MERCHANT PROCESSING AGREEMENT
TERMS AND CONDITIONS

This Merchant Processing Agreement (the "Agreement") is among Integrated Payments, LLC dba PayRilla whose principal place of business is 3840 Marie Street, Orangeburg, SC 29118 ("ISO"), **Merchant**, and to the extent required by applicable law and the Rules, the bank identified on the Member Bank Disclosure Page included with the Application ("Bank") for the limited purposes described expressly set forth herein below, and Bank is not otherwise a part of (nor liable for) any of ISO's obligations hereunder. For purposes of this Agreement and solely for convenience purposes, Bank and ISO may be collectively referred to hereinafter as the "Service Provider", but if Bank is not required to be a party to this Agreement by the Rules, or if the obligations referenced herein are ISO's obligations, the reference to Service Provider shall not broaden or expand Bank's limited obligations hereunder. Subject to the requirements of applicable Rules, ISO and Bank may allocate their respective duties and obligations between themselves as they deem appropriate at their sole discretion, and ISO or Bank may jointly or individually assert or exercise the rights or remedies provided to the Service Provider hereunder. This Agreement contains the terms and conditions under which Service Provider and/or other third parties will provide services to the Merchant and includes the Application signed by Merchant and all other documents and disclosures provided to Merchant that are related to the provision of payment processing services by Service Providers to Merchant. To the extent ISO or any third party fails to perform any of its or their duties hereunder, Bank has the right, but not the obligation, to perform the services for Merchant.

RECITALS

Merchant desires to accept Cards, as indicated on the Application, validly issued by members under license of the Payment Networks. Service Provider desires to provide Card processing services to Merchant. Therefore Service Provider and Merchant agree as follows:

ARTICLE I – DEFINITIONS

1.1 "ACH" means the Automated Clearing House paperless entry system operated by the Federal Reserve.

1.2 "Application" means the application document submitted as a part of this Agreement. In the event that no paper application document is used, this defined term shall apply to all information provided by the Merchant to Service Provider in any electronic form.

1.3 "Assessments" means any and all fines, charges, penalties, assessments, late submission charges and all other costs, expenses and indebtedness levied by any Payment Network, Card Issuer, Debit Network, regulatory authority or other third party that are assessed against, likely to be assessed against, charged to, likely to be charged to, incurred by (directly or indirectly) or otherwise paid by, ISO and/or Bank to the extent attributable to, arising out of, or related to Merchant's (i) Transactions or business, or (ii) breach or alleged breach of any provision in this Agreement.

1.4 "Authorization" means a computerized function or a direct phone call to a designated number to examine individual Transactions to obtain credit approval from the Card Issuer.

1.5 "AVS" (Address Verification System) allows verification of the Customer's zip code and billing address while requesting Authorizations for Transactions or during a request for address verification only.

1.6 "Card" means a valid payment card, account or other payment instrument in the form issued under license from or otherwise approved by a Payment Network.

1.7 "Card Issuer" means the entity which has provided a Card to a Customer.

1.8 "Chargeback" means the procedure by which, and the value of, a Sales Draft (or disputed portion thereof) is returned to Service Provider by a Card Issuer or other third party. A return or rejection of an "electronic voucher" or "entry" or "file" or "entries" or "electronic entries" or "electronic debit and/or credit entries" or a "ACH Transaction" shall be considered Chargebacks for purposes of this Agreement.

1.9 "Credit" means any credit of funds by Service Provider to Merchant into a Designated Account or other account as permitted under this Agreement.

1.10 "Credit Voucher" means a document executed by a Merchant evidencing any refund or price adjustment credited to a Customer account.

1.11 "Customer" means the person whose name is embossed upon the face of the Card presented to Merchant or who otherwise engages in a transaction of any description with Merchant under this Agreement.

1.12 "Debit" means any debit of funds by Service Provider from Merchant's Designated Account or other account as permitted under this Agreement.

1.13 "Debit Network" means a network upon which Transactions linked to checking or savings accounts are routed.

1.14 "Designated Account" has the meaning set forth in Section 3.1 of the Agreement.

1.15 "Effective Date" has the meaning set forth in Section 5.1(a) of the Agreement.

1.16 "Excessive Activity" has the meaning set forth in Section 2.4(d) of the Agreement.

1.17 "Fees" has the meaning set forth in Section 3.5(a) of the Agreement.

1.18 "Fee Schedule" means the schedule of fees provided by Service Provider to Merchant from time to time.

1.19 "Financial Condition Change" has the meaning set forth in Section 3.2(b) of the Agreement.

1.20 "Initial Term" has the meaning set forth in Section 5.1(a) of the Agreement.

1.21 "Marks" has the meaning set forth in Section 7.1(b) of the Agreement.

1.22 "Merchant", "You", and "Your" has the meaning set forth in the Application and in all instances refers to the merchant identified therein.

1.23 "MCC" means Merchant Category Code and indicates the Merchant's category classification by Visa and MasterCard describing specifically the type of business the Merchant operates.

1.24 "Monitoring Service" has the meaning set forth in Section 4.2(g) of the Agreement.

1.25 "Payment Networks" means, as applicable, Discover® Network ("Discover Network"), MasterCard® International, Inc. ("MasterCard"), Visa® U.S.A., Inc. ("Visa"), American Express Travel Related Services Company, Inc. ("American Express"), the National Automated Clearing House Association ("NACHA"), any Debit Network or any other entity that regulates and manages their respective brands of Cards that are accepted by Merchant.

1.26 "POS Terminal" has the meaning set forth in Section 3.4(e) of the Agreement.

1.27 "Renewal Term" has the meaning set forth in Section 5.1(a) of the Agreement.

1.28 "Reserve Account" has the meaning set forth in Section 4.2(a) of the Agreement.

1.29 "Retrieval" means a Card Issuer's or Customer's request of the Transaction receipt.

1.30 "Risk Parameters" has the meaning set forth in Section 4.2(g) of the Agreement.

1.31 "Rules" means the rules and regulations of any Payment Network, as amended from time to time.

1.32 "Sales Draft" means the paper or electronic form, approved in advance by Service Provider, evidencing a sale Transaction.

1.33 "Secured Assets" has the meaning set forth in Section 4.1(a) of the Agreement.

1.34 "Term" has the meaning set forth in Section 5.1(a) of the Agreement.

1.35 "Transaction" means any sale of goods and services, or credit for such, from Merchant for which the Customer makes payment through the use of any Card and which is presented to Service Provider for collection, including, as applicable, ACH Transactions.

1.36 "Voice Authorization" means a direct phone call to a designated number to obtain credit approval on a Transaction. Merchant agrees to pay $0.95 for each Voice Authorization during the Term.

ARTICLE II - CARD ACCEPTANCE

2.1 HONORING CARDS

A. Without Discrimination. Merchant will accept without discrimination, all valid Cards as indicated by Merchant on the Application when properly presented by Customers for payment for goods or services within the Merchant's category (MCC) of acceptance. Merchant may not discriminate between payment Cards within a Payment Network on the basis of the Card Issuer that issued the presented Card.

B. Acceptance. Merchant will elect on the Application to accept (full acceptance) or not accept (limited acceptance) Cards for payment. A full acceptance Merchant will accept all valid Cards unless Merchant provides thirty (30) days written notice to Service Provider requesting limited acceptance and stating Merchant's election of Card types. Limited acceptance is not applicable to non-US issued Cards and is in all instances subject to the Rules. Merchant will ensure that the Customer is easily able to understand that Merchant is responsible for the Transaction, including delivery of the goods or services that are the subject of the Transaction, and for customer service and dispute resolution, all in accordance with the terms applicable to the Transaction.

C. Advertised Price. Merchant agrees to accept Cards for payment of goods or services without charging any amount over the advertised price as a condition of Card acceptance, unless local law and the Rules permit Merchant to engage in such practice.

D. Minimums and Maximums. Merchant shall not establish minimum or maximum Transaction dollar values for Card sales except to the extent permitted under the Rules and applicable law.

E. Surcharges. If Merchant chooses to impose a surcharge on Card payments, Merchant may do so only after meeting specific considerations, limitations and requirements as defined by the Payment Networks and applicable law. Without limiting the foregoing, Merchant understands that it is required to directly notify Service Providers and each Payment Network at least thirty (30) days prior to surcharging any Customers. Surcharging is currently prohibited in Connecticut, Maine, and Massachusetts. Links to Payment Network notification and surcharge rules can be found online at: https://usa.visa.com/support/small-business/regulations-fees.html#2 and https://www.mastercard.us/en-us/merchants/get-support/merchant-surcharge-rules.html.

F. Discounts. Merchant may offer a discount or in-kind incentive as an inducement for a Customer to use a means of payment that the Merchant prefers, provided that the discount meets all specific considerations, limitations and requirements as defined by the Payment Networks and applicable law.

G. Disputes with Customer. (a) All disputes between Merchant and any Customer relating to any Transactions will be settled between Merchant and the Customer. The Service Provider bears no responsibility for such Transactions. (b) Merchant must not require a Customer, as a condition for honoring a Card, to sign a statement that waives the Customer's right to dispute the Transaction with the Card Issuer.

H. Customer Identification. Merchant will identify the Customer and check the expiration date and signature on each Card, or by such other method as may be provided in the Rules or allowed under by applicable law (such as by a government identification card, a PIN, and/or EMV, as applicable). In accordance with the Rules,

Merchant will not honor any Card if: (i) the Card has expired; (ii) the signature on the Sales Draft does not correspond with the signature on the Card; (iii) the account number embossed on the Card does not match the account number on the Card's magnetic stripe (as printed in electronic form); or (iv) the Card was declined as a result of an Authorization attempt. Merchant may not require a Customer to provide personal information, such as a home or business telephone number, a home or business address; or a driver license number as a condition for honoring a Card unless permitted by law and the Rules. Merchant shall not require a Customer to complete a postcard or similar device that includes the Customer's account number, card expiration date, signature, or any other card account data in plain view when mailed.

I. Non-presentment. Unless otherwise permitted by the Rules, Merchant shall not accept a Card as payment in a Card-present environment (i.e., other than for mail order, Internet sale, telephone order, or preauthorized sale to the extent permitted under this Agreement), if the person seeking to use the Card does not present the Card to permit Merchant to examine it and use the physical Card to complete the Transaction.

J. Card Recovery. Merchant will use reasonable, best efforts and peaceful means to recover any Card if: (i) Merchant is advised by Service Provider, the Card Issuer of the Card or the designated Voice Authorization center to retain it; or (ii) if Merchant has reasonable grounds to believe the Card is counterfeit, fraudulent or stolen, or not authorized by the Customer. NOTE: The obligation of Merchant imposed by this section to retain or recover a Card does not authorize a breach of the peace or any injury to persons or property and Merchant will hold Service Provider harmless from any claim arising from any injury to person or property, or other breach of the peace in connection with the retention or recovery of a Card.

K. Location. Merchant may honor Cards only at location(s) specified on the Application and approved by Service Provider. Additional locations may be added, subject to Service Provider's approval. Either Merchant or Service Provider may delete location(s) by providing notice as provided in this Agreement.

