. Whenever possible each provision and term of this Agreement will be interpreted in a manner to be effective and valid but if any provision or term of this Agreement is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.

5. Successors and Assigns. This Agreement is not assignable by Merchant without the prior written consent of Agent. This Agreement may be assigned by Agent and will be binding upon Agent and its successors and assigns.

6. Governing Law; Jurisdiction. This Agreement shall be governed by the laws of the State of New Jersey, without regard to any conflicts of laws principles. Any dispute arising out of this Agreement shall be venued in the Superior Court of New Jersey, Bergen County, or the District Court for the district of New Jersey, and Reseller hereby irrevocably consents to the exclusive personal jurisdiction of such courts over Reseller.

7. WAIVER OF JURY TRIAL. MERCHANT AND AGENT WAIVE, INSOFAR AS PERMITTED BY LAW, TRIAL BY JURY IN ANY ACTION, PROCEEDING OR LITIGATION BETWEEN RESELLER AND UP SOLUTION.

8. Force Majeure. In the event that Agent is prevented from complying, either in whole or in part, with any of the terms or provisions of this Agreement by reason of fire, flood, storm, strike or lockout, riot, war or rebellion to the extent, in each case, that the foregoing are beyond Agent's reasonable control, then, unless conclusive evidence to the contrary is provided, the requirements of this Agreement so affected (to the extent affected) shall be suspended during the period of such disability. Agent shall be excused by reason of said force majeure only so long as it is exercising reasonable efforts to overcome said reason.

9. Limitation of Liability. Agent shall have no liability for any indirect, special, incidental, punitive, exemplary or consequential damages, including lost profits, arising of the actions or inaction of the Agent pursuant to this Agreement, and in no event shall Agent be liable to Merchant for any damages arising out of the actions or inactions of Agent pursuant to this Agreement, except in cases of gross negligence or willful misconduct. In no event shall Agent be liable to Merchant for any amount in excess of the Service Fee arising out of the actions or inactions of Agent pursuant to this Agreement.

10. Construction of Agreement. There will not be a presumption or construction for or against any party hereto, each of the parties expressly waiving the doctrine of contra proferentem.

11. Attorneys' Fees. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement and Agent or the Released Parties are the prevailing party, Agent and the Released Parties shall be entitled to its reasonable attorneys' fees, costs and necessary disbursement in addition to any other relief to which Agent may be entitled.

12. Translation. Notwithstanding any translation of this Agreement not in the English language, the English language version of this Agreement shall rule and the other language version shall be treated in the capacity of being created merely for the purpose of convenience.

13. Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, by facsimile, e-mail or other electronic means, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

MID: _____

Merchant Initial: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below.

MERCHANT:

Merchant ID: _____

By: _____

Name: _____

Title: _____

AGENT:

By: _____

Name: _____

Title: _____

IP Address:
