

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	02/01/2007

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Mercury Payment Systems LLC		02/01/2007	LIMITED LIABILITY COMPANY: COLORADO

**RECEIVING PARTY DATA**

Name:	Mercury Payment Systems, Inc.
Street Address:	2711 Centerville Road, Suite 400
City:	Wilmington
State/Country:	DELAWARE
Postal Code:	19808
Entity Type:	CORPORATION: DELAWARE

**PROPERTY NUMBERS Total: 5**

Property Type	Number	Word Mark
Serial Number:	77227490	MPS MERCURY PAYMENT SYSTEMS
Serial Number:	77227491	MERCURYVIEW
Serial Number:	77041496	MERCURYGIFT
Serial Number:	77041636	MERCURY
Serial Number:	77041499	MERCURY PAYMENT SYSTEMS

**CORRESPONDENCE DATA**

Fax Number: (303)863-0223  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
 Phone: 303-863-9700  
 Email: rbrunelli@sheridanross.com  
 Correspondent Name: Robert R. Brunelli  
 Address Line 1: 1560 Broadway, Suite 1200  
 Address Line 2: Sheridan Ross

CH \$140.00 77227490

Address Line 4: Denver, COLORADO 80202

ATTORNEY DOCKET NUMBER: 5414-2,3,5,8,9

NAME OF SUBMITTER: Robert R. Brunelli

Signature: /Robert R. Brunelli/

Date: 08/31/2007

**Total Attachments: 11**

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# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AGREEMENT OF MERGER, WHICH MERGES:

"MERCURY PAYMENT SYSTEMS LLC", A COLORADO LIMITED LIABILITY COMPANY,

WITH AND INTO "MERCURY PAYMENT SYSTEMS, INC." UNDER THE NAME OF "MERCURY PAYMENT SYSTEMS, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FIRST DAY OF FEBRUARY, A.D. 2007, AT 11:53 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

4279059 8100M

070112836



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5401557

DATE: 02-01-07

TRADEMARK  
REEL: 003613 FRAME: 0841

**AGREEMENT OF MERGER**  
**OF**  
**MERCURY PAYMENT SYSTEMS, INC.**  
**AND**  
**MERCURY PAYMENT SYSTEMS LLC**

AGREEMENT OF MERGER adopted by Mercury Payment Systems, Inc., a corporation organized under the laws of the State of Delaware ("MPS, Inc."), by unanimous written consent of its Board of Directors as of February 1, 2007, and adopted by Mercury Payment Systems LLC, a limited liability company organized under the laws of the State of Colorado and a wholly owned subsidiary of MPS, Inc. ("MPS LLC"), by unanimous written consent of its manager and sole member as of February 1, 2007 (the "Merger Agreement").

1. MPS LLC and MPS, Inc. shall, pursuant to Sections 264 and 251(f) of the Delaware General Corporation Law ("DGCL") and Section 7-90-203 of Colorado Business Corporation Act ("CBCA"), be merged with and into a single corporation, MPS, Inc., which shall be the surviving corporation (the "Surviving Corporation") at the effective time and date of the merger, and which shall continue to exist as Surviving Corporation under the name Mercury Payment Systems, Inc. pursuant to the DGCL. The separate existence of MPS LLC, shall cease at the effective time and date of the merger in accordance with the DGCL and CBCA.

2. The certificate of incorporation of MPS, Inc. shall be the certificate of incorporation of the Surviving Corporation immediately prior to the effective time and date of the merger, and shall continue in full force and effect until further amended and changed in the manner prescribed by the provisions of the DGCL.

3. The bylaws of MPS, Inc. shall be the bylaws of the Surviving Corporation immediately prior to the effective time and date of the merger and shall continue in full force and effect until changed, altered, or amended as therein provided and in the manner prescribed by the provisions of the DGCL.

4. The directors and officers of MPS, Inc. immediately prior to the effective time and date of the merger shall be the members of the Board of Directors and the officers of the Surviving Corporation, all of whom shall hold their directorships and offices until the election and qualification of their respective successors or until their tenure is otherwise terminated in accordance with the bylaws of the Surviving Corporation.

5. At the effective date of the merger, the separate existence of MPS LLC shall cease and the issued units of MPS LLC shall not be converted in any manner, but each such unit which is issued and outstanding at the effective date shall be surrendered and extinguished and the Surviving Corporation shall succeed to all of the properties, rights and other assets and shall be subject to all of the liabilities of MPS LLC without further action by either MPS, Inc. or MPS LLC. The issued shares of the Surviving Corporation immediately prior to the merger shall remain identical and outstanding and immediately after the merger shall not be converted or exchanged in any manner.

6. The Merger Agreement has been approved by the manager and sole member of MPS LLC and the Board of Directors of the Surviving Corporation in the manner prescribed by applicable provisions of the DGCL and the CBCA.

7. Stockholders of MPS, Inc. and unit holders of MPS LLC shall not have any rights of appraisal.

8. MPS LLC and the Surviving Corporation hereby stipulate that they will cause to be executed and filed and/or recorded any document or documents prescribed by the laws of the States of Delaware and Colorado, and that they will cause to be performed all necessary acts therein and elsewhere to effectuate the merger.

9. The manager of MPS LLC and the Board of Directors of the Surviving Corporation, respectively, are hereby, and by resolutions previously adopted by the MPS LLC and the Surviving Corporation, authorized, empowered, and directed to do any and all acts and things, and to make, execute, deliver, file, and/or record any and all instruments, papers, and documents which shall be or become necessary, proper, or convenient to carry out or put into effect any of the provisions of this Merger Agreement or of the merger herein provided for.

10. The effective date of this Merger Agreement is February 1, 2007. The effective date of the merger herein provided for in the States of Delaware and Colorado is intended to be February 1, 2007.

11. Any time prior to the date this Merger Agreement becomes effective under the DGCL, the Board of Directors of the Surviving Corporation may amend or terminate this Merger Agreement, notwithstanding prior approval of the Merger Agreement by the MPS LLC members; provided that any amendment of the Merger Agreement may not alter or change: The amount or kind of consideration to be received in exchange for securities of one of the constituent entities; any term of the Surviving Corporation's certificate of incorporation; or any terms or conditions of the Merger Agreement if such alteration or change would adversely affect the holders of any class or series of securities.

12. The secretary of the Surviving Corporation hereby certifies that: The Merger Agreement has been adopted pursuant to Sections 264 and 251(f) of the


DGCL; the Merger Agreement does not amend in any respect the certificate of incorporation of the Surviving Corporation; each share of stock of the Surviving Corporation outstanding immediately prior to the effective date of the merger will be an identical outstanding share of the Surviving Corporation after the effective date of the merger; and no securities of the Surviving Corporation will be issued under the Merger Agreement.

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Executed on February 1, 2007

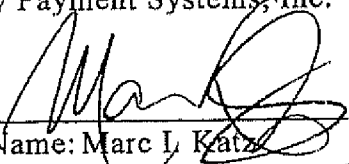
Mercury Payment Systems LLC

By: \_\_\_\_\_

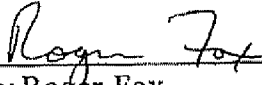
  
Name: Marc I. Katz  
Title: Manager

Mercury Payment Systems, Inc.

By: \_\_\_\_\_

  
Name: Marc I. Katz  
Title: Chief Executive Officer and  
President

The undersigned, secretary of Mercury Payment Systems, Inc. hereby certifies each of the matters in Paragraph 12 above.

  
Name: Roger Fox  
Title: Secretary of Mercury Payment  
Systems, Inc.

Date: February 1, 2007

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# Delaware

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*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "MECURY PAYMENT SYSTEMS, INC.", FILED IN THIS OFFICE ON THE FOURTH DAY OF JANUARY, A.D. 2007, AT 2:15 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

4279059 8100

070010445



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5329256

DATE: 01-05-07

TRADEMARK

REEL: 003613 FRAME: 0846



**CERTIFICATE OF INCORPORATION**

**OF**

**MERCURY PAYMENT SYSTEMS, INC.**

**ARTICLE I.**

**NAME**

The name of the corporation is Mercury Payment Systems, Inc. (the "Corporation").

**ARTICLE II.**

**REGISTERED AGENT**

The address of the Corporation's registered office in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, County of New Castle, Delaware 19808. The name of the Corporation's registered agent at such address is Corporation Service Corporation.

**ARTICLE III.**

**PURPOSE**

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware as it may be amended from time to time (the "DGCL").

**ARTICLE IV.**

**STOCK**

**4.1 Authorized Stock**

The Corporation has the authority to issue eight hundred fifty thousand (850,000) shares of stock (the "Common Stock") consisting of fifty thousand (50,000) shares of Class A Voting Common Stock, par value \$.001 per share (the "Class A Voting Common Stock"), and eight hundred thousand (800,000) shares of Class B Non-Voting Common Stock, par value of \$.001 per share (the "Class B Non-Voting Common Stock"). The Corporation may issue fractions of a share. The number of authorized shares of any class or classes of stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the stock of the Corporation entitled to vote, irrespective of DGCL Section 242(b)(2).

A statement of the powers, preferences and rights, and qualifications, limitations or restrictions of each class of Common Stock is as follows:

**TRADEMARK**

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## **4.2 Class A Voting Common Stock**

### **Voting Power**

The shares of Class A Voting Common Stock shall be entitled to one vote per share of Class A Voting Common Stock held as of the applicable date on any matter that is submitted to a vote or for the consent of the stockholders of the Corporation. When and if the shares of Class B Non-Voting Common Stock vote pursuant to the DGCL, unless the DGCL requires a class vote, Class A Voting and Class B Non-Voting Common Stock shall vote together as one class.

### **Dividends**

The holders of Class A Voting Common Stock shall be entitled to receive, share for share with the holders of Class B Non-Voting Common Stock, such dividends as provided for and pursuant to Section 2.1 of that certain Stockholders Agreement effective in January, 2007, among the Corporation and certain stockholders named therein, as it may be amended from time to time (the "Stockholders Agreement"), and such other dividends if, as, and when declared from time to time by the Board of Directors. In the event that a dividend is paid in the form of shares of Common Stock, holders of Class A Voting Common Stock shall receive Class A Voting Common Stock and holders of Class B Non-Voting Common Stock shall receive Class B Non-Voting Common Stock.

### **Liquidation**

In the event of the voluntary or involuntary liquidation, dissolution, distribution of assets, or winding-up of the Corporation, the holders of Class A Voting Common Stock shall be entitled to receive, share for share with the holders of Class B Non-Voting Common Stock, all the assets of the Corporation of whatever kind available for distribution to stockholders.

## **4.3 Class B Non-Voting Common Stock**

### **Voting Power**

The shares of Class B Non-Voting Common Stock shall not be entitled to vote, unless required by the DGCL. When and if the shares of Class B Non-Voting Common Stock vote pursuant to the DGCL, unless the DGCL requires a class vote, Class A Voting and Class B Non-Voting Common Stock shall vote together as one class.

### **Dividends**

The holders of Class B Non-Voting Common Stock shall be entitled to receive, share for share with the holders of Class A Voting Common Stock, such dividends as provided for and pursuant to Section 2.1 of the Stockholders Agreement, and such other dividends if, as, and when declared from time to time by the Board of Directors. In the event that a dividend is paid in the form of shares of Common Stock, holders of Class A Voting Common Stock shall receive Class A Voting Common Stock and holders of Class B Non-Voting Common Stock shall receive Class B Non-Voting Common Stock.

#### Liquidation

In the event of the voluntary or involuntary liquidation, dissolution, distribution of assets, or winding-up of the Corporation, the holders of Class B Non-Voting Common Stock shall be entitled to receive, share for share with the holders of Class A Voting Common Stock, all the assets of the Corporation of whatever kind available for distribution to stockholders.

#### **4.4 Stock Splits**

In no event shall any stock dividends or stock splits or combinations of stock be declared or made on Class A Voting Common Stock or Class B Non-Voting Common Stock unless the shares of Class A Voting Common Stock and Class B Non-Voting Common Stock at the time outstanding are treated equally and identically, except that such dividends or stock splits or combinations shall be made in respect of shares of Class A Voting Common Stock and Class B Non-Voting Common Stock in the form of shares of Class A Voting Common Stock or Class B Voting Common Stock, respectively.

#### **4.5 Stockholder Approval Requirement**

The Corporation shall comply with the stockholder approval requirements set forth in Section 1.2 of the Stockholders Agreement.

#### **4.6 Redemptions and Exchanges**

Shares of Common Stock shall be subject to (a) redemption or repurchase in accordance with Sections 3.3, 3.7 and 3.8 of the Stockholders Agreement and (b) mandatory exchanges with the Corporation or other stockholders in accordance with Sections 3.6 and 12.1 of the Stockholders Agreement.

### **ARTICLE V. INCORPORATOR**

The name and mailing address of the sole incorporator are as follows: Marc I. Katz, 10 Burnett Court, Suite 300, Durango, Colorado 81301.

### **ARTICLE VI. DURATION**

The Corporation is to have perpetual existence.

### **ARTICLE VII. BYLAWS**

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, alter or repeal the Bylaws of the Corporation.

**ARTICLE VIII.**  
**STOCKHOLDERS MEETINGS**

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation. Election of directors need not be by written ballot unless the Bylaws of the Corporation so provide.

**ARTICLE IX.**  
**INDEMNIFICATION**

The Corporation shall indemnify each of its directors and officers to the fullest extent permitted by the DGCL (but in the case of any amendment, in regard to an act or omission prior to the amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the DGCL permitted the Corporation to provide prior to such amendment), or any other applicable laws as presently or hereinafter in effect. In addition, the Corporation may indemnify such of its employees, fiduciaries and agents as it may deem advisable. Without limiting the generality or the effect of the foregoing, the Corporation may enter into one or more agreements with any person that provide for indemnification greater or different than that provided in this Article IX.

Any repeal or modification of this Article IX by the stockholders of the Corporation shall not adversely affect any right or protection existing hereunder immediately prior to such repeal or modification.

**ARTICLE X.**  
**ELIMINATION OF LIABILITY**

No director of the Corporation shall have any personal liability for monetary damages to the Corporation or its stockholders for breach of his or her fiduciary duty as a director, except to the extent such elimination of liability or limitation thereof is not permitted under the DGCL. If the DGCL hereafter is amended to eliminate or limit further the liability of a director, then, in addition to the elimination and limitation of liability provided by the preceding sentence, the liability of each director shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. Any repeal or modification of this Article X shall not adversely affect any right or protection of a director of the Corporation under this Article X, as in effect immediately prior to such repeal or modification, with respect to any liability that would have accrued, but for this Article X, prior to such repeal or modification.

**ARTICLE XI.**  
**COMPETITION**

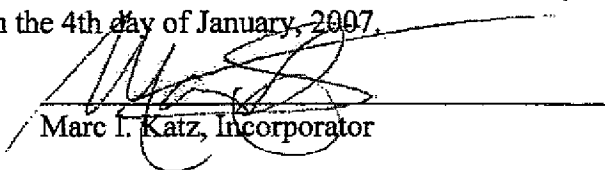
Any stockholder or director may engage in or possess any interest in other business ventures of every nature and description, independently or with others, any or all of which may compete with the business of the Corporation, and, except as provided below, neither the Corporation nor any stockholders, directors or officers will have any right in or to any such independent ventures or to the income or profits derived therefrom. The foregoing provisions of

this Article XI will not control if a stockholder, director, or officer and the Corporation enter into any written agreement to the contrary. This Article XI does not apply to, and does not permit, a stockholder, director or officer taking a corporate opportunity that belongs to the Corporation.

**ARTICLE XII.**  
**CERTIFICATE AMENDMENTS**

The Corporation reserves the right to amend, alter, change or repeal any provisions contained in this Certificate of Incorporation in the manner now or hereafter prescribed herein and by the laws of the State of Delaware, and all rights conferred upon stockholders herein are granted subject to this reservation.

I, THE UNDERSIGNED, being the sole incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the DGCL, do make this certificate hereby declaring and certifying that this is my act and deed and the facts stated herein are true, and accordingly have hereunto set my hand on the 4th day of January, 2007.

  
\_\_\_\_\_  
Marc I. Katz, Incorporator

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