2.2 AUTHORIZATIONS

A. Required on all Transactions. Merchant will obtain prior Authorization for the total amount of a Transaction via electronic terminal, gateway or other compliant and certified device before completing any Transaction, and Merchant will not process any Transaction that has not been authorized. Merchant will follow all instructions received during the Authorization process. Upon receipt of an Authorization approval Merchant may consummate only the Transaction authorized and must note on the Sales Draft the Authorization number. Where Authorization is obtained, Merchant will be deemed to warrant the true and matching identity of the Customer.

B. No Guarantees. Authorizations are not a guarantee of acceptance or payment of the Sales Draft. Authorizations do not waive any provisions of this Agreement or otherwise validate a fraudulent Transaction or a Transaction involving the use of an expired or otherwise invalid Card.

C. Unreadable Magnetic Stripes. When presenting Transactions for Authorization electronically, and Merchant's terminal is unable to read the magnetic stripe on the Card, Merchant must obtain a Voice Authorization and Merchant must obtain the Customer's signature on the Sales Draft before presenting the Sales Draft to Service Provider for processing. Failure to perform these additional actions may result in the assessment of Transaction surcharges or a rejected Transaction.

2.3 PRESENTMENT OF SALES DRAFTS

A. Sales Draft Administration. Unless the Sales Draft is electronically generated from a swiped Transaction or is the result of an Internet, mail, phone or preauthorized sales order, Merchant must use a Sales Draft or other form approved by Service Provider to document each Transaction. Each Sales Draft will contain all such information as required by the Rules, which may include, as applicable: (i) Merchant's name, location and account number; (ii) the information embossed on the Card presented by the Customer (either electronically or manually, and truncated if electronic); (iii) the date of the Transaction; (iv) a brief description of the goods or services involved; (v) the Authorization number; (vi) the total amount of the sale including any applicable taxes; and (vii) adjacent to the signature line, a notation that all sales are final, if applicable. Merchant will only add tax to a Transaction if applicable law expressly requires that Merchant be permitted to impose the tax.

B. Signatures. Sales Drafts must be signed by the Customer when required by the Rules or applicable law.

C. Delivery and Retention of Sales Drafts. Merchant will deliver a complete copy of the Sales Draft or Credit Voucher to the Customer at the time of the Transaction. In addition to any records routinely furnished to Service Provider under this Agreement, Merchant shall preserve a copy of all actual paper Sales Drafts and Credit Vouchers and if a mail, phone order or preauthorized order is involved, the Customer's signed Authorization for the Transaction for at least eighteen (18) months (or longer if required by law or Rules) after the date Merchant presents the Transaction and Merchant must preserve records in accordance with Section 3.4 of this Agreement.

D. Electronic Transmission. If Merchant utilizes electronic authorization and/or data capture equipment and/or services, Merchant will enter the data related to a sales or return Transaction into a computer terminal or magnetic stripe reading terminal and transmit daily Transactions to the Service Provider (or its duly assigned processor) no later than the close of business on the date the Transactions are completed (unless otherwise permitted by the Rules). Failure to do so may result in an Assessment.

E. Compliance. If Merchant provides or uses their own electronic terminal, gateway or similar Transaction device to capture Transactions and generate Sales Drafts, such devices must meet Service Provider, Payment Network, PCI Security Standards Council (pursuant to Section 3.4 of this Agreement) and Government requirements for processing Transactions.

F. Inspection. If Service Provider requests a copy of a Sales Draft, Credit Voucher or other Transaction evidence, Merchant will provide it within 24 hours following the request.

G. Multiple Transaction Records. Merchant shall not prepare more than one Sales Draft for a single sale or for a single item and shall include all items or goods and services purchased in a single Transaction in the total amount on a single Sales Draft except as permitted by the Rules.

H. Forms. Merchant shall only use forms or modes of transmission of Sales Drafts and Credit Vouchers as provided or approved by Service Provider. Merchant shall not use forms provided by Service Provider other than in connection with Transactions without Service Provider's prior written consent.

I. Endorsement. The presentment of Sales Drafts to Service Provider for collection and payment is Merchant's agreement to sell and assign its right, title and interest in each Sales Draft completed in conformity with Service Provider's acceptance procedures and shall constitute an endorsement by Merchant to Service Provider of such Sales Drafts. Merchant hereby authorizes Service Provider to supply such endorsement on Merchant's behalf. Merchant agrees that this Agreement is a contract of financial accommodation within the meaning of Bankruptcy Code (11 U.S.C. § 365) as amended from time to time. Merchant acknowledges that its obligation to Service Provider for all amounts owed under this Agreement arise out of the same Transaction as Service Provider's obligation to deposit funds to the Designated Account.

2.4 DEPOSIT OF SALES DRAFTS AND FUNDS DUE MERCHANT

A. Presentment and Acceptance. Service Provider shall accept from Merchant all valid Sales Drafts presented by Merchant under the terms of this Agreement and shall present the same to the appropriate Card Issuers for collection against Customer accounts. All presentment and assignment of Sales Drafts, collection therefore and re-assignment or rejection of such Sales Drafts are subject to this Agreement and the Rules. Service Provider shall be the only entity that will provisionally Credit the value of collected Sales Drafts to the Designated Account and reserves the right to adjust amounts collected to reflect the value of Chargebacks, Fees, Assessments and items for which Service Provider did not receive final payment. Service Provider may refuse to accept or withhold payment of any Sales Draft without notice until the expiration of any Chargeback period, or revoke its prior acceptance of a Sales Draft, in the following circumstances: (i) Service Provider reasonably suspects that the Sales Draft was not made in compliance with this Agreement, Rules or applicable law; (ii) the Customer/Card Issuer/other third party disputes its liability to Service Provider for any reason, including but not limited to Customer/Card Issuer/other third party Chargeback rights enumerated in the Rules; (iii) the Transaction giving rise to the Sales Draft was not directly between Merchant and Customer; (iv) the Transaction is outside the parameters indicated on the Application; (v) if Service Provider determines, at its sole and reasonable discretion, that a Transaction or batch of Transactions poses a risk of loss; (vi) Service Provider may impose a cap on the volume and/or ticket amount of Sales Drafts that Service Provider will process for Merchant, as indicated on Application or imposed otherwise by Service Provider. This limit may be modified by Service Provider upon written notice to Merchant. If Merchant exceeds the limit established by this Agreement, Service Provider may suspend processing, charge additional Fees, hold deposits over the cap, and/or return all Sales Drafts evidencing funds over the cap to Merchant or terminate this Agreement. Merchant will pay Service Provider, as appropriate, any amount previously Credited to Merchant for a Sales Draft not accepted or later revoked by Service Provider. Merchant agrees that Service Provider has no liability for any delay in funding and that Service Provider is not responsible for any losses Merchant may incur, including but not limited to NSF fees, due to delayed deposit of funds.

B. Returns and Adjustments: Credit Vouchers. Merchant agrees that it will conduct business in regards to returns as follows: (a) Merchant's policy for the exchange or return of goods sold and the adjustment for services rendered shall be established and posted in accordance with the Rules. Merchant agrees to disclose to a Customer before a Card sale is made, that if merchandise is returned: (i) no refund, or less than a full refund, will be given; (ii) returned merchandise will only be exchanged for similar merchandise of comparable value; (iii) only a credit toward purchases will be given; or (iv) special conditions or circumstances apply to the sale (e.g., late delivery, charges, or other noncredit terms). (b) Disclosures must be made on all copies of Sales Drafts in letters approximately 1/4" high in close proximity to the space provided for the Customer's signature on the Sales Draft and issued at the time of sale. (c) If Merchant does not make these disclosures and Customer requests a refund, a full refund in the form of a credit to the Customer's Card account must be given. Merchant shall not refund cash to a Customer who originally paid for the item by Card. (d) Credits must be made to the same Card account number on which the original sale Transaction was processed. (e) If Merchant accepts any goods for return, any services are terminated or canceled in conjunction with each such Transaction. Merchant shall have sufficient funds in its Designated Account available to Service Provider to cover the amount of the Transaction and any related Fees. (f) Merchant warrants that any Credit Voucher it issues represents a bona fide refund or adjustment on a Card sale by Merchant with respect to which a Sales Draft has been accepted. (g) Under no circumstance will Service Provider be responsible for processing credits or adjustments related to Sales Drafts not originally processed by processor and Service Provider.

C. Chargebacks and Assessments. Merchant and Guarantor(s) are fully liable for all Chargebacks and Assessments. Merchant will pay upon presentation the value of all Chargebacks. Authorization is granted by Merchant to Service Provider to offset from incoming Transactions and to Debit the Designated Account, the Reserve Account or any other account held at Bank or at any other financial institution the amount of all Chargebacks and Assessments. Merchant will fully cooperate in complying with the Rules regarding Chargebacks. Merchant agrees that: (a) failure to pay a Chargeback upon such presentation shall be considered a material breach of this Agreement and Merchant, in addition to any other remedies which may be exercised by Service Provider, shall be charged Retrieval and/or Chargeback fees as stated on the Application, plus a late fee of (i) the maximum allowed by law; or (ii) one and one half percent (1.5%) per month or portion thereof on all unpaid Chargebacks,

whichever is less; (b) Merchant agrees to accept for Chargeback any sale for which the Customer/Card Issuer disputes the validity of the sale according to the Rules, or Service Provider determines that Merchant has in any way failed to comply with the Rules or Service Provider procedures, including but not limited to the following: (i) Sales Draft is illegible, not signed by the Customer or has not been or cannot be presented to Service Provider within the required time frame(s); (ii) Sales Draft does not contain a valid unexpired Card; (iii) an Authorization has not been obtained and/or a valid Authorization number has not been correctly and legibly recorded on the Sales Draft; (iv) Sales Draft is a duplicate of a prior Transaction or is the result of two or more Transactions generated on one Card for a single sale; (v) Customer alleges that he or she did not participate in the sale, authorize the use of the Card, receive goods or services purchased, or receive a required credit adjustment, or disputes the quality of the goods or services purchased; (vi) price of goods or services on the Sales Draft differs from the amount which Merchant presents for payment; (vii) Transaction results from an Internet, mail, phone or preauthorized order and the Customer disputes entering into or authorizing the Transaction or the Transaction has been made on an expired or non-existing account number; (viii) Service Provider reasonably believes, within its sole discretion, that Merchant has violated any provision of this Agreement; or (ix) Service Provider reasonably determines that the Transaction record is fraudulent or that the Transaction is not bona fide or is subject to any claim of illegality, cancellation, rescission, avoidance, or offset for any reason whatsoever, including without limitation, negligence, fraud, or dishonesty on the part of Merchant or Merchant's agents or employees, or for whatever reason pertaining to not complying with the Rules. Notwithstanding any Authorization or request from a Customer Merchant shall not initiate a sale Transaction in an attempt to collect a Chargeback. Guarantors are personally liable for all Chargebacks and Assessments. In the event Merchant sells its business and a new owner incurs Chargebacks and/or Assessments, the original Merchant and all Guarantors will be held personally liable for the Chargebacks, Assessments and any other liabilities of the new owner(s). In the event the Designated Account is closed or is otherwise unavailable to Service Provider for Debit, Merchant and/or Guarantors consent to Service Provider locating additional deposit accounts or assets by using any means available. In this event Merchant and/or Guarantors waive all rights to their privacy in favor of Service Provider until such time as all unpaid Chargebacks, Fees and Assessments owed to Service Provider have been paid in full. In addition to the Fees, Assessments and charges set forth in this section, Merchant agrees to pay Chargeback Fees as indicated on the Application for Chargebacks received by Service Provider regardless of outcome of a Merchant dispute of such Chargeback. Merchant has the right to follow procedures outlined by the Rules to dispute a Chargeback, but such Merchant dispute procedure does not guarantee to relieve Merchant from the responsibilities in respect to Chargebacks outlined in this Section.

