



Merchant Services

Merchant Services Program Guide



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INTRODUCTION

Thank you for selecting us for your payment processing needs. Accepting numerous payment options provides a convenience to your customers, increases your customers' ability to make purchases at your establishment, and helps speed payment to your Settlement account.

This Program Guide contains a Merchant Agreement, which governs the acceptance of Visa,[®] MasterCard,[®] Discover[®] Credit Card, PIN Debit Card and Non-PIN Debit Card payments, American Express[®] Card payments and includes terms for additional card types and services, including Non-Bank Services, and agreements for other services, including TeleCheck[®] Services. Your Merchant Processing Application will indicate the types of payments and Services you have elected to accept.

The Merchant Agreement contained in Parts I and IV of this Program Guide, your Merchant Processing Application and the Schedules thereto (collectively, the "Agreement"), including, without limitation, one of the following as applicable to your pricing method as set forth in the Merchant Processing Application: Interchange Rate Schedule and Program Rate Schedule for AXP OptBlue[™], Non-Qualified Rate Schedule specific to your Merchant Account(s), or Qualification Tier Schedule, and the Debit Network Fees schedule, contain the terms and conditions under which Banc of America Merchant Services, LLC (Processor) and Bank of America, N.A. ("Bank") will provide services to you. Parts II and III of this Program Guide and the related sections of the Merchant Processing Application contain the terms and conditions under which third parties will provide their services to you. No alterations or strike-outs to the Program Guide will be accepted and, if made, any such alterations or strikeouts shall not apply. Please read this Program Guide completely, as it contains important information and keep it in a secure place.

You acknowledge that all Services contemplated in the Agreement or elsewhere in the Program Guide may not be available to you.

IMPORTANT INFORMATION ABOUT BANK'S RESPONSIBILITIES:

Services for Discover Card transactions and American Express Card transactions and other Non-Bank Services are not provided to you by Bank, but are provided by Processor and/or third parties.

The provisions of the Agreement regarding Discover Card transactions, American Express Card transactions and Non-Bank Services constitute an agreement solely between you and Processor and/or third parties. Bank is not responsible, and shall have no liability, to you in any way with respect to Discover Card transactions, American Express Card transactions and Non-Bank Services.

OTHER IMPORTANT INFORMATION:

Cards present risks of loss and non-payment that are different than those with other payment systems. In deciding to accept Cards, you should be aware that you are also accepting these risks.

Visa Inc. ("Visa"), MasterCard International Incorporated ("MasterCard"), DFS Services LLC ("Discover"), and American Express Company, Inc. ("American Express") are payment card networks that electronically exchange Sales Drafts and Chargebacks for Card sales and Credits. Sales Drafts are electronically transferred from banks (in the case of Visa and MasterCard transactions) or network acquirers (in the case of Discover transactions) that acquire them from merchants, such as you, through the appropriate Card Organization, to the Issuers. These Issuers then bill their Cardholders for the transactions. The Card Organizations charge the Acquirers interchange fees and assessments for submitting transactions into their systems. A substantial portion of the Discount Rate or Transaction Fees that you pay will go toward these fees and assessments.

In order to speed up the payment process, the Issuer transfers the funds back through the Card Organization to the Acquirer at approximately the same time that the Issuer receives the electronic Sales Drafts. Even though the payments under this system are made simultaneously, all payments made through the Card Organizations are conditional and subject to reversals and adjustments.

Each Card Organization has developed Card Organization Rules that govern their Acquirers and Issuers and the procedures, responsibilities and allocation of risk for this process. Merchants are also bound by Card Organization Rules which are part of this Agreement. The Card Organization Rules and Applicable Laws give Cardholders and Issuers certain rights to dispute transactions long after payment has been made to the merchant, including Chargebacks.

We do not decide what transactions are charged back and we do not control the ultimate resolution of the Chargeback. While we can attempt to reverse a Chargeback to the Issuer, we can only do so if the Issuer agrees to accept it or the Card Organization requires the Issuer to do so after a formal appeal process. Sometimes, your customer may be able to successfully chargeback a Card transaction even though you have provided your goods or services and are otherwise legally entitled to payment from your customer. While you may still be able to pursue claims directly against that customer, neither we nor the Issuer will be responsible for such transactions.

You will be responsible for all Chargebacks and adjustments associated with the transactions that you submit for processing.

Please refer to the Glossary for definitions of certain capitalized terms used without definition herein. Capitalized terms not otherwise defined in the Agreement may be found in the Card Organization Rules. References above to "our," "us" and "we" mean "Servicers," except for Non-Bank Card services, in which case those references mean "Processor," and references to "you" and "your" mean "Client," each as defined in the Merchant Agreement.

PART I: MERCHANT AGREEMENT

This Merchant Agreement ("Agreement") is made by and among the party identified as "Client" on the Application ("Client", "you" or "your"), Banc of America Merchant Services, LLC ("Processor") and Bank of America, N.A. ("Bank") (collectively, Processor and Bank are referred to herein as "Servicers", "our", "us" or "we") and contains the Operating Procedures and General Terms and includes Part IV of this Program Guide as well as the other documents described in the Glossary to this Agreement. Capitalized terms used in this Agreement (including the capitalized terms in this paragraph) are defined or further defined in the Glossary to this Agreement.

A. OPERATING PROCEDURES

This Subpart A describes the procedures and methods for submitting Card transactions for payment, obtaining Authorizations, responding to Chargebacks and Media Retrieval Requests, and other aspects of the operations of our services.

Processor is a full-service financial transaction processor dedicated, among other processing services, to facilitating the passage of your Sales Drafts back to the thousands of institutions who issue the Visa[®], MasterCard[®] and Discover[®] Cards carried by your customers, as well as to the independent Issuers of American Express[®].

The Operating Procedures contained in this subpart seek to provide you with the principles for a sound Card program; however, you should consult the Card Organization Rules for complete information and to ensure full compliance with them. They are designed to help you decrease your Chargeback liability and train your employees. (In the event we provide Authorization, processing or settlement services for transactions involving Cards other than Visa, MasterCard, Discover and American Express (also referred to herein as "AXP"), you should also consult those independent Issuers' proprietary rules and regulations.)

The requirements set forth in these Operating Procedures will apply unless prohibited by law. You are responsible for following any additional or conflicting requirements imposed by your state or local jurisdiction. The Card Organization Rules are made a part of this Part I of the Program Guide by this reference to them, and reference to this Agreement or the Program Guide shall be deemed to include the Card Organization Rules, unless stated otherwise. Capitalized terms not defined in this Agreement are defined in the applicable Card Organization Rules.

I. Visa, MasterCard, Discover and American Express Card Acceptance

I.1. Card Descriptions. At the point of sale, the Card must be carefully examined to determine whether it is a legitimate and valid Card. The name of the Card (e.g., Visa, MasterCard, Discover or American Express) should appear in bold letters on the Card. For all Visa and MasterCard Cards and for some Discover Cards, the Issuer (e.g., XYZ Bank, etc.) should also appear in bold letters on the Card. The following is a description of the authorized Visa, MasterCard, Discover and American Express Card designs and security features:

Visa: The Visa Brand Mark must appear in blue and gold on a white background in either the bottom right, top left, or top right corner. Embossed/Unembossed or Printed Account Number on valid cards begins with "4." All digits must be even, straight, and the same size. The Four to Six Digit Bank Identification Number (BIN) must be printed directly below the account number. This number must match exactly with the first four digits of the account number. The Expiration or "Good Thru" date should appear below the account number. The Mini-Dove Design Hologram may appear on the back of the card. The three-dimensional dove hologram should appear to move as you tilt the card. The Magnetic-Stripe is encoded with the card's identifying information. The Card Verification Value 2 (CVV2) is a three-digit code that appears either in a white box to the right of the signature panel, or directly on the signature panel. Portions of the account number may also be present on the signature panel. CVV2 is used primarily in card-absent transactions to verify that customer is in possession of a valid Visa card at the time of the sale. The Signature Panel must appear on the back of the card and contain an ultraviolet element that repeats the word "Visa." It may vary in length. The words "Authorized Signature" and "Not Valid Unless Signed" must appear above, below, or beside the signature panel. If someone tried to erase the signature panel, the word "VOID" will be displayed. Chip cards contain a small embedded microchip that is virtually impossible to copy or counterfeit. Chip Antenna for contactless cards, the interface can be an antenna embedded into the back of the card and connected to the chip. A contactless transaction works at terminals through the radio frequency wave between the card and the terminal. You are required to familiarize yourself with the new design by consulting the document entitled "Card Acceptance Guidelines for Visa Merchants and Chargeback Management Guidelines for Visa Merchants". You may download the document from Visa's website at <http://www.visa.com/merchant> or order a hardcopy to be mailed to you for a nominal charge by telephoning Visa fulfillment at 800-VISA-311.

MasterCard: The MasterCard symbol appears on the front or back of the Card. The global hologram is three dimensional with a repeat "MasterCard" printed in the background. In addition, the words Classic, Preferred, Gold or Business may appear. When rotated, the hologram will reflect light and appear to move. MasterCard account numbers are sixteen (16) digits, and the first digit is always a five (5). The first four digits of the account must be printed directly below the embossed number. The signature panel is tamper evident with the word "MasterCard" printed in multiple colors at a 45° angle. For magnetic swiped transactions, remember to compare the signature on the back of the card with the cardholder's signature on the receipt. The 4 digits printed on the signature panel must match the last 4 digits of the account number, followed by the 3 digit indent printed CVC2 number. A Chip may be present on the card. The cardholder will be prompted to enter a unique personal identification number or PIN when the card is inserted into a chip capable payment terminal. PayPass[®] contactless payment technology may be present on card. A signature is not required for PayPass[®] "tapped" transactions below a specified limit.

Discover Cards: Discover includes Discover, Diners Club International, JCB, UnionPay, BCard and Dinacard.

Valid standard rectangular plastic Cards bearing a Discover[®] Acceptance Mark, as indicated below, include the following common characteristics and distinctive features:

- The Discover Acceptance Mark may appear on the lower right corner of the front, back, or both sides of the Card.
- Cards display a three-dimensional hologram on the front of the Card OR a three-dimensional holographic magnetic stripe on the back of the Card. Valid Cards do not display holograms on both front and back.
- Card Numbers may be embossed or unembossed and will appear on either the front or back of a Card. Card Numbers begin with the number "6" and are composed of 16 digits that should be clear and uniform in size and spacing.
- The Cardholder name, and if applicable, business name, may be embossed or unembossed and will appear on either the front or back of the Card.
- The "Valid Thru" date may be embossed or unembossed and will appear on either the front or back of a Card in mm/yy format that indicates the last month in which the Card is valid.
- The words "DISCOVER" or "DISCOVER NETWORK" appears on the front of the Card under an ultraviolet light.
- The signature panel displays the words "DISCOVER" or "DISCOVER NETWORK" and may vary in size. Cards may contain a panel that includes an ultraviolet image of the word "DISCOVER." An underprint of "void" on the signature panel becomes visible if erasure of the signature is attempted.
- The last four digits of the Card Number may be displayed on the back of the Card and are commonly printed in reverse indent printing on the signature panel.
- On embossed Cards, a security character, displayed as an embossed stylized "D" may appear on the front of the Card.
- The 3-digit CID is printed on the back of the Card in a separate box to the right of the signature panel.

NOTE: Valid Cards may not always be rectangular in shape (e.g., Discover 2GO Cards). Certain valid unembossed Cards or Contactless Payment Devices approved by us for use in accessing Card Accounts (e.g., contactless stickers, key fobs, and Mobile Commerce Devices) and to conduct Contactless Card Transactions may not display the same features described above. Card expiration date and other features listed above are not displayed on such Contactless Payment Devices.

NOTE: For unembossed Cards used to conduct Card Present Card Sales, Merchants must obtain Authorization Responses electronically using a POS Device. A Card Sale involving an unembossed Card may be subject to Dispute if the Merchant "key enters" Card information into a POS Device and does not use the electronic Authorization procedures.

The features indicated below are found on valid Contactless Chip Payment Devices approved for use in accessing Card Accounts and to conduct Contactless Card Transactions:

- Standard, plastic rectangular Cards that are also Contactless Chip Payment Devices bear the security features described above.
- Contactless Chip Payment Devices other than Mobile Payment Devices bear the Contactless Indicator.
- Contactless Magnetic Stripe Payment Devices bear the Discover Zip Indicator
- Other Acceptance Mark as described below for Diners Club International, JCB, and UnionPay.

Diners Club International:

- A Diners Club International Acceptance Mark appears in upper left corner.
- Two-character alphanumeric code is printed in the lower right corner
- Is embossed with a 14 – digit Account Number (begins with 36)
- Embossed 16 – digit Account Number (begins with 30)
- Embossed digits on the card must be clear and uniform in size and spacing within groupings.
- Embossed expiration data appears in mm/yy format and indicates the last month in which the Card is valid.

Note: Some valid Cards bearing a Diners Club International Acceptance Mark display a printed, unembossed Card number. If a Card sale involving a Diners Club International Card with an unembossed Card number cannot be completed by swiping the card through the POS Device, the Card should not be accepted. If submitted, such Card sale may be subject to Dispute.

UnionPay:

- A 16 – digit Card number starting with "622," "624," "625," "626," or "628" is embossed on the front of the Card.
- Embossed digits on the Card should be clear and uniform in size and spacing.
- The embossed expiration date appears in mm/yy format and indicates the last month in which the Card is valid.
- The Card contains a magnetic stripe.
- A three-dimensional hologram image of Heaven Temple in the foreground with Chinese characters in the background appears on the front of all such Cards. The hologram reflects light as it is rotated.
- "Valid Thru" and the Cardholder name (which may not be in English) are embossed on the front of the Card.

- The CID appears on the upper right corner of the signature panel.

Note: Text on Cards bearing a UnionPay Acceptance Mark may not be printed in English.
JCB:

- Card Numbers are made up of 16 digits, starting with "35" embossed or printed on the front of the Card.
- Embossed digits on the Card should be clear and uniform in size and spacing within groupings.
- The Cardholder name and, if applicable, business name embossed on the front of the Card.
- A JCB Acceptance Mark appears on the front of the Card.
- A three-dimensional hologram image of rising sun, rainbow, and "JCB" in micro lettering appears on either the front or the back of the Card. The hologram reflects light as it is rotated.
- The embossed expiration date appears in mm/yy or mm/dd/yy format on the front of the Card and indicates the last month in which the Card is valid.
- The Card contains a magnetic stripe on the back of the Card.
- The name "JCB" appears in ultraviolet ink on the left bottom of the front of the Card when held under an ultraviolet light.
- The first four digits of the Card number match the 4-digit number pre-printed just below the embossed Card number of the front of the Card.
- The first four digits of the Card number displayed on the signature panel on the back of the Card match the last four digits of the Card number that appear on the front of the Card.
- The last four digits of the Card number on the back of the Card are followed by the 3-digit CID.
- An overprint on the signature panel reads "JCB" in two colors, blue and green.
- Some Cards have an embedded integrated circuit chip on the front of the Card.
- The words "Good Thru," "Valid Dates," "Valid Thru," or "Expiration Date" must be printed near the expiration date. The corresponding words in the language of the country where the JCB Card is issued may also be printed. The words "Month/Year" or the corresponding words in the language of the country where the JCB Card is issued may be printed above or below the expiration date.

Note: Some valid Cards bearing the JCB Acceptance Mark will have a printed, unembossed Card number on the Card. If a Card sale involving a valid, JCB Card with an unembossed Card number cannot be completed by swiping the Card through the POS Device, the Card should not be accepted. If you accept a Card that displays a printed, rather than embossed, Card number, you are required to obtain a Card imprint, the Card sale may be subject to Dispute.

American Express Card:

- All American Express Card Numbers start with "37" or "34." The Card number appears embossed on the front of the Card. Embossing must be clear, and uniform in sizing and spacing. Some Cards also have the Card Number printed on the back of the Card in the signature panel. These numbers, plus the last four digits printed on the Sales Draft, must match.
- Pre-printed Card Identification (CID) numbers must always appear above the Card number on either the right or left edge of the Card.
- Some Cards contain a holographic image on the front or back of the plastic to determine authenticity. Not all American Express Cards have a holographic image.
- Some Cards have a chip on which data is stored and used to conduct a Charge.
- Only the person whose name appears on an American Express Card is entitled to use it. Cards are not transferable.
- The signature on the back of the Card must match the Cardholder's signature on the Sales Draft, and must be the same name that appears on the front of the Card. The signature panel must not be taped over, mutilated, erased or painted over.

1.2. Effective/Expiration Dates. At the point of sale, the Card should be carefully examined for the effective (valid from) (if present) and expiration (valid thru) dates which are located on the face of the Card. The sale date must fall on or between these dates. When an expiration date is expressed in a month/year format, Card transactions are valid through and including the last day of the month and year. When the valid date is expressed in a month/year format, Card transactions that occur before the first day of the month and year are invalid. Do not accept a Card prior to the effective date or after the expiration date. If the Card has expired, you cannot accept it for a Card sale unless you have verified through your Authorization Center that the Card is in good standing, otherwise, you are subject to a Chargeback and could be debited for the transaction.

When a MasterCard PayPass enabled key fob or mobile phone is presented for payment, verifying a valid expiration date is not required.

1.3. Valid Signature. Check the back of the Card. Make sure that the signature panel has not been disfigured or tampered with in any fashion (an altered signature panel may appear discolored, glued or painted, or show erasure marks on the surface). The signature on the back of the Card must compare favorably with the signature on the Sales Draft. The Sales Draft must be signed by the Card presenter in the presence of your authorized representative (unless a Card Not Present Sale) and in the same format as the signature panel on the Card; e.g., Harry E. Jones should not be signed H.E. Jones. However, comparing the signature on the Card with the signature on the transaction receipt is not applicable when an alternate Card form (e.g., MasterCard PayPass key fob or mobile phone) is presented. The signature panels of Visa, MasterCard and Discover Cards have a 3-digit number (CVV2/CVC2/CID) printed on the panel known as the Card Validation Code.

Visa, MasterCard, Discover and American Express: If the signature panel on the Card is blank, in addition to requesting an Authorization, you must do all the following:

- Review positive identification bearing the Cardholder's signature (such as a passport or driver's license that has not expired) to validate the Cardholder's identity.

- Indicate the positive identification, including any serial number and expiration date, on the Credit Draft or Sales Draft; provided that you must effect PAN Truncation, and must not include the expiration date, on the copy of the Sales Draft or Credit Draft that you provide to the Cardholder and, as required by Applicable Law or Card Organization Rules, on the Sales Draft or Credit Draft you retain.
- Require the Cardholder to sign the signature panel of the Card prior to completing the Transaction.
- When a MasterCard PayPass enabled key fob or mobile phone is presented for payment, validating the customer's signature is not required.

1.4. Users Other Than Cardholders. A Cardholder may not authorize another individual to use his/her Card for purchases. Be sure the signature on the Card matches with the one on the Sales Draft. Furthermore, any Card having two signatures on the back panel is invalid and any sale made with this Card can result in a Chargeback. For Cards bearing a photograph of the Cardholder, ensure that the Cardholder appears to be the person depicted in the picture which appears on the Card. If you have any questions, call the Voice Authorization Center and request to speak to a Code 10 operator.

1.5. Special Terms. If you limit refund/exchange terms or impose other specific conditions for Card sales, the words "No Exchange, No Refund," etc. must be clearly printed (in 1/4" letters) on the Sales Draft near or above the Cardholder's signature. The Cardholder's copy, as well as your copy, must clearly show this information.

During a liquidation and/or closure of any of your outlets, locations and/or businesses, you must post signs clearly visible to customers stating that "All Sales Are Final," and stamp the Sales Draft with a notice that "All Sales Are Final."

Generally, do not give cash, check or in-store Credit refunds for Card sales. Visa allows for the following exclusions: a cash refund to the Cardholder for a Visa Easy Payment Service transaction, a cash refund, Credit, or other appropriate form of Credit to the recipient of a gift purchased as a Mail/Phone Order transaction, or a cash refund or in-store Credit for a Visa prepaid card transaction if the Cardholder states that the Visa prepaid card has been discarded. **NOTE:** A disclosure does not eliminate your liability for a Chargeback. Consumer protection laws and Card Organization Rules frequently allow the Cardholder to dispute these items notwithstanding such disclosures.

1.6. Delayed Delivery or Deposit Balance. In a delayed delivery transaction where a Cardholder makes a deposit toward the full amount of the sale, you should execute two separate Sales Drafts (each completed fully as described in Section 3.1), the first for a deposit and the second for payment of the balance upon delivery of the merchandise or the performance of the services.

Visa: You must obtain an Authorization for each Sales Draft on each transaction date. You must assign the separate Authorization Approval Codes to each Sales Draft, respectively. You must note on such Sales Drafts the words "delayed delivery," "deposit" or "balance," as appropriate, and the Authorization dates and Authorization Approval Codes.

MasterCard: For MasterCard transactions, you must obtain an Authorization for each Sales Draft on each transaction date. You must note on both Sales Drafts the words "delayed delivery," "deposit" or "balance," as appropriate, and the Authorization date and Authorization Approval Code.

NOTE: For Visa and MasterCard transactions, if delivery is more than twenty-five (25) days after the original transaction date and the initial Authorization request (as opposed to the thirty (30) days in Discover transactions), you should reauthorize the unprocessed portion of the transaction prior to delivery. If the transaction is declined, contact the Cardholder and request another form of payment. For example: On January 1, a Cardholder orders \$2,200 worth of furniture and you receive an Authorization for the full amount; however, only a \$200 deposit is processed. The above procedures are followed, with a \$2,000 balance remaining on the furniture; the \$2,000 transaction balance should be reauthorized.

Discover: For Discover transactions, you must label one Sales Draft "deposit" and the other "balance," as appropriate.

You shall submit Authorization requests you receive and await receipt of the Authorization Response prior to completing the Card sale. A positive Authorization Response will remain valid for thirty (30) calendar days from the date of the Authorization Response for Card sales in the car rental industry, airline and passenger railway industries, the lodging industry and other travel MCCs including passenger transport and all International Card sales. A positive Authorization Response will remain valid for ten (10) calendar days from the date of the Authorization Response for Card sales in all other industries and MCCs.

In addition, you must complete Address Verification at the time of the "balance" Authorization, and you must obtain proof of delivery upon delivery of the services/merchandise purchased. You may not submit sales data relating to the "balance" to us for processing until the merchandise/ service purchased has been completely delivered.

American Express: For American Express Card transactions, you must clearly disclose your intent and obtain written consent from the Cardholder to perform a delayed delivery transaction before you request an Authorization. You must obtain a separate Authorization Approval for each delayed delivery transaction on their respective Charge dates and clearly indicate on each record that the Charge is either for the deposit or for the balance of the transaction. You must submit the delayed delivery transaction record for the balance of the purchase only after the items have been shipped, provided or services rendered. For deposits, submission must be on the date the Cardholder agreed to pay for the deposit for the purchase. For balances, submission must be on the date the items are shipped, provided or services rendered. You must submit and authorize each delayed delivery transaction under the same Merchant Account Number and treat deposits on the Card no differently than you treat deposits on all other payment products.

Advance Payment Charges for American Express Transactions.

An advance payment Charge is a Charge for which full payment is made in advance of you providing the goods and/or rendering services to the Cardholder and such Charges carry higher risk. American Express may withhold settlement for part or all of such Charges until it is determined that the risk has diminished.

You must follow the procedures below if you offer Cardholders the option or require them to make advance payment Charges for the following types of goods and/or services:

- Custom-orders (e.g., orders for goods to be manufactured to a customer's specifications),
- Entertainment / ticketing (e.g., sporting events, concerts, season tickets),
- Tuition, room and board, and other mandatory fees (e.g., library fees) of higher educational institutions.
- Airline tickets, vehicle rentals, rail tickets, cruise line tickets, lodging, travel-related services (e.g., tours, guided expeditions).

For an advance payment Charge, you must:

State your full cancellation and refund policies, clearly disclose your intent and obtain written consent from the Cardholder to bill the Card for an advance payment Charge before you request an Authorization. The Cardholder's consent must include his or her agreement to all the terms of the sale (including price and any cancellation and refund policies), and a detailed description and the expected delivery date of the goods and/or services to be provided (including, if applicable, expected arrival and departure dates).

- Complete a Sales Draft. If the advance payment Charge is a Card Not Present Charge, you must also ensure that the Sales Draft contains the words "Advance Payment;" and within twenty-four (24) hours of the Charge being incurred, provide the Cardholder written confirmation (e.g., email or facsimile) of the advance payment Charge, the amount, the confirmation number (if applicable), a detailed description and expected delivery date of the goods and/or services to be provided (including expected arrival and departure dates, if applicable) and details of your cancellation/ refund policy.

If you cannot deliver goods and/or services (e.g., because custom-ordered merchandise cannot be fulfilled), and if alternate arrangements cannot be made, you must immediately issue a Credit for the full amount of the advance payment Charge which cannot be fulfilled.

In addition to other Chargeback rights, a Chargeback may be exercised for any disputed advance payment Charge or portion thereof if the dispute cannot be resolved in your favor based upon unambiguous terms contained in the terms of sale to which you obtained the Cardholder's written consent.

1.7. Recurring Transaction and Preauthorized Order Regulations. If you process recurring transactions and charge a Cardholder's account periodically for recurring goods or services (e.g., monthly insurance premiums, yearly subscriptions, annual membership fees, etc.), the Cardholder shall complete and deliver to you a Cardholder approval for such goods or services to be charged to his account. The approval must at least specify the Cardholder's name, address, account number and expiration date, the transaction amounts, the timing or frequency of recurring charges and the duration of time for which the Cardholder's permission is granted. For Discover transactions, the approval must also include the total amount of recurring charges to be billed to the Cardholder's account, including taxes and tips and your Merchant Account Number.

If the recurring transaction is renewed, the Cardholder must complete and deliver to you a subsequent written request for the continuation of such goods or services to be charged to the Cardholder's account. You may not complete a recurring transaction after receiving a cancellation notice from the Cardholder or Issuer or after a request for Authorization has been denied.

If we or you have terminated this Agreement, you may not submit Authorization requests or sales data for recurring transactions that are due after the termination date of this Agreement.

You must obtain an Authorization for each transaction and write "Recurring Transaction" (or "P. O." for MasterCard transactions or "Signature on File" for American Express) on the Sales Draft in lieu of the Cardholder's signature. A positive Authorization response for one recurring transaction Card Sale is not a guarantee that any future recurring transaction Authorization request will be approved or paid.

For all Discover recurring transactions, you should submit the 3-digit CID number with the first Authorization request, but not subsequent Authorization requests. Discover Card Organization Rules specifically require that you follow this CID procedure for Discover recurring transactions.

Also, for Discover recurring transactions, the Sales Draft must include a general description of the transaction, your merchant name and a toll-free customer service number that the Cardholder may call to obtain customer assistance from you or to cancel the written approval for the recurring transaction.

For American Express recurring transactions, you should periodically verify with Cardholders that their information (e.g., Card number, expiration date, billing address) is still accurate. This will improve the likelihood of obtaining an approval to an Authorization request.

The method to secure consent for recurring Charges must contain a disclosure that you may receive updated Card account information from the Issuer. You must retain evidence of consent to receive updated Card account information from the Issuer for twenty-four (24) months from the date you submit the last recurring billing Charge. If you offer Cardholders the option to make recurring billing Charges, you must:

- Ensure that your process for cancellation of recurring billing is simple and expeditious;
- Clearly and conspicuously disclose all material terms of the option, including, if applicable, the fact that recurring billing will continue until the option is cancelled by the Cardholder;
- Offer their American Express customers the option to receive written notification for the recurring transaction(s) at least (10) ten days prior to submitting, or any time the Charge amount exceeds a maximum amount that has been set by the Cardholder;
- Within twenty-four (24) hours of incurring the first recurring billing Charge, provide the Cardholder written confirmation (e.g., email or facsimile) of such Charge, including all material terms of the option and details of your cancellation/refund policy; and

- Where the material terms of the option change after submission of the first recurring billing Charge, promptly notify the Cardholder in writing of such change and obtain the Cardholder's express written consent to the new terms prior to submitting another recurring billing Charge

The cancellation of an American Express Card constitutes immediate cancellation of that Cardholder's consent for recurring Charges. American Express will not have any liability from such cancellation. If an American Express Card is cancelled or a Cardholder withdraws consent to recurring Charges, you are responsible for arranging another form of payment with the Cardholder.

All recurring transactions or preauthorized orders may not include partial payments for goods or services purchased in a single transaction.

You may not impose a finance charge in connection with a Recurring Transaction or Preauthorized Order.

If you process recurring payment transactions, the Recurring Payment Indicator must be included in each Authorization request, and as applicable, each Batch submission entry. Penalties can be assessed by the Card Organizations for failure to use the Recurring Payment Indicator.

1.8. Certain Rules and Requirements. The following rules are requirements strictly enforced by Visa, MasterCard and Discover:

- You cannot impose a surcharge or fee for accepting a Debit Card.
- You cannot establish any special conditions for accepting a Card, other than those specifically permitted by the Card Organization Rules.
- You cannot require the Cardholder to supply any personal information (e.g., home or business phone number; home or business address; or driver's license number) unless instructed by the Authorization Center. The exception to this is for mail/ telephone/Internet order or delivery-required transactions, or as otherwise permitted by Applicable Law. Any information that is supplied by the Cardholder must not be in plain view when mailed.
- Any tax required to be collected must be included in the total transaction amount and not collected in cash.
- You cannot submit any transaction representing the refinance or transfer of an existing Cardholder obligation deemed uncollectible.
- You cannot accept a Visa Consumer Credit Card or Commercial Visa Product, issued by a U.S. Issuer, to collect or refinance an existing debt. NOTE: Visa Consumer debit and Visa Business debit Card products, including prepaid card type may be accepted to collect or refinance an existing debt, with our prior approval and registration with Visa. You agree to reimburse us for our registration costs.
- You cannot accept a MasterCard Card for payment of an existing consumer loan. NOTE: MasterCard Signature Debit or MasterCard Prepaid Card may be accepted for payment of an existing consumer loan, with our prior approval and registration with MasterCard. You agree to reimburse us for our registration costs.
- You cannot submit a transaction or sale that has been previously charged back.
- You must create a Sales Draft or Credit Draft for each Card transaction and deliver at least one copy of the Sales Draft or Credit Draft to the Cardholder.
- You cannot submit a transaction or sale to cover a dishonored check.
- If you accept Card checks, your Card check acceptance policy must treat the acceptance of checks from all payment card brands that you accept equally (e.g., if you accept MasterCard, Visa and Discover Network, your check acceptance policy must treat checks for all three payment card brands equally). You should handle these Card checks like any other personal check drawn upon a bank in the United States.
- Failure to comply with any of the Card Organization Rules may result in fines or penalties.

U.S. Merchants may engage in any of the following:

- You may direct customers to a particular brand or type of general purpose card or a particular form of payment. U.S. Merchants may also encourage customers who initially present a Visa Card to use a payment card with a different network brand, a different type of payment card or a different form of payment.
- You may provide a discount/incentive for a consumer to pay with cash, check, Credit Card, Debit Card, etc., however, you must clearly and conspicuously disclose the discount to consumers. Also, you must offer the discount to all consumers and you cannot discriminate based upon Card brand or Card Issuer. However, you may choose not to accept either U.S. issued Debit Cards or U.S. issued Credit Cards under the terms described in Section 1.9.
- You may offer a discount or rebate, including an immediate discount or rebate at the point of sale;
- You may offer a free or discounted product, service or enhanced service;
- You may offer an incentive, encouragement, or benefit;
- You may express a preference for the use of a particular brand or type of general purpose card or a particular form of payment;
- You may communicate to a customer the reasonably estimated or actual costs incurred by the merchant when a customer uses a particular brand or type of general purpose card or a particular form of payment or the relative costs of using different brands or types of general purpose cards or different forms of payment.
- Visa Consumer and Visa Business Debit Card products, including prepaid Card type, can be accepted to collect or refinance an existing debt; or
- You may engage in any other practices substantially equivalent to the above.
- You will inform the Cardholder that you are responsible for the Card transaction including your goods and services and for related customer service, dispute resolution and performance of the terms and conditions of the transaction.
- You can accept Cards for charitable contributions (for non-profits).

- You cannot accept Cards for cash equivalents, except as permitted by Card Organization Rules.
- You cannot accept Cards to verify the age of a Cardholder.
- You cannot accept Cards for purchases not specifically approved by the Cardholder.
- You cannot accept Cards for damages, losses, penalties or fines of any kind, except as permitted under applicable Card Organization Rules.
- Your minimum Credit Card acceptance amount cannot exceed \$10.00 and cannot apply to Debit Card transactions. Such minimum amount must be established for all Credit Cards regardless of Issuer or Card brand. Unless you are a federal government entity or an institution of higher learning, you may not establish a maximum amount as a condition for accepting a Card, except that for Discover transactions, you may limit the maximum amount a Discover Cardholder may spend if, and only if, you have not received an Authorization Approval Code from the Issuer. Setting a minimum transaction amount limit for Debit Cards (PIN Debit Card or Non-PIN Debit Card) is prohibited.

1.9. Card Acceptance. You have elected and we have approved you to accept those Card types and Services designated on the Application. You may change your election of Card types and Services from time to time upon at least sixty (60) days' advance notice to us; we will use our reasonable efforts to accommodate your requests in less than this time but we will not be obligated to do so. At the time of your request for a new Card type or Service, we will communicate to you any fee changes (including any new fees and increased fees) regarding it. You will be deemed to have elected, and to have agreed to all related fee changes for, that new Card type or Service upon your request for an Authorization for a transaction with a Card of that Card type or use of the new Service and those fee changes will first be reflected in your Merchant Account statements for those transactions or new Service. You will not seek Authorization for or submit a transaction of a new Card type until you receive written notice or oral or other notice (e.g., our coordinating a terminal download with you or providing instructions to you for updating non-terminal equipment) from us that you are approved to accept such Card type. Unless otherwise directed by us, you will not seek Authorization for, or submit a Card transaction of, a Card type you desire to discontinue accepting later than the effective date of the notice to us.

If you have indicated either in the Application or by registering with us at least thirty (30) days in advance that, as between Non-PIN Debit Card transactions and Credit Card transactions, you will limit your acceptance to either (i) only accept Non-PIN Debit transactions; or (ii) only accept Credit Card transactions, then the following terms in this Section 1.9 will apply:

1.9.1. You will be authorized to refuse to accept for payment either Non-PIN Debit Cards or Credit Cards that are issued within the United States. You will, however, continue to be obligated to accept all foreign issued Credit Card or Debit Cards issued by Visa, MasterCard or Discover so long as you accept any type of Visa, MasterCard or Discover branded Card.

1.9.2. While many Debit Cards include markings indicating debit (such as "Visa Check Card, Visa Buxx, Gift Card, DEBIT, or Mastermoney"), many Debit Cards may not include any such markings. It will be your responsibility to determine at the point of sale whether a Card is of a type that you have indicated that you will accept. You agree to institute appropriate systems and controls to limit your acceptance to the Card types indicated. You may purchase a table of ranges of numbers currently associated with Debit Card transactions upon execution of confidentiality/non-disclosure agreements required by the Card Organizations. You will be responsible for updating your systems to utilize such tables and to obtain updated tables. You must safeguard BIN information provided by us and not provide it to Persons without our prior written consent. If we approve the Person to act for you, then you may share such BIN information with such Person to use on your behalf only if you require in writing that such Person to safeguard such BIN information also and use it only for Card type identification at the POS.

1.9.3. You are responsible for distinguishing Credit Cards from Non-PIN Debit Cards. Even if you have agreed to limit your acceptance of certain Cards, you must continue to accept all foreign issued Cards, whether Credit or Non-PIN Debit Cards. If you agree to limit your acceptance to a particular type of Card and, whether intentionally or in error, accept another Card type for a transaction, that transaction will downgrade, as further described in Section 18.1 of Part I and Section A.3 of Part IV of the Program Guide.

1.9.4. Based upon your choice to accept only the Card types indicated in the Application, you must remove from your premises any existing signage indicating that you accept all Visa, MasterCard or Discover Cards and use approved specific signage reflecting your policy of accepting only Non-PIN Debit Cards or Credit Cards.

1.9.5. Even if you elect not to accept Non-PIN Debit Card transactions as provided above, you may still accept PIN Debit Card transactions if you have signed up for PIN Debit Card Services. The terms in Section 28 shall apply to such services.

1.9.6. If a MasterCard Card is presented, you must use your best efforts, by reasonable and peaceful means to retain the Card while making an Authorization request. In a face-to-face environment, you must give a MasterCard Cardholder the option of a signature based transaction. Unless the Cardholder uses a PIN, the Cardholder must sign the transaction receipt.

1.9.7. MasterCard revised standards related to the use of Mobile POS ("MPOS") terminals.

Merchants with less than \$100,000 in annual MasterCard transaction volume may use Chip only MPOS terminals;

- That do not support magnetic stripe capture and cannot print a paper Transaction receipt.
- Have a contact chip reader and magnetic stripe-reading capability but does not support PIN as a Cardholder Verification Method ("CVM") for Contact Chip Transactions.
- Chip-only MPOS Terminal.

Merchants with less than \$100,000 in annual MasterCard transaction volume may use MPOS terminals or Chip-only MPOS solutions that do not support electronic signature capture to complete a transaction without obtaining a CVM.

Please Note: Merchants with more than \$100,000 in annual transactions may use MPOS terminals if the MPOS terminal complies with MasterCard's requirements for POS terminals or hybrid POS terminals (if chip cards are accepted).

1.10. Deposits of Principals. Owners, partners, officers and employees of your business establishment, and the guarantors who signed the Application, are prohibited from submitting Sales Drafts or Credit Drafts transacted on their own personal Cards, other than transactions arising from bona fide purchases of goods or services in the ordinary course of your business. Such use in violation of this Section 1.10 is deemed a cash advance, and cash advances are prohibited.

1.11. Merchants in the Lodging Industry.

1.11.1. Generally. There are additional rules and requirements that apply to merchants in the lodging industry for practices, including, but not limited to, Guaranteed Reservations and charges for no shows, advance deposits, overbookings, and priority check out. If you are a merchant in the lodging industry, you must contact us for these additional rules and requirements. Failure to do so could result in additional charges or termination of this Agreement.

1.11.2. Lodging Service Programs. In the event you are a lodging merchant and wish to participate in Visa's and/or MasterCard's lodging services programs, please contact your sales representative or relationship manager for details and the appropriate Visa and MasterCard requirements.

1.11.3. Written Confirmation of Guaranteed Reservations. You must provide the Cardholder with written confirmation of a guaranteed reservation. The confirmation must contain:

- Cardholder's name as it appears on the Card, if present.
- Card number, if truncated where required by Applicable Law and Card expiration date if present, unless prohibited by Applicable Law.
- Reservation confirmation number.
- Anticipated arrival date and length of stay.
- The cancellation policy in its entirety, inclusive of the date and time the cancellation privileges expire.
- Any other pertinent details related to the reserved accommodations.

1.11.4. Cancellation of Guaranteed Reservations. If a Cardholder requests a cancellation in accordance with Merchant's cancellation policy and specified time frames, Merchant must provide the Cardholder with a cancellation number and instructions to retain a record of it. If a Cardholder requests a written confirmation of the cancellation, Merchant must forward this confirmation within three (3) Business Days of the Cardholder's request. The cancellation confirmation must contain: Cardholder's reference that charges were placed on the Card, if applicable, or a guarantee that a "no-show" charge will not be placed on the Card.

- Cardholder's name as it appears on the Card, if present.
- Card number, truncated as required by Applicable Law to you or us.
- Card expiration date, if present, unless prohibited by Applicable Law to you or us.
- Reservation cancellation number.
- Date of cancellation.
- The name of the Merchant's employee that processed the cancellation.
- Any other pertinent information related to the reserved accommodations.

1.12. Customer Activated Terminals and Self-Service Terminals. Prior to conducting Customer Activated Terminal ("CAT") transactions or Self-Service Terminal transactions for MasterCard, Visa or Discover you must contact us for approval and further instructions, rules and requirements that apply to CAT and Self-Service Terminal transactions. Failure to do so could result in additional charges or termination of this Agreement.

Customer Activated Terminals for American Express Transactions

Charges for purchases at your Customer Activated Terminals (CATs) must meet the requirements for Sales Draft as detailed below:

You must include:

- Full Magnetic Stripe data stream or chip Card data in all Authorization requests, and;
- CAT indicator on all Authorization requests and Submissions.

American Express will not be liable for actual or alleged fraudulent Charges occurring through Customer Activated Terminals (CAT) and will have the right to Chargeback for those Charges.

1.13. Displays and Advertising. You must prominently display appropriate Visa, MasterCard, Discover, and American Express and, if applicable, other Card Organization decals and program Marks at each of your locations, in catalogs, on websites and on other promotional materials as required by Card Organization Rules. You may not indicate that Visa, MasterCard, Discover, American Express or any other Card Organization endorses your goods or services.

Your right to use the program Marks of the Card Organizations terminates upon the earlier of (i) if and when your right to accept the Cards of the respective Card Organization terminates (e.g., if your right to accept Discover Cards terminates, you are no longer permitted to use Discover Program Marks), (ii) delivery of notice by us or the respective Card Organization to you of the termination of the right to use the Mark(s) for that Card Organization, or (iii) termination of the license to use the program Marks by the respective Card Organization to us.

American Express: If you elected to accept the American Express Card on your Application, whenever payment methods are communicated to customers, or when customers ask what payments are accepted, you must indicate your acceptance of the American Express Card and display the American Express Marks (including any Card application forms provided to you) as prominently and in the same manner as you do for any other Card or payment products. You must not use the American Express Marks in any way that injures or diminishes the goodwill associated with the American Express

Marks, nor (without prior written consent from us) indicate that American Express endorse your goods or services. You shall only use the American Express Marks as permitted by the Agreement and shall cease using the American Express Marks upon termination of the Agreement.

I.13.1. Discover Sublicense to Use Discover Program Marks. You are prohibited from using the Discover Program Marks, as defined below, other than as expressly authorized in writing by us. "Discover Program Marks" means the brands, emblems, trademarks and/or logos that identify Discover Network Cards, including, without limitation, Diners Club International Cards, JCB, UnionPay, BCard, and Dinacard. Additionally, you shall not use the Discover Program Marks other than as a part of the display of decals, signage, advertising and other forms depicting the Discover Program Marks that are provided to you by us or otherwise approved in advance in writing by us.

You may use the Discover Program Marks only to promote the services covered by the Discover Program Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by you must be approved in advance by us in writing. You shall not use the Discover Program Marks in such a way that customers could believe that the products or services offered by you are sponsored or guaranteed by the owners of the Discover Program Marks. You recognize that you have no ownership rights in the Discover Program Marks. You shall not assign to any Person any of the rights to use the Program Marks.

I.13.2. American Express Sublicense to Use American Express Marks. You shall only use the American Express Marks as reasonably necessary to perform your obligations under the Agreement. The guidelines listed below apply to the Merchant's use of the American Express "Blue Box" logo.

- The "Blue Box" logo must always be shown in the pre-approved "American Express blue" or, in one or two color communications, or black.
- The space around the "Blue Box" must equal at least 1/3 the size of the box.
- The "Blue Box" logo minimum size is 3/8" and 1/2" is the preferred size.
- A minimum distance of 1-1/2 times the size of the "Blue Box" must be allowed between the "Blue Box" logo and another Mark.
- For additional guidelines on the use of the American Express Marks, you can visit the American Express website at www.americanexpress.com/decals.
- You must remove American Express Marks from your website and wherever else they are displayed upon termination of the Agreement or if you do not elect to accept or are not authorized to accept American Express Cards.

I.14. Cash Payments by and Cash Disbursements to Cardholders. You must not accept any direct payments from Cardholders for charges of merchandise or services which have been included on a Sales Draft; it is the right of the Issuer to receive such payments. You may not make any cash disbursements or cash advances to a Cardholder as part of a Card transaction unless you are a financial institution that has received express written authorization from Servicers, in advance. Further, you may not accept Cards for the purchase of travelers checks if the sole purpose is to allow the Cardholder to make a cash purchase of goods or services from you. For Discover, cash advances in authorized jurisdictions other than the United States may be conducted in an originating currency provided that cash advances may be subject to dispute and/or Acquirer fees.

I.15. Discover Cash Over Transactions. Cash Over transactions are not available for MasterCard or Visa transactions. You may issue Cash Over in connection with a Discover Card sale, provided that you comply with the provisions of this Agreement, including the following requirements:

- You must deliver to us a single Authorization request for the aggregate total of the goods/services purchase amount and the Cash Over amount of the Card sale. You may not submit separate Authorization requests for the purchase amount and the Cash Over amount.
- Cash Over may only be offered with a Card Present Card Sale that includes a purchase of goods or services by the Cardholder. You must not issue Cash Over as a stand-alone transaction. Merchants that offer Cash Over may require the total amount of a Card Sale with a Credit product, including Cash Over, to meet a minimum transaction amount of up to \$10.00.
- You shall assess or charge fees of any type or amount, including any surcharges on Cash Over Transactions. None of the fees or charges applicable to Cash Advances shall be applied to Cash Over Transactions.
- Cash Over may be dispensed in connection with Credits, Cash Advances or any Card sale for which you are unable to electronically capture Track Data using the POS Device.
- The Sales Draft must include both the purchase amount and the Cash Over amount, and you may not use separate Sales Drafts for the purchase amount and Cash Over amount.
- No minimum purchase is required for you to offer Cash Over to a Discover Cardholder, provided that some portion of the total Card sale must be attributable to the purchase of goods or services.
- The maximum amount of cash that you may issue as Cash Over is \$100.00. (Cash Over may not be available in certain markets. Contact us for further information.)

I.16. Telecommunication Transactions. Telecommunication Card Sales occur when a telephone service provider is paid directly using a Card for individual local or long distance telephone calls. (NOTE: Pre-paid telephone service cards are not and do not give rise to Telecommunication Card Sales). Prior to conducting Telecommunication transactions you must contact us for approval and further instructions, rules and requirements. Failure to do so could result in additional charges or termination of this Agreement.

I.17. Locations in the U.S. Territories.

I.17.1. Generally. There are additional rules and requirements that apply to merchants' locations in the U.S. Territories. Merchant locations in certain U.S. Territories (e.g., Puerto Rico) are subject to the Card Organization Rules governing the Latin American/Caribbean Region and merchant locations in other U.S. Territories (e.g., Guam) are subject to the Card Organization Rules governing the Asia Pacific region. If you have locations in the

U.S. Territories, it is your sole responsibility to determine which regional Card Organization Rules apply and to comply with such rules.

I.17.2. Asia Pacific Region. Notwithstanding anything to the contrary herein, if you have locations in U.S. Territories that are subject to the Card Organization Rules governing the Asia Pacific Region, you must:

- Provide to us promptly, upon request, information related to trade names, legal names, location addresses, telephone numbers, registration numbers, tax identification numbers, the names of principals and owners, company national identification numbers and national identification numbers and names of employees;
- Enable at least 10% of its electronic commerce transaction volume for Verified by Visa authentication;
- Ensure all newly purchased or replaced electronic Point of Sale Terminals are on the Card Organization approved EMV[®] terminal list and are fully EMV and VIS-compliant;
- Ensure all newly purchased chip-reading devices are certified by EMV Co. and are capable of accepting a PIN with plain text and enciphered Offline PIN Verification at a minimum;
- Not establish a minimum transaction amount as a condition for honoring a Visa Card, except where the transaction is conducted with a Visa credit card issued in the U.S. or a U.S. Territory, in which case, the minimum transaction amount must not be greater than US \$10 and must not be discriminatory between issuers or between Card Organizations; and
- Not establish a maximum transaction amount as a condition for honoring a Visa Card, except where the transaction is conducted with a Visa credit card issued in the U.S. or a U.S. Territory, is being conducted with an agency of the U.S. federal government or a qualifying university or vocational school and the maximum transaction amount imposed is not discriminatory between issuers or between Card Organizations.

2. Suspect Transactions

If the appearance of the Card being presented or the behavior of the person presenting the Card is suspicious in nature, you must immediately call the Voice Authorization Center and ask to speak to a Code 10 operator. Answer all their questions and follow their instructions. While not proof that a transaction is fraudulent, the following are some suggestions to assist you in preventing fraudulent transactions that could result in a Chargeback:

Ask yourself, does the Customer:

- appear nervous/agitated/ hurried?
- appear to be making indiscriminate purchases (e.g., does not care how much an item costs, the size, etc.)?
- make purchases substantially greater than your usual customer (e.g., your average transaction is \$60, but this transaction is for \$360)?
- insist on taking the merchandise immediately (e.g., no matter how difficult it is to handle, is not interested in free delivery, alterations, etc.)?
- appear to be purchasing an unusual amount of expensive items or the same items?
- take an unusual amount of time to sign the Sales Draft, or look at the back of the Card as he signs?
- talk fast or carry on a conversation to distract you from checking the signature?
- take the Card from a pocket instead of a wallet?
- repeatedly come back, in a short amount of time or right before closing time, to make additional purchases?
- cause an unusual, sudden increase in the number and average sales transactions over a one- to three-day period?
- tell you he has been having some problems with his Issuer and request that you call a number (that he provides) for "special" handling or Authorization?
- have a previous history of disputed charges?
- place orders to be shipped to an address other than the billing address, or use anonymous/ free email domains?
- place orders sent to zip codes or countries where you show a history of fraudulent claims?
- frequently make purchases and then return goods for cash?
- use a prepaid Card to purchase other prepaid Cards?
- use a large number of prepaid Cards to make purchases?

Does the Card:

- have characters the same size, height, style and all within alignment?
- appear to be re-embossed (the original numbers or letters may be detected on the back of the Card)?
- have a damaged hologram?
- have an undamaged Magnetic Stripe on the back on the Card?
- have an altered Magnetic Stripe?
- have an altered signature panel (e.g., appear discolored, glued or painted, or show erasure marks on the surface)?
- have "valid from" (effective) and "valid thru" (expiration) dates consistent with the sale date?

If you use an electronic terminal and swipe the Card, make sure the account number displayed on the terminal and/or the Sales Draft matches the number on the Card. If you cannot or do not verify the account number and accept the sale, you are subject to a Chargeback and could be debited for the amount of the transaction. IF THE NUMBERS DO NOT MATCH, DO NOT ACCEPT THE CARD AS A FORM OF PAYMENT, EVEN THOUGH AN AUTHORIZATION APPROVAL CODE FOR THE MAGNETICALLY SWIPED CARD NUMBER MAY BE RECEIVED.

Fraud-Prone Merchandise Tips:

- Gift Cards, jewelry, video, stereo, computer and camera equipment, shoes and men's clothing are typically fraud-prone because they can easily be resold.
- Be suspicious of high dollar amounts and transactions with more than one fraud-prone item, e.g., two VCRs, three gold chains, etc.

If you suspect fraud:

- Call the Voice Authorization Center and ask to speak to a Code 10 operator.
- If the terminal does not display the Card number, call the POS Help Desk for terminal assistance.

REMEMBER: An Authorization Approval Code only indicates the availability of a Cardholder's credit at the time of the transaction. It does not warrant that the person presenting the Card is the rightful Cardholder. If proper procedures are not followed at the time of the transaction, you are subject to a Chargeback and your account may be debited for the amount of the transaction.

3. Completion of Sales Drafts and Credit Drafts

You must prepare a Sales Draft or Credit Draft, as applicable, for each Card transaction and provide a copy of it or a transaction receipt or copy of the Draft to the Cardholder at the time the Card transaction is completed.

3.1. Information Required. All of the following information must be contained on a single page document constituting a Sales Draft:

- Cardholder's account number must appear on the Credit Draft or Sales Draft in the manner required by Applicable Law and Card Organization Rules. **NOTE:** The copy of the Sales Draft or Credit Draft you provide to a Cardholder must not include the Cardholder's Card expiration date or any more than the last four digits of the Cardholder's Card number. Some states have similar requirements that also apply to the Sales Drafts or Credit Drafts you retain. MasterCard requires that Card expiration dates be excluded from the Sales Drafts or Credit Drafts your business retains. You are solely responsible to determine the Card account number truncation requirements and Card expiration date exclusion requirements for your state/jurisdiction.
- Clear imprint of the Card. Whenever the term "imprint" is used it refers to the process of using a manual imprinting machine to make an impression of the Card on the same side of a signed Sales Draft; it does not include the printout from a printer attached to an electronic device. If you use a device (e.g., Authorization/draft capture terminal, cash register, POS Terminal, etc.), to electronically capture the card information (magnetic swipe, chip or contactless data), you do not have to imprint the Card. **HOWEVER, IF THE ATTENDED POS DEVICE FAILS TO READ THE MAGNETIC STRIPE OR IF YOU ARE REQUIRED TO OBTAIN A VOICE AUTHORIZATION, THEN YOU MUST IMPRINT THE CARD. IN ADDITION, THE SALES DRAFT MUST HAVE THE CARDHOLDER'S SIGNATURE. FAILURE TO FOLLOW THESE PROCEDURES WILL PREVENT YOU FROM DEFENDING A TRANSACTION IN THE EVENT THAT IT IS CHARGED BACK UNDER A CLAIM THAT THE RIGHTFUL CARDHOLDER DID NOT AUTHORIZE THE PURCHASE. ENTERING INFORMATION INTO A TERMINAL MANUALLY WILL NOT PREVENT THIS TYPE OF CHARGEBACK. FOR MAIL, TELEPHONE, INTERNET AND OTHER CARD NOT PRESENT ORDERS SEE SECTION 3.2. IF THE PHYSICAL CARD IS NOT PRESENT, ANOTHER FORM OF PAYMENT MUST BE REQUESTED;**
- Cardholder's signature. However, eligible merchants participating in MasterCard's Quick Payment Service Program, Visa's No Signature Required Program, American Express No Signature Program, and Discover's No Signature Program, and/or certain Discover transactions (see note below) are not required to obtain the Cardholder's signature under certain conditions set forth by each program;
- Date of the transaction;
- Amount of the transaction (including the approved currency of the sale);
- Description of the goods and/or services involved in the transaction (if there are too many items, combine them into one description; e.g., "clothing" instead of "one pair of pants, one shirt"). Do not carry information onto a second Sales Draft;
- Description of your merchandise return and Credit / refund policy;
- A valid Authorization Approval Code; and
- Merchant's Doing Business As ("D/B/A") name and location (city and state required) and Merchant Account Number.

When imprinting Sales Drafts, do not alter the Cardholder account number, circle or underline any information on the Sales Draft or alter a Sales Draft in any way after the transaction has been completed and signed. Stray marks and other alterations on a Sales Draft may render it electronically unscannable, unreadable or illegible. This may result in a Chargeback or Summary Adjustment to your account.

For Discover sales using a paper Sales Draft (as opposed to Electronic Draft Capture), the paper Sales Draft must also contain the initials of your representative or employee that conducted the transaction.

For Discover Credits, the Credit Draft must contain the signature of your authorized representative or employee that conducted the transaction.

Discover Card Sales in an amount more than \$50.00 including sales taxes, tip, surcharge, and/or Cash Over amount are not eligible for treatment as No Signature Required Card Sales and you may lose a dispute of such a Card Sale if the Merchant fails to obtain the Cardholder's Signature on the Sales Draft.

Eligible merchants participating in Visa Easy Payment Service ("VEPS"), Visa's No Signature Required Program, Quick Payment Service or Small Ticket programs described above are only required to provide the Cardholder with the completed Sales Draft when requested by the Cardholder.

NOTE: For Visa, MasterCard and Discover transactions, if you are a merchant operating under certain merchant category codes ("MCC") approved by Visa, MasterCard and Discover, you are not required to obtain the Cardholder's signature so long as the full track

data is transmitted in the Authorization request and the sale amount is below the applicable program floor limit (MasterCard/Discover/American Express) is \$50.00 or less; Visa's program limit remains at \$25.00 or less excluding U.S. Grocery stores (MCC 5411) and discount stores (MCC 5310) where the limit has been raised to \$50.00.

For MasterCard, if you are operating vending machines under MCC 5499 (Miscellaneous Food Stores-Convenience Stores, Markets, Specialty Stores), you need not provide a receipt at the time a transaction is conducted. If a vending machine cannot provide a printed receipt, you must disclose and post instructions advising customers how a receipt may be obtained.

3.2. Mail/Telephone/Internet (Ecommerce) Orders and Other Card Not Present Sales. You may only engage in mail/telephone/Internet orders provided they do not exceed the percentage of your total payment Card volume reflected on your Application. Failure to adhere to this requirement may result in cancellation of this Agreement. Merchants conducting Internet transactions using MasterCard or Visa Cards must have special codes (an "Electronic Commerce Indicator") added to their Authorization and settlement records. Discover does not use an Electronic Commerce Indicator. Failure to register as a merchant conducting Internet transactions can result in fines imposed by the Card Organizations.

For Discover: The amount of a Mail-Order/Telephone-Order Card Sale as represented in Sales Data may exceed the amount of the corresponding positive Authorization Response by a Tolerance Level of 15% if the amount in excess of the Authorization Response represents shipping costs.

Mail, Telephone, Internet and other Card Not Present transactions have a substantially higher risk of Chargeback. Since you will not have an imprinted or magnetically swiped transaction and you will not have the Cardholder's signature on the Sales Draft as you would in a face-to-face transaction, you will assume all risk associated with accepting a mail/telephone/Internet or other Card Not Present transaction. The following procedures, while they will not eliminate Chargebacks, are useful in reducing them and should be followed by you:

- Obtain the expiration date of Card.
- On the Sales Draft, clearly print the Cardholder's account number; effective and expiration dates; date of transaction; description of the goods and services; amount of the transaction (including shipping, handling, insurance, etc.); Cardholder's name, billing address and shipping address; Authorization Approval Code; and merchant's name and address (city and state required); provided that you must effect PAN Truncation, and must not include the expiration date, on the copy of the Sales Draft or Credit Draft that you provide to the Cardholder and, as required by Applicable Law or Card Organization Rules, on the Sales Draft or Credit Draft you retain.
- For mail orders, write "MO"; for telephone orders, write "TO" on the Cardholder's signature line.
- If feasible, obtain and keep a copy of the Cardholder's signature on file on a form authorizing you to submit telephone and mail order transactions.
- You should utilize the Address Verification Service for all Card Not Present Transactions (see note below). Address Verification is specifically required for all Discover Card Not Present Transactions, and **if you do not receive a positive match through AVS for a Discover Card Not Present transaction, you may not process that transaction. If you do not have AVS, contact us immediately.**
- You should obtain the 3 or 4 digit Card Validation Code number and include it with each Authorization request. Discover Card Organization Rules specifically require that you submit the Card Validation Code with the Authorization request for all Discover Card Not Present Transactions.
- For telephone orders, it is recommended that written verification of the sale be requested from the Cardholder (sent by mail or fax).
- You may not submit a transaction for processing until after the merchandise has been shipped or the service has been provided to the customer. (The Card Organizations will permit the immediate billing of merchandise manufactured to the customer's specifications (i.e., special/custom orders) provided the Cardholder has been advised of the billing details.)
- You should provide a copy of the Sales Draft to the Cardholder at the time of delivery. You must also obtain proof of delivery of the goods or services to the address designated by the Cardholder (i.e., by getting a signature of the Cardholder or person designated by the Cardholder through the delivery carrier). If the Cardholder visits one of your locations to receive the goods or services purchased, obtain an imprint of the Card and the Cardholder's signature.
- Notify the Cardholder of delivery time frames and special handling and/or cancellation policies. Merchandise shipping dates must be within seven (7) days of the date Authorization was obtained. If, after the order has been taken, additional delays will be incurred (e.g., out of stock), notify the Cardholder. If you have not shipped the product by the seventh day, you must reverse the original Authorization, then reauthorize the transaction.
- You may not require a Cardholder to complete a postcard or other document that displays the Cardholder's account number in clear view when mailed.
- If you accept orders via the Internet, your web site must include the following information in a prominent manner:
 - Complete description of the goods or services offered;
 - Description of your merchandise return and Credit / refund policy;
 - Customer service contact, including email address and/or telephone number;
 - Transaction currency (U.S. dollars, unless permission is otherwise received from Servicers);
 - Any applicable export or legal restrictions;
 - Delivery policy;
 - Consumer data privacy policy;

- A description of the transaction security used on your website; and
- The sale or disclosure of databases containing Cardholder account numbers, personal information, or other Card transaction information to third parties is prohibited.
- Your identity at all points of interaction with the Cardholder;
- Address of Merchant including country.
- Cancellation policy.
- Date any free trial period ends.
- You may not accept Card Account Numbers through Electronic Mail over the Internet.
- Provide us with at least thirty (30) days' prior written notice of any change in your Internet address.

NOTE: AVS (and other fraud mitigation tools such as Verified by Visa, MasterCard SecureCode™, CVV2, CVC2 and CID verification) does not guarantee against Chargebacks, but used properly, it assists you in reducing the risk of fraud by confirming whether certain elements of the billing address provided by your customer match the billing address maintained by the Issuer. AVS also may help you avoid incurring additional interchange expenses.

AVS is a separate process from obtaining an Authorization and will provide a separate response. A transaction may not match addresses when submitted for AVS and still receive an Authorization. It is your responsibility to monitor the AVS responses and use the information provided to avoid high-risk transactions.

3.2.1. Discover Protocol for Internet Transactions. Each Internet Discover Card transaction accepted by you and submitted to us shall comply with Discover standards, including, without limitation, Discover standards governing the formatting, transmission and encryption of data, referred to as the "designated protocol." You shall accept only those Internet Discover Card transactions that are encrypted in accordance with the designated protocol. As of the date of these Operating Procedures, the designated protocol for the encryption of data is Secure Socket Layer (SSL).

We may, at our discretion, withhold Settlement until security standards can be verified. However, the designated protocol, including any specifications with respect to data encryption, may change at any time upon thirty (30) days advance written notice. You shall not accept any Internet Discover Card transaction unless the transaction is sent by means of a browser which supports the designated protocol.

3.2.2. Additional Requirements for eCommerce Transactions. You agree to develop and maintain a point of presence on the Internet at your expense. You will be responsible for all costs of connectivity and communication between you, the Internet and us. You agree to utilize SSL (Secure Sockets Layer) or other secure compatible encryption method acceptable to us in providing your eCommerce transactions to us for Authorization, processing and settlement.

3.3. Customer Service Telephone Numbers for Cards Other Than Visa, MasterCard and Discover:

American Express/ESA or Direct	1-800-528-5200
American Express	
(See Part IV, Section A.4 – Cust. Service #)	
JCB, International	
(for YEN and CAD currency only)	1-800-366-4522
TeleCheck	1-800-366-1054
Voyager	1-800-987-6591
WEX	1-800-492-0669

4. Data Security and Persons Used By Client

THE FOLLOWING IS IMPORTANT INFORMATION REGARDING THE PROTECTION OF CARDHOLDER DATA. PLEASE REVIEW CAREFULLY AS FAILURE TO COMPLY CAN RESULT IN SUBSTANTIAL FINES AND LIABILITIES FOR UNAUTHORIZED DISCLOSURE AND TERMINATION OF THIS AGREEMENT.

4.1. Payment Card Industry Data Security Standards (PCI DSS). Visa, MasterCard, Discover, American Express and JCB aligned data security requirements to create a global standard for the protection of Cardholder data. The resulting Payment Card Industry Data Security Standards ("PCI DSS") defines the requirements with which all entities that store, process, or transmit payment card data must comply. PCI DSS is the name used to identify those common data security requirements. The Cardholder Information Security Program ("CISP") is Visa's data security program, the Site Data Protection ("SDP") program is MasterCard's data security program and Discover Information Security and Compliance ("DISC") is Discover's data security program, and the Data Security Operating Policy ("DSOP") is American Express' data security program, each based on the PCI DSS and industry aligned validation requirements. PCI DSS compliance validation is focused on Merchant Systems (as defined below) where Cardholder data is processed, stored, or transmitted, including:

- All external connections into your network (i.e., employee remote access, third party access for processing, and maintenance);
- All connections to and from the Authorization and settlement environment (i.e., connections for employee access or for devices such as firewalls, and routers); and
- Any data repository outside of the Authorization and settlement environment.

The Card Organizations or we may impose fines or penalties, or restrict you from accepting Cards if it is determined that you are not compliant with the applicable data security requirements. We may in our sole discretion, suspend or terminate Services under this Agreement for any actual or suspected data security compromise. You agree that you will not request any Authorizations, submit any Sales Drafts or Credit Drafts until you have read and understood the PCI DSS, CISP, SDP, DISC and DSOP for which you acknowledge we have provided you sufficient information to obtain, and you will be deemed to have done so upon our receipt of your request or submission of any Authorizations, Sales Drafts or Credit Drafts.

You must comply with the data security requirements described in this Section 4.1, including, without limitation, PCI DSS, CISP, SDP, DISC and DSOP, and any additional Card Organization requirements applicable to payment applications and PIN transactions.

Detailed information about PCI DSS can be found at the PCI DSS Council's website: www.pcisecuritystandards.org.

Detailed information about Visa's CISP program can be found at Visa's CISP website: www.visa.com/cisp.

Detailed information about MasterCard's SDP program can be found at the MasterCard SDP website: www.mastercard.com/sdp.

Detailed information about DISC can be found at Discover's DISC website: <http://www.discovernetwork.com/fraudsecurity/disc.html>.

Detailed information about DSOP can be found at American Express' DSOP website: www.americanexpress.com/datasecurity.

4.2. Data Security Requirements. You must comply with the data security requirements shown below:

- You must install and maintain a secure network firewall to protect data across public networks.
- You must protect stored data and data sent across networks, including methods indicated in the PCI DSS.
- You must use and regularly update anti-virus software and keep security patches up-to-date.
- You must restrict access to data by business "need to know," assign a unique ID to each person with computer access to data and track access to data by unique ID.
- You must not use vendor-supplied defaults for system passwords and other security parameters.
- You must regularly test security systems and processes.
- You must maintain a policy that addresses information security for employees and contractors.
- You must restrict physical access to Cardholder information.
- You may not transmit Cardholder account numbers to Cardholders for Internet transactions.
- You cannot store or retain Card Validation Codes (three-digit values printed in the signature panel of most Cards, and a four-digit code printed on the front of an American Express Card) after final transaction Authorization.
- You cannot store or retain Magnetic Stripe data, PIN data, chip data or AVS data. Only Cardholder account number, Cardholder Name and Cardholder expiration date can be retained subsequent to transaction Authorization.
- You must destroy or purge all Media containing obsolete transaction data with Cardholder information.
- You must keep all systems and Media containing Card account, Cardholder, or transaction information (whether physical or electronic) in a secure manner so as to prevent access by, or disclosure to, any unauthorized party.
- For Internet transactions, copies of the transaction records may be delivered to Cardholders in either electronic or paper format.
- You must use only services and Merchant Systems that have been certified as PCI DSS or PA-DSS compliant by the Card Organizations.

4.3. Compliance Audits. You may be subject to ongoing validation of your compliance with PCI DSS standards. Furthermore, we retain the right to conduct an audit at your expense, performed by us or a Person designated by us to verify your compliance, or that of your agents or Merchant Providers, with security procedures and these Operating Procedures.

4.4. Immediate Notice Required. In the event that transaction data is known or suspected of having been accessed or retrieved by any unauthorized Person, you must contact us immediately and in no event more than 24 hours after becoming aware of such activity. You must not alter or destroy any related records and must maintain complete and accurate documentation regarding any modifications made to the records.

4.5. Investigation. You must, at your own expense (i) perform or cause to be performed an independent investigation, including a forensics analysis performed by a certified forensic vendor acceptable to us and the Card Organizations in accordance with Card Organization standards, of any data security breach of Card or transaction data, (ii) provide a copy of the certified forensic vendor's final report regarding the incident to us and the Card Organizations, (iii) perform or cause to be performed any remedial actions recommended by any such investigation, and (iv) cooperate with us in the investigation and resolution of any security breach and share with us any information related to your or any Card Organization's investigation. We may share any information you provide to us with the Card Organizations. Notwithstanding the foregoing, if required by a Card Organization, we will engage a forensic vendor approved by a Card Organization at your expense. You must cooperate with the forensic vendor so that it may immediately conduct an examination of Merchant Systems and your and Merchant Providers' procedures and records and issue a written report of its findings.

4.6. Required Information for Discover Security Breaches. For security breaches involving Discover transactions and/or track data, you must provide us and/or Discover with the following information: (i) the date of breach; (ii) details concerning the data compromised (e.g., account numbers and expiration dates, Cardholder names and addresses, etc.); (iii) the method of such breach; (iv) your security personnel contacts; (v) the name of any person (including law enforcement) assisting you with your investigation of such breach; and (vi) any other information which we reasonably request from you concerning such breach, including forensics reports. You shall provide such information as soon as practicable, and the items listed in (i)-(v) shall be provided to us in any event within 48 hours of your initial notification to us of the breach.

4.7. Merchant Providers. The data security standards set forth in this Section 4 also apply to Merchant Providers. Before you engage any Merchant Provider, you must provide to us in writing (a) the Merchant Provider's legal name, (b) contact information, and (c) intended function. You acknowledge and agree that you will not use, or provide Cardholder data access to, any Merchant Provider until you receive our approval and, if required, confirmation of our registration of that Merchant Provider with applicable Card Organizations. You must ensure that you and Merchant Providers: (i) comply with the registration process which can involve site inspections, background investigations, provision of financial statements, and any other information required by a Card Organization; (ii) comply with the periodic and other reporting required by a Card Organization; and (iii) comply with all applicable Card Organization Rules, including without limitation, those requiring security of Cardholder data. You may allow Merchant Providers access to Cardholder data only for purposes authorized under and in conformance with the Card Organization Rules. You are responsible for all our costs and expenses associated with our review, approval, certification (and recertification as may be required by us or the Card Organization Rules) and registration of any Merchant Providers. In addition, if you are a franchisee and your franchisor has access to Cardholder data, whether directly or indirectly, you are required to notify us. Such franchisor may be required to be registered with Card Organizations and provide documentation to us.

5. Authorizations

Each Authorization request you submit to us must fully comply with the applicable provisions of this Agreement. Submission of an Authorization request that does not fully comply may result in assessment of additional fees to you, a declined Authorization response or a Chargeback to you.

An Authorization Approval Code only indicates the availability of credit on an account at the time the Authorization is requested. It does not warrant that the person presenting the Card is the rightful Cardholder, nor is it a promise or guarantee that you will not be subject to a Chargeback.

You must obtain an Authorization Approval Code from us (or as authorized pursuant to Section 5.4) for all transactions. A positive Authorization response for MasterCard remains valid for seven (7) days for electronic processed transactions. A positive Authorization response for Visa will remain valid for thirty (30) calendar days from the date the Issuer provides the Authorization Approval Code for Card Sales in the car rental industry, airline and passenger railway industries, the lodging industry, and other travel MCCs, including passenger transport, and ten (10) days from the date the Authorization response for Card Sales by Merchants in all other industries and MCCs. A positive Authorization Response for Discover transactions remains valid for ten (10) days for Non T&E transactions and thirty (30) days for T&E transactions. A positive Authorization response for American Express Non T&E transactions are good for seven (7) days.

Failure to obtain an Authorization Approval Code for a sales transaction may result in a Chargeback and/or the termination of this Agreement. Authorization Approval Codes can be obtained through your POS Terminal or a Voice Response Unit ("VRU"). Any fees related to Authorizations will be charged per each request for an Authorization Approval Code, whether or not the transaction is approved.

Do not attempt to obtain an Authorization Approval Code provided by someone other than us except as described in Section 5.4. If a Cardholder or another service provider provides you with either an Authorization Approval Code or with a telephone number for obtaining Authorizations, the Authorization Approval Code you receive may not be valid. Even if the transaction is initially processed and funded, it may be charged back at a later date. Also, if you receive a purported Authorization Approval Code from someone other than us, we will not have the supporting records and will be unable to verify that you received the Authorization if that is later questioned in a Chargeback.

If you obtain Address Verification, you must review the AVS response separately from the Authorization response and make your own decision about whether to accept the transaction. A transaction can receive an Authorization Approval Code from the Issuer even if AVS is unavailable or reflects that the address provided to you does not match the billing address on file at the Issuer. If the authorized Cardholder disputes such a transaction, you will be responsible for the resulting Chargeback.

If you receive a Referral response to an attempted Authorization, you may not submit the transaction without calling for and receiving a voice Authorization. After receiving a Referral response you may not attempt another Authorization on the same Card through your POS Terminal.

If you fail to obtain an Authorization Approval Code or if you submit a Card transaction after receiving a decline (even if a subsequent Authorization attempt results in an Authorization Approval Code), your transaction may result in a Chargeback and may be assessed fines or fees by the Card Organizations for which you will be responsible. These currently range from \$25 to \$150 per transaction. To avoid these costs and related Chargebacks, always obtain an Authorization Approval Code directly from your terminal before submitting a transaction for settlement.

You may not attempt to obtain multiple Authorizations for a single transaction. If a sale is declined, do not take alternative measures with the same Card to obtain an approval of the sale from other Authorization sources. Instead, request another form of payment. If you accept and process a transaction that was declined, or attempt multi-transactions and/or multi-Authorizations, you are subject to a Chargeback, Card Organization fines and/or cancellation of this Agreement. Do not discuss reason for decline with a Cardholder; rather refer them to the customer service number on the back of the Card.

For Visa, MasterCard and Discover Credit Card or Debit Card transactions, automated fuel dispensers must ensure that completion messages are submitted for such Card transactions within sixty (60) minutes of the Authorization.

For Discover transactions, Merchants operating in the petroleum industry that conduct Card Sales at Automated Fuel Dispensers (AFDs) may submit an Authorization Request for \$1.00 to verify the validity of the Card presented. Under such circumstances, you must submit an Authorization Advice Message for the actual amount of the Card Sale within sixty (60) minutes of completion of fuel delivery, regardless of whether you previously

received a Partial Authorization Response or a positive Authorization Response for any other amount. If you do not complete the Card Sale following receipt of an approved Authorization Response for any amount, a request to cancel the Authorization Request must be submitted within sixty (60) minutes of the completion of fuel delivery.

5.1. Card Not Present Transactions.

- If the Card used is a U.S.-issued MasterCard or Visa Card, you should obtain and submit with your Authorization request the Card Validation Code (CVV2 or CVC2); however, you must obtain and submit with your Authorization request the CVV2 and CVC2 for all non-U.S.-issued Cards.

- If the Card used is a Discover Card, whether issued in the U.S. or not, you must obtain and submit with your Authorization request the Discover Card Validation Code (CID).

However, for recurring transaction Authorizations you should submit the Card Validation Code with the first Authorization request only, and not with subsequent recurring transaction Authorization requests. (See Section 1.7). **NOTE:** For each Card Not Present Discover transaction, you must also verify the name and billing address of the Discover Cardholder using the Address Verification System (AVS), and if you do not receive a positive match, do not process the Discover Card Not Present transaction.

5.2. Authorization via Telephone (Other Than Terminal/ Electronic Device Users).

- Call your designated voice Authorization toll free number and enter the Authorization information into the VRU using a touch tone phone or hold for an Authorization representative.

- If advised to pick up a Card, use reasonable and peaceful means to do so, and do not take any action that will alarm or embarrass the Card presenter. You will bear all responsibility for claims, liabilities, costs and expenses as a result of any action by you, your employees, vendors or agents, that attempt to retain a Card without the Issuer's direct request or failure to use reasonable, lawful means in retaining or attempting to retain the Card. Forward the Card to: Attn: Rewards Department, P.O. Box 5019, Hagerstown, MD 21740. You may be paid a reward for the return of the Card.

- On occasion, the Authorization Center will ask you to obtain identification from the Cardholder before issuing an approval code. If you are instructed to do so, clearly write the appropriate identification source and numbers in the space provided on the Sales Draft unless otherwise prohibited by law.

- If the sale is declined, please remember that our operators are only relaying a message from the Issuer. The fact that a sale has been declined should not be interpreted as a reflection of the Cardholder's creditworthiness. The Cardholder should be instructed to call the Issuer.

5.3. Authorization via Electronic Devices.

- If you use an electronic terminal to obtain an Authorization Approval Code, all sales should be authorized through this equipment. Authorizations through other methods will result in additional charges to you.

- If your terminal malfunctions, refer to your Quick Reference Guide, if necessary, or call the POS Help Desk. The problem will either be corrected promptly or may require terminal programming or replacement. During the period in which your terminal is not functioning, remember to check it periodically since most terminal problems are temporary in nature and are quickly corrected.

- If a terminal is moved or if wires are disconnected, causing malfunction, call the POS Help Desk immediately and follow their instructions. You may be responsible for any service charges incurred for reactivation of the terminal.

- Until the terminal becomes operable, you must call your designated voice Authorization toll free number and enter Authorization information into the VRU using a touchtone phone. During this time, each transaction must be imprinted using a manual Imprinter machine. Failure to obtain an Authorization Approval Code and to imprint these transactions could result in a Chargeback to your account.

5.4. Third Party Authorization System. If you have contracted with another Authorization network to obtain Credit Card Authorization, liability resulting from discrepancies with that network must be resolved between you and that network. We will not research Chargebacks resulting from Authorization Approval Codes obtained from another Authorization service organization. Such Chargebacks will be passed through to you for resolution. If an Authorization provided by a third party Authorization system is challenged in a Chargeback, you must obtain proof (e.g., third party Authorization logs) from the Authorization source and submit it to us within the time frame specified on the Chargeback documentation.

IF YOU CONTRACTED TO USE ONE OF OUR AUTHORIZATION SERVICES, DO NOT USE ANOTHER THIRD PARTY SYSTEM WITHOUT NOTIFYING CUSTOMER SERVICE. OTHERWISE, WE WILL BE UNABLE TO SUCCESSFULLY RESEARCH AND DEFEND ANY AUTHORIZATION RELATED CHARGEBACKS ON YOUR BEHALF. THIS DELAY WILL SIGNIFICANTLY DECREASE YOUR TIME TO RESEARCH AND PROVIDE PROOF OF AUTHORIZATION, THUS REDUCING YOUR OPPORTUNITY TO REVERSE A CHARGEBACK.

If you utilize another Authorization network, you will be responsible for the downgrade of any transactions to a higher cost interchange that result from a mismatch of information to our systems and those of third party Authorization networks (see Section 18.1 of this Agreement and Section A.3 of Part IV of the Program Guide).

If you use a third party Authorization network, you must also comply with Section 4.7.

Call the following for other Card types:

American Express/ESA or Direct	1-800-528-5200
JCB, International	
(for YEN and CAD currency only)	1-800-366-4542
TeleCheck	1-800-366-5010
Voyager	1-800-987-6589
WEX	1-800-842-0071

Available 24 hours/day; 7 days/week.

All approved sales authorized in this manner must be entered manually as "post Authorization" transactions into the terminal, once the terminal becomes operational. All Credit transactions must be entered into the terminal for data capture. You may be subject to a Chargeback if you receive a Referral and subsequently receive an approval. To reduce the risk of such a Chargeback, the Card should be imprinted using a manual Imprinter machine. (For specific procedures on Electronic Data Capture, refer to the terminal operating instructions/users guide). If the terminal malfunctions for more than twenty-four (24) hours, contact Customer Service for further instructions on processing your transactions.

5.5. Automated Dispensing Machines. Records must be produced for all transactions whose origin and data capture are automated dispensing machines or Limited Amount Terminals. Records should include the Cardholder account number, merchant's name, terminal location, transaction date and amount.

5.6. Pre-Authorization for T&E (Travel & Entertainment) and Restaurant Merchants. If you are a business engaged in providing travel and/or entertainment services (e.g., car rentals, hotels, motels, etc.) or a restaurant business, and engage in the practice of "pre-Authorization" you must comply with the following general procedures:

- A hotel, motel, or car rental merchant may obtain an estimated Visa, MasterCard or Discover Authorization at the time of check-in or reservation.
- Restaurants must not add an estimated tip amount to the Authorization request beyond the value of the goods provided, or services rendered, plus any applicable tax.
- You must notify the Cardholder of the dollar amount you intend to pre-authorize.
- If the customer decides to use another form of payment (e.g., cash, check, etc.) you must promptly call the Voice Authorization Response Unit to delete the Authorization hold. Provide the Cardholder's account number, original dollar amount and date of the transaction, and the Authorization Approval Code. If a new transaction takes place, a new imprinted and signed Sales Draft for the exact amount and a new Authorization Approval Code for that amount must be obtained.
- **VEHICLE RENTAL PROVIDERS MAY NOT INCLUDE POTENTIAL VEHICLE DAMAGE OR INSURANCE DEDUCTIBLES IN ANY PRE-AUTHORIZATIONS.**
- If you receive a decline on a transaction, you must wait twenty-four (24) hours before attempting to reauthorize. If you reauthorize prior to this time frame and receive an approval, you may be subject to a Chargeback and a fine imposed by the Card Organizations.
- Hotels, motels, and car rental merchants are allowed up to a 15% variance above the amount authorized. If the final amount charged to the Cardholder exceeds the original estimate by more than 15% above the pre-Authorization, you must authorize any additional amounts, and all incremental Authorization Approval Codes must be written in the Authorization area along with the date of Authorization and the amount authorized.
- The Card Organization Rules provide that certain establishments are permitted to submit a pre-Authorization of up to a 20% (instead of 15%) above the amount authorized. If the final amount exceeds the amount pre-authorized by more than 20%, you must authorize the additional amount. Estimating the Authorization amount to include a tip is prohibited. The Authorization request should include only the amount associated with the bill presented to the consumer.
- You should obtain an Authorization for the initial estimated charges and then monitor the charges to ensure that the actual charges made do not exceed the estimated charges. If the actual charges exceed the amount of the initial estimated Authorization (and any subsequent estimated Authorizations), then you must secure a positive Authorization for the additional amount. **NOTE:** Subsequent Authorizations should only be for the additional amount of total charges and not include amounts already authorized.
- The estimated amount of any pre-Authorization for lodging accommodations must be based on (i) the intended length of stay; (ii) the room rate; (iii) applicable taxes and service charges; and (iv) other miscellaneous charges as dictated by experience.
- If an Authorization request is declined, no charges occurring after that date will be accepted for that Cardholder.
- You do not need to obtain a final Authorization if the total sum of charges (the final amount) does not exceed 120% of the previously authorized charges. You must record the dates, authorized amounts, and their respective Authorization Approval Codes on the Sales Draft(s). For Discover, the merchant need not obtain a final authorization at the end of the vehicle rental period if the final amount of the Cardholder's charges does not exceed 115 percent of the sum of the charges estimated by the Merchant with respect to which the Merchant obtained an Authorization Response.

5.7. Discover Procedure for Request for Cancellation of Authorization. If a Discover Card sale is cancelled or the amount of the transaction changes following your receipt of Authorization for the sale, you must call your Authorization Center directly and request a cancellation of the authorization. An Authorization may be cancelled at any time within ten (10) days of your receipt of the Authorization, but must be cancelled before the sales data relating to the transaction is submitted to us, after which the Authorization cannot be changed. For an Authorization cancellation, you must provide us with the following information, in this order:

- The Discover Merchant Account Number used in the Authorization;
- The Card number;
- The original amount of the Authorization being cancelled;
- The new amount of the total transaction (if any);
- The original Authorization Approval Code for the Authorization being cancelled;
- The expiration date of the Card; and
- A brief reason for the Authorization cancellation.

5.8. Partial Authorization and Authorization Reversal. Partial Authorization provides an alternative to a declined transaction by permitting an Issuer to return an Authorization approval for a partial amount, an amount equal to or less than the transaction amount requested by the merchant when the available card balance is not sufficient to approve the transaction in full. The Cardholder is able to use up the remaining funds on the Card and select another form of payment (i.e., another

payment card, cash, check) for the remaining balance of the transaction. For Discover Credit Card or Debit Card transactions, partial Authorization support is optional for Card Not Present Transactions. For MasterCard, partial authorization is optional for batch-authorized electronic commerce transactions, mail order and telephone order transactions, and recurring transactions. For Visa, partial Authorization is optional, except for automated fuel dispenser and PIN Debit Transactions with cash-back. If you support partial Authorizations, a partial Authorization indicator must be included in each Authorization request. An Authorization reversal must be submitted if the Authorization is no longer needed, a partial amount of the total authorized is submitted for the settled transaction, or the Cardholder elects not to complete the purchase. The transaction sent for settlement must be no more than the amount approved in the partial Authorization response. In the event that you wish to support the partial Authorization functionality, you must contact Processor for additional rules and requirements. An Authorization reversal may only be submitted if the transaction has not settled. Once the transaction has settled, only a Credit or refund can occur.

6. Submission/Deposit of Sales Drafts and Credit Drafts

6.1. Submission of Sales Drafts for Merchants Other Than Your Business. You may present for payment only valid charges that arise from a transaction between a bona fide Cardholder and your establishment. If you submit or attempt to submit transactions that arise from sales between Cardholders and a different business than the one approved by us in this Agreement, then those transactions may be charged back, we may suspend or debit funds associated with all such transactions, and we may immediately terminate your account and this Agreement.

6.1.1. Factoring. Factoring is considered merchant fraud and strictly prohibited. Factoring is the submission of Authorization requests and/or Sales Drafts by a merchant for Card transactions transacted by another business. If you submit Sales Drafts on behalf of another person, you will suffer any losses associated with the disputes of any such Sales Draft and/or transaction. Also, if any fraud is involved, you could face criminal prosecution.

6.2. Timeliness. In order to qualify for the lowest interchange Discount Rate, all Sales and Credit Drafts must be properly completed and submitted daily. If you have not received payment for submitted Sales Drafts after one (1) week from your normal payment date, contact Customer Service. Late Submission of Sales or Credit Drafts may result in increased interchange rates or fees or in a Chargeback to you.

6.3. Reserved.

6.4. Electronic Merchants: Daily Batching Requirements & Media Submission. Batches must be transmitted to us by the time indicated in Section A.2 of Part IV of the Program Guide in order to be processed on the date of transmission. Additionally, if you deposit via magnetic tape, electronic transmissions or Electronic Data Capture terminal and have contracted to send the actual Sales Drafts and Credit Drafts to us for imaging and retrieval, the Media must be batched daily by register/terminal following the procedures below. Failure to do so may result in a processing fee and/or a Chargeback due to our inability to retrieve the Media as requested by the Issuer.

- A register/terminal Batch header form must be filled out for each Batch of Media.
- The Batch header must be imprinted with your Merchant Identification Card, and all areas completed properly (i.e., Batch number, date, amount, number of items, etc.).
- The Batch/Deposit total must match to the settled/reconciled amount displayed on the terminal upon closing the Batch.
- Any discrepancies between the actual Media and electronic display must be reconciled and corrected before storing the Media (for merchants who contract to hold their Media) or before sending us the copies of the deposit. Otherwise, transactions may appear to be a new Submission and may be manually keyed (causing duplicate billing to Cardholders and resulting in Chargebacks) or we may not be able to retrieve an item when requested by the Issuer.
- It is your responsibility to ensure that the actual Media is batched correctly and, depending on the terms of your Agreement, either stored at your location or sent to Processor. (In some cases, the actual Media is sent daily to your head office, and forwarded to Processor for imaging.)
- **You must confirm that your equipment has transmitted its Batches to us at least once daily.** Even if your equipment is designed or programmed to close and submit Batches without your intervention, it is ultimately your responsibility to confirm that the Batches have been transmitted to us for processing.

Note: A batch is defined as: Sales Drafts and Credit Drafts received per day, per transaction date, per location. (maximum 500 documents per batch)

7. Settlement

Except as otherwise set forth in this Agreement, your funds for MasterCard, Visa and Discover transactions will generally be processed and transferred to your financial institution within two (2) Business Days from the time a Batch is received by Processor. If you have been classified by Discover as having a Discover Direct Strategic Relationship with Discover, we will not acquire your Discover transactions and they will be subject to your agreement with Discover.

You understand that if you do not, or no longer qualify for, the American Express OptBlue™ Program Service (as described in Section 45) for authorizing, processing and settling your American Express Card transactions, your American Express Card transaction will be settled (acquired) by American Express. American Express will provide you with its own agreement that governs those transactions. You acknowledge and agree that if we have not agreed to or do not acquire transactions for any Card type (i) we have no liability or responsibility whatsoever for the settlement of or disputes regarding those transactions and (ii) you will pursue directly with the related Card Organization all claims and disputes regarding those transactions. You agree to pay us for per item processing, Authorization and other fees in the Application for any non-acquired transaction services you receive from us.

8. Refunds/Exchanges (Credits)

8.1. Refunds.

- You must promptly complete and submit a Credit Draft for the total amount of the Credit, which must include the following information:
 - The Card account number and expiration date;
 - The Cardholder's name;
 - Your name, city, state and Merchant Account Number;
 - A description of the goods or services;
 - The transaction date of the Credit;
 - The total amount of the Credit; and
 - For Discover transactions, the approved currency used and the signature of your authorized representative or employee.
- You cannot process a Credit transaction that does not correspond to a previous sale/purchase transaction on the original Sales Draft.
- Full refunds must be for the exact dollar amount of the original transaction including tax, handling charges, etc. (You must identify the shipping and handling charges incurred.) The refund amount may not be for more than the original Card sale amount.
- All dollar amounts and other handwritten information must be clearly written. (Stray marks on the Credit Draft will render it unscannable/ illegible.)
- Do not circle or underline any information on the Credit Draft.
- Imprint the Credit Draft with the same Card used by the Cardholder to make the original purchase when applicable.
- You should not credit an account that differs from the account used for the original transaction.
- Never give cash or check Credit refunds for Card sales.
- Have the Cardholder sign the Credit Draft, give the Cardholder the appropriate copy, and deposit the Credit Draft immediately. Failure to process a Credit within five (5) calendar days may result in a Chargeback.
- Authorization is not required for Credits.
- You cannot intentionally submit a sale and an offsetting Credit at a later date solely for the purpose of debiting and crediting your own or a customer's account.
- You are responsible for paying all refunds submitted to us on your Merchant Account. We assume no responsibility for verifying any Credits or refunds.
- Do not process a Credit transaction once a Chargeback is received. Credits issued after a Chargeback has been received may not be recoverable, and you will be financially responsible for the Credit as well as the Chargeback.
- YOU ARE RESPONSIBLE TO SECURE YOUR TERMINALS AND TO INSTITUTE APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS THAT DO NOT REFLECT BONA FIDE RETURNS OR REMBURSEMENTS OF PRIOR TRANSACTIONS.**

8.2. Exchanges.

- No additional paperwork is necessary for an even exchange. Just follow your standard company policy.
- For an uneven exchange, complete a Credit Draft (follow the procedures outlined in Section 8.1) for the total amount of only the merchandise returned. The Cardholder's account will be credited for that amount. Then, complete a new Sales Draft for the total amount of any new merchandise purchased.

9. Retention of Records For Retrievals and Chargebacks

9.1. Legible Copies.

For Visa: You must securely retain legible copies of all Sales Drafts and Credit Drafts or any other transaction records for a period of thirteen (13) months from the date of each transaction and a period of five (5) years for the retention of healthcare Sales Drafts and Credit Drafts. The Sales Drafts you retain must comply with all requirements set forth in Section 3.1.

For MasterCard: You must securely retain legible copies of all Sales Draft and Credit Drafts or any other transaction records for a period of thirteen (13) months from the date of each transaction and a period of five (5) years for the retention of healthcare Sales Draft and Credit Drafts. The Sales Drafts you retain must comply with all requirements (see Section 3.1).

For Discover: You must securely retain legible copies of all Sales Drafts and Credit Drafts or any other transaction records for the longer of (i) 365 days or (ii) the resolution of any pending or threatened disputes, claims, disagreements or litigation involving the Card transaction. You must also keep images or other copies of Sales Drafts for no less than three (3) years from the date of the Discover transaction.

For American Express: You must submit the Credit to American Express directly for payment. You must securely retain legible copies of all Sales Drafts and Credit Drafts or any other transaction records for twenty-four (24) months from the date you submitted the corresponding Credit. You must also provide a copy of the Credit Draft to the Cardholder or as required by Applicable Law, truncate the Card Number and do not print the Card's expiration date on copies of Credit Drafts delivered to the Cardholder.

9.2. Sales Drafts and Credit Drafts. You must provide all Sales Drafts and Credit Drafts or other transaction records requested by us within the shortest time limits established by Card Organization Rules. You are responsible for any deficiencies in Card transaction data transmitted or otherwise delivered to us.

10. Chargebacks, Retrievals and Other Debits

10.1. Chargebacks.

10.1.1. Generally. Both the Cardholder and the Issuer have the right to question or dispute a transaction. If such questions or disputes are not resolved, a Chargeback may

occur. As a result, we will debit your Settlement Account or settlement funds for the amount of each Chargeback. It is strongly recommended that, whenever possible, you contact the Cardholder directly to resolve a disputed transaction or Chargeback, unless the dispute involves a Discover Cardholder, in which case Discover Card Organization Rules expressly prohibit you from contacting the Discover Cardholder regarding the dispute. You are responsible for all Chargebacks, our Chargeback fees, and related costs arising from your transactions.

10.1.2. Transaction Documentation Requests. In some cases, before a Chargeback is initiated, the Issuer will request a copy of the Sales Draft, via a request for transaction documentation. We will forward the request to you. **You must respond to the request within the time frame and manner set forth in the request.** We will then forward your response to the Issuer. If you fail to timely respond, we will so notify the Issuer and a Chargeback may result. Upon receipt of a transaction documentation request, immediately retrieve the requested Sales Draft(s) using the following guidelines:

- Make a legible copy, centered on 8 1/2 x 11-inch paper (only one (1) Sales Draft per page).
- Write the 'case number' from the request for transaction documentation on each copy/page.
- If applicable, make copies of a hotel folio, car rental agreement, mail/phone/Internet order form, or other form of receipt.
- If a Credit transaction has been processed, a copy of the Credit Draft is also required.
- Letters are not acceptable substitutes for Sales Drafts.
- Fax or mail legible copies of the Sales Draft(s) and Credit Drafts, if applicable, to the fax number or mail address provided on the request form.
- If you fax your response, please set your fax machine to print your fax number and name on the documents that you send. We can use this information to help determine where the documentation received originated from should additional research be required.
- Additionally, please set the scan resolution on your fax machine to the highest setting. The higher resolution setting improves the clarity of characters and graphics on the documentation transmitted and helps reduce the number of illegible fulfillments and/or Chargebacks.

If we do not receive a clear, legible and complete copy of the transaction documentation within the timeframe specified on the request, you may be subject to a Chargeback for which there may be no recourse.

A handling fee may be charged by the Issuer and will be debited from your Settlement Account or settlement funds if a transaction documentation request results from a difference in the following information on the Sales Draft and the transmitted record: Merchant name or an incorrect city, state, foreign country and/or transaction date.

10.1.3. Chargeback Process. Regardless of whether you respond to a transaction documentation request, a Chargeback may be debited to your Settlement Account for numerous reasons (see below). If the Issuer submits a Chargeback, we will send you a Chargeback notification, which may also include a request for transaction documentation.

Due to the short time requirements imposed by Visa, MasterCard, Discover and American Express, it is extremely important that you respond to a Chargeback notification and transaction documentation request within the time frame set forth in the notification. Do not process a Credit transaction once a Chargeback is received; the Issuer will credit the Cardholder's account. A Credit issued after a Chargeback has been received may not be recoverable, and you may be financially responsible for the Credit as well as the Chargeback. If the information you provide is both timely and, in our sole discretion, sufficient to warrant a representation of the transaction and/or reversal of the Chargeback, we will do so on your behalf. However, representation and/or reversal is/are ultimately contingent upon the Issuer and/or Cardholder accepting the transaction under applicable Card Organization guidelines. Representation or reversal is not a guarantee that the Chargeback has been resolved in your favor.

For Visa Chargebacks: If we reverse the Chargeback and represent the transaction to the Issuer, the Issuer, at its sole discretion, may elect to submit the matter for arbitration before Visa. Visa currently charges a \$250 filing fee and a \$250 review fee. You will be responsible for all such fees and charges, whether or not a decision is made in your favor, and any other applicable fees and charges imposed by Visa, as they may change from time to time. Such fees and charges will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.

For MasterCard Chargebacks: If we reverse the Chargeback and represent the transaction to the Issuer, the Issuer, at its sole discretion, may elect to resubmit the Chargeback. In such event, at the discretion of Processor, we will debit your Settlement Account or settlement funds for the Chargeback. However, if you feel strongly that it is an invalid Chargeback, we may, on your behalf and at your request, submit the matter for arbitration before MasterCard. MasterCard currently charges a \$150 filing fee and a \$250 review fee. You will be responsible for all such fees and charges, whether or not a decision is made in your favor, and any other charges imposed by MasterCard as they may change from time to time. Such fees and charges will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.

For Discover Chargebacks: If Discover rejects our representation request and you feel strongly that the Chargeback is invalid, we may, at the discretion of Processor and on your behalf and at your request, submit the matter for dispute arbitration before Discover. Discover charges fees for representation requests and an arbitration fee as published in their fee schedule.

If the Chargeback is not disputed within the applicable time limits set forth by Visa, MasterCard or Discover Card Organization Rules, as applicable, reversal rights are forfeited. Our only alternative, for Visa and MasterCard non-fraud Chargeback reason codes, is to attempt a "good faith collection" from the Issuer on your behalf. This process can take up to six (6) months and must meet the Issuer's criteria (e.g., at or above a set dollar amount). Good faith collection attempts are not a guarantee that any funds will be collected on your behalf. Issuers normally charge good faith collection fees, which are deducted from the transaction amount if accepted in addition to any processing fees that are charged by us.

For American Express Chargebacks: You may request a Chargeback reversal if the Chargeback was applied in error. In order for your request to be considered, you must have responded to the original inquiry within the specified timeframe, request the Chargeback reversal no later than twenty (20) days after the date of the Chargeback, and provide all supporting documentation to substantiate the error. If a Chargeback is applied, the Chargeback reversal can only be requested if you prove that you already issued a Credit to the Cardholder for the amount of the disputed charge.

NOTE: Discover and American Express do not offer good faith collection for Acquirers. Visa and MasterCard Card Organization Rules require that a merchant make a good faith attempt and be willing and able to resolve any disputes directly with the Cardholder. Discover Card Organization Rules and Regulations, however, prohibit you and/or us from contacting the Cardholder directly regarding dispute(s) or any other matter, except as required for acceptance of Discover transactions, and require you and/or us to submit any responses to dispute notices directly to Discover. Due to Card Organization Rules, you may not re-bill a Cardholder after a Chargeback is received for that transaction, even with Cardholder authorization.

We strongly recommend that you include a detailed rebuttal letter along with all pertinent documents when responding to a transaction request or a Chargeback notification (e.g., rental agreement, imprinted portion of the invoice or Sales Draft; the portion signed by the Cardholder; and the area where the Authorization Approval Codes, with amounts and dates, are located).

Due to the short time frames and the supporting documentation necessary to successfully (and permanently) reverse a Chargeback in your favor, we strongly recommend the following:

- Avoid Chargebacks by adhering to the guidelines and procedures outlined in these Operating Procedures.
- If you do receive a Chargeback, investigate, and if you dispute the Chargeback, submit the appropriate documentation within the required time frame.
- Whenever possible, contact the Cardholder directly to resolve the dispute, unless the dispute relates to a Discover Cardholder, in which case direct contact with the Discover Cardholder regarding the dispute is prohibited by Discover Card Organization Rules.
- If you have any questions, call Customer Service.

10.1.4. Chargeback Reasons. This section outlines the most common types of Chargebacks. This list is not exhaustive. For ease of understanding, we have combined like Chargebacks into six groupings. We have included recommendations on how to reduce the risk of Chargebacks within each group. These are recommendations only, and do not guarantee that you will be able to prevent Chargebacks.

1. Authorization Issues: Proper Authorization procedures were not followed and valid Authorization was not obtained.

The following scenarios could cause an Authorization Related Chargeback to occur:

- Authorization not obtained.
- Authorization was declined.
- Transaction processed with an expired card and Authorization was not obtained.
- Transaction was processed with an invalid account number and Authorization was not obtained.
- Card Recovery Bulletin (CRB) or Exception File was not checked (transactions below floor limit).

To reduce your risk of receiving an Authorization Related Chargeback:

- Pre-notify the Cardholder of billings within 10 days.
- American Express customers have the option to receive written notification of the recurring transaction at least (10) days prior to submitting, or any time the charge amount exceeds a maximum amount that has been set by the cardholder.
- Obtain valid Authorization on the day of the transaction.
- Card Present Transactions - Authorization must be obtained on the transaction date for the amount settled.
- Card Not Present Transactions - Authorization must be obtained on the transaction date for the amount settled. However, if merchandise is being shipped, Authorization must be obtained within seven (7) calendar days of the transaction ship date.
- If a declined response is received, then request another form of payment from the Cardholder.
- If a Referral response is received, then follow proper voice procedures to obtain a valid Authorization and obtain an imprint of the card.
- "Pick-up" response indicates that the Issuer is requesting that the Card be retained and returned back to them. The Card should not be accepted for payment. Additionally, you can choose to retain the Credit Card and return it to the Acquirer.
- Merchants should not exceed any predetermined thresholds for specific terminal types as specified by each Card Organization.

2. Cancellations and Returns: Credit was not processed properly or the Cardholder has cancelled and/or returned items.

The following scenarios could cause a Cancellation and Return Related Chargeback to occur:

- Cardholder received damaged or defective merchandise.
- Cardholder continued to be billed for cancelled recurring transaction.
- Credit transaction was not processed.

To reduce your risk of receiving a Cancellation and Return Related Chargeback:

- Issue Credit to the Cardholder on the same account as the purchase in a timely manner.
- Do not issue Credit to the Cardholder in the form of cash, check or in store/merchandise Credit as we may not be able to recoup your funds in the event the transaction is charged back.

• Ensure customers are fully aware of the conditions for recurring transactions. Cancel recurring billings as soon as notification is received from the Cardholder or as a Chargeback, and issue the appropriate Credit as needed to the Cardholder in a timely manner.

- Pre-notify the Cardholder of billings within ten (10) days (Domestic) and fifteen (15) (International) prior to billing, allowing the Cardholder time to cancel the transaction.
- Provide proper disclosure of your refund policy for returned/cancelled merchandise, or services to the Cardholder at the time of transaction in accordance with Applicable Law.
- Card present, Cardholder signed the Sales Draft containing disclosure.
- If applicable, the words "NO EXCHANGE, NO REFUND," etc. must be clearly printed in 1/4" lettering on the Sales Draft near or above the Cardholder signature.
- Ecommerce, provide disclosure on website on same page as check out requiring Cardholder to click to accept prior to completion.
- Card Not Present, provide cancellation policy at the time of the transaction.
- Provide cancellation numbers to Cardholder's when lodging services are cancelled.
- Ensure delivery of the merchandise or services ordered to the Cardholder.

3. Fraud: Transactions that the Cardholder claims are unauthorized; the account number is no longer in use or is fictitious, or the merchant was identified as "high risk."

The following scenarios could cause a Fraud Related Chargeback to occur:

- Multiple transactions were completed with a single card without the Cardholder's permission.
- Counterfeit card was utilized and proper acceptance procedures were not followed.

NOTE: As of October 1, 2015, if you accept Chip Cards on equipment not enabled for Chip Card acceptance based on Chips (and not the Magnetic Stripe), you (and not the Issuers of such Chip Cards) will be responsible for any counterfeit Card fraud regarding those Chip Card transactions, pursuant to MasterCard, Visa and Discover Card Organization Rules ("EMV Liability Shift"). A similar EMV Liability Shift will occur for American Express Card transactions as of October 17, 2015. For AFDs, the EMV Liability Shifts for the above Card Organizations will occur on October 1, 2017. Any such counterfeit Card fraud transactions (including any resulting from lost, stolen or never received Cards by the Cardholder) may result in Chargebacks for which you will be liable to us.

- Authorization was obtained; however, full track data was not transmitted.
- Cardholder states that they did not authorize or participate in the transaction.

NOTE: Visa Fraud Chargebacks: Chargeback representation rights do not exist if you failed to fulfill a key entered retrieval request and/or to provide a Sales Draft that contains all required data elements. To preserve Chargeback representation rights, respond to all retrieval requests with a clear legible copy of the Sales Draft that contains all required data elements within the required time frame that is specified by the retrieval request.

To reduce your risk of receiving a Fraud Related Chargeback:

Card Present Transactions:

- Pre-notify the Cardholder of billings within 10 days.
- American Express customers have the option to receive written notification of the recurring transaction at least (10) days prior to submitting, or any time the Charge amount exceeds a maximum amount that has been set by the Cardholder.
- Obtain an Authorization for all transactions.
- If you are utilizing an electronic device to capture Card information, swipe, dip or wave all Card transactions through your electronic Authorization device to capture Cardholder information. When applicable, ensure the displayed Cardholder number matches the number on the Card.
- If you are unable to electronically capture the Card or if a Referral response is received, imprint the Card using a valid imprinting device that will capture the embossed Card and merchant information. Do not alter the imprint on the Sales Draft in any way. Manually entering the information into the terminal does not protect you from this type of Chargeback. All pertinent information relating to the transaction must be written on the manually imprinted Sales Draft (transaction date, dollar amount, Authorization Approval Code and merchandise description) along with the Cardholder signature.
- Use POS Terminals (or other Card acceptance equipment) that can accept Chip Cards based on their Chips, not their Magnetic Stripes.

NOTE: Do not imprint on the back of a signed Sales Draft. The imprint must be on the transaction document that contains all transaction elements to prove the Card was present at the time of the transaction.

- Obtain the Cardholder signature for all transactions; ensure the signature on the Sales Draft matches the signature on the back of the Card.
- Process all transactions one time and do not Batch out transactions multiple times.
- Educate staff on procedures to eliminate point of sale (POS) fraud.

Card Not Present Transactions:

- Participation in recommended fraud mitigation tools:
- Verified by Visa Program
- MasterCard SecureCode
- Address Verification Services
- CVV2, CVC2 and CID Verification

NOTE: While transactions utilizing these tools may still be disputed, the service may assist you with your decision to accept the Card for the transaction.

- Ensure you ship to the AVS confirmed address (bill to and ship to should match).
- Obtain Authorization for all transactions.
- Ensure merchant descriptor matches the name of the business and is displayed correctly on the Cardholder statement.
- Ensure descriptor includes correct business address and a valid customer service number.

4. Cardholder Disputes: Merchandise or services not received by the Cardholder, merchandise defective or not as described.

The following scenarios could cause a Cardholder Dispute Chargeback to occur:

- Services were not provided or merchandise was not received by the Cardholder.
- The Cardholder was charged prior to merchandise being shipped or merchandise was not received by agreed upon delivery date or location.
- Cardholder received merchandise that was defective, damaged or unsuited for the purpose sold, or did not match the description on the transaction documentation/verbal description presented at the time of purchase.
- Cardholder paid with an alternate means and their Card was also billed for the same transaction.
- Cardholder cancelled service or merchandise and their Card was billed.
- Cardholder billed for a transaction that was not part of the original transaction document.
- The Cardholder claims to have been sold counterfeit goods.
- The Cardholder claims the terms of sale were misrepresented by the Merchant.

To reduce your risk of receiving a Cardholder Dispute Related Chargeback:

- Provide services or merchandise as agreed upon and described to the Cardholder; clearly indicate the expected delivery date on the sales receipt or invoice.
- Contact the Cardholder in writing if the merchandise or service cannot be provided or is delayed, and offer the Cardholder the option to cancel if your internal policies allow.
- In the event that the Cardholder received defective merchandise or the merchandise received was not as described, resolve the issue with the Cardholder at first contact.
- If the merchandise is being picked up by the Cardholder, have them sign for the merchandise after inspection that it was received in good condition.
- Do not charge the Cardholder until the merchandise has been shipped, ship according to the agreed upon terms and obtain signed Proof of Delivery from the Cardholder.
- If unable to provide services or merchandise, issue a Credit to Cardholder in a timely manner.
- Accept only one form of payment per transaction and ensure the Cardholder is only billed once per transaction.
- Do not bill Cardholder for loss, theft or damages unless authorized by the Cardholder.
- Ensure that the service or merchandise provided is clearly described.

5. Processing Errors: Error was made when transaction was processed or it was billed incorrectly.

The following scenarios could cause a Processing Error Chargeback to occur:

- Transaction was not deposited within the Card Organization specified time frame.
- Cardholder was issued a Credit Draft; however, the transaction was processed as a sale.
- Transaction was to be processed in a currency other than the currency used to settle the transaction.
- The account number or transaction amount utilized in the transaction was incorrectly entered.
- A single transaction was processed more than once to the Cardholder's account.
- Cardholder initially presented Card as payment for the transaction; however Cardholder decided to use an alternate form of payment.
- Limited amount or self-service terminal transaction was processed for an amount which is over the pre-determined limit.

To reduce your risk of receiving a Processing Error Related Chargeback:

- Process all transactions within the Card Organization specified timeframes.
- Ensure all transactions are processed accurately and only one time.

NOTE: In the event that a transaction was processed more than once; immediately issue or contact us to issue voids, transaction reversals or Credits.

- Ensure that credit transaction receipts are processed as Credits and sale transaction receipts are processed as sales.
- Ensure all transactions received a valid Authorization Approval Code prior to processing the transaction and obtain a legible magnetic swipe or imprinted Sales Draft that is signed.
- Do not alter transaction documentation or make any adjustments unless the Cardholder has been contacted and agrees to any modifications of the transaction amount.
- Ensure limited amount, self-service and automated fuel dispenser terminals are set properly to conform to the pre-determined limits.

10.2. Summary (Deposit) Adjustments/Electronic Rejects. Occasionally, it is necessary to adjust the dollar amount of your summaries/Submissions (deposits) and credit or debit your Settlement Account or settlement funds accordingly. The following is a list of the most frequent reasons for Summary (Deposit) Adjustments/Electronic Rejects:

- Your summary reflected an arithmetic error.
- Submitted sales not included in your Agreement (e.g., American Express).
- The dollar amount is unreadable/ illegible.
- The Cardholder's account number is unreadable/illegible.
- Duplicate Sales Draft submitted.
- Card number is incorrect/incomplete.
- Summary indicated credits, but no credits were submitted.

10.3. Disputing Other Debits and Summary Adjustments. In order to quickly resolve disputed debits and Summary Adjustments, it is extremely important that the items listed in this section be faxed or sent to the address listed on the notification.

If the Summary Adjustment is for an unreadable or incorrect Cardholder account number, resubmit the corrected Sales Draft with your next deposit. Also, if the transaction is over thirty (30) calendar days old, you must reauthorize and obtain a valid Authorization Approval Code.

A clear and legible copy of the Sales Draft containing the following should be obtained from your files:

- Date of sale/Credit;
- Cardholder's account number, name and signature;
- Total amount of the sale and description of goods and services; and
- Date and Authorization Approval Code.

Include a dated cover letter detailing the reasons for requesting a review of the debit or Summary Adjustment and documentation to support your dispute. (You should retain a copy of the correspondence and all documentation for your files.) If the inquiry is related to prior correspondence, be sure to include the control number we previously used.

Immediately fax or mail the Sales Draft or Credit Draft to the fax number or address provided on your notification letter.

If you have any questions, please call the Customer Service number provided on the last page of this Program Guide. If a Customer Service Representative informs you that additional documentation is required in order to fully review the item, please immediately submit your rebuttal and transaction documentation to the fax number or address listed on the debit notification.

11. Account Maintenance

11.1. Change of Settlement Account Number. If you change the Settlement Account in which you receive the proceeds of your transactions, you must call Customer Service or your Relationship Manager immediately. If you accept payment types other than Visa, MasterCard and Discover (such as the American Express Card and TeleCheck Services), you are also responsible for contacting the Card Organizations or companies governing those Cards to notify them of this change.

11.2. Change in Your Legal Name or Structure. You must call Customer Service or your Relationship Manager and request a new Agreement. Due to 1099-K reporting requirements, you must always report to us as soon as possible any change in your legal name and/or Taxpayer Identification Number ("TIN") information. **Failure to notify us in a timely manner of any change of this information may result in back-up withholding of your settlement funds or resulting issues with 1099-K reporting, for which we will not be liable or responsible (please refer to Part IV, Section A.3 of the Program Guide for further information).**

11.3. Change in Company DBA Name, Address or Telephone/Facsimile Number. To change your company or location DBA name, address (or e-mail address) or telephone/ facsimile number, you must send the request in writing to the address on your statement.

11.4. Other Change(s) in Merchant Profile. You must immediately notify us of any change to the information on file with us in your merchant profile, including: (i) any new lines or types of business; (ii) change in ownership; (iii) the opening, closing or liquidation of business or any location; (iv) change in Card processing method (i.e., paper Sales Drafts to POS Terminal); (v) voluntary or involuntary party to a bankruptcy case; (vi) entry into a loan or other agreement with a Person that seeks to affect this Agreement; and/or (vii) change from a business that exclusively conducts Card-present retail sales to one that accepts Card sales by mail, telephone or Internet transactions. We retain the right to terminate this Agreement if you fail to notify us of any change to the information in your merchant profile.

11.5. Charges for Changes to Account Maintenance. You may be charged for any changes referenced in this Section or any other changes requested by you or otherwise necessary related to account maintenance.

12. Card Organization Monitoring

Visa, MasterCard, Discover and American Express have established guidelines, merchant monitoring programs, and reports to track merchant activity, such as, but not limited to, excessive Credits, Chargebacks, reported fraud and increased deposit activity. In the event you exceed the guidelines, engage in practices that could circumvent such monitoring programs or submit suspicious transactions as identified by a Card Organization or any related program or reports, you may be subject to: (i) operating procedure requirement modifications; (ii) Chargebacks and/or increased fees; (iii) settlement delay or withholding; (iv) termination of your Agreement; or (v) audit and imposition of fines.

13. Supplies

Placing Orders.

- To order additional supplies, call Customer Service when you have two months' inventory left. We will ship you an adequate amount of supplies. The amount of supplies (based on usage) on hand should not exceed a three- to six-month supply.
- In an EMERGENCY, please contact Customer Service using the number provided on the last page of this Program Guide. If supplies are sent via an express delivery service, the delivery charges will be debited to your account.
- You are responsible for unauthorized use of sales/Credit and summary Media. We recommend that you store all supplies in a safe location.
- You may be charged for supplies and applicable shipping and handling charges.

B. GENERAL TERMS

In addition to the preceding Operating Procedures, this Agreement includes the following General Terms. If you fail to follow any of the provisions of the Operating Procedures or General Terms, you may incur certain liabilities and we may terminate this Agreement.

14. Services

Subject to Card Organization Rules, Services may be performed by us, our Affiliates, agents, or other Persons in connection with this Agreement.

15. Operating Procedures; Card Organization Rules and Compliance

You agree to follow all requirements of this Agreement in connection with each Card transaction and to comply with all applicable Card Organization Rules, including without limitation, the data security requirements described in Section 4. If there are any inconsistencies between the General Terms and the Operating Procedures, the General Terms will govern. From time to time, we may amend the Operating Procedures, by providing you with at least 20 days' prior written notice, and those provisions will be deemed incorporated into this Agreement. However, for changes in the Card Organization Rules or for security reasons, certain changes in Card procedures may become effective on shorter notice. You are responsible for staying apprised of all applicable changes to the Card Organization Rules and maintaining compliance with the Card Organization Rules. Card Organization Rules may be available on web sites such as <http://usa.visa.com/merchants/merchant-support/international-operating-regulations.jsp> and <http://www.mastercard.com/us/merchant/support/rules.html>.

These links may change from time to time.

16. Settlement of Card Transactions

16.1. We will be required to settle only Card transactions made using Cards of Card Organizations that (i) we support for full acquiring services and (ii) you have elected to accept and we have approved. We will not be obligated to settle with you for any such Card transaction before we have settled for it with the related Card Organization.

16.2. Unless otherwise agreed to in writing to the contrary, all Discount Rates are deducted daily. All settlements for Visa, MasterCard and Discover Card transactions, and subject to Section 45, American Express Card transactions, will be net of Credits, Summary Adjustments, applicable Discount Rates when due, Chargebacks and any other amounts then due from you. We may also set off from any payments otherwise due, any amounts owed to any of our respective Affiliates, whether or not arising out of or related to this Agreement.

16.3. All credits to your Settlement Account or other payments to you are provisional and are subject to, among other things, our right to deduct our fees, our final audit, Chargebacks (including our related losses), and fees, fines and any other charges imposed on us by the Card Organizations as a result of your acts or omissions. You agree that we may debit or credit your Settlement Account for any deficiencies, overages, fees, pending Chargebacks and any other amounts owed to us or any of our respective Affiliates, or we may deduct such amounts from settlement funds or other amounts due to you from us, or our respective Affiliates. Alternatively, we may elect to invoice you for any such amounts, net due 30 days after the invoice date or on such earlier date as may be specified.

16.4. We will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by you or any Person, including, without limitation, any delay in settlement funding for a Card transaction from a Card Organization to us.

16.5. In addition to any other remedies available to us under this Agreement, you agree that should any Event of Default (see Section 23.4) occur, we may, with or without notice, change processing or payment terms and/or suspend credits or other payments of any and all funds, money and amounts now due or hereafter to become due to you pursuant to the terms of this Agreement, until we have had reasonable opportunity to investigate such event.

16.6. You acknowledge and agree that transfers to and from the Settlement Account shall be based on the account number and routing number supplied by you. We are not responsible for detecting errors in any Settlement Account information you provide, including the account numbers and routing numbers, even if any of those numbers do not correspond to the actual account or financial institution identified by name.

16.7. This Agreement is a contract whereby we are extending secured financial accommodations to you within the meaning of Section 395(c) of the U.S. bankruptcy code. Your right to receive any amounts due or to become due from us is expressly subject and subordinate to Chargeback, recoupment, setoff, lien, security interest and our rights to withhold settlement funds under this Agreement, without regard to whether such Chargeback, setoff, lien, security interest and the withholding of settlement funds rights are being applied to claims that are liquidated, unliquidated, fixed, contingent, matured or unmatured.

17. Exclusivity

During the term of this Agreement, you shall use us as your exclusive provider of all Services.

18. Fees; Adjustments; Collection of Amounts Due

18.1. In consideration of the Services provided by us, you shall be charged, and hereby agree to pay us, any and all fees set forth in this Agreement (for the purposes of clarity, this includes the Application and any additional pricing supplements or subsequent communications), including, but not limited to, Discount Rates, all of which shall be calculated and payable pursuant to the terms of this Agreement and any additional pricing supplements or subsequent communications.

For a non-qualified transaction, depending on your pricing method, you will be charged either (i) a higher Discount Rate, or (ii) in addition to the Discount Rate, (x) a Non-Qualified Interchange Fee and a Non-Qualified Surcharge, or (y) a higher interchange rate, all as further described in Section A.3 of Part IV of the Program Guide. With respect

to inadvertent or intentional acceptance of a transaction other than the type elected for your Merchant Account (including a different Card type), you will also be subject to payment to us of our then current Discount Rate and transaction fee(s) with respect to such Card and/or transaction and be liable, obligated and responsible under this Agreement for any such transaction to the same extent as you would be if it was of a Card type elected and approved.

For more information on Visa's and MasterCard's interchange rates, please go to:

www.visa.com/merchants and

www.mastercard.us/merchants.

18.2. All Authorization fees will be charged for each transaction that you attempt to authorize. All capture fees will be charged for each transaction that you transmit to us for settlement. If you are being billed a combined fee for both the Authorization and capture of a transaction, the Authorization and capture must be submitted as a single transaction, otherwise the Authorization and the capture will each be charged separately. You are responsible for utilizing software or services that will correctly submit these transactions to achieve the combined billing.

18.3. The fees for Services set forth in this Agreement are based upon assumptions associated with the anticipated annual volume and average transaction size for all Services as set forth in this Agreement and your method of doing business. If the actual volume or average transaction size are not as expected or if you significantly alter your method of doing business, we may adjust your Discount Rate and transaction fees without prior notice.

18.4. The fees for Services set forth in this Agreement may be adjusted to reflect increases, or new fees imposed by Card Organizations, including without limitation, interchange, assessments and other Card Organization fees, or to pass through increases or new fees charged to us by other Persons related to the Services. All such adjustments shall be your responsibility to pay and shall become effective upon the date any such change or addition is implemented by the applicable Card Organization or other Person as specified in our notice to you.

18.5. Subject to Section 23.3, we may also increase our fees or add new fees for Services for any reason at any time, by notifying you at least twenty (20) days' prior to the effective date of any such change or addition.

18.6. If you receive settlement funds by wire transfer, we may charge a wire transfer fee per wire.

18.7. To the extent the Automated Clearing House ("ACH") settlement process is used to effect debits or credits to your Settlement Account, you agree to be bound by the terms of the operating rules of the National Automated Clearing House Association, as in effect from time to time. You hereby authorize us to initiate credit and debit entries and adjustments to your Settlement Account through the ACH network and/or through direct instructions to the financial institution where your Settlement Account is maintained for amounts due under this Agreement (including any amounts due under this Section 18) and under any agreements with us or our respective Affiliates for any product or services, as well as for any credit entries in error. You hereby authorize the financial institution where your Settlement Account is maintained to effect all such debits and credits to your account. This authority will remain in full force and effect until we have given written notice to the financial institution where your Settlement Account is maintained that all monies due under this Agreement and under any other agreements with us or our respective Affiliates for any product or services have been paid in full. You are solely responsible to inform us in writing if you want any fees or other adjustments to be debited from an account other than your Settlement Account.

18.8. You agree to pay any fees, fines or other charges imposed on us by any Card Organization resulting from Chargebacks or as a result of acts, omissions or non-compliance with Card Organization Rules by you, Merchant Providers, your agents or other Persons acting for you. You also agree to pay us for any of the following, which shall not be subject to any limitations of time specified elsewhere in this Agreement and include, without limitation, the following:

- Card Organization fees, charges, fines, penalties, registration fees, or other assessments including any fees levied against us or any amount for which you are obligated to indemnify or to reimburse us.
- Currency conversion was incorrectly calculated. **NOTE:** For Discover transactions, you are not permitted to convert from your local Discover approved currency into another currency, nor may you quote the price of a transaction in U.S. Dollars if completed in another approved currency.
- Discount Rate not previously charged.
- Reversal of deposit posted to your account in error.
- Debit for Summary Adjustment not previously posted.
- Reversal of Credit for deposit previously posted.
- Debit for Chargeback never posted to your account.
- Debit for EDC Batch error fee.
- Card Organization Merchant Chargeback/fraud monitoring fees – excessive Chargeback handling fees.
- Failure of transaction to meet Member Controller Authorization Service ("MCAS") Cardholder account number on exception file.
- Original transaction currency (foreign) not provided.
- Travel Voucher exceeds maximum value.
- Debit and/or fee for investigation and/or Chargeback costs related to this Agreement, or for costs related to our collection activities in an amount no less than \$100.00.
- Costs arising from replacement or damage to equipment rented.
- Payment of current or past due amounts for any equipment purchase or rental.
- Incorrect merchant descriptor (name and/or city, state) submitted.
- Incorrect transaction date submitted.
- Shipping and handling fees.

- Costs or expenses associated with responding to any subpoena, garnishment, levy or other legal process associated with your Merchant Account.

We may update the above list by notice to you in accordance with Amendment provisions of the terms of this Agreement.

18.9. If your Chargeback percentage for any line of business exceeds the estimated industry Chargeback percentage, you shall, in addition to the Chargeback fees and any applicable Chargeback handling fees or fines, pay us an excessive Chargeback fee for all Chargebacks occurring in such month in such line(s) of business. Each estimated industry Chargeback percentage is subject to change from time to time by us in order to reflect changes in the industry Chargeback percentages reported by Visa, MasterCard or Discover. Your Chargeback Percentage will be calculated as the larger of (a) the total Visa, MasterCard and Discover Chargeback items in any line of business in any calendar month divided by the number of Visa, MasterCard and Discover transactions in that line of business submitted that month, or (b) the total dollar amount of Visa, MasterCard and Discover Chargebacks in any line of business received in any calendar month divided by the total dollar amount of your Visa, MasterCard and Discover transactions in that line of business submitted in that month.

18.10. You agree to promptly and carefully review statements or reports provided or made available to you (physically, electronically or otherwise and whether provided by us or Persons) reflecting Card transaction activity, (including, activity in the Merchant Account, Settlement Account or Reserve Account), and our fees and charges for the Services and other amounts due to or from you. If you believe any discrepancies or errors exist, you must notify us in writing within sixty (60) days after the date of the related statement or reports. If you fail to notify us within such sixty (60) day period of any of such discrepancies or errors of which you are or reasonably should be aware, then we shall not have any obligation to investigate or effect any related adjustments, absent our willful misconduct. Any voluntary efforts by us to assist you in investigating such matters shall not create any obligation to continue such investigation or any future investigation. We may adjust your Merchant Account for good cause after such 60 day period (e.g., for fees due that have not been charged by us).

18.10.1. If you elect to receive statements via electronic mail or online via the Internet, then (a) you authorize us to deliver statements and reports, Card Organization and regulatory information that we would typically include with paper statements and notifications to review them (collectively, "Electronic Statements") at a web-accessible location on our computer servers, to you electronically, (b) we are not required to provide you with a paper copy of your statement but we may, in our sole discretion, do so at any time, (c) you may request a paper copy of your Merchant Account statement(s) from us; however, a fee may apply for such a request and (d) Electronic Statements are part of the Services provided under this Agreement.

18.10.2. If you elect to receive Electronic Statements for your Merchant Account(s) via electronic mail ("e-mail"), you represent and warrant to, and covenant with, us and agree that (i) you will disable any spam filter (or similar device or software that could prevent the delivery of e-mail from us to you) and add "@cedardoc.com" (the specific addressee portion will vary due to automation) (and such other e-mail address or domain that we may specify from time-to-time or from which you otherwise receive an Electronic Statement from us) as a safe e-mail address or domain with respect to the e-mail account you designate for us to send you Electronic Statements; (ii) you are responsible for the accuracy and validity of all e-mail addresses provided by you and/or your agents; (iii) you will ensure that the e-mail account(s) designated for us to send you Electronic Statements are under your ownership or control and will be regularly accessible and actively monitored by your authorized representatives; (iv) you will not share or permit to be known by any Person not authorized to view Electronic Statements on your behalf, or store as an "autofill" field on a web browser, any password or encryption key; (v) you will notify us promptly if you have not received an Electronic Statement from us in the time frame that you normally receive Electronic Statements from us, but in no event later than five (5) Business Days after the close of the statement cycle; (vi) you will notify us prior to any change of e-mail address(es) designated for receipt of Electronic Statements; (vii) Electronic Statements are subject to the reconciliation time frames described in Section 18.10; and (viii) immediately after being transmitted from our e-mail server, you will be solely responsible for preventing the disclosure, interception and viewing of Electronic Statements by any Person that is not authorized to view the Electronic Statement or that is otherwise not in compliance with Applicable Law.

18.10.3. WE MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING YOUR ACTUAL RECEIPT OF E-MAILED ELECTRONIC STATEMENTS THAT WE ATTEMPT TO DELIVER TO YOU.

18.11. If you do not pay us all fees and any other amounts due under this Agreement within thirty (30) days of the date of our merchant statement or other statement setting forth the amount due, then we may, in our sole discretion, charge you interest, for such time that the amount and all accrued interest remain outstanding at the lesser of (i) the per annum rate equal to Bank's then current prime rate plus two percent (2%), based on a 360 day year or (ii) the maximum rate permitted by Applicable Law.

19. Chargebacks

19.1. You shall be responsible for reimbursing us for all transactions you submit that are charged back. See the Operating Procedures for additional information regarding Chargebacks and Chargeback procedures.

19.2. You shall reimburse us for any Chargebacks, return items, or other losses resulting from your failure to produce a Card transaction record requested by us within the applicable time limits.

19.3. As a result of the EMV Liability Shifts for MasterCard, Visa, Discover and American Express, as defined and described in the Operating Procedures portion of this Agreement (Section 10.4.1.3) and subject to the applicable Card Organization Rules, you will be liable to us for Chargebacks for counterfeit Card fraud transactions (including any resulting from lost, stolen or never received Cards by the Cardholder) resulting from your acceptance of any Chip Cards based on Magnetic Stripes (or otherwise not based on the Chips) for those Chip Cards.

20. Representations; Warranties; Covenants; Limitations on Liability; Exclusion of Consequential Damages

20.1. Without limiting any other warranties hereunder, you represent, warrant to and covenant with us, and with the submission of each Sales Draft reaffirm, the following representations, warranties and/or covenants:

20.1.1. each Card transaction is genuine and arises from a bona fide transaction permissible under the Card Organization Rules by the Cardholder directly with you, represents a valid obligation for the amount shown on the Sales Draft, preauthorized order, or Credit Draft, and does not involve the use of a Card for any other purpose;

20.1.2. each Card transaction represents an obligation of the related Cardholder for the amount of the Card transaction;

20.1.3. the amount charged for each Card transaction is not subject to any dispute, set-off or counterclaim;

20.1.4. each Card transaction amount is only for respective merchandise or services (including taxes, but without any surcharge, except as required by Card Organization Rules) sold, leased or rented by you pursuant to your business as indicated on the Application and, except for any delayed delivery or advance deposit Card transactions expressly authorized by this Agreement, that merchandise or service was actually delivered to or performed for the Cardholder entering into that Card transaction simultaneously upon your accepting and submitting that Card transaction for processing;

20.1.5. with respect to each Card transaction, you have no knowledge or notice of any fact, circumstance or defense which would indicate that such Card transaction is fraudulent or not authorized by the related Cardholder or which would otherwise impair the validity or collectability of that Cardholder's obligation arising from that Card transaction or relieve that Cardholder from liability with respect thereto;

20.1.6. each Card transaction is made in accordance with these General Terms, Card Organization Rules, the Operating Procedures, and Applicable Law;

20.1.7. each Sales Draft is free of any alteration not authorized by the related Cardholder;

20.1.8. you have completed one Card transaction per sale; or one Card transaction per shipment of goods for which the Cardholder has agreed to partial shipments;

20.1.9. you are validly existing, in good standing and free to enter into this Agreement;

20.1.10. each statement made on the Application or other information provided to us in support of this Agreement is true and correct;

20.1.11. you are not doing business under a name or style not previously disclosed to us;

20.1.12. you have not changed the nature of your business, Card acceptance practices, delivery methods, return policies, or types of products or services sold requiring a different MCC under Card Organization Rules, in a way not previously disclosed to us;

20.1.13. you will use the Services only for your own proper business purposes and will not resell, directly or indirectly, any part of the Services to any Person (Note: Factoring is prohibited);

20.1.14. you have not filed a bankruptcy petition not previously disclosed to us;

20.1.15. you own and control the Settlement Account, and no third party security interest or lien of any type exists regarding the Settlement Account or any Card transaction.

20.1.16. you will not at any time during the term of this Agreement, or until all amounts due under this Agreement have been paid in full, grant or pledge any security interest or lien in the Reserve Account, Settlement Account or transaction proceeds to any Person without our consent; and

20.1.17. you operate a bona fide commercial business, all Card transactions you submit under this Agreement are in connection with such commercial business, and no Card transactions submitted hereunder are for personal or non-commercial purposes.

20.2. THIS AGREEMENT IS A SERVICE AGREEMENT. WE DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OTHERWISE OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY SERVICES OR ANY GOODS PROVIDED BY A PERSON.

20.3. IN NO EVENT SHALL WE OR OUR AFFILIATES OR ANY OF OUR OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS 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 CONSEQUENTIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER ANY PARTY OR ANY PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CLIENT ACKNOWLEDGES AND AGREES THAT PAYMENT OF ANY EARLY TERMINATION FEE OR LIQUIDATED DAMAGES, AS PROVIDED ELSEWHERE IN THIS AGREEMENT, SHALL NOT BE PROHIBITED BY THIS SECTION 20.3.

20.4. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY (INCLUDING, BUT NOT LIMITED TO, SECTIONS 26), OUR CUMULATIVE LIABILITY FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES AND DAMAGES FOR ANY CAUSE(S) WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS AGREEMENT), REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL NOT EXCEED, (I) \$50,000; OR (II) THE AMOUNT OF FEES RECEIVED BY US PURSUANT TO THIS AGREEMENT FOR SERVICES PERFORMED IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS, WHICHEVER IS LESS.

20.5. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY (INCLUDING BUT NOT LIMITED TO SECTION 26), OUR LIABILITY FOR ANY DELAY IN FUNDING TRANSACTIONS TO YOU FOR ANY REASON, OTHER THAN FOR ANY

REASON DESCRIBED IN SECTIONS 16 OR 50.1, WILL BE LIMITED TO INTEREST COMPUTED FROM THE DATE THAT WE WOULD HAVE FUNDED THE TRANSACTION, AS DESCRIBED IN SECTIONS 7 AND 16 OF THIS AGREEMENT, TO THE DATE THAT WE ACTUALLY FUND THE TRANSACTION AT THE RATE OF THE FEDERAL FUNDS AS SET BY THE FEDERAL RESERVE BANK OF NEW YORK, NEW YORK, FROM TIME TO TIME, LESS ONE PERCENT (1%); PROVIDED, HOWEVER, THAT IN NO EVENT WILL OUR LIABILITY UNDER THIS SECTION 20.5 EXCEED THE LIMIT OF LIABILITY SET FORTH IN SECTION 20.4.

20.6. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, BANK IS NOT RESPONSIBLE, AND SHALL HAVE NO LIABILITY, TO YOU IN ANY WAY WITH RESPECT TO NON-BANK CARD SERVICES.

20.7. Your use of the Services, equipment, software, systems, materials, supplies or resources of third parties regarding your Card transactions processing, including, without limitation, Merchant Providers and any third party lessors or licensors, will not affect your obligations under this Agreement to us which will apply to the same extent as if you had not used them. We have no liability or responsibility to you or others regarding these third parties, even if we referred them to you. These third parties are your agents, and you are solely responsible for (i) determining whether they can meet your needs and standards, (ii) their actions, inactions and compliance with the terms of this Agreement and the Card Organization Rules and (iii) any and all fees, costs, expenses and other obligations owed to them by you or owed by them to us or to Card Organizations.

21. Confidentiality

21.1. Unless you obtain written consent from us and each applicable Card Organization, Issuer and Cardholder, you must not use, disclose, store, sell or disseminate any Cardholder information obtained in connection with a Card transaction (including the names, addresses and Card account numbers of Cardholders) except for purposes of authorizing, completing and settling Card transactions and resolving any Chargebacks, Retrieval Requests or similar issues involving Card transactions, other than pursuant to a court or governmental agency request, subpoena or order. You shall use proper controls for and limit access to, and render unreadable prior to discarding, all records containing Cardholder account numbers and Card imprints. You may not retain or store Magnetic Stripe data or Card Validation Codes after a transaction has been authorized. If you store any electronically captured signature of a Cardholder, you may not reproduce such signature except upon our specific request.

21.2. You acknowledge that you will not obtain ownership rights in any information relating to and derived from Card transactions. Cardholder account numbers, personal information and other Card transaction information, including any databases containing such information, may not be sold or disclosed to a Person as an asset upon a bankruptcy, insolvency or failure of Client's business. Upon a bankruptcy, insolvency or failure of Client's business, all Card transaction information must be returned to Servicers or acceptable proof of the destruction of all Card transaction information must be provided to Servicers.

21.3. You will treat this Agreement, the Card Organization Rules and any information supplied or otherwise made accessible by us or our agents as confidential, including without limitation, (i) information about the products, services, operations, procedures, customers, suppliers, sales, pricing, business plans and marketing strategies of Servicers, their respective Affiliates or the customers, clients or suppliers of any of them; (ii) any scientific or technical information, design, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords Servicers a competitive advantage over its competitors; (iii) user IDs, security codes, passwords, personal identification numbers, and other security devices and procedures for the Services or related thereto; and (iv) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, know-how, show-how and trade secrets, whether or not patentable or copyrightable, and will not disclose the same to any Persons; provided, however, that these restrictions do not apply to information: (a) rightfully obtained on a non-confidential basis from a Person who was not subject to a duty of confidentiality, (b) rightfully and independently known by you on a non-confidential basis prior to its disclosure or (c) generally available to the public other than through any disclosure by or fault of you or your agents.

21.3.1. Our confidential information shall be used by you only to exercise your rights and to perform your obligations hereunder. Client shall receive our confidential information in confidence and not disclose the confidential information to any Person, except as may be agreed upon in writing by us. Client shall safeguard all of our confidential information using a reasonable degree of care, but not less than that degree of care used by it in safeguarding its own similar information or material. Upon request by us or upon termination of this Agreement, Client shall return to us or destroy all of our confidential information in its possession or control.

21.3.2. The obligations of confidentiality and restrictions on use in this Section shall not apply to any confidential information that: (i) was in the public domain prior to the date of this Agreement or subsequently came into the public domain through no fault of Client; (ii) was received from a Person free of any obligation of confidence to us and which Person, to Client's knowledge, was not under an obligation to keep the information confidential; (iii) was already in Client's possession prior to receipt from us; (iv) is required to be disclosed by law, regulation or court order after giving us as much advance notice as practical of the possibility of disclosure; or (v) is subsequently and independently developed by Client's employees, consultants or agents without use of or reference to our confidential information.

21.3.3. Except as specifically provided for herein, this Section does not confer any right, license, interest or title in, to or under our confidential information to Client. Except as specifically provided for herein, no license is hereby granted to Client under any patent, trademark, copyright, trade secret or other proprietary rights of ours.

21.3.4. Client acknowledges that breach of the restrictions on use or disclosure of any our confidential information would result in immediate and irreparable harm to us, and money damages would be inadequate to compensate for that harm. We shall be entitled to equitable relief, in addition to all other available remedies, to redress any breach.

21.4. With respect to any information received by us from Client in connection with its use of the Services or from Persons regarding Client and its credit history, we will keep such information confidential in accordance with Applicable Law; provided, that we may disclose such information (i) to Persons as we deem appropriate to provide the Services, or reasonably necessary to support the provision of the Services, (ii) our auditors and attorneys (internal and external) and regulators, (iii) as required or permitted by law, regulation or court order, or (iv) to our respective Affiliates as we deem appropriate. Notwithstanding any contrary provisions in the controlling documents for any other accounts you have with Bank, Bank may share and exchange with Processor and our respective Affiliates and agents information about you and those accounts (including, without limitation, any relationship and independently obtained credit information) in connection with the Services, Non-Bank Services and other services or equipment purchase, rental or lease options elected on the Application and provided under this Agreement, another agreement within the Program Guide or a separate agreement, including, but not limited to, for collection of amounts owed under this Agreement, other agreements within the Program Guide or separate agreements to Servicers, Processor, TeleCheck Services, Inc., First Data Merchant Services Corporation (including its business unit, First Data Global Leasing), American Express Travel Related Services Company, Inc. or any other providers of services under this Agreement or the Program Guide.

You acknowledge that we or our service providers may also use data collected as part of performing payment processing or other transaction-related services for you ("Transaction Data") for the purpose of providing additional products and services to you, other merchants, or third parties. This includes collecting, using and de-identifying cardholder information, dates, amounts, and other transaction details, and other Transaction Data to provide you with analytics products and services as well as collecting and using Transaction Data de-identified and aggregated with other merchants' transaction data to provide you, other merchants, and third parties with analytic products and services.

21.5. You shall not assign to any Person, the rights to use the Marks of Servicers, our agents or the Card Organizations.

21.6. All rights, title, and interest in and to all intellectual property related to the Services (including, without limitation, the Marks, the content of any materials, web screens, layouts, processing techniques, procedures, algorithms, and methods), owned, developed or licensed by us prior to, during the term of, or after this Agreement, or employed by us in connection with the Services and any updates, changes, alterations, or modifications to or derivative works from such intellectual property, shall be and remain, as among the parties, our exclusive property. Use, sublicensing, assignment or attempted transfer of any such intellectual property (including, without limitation, Marks) in violation of the provisions of this Section 21 or the Agreement will constitute a material breach of this Agreement.

Client agrees that we may obtain relevant information from any applicable telecommunications provider utilized by Client, as necessary to investigate any allegation of fraud, suspected fraud or other actual or alleged wrongful act by Client in connection with the Services.

22. Assignments

22.1. Any transfer or assignment of this Agreement by you, without our prior written consent, by operation of law or otherwise, is voidable by us. Any transfer of voting control of you or your parent shall be considered an assignment or transfer of this Agreement. Furthermore, you shall indemnify and hold us harmless from all liabilities, Chargebacks, expenses, costs, fees and fines arising from such transferee's or assignee's Submission of Card transactions to us for processing. For purposes of this Section 22, any transfer of voting control shall be considered an assignment or transfer of this Agreement.

22.2. The payment Services provided by us require access to a single bank account in which we may initiate both credits and debits. You may not enter into any agreement that would require, in any circumstance or event, the transfer of any payments or proceeds from Card transactions covered by this Agreement to the custody or control of any Person. You may not assign any rights, including the right of payment under this Agreement, to any Person. In the event that you make an assignment (or provide a security interest) of receivables covered by this Agreement, then we may, at our option, elect to (a) refuse to acknowledge such assignment unless accompanied by an authorization to both initiate debits or credits to the bank account of the assignee, (b) terminate this Agreement immediately, or (c) charge for any transfers that we are called upon to make manually to fulfill such an assignment at the rate of \$100 per transfer.

22.3. Another Visa and MasterCard member may be substituted for Bank under whose sponsorship this Agreement is performed with respect to Visa and MasterCard transactions. Upon substitution, such other Visa and MasterCard member shall be responsible for all obligations required of Bank for Visa and MasterCard transactions, including without limitation, full responsibility for its Card program and such other obligations as may be expressly required by applicable Card Organization Rules.

Subject to Card Organization Rules, we may assign or transfer this Agreement and our rights, duties and obligations hereunder and/or may delegate or subcontract our rights, duties and obligations hereunder, in whole or in part, to any Person, whether in connection with a change in sponsorship, as set forth in the preceding paragraph, or otherwise, without notice to you or your consent.

22.4. Except as set forth elsewhere in this Section and as provided in the following sentence, this Agreement shall be binding upon successors and assigns and shall inure to the benefit of the parties and their respective permitted successors and assigns. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, or other Person charged with taking custody of a party's assets or business, shall have any right to continue, assume or assign this Agreement.

23. Term; Termination; Events of Default

23.1. This Agreement shall become effective upon the date this Agreement is approved by our Credit Department.

23.2. The initial term of this Agreement shall commence and shall continue in force for three years after it becomes effective. Thereafter, it shall continue until we or you terminate this Agreement upon written notice to the other, or as otherwise permitted under this Agreement. If you have an equipment lease, termination of this Agreement does not

terminate that equipment lease. If you have Rental Equipment, as defined in Section 33, termination of this Agreement does not relieve you of your obligations under Section 33 until such Rental Equipment is paid for in full or returned to us, as further described in Section 33.6).

23.3. Notwithstanding the above or any other provisions of this Agreement, we may terminate this Agreement at any time and for any reason by providing 30 days' advance notice to you. We may terminate this Agreement immediately or with shorter notice upon an Event of Default as provided under Section 23.4 of this Agreement. In the event we provide notice to you of any new fees or increases in existing fees for Services, pursuant to Section 18.5, you may terminate this Agreement without further cause or penalty by notifying us that you are terminating this Agreement prior to the effective date of such new fees or increases. However, maintaining your Merchant Account, or your continued use of the Services after the effective date of any such fee changes, shall be deemed your acceptance of such fee changes for the Services throughout the term of this Agreement.

23.4. If any of the following events shall occur (each an "Event of Default"):

23.4.1. a material adverse change in your business, financial condition, or business prospects; or

23.4.2. any assignment or transfer of voting control of you or your parent; or

23.4.3. a sale of all or a substantial portion of your assets; or

23.4.4. irregular Card sales by you, excessive Chargebacks, noncompliance with any applicable data security standards, as determined by Servicers, or any Card Organization, or any other Person, or an actual or suspected data security breach, or any other circumstances which, in our sole discretion, may increase our exposure for your Chargebacks or otherwise present a financial or security risk to us; or

23.4.5. any of your representations, warranties or covenants in this Agreement are breached in any respect; or

23.4.6. you default in any material respect in the performance or observance of any term, condition or agreement contained in this Agreement, including, without limitation, the establishment or maintenance of funds in a Reserve Account, as detailed in Section 24; or

23.4.7. you default in any material respect in the performance or observance of any term, covenant or condition contained in any agreement with any of our respective Affiliates; or

23.4.8. you default in the payment when due, of any material indebtedness for borrowed money; or

23.4.9. you file a petition or have a petition filed by another party under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency or similar arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against you in an involuntary case under such laws; apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of you or of a substantial part of your property; or make a general assignment for the benefit of creditors; or take any action for the purpose of authorizing any of the foregoing; or

23.4.10. your independent certified accountants shall refuse to deliver an unqualified opinion with respect to your annual financial statements and your consolidated subsidiaries; or

23.4.11. a violation by you of any Applicable Law or Card Organization Rule or our reasonable belief that termination of this Agreement or suspension of Services is necessary to comply with any law, including, without limitation, the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury or your breach, as determined by Servicers, of Section 50.2 ("Compliance with Laws");

then, upon the occurrence of (1) an Event of Default specified in subsections 23.4.4, 23.4.9 or 23.4.11, we may consider this Agreement to be terminated immediately, without notice, and all amounts payable hereunder shall be immediately due and payable in full without demand or other notice of any kind, all of which are expressly waived by you, and (2) any other Event of Default, this Agreement may be terminated by us giving not less than 10 days' notice to you, and upon such notice all amounts payable hereunder shall be due and payable on demand.

23.5. Neither the expiration nor termination of this Agreement shall terminate the obligations and rights of the parties pursuant to provisions of this Agreement which by their terms are intended to survive or be perpetual or irrevocable. Such provisions shall survive the expiration or termination of this Agreement. All obligations by you to pay or reimburse us for any obligations associated with transactions you have submitted to us will survive termination of this Agreement until finally and irrevocably paid in full and settled.

23.6. If any Event of Default occurs, regardless of whether such Event of Default has been cured, we may, in our sole discretion, exercise all of our rights and remedies under Applicable Law, and this Agreement including, without limitation, exercising our rights under Section 24.

23.7. In the event you file for protection under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency, assignment for the benefit of creditors or similar laws, and you continue to use our Services, it is your responsibility to open new accounts to distinguish pre and post filing obligations. You acknowledge that as long as you utilize the accounts you established prior to such filing, we will not be able to systematically segregate your post-filing transactions or prevent set-off of the pre-existing obligations. In that event, you will be responsible for submitting an accounting supporting any adjustments that you may claim.

23.8. The Card Organizations often maintain merchant lists, such as the Member Alert To Control High-risk (Merchants) ("MATCH"), who have had their merchant agreements or Card acceptance rights terminated for cause. If this Agreement is terminated for cause, you acknowledge that we may be required to report your business name and the names and other information regarding its principals to the Card Organizations for inclusion on such list(s). You expressly agree and consent to such reporting if you are terminated as a result of the occurrence of an Event of Default or for any reason specified as cause by Visa, MasterCard or Discover. Furthermore, you agree to waive and hold us harmless from and against any and all claims which you may have as a result of such reporting.

23.9. After termination of this Agreement for any reason whatsoever, you shall continue to bear total responsibility for all Chargebacks, fees and Card Organization fines imposed on us as a result of your acts or omissions, Credits and adjustments resulting from Card transactions processed pursuant to this Agreement, and all other amounts then due or which thereafter may become due under this Agreement.

24. Reserve Account; Security Interest

24.1. You expressly authorize us to establish a Reserve Account pursuant to the terms and conditions set forth in this Section 24. The amount of such Reserve Account shall be set by us, in our sole discretion, based upon your processing history and the potential risk of loss to us as we may determine from time to time.

24.2. The Reserve Account shall be fully funded upon notice to you, or in instances of fraud or suspected fraud or an Event of Default, Reserve Account funding may be immediate. Such Reserve Account may be funded by all or any combination of the following: (i) one or more debits to your Settlement Account or any other accounts held by either of us or any of our respective Affiliates, at any financial institution maintained in the name of Client, any of its principals, or any of its guarantors, or if any of same are authorized signers on such account; (ii) set off against any payments otherwise due to you, including any amount due from TeleCheck; (iii) your delivery to us of a letter of credit; or (iv) if we so agree, your pledge to us of a freely transferable and negotiable certificate of deposit. Any such letter of credit or certificate of deposit shall be issued or established by a financial institution acceptable to us and shall be in a form satisfactory to us. In the event of termination of this Agreement by any party, an immediate Reserve Account may be established without notice in the manner provided above. Any Reserve Account will be held by us for the greater of ten (10) months after termination of this Agreement or for such longer period of time as is consistent with our liability for your Card transactions and Chargebacks in accordance with Card Organization Rules. We will hold funds pursuant to this Section 24.2 in master account(s) with your funds allocated to separate sub accounts. Unless specifically required by law, you shall not be entitled to interest on any funds held by us in a Reserve Account.

24.3. If your funds in the Reserve Account are not sufficient to cover the Chargebacks, adjustments, fees and other charges and amounts due from you, or if the funds in the Reserve Account have been released, you agree to promptly pay us such sums upon request.

24.4. To secure your obligations to us and our respective Affiliates under this Agreement and any other agreement for the provision of related equipment, products or services (including any obligations for which payments on account of such obligations are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy act, state or federal law, common law or equitable cause), you grant to us a first priority lien and security interest in and to (i) the Reserve Account and (ii) any of your funds pertaining to the Card transactions contemplated by this Agreement now or hereafter in our possession, whether now or hereafter due or to become due to you from us. Any such funds, money or amounts now or hereafter in our possession may be commingled with other funds of ours, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of ours. In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, we are hereby authorized by you at any time and from time to time, without notice or demand to you or to any Person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all such funds against and on account of your obligations to us and our respective Affiliates under this Agreement and any other agreement with us our respective Affiliates for any related equipment or related services (including any check services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to duly execute and deliver to us such instruments and documents as we may reasonably request to perfect and confirm the lien, security interest, right of set-off, recoupment and subordination set forth in this Agreement.

24.4.1. To the extent funds are held in a separate Reserve Account, the Reserve Account shall be subject to (i) Servicers' security interest pursuant to this subsection 24.4, and (ii) an account control agreement (as defined by the applicable sections of the Uniform Commercial Code, hereinafter referred to as "Control Agreement") among you, the institution at which the Reserve Account is held (such institution hereinafter referred to as "Settlement Account Bank") and Servicers (such account hereinafter referred to as the "Control Account"). The Control Agreement shall be in form and substance satisfactory to Servicers. The Settlement Account Bank shall be a national bank which is mutually acceptable to you and Servicers.

24.4.2. For sake of clarification and notwithstanding anything in the Agreement to the contrary, in the event Servicers deduct, holdback, suspend, off set or set off any settlement monies or amounts otherwise due you pursuant to the terms of this Agreement (collectively "Set Off Funds"), you acknowledge that such Set Off Funds will be held in a commingled Reserve Account(s) of Servicers (as described in this subsection 24.4) unless such Set Off Funds are wired or deposited by Servicers into any Control Account, pursuant to a Control Agreement, in which case Servicers will transfer Set Off Funds from their commingled Reserve Account(s) to the Control Account as soon as practicable using commercially reasonable efforts.

24.4.3. If in replacement of or in addition to the first priority lien and security interest in the Reserve Account, you grant to Servicers a first priority lien and security interest in and to one or more certificates of deposit, the certificates of deposit shall be unencumbered and shall be subject to an Acknowledgement of Pledge of Certificate of Deposit and Control Agreement (the "Certificate of Deposit Control Agreement") by, between and among you, Servicers and the financial institution that has established and issued the certificate of deposit. The form of the Certificate of Deposit Control Agreement and the financial institution that will establish and issue the certificate of deposit shall be satisfactory and acceptable to Servicers.

24.4.4. For the security interests granted under this Section 24.4 to us in accounts and/or assets maintained with and/or held by Bank, including, but not limited to, the Settlement Account, the Reserve Account, and your other deposit accounts and other assets, Bank will act as collateral agent for us with respect thereto, including, without limitation, for purposes of perfection thereof under Applicable Law. For accounts maintained with financial institutions other than Bank, the terms of the control agreement, if any, will govern.

25. Financial and Other Information

25.1. Upon request, you will provide us and our Affiliates, quarterly financial statements within 45 days after the end of each fiscal quarter and annual audited financial statements within 90 days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. You will also provide such other financial statements and other information concerning your business and your compliance with the terms and provisions of this Agreement as we may reasonably request. You authorize us and our respective Affiliates to obtain from third parties financial and credit information relating to you in connection with our determination whether to accept this Agreement and our continuing evaluation of your financial and credit status. We may also access and use information which you have provided to us for any other reason. Upon request, you shall provide, and/or cause to be provided, to us and our respective Affiliates, or our respective representatives, regulators, or forensic examiners (as well as those of the Card Organizations), reasonable access to your or your Merchant Providers' facilities and records for the purpose of performing any inspection and/or copying of books and/or records deemed appropriate. In such event, you shall pay the costs incurred by us or such Persons for such inspection, including, but not limited to, costs incurred for airfare and hotel accommodations.

25.2. You will provide us with written notice of any judgment, writ, warrant of attachment, execution or levy against any substantial part (25% or more in value) of your total assets not later than three (3) days after you become aware of same.

26. Indemnification; Data Compromise Losses

26.1. You agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses: (a) resulting from the inaccuracy or untruthfulness of any representation or warranty made by you (at the time it is made), breach of any warranty, covenant or agreement or any misrepresentation by you under this Agreement; (b) arising out of your or your employees' or your agents' negligence or willful misconduct, in connection with Card transactions or otherwise arising from your provision of goods and services to Cardholders; (c) arising out of your use of the Services; or (d) arising out of any third party indemnifications we are obligated to make as a result of your actions (including indemnification of any Card Organization or Issuer).

26.2. Subject to the limitations set forth in Section 20.4, we agree to indemnify and hold you harmless from and against all losses, liabilities, damages and expenses resulting from any breach of any warranty, covenant or agreement or any misrepresentation by us under this Agreement or arising out of our or our employees' gross negligence or willful misconduct in connection with this Agreement; provided that this indemnity obligation shall not apply to Bank with respect to Non-Bank Services.

26.3. If you or a Merchant Provider (or other Person used by you) are determined by any Card Organization, regardless of any forensic analysis or report, to be the likely source of any loss, disclosure, theft or compromise of Cardholder data or Card transaction information or are determined to have caused Cardholder data to be put at risk (together, "Compromised Data Events") and regardless of your belief that you have complied with the Card Organization Rules or any other security precautions and are not responsible for the Compromised Data Event, you must promptly pay us for all related expenses, claims, assessments, fines, losses, costs, and penalties and Issuer reimbursements imposed by the Card Organizations against us (together, "Data Compromise Losses"). In addition to the foregoing, you must also pay us promptly for all expenses and claims made by Issuers against us alleging your responsibility for the Compromised Data Event, apart from any claim procedures administered by the Card Organizations.

27. Special Provisions Regarding Non-Bank Cards

27.1. Non-Bank Card transactions are provided to you by Processor and not by Bank and include transactions made using Cards branded by (a) Discover, Diners Club International JCB, Union Pay, BCard or any other Card Organizations subsequently designated by Discover (each, a "DNP Card Type" or a "DNP Card Organization"), (b) American Express, (c) Voyager and (d) WEX. The Services provided, transactions processed and other matters contemplated under this Section 27 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 27 directly conflict with another provision of this Agreement, in which case the terms of this Section 27 will control; provided, however, that (i) Bank is not liable to you in any way with respect to such Services and (ii) you agree to pay Processor any per item processing, Authorization and other fees described in the Application for any non-acquired transaction services you receive from Processor. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank. You authorize us to share information from your Application with each DNP Card Organization, American Express, Voyager, WEX or any other Non-Bank Card Organization.

27.2. If you accept American Express, you understand that if, based upon your anticipated Card transaction volume you do not qualify for our American Express OptBlueSM Program Service, as further described in Section 45 of this Agreement, but have otherwise been approved for accepting American Express transactions, American Express will settle your transactions. You understand and agree that we are not responsible and assume absolutely no liability with regard to any such transactions, including, but not limited to, the settlement of American Express transactions, and that American Express will charge additional fees for the services it provides.

27.3. If you accept DNP Card Types, you acknowledge and agree that transactions made using Cards of DNP Card Organizations will be processed under and subject to Discover Card Organization Rules and the terms of this Agreement applicable to Discover Card acceptance and transactions, including, without limitation, the fees, rates and interchange programs applicable thereto.

27.4. Reserved.

27.5. If you accept Voyager and/or WEX Cards, you agree to be bound by the WEX and/or Voyager rules. You also agree to be bound by all other provisions of this Agreement which are applicable to WEX and/or Voyager.

27.6. If you execute a separate WEX Merchant Agreement (WEX Non Full Acquiring Program), you understand that we will provide such agreement to WEX, but that neither we nor WEX shall have any obligation whatsoever to you with respect to processing WEX Cards unless and until WEX executes your WEX Merchant Agreement. If WEX executes your WEX Merchant Agreement and you accept WEX Cards, you understand that WEX transactions are processed, authorized and funded by WEX. You understand that WEX is solely responsible for all agreements that govern WEX transactions and that we are not responsible and assume absolutely no liability with regard to any such agreements or WEX transactions, including, but not limited to, the funding and settlement of WEX transactions. You understand that WEX will charge additional fees for the services that it provides.

27.7. If you are eligible to participate in the WEX Full Acquiring Service program and we approve you to do so, you must comply with the following terms:

27.7.1. Provide, at your own expense, all equipment necessary to permit the electronic acceptance of the WEX Cards, including the operation and maintenance of the equipment, telecommunication link, and provision of all networking services;

27.7.2. All Authorization request data for WEX Card sales must include WEX Cardholder account number, vehicle number, WEX Card expiration date, driver identification number; and the amount of the transaction, date and time of the transaction, quantity of goods sold, unit price, and product code (the "Authorization Request Data"). The type of goods sold, quantity of goods sold, unit price/price per gallon (if applicable), taxes, and any coupons presented within the product detail of a transaction must be accurate. Product detail presented must also equal the total amount of the sale when calculated (i.e. Product qty x unit price must equal product amount. Sum of all product amounts including taxes, minus any coupons, must equal total transaction amount.);

27.7.3. If you are unable to submit a WEX Card Sales Draft electronically, you must capture the WEX Card Sales Draft through the use of a suitable Imprinter to legibly imprint the WEX Cards on the Sales Draft and requiring the WEX Cardholder to sign the sales receipt ("Manual Card Sales");

27.7.4. All Manual Card Sales must include an Authorization Approval Code or other approval code from WEX along with the aforementioned Authorization Request Data;

27.7.5. Not to submit a WEX Card Sales Draft for processing when a WEX Card is not presented at the time of the WEX Card sale;

27.7.6. Complete a WEX Card sale only upon the receipt of an Authorization Approval Code and not accept a WEX Card when an expired card/decline message is received;

27.7.7. Not to submit a WEX Card Sales Draft for processing until the goods have been delivered or services performed;

27.7.8. Not to accept a WEX Card where the WEX Card appears to be invalid or expired or there is reasonable belief that the WEX Card is counterfeit or stolen;

27.7.9. Provide a copy of the receipt for a WEX Card sale, upon the request of the WEX Card holder, to the extent permitted by Applicable Law, which shall not include the full account number or driver identification number;

27.7.10. Require the WEX Cardholder to sign a receipt when a WEX Card sale is not completed by an island Card reader;

27.7.11. Take all commercially reasonable efforts to protect Manual Card Sales data from fraud or misuse;

27.7.12. Not divide the price of goods and services purchased in a single WEX Card sale among two or more sales receipts or permit a WEX Card sale when only partial payment is made by use of the WEX Card and the balance is made with another bank Card;

27.7.13. Client acknowledges that fuel tax removal at the point of sales is not permitted. For all payment system product codes that are taxable transaction dollar amount and price per gallon ("PPG") must contain the sum of the fuel cost and PPG inclusive of all applicable federal, state, county, local and other fuel taxes.

27.7.14. Maintain a secure record of all WEX Card sales, including the Authorization Request Data, for a period of one year and produce such records within thirty (30) calendar days of Processor's or WEX's reasonable request;

27.7.15. Notify Processor of any errors contained within a settlement report within forty-five (45) days of receipt of such report. Processor will not accept reprocessing requests for WEX transactions older than ninety (90) days.

27.7.16. Allow WEX to audit records, upon reasonable advance notice, related to the WEX Full Acquiring Services; and

27.7.17. Retransmit WEX Card sales data when reasonably requested to do so.

27.7.18. Client acknowledges and agrees that its sole remedies with respect to the WEX Full Acquiring services shall be against Processor for the WEX Full Acquiring Services and not WEX, except to the extent that WEX knows of any fraud related to the WEX Cards and fails to provide notice of such fraud or WEX commits fraud in respect to the WEX Full Acquiring Services.

27.7.19. Client further acknowledges that WEX may chargeback any WEX Card transactions that are disputed by the WEX Cardholder and (i) the required Authorizations were not obtained, (ii) were for unauthorized Products, (iii) were fraudulently made by an employee of Client, or (iv) with respect to which, the WEX Card sales procedures, as determined by WEX and amended by WEX from time to time, were not followed. Client will be responsible for all uncollectable Chargebacks related to the WEX Card sales. For the purposes of the WEX Full Acquiring Services contemplated hereunder, "Products" includes motor fuel, motor oil, repairs, tires and other merchandise, excluding cash equivalent transactions, gift cards, pre-paid cards, lottery or other games of chance.

27.7.20. Client acknowledges and agrees that WEX will accept WEX Card transactions up to one hundred and twenty (120) days from the date of the WEX Card transaction for processing and billing. To the extent any WEX Card transaction submitted later than one hundred and twenty (120) days from the date of that transaction, is accepted, WEX reserves the right (in addition to any other WEX chargeback rights) to chargeback that transaction if it is disputed by a WEX Cardholder or fleet commercial customer in accordance with the related credit agreement with WEX.

27.8. If you accept Voyager Cards:

- In addition to the information stated in Section 1 (Visa, MasterCard and Discover Acceptance) of the Operating Procedures, you should check Fleet Cards for any printed restrictions at the point of sale.
- In addition to the information provided under Section 1.5 (Special Terms) of the Operating Procedures, you shall establish a fair policy for the exchange and return of merchandise. You shall promptly submit credits to us for any returns that are to be credited to a Voyager Cardholder's account. Unless required by law, you shall not give any cash refunds to any Voyager Card holder in connection with a sale.
- In addition to the information required under Section 3.1 (Information Required) of the Operating Procedures, the following information must be contained on the single page document constituting the Sales Draft for Voyager transactions:
 - All Authorization request data for Voyager Card sales must include the Voyager Cardholder's account number, Card expiration date and driver identification number, the amount, date and time of the transaction, quantity of goods sold, unit price, and product code (the "Authorization Request Data"). All manual Voyager Card sales (i.e., sales facilitated by an Imprinter) must include an Authorization number or other approval code from Voyager along with the aforementioned Authorization Request Data. The type of goods sold, quantity of goods sold, unit price/price per gallon (if applicable), taxes, and any coupons presented within the product detail of a transaction must be accurate. Product detail presented must also equal the total amount of the sale when calculated (i.e. Product qty x unit price must equal product amount. Sum of all product amounts including taxes, minus any coupons, must equal total transaction amount.)
 - Client acknowledges that fuel tax removal at the point of sale is not permitted. For all payment system product codes that are taxable, transaction dollar amount and price per gallon ("PPG") must contain the sum of the fuel cost and PPG, inclusive of all applicable federal, state, county, local and other fuel taxes.
 - If an increase in the number of Voyager transaction Authorization calls from you not due to our or Voyager system outages in excess of 15% for a given month as compared to the previous month occurs, we may, in our discretion, deduct telephone charges, not to exceed \$.25 (25 cents) per call, for the increased calls, from your settlement of your Voyager transactions.
- In addition to the information provided under Section 7 (Settlement) of the Operating Procedures, settlement of Voyager transactions will generally occur by the fourth banking day after we process the applicable card transactions. We shall reimburse you for the dollar amount of sales submitted for a given day by you, reduced by the amount of Chargebacks, tax exemptions, discounts, credits, and the fees set forth in the Application. Notify Processor of any errors contained within the Settlement Reports within thirty (30) calendar days of receipt of such report. Neither we nor Voyager shall be required to reimburse you for sales submitted more than sixty (60) calendar days from the date of purchase.
- For daily transmission of sales data, you shall securely maintain true and complete records in connection with the information required to be provided under this paragraph for a period of not less than thirty-six (36) months from the date of the generation of the data. You may store records on electronic media, if secure. You are responsible for the expense of retaining sales data records and Sales Drafts.
- In addition to the scenario identified in Section 10.1.4 of this Agreement that could cause an Authorization related Chargeback to occur, with respect to Voyager transactions, Chargebacks shall be made in accordance with any other Voyager rules. Notwithstanding termination or expiration of this Section 27.8 or this Agreement, you shall remain liable for all outstanding Chargebacks on Voyager transactions.
- In addition to the information provided under Section 20 (Representations; Warranties; Covenants; Limitations of Liability; Exclusion of Consequential Damages) of the General Terms, in no event shall our cumulative liability to you for losses, claims, suits, controversies, breaches or damages for any cause whatsoever in connection with Voyager transactions exceed the lesser of \$10,000.00 or the Voyager transaction fees paid by you to us for the two months prior to the action giving rise to the claim.
- Notwithstanding anything in this Agreement to the contrary, our obligation to provide services to you relating to any Fleet Card will terminate automatically without penalty to us or the related Card Organization upon the earlier of (i) the termination or expiration of our agreement with such Card Organization, (ii) at least twenty (20) days' prior written notice by us to you; (iii) your failure to comply with material terms relating to such Fleet Card transactions, or (iv) written notice, if a Card Organization discontinues its Card.

28. Special Provisions For PIN Debit Transactions and PINless Debit Transactions

The special provisions outlined in this Section 28 apply only to PIN Debit Transactions and PINless Debit Transactions; provided that you may only accept PINless Debit Transactions if you have been approved to accept PINless Debit Transactions and they are eligible for acceptance as PINless Debit Transactions. The Services provided, transactions processed and other matters contemplated under this Section 28 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 28 directly conflict with another provision of this Agreement, in which case the terms of this Section 28 will control.

28.1. PIN Debit Card Acceptance. Most, but not all, ATM Cards (Debit Cards) can be accepted at the point of sale at participating locations. Examine the back of the PIN Debit Card to determine if the Card participates in a PIN Debit Network that you are authorized to accept. PIN Debit Network Mark(s) are usually printed on the back of the Card. If the PIN Debit Card is valid and issued by a financial institution Issuer participating in a PIN Debit Network, you must comply with the following general requirements for all participating PIN Debit Networks, in addition to the specific requirements of that PIN Debit Network:

- You must honor all valid PIN Debit Cards when presented that bear authorized PIN Debit Network Marks.

- You must treat transactions by Cardholders from all Issuers in the same manner.
- You may not establish a minimum or maximum transaction amount for PIN Debit Transactions.
- You must comply with applicable PIN Debit Network Card Organization Rules regarding any maximum transaction amount (and any other eligibility requirements) for acceptance of PINless Debit Transactions.
- For a PIN Debit Transaction, you may not require additional information, besides the PIN, to complete that transaction unless the circumstances appear suspicious. A signature is not required for a PIN Debit Transaction.
- For a PINless Debit Transaction, you may not require any additional information to complete that transaction unless the circumstances appear suspicious. Neither a PIN nor a signature is required for a PINless Debit Transaction.
- You shall not disclose transaction related information to any party other than your agent, a PIN Debit Network, or Issuer and then only for the purpose of settlement or error resolution.
- You may not process a Credit Card transaction in order to provide a refund on a PIN Debit Transaction or PINless Debit Transaction.

28.2. PIN Debit Transaction and PINless Debit Transaction Processing. The following general requirements apply to all PIN Debit Transactions and all PINless Debit Transactions, except as otherwise indicated below:

- All PIN Debit Transactions and all PINless Debit Transactions must be authorized and processed electronically; there is no Voice Authorization or Imprinter procedure for these transactions.
- You may not complete a PIN Debit Transaction or PINless Debit Transaction that has not been authorized. If you cannot obtain an Authorization at the time of sale, you should request another form of payment from the Cardholder. The Cardholder should be instructed to contact the Issuer to find out why a transaction has been declined.
- You may not complete a PIN Debit Transaction without entry of the PIN by the Cardholder. The PIN must be entered into the PIN pad only by the Cardholder. You cannot accept the PIN from the Cardholder verbally or in written form.
- The PIN Debit Network used to process your PIN Debit Card Transaction or PINless Debit Card Transaction will depend upon, among other things, our own business considerations the availability of the PIN Debit Network at the time of such transaction and whether a particular PIN Debit Card is enabled for a particular PIN Debit Network. The PIN Debit Network utilized to route such transaction may or may not be the lowest cost PIN Debit Network available. We may, in our sole discretion (i), utilize any PIN Debit Network available to us for a given PIN Debit Transaction or PINless Debit Transaction (including a PIN Debit Network affiliated with Processor) and (ii) add and/or remove PIN Debit Networks available to you based on a variety of factors including availability, features, functionality and our own business considerations.
- You must issue a receipt to the Cardholder upon successful completion of a PIN Debit Transaction or PINless Debit Transaction and effect PAN Truncation on it.
- You may not manually enter the account number. The account number must be read electronically from the Magnetic Stripe. If the Magnetic Stripe is unreadable, you must request another form of payment from the Cardholder.
- Any applicable tax must be included in the total PIN Debit Transaction or PINless Debit Transaction amount for which Authorization is requested. Tax may not be collected separately in cash.
- **YOU ARE RESPONSIBLE TO SECURE YOUR TERMINALS AND TO INSTITUTE APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS AND VOIDS THAT DO NOT REFLECT BONA FIDE RETURNS OR REIMBURSEMENTS OF PRIOR PIN DEBIT TRANSACTIONS OR PINLESS DEBIT TRANSACTIONS.**

28.3. Cash Back From Purchase for PIN Debit Transactions. You have the option of offering cash back to your customers when they make a PIN Debit Transaction. You may set a minimum and maximum amount of cash back that you will allow. If you are not now offering this service, your terminal may require additional programming to begin offering cash back as long as it is supported by a PIN Debit network.

28.4. Settlement. Within one Business Day of the original PIN Debit Transaction or PINless Debit Transaction, you must balance each location to our system for each Business Day that each location is open.

28.5. Adjustments. An adjustment is a transaction that is initiated to correct a PIN Debit Transaction or PINless Debit Transaction that has been processed in error. You will be responsible for all applicable adjustment fees that may be charged by a PIN Debit Network. Some PIN Debit Networks may have established minimum amounts for adjustments.

There are several reasons for adjustments being initiated:

- The Cardholder was charged an incorrect amount, either too little or too much.
- The Cardholder was charged more than once for the same PIN Debit Transaction or PINless Debit Transaction.
- A processing error may have occurred that caused the Cardholder to be charged even though the PIN Debit Transaction or PINless Debit Transaction did not complete normally at the point of sale. All parties involved in processing adjustments are regulated by time frames that are specified in the operating rules of the applicable PIN Debit Network, the Electronic Funds Transfer Act, Federal Reserve System, Regulation E, and other Applicable Law.

29. Special Provisions Regarding EBT Transactions

If you elect to accept EBT Cards and engage in EBT transactions, the terms and conditions of this Section 29 shall apply.

EBT transactions are provided to you by Processor and not by Bank. The Services provided, transactions processed and other matters contemplated under this Section 29

are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 29 directly conflict with another section of this Agreement, in which case the terms of this Section 29 will control; provided, however, that Bank is not liable to you in any way with respect to such Services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

We offer electronic interfaces to EBT networks for the processing, settlement and switching of EBT transactions initiated through the use of a state-issued EBT card ("EBT Card") at your POS Terminal(s) for the provision of United States Department of Agriculture, Food and Nutrition Service ("FNS"), Supplemental Nutrition Assistance Program ("SNAP") and Women, Infants and Children Benefits ("WIC Benefits") and/or government delivered Cash Benefits (Cash Benefits, together with FNS, SNAP and WIC Benefits, collectively are referred to as the "EBT benefits") to EBT benefit recipients ("EBT customers"), subject to the terms below.

29.1. Acceptance of EBT Benefits. You agree to accept EBT Cards and provide EBT benefits to EBT customers through the use of a POS Terminal, PIN pad and printer or other equipment that meet standards set forth in the EBT Rules ("Authorized Terminal") applicable to such EBT benefits during your normal business hours, in a manner consistent with your normal business practices and in accordance with the EBT Rules.

The "EBT Rules" means (i) all procedures that we establish and provide to you from time-to-time regarding your acceptance of EBT Cards and provision of EBT benefits to EBT customers; (ii) the Quest Rules, as amended from time-to-time, issued by the National Automated Clearing House Association and as approved by the Financial Management Service of the U.S. Treasury Department, as necessary (and any rules that succeed or replace the Quest Rules); and (iii) other such laws, rules, regulations and procedures that are applicable to the acceptance of EBT Cards and the provision of EBT benefits by you under this Section 29, including without limitation, laws pertaining to delivery of services to EBT customers and EBT customer confidentiality, the federal Civil Rights Act of 1964, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, Clean Air Act, Clean Water Act, Energy Policy and Conservation Act, Immigration Reform and Control Act of 1986, regulations issued by the Department of Agriculture pertaining to Food Stamp Program, and, any additional procedures specified by the state regarding lost EBT Cards, forgotten PINs, discrepancies in benefits authorized and similar matters by providing EBT customers with information such as telephone numbers and addresses of the state or other appropriate agencies. The "Food Stamp Program" is the government benefits program operated under the authority of the Food Stamp Act of 1964.

You will provide EBT benefits to EBT customers, in accordance with the procedures set forth in the EBT Rules, in the amount authorized through your Authorized Terminal upon presentation by an EBT customer of an EBT Card and such EBT customer's entry of a valid PIN. If the Authorized Terminal fails to print EBT benefit issuance information as approved and validated as a legitimate transaction, you will comply with the procedures set forth in the EBT Rules for Authorization of EBT benefits in such instance. You are solely responsible for your provision of EBT benefits other than in accordance with Authorizations timely received from EBT service provider. You will not resubmit any EBT Card transaction except as specifically permitted by the EBT Rules and procedures applicable to such EBT Card transaction. You must provide a receipt for each EBT transaction to the applicable EBT customer.

You will not accept any EBT Card for any purpose other than providing EBT benefits, including, without limitation, accepting an EBT Card as security for repayment of any EBT customer obligation to you. In the event of any violation of this provision, you will be obligated to reimburse the state or us for any EBT benefits unlawfully received by either you or an EBT customer to the extent permitted by law. Cash should never be dispensed for FNS, SNAP and WIC Benefits.

You authorize us to initiate EBT Card transactions and to receive settlement for such transactions on your behalf.

29.2. Manual EBT Vouchers. In accordance with the procedures set forth in this Section 29 and the EBT Rules, you will manually accept EBT Cards during periods of time when your Authorized Terminal is not working or the EBT system is not available; you will manually provide EBT benefits in the amount authorized through the applicable EBT service provider to the EBT customers at no cost to the EBT customers upon presentation by an EBT customer of his/her EBT Card. All manual voucher authorizations must be cleared on your Authorized Terminal for payment of voucher to be made to you. In addition to any procedures set forth in the EBT Rules, the following limitations will apply to manual issuance of EBT benefits by you:

- i. An Authorization Approval Code for the amount of the purchase must be received by you from the applicable EBT service provider while the respective EBT customer is present and before you provide such EBT customer with any FNS, SNAP and WIC Benefits, or Cash Benefits, as applicable. You must not attempt to voice authorize a manual EBT transaction if the EBT customer is not present to sign the voucher. The EBT customer must sign the voucher. A copy of the voucher should be given to the EBT customer at the time of Authorization and you should retain one copy for your records.
- ii. Specified EBT customer, clerk and sales information, including the telephone Authorization Approval Code, must be entered properly and legibly on the manual Sales Draft.
- iii. All manual voucher Authorizations must be cleared on your Authorized Terminal before payment of voucher will be made to you. Vouchers must be cleared within ten (10) Business Days after the date of applicable voice Authorization. Vouchers cannot be cleared by any manner except by your Authorized Terminal therefore you should never mail vouchers requesting payment. If a voucher expires before it has been cleared by your Authorized Terminal for payment, no further action can be taken to obtain payment for the voucher.
- iv. In the event that, due to EBT host failure, EBT benefit availability for an EBT customer cannot be determined at the time you request Authorization, the maximum authorized manual transaction and benefit encumbrance will be \$40.00 or such other state specific floor limit as set forth in the most current version of the applicable EBT Rules.

v. Except as specifically provided in the applicable EBT Rules, you will not be reimbursed and will be solely responsible for a manual transaction when you fail to obtain an Authorization Approval Code from the applicable EBT service provider as set forth in this Section 29 or otherwise fail to process the manual transaction in accordance with the EBT Rules.

vi. If you have not received an Authorization Approval Code in accordance with Section 29.1 above, you may not "re-submit" a manual Sales Draft for payment for the same transaction.

29.3. Acceptance of Cash Benefits. If you agree to accept EBT Cards and to provide Cash Benefits, you agree to maintain adequate cash on hand to issue EBT service provider authorized Cash Benefits and will issue such Cash Benefits to EBT customers in the same manner and to the same extent cash is provided to your other customers. You may not require, and may not in your advertising suggest, that any EBT customers must purchase goods or services from you as a condition to receiving Cash Benefits, unless such condition applies to other customers as well. You may not designate and direct EBT customers to special checkout lanes restricted to use by EBT customers unless you also designate and direct other customers to special checkout lanes for Debit Cards or Credit Cards and/or other non-cash payment methods, such as checks.

29.4. Interoperability. If you accept EBT Cards and provide EBT benefits (FNS, SNAP and WIC Benefits and/or Cash Benefits), you must do so for EBT customers from all states.

29.5. Required Licenses. If you provide FNS, SNAP and WIC Benefits under this Agreement, you represent and warrant to us that you are a FNS authorized merchant and are not currently disqualified or withdrawn from redeeming food stamp coupons or otherwise disqualified or withdrawn by FNS. You agree to secure and maintain at your own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of EBT benefits under this Agreement, including, without limitation, any applicable franchise tax certificate and non-governmental contractor's certificate, and covenant that you will not accept EBT Cards or provide EBT benefits at any time during which you are not in compliance with the requirements of any EBT Rules.

29.6. Term and Termination. If you are disqualified or withdraw from the Food Stamp Program, your authority to issue EBT benefits will be terminated concurrently therewith. Such disqualification or withdrawal will be deemed a breach of this Agreement with respect to your authority to issue Cash Benefits. Further, in the event of such disqualification, we have the right to immediately terminate the provision of Services under this Section 29 or this Agreement in its entirety. With respect to the issuance of Cash Benefits only, your authority to issue Cash Benefits may be suspended or terminated immediately at our sole discretion, or the discretion of the state or its EBT service provider, effective upon delivery of a notice of suspension or termination specifying the reasons for such suspension or termination, which may include, but are not limited to, (i) any suspension, injunction, cessation, or termination of the EBT service provider's authority to provide EBT services to the state; (ii) failure by you, upon not less than thirty (30) days' prior written notice, to cure any breach by you of these terms and conditions, including, without limitation, your failure to support the issuance of EBT benefits during your normal business hours consistent with your normal business practices, your failure to comply with EBT benefit issuance procedures, your impermissible acceptance of an EBT Card, or your disqualification or withdrawal from the Food Stamp Program; or (iii) based on a state's or its EBT service provider's investigation of the relevant facts, evidence that you or any of your agents or employees are committing, participating in, or have knowledge of fraud or theft in connection with the dispensing of EBT benefits. If you fail to cure any breach as set forth above, you may appeal such suspension of termination to the applicable state for determination in its sole discretion.

In the event that your authority to accept benefits is suspended or terminated by a state or its EBT service provider, and you successfully appeal such suspension or termination to the state or its EBT service provider, we shall be under no obligation to reinstate the Services previously provided under this Section 29 or this Agreement, as applicable.

The provision of Services under this Section 29 shall terminate automatically if our agreement or our service provider's agreement with any applicable state's EBT service provider terminates for any reason.

You will give prompt notice to us if you plan to stop accepting EBT Cards and providing EBT benefits or if you are unable to comply with the terms of this Section 29.

29.7. Confidentiality of EBT System Information. All information related to EBT customers and/or the issuance of EBT benefits shall be considered confidential information. Individually identifiable information relating to an EBT customer or applicant for EBT benefits will be held confidentially and will not be disclosed by you or your directors, officers, employees or agents, without prior written approval of the applicable state.

You will: (a) implement appropriate measures designed to: (1) ensure the security and confidentiality of all non-public personal information or materials regarding EBT customers ("NPPI"); (2) protect against any anticipated threats or hazards to the security or integrity of NPPI; (3) protect against unauthorized access to or use of NPPI that could result in substantial harm or inconvenience to any EBT customer and (4) ensure the proper disposal of NPPI; and (b) take appropriate actions to address incidents of unauthorized access to NPPI, including notification to us as soon as possible.

The use of information obtained by you in the performance of your duties under this Section 29 will be limited to purposes directly connected with such duties.

29.8. EBT Service Marks. You will adequately display any applicable state's service Marks or other licensed Marks, including the Quest Marks, and other materials supplied by us (collectively the "Protected Marks") in accordance with the standards set by the applicable state. You will use the Protected Marks only to indicate that EBT benefits are issued at your location(s) and will not indicate that we, any state or its EBT service provider endorse your goods or services. Your right to use such Protected Marks pursuant to this Agreement will continue only so long as this Section 29 remains in effect or until you are notified by us, any state or its EBT service provider to cease their use or display. You will not use the Marks of any EBT service provider without prior written approval from such EBT service provider.

29.9. Miscellaneous.

29.9.1. Errors. You will fully cooperate with us and any other participants in the EBT system in the resolution of errors and disputes regarding EBT transactions processed pursuant to this Section 29. You will promptly notify us of any such errors or disputes.

29.9.2. Issuance Records.

- i. You agree to make available such informational materials as may be required by the state, its EBT service provider or any applicable regulations pertaining to the issuance of EBT benefits.
- ii. You will retain all EBT-related records (including but not limited to manual Sales Drafts or vouchers) in the manner required by the EBT Rules or otherwise reasonably requested by us for three (3) years following the date of the applicable EBT transaction, or for such additional period as may be required by the EBT Rules. Records involving matters in litigation will be kept by you for a period of not less than three (3) years following the termination of the applicable litigation. Copies of any documents in media other than paper (e.g., microfilm, etc.) related to this Section 29 may be substituted for the originals to the extent permitted under applicable EBT Rules and provided that legible paper copies can be reproduced within a reasonable time after such records are requested.
- iii. You will make all EBT-related records available for audit upon request to representatives of the state or its EBT service provider, or other authorized state or federal government agency during normal business hours.
- iv. To ensure compliance with this Agreement, including, without limitation, this Section 29, the state, its EBT service provider, or other authorized state or federal government agency, will at all times, upon advance notice, except in the case of suspected fraud or other similar activity, have the right to enter, during normal business hours, your premises to inspect or evaluate any work performed under this Agreement, or to obtain any other information required to be provided by you or otherwise related to this Agreement.

29.9.3. Training. You will train and permit your employees to receive training regarding the issuance of EBT benefits.

29.9.4. Amendments. Notwithstanding anything to the contrary in this Agreement, if any of these terms and conditions are found to conflict with the EBT Rules or federal or state policy, these terms and conditions are subject to reasonable amendment by us, a state or its EBT service provider to address such conflict upon written notice to you and such amendment shall become effective upon such notice.

29.9.5. State Action. Nothing contained herein shall preclude a state from commencing appropriate administrative or legal action against you or for making any referral for such action to any appropriate federal, state, or local agency.

29.9.6. Reference to State. Any references to state herein will mean the state in which you accept EBT pursuant to this Section 29. If you accept EBT benefits in more than one state pursuant to this Section 29, then the reference will mean each such state severally, not jointly.

29.9.7. Third Party Beneficiaries. These terms and conditions, do not create, and will not be construed as creating, any rights enforceable by any Person not having any rights directly under this Agreement, except that the state and its Issuer, as defined in the Quest Rules, will be deemed third party beneficiaries of the representations, warranties, covenants and agreements made by you under this Agreement, including, without limitation, this Section 29.

30. Special Provisions Regarding Wireless Service

If you elect to purchase the Wireless Services from us as indicated on the Application, then the following terms and conditions of this Section 30, referred to as the "Wireless Services Terms," shall apply. THE WIRELESS SERVICES ARE BEING SOLD TO YOU FOR USE IN YOUR BUSINESS AND ARE NOT BEING SOLD TO YOU FOR HOUSEHOLD OR PERSONAL USE. Sale of Wireless Services is made by Processor and not the Bank. The Wireless Services provided, transactions processed and other matters contemplated under this Section 30 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 30 directly conflict with another section of this Agreement, in which case the terms of this Section 30 will control; provided, however, that Bank is not liable to you in any way with respect to such services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

Through one or more third party vendors ("Wireless Vendor(s)") selected by us in our sole discretion, we have acquired the right to resell certain wireless data communication services that use radio base stations and switching offered by certain cellular telephone and data networks throughout the country (the "Wireless Networks") in order to allow you to capture and transmit to Processor and Bank certain wireless Card Authorization transactions or to transmit other communications to our system ("Wireless Services"). If you elect to purchase voice and/or data services directly from a third party provider for use with the Wireless Equipment as permitted by Processor, you acknowledge and agree that this Agreement does not address or govern those voice and/or data services or your relationship with that third party provider, and Services are in no way responsible for providing, maintaining, servicing or supporting such third party voice and/or data services.

30.1. Purchase of Wireless Services. The prices that you will pay for the Wireless Services are set forth on the Application. In connection with your purchase of Wireless Services, you will receive access to a certain Wireless Network(s).

• **Licenses.** You agree to obtain any and all licenses, permits or other authorizations required by the Federal Communications Commission ("FCC") or any other regulatory authority, if any, for the lawful operation of Wireless Equipment used by you in connection with your receipt of Wireless Services. You will promptly provide us with all such information as we may reasonably request with respect to matters relating to the rules and regulations of the FCC.

• **Wireless Equipment.** You agree that in order to access the Wireless Services, you must use wireless POS Terminals and accessories approved for use with the Wireless Services by Processor from time to time in its sole discretion (the "Wireless Equipment"). If

Wireless Equipment is purchased by you from us as indicated on the Application, then the terms of this Agreement, including, without limitation, Section 33 of this Agreement, apply to your use of such Wireless Equipment.

• **Improvements/General Administration.** We and the Wireless Vendor(s) reserve the right to make changes, from time to time, in the configuration of the Wireless Services, Wireless Networks, Wireless Equipment, Wireless Software, rules of operation, accessibility periods, identification procedures, type and location of equipment, allocation and quantity of resources utilized, programming languages, administrative and operational algorithms and designation of the control center serving you at the particular address. In addition, we reserve the right to schedule, from time to time, interruptions of service for maintenance activities.

• **Suspension of Wireless Services.** We or a Wireless Network may suspend the Wireless Services to: (a) prevent damages to, or degradation of, our or a Wireless Network's network integrity that may be caused by a Person; (b) comply with any law, regulation, court order or other governmental request which requires immediate action; or (c) otherwise protect us or a Wireless Network from potential legal liability. To the extent commercially reasonable, we shall give notice to you before suspending the Wireless Services to you. If not commercially reasonable to give prior notice, we will give notice to you as soon as commercially practicable thereafter. Availability of the Wireless Services may vary due to events beyond the control of us or our Wireless Vendors. In the event of a suspension of the Wireless Services, we or the applicable Wireless Vendor will restore the Wireless Services as promptly as possible following the resolution of the event giving rise to the suspension.

30.2. Software Licenses. Processor hereby grants to you a non-exclusive, non-transferable, revocable limited sublicense to use any wireless software (including any documentation relating to or describing the wireless software) downloaded by you or your designee from Processor's systems onto the Wireless Equipment in connection with your purchase and use of the Wireless Services in accordance with the terms of this Agreement, including this Section 30 and Section 33 ("Wireless Software"). Anything in this Agreement to the contrary notwithstanding, we or certain Persons retain all ownership and copyright interest in and to all Wireless Software, related documentation, technology, know-how and processes embodied in or provided in connection with the Wireless Software, and you shall have only a nonexclusive, non-transferable license to use the Wireless Software in your operation of the Wireless Equipment for the purposes set forth in this Agreement. Nothing in this Agreement confers any title or ownership of any such Wireless Software to you or shall be construed as a sale of any rights in any such Wireless Software to you. You agree to accept, agree to and be bound by all applicable terms and conditions of use and other license terms applicable to such Wireless Software. You shall not reverse engineer, disassemble or decompile the Wireless Software. You shall not give any Person access to the Wireless Software without our prior written consent. Your obligations under this Section 30.2 shall survive the termination of this Agreement. You acknowledge that the only right you obtain to the Wireless Software is the right to use the Wireless Software in accordance with the terms in this Section.

30.3. Limitation on Liability. We shall have no liability for any warranties by any party with respect to uninterrupted Wireless Services, as set forth in Section 30.10, or for any Person's unauthorized access to Client's data transmitted through either the Wireless Equipment or Wireless Services (including the Wireless Software), or Wireless Networks, regardless of the form of action (whether in contract, tort (including negligence), strict liability or otherwise). The foregoing notwithstanding, for any other liability arising out of or in any way connected with these Wireless Services terms, including liability resulting solely from loss or damage caused by partial or total failure, delay or nonperformance of the Wireless Services or relating to or arising from your use of or inability to use the Wireless Services, Processor's liability shall be limited to your direct damages, if any; and, in any event, shall not exceed the lesser of the amount paid by you for the particular Wireless Services during any period of failure, delay, or nonperformance of the Wireless Services or \$50,000.00. In no event shall Processor or its Affiliates be liable for any indirect, incidental, special, consequential or punitive damages. The remedies available to you under these Wireless Services Terms will be your sole and exclusive remedies with respect to the Wireless Services.

30.4. Indemnification. In addition to any other indemnifications as set forth in this Agreement, you will indemnify and hold Processor and our respective officers, directors, employees, and Affiliates harmless from and against any and all losses, claims, liabilities, damages, costs or expenses arising from or related to: (a) the purchase, delivery, acceptance, rejection, ownership, possession, use, condition, liens against, or return of the Wireless Equipment or the Wireless Equipment (including the Wireless Software), as applicable; (b) your negligent acts or omissions; (c) any breach by you of any of your obligations under this Section 30; or (d) any Person's unauthorized access to Client's data and/or unauthorized financial activity occurring on your Merchant Account Number hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

30.5. Confidentiality. All information or materials which could reasonably be considered confidential or competitively sensitive that you access from or relate to either Wireless Vendor(s) or Services related to the subject matter of these Wireless Services Terms will be considered confidential information. You will safeguard our confidential information with at least the same degree of care and security that you use for your confidential information, but not less than reasonable care.

30.6. Termination. In addition to any other provision in this Agreement, the Wireless Services being provided under this Section 30 may terminate:

- a) Immediately upon termination of the agreement between us (or our Affiliates) and Wireless Vendor(s), provided that we will notify you promptly upon our notice or knowledge of termination of such agreement, provided further that if Wireless Vendor(s) loses its authority to operate less than all of the Wireless Services or if the suspension of any authority or non-renewal of any license relates to less than all of the Wireless Services, then these Wireless Services Terms will terminate only as to the portion of the Wireless Services affected by such loss of authority, suspension or non-renewal; or

- b) Immediately if either we or our Affiliates or Wireless Vendor(s) are prevented from providing the Wireless Services by any law, regulation, requirement, ruling or notice issued in any form whatsoever by judicial or governmental authority (including without limitation the FCC).

30.7. Effect of Termination. Upon termination of these Wireless Services Terms for any reason, you will immediately pay to us all fees due and owing to us hereunder. If these Wireless Services Terms terminate due to a termination of the agreement between us or our Affiliates and Wireless Vendor(s), then we may, in our sole discretion, continue to provide the Wireless Services through Wireless Vendor(s) to you for a period of time to be determined as long as you continue to make timely payment of fees due under these Wireless Services Terms.

30.8. Third Party Beneficiaries. Wireless Vendor(s) are third party beneficiaries of these Wireless Services Terms and may enforce its provisions as if a party hereto.

30.9. Reserved.

30.10. Disclaimer. Wireless Services use radio transmissions, so Wireless Services can't be provided unless your Wireless Equipment is in the range of one of the available Wireless Networks' transmission sites and there is sufficient network capacity available at that moment. There are places, particularly in remote areas, with no service at all. Weather, topography, buildings, your Wireless Equipment, and other conditions we don't control may also cause failed transmissions or other problems. PROCESSOR, BANK, AND WIRELESS VENDOR(S) DISCLAIM ALL REPRESENTATIONS AND WARRANTIES RELATING TO WIRELESS SERVICES. WE CANNOT PROMISE UNINTERRUPTED OR ERROR FREE WIRELESS SERVICE AND DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON OUR BEHALF.

31. Special Provisions Regarding Gift Card Services

Gift Card Services are provided to you by Processor. The Services provided, transactions processed and other matters contemplated under this Section 31 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 31 directly conflict with another provision of this Agreement, in which case this Section 31 will control; provided, however, that Bank is not liable to you in any way with respect to the Gift Card Services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank. **The terms and conditions set forth in this Section govern the provision of Gift Card Services.**

31.1. Certain Definitions. Terms defined in this Section 31.1 are defined for purposes of Section 31 only.

- a) "ACH" means the Automated Clearing House system.
- b) "Affiliated Issuer(s)" means each Client Affiliate and/or franchisee that enters into an Affiliated Issuer Agreement, in the form required and provided by Processor.
- c) "Database" means the database on which Gift Card Data for each Gift Card issued under the Program is processed and maintained.
- d) "Designated Location" means any store, retail location or other place of business (including a direct marketing program or Internet site), located in the U.S.A., and at or through which Client issues Gift Cards and/or processes transactions using Gift Cards issued under the Program. Designated Location may also include any help desk or IVR through which transactions are processed under the Program.
- e) "Enhanced Features" means the additional program functionality offered to Client pursuant to the Enhanced Features set-up form.
- f) "Gift Card" means an encoded device that accesses Gift Card Data maintained in the Database.
- g) "Gift Card Data" means the current value and record of transactions corresponding to each Gift Card issued under the Program.
- h) "Gift Card Equipment" means any POS Terminal, software or other similar telecommunications equipment that has been programmed and certified to Processor's specifications in order to transmit Gift Card Data and process online transactions under the Program.
- i) "Gift Card Holder" means any person in possession of or that uses a Gift Card.
- j) "Gift Card Number" means the identifying number of a Gift Card.
- k) "Gift Card Production Company" means a company selected and retained by Processor to produce Gift Cards and provide related products or services for the Program.
- l) "IVR" means an automated Interactive Voice Response system accessed via a toll-free telephone number.
- m) "POS Terminal" means an electronic Point-Of-Sale terminal placed in a Designated Location which is connected to Processor's system via telephone lines and is designed to swipe Gift Cards.
- n) "Program" means Client's program pursuant to which Client issues Gift Cards to Gift Card Holders and Processor provides the Services to enable such Gift Card Holders to use such Gift Cards to purchase goods and services at Designated Locations.
- o) "Services" means the services provided by Processor in connection with the Program as further described in this Section.

31.2. Services. Processor agrees to provide the Services set forth below in connection with the Program.

- a) Processor will arrange for the production of all Gift Cards and all other services related thereto by the Gift Card Production Company for the Program in accordance with the specifications and fees set forth on the Gift Card Set-Up Form (the "Gift Card Set-Up Form"), which is incorporated by reference herein.
- b) Processor shall establish, process and maintain Gift Card Data on the Database.
- c) Processor shall provide Client and its Affiliated Issuers with the capability to process selected transactions under the Program through Gift Card Equipment at Designated Locations.

- d) Upon receipt of transaction information from a Designated Location by the Database, Processor will compare the proposed transaction amount with the account balance maintained on the Database corresponding to the Gift Card or Gift Card Number that was presented at the Designated Location. If the account balance is greater than or equal to the amount of the proposed transaction, Processor will authorize the transaction. If the account balance is less than the amount of the proposed transaction, Processor will decline the transaction. If Client's Gift Card Equipment supports "split tender," and the account balance is less than the amount of the proposed transaction, Processor will authorize the transaction for the amount of the account balance, and return a message and/or receipt to the Gift Card Equipment showing the remaining amount of the transaction to be collected by Client. Client understands and agrees that an Authorization by Processor only indicates the availability of sufficient value on a Gift Card account at the time of Authorization and does not warrant that the person presenting the Gift Card or Gift Card Number is authorized to use such Gift Card or Gift Card Number.

- e) Processor shall provide an IVR, twenty-four (24) hours per day, seven (7) days per week, through which Client and Gift Card Holders may obtain Gift Card balances.

- f) Processor shall provide a Gift Card product support help desk through which Client may process selected non-financial transactions under the Program. Support is currently available Monday through Friday, 8:00 a.m. to 8:00 p.m. Eastern Time (excluding holidays). The hours and days of support are subject to change at any time; provided that i) Processor will provide advance notice of any change in the hours and days; and (ii) the total number of hours shall not be less than forty (40) in any regular work week (excluding holidays).

- g) Processor will provide Client with Gift Card transaction reports, accessible by Client through a designated Internet site. Processor will maintain reports on the Internet site for Client's use for a period of six (6) months. Processor may, in its discretion, provide additional or custom reports or report formats, as may be requested by Client from time to time, at a fee to be determined by Processor.

- h) Client will at all times own all right, title and interest in and to all Gift Card Data generated under the Program. During the term, Processor will retain the Gift Card Data for each Gift Card on the Database for a period of twenty-four (24) months following the date that the account balance reaches zero. Thereafter, during the term, Processor may remove the Gift Card Data from the Database and archive such Gift Card Data in any manner determined by Processor in its reasonable business judgment. Notwithstanding the foregoing, within ninety (90) days of Client's written request, during the first twelve (12) months following the expiration or termination of the Gift Card Services, Processor will compile a data report of the Gift Card Data stored in the Database, in Processor's standard format, at a fee to be determined by Processor. Processor shall deliver Client's Gift Card Data to Client in a mutually agreeable format. Processor shall have no obligations with respect to Client's Gift Card Data following delivery to Client.

- i) Client may choose additional Enhanced Features from time to time pursuant to the Enhanced Features set-up form and Client expressly authorizes Processor, and Processor agrees, to provide Gift Card Services with respect to Gift Cards sold and activated by third party distributors. As between Processor and Client, Client shall be responsible for any acts or omissions of each third party distributor in connection with the sale or activation of any Gift Cards. Client and Processor agree that Processor shall not be deemed to have failed to provide Gift Card Services outlined herein with respect to any Gift Card sold and activated by any third party distributor, including through any Designated Location, to the extent any such failure by Processor is caused in whole or in part by any failure of any third party distributor or Client to provide to Processor information regarding the sale and activation of such Gift Card that is accurate, complete, timely and formatted in accordance with Processor's instructions and specifications in all respects. Additional fees and charges may apply, including separate third party fees, for any Enhanced Features chosen by Client. Client may only work with Processor approved third party distributors.

31.3. Responsibilities of Client. The responsibilities of Client are set forth below and elsewhere in this Section.

- a) Client will accept for processing any transaction initiated by one of its customers using a Gift Card pursuant to the Services without discrimination with regard to the customer who initiated the transaction.
- b) Client will securely maintain all transaction records and other records required by law or regulation to be maintained in connection with the operation of the Gift Card Equipment or the Program. Client will download and securely store any and all Gift Card transaction reports for future reference. In the event that Client needs a report for a period past such six (6) months, Processor may provide such requested report to Client at a fee to be determined by Processor.
- c) Client will make its personnel and records available to Processor, its agents and contractors, all within such time and in such forms or manner as may be reasonably necessary to enable Processor to perform the Services promptly and in an efficient manner.
- d) Client shall be responsible, at its sole cost and expense, for the sale and other distribution of Gift Cards to Gift Card Holders and for any marketing or advertising of the Program.
- e) Client shall obtain, operate and maintain, at its sole cost and expense, all Gift Card Equipment required to enable Client and Affiliated Issuers to electronically transmit Gift Card Data in accordance with Processor's specifications from all Designated Locations to the Database.
- f) Client is solely responsible for obtaining Authorization in advance of each transaction. Client is solely responsible for any losses it may incur in conducting transactions when an Authorization is not obtained, including, without limitation, transactions conducted when the Database or the Gift Card Equipment is not in service. Client assumes all risk of erroneous or fraudulently obtained Authorizations, unless such erroneous or fraudulently obtained Authorization is caused directly by Processor.

- Client understands and agrees that an Authorization by Processor only indicates the availability of sufficient value on a Gift Card account at the time of Authorization and does not warrant that the person presenting the Gift Card or Gift Card Number is authorized to use such Gift Card or Gift Card Number. Client is responsible for the accuracy of all data transmitted by it for processing by Processor.
- g) Client shall be responsible for accessing and comparing the reports supplied by Processor to its own records and promptly notifying Processor of any necessary adjustments to Gift Card accounts. Client acknowledges that Processor will make adjustments to Gift Card accounts pursuant to Client's instructions, and Processor shall have no liability for any errors to Gift Card accounts that are made in accordance with Client's instructions.
 - h) Client shall comply and shall ensure that all Affiliated Issuers comply with all laws and regulations applicable to the Program. Client acknowledges and agrees that it is solely responsible for interpreting all laws and regulations applicable to the Program, for monitoring changes in laws and regulations applicable to the Program, and for determining the requirements for compliance with laws and regulations applicable to the Program. Processor shall be entitled to rely upon and use any and all information and instructions provided by Client for use in performing the Services, and Processor shall have no liability whatsoever for any noncompliance of such information or instructions with laws or regulations.
 - i) As between Client and Processor, Client shall bear all risk related to the loss or theft of, alteration or damage to, or fraudulent, improper or unauthorized use of any Gift Card, Gift Card Number or PIN: (i) in the case of Gift Cards ordered through Processor, upon delivery of such Gift Cards to Client or Client's Designated Location, as applicable, and (ii) in the case of Gift Cards obtained by Client from a Person or Gift Cards which Client requests to be delivered in a pre-activated state, whether such loss occurs before or after delivery of such Gift Cards to Client or Client's Designated Location.
 - j) Processor and Client agree that during the term: (i) Processor will be the sole and exclusive provider of the Services to Client and its Affiliated Issuers; and (ii) Client will not directly or indirectly either itself or through a Person, offer or promote any other proprietary, closed network, online Gift Card or similar access device.
 - k) Client may allow Affiliated Issuers to participate in the Program; provided, however, that (i) Client shall be responsible for ensuring that all Affiliated Issuers comply with the terms and conditions of this Section and the separate Affiliated Issuer Agreement, and (ii) Client shall be jointly and severally liable for all fees and other amounts payable to Processor in connection with any activities of Affiliated Issuers related to this Section, including, but not limited to, Gift Card transactions.
 - l) Client is responsible for any settlement of funds among Affiliated Issuers and Designated Locations.
 - m) Client acknowledges and agrees that Client will not use the Gift Cards or Services provided under this Agreement for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq., as may be amended from time to time.
- 31.4. Fees and Payment.** In addition to all other rights we have under the Agreement, Client shall pay Processor the fees set forth on the Gift Card Set-Up Form. Client shall also be responsible for the payment of any taxes imposed by any applicable governmental authority in connection with any products or services covered by this Section (other than those taxes based solely on the net income of Processor). All fees for the Services shall be paid via an ACH transfer of funds from a bank account designated by Client. To authorize the ACH transfers, Client agrees to execute the ACH Authorization on the Gift Card Set-Up Form. In the event that fees cannot be collected from Client as set forth above, Processor reserves and may exercise all other rights to collect any fees due.
- 31.5. Termination.**
- a) The provision of Gift Card Services may be terminated at any time: (i) by either party in the event that the other materially breaches any term or condition of this Section and fails to cure such breach within thirty (30) days of written notice of such breach from the non-breaching party; (ii) by Processor if Client fails to pay any amount due within ten (10) Business Days after written notice to Client of its failure to pay such amount; (iii) by Processor upon written notice to Client in the event that Client's operation of the Program results in a violation of law or regulation (by Client, an Affiliated Issuer or Processor); (iv) by Client if Processor increases its rates under Section 18.5 and Client provides thirty (30) days' written notice of termination within thirty (30) days of receiving notice of said increase; or (v) by either party upon written notice to the other after the filing by the other of any petition in bankruptcy or for reorganization or debt consolidation under the federal bankruptcy laws or under any comparable law, or upon the other party's making of an assignment of its assets for the benefit of creditors, or upon the application of the other party for the appointment of a receiver or trustee of its assets.
 - b) If (i) the Gift Card Services are terminated for any reason other than Processor's material breach prior to the expiration of the initial term, or (ii) Client suspends or terminates the Program prior to the expiration of the initial term except as provided for in Section 31.5 (a) (iv), nothing in this subsection shall prohibit or limit Processor's right to recover damages or any other amounts due and owing Processor in the event that the Gift Card Services are terminated by Processor due to a breach by Client or shall be deemed to waive or otherwise limit Client's obligations pursuant to Section 31.6(a).
 - c) If requested by Client, Processor may, in its sole and absolute discretion, continue to provide the Services for all previously issued and unexpired (if applicable) Gift Cards for up to twelve (12) months following the termination of the Gift Card Services; provided, however, that Processor shall not activate any new Gift Cards after the effective date of termination. Processor's obligation to provide continuing Services after termination is contingent upon Client's agreement to pay for such Services and to conduct its operations in accordance with the terms of this Section, and Processor may require advance payment for some portion or all of the estimated cost of such Services to be provided after termination.

- d) Termination of the Gift Card Services shall not affect Client's obligation (including any obligation incurred by an Affiliated Issuer) to pay for services rendered or obligations due or owing under this Section prior to termination.
- e) The provisions of Sections 31.3 (f), (g), (h), (i), (k) and (l), and Sections 31.4, 31.5(b), 31.5(c), 31.5(d), 31.6 and 31.7 hereof shall survive any termination of this Agreement.

31.6. Indemnification.

- a) Client shall indemnify and hold harmless Servicers, their directors, officers, employees, agents and their respective Affiliates from and against any and all third party claims, losses, liabilities, damages and expenses, including reasonable attorneys' fees, (collectively "Claims") to the extent that any such Claim is caused by or arises out of: (i) any failure of Client or an Affiliated Issuer to comply with any law or regulation applicable to the Program; (ii) any dispute between Client and any Affiliated Issuer, or Client and any Gift Card Holder, or an Affiliated Issuer and any Gift Card Holder, including, without limitation, any dispute regarding the goods or services purchased using a Gift Card or the payment of any amounts owed or alleged to be owed by one or more such Persons to any other such Persons; (iii) any instructions or procedures that Client may provide to Processor in connection with the Program and Processor's compliance therewith; (iv) any actual or alleged loss or theft of, alteration or damage to, or fraudulent, improper or unauthorized use of any Gift Card, Gift Card Number or PIN; (v) use or operation of Gift Card Equipment by Client or an Affiliated Issuer; and (vi) any Claim or action against Servicers for actual or alleged infringement of any patent, copyright, trademark, trade secret or other proprietary right of any Person arising in connection with the production of Gift Cards or related products for Client using artwork, designs, specifications or concepts provided by Client.
- b) Processor shall indemnify and hold harmless Client and its directors, officers, employees, agents and Affiliate Issuers from and against any and all third party Claims to the extent that any such Claim is caused by or arises out of: (i) any failure of Processor to comply with any law or regulation applicable to the Program; or (ii) any error in the Database, unless the error is caused by incorrect information submitted by Client or is otherwise made in accordance with Client's instructions.

31.7. Patents, Copyrights, Intellectual Property, etc. Client shall have no interest whatsoever, including copyright interests, franchise interests, license interests, patent rights, property rights or other interest in the Services provided hereunder. These provisions are not to be construed as granting to Client any patent rights or patent license in any patent, which may be obtained in respect of the Services. Artwork created by Processor on behalf of Client remains the property of Processor. Client retains ownership of any artwork supplied to Processor.

31.8. Limitation of Liability; Disclaimer of Warranties.

- a) NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, SERVICERS' CUMULATIVE AGGREGATE LIABILITY FOR ANY LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES, OR DAMAGES ARISING OUT OF RELATED TO THIS SECTION FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES SUFFERED BY CLIENT AND, IN ANY EVENT, SHALL NOT EXCEED THE LESSER OF (I) THE AMOUNT OF FEES PAID TO PROCESSOR BY CLIENT UNDER THIS SECTION DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE THAT THE LIABILITY ARISES, OR (II) TWENTY THOUSAND DOLLARS (\$20,000).

32. PCI Compliance Support Package and Financial Forgiveness™ Program (Level 4 Merchants)

32.1. PCI Compliance Support Package. If you are a Level 4 Merchant (as defined in the Glossary) and you currently pay a Maintenance Fee (as described in Part IV, Section A.3 of the Program Guide) or a Monthly PCI Support Package fee, a PCI compliance support package service to assist you with your ongoing validation of compliance with the requirements described in Section 4.2 of the Agreement is available ("PCS Service") as well as our Financial Forgiveness Program.

32.1.1. PCS Service. The PCS Service will provide you with access to on-line PCI DSS Self-Assessment Questionnaires (SAQs) that you can use to validate how well you meet PCI DSS requirements; including, if applicable, access to Internet based scanning services. **The PCS Service does not eliminate your PCI DSS and other data security compliance obligations or liabilities set forth in this Agreement.**

32.1.2. Access. You acknowledge and agree that, although you will generally have access to the PCS Service 24 hours per day, 7 days per week (except in the event of a force majeure event), access to customer accounts and certain other services may not be available on a continuous basis, and the PCS Service will be subject to periodic downtime to permit, among other things, hardware and/or software maintenance to take place.

32.1.2.1. Data Disposal. From time-to-time, your account data or information, which is over 180 days old, may be deleted, purged or otherwise disposed of from the PCS Service. In addition, only a limited amount of your account data or information may be available online through the PCS Service. Therefore, you are advised to print and download your PCS Service account data and information on a periodic basis for record keeping purposes. You specifically agree that we are authorized to delete or dispose of the data or information gathered in connection with your use of the PCS Service from time-to-time and will not be responsible for the deletion or disposal of your data or information from the PCS Service. You assume full responsibility to backup and/or otherwise protect your data provided under the PCS Service against loss, damage or destruction prior to and during all phases of your use of the PCS Service, and to take appropriate measures to respond to any potential adverse impact to your Merchant Systems or disruption of services involved with the PCS Service.

32.1.3. Use of Portals. Your use of our, or our third parties', portals, reports, scanning and other services in connection with the PCS Service is subject to the following restrictions:

- a) The PCS Service, portals and reports may only be used for the stated purposes in this Section 32.1 and for your internal business purposes in accordance with Applicable Law (including any export control laws);
- b) You will limit access to the PCS Service, portals and reports to only those employees and/or contractors who have an obligation of confidentiality with you and who have a requirement for such access on a "need to know" basis – you will be solely responsible for disabling portals or accounts for those employees and/or contractors who no longer require access to the PCS Service, portals and reports;
- c) You will promptly notify us of any unauthorized use of the PCS Service, portals and reports;
- d) You will notify us immediately if you know, suspect or have reason to know that you or anyone you have granted access to the PCS Service violated any provision of this Section 32.1; and
- e) You will not share your personal information (e.g., Settlement Account, Tax ID or MID) with a third party so they may gain access to the PCS Service.

32.1.4. Fees. Client will pay Processor the fee for use of the PCS Service as set forth in the Application. Payment of the fees for the PCS Service does not affect your compliance responsibilities and obligations under this Agreement.

32.1.5. The PCS Service Does Not Guarantee Compliance or Security. You acknowledge and agree that your use of the PCS Service does not guarantee your compliance with any of the rules or security standards established in this Agreement, by the Card Organizations or Applicable Law. You further acknowledge and agree that your use of the PCS Service does not guarantee the security of your IP addresses or that your Merchant Systems are secure from unauthorized access. You are responsible for establishing and maintaining your own security policies and procedures, and for compliance with the Card Organization Rules and security standards, including any obligation to notify a Card Organization and/or us of any suspected breach of your Merchant Systems or any suspicious transactions or fraudulent activity. **You are responsible for any fines or penalties imposed by any Card Organization and any other expenses and liabilities pursuant to this Agreement.** In the event of a suspected breach of your Merchant Systems or any suspicious transactions or fraudulent activity, you (i) authorize us to share the details of any questionnaire or compliance report with the Card Organizations; (ii) grant us and our vendors the right to access and perform a scan of the IP addresses identified within your profile; and (iii) authorize us to take any and all other actions allowed pursuant to the terms of this Agreement. You agree you are responsible for, and hereby authorize payment for, any data security scans that may be required following a Compromised Data Event. You further agree to cooperate with an investigation into such matter to include complying with the Card Organization and us pursuant to the terms of this Agreement.

USE OF THE PCS SERVICE IS NOT A GUARANTY OF DATA SECURITY AND THERE IS NO GUARANTY IT WILL PREVENT A COMPROMISED DATA EVENT OR OTHER DATA COMPROMISE. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 32.1, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES (EXPRESS OR IMPLIED) THAT USE OF THE PCS SERVICE WILL BE ERROR-FREE OR COMPLETE. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE OR LIABLE TO YOU FOR THE ACCURACY OR USEFULNESS OF ANY INFORMATION PROVIDED BY YOU, US, OR THIRD PARTIES THROUGH US, NOR WILL WE BE RESPONSIBLE OR LIABLE TO YOU FOR YOUR USE OF ANY SUCH INFORMATION, IN CONNECTION WITH THE PCS SERVICE.

32.1.6. Data Collection. In the course of providing the PCS Service, we may collect information relating to various activities on your network and/or Merchant Systems (such information, the "Data"); including, without limitation, network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horse information. You grant us, and we retain, the right to use the Data or aggregations thereof for any reasonable and lawful purpose.

32.1.7. Intellectual Property License.

32.1.7.1. Grant of License. Subject to the terms of this Section 32.1, we hereby grant to you a non-exclusive, non-transferable, non-assignable, revocable sub-license during the term of this Agreement to access and to use the PCS Service, end-user documentation and associated Marks, whether provided by us or a third party through us, in the United States on your computers, networks or Merchant Systems for their intended purpose. The foregoing license will automatically be revoked, and your right to access or use the PCS Service will cease, upon termination, expiration or suspension of this Agreement or this Section 32.1 for any reason.

32.1.7.2. Copyrighted Material Restrictions. The PCS Service and associated websites contain copyrighted material, Marks and other proprietary information, including, without limitation, text, software, photos, videos and graphics. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works from, or in any way exploit any of the PCS Service and associated website content, in whole or in part, whether copyrighted, subject to Marks or otherwise subject to proprietary rights. You may download copyrighted material solely for your own internal use in connection with the PCS Service as contemplated under this Section 48. Except as expressly provided by copyright law, you may not copy, redistribute or publish anything related to the PCS Service without our express, written permission (or without the express, written permission of the applicable owner). You may not remove, delete, change or otherwise alter any author attribution or copyright notices that are in any way associated with the PCS Service.

32.1.7.3. General License Limitations. You will not (i) decompile, reverse engineer, disassemble, or otherwise derive the source code from the PCS Service, including the software embedded therein; (ii) modify, enhance, translate, alter, tamper with, upgrade or create derivatives works of the portals, software or documentation associated with the PCS Service; (iii) distribute, lease, license, sell, assign, sublicense or otherwise disseminate or transfer your rights to use any portion of the PCS Service to any third party; or (iv) strip out or alter any Mark, copyright, patent, trade secret, ownership or any other proprietary or intellectual property notices, legends, warnings, markings or indications on or within

any components, portals, software or documentation associated with the PCS Service, or attempt (i), (ii), (iii) and/or (iv) above. Further, you will not file any action, in any forum that challenges the ownership any of the PCS Service, Processor Technology or Processor IP. Failure to comply with this provision will constitute a material breach of this Section 32.1 and this Agreement. In the event you challenge our, or our third parties', ownership of the PCS Service, we may immediately terminate this Section 32.1, this Agreement and/or your access to and use of the PCS Service.

32.1.7.4. Processor Technology and IP; No Other Rights. All technology provided or used by us, our licensors, vendors or other third parties in connection with performing the PCS Service, including, without limitation, software, firmware, portals, data processing systems (each of the foregoing, whether in object or source code form), report templates, documentation and materials (collectively, "Processor Technology"), and any of our, our licensors', vendors' or other third parties' patents, Marks, copyrights, trade secrets and other intellectual property (collectively, "Processor IP"), and any derivative works of or modifications to the Processor Technology or Processor IP, constitute the sole and exclusive property of, and is valuable, confidential and proprietary to, us, our licensors, vendors or other third parties. This Section 32.1 does not otherwise grant you with any other right, interest, claim, title or license (whether express or implied, by estoppel or otherwise) in or to the PCS Service, Processor Technology or Processor IP (whether ours or a third party's); and all rights with respect thereto that we do not expressly grant to you in this Section 32.1 are deemed withheld.

32.1.7. Disclaimers; Liability Exclusions. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 32.1, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES (EXPRESS OR IMPLIED) WITH RESPECT TO THE PCS SERVICE REGARDING ITS MERCHANTABILITY, TITLE, NON-INFRINGEMENT, ACCURACY, ERROR-FREE OPERATION, ACCESSIBILITY, OR FITNESS FOR A PARTICULAR PURPOSE; ALL OF WHICH ARE EXPRESSLY DISCLAIMED. THE PCS SERVICE IS PROVIDED TO YOU "AS-IS" AND "WITH ALL FAULTS."

You acknowledge and agree that we will not be liable to you for any claims, damages, losses, obligations, costs or expenses or other liability arising directly or indirectly from or otherwise concerning (i) any termination, suspension, delay or disruption of service (including billing for a service) related to the Internet, any common carrier or any third party service provider; (ii) any failure, disruption or malfunction of any of the PCS Service, the Internet, or any communications network, facility or equipment beyond our or a third party's reasonable control, whether or not attributable to one or more common carriers; (iii) your failed attempts to access the PCS Service or to complete transactions processed using the PCS Service; (iv) any failure to transmit, obtain or collect data, any failures due to human, machine or software errors, or failures due to faulty or erroneous data input by you; (v) any damages or losses resulting from any delays arising in connection with use of the PCS Service; or (vi) any loss of or inability to access data or information stored or generated by the PCS Service.

32.1.8. General Termination. Our obligations to provide the PCS Service are subject to our ability to obtain and maintain any and all required governmental licenses, permits or other authorizations, and our ability to comply with any and all laws, regulations, orders and other governmental directives which may be imposed related to the PCS Service. This Section 32.1 is solely for the benefit of the parties hereto and no other person or entity will have any right, interest or claim under or based upon this Section 32.1 or any of the representations, warranties, covenants or agreements contained herein. We may terminate this Section 32.1 at any time for any reason.

32.1.9. Effect on Portal Terms and Conditions. As part of the enrollment process on the portal for the PCS Service, you will be directed to a TransArmor Solution portal where you will be presented with terms and conditions for TransArmor Solution, which are intended to confirm, not supersede or replace, the terms of this Section 32.1, and notwithstanding those TransArmor Solution terms and conditions, the terms of this Section 32.1 will apply for your use of the PCS Service.