D. Excessive Activity. Merchant's presentation to Service Provider of Excessive Activity will be a breach of this Agreement and cause for immediate termination of this Agreement. "Excessive Activity" means that Merchant has excessive Chargebacks and or returns and credit transactions, as determined solely by Service Provider. Merchant authorize, upon the occurrence of Excessive Activity, Service Provider to take any action deemed necessary including but not limited to, suspension or termination of processing privileges or creation or maintenance of a Reserve Account in accordance with this Agreement.

2.5 OTHER TYPES OF TRANSACTIONS

A. Recurring Transactions. For recurring Transactions, Merchant must be approved by Service Provider to accept recurring Transactions and obtain a written request from the Customer for the goods and services to be charged to the Customer's account, the frequency of the recurring charge, and the duration of time during which such charges may be made. Merchant will not complete any recurring Transaction after receiving: (i) a cancellation notice from the Customer; (ii) notice from Service Provider, or (iii) a response that the Card is not to be honored. Merchant must print legibly on the Sales Draft the words "Recurring Transaction".

B. Multiple Sales Drafts. (a) Merchant will include a description and total amount of goods and services purchased in a single Transaction on a single Sales Draft or Transaction record, unless (i) partial payment is entered on the Sales Draft or Transaction record and the balance of the Transaction amount is paid in cash or by check at the time of Transaction, or (ii) a Sales Draft represents an advance deposit in a Transaction completed in accordance with this Agreement and the Rules. (b) Merchant shall not submit duplicate Transactions. Merchant shall be Debited for any duplicate Transactions and shall be liable for any Chargebacks and/or Assessments resulting from duplicate Transactions.

C. Mail Orders "MO", Telephone Orders "TO" and Internet Orders "IO." (a) Unless Merchant has been implicitly approved by Service Provider to accept mail orders, telephone orders, or Internet orders, Merchant warrants that it is a walk-in trade business, located in a retail business place conducting face-to-face Transactions. If Merchant is found to be submitting Transactions for mail orders, telephone orders, or Internet orders without Service Provider approval, this Agreement may be terminated and the value of all Sales Drafts collected from the first day of processing may be charged back to Merchant and all funds thereof may be held pursuant to Article IV of this Agreement. (b) If Merchant is authorized by Service Provider to accept payment by mail order, telephone order, or Internet order, the Sales Draft may be completed without the Customer's signature, but in such case Merchant shall create a Sales Draft containing Customer account number, expiration date, Transaction date, an Authorization number, the sale amount and the letters "MO", "TO", or "IO" as appropriate. In addition, the Merchant's business name, city and state must be included. Receiving an Authorization shall not relieve the Merchant of liability for Chargeback on any MO, TO or IO Transaction. (c) For Approved MO, TO, and IO Merchants, performing AVS (Address Verification System) is required. AVS is not a guarantee for payment, and the use of AVS will not waive any provision of this Agreement or otherwise validate a fraudulent Transaction. (d) In the event the Merchant is approved to conduct MO, TO, or IO Transactions, Merchant is cautioned to apply fraud protection measures (as described on the Visa and MasterCard web sites) and Merchant understand that there is a higher risk of Customer disputes and/or fraud associated with these types of Transactions. (e) If Merchant's Retail/Mail Order/Telephone Order, Internet mix changes from the percentages represented to Service Provider in the Application, Service Provider may cease accepting mail/telephone order Transactions, or limit its acceptance of such Transactions, or increase their Fees, or terminate this Agreement, or impose a Reserve Account, unless prior written approval has been obtained from Service Provider. (g) Merchant may not deposit a MO, TO, or IO Sales Draft before the product is shipped.

D. Future Delivery. (a) Merchant will not present for processing, whether by electronic means or otherwise, any Sales Draft, or other memorandum, to Service Provider representing a payment, partial payment or deposit for goods or services to be delivered in the future, without the prior written consent of Service Provider. Such consent will be subject to Service Provider's final approval. (b) The acceptance of a Card for payment or partial payment of goods or services to be delivered in the future without prior consent will be deemed a breach of this Agreement and cause for immediate termination in addition to any other remedies available under the law or Rules. (c) If Service Provider has given such consent, Merchant represents and warrant to Service Provider that Merchant will not rely on any proceeds or credit resulting from such Transactions to purchase or furnish goods or services. Merchant will maintain sufficient working capital to provide for the delivery of goods or services at the agreed upon future date, independent of any credit or proceeds resulting from Sales Drafts or other memoranda taken in connection with future delivery Transactions. (d) If Merchant has obtained prior written consent, Merchant will complete such Transactions in accordance with the terms set forth in this Agreement, the Rules, and the Laws. Customers must execute one Sales Draft when making a deposit with a Card and a second Sales Draft when paying the balance. Merchant will note upon the Sales Draft the words "deposit" or "balance" as appropriate. Merchant will not deposit the Sales Draft labeled "balance" until the goods have been delivered to Customer or Merchant has fully performed the services.

2.6 PROHIBITED AND HIGH RISK TRANSACTIONS

IMPORTANT: FAILURE TO COMPLY IN FULL WITH THIS SECTION OF THE AGREEMENT MAY RESULT IN THE TERMINATION OF THIS AGREEMENT, AND MERCHANT MAY BE ADDED TO THE CONSOLIDATED TERMINATED MERCHANT FILE (MATCH).

A. Fraud Transactions. Merchant will not, under any circumstances, present for processing, directly or indirectly, any Transaction or any Transaction Merchant knows or should know to be fraudulent or not authorized by the Customer. Merchant must not request or use a Card account number for any purpose other than as payment for goods and services.

B. Factoring. Merchant will not, under any circumstances, present for processing, directly or indirectly, any Transaction not originated as a result of a bona-fide Transaction directly between Merchant and Customer. Merchant will not present any Sales Drafts on behalf of another company, person, source or entity.

C. Lawful Purposes. Merchant will not, under any circumstance, engage in any Transaction, or use Card Acceptance and Transaction capabilities for selling goods and/or providing services prohibited by local, hyper-local, state, federal, international and other applicable laws included, but not limited to, the USA PATRIOT Act, Bank Secrecy Act, Consumer Protection Laws and the U.S. Tax Code. Merchant will not submit any Transactions prohibited by the Rules. Perpetrators of fraud or fraudulent Transactions will be referred to state and/or federal law enforcement agencies. Merchant will not submit, and Service Provider will not knowingly accept, any Transaction that is illegal or that the Merchant knows or should have known to be illegal, fraudulent or not authorized by the Customer, or authorized by the Customer colluding with the Merchant for a fraudulent purpose.

D. Cash Payments. Merchant will not, under any circumstances accept cash, checks or other negotiable items from any Customer and forward a credit Transaction, as a purported payment or deposit to an account maintained by the Customer.

E. Cash Advances. Merchant will not submit, deposit or process any Transaction for the purpose of obtaining or providing a cash advance. Merchant will not submit any Transaction that involves a Card owned or controlled by Merchant for the purpose of obtaining a cash advance or deposit of funds into Merchant's own Designated Account. Merchant agrees that any such deposit or Transaction shall be grounds for immediate termination.

F. Refinancing Existing Debt. Merchant will not accept a Card to collect or refinance an existing debt that: (i) has been deemed uncollectible by the Merchant providing the associated goods or services; (ii) represents any other pre-existing indebtedness by Customer, including collection of delinquent accounts on behalf of other parties; (iii) represents the collection of a dishonored check. Further, Merchant must not accept Customer payments for previous Card charges.

G. Merchant Category. Each transaction authorization and clearing transaction message must identify Merchant and include Merchant's acceptor business code/MCC that reflects the primary business of Merchant. Merchant may not accept Card payments for products and/or services delivered to Customer that are not directly applicable to the Merchant Category Code (MCC) entered on the Application, for which Merchant was approved. Should Merchant's MCC change after execution of this Agreement, Merchant shall not submit, deposit or process any Transactions until receiving Service Provider's written approval of MCC change. Merchant understands that accepting payments for goods and/or services not directly relating to the approved MCC will result in termination of this Agreement.

H. Rules. Merchant shall comply with the Rules. Merchant is required to review the latest versions of Rules, as applicable to Merchant's obligations under this Agreement, available online at each Payment Network's respective web site.

I. Cooperation. Merchant will fully cooperate with Service Provider and each Payment Network in the event that Service Provider or any Payment Network determines that there is a substantial risk of fraud arising from Merchant's access to Card processing networks. Merchant will take whatever action(s) Service Provider or

Payment Networks reasonably deem necessary in order to protect Service Provider, Payment Networks, its members and Customers. Neither the Service Provider nor the Payment Networks and any of their respective personnel will have any liability to Merchant for any action taken in good faith.

J. Prohibited Transactions. Merchant will not submit (i) any telemarketing (inbound or outbound) sales Transactions, (ii) Transactions representing the disbursement of funds in the form of travelers checks, if the sole purpose is to allow the Customer to make a cash purchase of goods and services from Merchant, or (iii) any other Transactions that Service Provider or Payment Network deems to be High Risk unless Merchant obtains Service Provider's prior written consent. Such consent will be subject to Service Provider's final approval and may be revoked by Service Provider without prior notice. Merchant may be subject to Payment Network registration and reporting requirements. If Merchant processes any such Transactions without Service Provider's prior approval, Merchant may be terminated immediately and Service Provider may suspend funds and/or require the establishment of a Reserve Account at Bank.

ARTICLE III – MUTUAL OBLIGATIONS

3.1 DESIGNATED ACCOUNT

A. Establishment and Authority. Merchant will establish and maintain a demand deposit account at a depository institution approved by Service Provider ("Designated Account"). Merchant will maintain sufficient funds in the Designated Account to satisfy all obligations to Service Provider, including Fees, contemplated by this Agreement. Merchant irrevocably authorizes Service Provider to Debit the Designated Account for Chargebacks, Fees, Assessments and any other amounts owed under this Agreement. This authority will remain in effect for at least two (2) years after termination of this Agreement whether or not Merchant has notified processor and Service Provider of a change to the Designated Account. Merchant must obtain prior written consent from Service Provider or processor to change the Designated Account. If Merchant does not obtain that consent, processor and Service Provider may immediately terminate the Agreement and may take other action necessary, as determined by them within their sole discretion.

B. Deposit. Service Provider will initiate a deposit in an amount represented on Sales Drafts to the Designated Account subject to Article IV of this Agreement upon receipt of funds from a Payment Brand. Typically, the deposit will be initiated three (3) business days following Service Provider's receipt of the Sales Draft, except for mail order/telephone order and electronic commerce Transactions, which may be initiated five (5) business days following receipt of the Sales Draft. "Business Day" means Monday through Friday, excluding holidays observed by the Federal Reserve Bank of New York. Bank will be the only entity to deposit Sales Drafts to the Designated Account subject to Section 2.4 of this Agreement. Merchant authorizes Service Provider to initiate reversal or adjustment entries and initiate or suspend such entries as may be necessary to grant Merchant conditional Credit for any entry. Service Provider, in its sole discretion, may grant Merchant provisional Credit for Transaction amounts in the process of collection, subject to receipt of final payment by Service Provider and subject to all Chargebacks.

C. Asserted Errors. Merchant must promptly examine all statements relating to the Designated Account, and immediately notify Service Provider in writing of any asserted errors. Merchant's written notice must include: (i) Merchant name and account number; (ii) the dollar amount of the asserted error, (iii) a description of the asserted error; and (iv) an explanation of why Merchant believes an error exists and the cause of it, if known. That written notice must be received by Service Provider within 30 calendar days after Merchant receives the periodic statement containing the asserted error. Merchant's failure to notify Service Provider of any error within thirty (30) days constitutes a waiver of any claim relating to that error. Merchant may not make any claim against Service Provider relating to any asserted error for 60 calendar days immediately following Service Provider's receipt of Merchant's written notice. During that 60 day period, Service Provider will be entitled to investigate the asserted error.

D. Indemnity. Merchant will indemnify and hold Service Provider harmless for any action they take against the Designated Account, the Reserve Account, or any other account pursuant to this Agreement.

E. Debit/Credit Authorization. Merchant authorizes Service Provider to initiate Debit/Credit entries to the Designated Account, the Reserve Account, or any other account maintained by Merchant at any institution, all in accordance with this Agreement. This authorization will remain in effect beyond termination of this Agreement. In the event Merchant changes the Designated Account, this authorization will apply to the new account.

F. Fees. Unless otherwise approved in writing by Service Provider, Merchant agrees to pay the stated fees on the Application for each Debit or Credit rejected or returned from the Designated Account and for each DDA change submitted to Service Provider during the Term.

3.2 MERCHANT OBLIGATIONS

A. Notification of Business Changes. Merchant shall provide Service Provider with immediate notice if Merchant intents to: (i) transfer, sell or liquidate any substantial part of its total assets and/or equity; (ii) change the basic nature of its business affecting Merchant's MCC; (iii) change ownership or transfer control of its business; (iv) enter into any joint venture, partnership or similar business arrangement whereby any person or entity not a party to this Agreement assumes any interest in Merchant's business; or (v) modify Merchant's monthly processing volume and/or average ticket size as approved by Service Provider, collectively known as Business Changes. Notice to Service Provider should be made to in accordance with Section 7.2. Failure or neglect to provide notice of Business Changes may be grounds for termination of this Agreement. In event of Business Changes, Service Provider may at its sole discretion act to terminate this Agreement or, if deemed acceptable by Service Provider, Service Provider may opt to initiate a new Agreement with Merchant. In the event Service Provider suffers a monetary loss caused by neglect to comply with this Section, Service Provider has the right to recover such losses by means of exercising its Security Interests per Section 4.1 of the Agreement.

B. Financial Condition. (a) Merchant will notify Service Provider, within one business day, in event of bankruptcy, receivership, insolvency, or similar condition or action initiated by or against Merchant or any of its principals; hereafter collectively referred to as a "Financial Condition Change." (b) Merchant will include Service Provider as a creditor in Merchant's bankruptcy proceedings if Merchant has funds due to Service Provider for any reason including Fees, Chargebacks, Assessments, Debit rejects or other amounts. (c) In event of Financial Condition Change, or if Merchant is aware of future or imminent Financial Condition Change, Merchant will cease all Card acceptance at once and will no longer accept and submit Transactions until Service Provider has given Merchant permission to do so after receiving notice of Financial Condition Change. (d) In the event of Financial Condition Change, Merchant will not sell, transfer, or disclose any Customer information, inclusive of Card account numbers or personal information to agent, vendors or any other parties.

C. Separate Notification. Separate notification regarding changes to account information, including those to the Designated Account, must be made to outside services used by Merchant including but not limited to American Express and any leasing company.

D. Request for Copy. Within three (3) calendar days of receipt of any written or verbal request by Service Provider, Merchant shall provide either the actual paper Sales Draft or a legible copy thereof, in size comparable to the actual Sales Draft, and any other documentary evidence available to Merchant and reasonably requested by Service Provider to meet Service Provider's obligations under law (including its obligations under the Fair Credit Billing Act, 15 U.S.C. § 1601 et seq.) or otherwise to respond to questions concerning Customer accounts. Unless otherwise approved by Service Provider, Merchant will be assessed a $15 fee for each request for copy.

E. Third Parties. Merchant must advise Service Provider of its intention to use any third party processors, and Merchant agrees that Bank will reimburse Merchant only for Transactions delivered by the third party processor to the Payment Networks. Merchant assumes responsibility for any failure by any third party processors to comply with applicable laws and Rules, and Merchant shall be solely responsible for demonstrating compliance by its agents and third party providers. Merchant expressly authorizes Service Provider or its agents and representatives to provide and receive such information from any and all third parties directly, including without limitation information for credit background checks, banking relationships, and financial history, without further consent or authorization on the part of Merchant.

3.3 CREDIT INQUIRIES FINANCIAL EXAMINATION AND INSPECTIONS.

A. Credit Inquiries. Merchant authorizes Service Provider to make credit inquiries considered necessary in order to review the acceptance and continuation of this Agreement. This authority is granted to Service Provider at any time during which Merchant owes any obligation to Service Provider and may survive the Term if necessary. Such inquiries shall include, but are not limited to, a credit check of the business including its proprietor, principal owners or officers. If requested to do so by Service Provider, Merchant shall provide written consent of any individual for which an inquiry has been or is to be made if such individual did not execute this Agreement.

B. OFAC and Patriot Act Notice. Merchant, its principal owner(s) and guarantor(s) acknowledge that Bank is required by federal law (Section 326, USA PATRIOT Act of 2001) to inquire with the Office of Foreign Asset Control (OFAC) of the U.S. Treasury Department if Merchant, its principal owner(s), proprietor(s), officer(s) or Guarantor(s) are present on any lists maintained by OFAC prior to accepting Merchant. To help the government fight the funding of terrorism and money laundering activities, the USA PATRIOT ACT requires all financial institutions to obtain, verify, and record information that identifies each person (including business entities) who opens an account. What this means: When you open an account, as defined as a formal relationship established with Service Provider to provide or engage in financial services, dealings, or transactions, Service Provider may ask for the applicant's and/or your name, physical address, date of birth, taxpayer identification number, and other information that will allow Service Provider to identify the applicant and you. Service Provider may also ask to see the applicant's driver's license or other identifying documents. Service Provider will let you know if additional information is required. Further, you must adhere to all applicable guidelines of the USA PATRIOT Act. You acknowledge receipt of the following notice. **NOTICE: to help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, and other information that will allow us to identify you. We may also ask to see identifying documents.**

C. Inspections. Merchant agrees to permit Service Provider to occasionally inspect locations to confirm that Merchant has or is adhering to the terms of this Agreement and is maintaining the proper facilities, equipment, inventory, records and license or permit(s) (where necessary) to conduct its business. However, nothing in this paragraph shall be interpreted as a waiver of Merchant's obligation to comply in all respects with the terms of this Agreement.

D. Audits and Reviews. Merchant authorizes Service Provider to audit Merchant's records, systems, processes or procedures to confirm compliance with this Agreement, as amended from time to time. Merchants processing dollar volumes in excess of $100,000 per month will cooperate with Service Provider in performing annual financial reviews by presenting up-to-date financial statements, tax returns and bank statements in order to assure Service Provider that Merchant maintains a favorable capital position, liquidity, stability, business practices and general financial condition to fulfill the responsibilities tied to high volume Card processing. If Merchant is undergoing a forensic investigation, Merchant must fully cooperate with the investigation until completed.

3.4 SAFEGUARDING CARD INFORMATION

A. Release of Card Information. Except as otherwise required by law, Merchant will not, under any circumstance, disclose, copy, distribute, release, make public or transmit Card information including account number, expiration date, CVV2/CVC2 or other Card security codes, or any data element relating to the Card to any third party, person, company, recipient or entity other than Service Provider or its authorized processing agent. Merchant shall not sell, purchase, provide, or in any manner disclose Customer or Transaction data or personal information of or about a Customer to anyone other than Service Provider or its processors or a Payment Network or in response to a valid government demand.

B. Storing Card Data. If Merchant is inclined to retain paper or electronic Sales Drafts or Credit Vouchers, Merchant may only do so if (i) Sales Drafts or Credit Vouchers contain only Customer account information permitted to be retained by Merchant as mandated by the Rules; (ii) any type of electronic storage is maintained in strict accordance with the PCI-DSS on a PA-DSS certified system; (iii) Sales Drafts or Credit Vouchers which no longer bear an importance are properly destroyed in a manner which renders the data unreadable and unrecoverable.

C. Prohibited Data Storage. Neither Merchant nor any type of software system used by Merchant, shall request, store, save or retain, in whole or in part, either electronically, on paper or any other type of media, Card magnetic stripe information, track data, or Card security codes (e.g. CVV, CVC, CID, CVV2 or CVC2) appearing or stored on the Card.

D. Payment Applications. Merchant may be using special services, hardware or software provided by a third party ("Third Party Payment System") to assist Merchant in processing Transactions, including Authorizations, batch settlement or accounting functions. In the event Merchant uses a Third Party Payment System including, but not limited to, a POS Terminal, POS system, POS software, payment software, payment gateway, virtual terminal, Customer activated terminal or automated fuel dispenser, Merchant is responsible for assuring third party system is PA-DSS certified and complies with the PABP (Payment Application Best Practices) as set forth by the Payment Card Industry Security Standards Council (PCI-SSC) and the Payment Networks. Merchant must ensure that any software or system updates of Third Party Payment System(s) satisfies all security standards required under the Rules (including PABP, PA-DSS and PCI-DSS). Service Provider has no responsibility for any Transaction until that point in time Service Provider receives data about the Transaction. Merchant must notify Service Provider of its use of any Third Party Payment System that will have access to and/or stores Customer or Card information.

E. Electronic Terminals. If Merchant provides its own Point-of-Sale electronic terminal or similar device ("POS Terminal"), such POS Terminals must comply with, and meet all requirements set forth by, Service Provider, any applicable processor, and directives set forth by the PCI-SSC as amended from time to time, in order to submit Transactions. Information regarding a sales or credit Transaction transmitted with a POS Terminal will be transmitted by Merchant to Service Provider or applicable Processing Host in the format Service Provider from time to time specifies or is required under the Rules**.** If Service Provider requests a copy of a Sales Draft, Credit Voucher or other Transaction evidence, Merchant will provide it within three (3) business days following the request. The means of transmission indicated in the Application shall be the exclusive means utilized by Merchant until Merchant has provided Service Provider with at least thirty (30) days prior written notice of Merchant's intention to change the means of such delivery or otherwise to alter in any material respect Merchant's medium of transmission of data to Service Provider or Processing Host. Merchant may use terminal processing services of any Payment Network to deliver Visa transactions captured at the point of transaction directly to Visa for clearing and settlement (applicable to US transactions only).