32.2. Financial Forgiveness Program. As part of the PCI compliance support package, we also provide the Financial Forgiveness Program which helps reduce some of the financial burden a merchant may experience in the event of a data breach. The amount of available financial relief begins at \$15,000 once a merchant completes registration as described in Section 32.1 and can increase as follows:

- Up to \$15,000 once a merchant is registered in the PCS Service portal
- Up to \$50,000 once a merchant is registered in the PCS Service portal and validates PCI DSS Compliance
- Up to \$100,000 once a merchant is registered in the PCS Service portal, validates PCI DSS Compliance, and utilizes a TransArmor® tokenization and encryption solution.

The Financial Forgiveness Program covers data breaches caused by employee dishonesty or the physical theft of data, as well as computer hacking. The program also includes the following reimbursable expenses up to the amount of the merchant's available financial relief:

- Card Organization mandated forensic audit when a data breach is suspected
- Card replacement costs and related expenses
- Assessments and fines levied by Card Organizations for data breaches

The Financial Forgiveness Program excludes the following situations:

- Any data compromise that occurs before merchant registers in the PCS Service portal or after merchant quits or is notified that merchant is not eligible for the Financial Forgiveness Program
- Any data compromise that occurs in any computer network used by multiple merchants with no legal relationship to one another (such as a gateway or third party provider) to process, store or transmit their respective transaction data
- The result of any security failure known to merchant prior to the merchant's registration in the PCS Service portal
- Any data compromise based on merchant's employees' actions known to or directed by (i) an officer or director of or consultant or contractor to merchant or (ii) a Card Organization, Issuer, merchant processor or Independent Sales Organization

- Any amounts assessed by any Person based on merchant's failure to comply with PCI standards
- Amounts associated with government investigations or litigation brought by government entities
- Any compromise resulting from acts of war (whether or not declared) or terrorism
- Any data compromise resulting from the use of software that is not in the control of merchant unless the merchant has an enforceable end user agreement
- Any data compromise without formal written notice and demand for payment from a Card Organization
- Second or subsequent data compromises prior to a new PCI Compliance Level certification

The Services under this Section 32 are provided to you by Processor. The Services provided, transactions processed and other matters contemplated under this Section 32 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 32 directly conflict with another provision of this Agreement, in which case the terms of this Section 32 will control; provided, however, that Bank is not liable to you in any way with respect to such Services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

33. Terms of Equipment Purchase or Rental

This Section 33 governs any equipment that is rented to you on a month to month basis or that is sold to you by Processor (individually and collectively, "Equipment") under the Merchant Processing Application, subsequent purchase or rental agreements and/or other documentation provided in connection with the purchase or rental of Equipment ("Equipment Documents"). If you lease equipment, then a separate approval by, and non-cancelable lease agreement with, First Data Merchant Services Corporation (through its business unit, First Data Global Leasing) are required, and that lease agreement (and not this Agreement) will govern your leased equipment. THE EQUIPMENT IS BEING SOLD TO YOU FOR YOUR BUSINESS USE AND IS NOT BEING USED BY YOU FOR HOUSEHOLD OR PERSONAL PURPOSES. Sales and rentals of equipment are made by Processor. The Services provided, Equipment, Equipment Documents and other matters contemplated under this Section 33 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 33 directly conflict with another provision of this Agreement, in which case the terms of this Section 33 will control; provided, however, that Bank is not liable to you in any way with respect to the purchase or rental of Equipment. For purposes of this section the words "we," "our" and "us" refer only to Processor and not to Bank.

Warranties, if any, for the Equipment or any related Software originate from the applicable third party provider or manufacturer ("Vendor"). Materials or documents, if any, setting forth warranty terms, conditions, exceptions, exclusions and disclaimers will be contained within the packaging shipped from the Vendor. We or Persons designated by us will only provide help desk support for Equipment purchased or rented from us under the Equipment Documents, and we will not provide any such support or related services for any other products or equipment.

YOU ACKNOWLEDGE THAT THE EQUIPMENT AND/OR SOFTWARE YOU PURCHASED OR RENT FROM US OR SUBSEQUENTLY PURCHASE OR RENT FROM US, MAY NOT BE COMPATIBLE WITH ANOTHER PROCESSOR'S SYSTEMS. WE DO NOT HAVE ANY OBLIGATION TO MAKE SUCH SOFTWARE AND/OR EQUIPMENT COMPATIBLE WITH ANY OTHER PROCESSING SYSTEMS. IN THE EVENT THAT YOU ELECT TO USE ANOTHER PROCESSING SERVICE PROVIDER UPON THE TERMINATION OF THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU MAY NOT BE ABLE TO USE THE EQUIPMENT AND/OR SOFTWARE RENTED OR PURCHASED UNDER THIS AGREEMENT.

33.1. Purchased Equipment; Supplies. Throughout the term of this Agreement, we will sell to you, and you will buy from us, the Equipment identified in the Equipment Documents (individually and collectively, the "Purchased Equipment"), free and clear of all liens and encumbrances (subject to Section 33.7), except that any "Software" (as defined in Section 33.8) will not be sold to you outright but instead will be provided to you pursuant to, and subject to the conditions of Section 33.8 of this Agreement. You shall pay the purchase price specified for each piece of Purchased Equipment and the related software license(s), including all applicable taxes, shipping and handling charges prior to or upon delivery of such Purchased Equipment, or, at our option, such amounts will be collected by us by debits or deductions pursuant to Section 33.5. We will provide you supplies as requested by you from time to time. You shall pay the purchase price for such supplies, plus shipping and handling charges, including all applicable tax, prior to delivery of the supplies, or upon invoice, as specified by us, or, at our option, such amounts will be collected by us by debits or deductions pursuant to Section 33.5. (Maintenance and repair of Client-owned equipment is your responsibility). Should your terminal become inoperable, we can provide you with equipment at a monthly rental fee. There will also be a nominal shipping and handling fee. For such rental equipment contact the POS Help Desk.

33.2. Rental Equipment. We agree to rent to you, and you agree to accept and rent from us, the Equipment identified in the Equipment Documents as being rented to you (individually and collectively, the "Rental Equipment"), according to the terms and conditions of this Section 33. In addition, any Equipment ordered by and rented to you during the term of this Agreement shall constitute Rental Equipment and be governed by the terms of this Section 33.

33.3. Effective Date and Term of Section 33. This Section 33 shall become effective on the date you first purchase, rent or receive any piece of Equipment covered by this Section 33. This Section 33 will remain in effect until all of your obligations under this Agreement have been satisfied. We will deliver the Equipment to the site designated by you. You shall be deemed to have accepted each piece of Equipment at the earlier of: (a) your actual acceptance after installation, (b) delivery to you if your site is not prepared and ready for installation, or (c) for Equipment that we have not agreed to install for you, seven (7) days after shipment of each such piece of Equipment. The rental period with

respect to each piece of Rental Equipment shall commence on the date such Equipment is deemed accepted and shall terminate at the scheduled termination date (but not upon any early termination) of this Agreement and/or any other agreement then in effect with us for Card services. The provisions of this Section 33 shall survive the termination of this Agreement and continue until all Rental Equipment is fully paid for or returned as set forth in Section 33.6.

33.4. Site Preparation, Installation and Maintenance. You will prepare the installation site(s) for the Equipment, including, but not limited to, the power supply circuits and phone lines, in conformance with the manufacturer's and our specifications and will make the site(s) available to us by the confirmed shipping date. You will support the installation in accordance with our requirements.

- Upon request, you must allow us (or our agents) reasonable access to the premises where Authorization terminals or other communications Equipment (e.g., printers) are or will be located.
- Any alterations required for installation of Authorization terminal(s) or other communications Equipment will be done at your expense.
- Only we or our agents can alter or modify Authorization terminal(s) or other communications equipment owned by us.
- If a terminal or printer appears to be defective, you must immediately call the POS Help Desk.
- You are responsible for safeguarding Equipment from loss, damage, unauthorized use, misuse or theft; we should be notified immediately if any of the foregoing occurs.
- If necessary, we will assist you in obtaining replacement Equipment. If you fail to return any defective Equipment, you may be responsible for its replacement value and for any legal and/or collection costs incurred by the Equipment owner in connection with recovering Equipment.
- You are responsible for keeping all communication Equipment free of any claims, liens and legal processes initiated by creditors.
- Equipment may not be subleased at any time. The cost of comparable new Equipment, as well as any associated legal and/or collection costs incurred by us or the owner of the Equipment, will be assessed to you for each piece of Equipment not returned upon termination of the Agreement by either party, or upon request for the return of the Equipment for any reason.
- You may not relocate, remove, disconnect, modify or in any way alter any equipment used in connection with the services we are providing to you without first obtaining our permission.
- You must provide us with thirty (30) days' prior written notice to request the relocation of any Equipment.
- Should you require additional equipment, you must contact Relationship Management or Customer Service (there may be additional costs or fees charged to you in connection with any new equipment ordered, including download fees).

33.5. Payment of Amounts Due.

- a) You agree to pay the monthly rental charge specified in the Equipment Documents which shall be due and payable on the first day of each month of the rental period for each piece of Rental Equipment, except that the first payment of the monthly rental charge for each piece of Rental Equipment shall be due and payable upon acceptance of such Equipment by you at the location designated in the Equipment Documents or, upon delivery if the site is not prepared for installation (as provided in Section 33.3). The monthly rental charge for fractions of a calendar month shall be prorated based on a thirty (30) day month.
- b) You hereby authorize us to collect all amounts due from you under this Section 33 by initiating debit entries for such amounts to the Settlement Account or by deducting such amounts from amounts due to you from TeleCheck or Servicers.
- c) In addition to the purchase price or monthly rental charge due hereunder, you shall pay, or reimburse us for, amounts equal to any taxes, levies, shipping fees, duties or assessments, however designated, levied or based on such charges, or on this Agreement or the Equipment and related supplies or any services, use or activities hereunder, including, without limitation, state and local sales, use, property, privilege and excise taxes, exclusive, however, of taxes based on our net income.
- d) Separate charges will apply for supplies; they are not included in monthly rental charges.

33.6. Use and Return of Equipment; Insurance.

- a) You shall cause the Equipment to be operated by competent and qualified personnel in accordance with any operating instructions furnished by us or the manufacturer and in connection with the Services. You shall not use the Equipment, or permit the Equipment to be used, in any manner or for any purpose for which the Equipment is not designed or reasonably suited.
- b) You shall not permit any physical alteration or modification of the Equipment without our prior written consent.
- c) You shall not change the installation site of the Equipment without our prior written consent, which consent we will not unreasonably withhold.
- d) You shall not assign your rights or obligations under this Agreement, or pledge, lend, create a security interest in, directly or indirectly create, incur, assume or allow to exist any other consensually or judicially imposed liens or encumbrances on, or part with possession of, or sublease the Rental Equipment to any other Person without our prior written consent. Any such assignment, delegation, sublease, pledge, security interest or lien in the absence of such consent shall be void.
- e) You shall comply with all governmental laws, rules and regulations relating to the use of the Equipment. You are also responsible for obtaining all legally required permits for the Equipment.
- f) We or our representatives may, at any time, enter your premises for purposes of inspecting, examining or repairing the Equipment.

- g) Promptly upon termination of all applicable rental periods or promptly following any action by us pursuant to Section 33.11(b), you shall deliver possession of the Rental Equipment (including all attachments and parts) to us at your cost in the same operating order, repair, condition and appearance that the Rental Equipment had at the time of its delivery to you, reasonable wear and tear excepted.
- h) For each item of Rental Equipment that you fail to return to us at your cost in the same operating order, repair, condition and appearance that it had at the time of delivery to you, reasonable wear and tear excepted, by the 10th Business Day after (i) termination of the applicable rental period, or (ii) any action by us pursuant to Section 33.11(b), you agree to pay us the greater of \$250 or the fair market value of such item of Equipment if it were in the condition described above, as determined by us. We may collect such amounts in the manner provided in Section 33.5, and, to the extent we are unable to do so, you agree to pay us the amounts owed promptly.
- i) Except for Purchased Equipment that has been paid for in full, the Equipment shall remain our personal property and shall not under any circumstances be considered to be a fixture affixed to your real estate. You shall permit us to affix suitable labels or stencils to the Equipment indicating our ownership.
- j) You shall keep the Rental Equipment adequately insured against loss by fire, theft and all other hazards (comprehensive coverage). The loss, destruction, theft of or damage to the Rental Equipment shall not relieve you from your obligation to pay the full purchase price or rent payable hereunder.
- k) Except for Purchased Equipment that has been paid in full, the Equipment shall be kept at the address indicated in the Equipment Documents and shall not be removed from there without our prior written consent (except where normal use of the Equipment requires temporary removal).
- l) In order to return Equipment, you should:
 - Call Customer Service for the address of the location to send the equipment.
 - The following information must be included within the shipping box:
 1. Client name, complete address and phone number
 2. Name of person to contact if there are any questions
 3. Your Merchant Account Number
 4. Serial number of the terminal (found on the underside of the terminal)
 - For your records, please maintain proof of delivery documents and the serial number from the bottom of the terminal.
 - Rental fees may be continued until equipment is returned.

33.7. Security Interest; Financing Statements. You hereby grant to us a security interest in (a) all Purchased Equipment and the related Software to secure payment of the purchase price, and (b) all Rental Equipment and the related Software to secure payment of the monthly payments therefor and authorize us to file financing statements with respect to the Equipment and the Software in accordance with the Uniform Commercial Code, signed only by us or signed by us as your attorney-in-fact.

33.8. Software License. Anything in this Agreement to the contrary notwithstanding, we or certain Persons retain all ownership and copyright interest in and to all software, computer programs, related documentation, technology, know-how and processes embodied in or provided in connection with the Equipment (collectively "Software"), and you shall have only a non-exclusive, non-transferable, revocable license to use the Software in your operation of the Equipment for the purposes set forth in this Agreement. Nothing in this Agreement confers any title or ownership of any such Software to you or shall be construed as a sale of any rights in any such Software to you. You agree to accept, agree to and be bound by all applicable terms and conditions of use and other license terms applicable to such Software. You shall not reverse engineer, disassemble or decompile the Software. You shall not give any Person access to the Software without our prior written consent. Your obligations under this Section 33.8 shall survive the termination of this Agreement.

33.9. Limitation on Liability. Notwithstanding any provision of this Agreement to the contrary, and in addition to the limitations and disclaimers set forth in Section 20 of this Agreement (including, without limitation, the disclaimers in Section 20.2 of this Agreement), our liability arising out of or in any way connected with the Equipment or related software shall not exceed the purchase price or prior twelve months' rent, as applicable, paid to us for the particular Equipment involved.

33.10. Indemnification. You shall indemnify and hold us harmless from and against any and all losses, liabilities, damages and expenses, resulting from (a) the purchase, delivery, installation, acceptance, rejection, ownership, leasing, possession, use, operation, condition, liens against, or return of the Equipment, or (b) any breach by you of any of your obligations hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

In addition to your other obligations hereunder, you acknowledge and agree that the "use" and "operation" of the Equipment for which you will indemnify and hold us harmless shall include, but not be limited to, you loading additional software onto Equipment or using such software, or using Equipment or Software to access the Internet.

33.11. Default; Remedies.

- a) If any debit of your Settlement Account initiated by us for rent and/or other charges due hereunder is rejected when due, or if you otherwise fail to pay us any amounts due hereunder when due, or if you default in any material respect in the performance or observance of any obligation or provision in this Section 33, or if any other default occurs under this Agreement, any such event shall be a default hereunder.
- b) Upon the occurrence of any Event of Default, we may at our option, effective immediately without notice, either: (i) terminate the period of rental and our future obligations under this Section 33, repossess the Equipment and proceed in any lawful manner against you for collection of all charges that have accrued and are due and payable, in which case this Section 33 shall terminate as soon as your obligations to us are satisfied, or (ii) accelerate and declare immediately due and payable all monthly rental charges for the remainder of the applicable rental period and proceed in any lawful manner to obtain satisfaction of the same.

34. Special Provisions Regarding TransArmor® Data Protection Services

If you elect to utilize the TransArmor Data Protection Service ("Data Protection Service"), the following additional terms and conditions of this Section 34 shall apply.

The Data Protection Service is provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the Data Protection Service. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not the Bank.

The Data Protection Service provided, transactions processed and other matters contemplated under this Section 34 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 34 directly conflict with another provision of this Agreement, in which case the terms of this Section 34 will control.

34.1. Definitions. Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section 34 or as defined elsewhere in this Agreement.

Multi-PayToken: Means the option to support businesses that need to submit a financial transaction in a card-not-present situation. These tokens are unique to each merchant that uses them and are stored in place of the primary account number (PAN). With these tokens, merchants can initiate new or recurring payments within their own environment instead of using the original card number.

Multi-PayToken allows a Token Registration process -- a non-financial transaction to request a token to be placed in their payment page or "e-wallet" for future or recurring payments. It is common for eCommerce merchants to ask their customers to register by providing profile information such as name, address, and phone number to the merchant website before or upon checkout.

Registered PAN: Means the process of creating a Client specific Token for a PAN.

Token Request: Means your ability to obtain a Multi-Pay Token for credit card information only without an immediate Authorization required which permits you to store a Multi-Pay Token for future transactions involving its customer.

Token/Tokenization: Means a form of data substitution replacing sensitive payment card values with non-sensitive token, or random-number, values. Post-Authorization transactions are handled via Processor's SafeProxy tokenization technology, which returns a token with the transaction's Authorization to the merchant. Tokens are shared universally with other merchants and cannot be used to initiate a financial transaction.

Data Protection Service: Means those services described below and may be either Data Protection VeriFone Edition Service or Data Protection Base Service as described below.

34.2. Grant of License. Processor grants to you a non-transferable, non-assignable, non-exclusive, revocable sub-license during the term of this Section 34 to use the Data Protection Service and the TransArmor Service Marks (as identified in the TransArmor Rules and Procedures) in the United States in accordance with this Section 34, including, without limitation, the TransArmor Rules and Procedures. Any rights with respect to the TransArmor Service not expressly granted by Processor in this Section 34 are deemed withheld.

34.3. Services. The Data Protection Service applies only to Card transactions sent from you to us for Authorization and settlement pursuant to the Agreement and specifically excludes electronic check transactions. Processor will provide an encryption key to you to be used to encrypt (make unreadable) Card data during transport of the Authorization request from your point of sale to Processor's systems. During the period when the transaction is being transmitted to Processor for Authorization processing, all historical transaction data, including Card number and full magnetic stripe data (track data and expiration date), will be encrypted. Processor will then generate or retrieve a unique, randomly generated token ("Token") assigned to the Card number, and this Token will be returned to you without the Card number with the Authorization response.

34.4. Responsibilities of Client. You are responsible to comply with the following regarding your use of the Data Protection Service:

- a) You are required to comply with the Card Organization Rules, including taking all steps required to comply with the Payment Card Industry Data Security Standards (PCI DSS). You must ensure that all third parties and software used by you in connection with your payment processing are compliant with PCI DSS. Use of the Data Protection Service will not, on its own, cause you to be compliant or eliminate your obligations to comply with PCI DSS or any other Card Organization Rule. You must demonstrate and maintain your current PCI DSS compliance certification. Compliance must be validated either by a Qualified Security Assessor (QSA) with corresponding Report on Compliance (ROC) or by successful completion of the applicable PCI DSS Self-Assessment Questionnaire (SAQ) or Report on Compliance (ROC), as applicable, and if applicable to your business, passing quarterly network scans performed by an Approved Scan Vendor, all in accordance with Card Organization Rules and PCI DSS.
- b) Use of the Data Protection Service is not a guarantee against an unauthorized breach of your point of sale systems or any facility where you process and/or store transaction data (collectively, "Merchant Systems").
- c) You must deploy the Data Protection Service (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout your Merchant Systems, including, without limitation, replacing existing Card numbers on your Merchant Systems with Tokens. Full Card numbers must never be retained, whether in electronic form or hard copy.
- d) You must use the Token in lieu of the Card number for ALL activities subsequent to receipt of the authorization response associated with the transaction, including without limitation, settlement processing, retrieval processing, Chargeback and adjustment processing and transaction reviews.
- e) Any POS device, gateway and/or VAR you use in connection with the Data Protection Service must be certified by us for use with the Data Protection Service.

- d) If you send or receive batch files containing completed Card transaction information to/from Processor, you must use the service provided by Processor to enable such files to contain only Tokens or truncated information.
- g) You must use truncated report viewing and data extract creation within reporting tools provided by Processor.
- h) You are required to follow rules or procedures we may provide to you from time to time related to your use of the Data Protection Service ("TransArmor Rules and Procedures"). We will provide you with advance written notice of any such rules or procedures or changes to such rules or procedures.
- i) You have no right, title or interest in or to the Data Protection Service, any related software, materials or documentation, or any derivative works thereof, and nothing in this Agreement assigns or transfers any such right, title or interest to you. You shall not take any action inconsistent with the stated title and ownership in this Section 34. You will not file any action, in any forum that challenges the ownership of the Data Protection Service, any related software, materials or documentation. Failure to comply with this provision will constitute a material breach of this Agreement. We have the right to immediately terminate this Section 34 and your access to and use of the Data Protection Service in the event of a challenge by you. No additional rights are granted by implication, estoppel or otherwise.
- j) You will not: (i) distribute, lease, license, sublicense or otherwise disseminate the Data Protection Service or any portion of it to any third party; (ii) modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the Data Protection Service or any portion of it; or (iii) sell, license or otherwise distribute the Data Protection Service or any portion of it; (iv) make any copies, or permit any copying, of the Data Protection Service or any portion of it; or (v) use any portion of the Data Protection Service as a standalone program or in any way independently from the Data Protection Service. If any portion of the Data Protection Service contains any copyright notice or any other legend denoting the proprietary interest of Processor or any third party, you will not remove, alter, modify, relocate or erase such notice or legend on such item.
- k) You will only use the Data Protection Service for your own payment processing business purposes in a manner consistent with this Agreement.
- l) You will use only unaltered version(s) of the Data Protection Service and will not use, operate or combine the Data Protection Service or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with the uses contemplated in this Section 34.
- m) You will promptly notify us of a breach of any terms of this Section 34.

34.5. Modification and Termination. Unless prohibited by Applicable Law, we may modify this Section 34 by providing written notice of such modifications to you. You may choose not to accept the requirements of any such modifications by notifying us in writing within thirty (30) days after receiving such notice that you are terminating this Section 34.

34.6. Fees. Client shall pay Processor the fees for Data Protection Service as set forth on the Application.

34.7. TransArmor Limited Warranty. Processor warrants that the Token returned to you, as a result of using the Data Protection Service, cannot be used by an unauthorized Person to initiate a financial sale transaction outside the Merchant Systems. This warranty by Processor is referred to herein as the "Limited Warranty" and is subject to the terms and conditions set forth in this Section 34. To be eligible for the Limited Warranty, you must maintain a processing relationship with Processor and be in compliance with all the terms of the Agreement, including this Section 34, and any other agreement relating to Cards eligible for the Data Protection Service. Subject to the terms, conditions and limitations set forth in the Agreement, including the limitation of liability provisions, Processor agrees to indemnify and hold you harmless from direct damages, including third party claims, resulting from Processor's breach of the Limited Warranty. The express remedy for Processor's breach of the Limited Warranty set forth in this paragraph constitutes Processor's entire liability and your sole and exclusive remedy for Processor's breach of the Limited Warranty.

The Limited Warranty is void if (i) you use the Data Protection Service in a manner not contemplated by, or in violation of, the Agreement, including this Section 34, or any other agreement relating to Cards eligible for the Data Protection Service or (ii) you are grossly negligent or engage in intentional misconduct.

34.8. Data Protection Disclaimer. IN ADDITION TO THE DISCLAIMERS SET FORTH IN THE AGREEMENT, THE FOLLOWING DISCLAIMER APPLIES TO THE DATA PROTECTION SERVICE: EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 34, PROCESSOR MAKES NO REPRESENTATIONS, WARRANTIES OR COVENANTS, EXPRESS OR IMPLIED WITH REGARD TO THE DATA PROTECTION SERVICE, INCLUDING THE UNINTERRUPTED OR ERROR-FREE OPERATION OF THE DATA PROTECTION SERVICE.

35. Special Provisions Regarding Fraud FlexDetect Services

If you elect to utilize the Fraud FlexDetect Service from us, then the terms and conditions of this Section 35 Fraud FlexDetect Service shall apply. The Fraud FlexDetect Service is provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to such Fraud FlexDetect Service. For the purposes of this Section 35, the words "we," "our" and "us" refer only to the Processor and not the Bank. The Fraud FlexDetect Service provided, transactions processed and other matters contemplated under this Section 35 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 35 directly conflict with another provision of this Agreement, in which case the terms of this Section 35 will control.

35.1. Software Licenses. We have acquired the right to sublicense the Interceptas, InterceptNOW and InterceptSHARE software systems and related services (collectively, the "Fraud FlexDetect Service") provided by Accertify, Inc. ("Accertify") through our strategic partner First Data Merchant Services Corporation ("FDMS"). The Fraud FlexDetect Service allows you to perform fraud screening activities in connection with the

transactions you submit to us for processing under this Agreement and constitute proprietary products and services of Accertify. The Fraud FlexDetect Service includes, without limitation, certain data and services from third party service providers for things like geolocation or device identification, which are specific tools that are integrated with Accertify's software; all of which we sublicense through FDMS.

We grant you a non-transferable, non-assignable, non-exclusive, revocable sub-license under the term of this Section 35 to use the Fraud FlexDetect Service and any trademarks or service marks provided therewith (as identified in the Fraud FlexDetect rules and procedures) in the United States solely in connection with your use of our payment processing services described in this Agreement and in accordance with this Section 35. Any rights with respect to the Fraud FlexDetect Service not expressly granted by us in this Section 35 are withheld. You acknowledge that the only right you obtain to the Fraud FlexDetect Service is the right to use it for the screening and review of your own transactions in accordance with the terms in this Section 35 and this Agreement.

The Fraud FlexDetect Service and related materials constitute our confidential information under this Agreement and are protected under Section 21. You are not permitted to allow any third party service provider access to, use of or the capability of demonstrating the Fraud FlexDetect Service, related materials or to the output generated by the Fraud FlexDetect Service without our prior written permission.

35.2. Reservation of Rights. Subject only to the limited sublicense granted in Section 35.1, this Section 35 and the Agreement do not grant you with any right, title, interest or license (by estoppel or otherwise) to the Fraud FlexDetect Service and its related intellectual property. We reserve the right to alter or suspend the Fraud FlexDetect Service in the event of (i) a violation of this Section 35, (ii) termination of our agreement with FDMS or its agreement with Accertify, or (iii) our other inability to continue to provide the Fraud FlexDetect Service.

35.3. Transaction Data. Payment transaction data you provide to us in connection with the Fraud FlexDetect Service will be processed and may be retained for statistical analysis; and, further, elements of data from fraudulent transactions may be captured, retained and shared with others to help improve the Fraud FlexDetect Service and prevent further fraud. In no event will the source of any such retained data be disclosed to a third party. You hereby agree to the transmission and use of the data in this manner.

35.4. Disclaimer of Warranties. IN ADDITION TO THE DISCLAIMER OF WARRANTIES CONTAINED IN THIS AGREEMENT, THE FRAUD FLEXDETECT SERVICE IS PROVIDED TO YOU "AS IS" AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND; INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES THAT THE FRAUD FLEXDETECT SERVICE WILL BE COMPLETELY ACCURATE, ERROR-FREE OR AVAILABLE WITHOUT INTERRUPTION.

35.5. Termination. Upon termination of the Fraud FlexDetect Service for any reason, you agree to pay any outstanding fees or expenses related to your use of the Fraud FlexDetect Service, to cease attempts to access the Fraud FlexDetect Service and to return all user manuals or other materials received in connection with the Fraud FlexDetect Service.

35.6. Third Party Beneficiaries. Solely for purposes related to the Fraud FlexDetect Service, FDMS and Accertify are intended third party beneficiaries of this Section 35 and the Agreement, and each of them may enforce the terms of this Section 35 and the Agreement directly against you as if it were a party hereto.

35.7. Your Privacy Policy. Your privacy policy should reflect the fact that you will subject transactions to fraud screening using the Fraud FlexDetect Service. You and your privacy legal counsel should consider your specific circumstances and what disclosures will best fit your needs and provide your customers with a clear picture of how customer and transaction data is being used.

36. Special Provisions Regarding Mobile PaySM Services

If you elect to utilize the Mobile Pay Services, the following additional terms and conditions of this Section 36 shall apply.

The Mobile Pay Services are provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the Mobile Pay Services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not the Bank.

The Mobile Pay Services provided, transactions processed and other matters contemplated under this Section 36 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 36 directly conflict with another provision of this Agreement, in which case the terms of this Section 36 will control.

36.1. Mobile Pay Services. The Mobile Pay Services will provide you with access to a mobile payment gateway that enables you to use an approved wireless services compatible, web-enabled mobile device with a data plan and web browser capable of processing XHTML Mobile Profile pages in order to: (a) log onto a secure website application, (b) enter certain consumer Credit Card transaction information (manually, using a Magnetic Stripe reader, or otherwise) for which you are prompted, (c) submit the transaction information to us for processing, (d) receive an Authorization or decline message for transactions submitted to us for processing, (e) receive an electronic receipt for authorized transactions, and (f) send such electronic receipt to the consumer e-mail address(es) after the transaction is complete (collectively, the "Mobile Pay Services"). The Mobile Pay Services do not function with every mobile device, and you are responsible for confirming that your mobile device is approved as compatible with the Mobile Pay Services. We may alter which mobile devices are approved as compatible with the Mobile Pay Services in our discretion from time-to-time and without prior notice to you. The Mobile Pay Services are for your internal business use only and apply only to Card transactions that you send to us for Authorization and settlement pursuant to this Section 36 and this Agreement.

You must implement the Mobile Pay Services according to the Operating Procedures, and you must implement any upgrades to the Mobile Pay Services within a commercially reasonable period of time after receiving the updates from us.

36.2. Fees. Client shall pay Processor the fees for Mobile Pay Services as set forth on the Application.

36.3. Definitions. Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section 36 or as defined elsewhere in this Agreement.

36.4. Termination. Unless prohibited by Applicable Law, we may modify this Section 36 by providing written notice of such modifications to you. You may choose not to accept the requirements of any such modifications by notifying us in writing within thirty (30) days after receiving such notice that you are terminating this Section 36.

37. Special Provisions Regarding PAYware MobileSM Services

37.1. The PAYware Mobile Services (as defined below) are provided by Processor, and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the PAYware Mobile Services. For the purposes of this Agreement, the words "we," "our" and "us" refer only to the Processor and not the Bank. The PAYware Mobile Services provided, transactions processed and other matters contemplated under this Section 37 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 37 directly conflict with another provision of this Agreement, in which case the terms of this Section 37 will control.

PAYware mobile services provide a mobile payment solution that allows you to use an approved web-enabled mobile device with an encryption sleeve, data plan and Internet Explorer web browser (or such other Internet browser that we may enable for use with the PAYware Mobile Services from time-to-time during the term of this Agreement) to process Credit Card and Debit Card payment transactions. PAYware mobile services ("PAYware Mobile Services") include the following:

- a) The functionality required to (i) download an Internet based software application ("PAYware Application") to your mobile device; (ii) access and use an Internet payment gateway ("PAYware Connect"), subject to the availability of wireless coverage made available separately to you through your wireless services provider, which must be compatible with the PAYware Mobile Services; (iii) encrypt transaction and Card data; (iv) submit Credit Card or Debit Card transaction information through PAYware Connect (or such other gateways as may be enabled for use with the PAYware Mobile Services from time-to-time during the term of this Agreement) for Authorization (or decline) and settlement processing; (v) receive an Authorization Approval Code or decline message for Credit Card or Debit Card transactions; and (vi) send an electronic receipt to consumers via email following completion of Credit Card transactions. References to PAYware Mobile Services include the PAYware Application and PAYware Connect unless context dictates otherwise.
- b) Help desk support that is accessible to you or your designated personnel using a toll free telephone number 24 hours a day, 7 days a week and 365 days a year.

37.2. Reserved.

37.3. PAYware Mobile Services; Representations and Warranties. In connection with the PAYware Mobile Services, Processor represents and warrants that (A) the PAYware Application complies with the requirements of law and Card Organization Rules that are applicable to its functionality as of the effective date of this Agreement; and (B) the PAYware Application will substantially conform to the written documentation provided with it for a period of thirty (30) days from the date you download the PAYware Application. Your sole remedy for breach of the warranties contained in this Section 37.3 will be to obtain a conforming PAYware Application. The warranties in this Section 37.3 are the sole warranties provided to you with respect to the PAYware Mobile Services, apply only as described herein, are in lieu of all other warranties, express or implied, and apply only to PAYware Mobile Services within the United States. Use of the PAYware Mobile Services outside the United States will void the warranties contained in this Section 37.

37.4. PAYware Mobile Services Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 37.3 ABOVE, THE PAYWARE MOBILE SERVICES ARE PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) WITH REGARD TO THE PAYWARE MOBILE SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, NON-INFRINGEMENT OR THAT THEY WILL FUNCTION UNINTERRUPTED OR ERROR-FREE; AND ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) ARE DISCLAIMED.

37.5. Sublicense; Intellectual Property.

- a) Processor grants to you a non-transferable, non-assignable, non-exclusive, limited, revocable sub-license during the term of this Section 37 to use the PAYware Mobile Services and the associated documentation, trademarks or service marks identified in the Operating Procedures or downloaded with the PAYware Application solely within the United States; all subject to the terms of this Section 37 and this Agreement. You may only use the PAYware Mobile Services in connection with the processing services you receive under this Agreement. You have no right, title or interest in or to the PAYware Mobile Services, any related software, materials, documentation, or derivative works thereof; and nothing in this Section 37 or this Agreement assigns, transfers or creates any such right, title or interest for you (whether express or implied, or by implication, estoppel or otherwise). Any and all right, title or interest associated with the PAYware Mobile Services that are not expressly granted by Processor within this Section 37 are expressly withheld. You will not take any action inconsistent with the ownership, title or license rights associated with the PAYware Mobile Services. You will not file any action, in any forum, challenging ownership of the PAYware Mobile Services, any related software, materials, documentation or derivative works thereof. Breach of this Section 37 constitutes a material breach of this Agreement, and Processor may immediately suspend or terminate your use of the PAYware Mobile Services, this Section 37 or this Agreement in the event of such breach.
- b) You will not, and will not permit others to: (i) sell, distribute, lease, license, sublicense or otherwise disseminate the PAYware Mobile Services or any portion thereof; (ii) copy, modify, enhance, translate, supplement, create derivative works from, reverse

engineer, decompile or otherwise reduce to human-readable form the PAYware Mobile Services or any portion thereof; (iii) use altered versions of the PAYware Mobile Services or portion thereof; (iv) use, operate or combine the PAYware Mobile Services or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with this Section 37 or this Agreement; or (v), other than as intended by its nature, use the PAYware Mobile Services, or any portion thereof, as a standalone or non-integrated program. You will not permit others to access the PAYware Mobile Services, any related software, materials or documentation, or derivative works thereof. You will not remove, alter, modify, relocate or erase any copyright notice or other legend(s) denoting our or Persons' proprietary interests in the PAYware Mobile Services.

- c) Processor reserves the right to alter, immediately suspend or upon 25 days' written notice terminate the PAYware Mobile Services in the event you violate the terms of this Section 37 or this Agreement, it terminates any agreement with Persons that are involved in providing the PAYware Mobile Services, or it is otherwise unable to continue to provide the PAYware Mobile Services.

37.6. All software ("Software") contained in the PAYware Mobile Services is a "commercial item" as that term is defined at 48 C.F.R. 2.101 (OCT 1995) consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 1 through 227.7202 4, Government End Users will only obtain those rights as are granted pursuant to the terms and conditions herein.

37.7. Fees. Client shall pay Processor the fees for PAYware Mobile Services as set forth on the Application.

38. Special Provisions Regarding Account Updater Services

38.1. The account updater services ("AU Services") consist, collectively, of processing functionality that will (i) obtain Card account information ("Card Info") from you; (ii) submit this Card Info to those Card Organizations (including, without limitation, Visa, MasterCard or Discover) that maintain account updater programs ("Updater Programs"); (iii) correlate the data available from the Card Organizations' Updater Programs to match the existing Card Info that you provided with corresponding updated Card Info obtained from the Card Organizations' Updater Programs; and (iv) provide the new Card Info to you for processing ongoing payments. AU Services may be used only in connection with Card Organizations that maintain Updater Programs and Issuers that participate in these Updater Programs.

The AU Services are provided by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the AU Services. For the purposes of this Agreement, the words "we," "our" and "us" refer only to the Processor and not the Bank. The AU Services provided, transactions processed and other matters contemplated under this Section 38 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 38 directly conflict with another provision of this Agreement, in which case the terms of this Section 38 will control.

38.2. Stand Alone Services. The AU Services are provided to you in a non-hosted environment that does not require that you obtain processing services using our Compass platform. In the non-hosted environment, you will maintain your own database containing Card Info and submit this Card Info to us from time-to-time via batch files formatted pursuant to the specifications we provide to you. To receive the stand alone offering of the AU Services you must submit your Card Information for processing using our MessageWay file transport portal.

38.3. Disclaimer. The AU Services are only accurate to the extent (i) Issuers participate in the Card Organizations' Updater Programs (many Issuers do not participate); (ii) Issuers provide accurate Card Info to the Card Organizations' Updater Services; (iii) the Card Info provided to us by the Card Organizations' Updater Services is accurate; and (iv) the Card Info that you provide is accurate. PROCESSOR MAKES NO REPRESENTATION OR WARRANTY THAT THE CARD INFO PROVIDED IN CONNECTION WITH THE AU SERVICES IS ACCURATE, COMPLETE OR ERROR FREE. PROCESSOR WILL NOT BE LIABLE FOR ANY DAMAGES OR CLAIMS ARISING FROM THE ACCURACY OF THE CARD INFO IT PROVIDES THROUGH THE AU SERVICES.

38.4. Reserved.

38.5. Your Responsibilities. You must comply with the following requirements when using the AU Services:

- a) You must have a legitimate business need to obtain updated Card Info (for example, subscription based services, membership based services or recurring payment services), and you must maintain an ongoing payment relationship with the Cardholders for which you submit Card Info for processing via the AU Services.
- b) Your business cannot fall into a high-risk category designated by the applicable Card Organizations.
- c) You must enroll as a participant with the applicable Card Organization's Updater Programs, maintain your enrollment and be certified by us and the Card Organization as compliant with the Card Organization's then current participation requirements that we provide to you from time-to-time.
- d) You must update the Card Info that you send to us (or have sent to us on your behalf), when a Cardholder closes their account with a Card Organization and makes you aware of this change, and you must not submit Card Info for AU Services if you previously received a closed account response for such Card Info.
- e) You must submit an inquiry to the Card Organization's Updater Programs for all of your Card Info using the AU Services at least once during the time frame(s) established by the applicable Card Organizations.
- f) You (or the Person submitting files of Card Info to us on your behalf) must comply with the inquiry file layout and interface requirements that we provide to you from time-to-time.
- g) You may not submit Card Info on behalf of another Person for processing using the AU Services.

- h) You must update your Card Info database within 5 days (or such shorter period of time as may be required by the Card Organizations) of receiving updated Card Info using the AU Services.
- i) Upon updating the Card Info we provide you using the AU Services, you must immediately delete your old Card Info data files.
- j) You must keep all information and data accessed through the AU Services strictly confidential. You may not disclose any information or data obtained using the AU Services to any Person, and may not use such information or data for any purpose other than those expressly permitted by the Card Organizations.

38.6. Sublicense; Intellectual Property.

- a) Processor grants to you a non-transferable, non-assignable, non-exclusive, limited, royalty-free, revocable sub-license during the term of this Section 38 to use the AU Services and the associated documentation, trademarks or service marks identified in the Operating Procedures; all subject to the terms of this Section 38 and this Agreement. You may only use the AU Services in connection with the processing services you receive under this Agreement. You have no right, title or interest in or to the AU Services, any related software, materials, documentation, or derivative works thereof; and nothing in this Section 38 or this Agreement assigns, transfers or creates any such right, title or interest for you (whether express or implied, or by estoppel or otherwise). Any and all right, title or interests associated with the AU Services that are not expressly granted by Processor within this Section 38 are expressly withheld. You will not take any action inconsistent with the ownership, title or license rights associated with the AU Services. You will not file any action, in any forum, challenging ownership of the AU Services, any related software, materials, documentation or derivative works thereof. Breach of this Section 38.6 constitutes a material breach of this Agreement, and we may immediately suspend or terminate your use of the AU Services, this Section 38 or this Agreement in the event of such breach.
- b) You will not, and will not permit others to: (i) sell, distribute, lease, license, sublicense or otherwise disseminate the AU Services or any portion thereof; (ii) copy, modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the AU Services or any portion thereof; (iii) use altered versions of the AU Services or portion thereof; (iv) use, operate or combine the AU Services or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with this Section 38 or this Agreement; or (v), other than as intended by its nature, use the AU Services, or any portion thereof, as a standalone or non-integrated program. You will not permit others to access the AU Services, any related software, materials or documentation, or derivative works thereof. You will not remove, alter, modify, relocate or erase any copyright notice or other legend(s) denoting our or Persons' proprietary interests in the AU Services.
- c) Processor reserves the right to alter, immediately suspend or upon notice terminate the AU Services in the event you violate the terms of this Agreement, we terminate any agreement with Persons that are involved in providing the AU Services, or we are otherwise unable to continue to provide the AU Services.

38.7. Fees. Client shall pay Processor the fees for the AU Services as set forth on the Application.

38.8. Reserved.

38.9. Termination. In addition to the termination rights set forth in this Agreement, we may terminate the AU Services upon 30 days' notice to you, in the event a Card Organization terminates its Updater Program or we terminate our participation in the Updater Programs.

39. Special Provisions Regarding CyberSource® Services

39.1. CyberSource services ("CyberSource Services") provide an Internet-based non-enterprise eCommerce payment processing gateway solution that allows you to (i) submit transaction data and obtain authorization and settlement processing for Card transactions utilizing Credit Card, Debit Card and purchase card payment methods; (ii) filter transaction data using automated functions; (iii) process future dated payments, reauthorization, partial authorizations, reversals and rebilling transactions; (iv) enable multiple, pre-integrated shopping cart functions; (v) submit batch payment transaction files for processing; (vi) integrate the payment gateway with third party payment software packages that are identified by Processor from time-to-time; and (vii) design and obtain reporting using multiple user-defined data fields.

39.2. The CyberSource Services are provided to you by Processor and not Bank, and you acknowledge that Bank is not liable to you in any way with respect to the CyberSource Services. The CyberSource Services provided, transactions processed and other matters contemplated under this Section 39 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 39 directly conflict with another provision of this Agreement, in which case the terms of this Section 39 will control.

39.3. CyberSource Services Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 39, THE CYBERSOURCE SERVICES ARE PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) WITH REGARD TO THE CYBERSOURCE SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, NON-INFRINGEMENT OR THAT THEY WILL FUNCTION UNINTERRUPTED OR ERROR-FREE; AND ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) ARE DISCLAIMED.

39.4. Fees. Client shall pay Processor the fees for the CyberSource Services as set forth on the Application.

39.5. Sublicense; Intellectual Property; Representations and Warranties.

39.5.1. Processor grants to you a non-transferable, non-assignable, non-exclusive, limited, royalty-free, revocable sub-license during the term of this Agreement to use the CyberSource Services and the associated documentation and Marks identified in the Operating Procedures, all subject to the terms of this Agreement. You may only use the

CyberSource Services in connection with the processing services you receive under this Agreement. You have no right, title or interest in or to the CyberSource Services, any related software, materials, documentation, or derivative works thereof; and nothing in this Agreement assigns, transfers or creates any such right, title or interest for you (whether express or implied, or by estoppel or otherwise). Any and all right, title or interests associated with the CyberSource Services that are not expressly granted by Processor within this Agreement are expressly withheld. You will not take any action inconsistent with the ownership, title or license rights associated with the CyberSource Services. You will not file any action, in any forum, challenging ownership of the CyberSource Services, any related software, materials, documentation or derivative works thereof. Breach of this Section constitutes a material breach of this Agreement, and we may immediately suspend or terminate your use of the CyberSource Services or this Agreement in the event of such breach.