F. Hosted Payments. ISO provides an optional hosted checkout web form that supports Transactions initiated from the Merchant's ecommerce application. This form can be embedded into the Merchant's Transaction checkout flow in order to provide a more secure Transaction and may alleviate some or all of Merchant's compliance obligations with regard to PCI-DSS. The content or interfaces related to this web form may be adjusted to stay up-to-date with general market requirements from time to time. ISO will use commercially reasonable efforts provide notice of such adjustments from time to time, but Merchant shall be solely responsible for any costs related to such adjustments.

G. PCI-DSS Compliance. Merchant shall be in full compliance with Rules relating to the privacy and security of Customer and Transaction data, including without limitation the most up-to-date version of the Payment Card Industry Data Security Standard (PCI-DSS), as amended from time to time by the Payment Card Industry Security Standards Council. Detailed information pertaining to aforementioned requirements may be found at https://www.pcisecuritystandards.org. Additional information regarding security requirements may be found on the Payment Network's respective web sites. Merchant agrees to comply with all Payment Network security programs, including without limitation the Visa Customer Information Security Program ("CISP"), MasterCard Site Data Protection Program ("SDP"), and American Express Data Security Requirements ("DSR"), copies of which can be found on each Payment Network's website and/or can be obtained from Service Provider upon request. Merchant shall be solely responsible for demonstrating compliance by its agents and third party providers with the foregoing security requirements and programs. If Merchant does not validate and/or maintain its PCI-DSS compliance status through ISO's PCI-DSS compliance service program within 3 months after credit approval, Merchant will be charged a non-receipt of PCI data validation fee of $39.95 per month until such validation is obtained by ISO.

H. Merchant Responsibility. (a) MERCHANT SHALL BE LIABLE FOR ALL FINES, CHARGES, ASSESSMENTS AND PENALTIES. (b) Merchant acknowledges that it may be prohibited from participating in payment network programs if it is determined that Merchant is non-compliant. (c) Merchant acknowledges that Service Provider may cause Merchant to subject to an audit to verify Merchant's compliance with the foregoing security requirements. (d) Merchant must notify Service Provider within twenty-four (24) hours after becoming aware of: (i) any suspected or actual data security breach; or (ii) any noncompliance by Merchant with the security requirements set forth herein. (e) Merchant shall, at its own expense: (i) perform or cause to be performed an independent investigation of any data security breach of Card or Transaction data by an authorized assessor acceptable to Service Provider; (ii) take all such remedial actions recommended by such investigation, Service Provider or Payment Network; and (iii) cooperate with Service Provider in the investigation and resolution of any security breach.

I. Truncation. Merchant must comply and adhere to the security provisions set forth in the Fair and Accurate Credit Transactions Act of 2003 (FACTA) which mandate that Card receipts given to the Customer may not contain: (i) more than the last five digits of the Card account number; and (ii) that the Card receipt may not contain the expiration date.

J. Privacy Policy. If Merchant sells goods or services on the Internet, Merchant's web site must contain Merchant's consumer privacy policy and a description of Merchant's method of safeguarding consumer Transaction data.

K. Passwords. In the event where Merchant receives a password from Service Provider to access a Transaction system or gateway, Merchant shall: (i) keep password confidential; (ii) not allow any other entity or individual to use password or gain access to Service Provider's systems; (iii) be liable for all action taken by any user of the password; and (iv) promptly notify Service Provider if Merchant believes the confidentiality of Service Provider's system or Merchant's information has been compromised by use of such password.

3.5 FEES AND OTHER AMOUNTS OWED SERVICE PROVIDER

A. Fees and Taxes. Merchant will pay Service Provider fees for services, forms and equipment in accordance with the Fee Schedule. The fees set forth in the Fee Schedule and any other fees applicable to the products or services provided under this Agreement (collectively, the "Fees") will be calculated and Debited from the Designated Account once each business day or month for the previous business day or month's activity, or will be deducted from funds due Merchant attributable to Sales Drafts presented to Service Provider. Notwithstanding anything in this Agreement to the contrary, any fees set forth in the Application or any Fee Schedule shall supercede and replace any directly conflicting Fees set forth in the body of this Agreement. Service Provider reserves the right to adjust the Fees, including adding Fees for additional services utilized by Merchant arising from or related to performance of this Agreement. Merchant is obligated to pay all taxes, and other charges imposed by any governmental authority on the services provided under this Agreement. Service Provider may not assign or otherwise transfer an obligation to pay or reimburse Merchant arising from, or related to, performance of this Agreement.

B. Other Amounts Owed. Merchant will immediately pay processor and Service Provider any amount incurred by Service Provider attributable to this Agreement including but not limited to Chargebacks, Assessments and Debits that overdraw the Designated Account, Reserve Account or are otherwise dishonored. Merchant authorizes Service Provider to initiate a Debit of the Designated Account, Reserve Account, or any other account Merchant has at Bank or at any other affiliate or subsidiary of Bank or other financial institution for any amount Merchant owes Service Provider under this Agreement or under any other contract, note, guaranty, instrument or dealing of any kind now existing or later entered into between Merchant and Service Provider, whether Merchant obligation is direct, indirect, primary, secondary, fixed, contingent, joint or several. In the event Service Provider demands funds due or such Debit does not fully reimburse Service Provider for the amount owed, Merchant will immediately pay Service Provider such amount. Merchant acknowledges and agrees that Service Provider will impose an 18% per annum interest rate charged to Merchant on the balance of any overdue funds due to Service Provider, or the greatest amount allowed by law, whichever is less.

C. Pass-Through Fees. Each Payment Network and a variety of other third parties assess fees to merchants in connection with Transactions that are outside the control of Service Provider, such as dues & assessments, fixed acquirer network fees, international/cross-border Transaction fees, network access, data usage charges, equipment and software charges, gateway fees and other various costs and charges. Pass-through fees are charged at cost to Merchant and may be changed at any time by the Payment Networks or other third party levying such pass-through fees.

D. Assessments. Merchant will pay all Assessments which are attributable, at Service Provider's discretion, to Merchant's transaction processing or business, and Merchant agrees its obligations hereunder, all Assessments, and any costs or other amounts relating to this Agreement incurred by Service Provider shall be deemed direct, not indirect or consequential, damages, and shall be collectible from Merchant notwithstanding any provision in this Agreement to the contrary.

ARTICLE IV – SECURITY INTERESTS, RESERVE ACCOUNT, RECOUPMENT AND SET-OFF

4.1 SECURITY INTERESTS

A. Security Agreement. This Agreement is a security agreement under the Uniform Commercial Code. Merchant grants to Service Provider a security interest in and lien upon: (i) all funds at any time in the Designated Account, regardless of the source of such funds; (ii) all funds at any time in the Reserve Account, regardless of the source of such funds; (iii) present and future Sales Drafts; (iv) Merchant's electronic terminal; (v) all accounts, regardless of source, wherever found, standing in the name of Merchant and/or Guarantor(s), including any affiliated companies of Merchant and/or Guarantor(s), whether established or designated and maintained pursuant to this Agreement or not; and (vi) any and all amounts which may be due to Merchant under this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement (collectively. the "Secured Assets"). Merchant agrees to provide other collateral or security to Service Provider to secure your obligations under this Agreement upon Service Provider's request. These security interests and liens will secure all Merchant obligations under this Agreement and any other agreements now existing or later entered into between Merchant and Service Provider. This security interest may be exercised by Service Provider without

notice or demand of any kind by making an immediate withdrawal or freezing the Secured Assets.

B. Perfection. Upon request of Service Provider, Merchant will execute one or more financing statements or other documents to evidence this security interest. Merchant will represent and warrant that no other person or entity has a security interest in the Secured Assets. Further, with respect to such security interests and liens, Service Provider will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. Merchant will obtain from Service Provider written consent prior to granting a security interest of any kind in the Secured Assets to a third party. Merchant agrees that this is a contract of recoupment and Service Provider are not required to file a motion for relief from a bankruptcy action automatic stay for Service Provider to realize on any of its collateral (including any Reserve Account). Nevertheless Merchant agrees not to contest or object to any motion for relief from the automatic stay filed by Service Provider. Merchant authorizes Service Provider to appoint Service Provider as Merchant's attorney-in-fact to sign Merchant's name to any financing statement used for the perfection of any security interest or lien granted hereunder.

C. Guaranty. As a primary inducement to Service Provider to enter into this Agreement with Merchant, the undersigned Guarantor(s), whether by signing the Application or by acknowledging consent by electronic means, joint and several, unconditionally and irrevocably, guarantees the continuing full and faithful performance and payment by Merchant of each of its duties and obligations to Service Provider pursuant to this agreement, as it now exists or is amended from time to time, with or without notice. Guarantor(s) understands further that Service Provider may proceed directly against Guarantor(s) without first exhausting its remedies against any other individual or entity responsible therefore to it or any security held by Service Provider or Merchant. This guarantee will not be discharged or affected by the death of the undersigned, will bind all heirs, administrators, representatives and assigns of Merchant and may be enforced by or for the benefit of any successor of Service Provider. Guarantor(s) understand that the inducement to Service Provider to enter into this Agreement is consideration for this Guaranty, and that this Guaranty remains in full force and effect even if Guarantor(s) receives no additional benefit from the Guaranty.

4.2 RESERVE ACCOUNT

A. Establishment. A non-interest bearing deposit account ("Reserve Account") may be established at Bank initially or at any time in the future as requested by Service Provider, with sums sufficient to satisfy Merchant's current and future obligations as determined by Service Provider. Merchant authorizes Service Provider to initiate a Debit to the Designated Account or any other account Merchant has at Bank or any other financial institution to establish or maintain funds in the Reserve Account. Bank may deposit into the Reserve Account funds it would otherwise be obligated to pay Merchant, for the purpose of establishing, maintaining or increasing the Reserve Account in accordance with this Section, if Service Provider determines such action is reasonably necessary to protect Service Provider's interests.

B. Use of Reserve Account. Bank may, without notice to Merchant, apply deposits in the Reserve Account against any outstanding amounts Merchant owes under this Agreement or any other agreement between Merchant and Service Provider. Further, Service Provider may exercise its right under this Agreement against the Reserve Account to collect any amounts due to Service Provider including, without limitation, rights of set-off and recoupment. Service Provider's right to outstanding amounts owed it by Merchant pursuant to this Agreement shall in no way be limited to the balance or existence of the Reserve Account. Rights granted to Service Provider with respect to the Reserve Account, as well as the security interest under this Agreement, shall survive the termination of this Agreement.