39.5.2. You will not, and will not permit others to: (i) sell, distribute, lease, license, sublicense or otherwise disseminate the CyberSource Services or any portion thereof; (ii) copy, modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the CyberSource Services or any portion thereof; (iii) use altered versions of the CyberSource Services or portion thereof; (iv) use, operate or combine the CyberSource Services or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with this Agreement; or (v) other than as intended by its nature, use the CyberSource Services, or any portion thereof, as a standalone or non-integrated program. You will not permit others to access the CyberSource Services, any related software, materials or documentation, or derivative works thereof. You will not remove, alter, modify, relocate or erase any copyright notice or other legend(s) denoting our or any Persons' proprietary interests in the CyberSource Services.

39.5.3. Processor reserves the right to alter, immediately suspend or upon notice terminate the CyberSource Services in the event you violate the terms of this Section 39, this Agreement or we terminate any agreement with any Persons that are involved in providing the CyberSource Services, or we are otherwise unable to continue to provide the CyberSource Services.

40. Special Provisions Regarding SKIPJACK™ Services

40.1. SKIPJACK services provide an eCommerce payment processing gateway solution that allows you to (i) submit transaction data and obtain Authorization and settlement processing for Credit Card, Debit Card and purchase card Card transactions; (ii) enable transaction data automated filtering functions; (iii) process (a) future dated payments, (b) re-Authorization, (c) partial Authorizations and reversals and rebilling, and (d) reversals; (iv) use multiple, pre-integrated shopping cart functions; (v) submit batch payment transaction files for processing; (vi) integrate the payment gateway with third party payment software packages that are identified by Processor from time to time (e.g., QuickBooks™); (vii) design and obtain reporting using multiple user-defined data fields; and (viii) enable email reporting notifications (collectively, the "Skipjack Services").

40.2. The Skipjack Services are provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the Skipjack Services. For the purposes of this Agreement, the words "we," "our" and "us" refer only to the Processor and not the Bank. The Skipjack Services provided, transactions processed and other matters contemplated under this Section 40 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 40 directly conflict with another provision of this Agreement, in which case the terms of this Section 40 will control.

40.3. Skipjack Services Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 40 THE SKIPJACK SERVICES ARE PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) WITH REGARD TO THE SKIPJACK SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, NON-INFRINGEMENT OR THAT THEY WILL FUNCTION UNINTERRUPTED OR ERROR-FREE; AND ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) ARE DISCLAIMED.

40.4. Fees. Client shall pay Processor the fees for the Skipjack Services as set forth on the Application.

40.4. Sublicense; Intellectual Property.

40.4.1. Processor grants to you a non-transferable, non-assignable, non-exclusive, limited, revocable sub-license during the term of this Agreement to use the Skipjack Services and the associated documentation and Marks identified in the Operating Procedures, all subject to the terms of this Agreement. You may only use the Skipjack Services in connection with the processing services you receive under this Agreement. You have no right, title or interest in or to the Skipjack Services, any related software, materials, documentation, or derivative works thereof; and nothing in this Agreement assigns, transfers or creates any such right, title or interest for you (whether express or implied, or by implication, estoppel or otherwise). Any and all right, title or interests associated with the Skipjack Services that are not expressly granted by Processor within this Agreement are expressly withheld. You will not take any action inconsistent with the ownership, title or license rights associated with the Skipjack Services. You will not file any action, in any forum, challenging ownership of the Skipjack Services, any related software, materials, documentation or derivative works thereof. Breach of this Section constitutes a material breach of this Agreement, and Processor may immediately suspend or terminate your use of the Skipjack Services or this Agreement in the event of such breach.

40.4.2. You will not, and will not permit others to: (i) sell, distribute, lease, license, sublicense or otherwise disseminate the Skipjack Services or any portion thereof; (ii) copy, modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the Skipjack Services or any portion thereof; (iii) use altered versions of the Skipjack Services or portion thereof; (iv) use, operate or combine the Skipjack Services or any related software, materials or documentation, or any derivative works thereof with other products, materials or services

in a manner inconsistent with this Section 40 or this Agreement; or (v), other than intended by its nature, use the Skipjack Services, or any portion thereof, as a standalone or non-integrated program. You will not permit others to access the Skipjack Services, any related software, materials or documentation, or derivative works thereof. You will not remove, alter, modify, relocate or erase any copyright notice or other legend(s) denoting our or any Persons' proprietary interests in the Skipjack Services.

40.4.3. Processor reserves the right to alter, immediately suspend or upon notice terminate the Skipjack Services in the event you violate the terms of this Section 40, this Agreement or we terminate any agreement with any Persons that are involved in providing the Skipjack Services, or we are otherwise unable to continue to provide the Skipjack Services.

41. Special Provisions Regarding PayeezySM Gateway Services and Global Gateway e4SM Services

41.1. Services. This section applies to the Payeezy Gateway Services or Global Gateway e4 Services (each referred to in this Section 41 as the "Gateway Services"), as indicated on the Application. The Gateway Services consist of an electronic gateway messenger system that will allow you to manage Card transaction information being transmitted when processing your payment transactions, and include the following functionality: (i) a web-based application programming interface ("API") that allows third-party applications to process transactions through the Gateway Services system and supports a range of processing functions (e.g., purchase, refund, pre-authorization functions) and further allows you to implement custom business logic to manage these functions; (ii) a securely hosted web payment form (a "Payment Page") designed to accept internet-based eCommerce transactions, redirecting the consumer to a payment form hosted by the gateway that uses a "Checkout" button on your website to submit payment posting requests to a designated URL and display payment acceptance details and authentication information on your website, the appearance of which and payment options displayed on the Payment Page may be configured by you using an online management interface provided by Processor; and (iii) a real-time payment manager ("RPM") hosted application that is able to turn any internet connected personal computer with a standard web browser into a point of sale device to process retail and MO/TO payments, allowing your employees to input payment transactions in a MO/TO, call center or back office environment, or to swipe Cards in a retail point of sale environment. Receipts for RPM processed transactions are provided, and can be printed or emailed to the Cardholder. RPM is also a centralized administrative tool through which you may access its Gateway Services account (i.e., user administration, gateway reporting, and hosted payment page configurations).

41.2. Provider. The Gateway Services are provided to you by Processor and not Bank, and you acknowledge that Bank is not liable to you in any way with respect to the Gateway Services.

41.3. Gateway Services Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 41, THE GATEWAY SERVICES ARE PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) WITH REGARD TO THE GATEWAY SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, NON-INFRINGEMENT OR THAT THEY WILL FUNCTION UNINTERRUPTED OR ERROR-FREE; AND ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) ARE DISCLAIMED.

41.4. Fees. Client shall pay Processor the fees for the Gateway Services as set forth on the Application.

41.5. Sublicense; Intellectual Property; Representations and Warranties.

41.5.1. Processor grants to you a non-transferable, non-assignable, non-exclusive, limited, royalty-free, revocable sub-license during the term of this Agreement to use the Gateway Services and the associated software ("Software") and documentation (including Updates thereto, as defined below). Marks identified in the Operating Procedures for the sole purpose of submitting transactions for processing using the Gateway Services; and all subject to the terms of this Section 41 and this Agreement. You may only use the Gateway Services in connection with the processing services you receive under this Agreement. You have no right, title or interest in or to the Gateway Services, any related software, materials, documentation, or derivative works thereof; and nothing in this Section or this Agreement assigns, transfers or creates any such right, title or interest for you (whether express or implied, or by estoppel or otherwise). Any and all right, title or interests associated with the Gateway Services that are not expressly granted by Processor within this Section are expressly withheld. You will not take any action inconsistent with the ownership, title or license rights associated with the Gateway Services. You will not file any action, in any forum, challenging ownership of the Gateway Services, Software, any related materials, documentation or derivative works thereof. Breach of this Section constitutes a material breach of this Section 41 and this Agreement, and we may immediately suspend or terminate your use of the Gateway Services or this Agreement in the event of such breach.

41.5.2. You will not, and will not permit others to: (i) sell, distribute, lease, license, sublicense or otherwise disseminate the Gateway Services or any portion thereof; (ii) copy, modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the Gateway Services or any portion thereof; (iii) use altered versions of the Gateway Services or portion thereof; (iv) use, operate or combine the Gateway Services, Software, any related materials or documentation or any derivative works thereof with other products, materials or services in a manner inconsistent with this Section 41 or this Agreement; or (v) other than intended by its nature, use the Gateway Services, or any portion thereof, as a standalone or non-integrated program. You will not permit others to access the Gateway Services, any related software, materials or documentation, or derivative works thereof. You will not remove, alter, modify, relocate or erase any copyright notice or other legend(s) denoting our or any Persons' proprietary interests in the Gateway Services.

41.5.3. Processor reserves the right to alter, immediately suspend or upon notice terminate the Gateway Services in the event you violate the terms of this Section 41, this Agreement or we terminate any agreement with any Persons that are involved in providing the Gateway Services; or we are otherwise unable to continue to provide the Gateway Services.

41.5.4. From time to time we may release updates ("Updates") to the Software, which must be installed and integrated on and into your systems within thirty (30) days of receipt of such Updates. You agree that failure to install Updates in a timely fashion may impair the functionality of the Gateway Services, and associated Services provided under this Agreement and accessed through the Gateway Services. Processor will have no liability for your failure to properly install the most current version of the Software or any Update, and will have no obligation to provide support or services for outdated versions of the Software.

41.6. Reserved.

41.7. Termination. Upon termination or expiration of this Agreement or our provision of the Gateway Services, all licenses granted hereunder will immediately terminate and you will either return or destroy the Software, certifying such destruction in writing to Processor.

42. Special Provisions Regarding Quasi-Cash Transactions

42.1. Definition. A Quasi-Cash Transaction is a transaction where Client sells items that are convertible to cash, such as casino gaming chips, money orders, deposits, wire transfer money orders, and travelers checks.

42.2. General Requirements. You must process all Quasi-Cash Transactions, subject to the exceptions below, as a purchase of goods or services from you and not as a cash disbursement. You are prohibited from accepting a Visa Electron Card for a Quasi-Cash Transaction.

42.3. Authorization. You may only process Quasi-Cash Transactions where the Card is present and using a terminal that can verify the Magnetic Stripe and account number on the Card.

- If the embossed or printed account number on the Card does not match the encoded account number, you must (a) decline the transaction and attempt to retain the Card by reasonable and peaceful means, (b) note the physical description of the Cardholder, (c) notify us immediately, and (d) handle any recovered Card as instructed by us.

- If the encoded account number cannot be read from the Magnetic Stripe, follow the regular Authorization procedures set forth in Section 5 and complete the approved transaction using a manual imprinter.

- If the embossed or printed account number on the Card is the same as the encoded account number, follow the regular Authorization procedures set forth in Section 5.

42.4. Wire Transfer Money Orders. A wire transfer money order must be a written negotiable instrument that is signed by the maker or drawer, payable on demand, and payable to order or to bearer. The money order must also contain the Federal Reserve routing symbol; suffix of the institutional identifier of the paying bank or nonbank payor; and name, city, and state of the paying bank associated with the routing number. If authorized by the Cardholder, you may process the wire transfer money order electronically without the creation of a negotiable instrument; however, you must offer the Cardholder the option of obtaining the wire transfer money order as a written negotiable instrument.

42.5. Wire Transfer Money Order Requirements. If you sell wire transfer money orders or checks, you must advise the Cardholder that you are the wire transfer company, not the payee. The check or money order must be payable to the party cashing the check or money order. You must also include any fee(s) in the total transaction amount, disclose any fee(s) to the Cardholder and include such fee(s) on the Sales Draft. You may not assess a fee for using a Card for payment, unless you also assess a fee when another payment method is used.

42.6. Required Disclosures. You must disclose your name and that (i) the transaction is the purchase of a check or money order and (ii) any subsequent transaction with a third party merchant is the same as a transaction made with cash to the Cardholder when conducting a wire transfer money order transaction. These disclosures must be made before initiating the transaction (i) in writing for a transaction to be completed in person, mail order or online or (ii) verbally for a transaction to be completed by telephone.

42.7. Wire Transfer Money Order Prohibitions.

- You may not complete a wire transfer money order transaction if the funds are obtained to purchase goods or services and the sale occurs at a third party merchant outlet, unless You are a casino or other gambling establishment, a check cashing outlet, or a truck stop offering cash access services. Violations may result in fines.

- You may not include more than one wire transfer money order transaction in a single check or money order.

42.8. Wire Transfer Money Order Advertising and Disclosure. All advertising and marketing materials associated with a money order purchase, including but not limited to use of Card Organization brand names, symbols, or marks, must specify that the transaction involves the purchase of a money order, clearly identify You as the merchant completing the transaction, and follow all Card Organization Rules regarding use of Card Organization symbols and marks.

42.9. Scrip Prohibition. You must not accept a Visa or Visa Electron Card for the purchase of a Scrip. A "Scrip" is a two part paper receipt that is redeemable at your location for goods, services, or cash.

43. Special Provisions Regarding Global ePricing Services

43. GeP Services.

43.1. We agree to provide GeP Services to you with respect to GeP Sales Transactions on the terms and conditions set forth in this Section 43. The type of GeP Sales Transactions and list of supported Foreign Currencies will be provided to you and may be modified from time to time by us in our sole discretion. Card types approved by us for GeP Sales Transactions are VISA, MasterCard and American Express; provided that we in our sole discretion may modify the card types approved for GeP Sales Transactions from time to time.

43.2. You expressly acknowledge and agree that: (a) for the purposes of processing your GeP Sales Transactions, we, in our sole discretion and without notice to you, may delegate sponsorship rights and obligations under the Agreement with respect to GeP Sales Transactions to one or more sponsor banks other than Bank (each alternate sponsor bank, a "GeP Sponsor Bank"); (b) we may use the services of other third parties (including without limitation affiliates and processing entities) to provide GeP Services (each, a "GeP Service Provider"); (c) we may change GeP Sponsor Banks and GeP Service Providers from time to time in our sole discretion; and (d) some or all of the GeP Services may be modified from time to time by Processor in its sole discretion.

43.3. You acknowledge that you are solely responsible for all aspects of a GeP Sales Transaction (other than the performance of GeP Services hereunder), including, without limitation, obtaining the Cardholder's agreement to a GeP Sales Transaction, and complying with all Card Organization Rules applicable to merchants with respect to GeP Sales Transactions.

43.4. You acknowledge that Dynamic Currency Conversion, as defined by Card Organization Rules, is not permitted nor provided under GeP Services.

43.5. Settlement of GeP Sales Transactions between us and you shall be made in the Local Currency on the basis of the Transaction Price of the GeP Sales Transaction under the process defined by the Card Organizations. You shall be subject to any and all Foreign Currency exchange rate exposure in connection with all GeP Sales Transactions processed via the GeP Services. We are not responsible to you for risks of loss arising in connection with foreign exchange rate fluctuations that impact GeP Sales Transactions or the GeP Services.

43.6. Refunds, Credits, returns and Chargebacks associated with GeP Sales Transactions shall be treated as independent GeP Sales Transactions and the Transaction Rate used for refund, Credit, return and Chargeback transactions shall be determined by the applicable Card Organizations. GeP Sales Transaction exposure in connection with refunds, credits, returns or Chargebacks shall be borne by you.

43.7. Except as expressly provided herein, the terms and conditions of the Agreement with respect to processing a Card transaction (including, without limitation, the rights and obligations of us and you with respect to such a transaction) shall apply to GeP Sales Transactions.

43.8. The GeP Services are provided to you by Processor and not Bank. Bank is not liable to you in any way with respect to the GeP Services. For the purposes of this Section 43, the term "Services" in the Agreement refers only to Processor and not the Bank. The GeP Services provided, transactions processed and other matters contemplated under this Section 43 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 43 directly conflict with another provision of this Agreement, in which case the terms of this Section 43 will control.

43.9. GeP Services Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 43, THE GeP SERVICES ARE PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) WITH REGARD TO THE GeP SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, NON-INFRINGEMENT OR THAT THEY WILL FUNCTION UNINTERRUPTED OR ERROR-FREE; AND ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) ARE DISCLAIMED.

43.10. Fees. Client shall pay Processor the fees for the GeP Services as set forth in the Application.

43.11. Sublicense; Intellectual Property; Representations and Warranties.

43.11.1. Processor grants to you a non-transferable, non-assignable, non-exclusive, limited, royalty-free, revocable sub-license during the term of this Agreement to use the GeP Services and the associated documentation and Marks identified in the operating procedures provided to you with the GeP Services; all subject to the terms of this Section 43 and this Agreement. You may only use the GeP Services in connection with the processing services you receive under this Agreement. Except as sublicensed in this Section 43, Client has no right, title or interest in or to the GeP Services, any related software, materials, documentation, or derivative works thereof; and nothing in this Section 43 or this Agreement assigns, transfers or creates any such right, title or interest for you (whether express or implied, or by estoppel or otherwise). Any and all right, title or interests associated with the GeP Services that are not expressly granted by us within this Section 43 are expressly withheld. You will not take any action inconsistent with the ownership, title or license rights associated with the GeP Services. You will not file any action, in any forum, challenging ownership of the GeP Services, any related software, materials, documentation or derivative works thereof. Breach of this Section constitutes a material breach of this Agreement, and we may immediately suspend or terminate your use of the GeP Services, or this Agreement in the event of such breach.

43.11.2. You will not, and will not permit others to: (i) sell, distribute, lease, license, sublicense or otherwise disseminate the GeP Services or any portion thereof; (ii) copy, modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the GeP Services or any portion thereof; (iii) use altered versions of the GeP Services or portion thereof; (iv) use, operate or combine the GeP Services or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with this Section 43 or this Agreement; or (v), other than intended by its nature, use the GeP Services, or any portion thereof, as a standalone or non-integrated program. You will not permit others to access the GeP Services, any related software, materials or documentation, or derivative works thereof. You will not remove, alter, modify, relocate or erase any copyright notice or other legend(s) denoting Processor's or any Persons' proprietary interests in the GeP Services.

43.11.3. We reserve the right to alter, immediately suspend or upon notice terminate the GeP Services in the event you violate the terms of this Section 43, this Agreement or if we terminate any agreement with any Persons that are involved in providing the GeP Services, or we are otherwise unable to continue to provide the GeP Services.

43.12. Termination.

43.12.1. Processor may cease to offer the GeP Services to Client with respect to the Card Organizations: (i) without cause upon not less than thirty (30) days' written notice to the other party; or (ii) immediately upon written notice to the other party if Processor determines that Client's use or Processor's provision of the GeP Services will violate any Applicable Law or any provision of the Card Organization Rules. Further, if Processor reasonably suspects that Client is not in compliance with Card Organization Rules or the terms of this Section 43, Processor, in its sole discretion, may immediately: (i) cease processing Client's GeP Sales Transactions until such time as the Client verifies compliance to Processor's satisfaction, and/or (ii) terminate this Section 43.

If this Section 43 is terminated prior to the Agreement, the Agreement will continue in full force and effect.

43.12.2. Unless prohibited by Applicable Law, we may modify this Section 43 by providing written notice of such modifications to you. You may choose not to accept the requirements of any such modifications by notifying us in writing within thirty (30) days after receiving such notice, that you are terminating this Section 43.

43.13. Definitions. Capitalized terms used but not defined in this Section 43 are defined in the Agreement; provided, the following terms have the meanings given below solely with respect to this Section 43.

"Client" for the purposes of this Section 43 includes Client and its employees or agents that make use of the GeP Licensed Technology or GeP Intellectual Property Rights in order to utilize the GeP Services.

"Foreign Currency" means the currency other than the Local Currency.

"GeP Intellectual Property Rights" means any and all (i) patents and any divisions, reissues, reexaminations, substitutes, continuations, continuations-in-part, or extensions of patents, filed or pending applications for patents, (ii) any divisions, reissues, reexaminations, substitutes, continuations, continuations-in-part, or extensions of patents, (iii) Marks, Internet domain names and addresses and general use e-mail addresses, (iv) copyrights, whether registered or unregistered, and (v) any other rights in the nature of intellectual property (whether registered or unregistered) and all applications for the same, anywhere in the world, including trade secrets, know-how, confidential or proprietary information, database rights, rights against unfair competition and goodwill.

"GeP Licensed Technology" means any materials provided by Processor, or a Person as directed by Processor in connection with the GeP Services, including, without limitation, training materials, online training, online guides and user guides related to the GeP Services, and the rights, assets and body of information and the GeP Intellectual Property Rights subsisting in the foregoing. For the avoidance of doubt, GeP Licensed Technology shall include know-how and software provided by Processor to Client and shall be considered specifications to which the dedicated software shall be conformed.

"GeP Sales Transaction" means a card not present transaction between Client and a Cardholder in which the Client presents the Transaction Price in a card not present environment and the Cardholder authorizes (i) the Transaction Price to be submitted to a Card Organization for settlement, and (ii) that the Cardholder's account will be charged for the Transaction Price.

"GeP Service Provider" has the meaning set forth in Section 43.2.

"GeP Services" means the pricing of Client's goods and services in a Foreign Currency and the activity undertaken by Processor, GeP Sponsor Bank and/or a GeP Service Provider to authorize, process, and settle GeP Sales Transactions initiated by Cardholders using a card type approved by Processor for use with GeP Sales Transactions in a card not present environment established and maintained by a Client domiciled in the United States or United States territories, or other countries permitted by Processor.

"GeP Sponsor Bank" has the meaning set forth in Section 43.2.

"Local Currency" means the currency associated with the domicile of the Client utilizing the GeP Service and approved by Processor.

"Transaction Price" means the price of a product or service quoted by Client to Cardholder in a Foreign Currency and subsequently sold by Client to the Cardholder in the Foreign Currency in a card not present environment.

"Transaction Rate" means the then-current Foreign Currency exchange rate used by the Card Organizations or their designees from time to time to convert the net funding amount into the Local Currency.

44. Special Provisions Regarding Clover Service

The terms and conditions set forth in this Section govern the provision of the Clover Service. The Clover Service is provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the Clover Service. For the purposes of this Section 44, the words "we," "our" and "us" refer only to the Processor and not the Bank. The Clover Service, transactions processed, and other matters contemplated under this Section 44 are subject to the terms and conditions of the rest of this Agreement, as applicable, except to the extent the terms of this Section 44 directly conflict with another provision of this Agreement, in which case the terms of this Section 44 will control.

44.1. Definitions. Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section or as defined elsewhere in this Agreement.

"Clover Marks" means the trademarks or service marks used in connection with the Clover Service.

"Clover Service" means (i) the website associated with the Clover Service, if any, but not any website associated with an application marketplace accessible via the Clover Service; (ii) the object code version of the software applications resident on a Device at the time we provide you with the Device or "pushed" to your Device by us, but excluding any such software applications developed by the Bank; (iii) the object code version of the software that enables such applications listed in (ii) above; (iv) Processor-provided Internet-based services, and (v) any related updates (including software maintenance or bug fixes),

materials, documentation and derivative works released by Processor from time to time, all of which are designed to assist with the management of your business and facilitate the provision of certain Services (e.g., payment processing) under this Agreement. For the avoidance of doubt, the term software in the preceding sentence does not include any software that may be obtained by you separately from the Clover Service (e.g., any applications downloaded by you through an application marketplace). The Clover Service is deemed part of the "Services," as defined in and provided under this Agreement.

"Customer" means a Person who makes a purchase of goods or services from you, the transaction for which utilizes the Clover Service.

"Customer Information" means information about Customers (e.g., name, mailing address, e-mail address, telephone number) obtained in connection with your use of the Clover Service.

"Device" means a tablet, smartphone, or other mobile or fixed form factor identified by Processor from time to time as compatible with and capable of supporting the Clover Service. For the avoidance of doubt, the Device is deemed to be

"Equipment" as defined in Section 33 of this Agreement.

"Third Party Services" are the services, products, promotions or applications provided by someone other than Processor, including, for example, an application marketplace.

44.2. License Grant. During the term of this Section 44, Processor grants you a personal, limited, non-exclusive, revocable, non-transferable sublicense, without the right to further sublicense or assign in any way, to electronically access and use the Clover Service solely in the United States to manage your establishment and conduct associated point of sale activities within the United States in accordance with this Section 44. For purposes of this Section, "United States" does not include U.S. Territories or possessions. The Clover Service is for your internal business use only. This Section 44 does not grant you any rights to the Clover Marks. All intellectual property and proprietary rights in or related to the Clover Service and the Clover Marks are and will remain our, our vendors', or our licensors' (as applicable) sole and exclusive property, and any and all right, title and interest associated with the Clover Service not expressly granted by Processor in this Section 44 are deemed withheld.

44.3. Restrictions. You may not, nor may you permit any third party to do any of the following: (a) access or attempt to access the Clover Service (or any part) that are not intended or made available for public use; (b) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code, underlying ideas or algorithms of the Clover Service (or any part), except to the extent that such restriction is expressly prohibited by law; (c) modify, translate, or alter in any manner, the Clover Service (or any part) or the Clover Marks; (d) create derivative works of or based on the Clover Service (or any part) or the Clover Marks; (e) except for backup and archival purposes, directly or indirectly copy the Clover Service (or any part); (f) republish, upload, post, transmit, disclose, or distribute (in any format) the Clover Service (or any part) except as permitted herein; (g) access or use (in any format) the Clover Service (or any part) through any time-sharing service, service bureau, network, consortium, or other means; (h) rent, lease, sell, sublicense, assign, or otherwise transfer your license rights to any third party, whether by operation of law or otherwise; (i) use or ship the Clover Service (or any part) outside of the United States, or access the Clover Service (or any part) from outside the United States, without in any case obtaining our advance written consent; (j) remove, relocate, or otherwise alter any proprietary rights notices from the Clover Service (or any part) or the Clover Marks; (k) perform or attempt to perform any actions that would interfere with the proper working of the Clover Service, prevent access to or use of the Clover Service by other users, or, in our reasonable judgment, impose an unreasonable or disproportionately large load on our infrastructure, network capability or bandwidth; or (l) use the Clover Service (or any part) except as permitted in Section 44.2.

44.4. Clover Service Limitations and Requirements.

- a) You may access the Clover Service through your Device using a wired (ethernet) or wireless (Wi-Fi or cellular) connection to the Internet. You are solely responsible for the payment of any fees that may be imposed by your Internet/data provider. Your use of the Clover Service may be subject to: (a) the terms of your agreements with your Internet/data provider; and (b) the availability or uptime of the services provided by your Internet/data provider.
- b) You may use the Clover Service to conduct point of sale activities offline; transactions initiated offline will be queued and submitted for Authorization when Internet connectivity to the Clover System is restored. However, you assume all risk, responsibility and liability associated with any transaction that you choose to conduct while the Clover Service is used offline.
- c) The Clover Service does not function with every mobile device. Processor may alter which Devices are approved as compatible with the Clover Service in our discretion from time-to-time.
- d) We or our service providers may perform maintenance on the Clover Service from time to time which may result in service interruptions, delays, or errors. You may be offered new services or software that may be in beta testing phase and not final. As such, the Clover Service may contain errors and "bugs" that may result in failure. We will not be liable for any such interruptions, delays, errors, or bugs. You agree that we or our service providers may contact you in order to assist you with the Clover Service and obtain information needed to identify and fix any errors.
- e) You shall at all times comply with any operating procedures, requirements, or guidelines regarding your use of the Clover Service that are posted on the Clover website or otherwise provided or made available to you.
- f) You are solely responsible for compliance with all laws, rules, and regulations that are applicable to your business, and notwithstanding your use of the Clover Service to facilitate the management of your business, we disclaim any and all liability for your failure to comply with such laws, rules, and regulations.
- g) You are solely responsible for ensuring the accuracy of all information and data regarding your business that you provide to us or our service providers in connection

with the Clover Service (e.g., menus loaded onto the Device). In addition, you are solely responsible for verifying that all information and data loaded onto a Device by us or our service providers at your request are accurate prior to your business use of such Device. We and our service providers disclaim any and all liability arising out of any inaccuracies with respect to such information or data.

- h) You shall comply with the following requirements in connection with your use of the Clover Service:
 - a) With respect to each Customer who requests the delivery of transaction receipts via text message or email, such Customer must enter his phone number or email address in the appropriate space displayed on the Device himself; you are NOT permitted to add or modify any Customer Information (including but not limited to phone number and email address) on behalf of a Customer.
 - b) With respect to each Customer who desires to receive marketing material or other communications from you via text message or email, such Customer must check the appropriate consent check box displayed on the Device himself; you are NOT permitted to add or modify a Customer's consent indication on his behalf.
 - c) You (or your agents acting on your behalf) may only send marketing materials or other communications to the Customer's provided phone number, street address, and/or email address if the Customer has specifically consented by checking (himself) the applicable box displayed on the Device.
 - d) NOTWITHSTANDING THE CAPABILITY OF THE CLOVER SERVICE TO COLLECT AND STORE CUSTOMER INFORMATION AND TO ALLOW YOUR CUSTOMERS TO ELECT TO RECEIVE MARKETING MATERIALS FROM YOU, SOME STATES MAY LIMIT YOUR USE OF SUCH INFORMATION ONCE COLLECTED, EVEN IF THE CUSTOMER HAS PROVIDED HIS CONSENT, AND/OR YOUR DISCLOSURE OF SUCH INFORMATION TO THIRD PARTIES. YOU ACKNOWLEDGE AND AGREE THAT (I) YOUR USE OF CUSTOMER INFORMATION OBTAINED IN CONNECTION WITH THE CLOVER SERVICE MAY BE SUBJECT TO LOCAL, STATE, AND/OR FEDERAL LAWS, RULES, AND REGULATIONS, (II) YOU ARE SOLELY RESPONSIBLE FOR KNOWING SUCH LAWS, RULES, AND REGULATIONS, AND (III) YOU WILL AT ALL TIMES STRICTLY COMPLY WITH ALL SUCH LAWS, RULES, AND REGULATIONS.

44.5. Fees. You shall pay Processor the fees for Clover Service as set forth in the Application. Processing fees for transactions processed using the Device are the same as for non-Clover Service transactions, which are also set forth in the Application.

44.6. Clover Equipment.

- a) If you purchase your Device and other equipment and/or peripherals related to the Clover Service (collectively, the "Clover Equipment") from us, such Clover Equipment will be considered "Equipment" pursuant to Section 33 of this Agreement, and the terms of Section 33 of this Agreement will apply to you with respect to such Clover Equipment. Please note that any software resident on a Device at the time of purchase or "pushed" to your Device by us will not be sold to you outright but instead will be provided to you pursuant to, and subject to the conditions of, Section 44.2. You may also purchase from us, at prices determined by us, supplies related to the Clover Equipment that we make available.
- b) One Year Limited Warranty. The Clover Equipment is warranted against material defects for a one year period after the original date of purchase. This warranty does not include damage to the Clover Equipment resulting from accident or misuse or any other breach of this Agreement. If the Clover Equipment should otherwise become defective within the warranty period, we will replace it free of charge (except that appropriate shipping charges may apply). This warranty does not apply to Clover Equipment that has become obsolete. Notwithstanding this limited warranty, it may be necessary for you to upgrade your Clover Equipment or purchase new Clover Equipment from time to time, for which you will be charged. This warranty is non-transferable. For more information on making a claim under the limited warranty, please contact the dedicated Clover support center as set forth in Section 44.16.
- c) Help desk support for Clover Equipment may be obtained by contacting the dedicated Clover support center as set forth in Section 44.16. We or Persons designated by us will only provide help desk support for Clover Equipment purchased from us under the Equipment Documents. We will not provide any such support or related services for any other products or equipment. Maintenance and repair of Clover Equipment purchased from us is your responsibility. You acknowledge and agree that from time to time we may "push" software updates to your Clover Equipment remotely and automatically in connection with your use of the Clover Service.
- d) If you lease your Clover Equipment, you must enter into a separate lease agreement with First Data Merchant Services Corporation (through its business unit, First Data Global Leasing). If you lease your Clover Equipment or if you provide your own equipment to use with the Clover Service (as approved by Processor), this Section 44.6 will not apply to you. Please note that such lease agreement may have a different term length than your Agreement.

44.7. Termination. The Clover Service and the license granted in Section 44.2 may be terminated at any time by either party upon thirty (30) days' written notice to the other party. Notwithstanding the foregoing sentence, upon as much advance notice as is commercially practicable, we may suspend the Clover Service if (i) we determine that you are using Clover Service for any fraudulent, illegal, or unauthorized purpose, (ii) you violate the terms of this Section 44 or an Event of Default occurs under this Agreement, (iii) we terminate our agreement with any third parties that are involved in providing the Clover Service, or (iv) Processor otherwise decides to discontinue providing the Clover Service. You acknowledge and agree that an occurrence of (i) or (ii) above may be deemed an Event of Default under this Agreement, thereby affording Processor and Bank all rights and remedies as set forth in this Agreement triggered by such an Event of Default, which may include immediate termination of this Agreement without notice. Upon termination of the Clover Service or this Agreement for any reason, you may remain responsible for the full amount of the Clover Service License Fees through the end of the calendar month in which such termination is effective.

44.8. Account Registration. We may require you to register and create a "Member" or "Merchant" account to use the Clover Service. If and when prompted by our registration process, you agree to (a) provide true, accurate, current and complete information about yourself and/or your business, and (b) maintain and update this information to keep it true, accurate, current and complete. If any information provided by you is untrue, inaccurate, not current or incomplete, we have the right to terminate your Clover Service account ("Account") and refuse any and all current or future use of the Clover Service.

44.9. Privacy and Data Use. All data that you provide or are collected from you in connection with your use of the Clover Service (collectively, "Account Data"), are collected by Clover Network, Inc. ("Clover") and not Processor or Bank; therefore, the use and sharing of such Account Data is controlled by the Clover Privacy Policy (available at https://www.clover.com/privacy_policy). You acknowledge and agree that Processor and Bank may access such Account Data upon our request to Clover, and our use of your Account Data is governed by the terms set forth in this Agreement. You grant us permission to anonymously combine your Account Data with that of other merchants in order to improve our services to you. Subject to compliance with applicable legal requirements and Card Organization Rules and notwithstanding any language to the contrary in this Agreement, certain data collected by us or our service providers in connection with the Services may be shared with third parties, and used by us, our service providers, or third parties for the purpose of providing additional products and services to you, other merchants, or other third parties.

44.10. Third Party Services. The Clover Service may contain links to Third Party Services (e.g., an application marketplace). If you decide to use Third Party Services, you will be responsible for reviewing and understanding the terms and conditions associated with Third Party Services (including obtaining and maintaining any required third party hardware and/or software that is required for the Third Party Services to work with the Clover Service). If you elect to use Third Party Services, information you submit in your application to use Third Party Services will be provided to the provider(s) of such Third Party Services and not to us. Your access of any Third Party Services is at your own risk. Third Party Services are not governed by the terms and conditions of this Agreement. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THIRD PARTY SERVICES (E.G., APPLICATION MARKETPLACE AND ANY APPS AVAILABLE AT SUCH APPLICATION MARKETPLACE) IS DOWNLOADED AT YOUR OWN RISK. PROCESSOR WILL NOT BE RESPONSIBLE FOR ANY ACTIONS OR ANY FAILURES TO ACT OF ANY THIRD PARTY, AND PROCESSOR EXPRESSLY DISCLAIMS ANY LIABILITY RELATED TO ALL THIRD PARTY SERVICES. PROCESSOR DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PROVIDER OF A THIRD PARTY SERVICE, OR ANY THIRD PARTY SERVICE OR THIRD PARTY PRODUCT ADVERTISED OR OFFERED THROUGH THE CLOVER SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND PROCESSOR WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND PROVIDERS OF THIRD PARTY SERVICES OR PRODUCTS.

44.11. Protecting Your Information. You are solely responsible for ensuring that your account numbers, passwords, security questions and answers, login details and any other security or access information used by you to use or access the Clover Service are kept safe and confidential. You must prevent unauthorized access to and use of any Account Data. You are responsible for all electronic communications sent to us or to any third party (including Clover Network, Inc.) containing Account Data. When we receive communications containing Account Data, we assume you sent it to us. You must immediately notify us if you become aware of any loss, theft or unauthorized use of any Account Data (see Clover Service support center contact information below). We reserve the right to deny you access to the Clover Service, in whole or in part, if we believe that any loss, theft or unauthorized use of any Account Data or access to information has occurred.

44.12. Clover Service Disclaimer. USE OF THE CLOVER SERVICE AND CLOVER EQUIPMENT IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS PROVIDED IN SECTION 44.6, THE CLOVER SERVICE IS PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) WITH REGARD TO THE CLOVER SERVICE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR THAT THE CLOVER SERVICE WILL FUNCTION UNINTERRUPTED OR ERROR-FREE, OR THAT THE CLOVER SERVICE IS SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED.

44.13. Indemnity. Without limiting your indemnification obligations elsewhere in this Agreement, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages, and expenses (including reasonable attorneys' fees) arising out of or relating to:

- Your failure to comply with all terms and conditions in this Section 44;
- Your use, sharing or disclosure of any Customer Information obtained in connection with your use of the Clover Service;
- The content or delivery of any marketing messages that you send or cause to be sent to any Customer phone number or email address collected through the use of the Clover Service; or
- Any other party's access and/or use of the Clover Service with your unique username, password, or other appropriate security code.

44.14. Ideas. You may choose or we may invite you to submit comments or ideas about the Clover Service, including, without limitation, about how to improve the Clover Service ("Ideas"). By submitting any Idea, you agree that: (a) we expressly disclaim any confidentiality obligations or use restrictions, express or implied, with respect to any Idea, (b) your submission will be non-confidential, and (c) we are free to use and disclose any Idea on an unrestricted basis without notifying or compensating you. You release us from all liability and obligations that may arise from our receipt, review, use or disclosure of any Ideas or portion of any Idea.

44.15. Third Party Beneficiaries. Processor's Affiliates and any Persons Processor uses in providing the Clover Service are intended third party beneficiaries of this Section 44, and each of them may enforce its provisions as if it was a party hereto. Except as expressly provided in this Section 44, nothing herein is intended to confer upon any Persons any rights or remedies, and the parties do not intend for any Persons to be third-party beneficiaries of this Section 44.

44.16. Support. For all Clover Service support (including questions related to the Device), please contact the dedicated Clover support center at 1-800-430-7161 or at cloversupport@firstdata.com.

45. Special Provisions Regarding American Express OptBlueSM Program Service

The American Express ("also referred to in the Merchant Processing Application as "AXP") OptBlue Program Service (referred to in this Section 45 as the "AXP OptBlue Service", and as defined in Section 45.2) provided, transactions processed and other matters contemplated under this Section 45 are subject to the rest of the terms of this Agreement, including, but not limited to, the Operating Procedures, except to the extent the terms of this Section 45 directly conflict with the terms of this Agreement with respect to the AXP OptBlue Service, in which case, the terms of this Section 45 will control; provided, however, that (i) The AXP OptBlue Service is provided to you by Processor and not by Bank and (ii) Bank is not liable to you in any way with respect to the AXP OptBlue Service. For the purposes of this Section 45, the words "we," "our" and "us" refer only to the Processor, and not to the Bank.

45.1. Certain Definitions. For purposes of this Section 45 only, the following defined terms and their definitions apply:

American Express Card or Cards: (i) Any card, account access device, or payment device or service bearing American Express or American Express Affiliates' Marks and issued by an Issuer or (ii) a Card Number. Also referred to in this Section 45 as "Card". The term "Card", as used and defined in this Section 45, shall also mean "Card" and "Credit Card", as referenced elsewhere in this Agreement, for purposes of the AXP OptBlue Service and American Express Card Transactions only.

American Express: American Express Travel Related Services Company, Inc., a New York corporation.

American Express Brand: The Marks of American Express and its affiliates.

Card Member: An individual or Entity (i) that has entered into an agreement establishing a Card account with an Issuer or (ii) whose name appears on the Card. The term "Cardholder" may be used to mean a Card Member in this Section 45 and in other parts of this Agreement with respect to American Express Card Transactions and the AXP OptBlue Service.

Charge: A payment or purchase made on the Card.

Effective Date of the Agreement: The date described in Section 23.1 of this Agreement.

Establishments: Any or all of Merchant and Merchant's Affiliates' locations, outlets, websites, online networks, and all other methods for selling goods and services, including methods that you adopt in the future. References to "locations" elsewhere in this Agreement shall be deemed to include Establishments for purposes of American Express Card Transactions and the AXP OptBlue Service.

Other Payment Products: Any charge, credit, debit, stored value, prepaid, or smart cards, account access devices, or other payment cards, services, or products other than the Card.

Transaction: A Charge or Credit completed by the means of a Card.

45.2. AXP OptBlue Service and Merchant Qualification Criteria. If elected by you, and you are qualified and continue to qualify as set forth below and in Section 45.5.4, we will provide full acquiring services (including, Authorization, processing and settlement) to you for your American Express Card Transactions (collectively, the "AXP OptBlue Service"), subject to the terms of this Section 45. Notwithstanding the provisions of Sections 7, 16.1 and 16.2 of this Agreement to the contrary, settlement of American Express Card Transactions under the AXP OptBlue Service will occur under this Agreement and the terms and settlement time frames applicable to settlement of your Other Payment Product transactions of the other major Card Organizations referenced, and as further described, in those sections.

You agree to accept Cards in accordance with the terms of this Section 45 and the American Express Merchant Operating Guide (referred to herein as the "Merchant Operating Guide"), which are American Express "Card Organization Rules", under this Agreement, for American Express Card Transactions.

To qualify for the AXP OptBlue Service, you must meet the following criteria: (a) your total annual American Express volume is less than \$1,000,000, (b) your business is not of a merchant category type prohibited by American Express and (c) you are not a franchisee of any franchise excluded from eligibility for the OptBlue Program by American Express. In addition, you must continue to qualify to receive the AXP OptBlue Service as further described in Section 45.5.4.

45.3. Additional Operating Procedures. The provisions of the Merchant Operating Guide apply only to American Express Card Transactions and the AXP OptBlue Service, and constitute part of the Operating Procedures. To the extent any of the provisions of the Merchant Operating Guide may conflict with the provisions of the Operating Procedures set forth in Subpart A of this Agreement with respect to American Express Card Transactions, the provisions of the Merchant Operating Guide shall control. American Express' policies and procedures for the American Express OptBlue Program are set forth in the Merchant Operating Guide, which is a summary of the American Express Card Organization Rules applicable to merchants accepting Cards. The Merchant Operating Guide is available at the following website: www.americanexpress.com/merchantsguide

45.4. Fees for AXP OptBlue Service.

Payment of fees for the AXP OptBlue Service will be as set forth in Section 18 of this Agreement. The fees for processing transactions related to the AXP OptBlue Service are set forth in the Application.

45.5. Additional Terms for Acceptance of American Express Cards.

45.5.1 American Express Transaction Data. The transaction data you collect to facilitate the Charge must be or have been provided directly to you by the Cardholder. You must not accept or have accepted transaction data from, nor shall you provide or have provided transaction data to, any third parties other than your covered parties (as defined in the DSOP). If you fail to comply with this requirement, in addition to other rights and remedies regarding "monitoring", you may be charged a fee as indicated on the Application, we may suspend Card acceptance privileges at your establishments, or terminate this Agreement. Where Cardholders pay you using payment or "e-wallet" accounts (which Cardholders may have created by providing Cardholder information when the account was established), the transaction data collected to facilitate the Card Not Present Charge has already been provided directly by the Cardholder. You are not required to have the Cardholder re-enter the transaction data. All information required by American Express evidencing one or more transactions, including information obtained at the point of sale, information obtained or generated during Authorization and Submission, and any Chargeback.

45.5.2. Disclosure and Use of Data Collected Under Agreement. We may disclose to American Express data and information that you provide on your Application and that we collect as part of performing American Express payment processing services or transaction related services including information about you. American Express may use the information that you provide in the Application at the time of setup to screen and/or monitor you in connection with Card marketing and administrative purposes. American Express also may use such information to perform its responsibilities in connection with American Express Card acceptance, promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including marketing purposes. American Express may otherwise use and share your information for business purposes and as permitted by Applicable Law. American Express uses reasonable administrative, technical and physical security measures to protect your information consistent with the sensitivity of the information.