C. Funds. Funds in the Reserve Account will remain in the Reserve Account until 270 calendar days following the later of termination of this Agreement, or Merchant's last transmission of Sales Drafts or Credit Voucher to Service Provider, or Chargeback submitted by Customer, provided, however, that Merchant will remain liable to Service Provider, for all liabilities occurring beyond such 270-day period. After the expiration of such 270-day period Merchant must provide Service Provider with written notification indicating Merchant's desire of a release of any funds remaining in the Reserve Account in order to receive such funds. Merchant agrees that Merchant may not use these funds in the Reserve Account for any purpose, including but not limited to paying Chargebacks, Fees, Assessments or other amounts Merchant owes Service Provider under this Agreement. Bank will have sole control of the funds in Reserve Account. The funds in the Reserve Account are the sole and exclusive property of Bank. For clarity, Merchant shall only have a contingent right to repayment of Reserve Account funds after all liabilities are paid in full, following termination of this Agreement.

D. Assurance. In the event of a bankruptcy proceeding, Service Provider does not consent to assumption of this Agreement. Nevertheless, in the event of a bankruptcy proceeding and the determination by the court that this Agreement is assumable under the Bankruptcy Code (11 U.S.C. § 365), as amended from time to time, Merchant authorizes the establishment and maintenance of a Reserve Account in an amount satisfactory to Service Provider. Assumption will be made under terms and conditions that are acceptable to Service Provider and comply with the applicable federal or state laws governing such assumption.

E. Recoupment and Set Off. Service Provider has the right of recoupment and set-off. Specifically, Service Provider may offset or recoup any outstanding/uncollected amounts owed by Merchant from: (i) any amounts Service Provider would otherwise be obligated to deposit into the Designated Account; (ii) any other amounts Service Provider may owe Merchant under this Agreement or any other agreement; and (iii) any funds in the Designated Account or Reserve Account. Merchant acknowledges that in the event of a bankruptcy proceeding, in order for Merchant to provide adequate protection under the Bankruptcy Code to Service Provider, the Reserve Account will be created and maintained as required by Service Provider, and Service Provider shall have the right to offset against the Reserve Account for any and all obligations which Merchant may owe to Service Provider, without regard to whether the obligations relate to Sales Drafts initiated or created before or after the filing of the bankruptcy petition.

F. Recoupment of Chargebacks. In the event of Merchant's default in payment of Chargebacks and/or Assessments, Merchant and Guarantor(s) agree: (i) that all personal Bank accounts standing in their names shall be subject to this Agreement and Debits; (ii) all Debits, whether made against Merchant's Designated Account or a Guarantor's personal account shall bear a commercial account code designation (CCD) for purposes of electronic collection via the ACH system; and (iii) Merchant and/or Guarantor(s) irrevocably consent to Service Provider utilizing any means available to locate such deposit accounts until such time when all amounts due have been satisfied. Service Provider may enforce this security interest as applicable by: (a) making an immediate Debit to any deposit account standing in the name or names of Merchant and/or Guarantor(s), without notice or demand of any kind; and/or interrupting the electronic transmission of funds to any account through the ACH system; (b) freezing the Designated Account and Reserve Account, without notice or demand of any kind; (c) taking possession of any or all of Merchant's Sales Drafts; (d) taking possession of any and/or all of Merchant's electronic terminals; (e) by placing a receiver within Merchant's place of business without notice or bond to intercept and collect all income derived from Merchant's operations until such time as any indebtedness owed to Service Provider arising under this Agreement has been satisfied in full; (f) by obtaining either a writ of attachment or a writ of possession without bond pertaining to Merchant and/or Guarantor(s)'s personal property upon a showing of a presumption that Merchant has committed an act of fraud or is about to misappropriate funds to which it is not entitled. Merchant shall provide any statement or notice that Service Provider determines to be necessary in order to preserve and protect this security interest. The granting of this security interest by Merchant and/or Guarantor(s) in no way limits Merchant's liabilities to Service Provider under this Agreement.

G. Account Monitoring. (a) Merchant acknowledges that Service Provider will monitor Merchant's daily deposit activity. The deposit activity must remain consistent to the monthly volume and average ticket amount implicitly approved or adjusted by Service Provider ("Risk Parameters"). If Merchant should exceed Risk Parameters, Merchant agrees to provide documentation as set forth by Service Provider if so required. **Merchant agrees that Service Provider may not deposit total Sales Draft dollar volume in excess of the implicitly approved monthly volume, and that Merchant may be subject to a 5% fee on all funds processed over the approved monthly volume limit. Merchant agrees that Service Provider may, at its sole discretion, suspend Merchant's Transaction deposits for any reasonable period of time required to investigate suspicious or unusual Transaction activity. Service Provider shall make a good faith effort to notify Merchant immediately. Merchant agrees to pay the stated fee on the Application for each release of funds suspended by Service Provider.** Service Provider shall have no liability for any losses, direct or indirect, which Merchant may attribute to any suspension of funds disbursement. (b) **In the event of suspension of Transaction deposits by Service Provider, Merchant agrees to a Security Processing Fee not to exceed 110% of the Transaction activity may be assessed.** (c) If a batch is suspended by Service Provider, Merchant acknowledges that the consumer's product or service must be delivered just as if the Merchant has been paid. Further, if a batch or a Transaction is suspended, Merchant acknowledges that Fees, including security fees, will be assessed by Service Provider. (d) At sole discretion of Service Provider, if Merchant's type of business is deemed a compliance risk to Service Provider, Service Provider may enroll Merchant in third-party risk monitoring service ("Monitoring Service") at the sole expense of Merchant. Merchant will either be notified in advance of underwriting approval of enrollment in Monitoring Service and related expenses, or notified no less than thirty (30) days in advance if Merchant has an open merchant account with Service Provider. Refusal of Merchant's enrollment in Monitoring Service when mandated by Service Provider, may be cause for termination of this Agreement.

ARTICLE V – TERM AND TERMINATION EVENTS

5.1 TERM AND TERMINATION

A. Term. The Agreement will become effective on the date Service Provider executes this Agreement ("Effective Date"), provided, however that if Merchant submits a Transaction prior to the Effective Date, Merchant will be bound by all terms of this Agreement. The Agreement will remain in effect for a period of three (3) years ("Initial Term") and will renew for successive one (1) year terms ("Renewal Term", and collectively with the Initial Term, the "Term") unless terminated as set forth below.

B. Termination. The Agreement may be terminated by Service Provider or Merchant to be effective at the end of the Initial Term or any Renewal Term by giving written notice of an intention not to renew at least ninety (90) calendar days before the end of the current Term. Further, this Agreement may be terminated at any time with or without notice and with or without cause by Service Provider, including without limitation if Merchant has excessive Chargebacks and or returns and credit transactions, as determined solely by Service Provider, or if Service Provider is required to terminate this Agreement by the Payment Networks. All rights and obligations of the parties existing hereunder as of the effective time of termination shall survive the termination of this Agreement.

C. Reason to Terminate: Service Provider may terminate this Agreement immediately without prior notice if (i) Service Provider reasonably believes that fraudulent Transactions or other activity prohibited by this Agreement is occurring at any Merchant location; (ii) Service Provider is required to take action to prevent loss to Bank or Card Issuers, (iii) in the event of any significant circumstances that do or could create harm or loss of goodwill to any Payment Networks; (iv) Merchant appears on any Payment Network's security or termination reporting, or (v) Merchant Acceptance Criteria of Service Provider or laws in respect to Merchant's business changes.

D. Bankruptcy. If any case or proceeding is commenced by or against Merchant under any federal or state law dealing with insolvency, bankruptcy, receivership or other debt relief, this Agreement shall simultaneously therewith automatically terminate, and any amounts due to Service Provider shall accelerate and become immediately due and payable, without the necessity of any notice, declaration or other act whatsoever by Service Provider.

5.2 ACTION TAKEN UPON TERMINATION

A. Discontinuation of Services. In the event of termination for any reason, Merchant expressly authorizes Service Provider to withhold and discontinue the disbursement for all Cards and other Transactions of Merchant in the process of being collected and deposited. Upon termination for any reason, Merchant will immediately cease requesting Authorizations and will cease transmitting Sales Drafts to Service Provider. In the event Merchant obtains any Authorization after termination, Merchant expressly acknowledges and agrees that the fact that any Authorization was requested or obtained shall not operate to reinstate this Agreement.

B. Terminated Merchant File. Merchant acknowledges that MATCH (formerly known as the Combined Terminated Merchant Files or "CTMF") is a file maintained by MasterCard and accessed by Payment Networks and Service Providers containing the business names and the identification of principals of Merchant, which have been terminated for one or more reasons specified in the Rules. Merchant acknowledges that Service Provider is required to report the business name of Merchant and the names and identification of its principals to MATCH when Merchant is terminated for such reasons. Merchant consents to such reporting to the Payment Networks by Service Provider. Further, Merchant waives and will hold harmless Service Provider from any claims, which Merchant may raise as a result of such reporting.

C. Designated Account. All Merchant obligations regarding accepted Sales Drafts will survive termination. Merchant must maintain in the Designated Account(and authorizes the establishment and maintenance in the Reserve Account) enough funds to cover all Chargebacks, Assessments, deposit charges, refunds and Fees incurred by Merchant for a reasonable time, but in any event not less than the time specified in this Agreement. Merchant authorizes Service Provider to charge those accounts, or any other account maintained under this Agreement, for all such amounts. If the amount in the Designated Account or Reserve Account is not adequate, Merchant will pay Service Provider the amount owed to Service Provider upon demand, together with all costs and expenses incurred to collect that amount, including reasonable attorneys' fees.

D. Maintaining Reserves. Collected funds will be placed in a Reserve Account until Merchant pays any equipment and processing cancellation fees and any outstanding charges, losses or amounts for which Merchant is liable under this Agreement. Further, Service Provider reserves the right to require Merchant to deposit additional amounts based upon Merchant's processing history and/or anticipated risk of loss to Service Provider into the Reserve Account. The Reserve Account shall be maintained for a minimum of 270 days after the termination date and for a reasonable time thereafter during which Customer disputes may remain valid under the Rules. The provisions of this Agreement relating to the Debiting and Crediting of the Designated Account shall be applied to the Reserve Account and shall survive termination of this Agreement until Service Provider terminates the Reserve Account. Any remaining balance after Chargeback rights have expired and all other expenses, losses, and damages have been paid will be disbursed to Merchant upon request.

E. Early Termination Fee. Subject in all instances to limitations provided under applicable law, if Merchant terminates this Agreement before the end of any applicable Term, Merchant will immediately pay Service Provider, as deconversion costs, an early termination fee equal to the termination fee as stated on the Application. Merchant agrees that the early termination fee is not a penalty, but rather is reasonable in light of the financial harm caused by Merchant's early termination. Other remedies Service Provider may have under this Agreement still apply. Notwithstanding the foregoing or any other provision in this Agreement or the Fee Schedule, the termination fee shall not exceed the maximum amount set forth by applicable law and shall not be imposed where prohibited by law. This Agreement may be terminated by Merchants located in Maryland without the assessment of any fines, penalties, or liquidated damages.

F. Records. Following termination, Merchant shall upon request provide Service Provider with all original and microfilm copies of Sales Drafts and Credit Vouchers to be retained as of the date of termination.

G. Return to Service Provider. All promotional materials, advertising displays, signage, emblems, Sales Draft forms, credit memoranda and other forms supplied to Merchant and not purchased by Merchant or consumed in use will remain the property of Service Provider and will be immediately returned to Service Provider upon termination of this Agreement. Merchant is fully liable for all loss, cost, and expense suffered or incurred by Service Provider arising out of the failure to return or destroy such materials following termination.

ARTICLE VI – INDEMNIFICATION, LIMITATION OF LIABILITY, WARRANTIES

6.1 LIMITATION OF LIABILITY

A. Limitation of Liability. Any liability of Service Provider under this Agreement whether to Merchant or to any other party, whatever the basis of liability, shall not exceed in the aggregate the difference between: (i) the amount of Fees paid by Merchant to Service Provider during the month in which the Transaction out of which the liability arose occurred; and (ii) assessments, Chargebacks, Assessments and any offsets authorized under this Agreement against such Fees which arose during such month. In the event more than one month was involved, the aggregate amount of Service Provider's liability shall not exceed the lowest amount determined in accord with the foregoing calculation for any one-month involved. In no event will Service Provider, nor its officers, agents, directors, or employees be liable for any indirect, special, or consequential damages including loss profits, revenues and business opportunities. IN NO EVENT SHALL SERVICE PROVIDER, OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONSTRACTORS BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT STRICT LIABILITY OR OTHER LEGAL THEORY FOR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUETIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORSEEABLE OR WHETHER ANY PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MERCHANT ACKNOWLEDGES AND AGREES THAT PAYMENT OF ANY EARLY TERMINATION FEE AS PROVIDED IN SECTION 5.2(E) ABOVE SHALL NOT BE PROHIBITED BY THIS SECTION. MERCHANT UNDERSTANDS AND AGREES THAT MERCHANT'S RESPONSIBILITY TO PAY PENALTIES AND ASSESSMENTS AS DESCRIBED IN THIS AGREEMENT SHALL NOT BE LIMITED OR RESTRICTED UNDER ANY CIRCUMSTANCES, EVEN IF SUCH PENALTIES ARE DEEMED TO BE SPECIAL, INCIDENTIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES UNDER APPLICABLE LAW.

B. Indemnification. Merchant shall hold harmless and indemnify the Payment Networks, Service Provider, affiliates, officers, directors, agents, representatives and their employees harmless from: (i) any claim relating to a dispute between Merchant and a Customer; (ii) against all claims by third parties arising out of this Agreement; (iii) any Sales Draft paid for by Service Provider as may be made by anyone by way of defense, dispute, off-set, counterclaim or affirmative action, or for any damages of, or losses that Service Provider may incur as a result of Merchant's breach of this Agreement; and (iv) for all attorney fees and other costs and expenses paid or incurred by Service Provider in the enforcement of the Agreement, including but not limited to those resulting from any breach by Merchant of this Agreement and those related to any bankruptcy proceeding.

C. Service Agreement. THIS AGREEMENT IS A SERVICE AGREEMENT. SERVICE PROVIDER DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO MERCHANT OR ANY OTHER INDIVIDUAL, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OTHERWISE OF ANY SERVICES OR ANY GOODS PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SERVICES OR ANY GOODS PROVIDED BY A THIRD PARTY.

D. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, ANY PRODUCTS OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT IDENTIFIED IN THE APPLICATION AS "FEES FOR VALUE ADDED SERVICES (THIRD PARTY FEES)" ARE PROVIDED SOLELY BY A THIRD PARTY AND MERCHANT EXPRESSLY AGREES THAT BANK HAS NO LIABILITY OF ANY DESCRIPTION WITH REGARD TO ANY SUCH PRODUCTS OR SERVICES.

6.2 REPRESENTATIONS AND WARRANTIES

A. Performance. Service Provider will perform all services in accordance with this Agreement. Service Provider makes no other warranty, express or implied, regarding the services, and nothing contained in the Agreement will constitute such warranty. Service Provider disclaims all implied warranties, including those of merchantability and fitness for a particular purpose. Service Provider will not be liable to the other parties for any failure or delay in its performance of this Agreement if such failure or delay arises out of causes beyond the control and without the fault or negligence of Service Provider. Service Provider is not liable for the acts or omissions of any third party.

B. Terminals not Provided by Service Provider. Merchant will notify Service Provider immediately if Merchant decides to use electronic authorization or data capture Terminals or Software provided by any entity other than Service Provider or its authorized designee ("Third-Party Terminals") to process Transactions. If Merchant elects to use Third-Party Terminal(s), Merchant agrees: (i) the third party providing the terminals or software will be Merchant's agent in the delivery of the Transactions to Service Provider via a data processing system or network; and (ii) to assume full responsibility and liability for any failure of that third party to comply with the Rules and the provisions of Section 3.4 of the Agreement. Service Provider will not be responsible for any losses or additional fees incurred by Merchant as a result of any error by a third party agent or a malfunction in a third party's software or terminal.

C. Warranties of Merchant. Merchant represents and warrants to Service Provider at the time of execution and during the Term: (a) All information contained in the Application or any other documents delivered to Service Provider in connection herewith and therewith is true and complete and properly reflects Merchant's business, financial condition, and principal partners, owners or officers. (b) Merchant is a corporation, limited liability company, partnership, sole proprietorship or other legitimate and legally organized organization validly existing and organized in the United States. (c) Merchant and individual signing this Agreement have the power and authority to execute, deliver, and perform this Agreement, and this Agreement is duly authorized, and will not violate any provisions of law, or conflict with any other agreement to which Merchant is subject. (c) Individuals signing this Agreement are duly authorized by Merchant to bind Merchant into this Agreement on behalf of Merchant. (d) Merchant has all licenses, if any, required to conduct its business and is qualified to do business in every jurisdiction where it is required to do so. (e) Merchant is not engaged or affiliated with any businesses, products or methods of selling other than those set forth on the Merchant, unless Merchant obtains the prior written consent of Service Provider. (f) There is no action, suit or proceeding at law or in equity now pending or to Merchant's knowledge, threatened by or against or affecting Merchant which would substantially impair its right to carry on its business as now conducted or adversely affect its financial condition or operations. (g) Merchant has performed or will perform all of its obligations to the Customer in connection with the Transaction evidenced thereby. (h) Merchant has complied with Service Provider procedures accepting Cards, and the Transaction itself shall not

involve any element of credit for any other purposes other than as set forth in this Agreement and shall not be subject to any defense, dispute, offset or counter claim which may be raised by any Customer under the Rules, the Consumer Credit Protection Act (15 USC § 1601) or other relevant state or federal statutes or regulations. (i) Merchant warrants that any Credit Voucher, which it issues represent a bona fide refund or adjustment on a Card sale by Merchant with respect to which a Sales Draft has been accepted. (j) Unless Merchant notifies Service Provider in writing, either on Application or otherwise, no other processing relationship exists between Merchant and any other payment processing institution, for this business, or any other business managed or owned by Merchant. (k) All Transactions are bona fide. No Transaction involves the use of a Card for any purpose other than the purchase of goods or services from Merchant. (l) Merchant and Guarantor(s) acknowledge that all documents submitted in conjunction with this Agreement are being submitted in order to induce a federally insured financial institution to extend them credit and that submission of any false information herein may subject them to criminal prosecution, fine and/or imprisonment. (m) Merchant has supplied its true and correct taxpayer identification number on the Application. (n) Except as disclosed to Bank and EMS in writing, within the preceding ten (10) years neither Merchant, nor its Guarantor(s) or owner(s) identified on the Application has been (i) convicted of a felony, or (ii) placed on the Terminated Merchant File (MATCH) or Office of Foreign Assets Control (OFAC) lists.

D. Authorization of Agreement. Merchant represents and warrants that the individual signing the Agreement, physically or by acknowledging consent by electronic means, is duly authorized to bind Merchant to all provisions of this Agreement and that such individual is duly authorized to execute any contract document on behalf of Merchant. Merchant will execute a separate Entity Certification if requested to do so by Service Provider.

E. Signature. Merchant, by its signature, upon its first transmission of Transactions, or first payment of Fees, acknowledges receipt, acceptance and comprehension of this Agreement. If Merchant has not entered into this Agreement by executing this Agreement via counter signature or electronic means, Merchant agrees that Merchant's first transmission of a Transaction or first payment of Fees to Service Provider constitutes Merchant's acceptance of this Agreement.

F. Attorneys' Fees. Merchant will be liable for and will indemnify and reimburse Service Provider for all attorneys' fees and other costs and expenses paid or incurred by Service Provider or their agents in the enforcement of this Agreement, or in collecting any amounts due from Merchant or resulting from any breach by Merchant of this Agreement.

ARTICLE VII – MISCELLANEOUS

7.1 USE OF TRADEMARKS AND CONFIDENTIALITY

A. Card Signage. Merchants will prominently display Card signage provided by Service Provider in its place(s) of business and the type of signage displayed will be in accordance with the Payment Networks accepted by Merchant and if Merchant participates in full or limited acceptance.

B. Use of Trademarks. (a) Use of trade name, trademark, service mark or logotype ("Marks") associated with any of the Payment Networks and their brands shall be limited to informing the public that Card(s) will be accepted at Merchant's place(s) of business. Merchant's use of promotional materials and Marks is subject to the direction of Service Provider and must fully comply with the Rules. (b) Merchant may use promotional materials and Marks only during the Term and shall immediately cease their use and return any inventory to Service Provider upon termination thereof, and Merchant's use or display of any mark will terminate effective with the termination of this Agreement or upon notification by the Payment Network to discontinue such use or display. (c) Merchant shall not use any promotional materials or Marks associated with the Payment Networks in any way that implies that the Payment Networks endorse any goods or services other than their own.

C. Confidentiality. Merchant acknowledges that Service Provider through the expenditure of a significant amount of time, effort, cost, and research, developed and secured the right to use various computer programs, forms, logos, manuals, and related materials, including without limitation the Rules, which constitute property of great value and trade secrets, and that disclosure to others of such materials may result in loss and/or irreparable damage. Merchant further acknowledges that the system in its entirety constitutes a trade secret which is revealed to Merchant in confidence. Accordingly, Merchant agrees to hold and use any and all such property or information regarding the system in confidence, and not to disclose, reveal, copy, sell, transfer, sub-license, assign, or distribute any part of it, in any form, to any individual, firm, corporation, or other entity, nor permit any of its employees, agents, or representatives to do so, except as permitted by the Rules, or otherwise expressly permitted in writing by the Service Provider. The Merchant further agrees that upon termination of this Agreement for any reason, it will immediately return all such property to Service Provider.

7.2 GENERAL PROVISIONS

A. Entire Agreement. This Agreement, including the Application, the Fee Schedule, the Rules, and Exhibits to this Agreement expresses the entire understanding of the parties with respect to its subject matter and except as provided herein, all prior or other agreements or representations, written or oral, are superseded. Reference to "this Agreement" also includes all documents incorporated into this Agreement by reference. If copies of this Agreement or any amendments are to be physically signed, this Agreement may be executed and delivered in several counterparts and transmitted by facsimile, a copy of which will constitute an original and all of which taken together will constitute a single agreement.

B. Governing Law and Venue. Bank, Merchant and Guarantor(s) agree that all performances and transactions under this Agreement will be deemed to have occurred in California and that Merchant's entry into and performance of this Agreement will be deemed to be the transaction of business within the State of California. This Agreement will be governed by California law, without regard to its conflicts-of-law principles, and applicable federal law. Bank, Merchant and Guarantor(s) hereby consent to the exclusive jurisdiction and venue for any action relating to the subject matter of this Agreement in Sonoma County, California and/or California Superior Court in Sonoma County, California and/or United States District Court for the Northern District of California. The parties consent to the jurisdiction of such courts and agree that process may be served in the manner allowed by the laws of the State of California or United States federal law.

C. Exclusivity. During the Term, Merchant shall not enter into an agreement with any other entity that provides Card processing services similar to those provided by Service Provider as contemplated by this Agreement without Service Provider's written consent.

D. Construction. The typographical headings used in this Agreement are inserted for reading convenience only and will not affect the interpretation of any provision. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party. Any alteration or strikeover in the text of this pre-printed Agreement will have no binding effect, and will not be deemed to amend this Agreement. This Agreement may be executed by facsimile, and facsimile copies of signatures to this Agreement shall be deemed to be originals and may be relied on to the same extent as the originals.

E. Assignability. This Agreement may not be assigned by Merchant directly or by operation of law, without the prior written consent of Service Provider. If Merchant nevertheless assigns this Agreement without such consent of Service Provider, Merchant shall remain liable and the Agreement also shall be binding upon the assignee. Original Merchant and Guarantor(s) shall be held personally liable in the event such assignee incurs Chargebacks, Assessments, Retrievals, Debit rejects, losses, fines or any other liabilities under this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, personal representatives, successors, and assigns. Service Provider may assign this Agreement.

F. Amendment. This Agreement is subject to amendment in order to conform and comply with any amendments or modifications of the Rules or law. From time to time Service Provider may amend any provision of this Agreement, including, without limitation, those relating to Fees and charges payable by Merchant by mailing written notice to Merchant of the amendment, and the amendment shall become effective and enforceable unless Service Provider receives Merchant's written notice of termination of this Agreement within thirty (30) days. If Merchant objects to any amendment to this Agreement or any Fees, excluding changes in pass-through fees, Merchant may terminate this Agreement without penalty or liability if Service Provider receives such written notice of termination from Merchant within thirty (30) days of notice of amendment. However, if Merchant continues to process Transactions after such thirty (30)-day period, Merchant will be deemed to have accepted the amendment. Amendments due to changes in either Payment Network's fees, interchange, assessments, Rules or any law or judicial decision may become effective on such shorter period of time as Service Provider may specify if necessary to comply with the applicable Rule, law, or decision.

G. Notices; Consent to Electronic Communications. By applying for services and confirming that it has read the Agreement, Merchant is confirming to Service Provider that it has the means to access the Internet through its own service provider and download or print electronic communications. Merchant agrees that the receipt of electronic communications by email or by the posting of such information by Service Provider at one or more of Service Provider's sponsored websites, such as _____constitutes notice for purposes under this Agreement. Such communications may pertain to the services delivered by Service Provider, the use of information Merchant may submit to Service Provider, changes in laws or Rules impacting the service or other reasons, such as amendment of the Agreement. In addition, all notices and other communications required or permitted under this Agreement by Service Provider to Merchant may also be delivered by Service Provider to Merchant either by fax, overnight carrier or first class mail, postage or other charges prepaid, addressed and transmitted as set forth below. All notices and other communications required or permitted under this Agreement by Merchant to Service Provider must be delivered by Merchant to Service Provider by overnight carrier or certified mail, postage or other charges prepaid, addressed and transmitted as set forth below. Notice by fax or e-mail, when permitted, shall be deemed delivered when transmitted. Notice by mail or overnight carrier shall be deemed delivered on the first business day after mailing or delivery to the carrier. Following are the addresses for the purposes of notices and other communications hereunder, which may be changed by written notice in accordance with this section: (a) if to ISO, addressed and transmitted as follows: _____ _____ (b) If to Bank, addressed and transmitted to the Member Bank identified on the Member Bank Disclosure Page included with the Application; (c) If to Merchant, at the address provided as the billing address, or the fax number or e-mail address and to the contact listed on the Application.

H. Force Majeure. Any delay in or failure of performance by Service Provider under this Agreement will not be considered a breach of this Agreement and will be excused to the extent caused by any occurrence beyond their reasonable control, including, but not limited to, acts of God, epidemic/pandemic, act, order or requirement of any governmental authority, national emergency, power outages, failures of the Internet, failures of banking, Payment Networks not under direct control of Service Provider, or any similar causes beyond the control of Service Provider.

I. Amendments. Service Provider may amend this Agreement at any time upon notice to Merchant.

J. Severability and Waiver. If any provision of this Agreement is illegal, the invalidity of that provision will not affect any of the remaining provisions and this Agreement will be construed as if the illegal provision is not contained in the Agreement. Neither the failure nor delay by Service Provider to exercise, or partial exercise of, any right under this Agreement will operate as a waiver or estoppel of

such right, nor shall it amend this Agreement. All waivers must be signed by the waiving party.

K. Remedies Cumulative. All rights and remedies conferred upon Service Provider in this Agreement, at law or in equity, are not intended to be exclusive of one another. Rather, each and every right of Service Provider under this Agreement, at law or in equity, will be cumulative and concurrent and in addition to every other right.

L. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

M. Relationship of Parties. The parties are independent contractors and nothing in this Agreement shall make them joint ventures, partners, employees, agents or other representatives of the other party.

N. Employee Actions. Merchant is responsible for its employee's actions while in its employ.

O. Survival. All Sections of this Agreement that by their nature should survive termination or expiration will survive, including, without limitation, accrued rights to payment, indemnification obligations, confidentiality obligations, warranty disclaimers, limitations of liability, Sections 2.4(C), 2.6, 3.1, 3.4, 3.5, 5.2, and Articles IV, VI, and VII.

P. Further Assurances. At any time or from time to time, upon the request of Service Provider, Merchant will execute and deliver further documents as Service Provider may reasonably request in order to effectuate fully the purposes of this Agreement.

Q. IRS Withholding Regulations. Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities and third party settlement organizations are required to file an information return for each calendar year reporting all Transactions with payees occurring in that calendar year. Accordingly, Merchant will receive a Form 1099-K reporting its gross Transaction amounts for each calendar year. The Merchant's gross Transaction amount refers to the gross dollar amount of the Transactions processed through its merchant account with Service Provider. In addition, amounts reportable under Section 6050W are subject to backup withholding requirements. Payors will be required to perform backup withholding by deducting and withholding income tax from reportable Transactions if (a) the payee fails to provide the payee's taxpayer identification number (TIN) to the payor, or (b) if the IRS notifies the payor that the TIN (when matched with the name) provided by the payee is incorrect. Accordingly, to avoid backup withholding, it is very important that Merchant provide Service Provider with the correct name and TIN that it uses when filing your tax return that includes the Transactions for its business. In addition to all other charges and Fees set forth in the Fee Schedule, you may be charged a fee of $25 per month for each month during the Term that either subsection (a) or (b) applies to you.

ARTICLE VIII - TERMS BELOW ARE ADDITIONALLY APPLICABLE TO ONLY THOSE MERCHANTS PARTICIPATING IN AMERICAN EXPRESS CARD ACCEPTANCE (THE "PROGRAM").

A8.01 Merchant agrees to comply with, and accept Cards in accordance with, the terms of this Agreement and the American Express Merchant Operating Guide (www.americanexpress.com/merchantopguide), which is incorporated herein by reference and as may be amended from time to time.

A8.02 With respect to participation in the Program, in the event of a conflict between the terms below and other terms of this Agreement, the terms below shall control. Any defined terms pertaining to the Program, which are not defined in this Agreement, shall be given the definition provided by America Express.

A8.03 General Terms. Merchant authorizes ISO and/or its affiliates to submit American Express Transactions to, and receive settlement on such Transactions from, American Express or Service Provider on behalf of Merchant. ISO may collect and disclose Transaction Data, Merchant Data, and other information about Merchant to American Express; and (ii) American Express to use such information to perform its responsibilities in connection with the Program, promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including commercial marketing communications purposes within the parameters of this Agreement, and important transactional or relationship communications from American Express. American Express may use the information obtained in the merchant application at the time of setup to screen and/or monitor Merchant in connection with Card marketing and administrative purposes.

A8.04 Marketing Message Opt-Out. Merchant may opt-out of receiving future commercial marketing communications from American Express by contacting ISO. Note that Merchant may continue to receive marketing communications while American Express updates its records to reflect this choice. Opting out of commercial marketing communications will not preclude Merchant from receiving important transactional or relationship messages from American Express.

A8.05 Conversion to American Express Direct Merchant. Merchant acknowledges that it may be converted from the Program to a direct relationship with American Express if and when its Transaction volumes exceed the eligibility thresholds for the Program, becoming a High CV Merchant. If this occurs, upon such conversion, (i) Merchant will be bound by American Express' then-current Card Acceptance Agreement; and (ii) American Express will set pricing and other fees payable by Merchant.

A8.06 American Express as Third Party Beneficiary. Notwithstanding anything in the Agreement to the contrary, American Express shall have third- party beneficiary rights, but not obligations, to the terms of this Agreement applicable to the Program to enforce such terms against Merchant.

A8.07 American Express Opt-Out. Merchant may opt out of accepting American Express at any time without directly or indirectly affecting its rights to accept Other Payment Products.

A8.08 Refund Policies. Merchant's refund policies for American Express purchases must be at least as favorable as its refund policy for purchase on any Other Payment Products, and the refund policy must be disclosed to Cardmembers at the time of purchase and in compliance with Applicable Law. Merchant may not bill or attempt to collect from any Cardmember for any American Express Transaction unless a Chargeback has been exercised, Merchant has fully paid for such Charge, and it otherwise has the right to do so.

A8.09 Assignment. Merchant shall not assign to any third party any payments due to it under the Program, and all indebtedness arising from Charges will be for bona fide sales of goods and services (or both) at its Establishments and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that Merchant may sell and assign future Transaction receivables to Service Provider, its affiliated entities and/or any other cash advance funding source that partners with Service Provider or its affiliated entities, without consent of American Express.

A8.10 Termination. Service Provider may immediately terminate Merchant's right to accept Cards and Merchant's participation in the Program if (i) Merchant breaches any of the provisions of this Agreement, (ii) Merchant breaches any provision of the American Express Merchant Operating Guide, (iii) for cause or fraudulent or other activity, or (iv) upon request from American Express. Upon termination of this Agreement or upon Merchant's termination of the Program, Merchant shall cease all use of, and remove American Express Licensed Marks from Merchant's website and wherever else they are displayed.

A8.11 Laws and Regulations. Merchant must comply with all Applicable Laws, rules, and regulations relating to the conduct of Merchant's business. Merchant much comply with the American Express Data Security Requirements (DSR) and Payment Card Industry Data Security Standard (PCI DSS).

A8.12 Data Security. Merchant must ensure data quality and that Transaction Data and customer information is processed promptly, accurately and completely, and complies with the American Express Technical Specifications. Merchant is responsible for being aware of and adhering to privacy and data protection laws and provide specific and adequate disclosures to Cardmembers of collection, use, and processing of personal data. Merchant must report all instances of a Data Incident immediately to Service Provider after discovery of the incident.