45.5.3. Consent for American Express to Contact You by Phone, eMail, Text or Facsimile. American Express may use the information you provide in the Application (as such information may be updated) to call you or send you communications or materials via email, SMS, text or facsimile regarding American Express products, services and resources available to you. You consent and agree to receive autodialed, automated and/or prerecorded calls and communications (which may include SMS or text messages) at the telephone number(s) you have provided. If you provide a fax number, you consent and agree to receiving fax communications from American Express. In connection with the foregoing, you understand that the calls made or communications sent to you by American Express may be subject to charges or fees by your telecommunications or other applicable service provider that are your responsibility to pay. You understand that your consent under this Section 45.5.3 is not a condition of purchasing or receiving any product or service or entering into this Agreement.

Opt-Out: You may opt-out of receiving marketing related communications and materials from American Express by calling Processor at the Customer Service telephone number stated in Part IV, Section A.4 of the Program Guide, Addresses for Notices; Customer Service. If you have opted-out, you may still receive messages or communications from American Express related to important information about your American Express products, services and resources available to your business.

45.5.4. Continuing Qualification Criteria; Conversion to a Direct Relationship with American Express. After you have been qualified to receive the AXP OptBlue Service, you must continue to meet American Express' criteria in order to continue to use the AXP OptBlue Service. Currently such criteria are the following (each, a "Continuing Qualification Threshold"): (a) the total volume of American Express Card Transactions in any rolling twelve (12) month period for all your locations is not more than \$1,000,000 and (b) the total monthly volume of American Express Card Transactions for all your locations for any three consecutive months does not exceed \$100,000 per month.

You acknowledge and agree that, upon written notice from us, you will be converted to a direct American Express Card acceptance relationship with American Express ("American Express Direct Conversion"), if and when you exceed either of the Continuing Qualification Thresholds. You agree that, upon American Express Direct Conversion, (i) you will be bound by American Express' then-current Card Acceptance Agreement with respect to American Express Transactions; (ii) American Express will set pricing and other fees payable by you for American Express Card acceptance and (iii) you will no longer be able to receive the AXP OptBlue Service. However, we may continue to provide Authorization and processing services, but not settlement services, to you for your American Express Card transactions, and this Agreement will continue in full force and effect with respect to other payments and services you elected to receive on your Application.

45.5.5. No Assignment of Payments. You acknowledge and agree that you shall not assign to any third party any payments due to you under this Agreement as the result of American Express Card transactions, and all indebtedness arising from American Express Card charges will be for bona fide sales of goods and services (or both) at your establishments and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that you may sell and assign future transaction receivables to us, our Affiliates and/or any other funding source that partners with us or our Affiliates.

45.5.6. Third Party Beneficiary Rights. American Express is a direct and intended third-party beneficiary of this Agreement, and may enforce any terms of this Agreement that apply to American Express, including American Express Card acceptance and transaction processing, directly against you.

45.5.7. Your Right to Opt Out of American Express Card Acceptance. You may opt out of accepting American Express Cards at any time without directly or indirectly affecting your rights to accept any other payment products.

45.5.8. Collections from American Express Cardholder. You may not bill or collect from any American Express Cardholder for any purchase or payment on the American Express Card unless Chargeback has been exercised, you have fully paid for such Charge, and you otherwise have the right to do so.

45.5.9. American Express-Excessive Disputes. You may be subject to various fees and assessments as set forth on the Application including fees for excessive disputes. Some fees and assessments are for special products or services, while others may be applied based upon non-compliance of American Express policies and procedures. Many non-compliance fees and assessments can be avoided by correcting the actions that are causing such non-compliance.

45.5.10. American Express Right to Modify or Terminate Agreement. American Express has the right to modify this Agreement with respect to American Express Card Transactions or to terminate your acceptance of American Express Card transactions and to require Processor to investigate your activities with respect to American Express Card Transactions.

46. Special Provisions Regarding Insights™ Solution

The terms and conditions set forth in this Section govern the provision of the Insights Solution. The Insights Solution is provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the Insights Solution. For the purposes of this Section 46, the words "we," "our" and "us" refer only to the Processor and not the Bank. The Insights Solution, transactions processed, and other matters contemplated under this Section 46 are subject to the terms and conditions of the rest of this Agreement, as applicable, except to the extent the terms of this Section 46 directly conflict with another provision of this Agreement, in which case the terms of this Section 46 will control.

46.1. Definitions. Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section 46 or as defined elsewhere in this Agreement.

"Consumer Information" means any information about your consumers (including, without limitation, Cardholder name, mailing address, transaction data, Card account number, e-mail address, or telephone number) that may be obtained in connection with processing transactions under this Agreement and/or your use of the Insights Solution.

"Data" means, without limitation, Transaction Data, Consumer Information, and other data obtained from processing your Card transactions, your other payment transactions, processing data that we maintain, own or otherwise have contractual or other rights to access in connection with our services, and data available from other sources that we own or have a contractual or other right to use in connection with the Insights Solution or our other Services. Data also includes third party data that is made available through the Insights Solution website and application(s) or tools available there.

"Device" means a tablet, computer, smartphone, mobile device or other device that you may use to access the Internet to send and receive electronic or other communications from websites (including, without limitation, the Insights Solution website).

"Merchant Data Systems" means computers, networks, point of sale systems, servers or any facility, whether owned or licensed by you, where you process and/or store Data related to Card transactions, other payment transactions or other transactions.

"User Documentation" means the information that we provide to you from time-to-time via our website, the Internet, or otherwise that contains documentation, procedures, instructions, and other information or directives regarding the operation, guidelines, features and functionality of the Insights Solution. The User Documentation may be modified from time-to-time.

46.2. Fees for the Insights Solution. Payment of fees for the Insights Solution will be as set forth in Section 18 of this Agreement. The fees for the Insights Solution are set forth in the Application.

46.3. Insights Solution. Processor will provide you with (i) access to a website and the application(s) associated with the Insights Solution software; (ii) the object code version of the Insights Solution software application(s); and (iii) interactive communications you receive from the application(s). The Insights Solution will allow you to track and visualize information regarding your revenue, ticket size, and customers, which is contained in your Data as well as obtained from other third party data sources. Subject to certain limitations, the Insights Solution may permit you to compare your performance to groups of similar businesses within your industry and/or certain geographic areas using your Data and other third party data sources. The features and functionality of the Insights Solution may be modified from time-to-time by us or our third party provider(s) involved in providing the Insights Solution. For the avoidance of doubt, the term "software" used in the foregoing description does not include any software that you obtain separately from the Insights Solution (e.g., any applications or software modules you download onto your Merchant Data Systems or point of sale systems that are not identified as part of the Insights Solution, whether provided by us or third parties). The overall functionality and the functional modules that make up components of the services described in this Section are, collectively, the "Insights Solution." You will use the Insights Solution for your internal business purposes only, and in a manner consistent with this Section.

46.4. Insights Solution Limitations and Requirements.

46.4.1. You may access the Insights Solution through your Device using a wired (Ethernet) or wireless (Wi-Fi or cellular) connection to the Internet. You are solely responsible for obtaining services that allow you to access the Internet with your Device, and the payment of any fees that may be imposed by your Internet or data services provider. Your ability to access the Insights Solution via the Internet, and resulting ability to use the Insights Solution, may be subject to: (a) the terms of your agreements with your Internet or data services provider; and (b) the availability of the services provided by your Internet/data services provider.

46.4.2. You may use the Insights Solution to conduct analysis of the Data made available to you through the Insights Solution website, and the applications or tools associated with the Insights Solution that are provided pursuant to this Section 46.

46.4.3. From time-to-time, and in our sole discretion, we may alter which Devices and Internet browsers are approved as compatible with the Insights Solution.

46.4.4. From time-to-time, maintenance may be performed on the Insights Solution, which may result in service interruptions, access interruptions, delays, or errors; and we

(including, without limitation, our vendors or third party providers) will not be liable to you for any such interruptions, delays or errors. We (including, without limitation, our vendors or third party providers) may contact you in order to assist you with your use or the operation of the Insightics Solution and obtain information needed to identify and fix any interruptions, delays or errors that occur in connection with your use of the Insightics Solution.

46.4.5. You will at all times comply with the User Documentation.

46.4.6. You will comply with the following requirements in connection with your use of the Insightics Solution:

- a) In the event you are able to discern any information about a particular Entity or Person from the Insightics Solution and/or the Data available through the Insightics Solution, either alone or with other information in your possession, you acknowledge and agree that such information may be subject to local, state or federal privacy, marketing, insider trading or other Applicable Law; you will limit your use of the information strictly in accordance with such laws, rules or regulations; and you are solely responsible for knowing such laws, rules or regulations.
- b) NOTWITHSTANDING THE CAPABILITY OF THE INSIGHTICS SOLUTION TO COLLECT AND STORE CONSUMER INFORMATION THAT YOU MAY USE IN CONNECTION WITH THE INSIGHTICS SOLUTION OR OTHERWISE, SOME STATES MAY LIMIT YOUR USE OF SUCH INFORMATION ONCE COLLECTED (EVEN IF THE CUSTOMER PROVIDED ITS CONSENT TO CERTAIN USES) AND/OR YOUR DISCLOSURE OF SUCH INFORMATION TO THIRD PARTIES. YOU ACKNOWLEDGE AND AGREE THAT (I) YOUR USE OF CONSUMER INFORMATION OBTAINED IN CONNECTION WITH THE INSIGHTICS SOLUTION MAY BE SUBJECT TO LOCAL, STATE, OR FEDERAL LAWS, RULES OR REGULATIONS; (II) YOU ARE SOLELY RESPONSIBLE FOR KNOWING SUCH LAWS, RULES OR REGULATIONS; AND (III) YOU WILL STRICTLY COMPLY WITH ALL SUCH LAWS, RULES OR REGULATIONS AT ALL TIMES.

46.4.7. You will receive a username and password to use in order to access the Insightics Solution. You are responsible for securely storing and using your username and password, and will permit only your authorized employees or agents with a business need-to-know to access your username and password in connection with the Insightics Solution. In the event multiple usernames and passwords are made available to you to use in connection with accessing the Insightics Solution, you will restrict use of usernames and passwords to single individuals, will keep records regarding which individuals have access to usernames and passwords, and will monitor these individuals use of the Insightics Solution to ensure compliance with this Section 46.

46.5. Devices; Equipment. It is your responsibility to obtain Devices and other equipment necessary to access and use the Insightics Solution website. We do not provide communications services (e.g., Internet access), equipment, or Devices to access and use the Insightics Solution; nor do we determine the compatibility of your equipment, communications services or Devices for use with the Insightics Solution. You will be responsible for proper operation, use and maintenance for all equipment, services or Devices that you obtain to access and use the Insightics Solution.

46.6. Accuracy of Information. You are solely responsible for ensuring the accuracy of all information and Data regarding your business that you provide to us, our vendors or third party providers in connection with the Insightics Solution. WE DISCLAIM (ON BEHALF OF OURSELVES, OUR VENDORS OR THIRD PARTY PROVIDERS) ANY AND ALL LIABILITY ARISING OUT OF ANY INACCURACIES THAT RESULT FROM THE USE OF INFORMATION OR DATA THAT YOU PROVIDE.

46.7. Protecting Your Information. You are solely responsible for ensuring that your account numbers, usernames, passwords, security questions and answers, login details and any other security or access information (collectively, "Secure Access Data") that you use in connection with the Insightics Solution are kept safe and confidential. You must prevent unauthorized access to and use of your Secure Access Data and the Insightics Solution. You are responsible for all electronic communications sent to us, our affiliates, vendors or third party providers using your Secure Access Data. When we receive communications origination with or containing your Secure Access Data, we will assume you sent it to us. You must immediately notify us if you become aware of any loss, theft or unauthorized use of any of your Secure Access Data. We reserve the right to deny you access to the Insightics Solution, in whole or in part, if we believe that any loss, theft or unauthorized access to or use of your Secure Access Data occurs.

46.8. Account Registration. We may require you to register at the Insightics Solution website or through the associated application(s) before you use the Insightics Solution. If and when prompted by the registration process, you agree to (a) provide true, accurate, current and complete information about yourself and/or your business, and (b) maintain and update this information to keep it true, accurate, current and complete. If any information that you provide is untrue, inaccurate, not current or incomplete, we may immediately suspend or terminate your access to the Insightics Solution, and refuse to provide you with future access to the Insightics Solution.

46.9. Sub-License Grant. Subject to the terms of this Section 46, Processor grants you a limited, non-exclusive, non-transferable, non-assignable, revocable sub-license (without the right to further sub-license in any way), to electronically access and use, solely in the United States, the Insightics Solution, and its associated User Documentation, for its intended purpose to assist you with managing your business and analyzing your point of sale Data. For purposes of this sub-license "United States" does not include U.S. Territories or possessions. This Section 46 does not grant you any rights to Marks associated with the Insightics Solution. Except for the sub-license expressly granted herein, all intellectual property and proprietary rights in or related to the Insightics Solution, User Documentation and associated Marks are and will remain our sole and exclusive property, or that of our vendors or third party providers (as applicable); and any and all right, title and interest in and to the Insightics Solution, User Documentation and associated Marks not expressly granted in this Section 46 are deemed withheld. The foregoing sub-license will automatically be revoked, and your right to access or use the Insightics Solution will cease, upon termination, expiration or suspension of this Agreement or this Section 46 for any reason.

46.10. Sub-License Restrictions. You may not, nor may you permit any third party, other than your employees or agents with a business need, to do any of the following: (a) access or attempt to access the Insightics Solution (or any part thereof) that is not expressly made available for public use; (b) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code or any underlying data, ideas or algorithms of the Insightics Solution (or any part thereof); (c) modify, translate, or alter in any manner, the Insightics Solution (or any part thereof) or its associated Marks; (d) create derivative works of or based on the Insightics Solution (or any part thereof) or the associated Marks; (e) directly or indirectly copy the Insightics Solution (or any part thereof), except screen shots may be copied and retained solely for internal business purposes; (f) republish, upload, post, transmit, disclose, or distribute (in any format) the Insightics Solution (or any part thereof) except as expressly permitted herein; (g) access or use (in any format) the Insightics Solution (or any part thereof) through any time-sharing service, service bureau, network, consortium, or other means; (h) rent, lease, sell, sublicense, assign, or otherwise transfer your sub-license rights to any third party, whether by operation of law or otherwise; (i) access, use or ship the Insightics Solution (or any part thereof) from or to locations outside of the United States; (j) remove, relocate, or otherwise alter any notices of proprietary rights contained within the Insightics Solution (or any part thereof) or its associated Marks; (k) perform or attempt to perform any actions that would interfere with the proper working of the Insightics Solution, prevent access to or use of the Insightics Solution by other users, or, in our discretion, impose an unreasonable or disproportionately large load on our infrastructure, network capability or bandwidth; or (l) otherwise use the Insightics Solution (or any part thereof) except as permitted under this Section 46.

Further, you will not take any action that is inconsistent with, or file any action in any forum that challenges, the ownership of the Insightics Solution or its components. Failure to comply with this provision will constitute a material breach of this Section 46 and this Agreement. In the event you challenge the ownership of the Insightics Solution, we may immediately suspend or terminate this Section 46, this Agreement and/or your access to and use of the Insightics Solution.

46.11. Term and Termination. This Section 46 will be effective upon its acceptance, and will expire and/or terminate according to the terms of this Agreement. We may terminate this Section 46 or the Insightics Solution at any time for any reason. Termination of this Section 46 will not automatically terminate this Agreement; provided, this Section 46 will terminate automatically upon termination of this Agreement.

46.12. Third Party Services. The Insightics Solution may be used in connection with certain third party services that you obtain separately for your business purposes (e.g., an accounting application on your Device). If you decide to use third party services with the Insightics Solution, you will be responsible for reviewing and understanding the terms and conditions associated with such third party services (including, without limitation, obtaining and maintaining any third party hardware or software that is required for the third party services to work with the Insightics Solution). Third party services are not governed by the terms of this Section 46. YOUR ACCESS TO OR USE OF ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THIRD PARTY SERVICES (E.G., AN ACCOUNTING APPLICATION) IS AT YOUR OWN RISK. PROCESSOR, ITS AFFILIATES, VENDORS AND THIRD PARTY PROVIDERS WILL NOT BE RESPONSIBLE FOR, OR LIABLE TO YOU IN CONNECTION WITH, ANY ACTIONS OR ANY FAILURES TO ACT OF ANY THIRD PARTY, AND SUCH LIABILITY RELATED TO ALL THIRD PARTY SERVICES IS EXPRESSLY DISCLAIMED.

46.13. Privacy; Data Use; Data Collection. Processor's, our affiliates', vendors' or third party providers', collection, use and sharing of Data obtained from you in connection with your use of the Insightics Solution or our Services is subject to the applicable privacy policy(ies) we provide to you, or that are displayed and made available at or through a link (or links) on our website(s) or the Insightics Solution website. Notwithstanding the foregoing, you acknowledge and agree that we, our affiliates, vendors or third party providers, may access and use Data obtained from your Merchant Data Systems, your use of the Insightics Solution or your use of our Services; and you grant us, and we retain, the right to use Data or aggregations thereof obtained from you for any lawful purpose.

46.14. Insightics Solution Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 46, THE INSIGHTICS SOLUTION IS PROVIDED "AS IS" AND PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) WITH REGARD TO THE INSIGHTICS SOLUTION, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY; NON-INFRINGEMENT; THAT IT WILL FUNCTION UNINTERRUPTED OR ERROR-FREE; THAT IT WILL FUNCTION CORRECTLY IN CONNECTION WITH ANY OTHER APPLICATIONS, SOFTWARE OR HARDWARE THAT YOU OBTAIN FROM THIRD PARTIES FOR USE IN CONNECTION WITH IT; THAT IT IS SECURE, FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS; OR THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; AND ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) ARE DISCLAIMED.

46.15. Financial Advice. The Insightics Solution does not provide any business, investment or financial advice and is not advocating that you make any business decision or any decisions related to the operation of your business, the sale or purchase of any real property, stocks, bonds, or securities. You expressly acknowledge that the Insightics Solution is provided solely for informational purposes and is not to be used as a substitute for obtaining independent business or financial investment advice, nor is it intended to be relied upon by you or any Person for the purposes of investment or other financial decisions. The Insightics Solution should not be used or construed, in whole or in part, as a basis or recommendation for an investment or business decision.

46.16. Accuracy. You acknowledge and agree that your use of the Insightics Solution and decisions you make based upon such use will be: (i) based upon your own determination and evaluation, (ii) made with the understanding that some of the content provided by the Insightics Solution is derived using statistical modeling, (iii) made with the understanding that the data used by the Insightics Solution does not represent all transaction data, and (iv) made at your own risk. The data provide and/or used by the Insightics Solution may include third party data that is appended to or included in the Insightics Solution data and we have not investigated and do not make any representation or warranty with respect to the accuracy of third party data.

46.17. Indemnity. Without limiting your indemnification obligations in this Agreement, you agree to indemnify and hold us and our affiliates, vendors, and third party providers harmless from and against all losses, liabilities, damages, and expenses (including reasonable attorneys' fees) arising out of or relating to:

- a) Your failure to comply with the terms of this Section 46 and the User Documentation;
- b) Your use (alone or in combination with any other information) of any Consumer Information, reports, information or analytics obtained in connection with your use of the Insights Solution or otherwise; and
- c) Any other party's access and/or use of the Insights Solution using your Secure Access Data.

46.18. Ideas. You may choose or we (including, without limitation, our affiliates, vendors or third party providers) may invite you to submit comments or ideas related to the Insights Solution and its performance (including, without limitation, ideas about how to improve the Insights Solution) (collectively, "Ideas"). By submitting any Idea, you agree that: (a) We expressly disclaim any confidentiality obligations or use restrictions, express or implied, with respect to any Ideas you submit; (b) your submission of Ideas will be non-confidential; (c) we are free to use and disclose any Ideas you submit on an unrestricted basis and without notifying or compensating you; and (d) you disclaim any and all rights to the Ideas that you submit. Further, you release us, and our affiliates, vendors, or third party providers, from all liability and obligations that may arise from the receipt, review, use or disclosure of any Ideas you submit, or portions thereof.

46.19. Third Party Beneficiaries. Our affiliates, vendors and any third party providers used in providing the Insights Solution are intended third party beneficiaries for purposes of enforcing the terms of this Section 46, and each may enforce its terms against you. Except as expressly provided herein, nothing in this Section 46 is intended to confer any rights, obligations or remedies upon any other Person that is not a party to this Section 46, and no other Person will be a third party beneficiary or have any right, interest or claim under or based upon any of the representations, warranties, covenants or agreements herein.

46.20. General. Our obligation to provide the Insights Solution is subject to our ability to obtain and maintain any and all required governmental licenses, permits or other authorizations, the services of our affiliates, vendors or third party service providers involved in providing the Insights Solution, and our ability to comply with any and all laws, regulations, orders and other governmental directives which may be imposed in connection with or related to the Insights Solution.

46.21. Electronic Consent. You consent and agree that:

- a) Processor may provide all current or future Disclosures (defined below) related to the Insights Solution required by law, rule or regulation, as well as other information about your legal rights and duties to you electronically.
- b) Where required or requested, your electronic signature (via "click-through" or other method) on agreements, documents or Disclosures related to the Insights Solution has the same effect as if you signed them in ink.
- c) Processor can send all current or future communications, billing statements, amendments to this Section 46, notices, User Documentation and other disclosures or information regarding the Insights Solution, your use of the Insights Solution or your use of the Services (collectively, "Disclosures") to you electronically (1) via e-mail, (2) by access to a website that we designate in an e-mail notice we send to you at the time the information is available, (3) to the extent permissible by law, by access to a website that we will generally designate in advance for such purpose, or (4) as otherwise allowed by Applicable Law.
- d) If you want a paper copy of the Disclosures, you may print a copy or download the information for your records.
- e) Electronic Disclosures have the same meaning and effect as if Processor provided Disclosures to you in writing via paper. When Processor sends you an email or other electronic notification alerting you that a Disclosure is available electronically and thereby makes it available, such action will have the same meaning and effect as if Processor provided the Disclosure to you in writing via paper, whether or not you choose to view, print or download the Disclosure.

47. Special Provisions Regarding TransArmor® Solution

The terms and conditions set forth in this Section govern the provision of the TransArmor Solution. The TransArmor Solution is provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the TransArmor Solution. For the purposes of this Section 47, the words "we," "our" and "us" refer only to the Processor and not the Bank. The TransArmor Solution, transactions processed, and other matters contemplated under this Section 47 are subject to the terms and conditions of the rest of this Agreement, as applicable, except to the extent the terms of this Section 47 directly conflict with another provision of this Agreement, in which case the terms of this Section 47 will control.

If you are a Level 4 Merchant, the TransArmor Solution makes the benefits of Data Protection, Security Score, PCI Rapid Comply®, POS Software Monitor, and a Liability Waiver available to you.

The TransArmor® Solution is designed to assist you with your PCI DSS and other data security compliance obligations set forth in this Agreement. The TransArmor Solution does not eliminate your PCI DSS and other data security compliance obligations or liabilities set forth in this Agreement.

47.1. Definitions. Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section 47 or as defined elsewhere in this Agreement.

"Cardholder Information" means the data contained on a Card, or otherwise provided to you by a Cardholder, that is required by the Card Organization or us in order to process, approve and/or settle a Card transaction.

"Card Organization Assessment" means a monetary assessment, fee, fine or penalty levied by a Card Organization against you and/or us as the result of (i) a Data Security Event or

(ii) a security assessment conducted as the result of a Data Security Event. As used herein, Card Organization Assessments will not exceed the maximum monetary assessment, fee, fine or penalty permitted under the applicable Card Organization Rules or terms of this Agreement that are in effect upon the occurrence of a Data Security Event.

"Card Replacement Expenses" means the costs that a Card Organization requires us or you to pay to replace compromised Cards as the result of (i) a Data Security Event or (ii) a security assessment conducted as the result of a Data Security Event.

"Data Protection" means the TransArmor Solution component functionality described in Section 47.2 below.

"Data Security Event" means the actual or suspected unauthorized access to or use of Cardholder Information that arises from your possession of, or access to, such Cardholder Information, which has been reported (i) to a Card Organization by you or us or (ii) to you or us by a Card Organization. All Security Event Expenses and Post Event Services Expenses that result from the same, continuous, related or repeated event, or which arise from the same, related or common nexus of facts, will be deemed to arise out of one Data Security Event.

"EMV Upgrade Costs" means the costs to upgrade payment acceptance and processing hardware and software to enable you to accept and process EMV-enabled Cards in a manner that complies with PCI DSS requirements.

"Forensic Audit Expenses" means the costs of a security assessment conducted by a qualified security assessor approved by the applicable Card Organization or the PCI DSS Council to determine the cause and extent of a Data Security Event.

"Liability Waiver" means the TransArmor Solution component functionality described in Section 47.8 below.

"Marks" means service marks or trademarks, whether provided by us, a third party, or us on behalf of a third party.

"Multi-Pay Token" means a Token that provides the option to support businesses that need to submit a financial transaction in a card-not-present situation. These tokens are unique to each merchant that uses them and are stored in place of a PAN. With these tokens, merchants can initiate new or recurring payments within their own environment instead of using the original card number. A Multi-Pay Token allows for a Token registration process, which is a non-financial transaction to request a Token to be placed within a merchant's payment page or "e-wallet" for use with future or recurring payments. It is common for eCommerce merchants to ask their customers to register by providing profile information such as name, address, and phone number to the merchant website before or upon checkout.

"PAN" means the primary account number associated with a Card.

"PCI Rapid Comply" means the TransArmor Solution component functionality described in Section 47.5 below.

"Pollutants" means, without limitation, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant (e.g., smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, asbestos, acids, alkalis, chemicals and waste). "Waste" includes, without limitation, materials to be recycled, reconditioned or reclaimed and nuclear materials.

"POS Software Monitor" means the TransArmor Solution component functionality described in Section 47.6 below.

"Post Event Services Expenses" means reasonable fees and expenses incurred by us or you (with our prior written consent), for any service (e.g., credit file monitoring or identity theft education and assistance) specifically approved by us in writing, the purpose of which is to mitigate the effects of a Data Security Event. Such services must be provided to a Cardholder whose Cardholder Information is the subject of a Data Security Event within 1 year following discovery of the Data Security Event.

"Program Year" means the period from August 1 through July 31 of each year, with the first program year being August 1, 2014 through July 31, 2015.

"Registered PAN" means the process of creating a Client specific Token for a PAN.

"Security Event Expenses" means, collectively, Card Organization Assessments, Forensic Audit Expenses, and Card Replacement Expenses; as well as, any EMV Upgrade Costs that you agree to incur in lieu of a Card Organization Assessment.

"Security Score" means the TransArmor Solution component functionality described in Section 47.4 below.

"Token" means a random numeric or other code that is assigned to replace certain Card data as described herein.

"Token Request" means the process by which you may obtain a Multi-Pay Token for Card information only without an associated, immediate Authorization required; which permits you, as a merchant, to store a Multi-Pay Token for future transactions involving your customer.

"Tokenization" means a form of data substitution that replaces sensitive payment card values with a Token, or random-number, values. Tokenization returns a Token with a Card transaction's Authorization to a merchant.

47.2. Data Protection. Data Protection is a component of the TransArmor Solution. Data Protection will encrypt Card data at your point of sale and replace the Card data with a Token. Data Protection will apply only to Card transactions sent from you to us for Authorization and settlement pursuant to this Agreement and specifically excludes electronic check transactions, closed-loop gift card transactions, STAR contactless transactions read in contactless mode, WEX transactions, Voyager transactions, or other Card transaction types that we determine are not capable of being tokenized using Data Protection. We will provide an encryption key to you to be used to encrypt Card data during transport of the Authorization request from your point of sale to our systems. During the period when a transaction is being transmitted to Processor for Authorization processing, all historical transaction data, including Card number and full magnetic stripe data (track data, and expiration date when a Card is swiped), will be encrypted. We will then generate or retrieve a unique, randomly generated Token for the Card, and this Token will be returned to you in lieu of the Card PAN data with the Authorization response. Data

Protection will be provided via one of the following options, depending upon your point of sale device(s):

- **Data Protection VeriFone Edition.** This service option is limited to those merchants that have an eligible VeriFone point of sale device and desire to activate the software or hardware based Data Protection through their VeriFone device.
- **Data Protection Base Service.** This service option provides software based Data Protection that is available to merchants that want to integrate Data Protection into their point of sale systems or device.

Data Protection can only be used with point of sale devices, gateways and/or VARs that are certified by us as eligible for use with its functionality. It is your responsibility to ensure that your point of sale equipment is eligible for use with Data Protection. If you are uncertain whether your point of sale equipment is eligible for use with Data Protection, you may contact a client service representative at: 855-395-0976.

You must comply with the following additional terms with respect to your use of Data Protection as part of the TransArmor Solution:

- a) You are required to comply with the Card Organization Rules, including taking all steps required to comply with PCI DSS. You must ensure that all third parties and software used by you in connection with your payment processing are compliant with PCI DSS. Use of Data Protection will not, on its own, cause you to be compliant or eliminate your obligations to comply with PCI DSS or any other Card Organization Rule. You must demonstrate and maintain your current PCI DSS compliance certification. Compliance must be validated either by a Qualified Security Assessor ("QSA") with corresponding Report on Compliance ("ROC") or by successful completion of the applicable PCI DSS Self-Assessment Questionnaire ("SAQ") or Report on Compliance ("ROC"), and, if applicable to your business, passing quarterly network scans performed by an approved scan vendor; all in accordance with Card Organization Rules and PCI DSS.
- b) Use of Data Protection is not a guarantee against an unauthorized breach of your computers or Merchant Systems.
- c) You must deploy Data Protection (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout your Merchant Systems, including, without limitation, replacing existing Card PANs on your Merchant Systems with Tokens. You must never retain full Card numbers, whether in electronic form or hard copy.
- d) You must use the Token in lieu of the Card number for **ALL** activities subsequent to receipt of the Authorization response associated with the transaction, including, without limitation, settlement processing, retrieval processing, Chargeback and adjustment processing and transaction reviews.
- e) If you send or receive batch files containing completed Card transaction information to or from us, you must use the service provided by us to enable such files to contain only Tokens or truncated information.
- f) You must use truncated report viewing and data extract creation within reporting tools provided by us.
- g) You are required to follow rules or procedures we may provide to you from time to time related to your use of Data Protection ("*Data Protection Rules and Procedures*"). We will provide you with advance written notice of any such rules or procedures, or changes to such rules or procedures.
- h) You will use only unaltered version(s) of Data Protection and will not use, operate or combine Data Protection or any related software, materials or documentation, or any derivative works thereof, with other products, materials or services in a manner inconsistent with the uses contemplated in this Section 47.
- i) You will promptly notify us of a breach of any terms of this Section 47.

47.3. Tokenization Limited Warranty. Processor warrants that the Token returned to you, as a result of using Data Protection, cannot be used by an unauthorized Person to initiate a financial sale transaction outside your Merchant Systems. This warranty by Processor is referred to in this Section 47 as the "*Token Limited Warranty*" and is subject to the terms and conditions set forth in this Section 47. To be eligible for the Token Limited Warranty, you must maintain a processing relationship with us and be in compliance with all the terms of this Section 47, this Agreement, and any other agreement relating to Cards eligible for Data Protection. Subject to the terms, conditions and limitations set forth in this Section 47 and this Agreement, including, without limitation, the limitation of liability and exclusion of consequential damages provisions, Processor agrees to indemnify and hold you harmless from direct damages, including third party claims, resulting from Processor's breach of the Token Limited Warranty. The express remedy for Processor's breach of the Token Limited Warranty set forth in this paragraph constitutes Processor's entire liability and your sole and exclusive remedy for Processor's breach of the Token Limited Warranty.

The Token Limited Warranty is void if (i) you use Data Protection in a manner not contemplated by, or in violation of, this Section 47, this Agreement, or any other agreement relating to Cards eligible for Data Protection; or (ii) you are grossly negligent or engage in intentional misconduct.

47.4. Security Score. Security Score is a component of the TransArmor Solution that is made available to you from a third party through us. Security Score will provide you with access to functionality that generates a scaled numerical value score associated with your security risks based on our evaluation of data security elements such as your industry type, PCI DSS classification level, PCI DSS compliance requirements, PCI DSS compliance fulfillment status and scanning results.

47.5. PCI Rapid Comply®. PCI Rapid Comply is a component of the TransArmor Solution that is made available to you from a third party through us. PCI Rapid Comply will provide you with access to on-line PCI DSS SAQs that you can use to validate how well you meet PCI DSS requirements; including, if applicable, access to Internet based scanning services.

You must comply with the following terms with respect to your use of the PCI Rapid Comply component as part of the TransArmor Solution:

47.5.1. Access. You acknowledge and agree that, although you will generally have access to PCI Rapid Comply functionality 24 hours per day, 7 days per week (except in the event of a force majeure event), access to customer accounts and certain other services may not be available on a continuous basis, and PCI Rapid Comply will be subject to periodic downtime to permit, among other things, hardware and/or software maintenance to take place.

47.5.2. Data Disposal. From time-to-time, your account data or information, which is over 180 days old, may be deleted, purged or otherwise disposed of from PCI Rapid Comply. In addition, only a limited amount of your account data or information may be available online. Therefore, you are advised to print and download your PCI Rapid Comply account data and information on a periodic basis for record keeping purposes. You specifically agree that we are authorized to delete or dispose of the data or information gathered in connection with your use of PCI Rapid Comply from time-to-time and will not be responsible for the deletion or disposal of your data or information from PCI Rapid Comply. You assume full responsibility to backup and/or otherwise protect your PCI Rapid Comply data against loss, damage or destruction prior to and during all phases of your use of PCI Rapid Comply, and to take appropriate measures to respond to any potential adverse impact to your Merchant Systems or disruption of services involved with PCI Rapid Comply.

47.6. POS Software Monitor. POS Software Monitor is a component of the TransArmor Solution that is made available to you from a third party through us. POS Software Monitor is a software application that will provide you with: (i) file integrity monitoring designed to detect malicious software tampering with your Merchant System files; (ii) anti-virus software designed to defend your Merchant Systems against malicious software; (iii) Cardholder and personal information scanning designed to detect Card PANs or other sensitive Card data stored insecurely on your Merchant Systems; (iv) point of sale system scanning designed to identify which software (including version) you are using to make PCI DSS compliance validation easier; (v) unauthorized device monitoring which monitors your local network and alerts you to devices that are unrecognized or that you have not previously approved; (vi) security configuration monitoring which is designed to check your Merchant Systems' security settings to assist you in configuring them to meet PCI DSS requirements; (vii) a security health check, which is designed to check whether your Merchant Systems are running essential security functions; and (viii), if you have an on-line business, a "Trusted Commerce Seal" from our third party vendor that can be displayed on your web site to reassure your customers that you are committing to protecting your customers' Card data by complying with PCI DSS.

You must comply with the following additional terms with respect to your use of the POS Software Monitor component of the TransArmor Solution:

47.6.1. Software as a Service. Subject to the payment of applicable fees and the terms of this Section 47, we will provide you with the POS Software Monitor software application, including all updates, upgrades, new versions, and other enhancements or improvements thereto (the "*POS Monitor Software*"). You hereby authorize us or our vendors to begin scanning your Merchant Systems immediately upon your installation and/or deployment of the POS Monitor Software. The POS Monitor Software can only be used with certain computer operating systems. It is your responsibility to ensure that your Merchant Systems have an operating system that will allow you to install and/or deploy the POS Monitor Software and use the POS Software Monitor functionality.

47.6.2. IP Address, Data Retrieval and Transmission; Scanning Indemnification. You hereby grant us or our vendors, for the intended purpose of the POS Software Monitor application, the right to retrieve, transmit and monitor any dynamic or static IP address and other data (including, without limitation, policy and system settings, point of sale system type, version, security event logs, or other related information) from any of the computers and systems on which you loaded, deployed, or otherwise installed the POS Monitor Software within your Merchant Systems. You will not, in any event or in any manner, impede our or our vendors' retrieval or transmission of such IP addresses or other data when using POS Software Monitor functionality. You hereby assume full responsibility for all damages and losses, of any nature, that we or our vendors may incur that result from you impeding the retrieval and transmission of the IP addresses and other data described in the preceding sentence. You further agree to defend, indemnify and hold us and our vendors harmless from any third party claims made that result from you impeding such processes.

47.6.3. IP Address Scanning and Log Monitoring. You acknowledge and understand that loading, deploying or otherwise installing the POS Monitor Software on your Merchant Systems will enable static or dynamic IP addresses associated with your computers or Merchant Systems to be scanned. You further acknowledge that such IP addresses may be for external network devices which protect the host system on which POS Monitor Software for the POS Software Monitor is loaded, deployed or otherwise installed. You hereby grant us and our vendors (i) the right to access and scan the IP addresses associated with the systems on which you load, deploy or otherwise install POS Software Monitor, whether they are dynamic or static IP addresses (the "*Authorized IP Addresses*"); (ii) the right and authority to gather and transmit system data, including point of sale system information, to us or our vendors; and (iii) the right and authority to collect, transmit and review security event logs from the systems on which the POS Monitor Software is deployed. You further agree to provide us or our vendors reasonable assistance to enable such access and scanning. You understand that your failure to cooperate with the foregoing requirements may significantly impair POS Software Monitor application's functionality.

47.6.4. Updates; Indemnification. You acknowledge and understand that the POS Software Monitor application will allow us or our vendors, in our sole discretion, to automatically install, download, and/or deploy updated and/or new components ("*update process*") in connection with the POS Monitor Software, which may include a new version of the POS Software Monitor application itself. You will not, in any event or in any manner, impede the update process. You hereby assume full responsibility for all damages and losses, of any nature, that we or our vendors may incur that result from you impeding the update process. You further agree to defend, indemnify and hold us and our vendors harmless from any third party claims made that result from you impeding the update process.

47.6.5. Authorized Disclosure. You acknowledge that, in conjunction with providing the POS Monitor Software, certain "pass" or "fail" determinations will be made regarding your online security and the electronic vulnerability of your IP addresses. You hereby authorize us or our vendors to share these "pass/fail" results, point of sale data, and other information collected during the scans conducted using POS Software Monitor to the Card Organizations, PCI DSS Council or any Card Organization sponsor bank.

47.6.6. Scanning Authority and Obligations. You represent and warrant that you have full right, power, and authority to provide us or our vendors with consent for the TransArmor Solution to scan for vulnerabilities the IP address, URL and/or domain names identified to us by you for scanning, whether electronically or by any other means; and whether during initial enrollment or thereafter. As applicable, you will obtain all consents and authorizations from any third parties that are necessary for us or our vendors to perform the TransArmor Solution, including, without limitation, consents and authorizations from third party datacenters, co-locations and hosts; and we will not be required to execute agreements with any such third parties. You agree to defend, indemnify and hold us and our vendors harmless from any third party claim that such access was not authorized. You may use the TransArmor Solution and accompanying portals only to scan IP addresses, URLs and domain names owned by and registered to you. You understand that your failure to provide a complete list of and complete access to your IP addresses will significantly impair the scanning provided by the TransArmor Solution and may result in incomplete or inaccurate results. You agree that the TransArmor Solution, including, without limitation, the component services described in this Section 47, functionality and contents, constitute our confidential information under this Agreement, and your use and/or access to the TransArmor Solution is subject to the confidentiality terms in this Agreement.

47.6.7. Scanning Risks. You acknowledge and understand that accessing, retrieving, transmitting, and scanning IP addresses and other data involves inherent risks; including, without limitation, risks related to system or network performance and availability, and data corruption. You assume full responsibility to backup and/or otherwise protect your data on your Merchant Systems against loss, damage or destruction, and to take appropriate measures to respond to any potential adverse impact to your Merchant Systems or disruption of service that may occur due to the TransArmor Solution' scanning activities.

47.6.8. Trusted Commerce® Seal. In the event you utilize the Trusted Commerce Seal as part of the TransArmor Solution, (i) you may only download and display a single, unaltered copy of the Trusted Commerce Seal as specifically provided in its HTML code for the purpose of identifying you and your website as associated with it; (ii) you may not block, alter or otherwise manipulate the Trusted Commerce Seal's code or HTML links associated with the Seal to prevent or modify communication with the systems or servers associated with the Trusted Commerce Seal; (iii) you may not use the Trusted Commerce Seal on any websites, URLs or Merchant Systems that are not specifically associated with and linked to your use of the TransArmor Solution; and (iv) you authorize us, or our third party vendors, to place certain information within your Trusted Commerce Seal that you provide to us during registration for the TransArmor Solution (including, without limitation, capturing, using or disclosing IP addresses of visitors to your website) for purposes of (a) preparing reports about the use of the Trusted Commerce Seal, (b) improving the utility of the Seal or creating new services, or (c) complying with a court order, law or requirement of any government agency or Card Organization.

47.7. Use of Portals. Your use of our, or our third parties', portals, reports, scanning and other services in connection with the TransArmor Solution is subject to the following restrictions:

- a) The TransArmor Solution, portals and reports may only be used for the stated purposes in this Section 47 and for your internal business purposes in accordance with Applicable Law (including any export control laws);
- b) The TransArmor Solution and portals utilized for scanning may only scan IP addresses, URLs and domain names owned by and registered to you;
- c) You will limit access to the TransArmor Solution, portals and reports to only those employees and/or contractors who have an obligation of confidentiality with you and who have a requirement for such access on a "need to know" basis – you will be solely responsible for disabling portals or accounts for those employees and/or contractors who no longer require access to the TransArmor Solution, portals and reports;
- d) You will promptly notify us of any unauthorized use of the TransArmor Solution, portals and reports;
- e) You will notify us immediately if you know, suspect or have reason to know that you or anyone you have granted access to the TransArmor Solution violated any provision of this Section 47; and
- f) You will not share your personal information (e.g., Settlement Account, Tax ID or MID) with a third party so they may gain access to the TransArmor Solution.

47.8. Liability Waiver. Liability Waiver is a component of the TransArmor Solution. Liability Waiver helps reduce some of the financial burden you may experience from liabilities that arise if a Data Security Event occurs when you are using the TransArmor Solution. Subject to the terms of this Section 47, Liability Waiver provides relief for some of the liabilities and/or costs associated with forensic investigations, Card Organization fines, or EMV Upgrade Costs required by the Card Organizations that you may incur or be liable for due to a Data Security Event.

You must comply with the following additional terms with respect to your use of the Liability Waiver component of the TransArmor Solution:

47.8.1. Data Security Event Expenses. Subject to the limitations, terms and conditions of this Section 47, we agree to waive a portion of the monetary liability (the "Liability Waiver") that you have to us and/or the Card Organizations under this Agreement for Security Event Expenses and Post Event Services Expenses resulting from a Data Security Event that is first discovered by you, us or the Card Organizations once this Section 47 is in effect. Except for the portion of the monetary liability you have to us and/or the Card Organizations under this Agreement that is waived as described in this Section 47, (i) you remain responsible for your performance of all of the data security

obligations described in this Agreement; and (ii) we do not otherwise waive any of the obligations, liabilities, rights or remedies set forth in this Agreement or this Section 47 that are associated with a Data Security Event (including, without limitation, our right to terminate this Agreement or this Section 47).

47.8.2. Maximum Amount Waived Under Liability Waiver. The maximum amount we will waive in connection with your financial liability to us or the Card Organizations for all Security Event Expenses and Post Event Services Expenses that arise from Data Security Events first discovered during a Program Year is:

- \$100,000.00 maximum for each MID you have with us; and
- \$500,000.00 aggregate maximum for all of your MIDs with us.

Further, the maximum amount of your financial liability during any Program Year that we will waive under this Section 47 for EMV Upgrade Costs is:

- \$10,000.00 maximum for each MID you have with us; and
- \$25,000.00 aggregate maximum for all of your MIDs with us.

To be clear, the limits for EMV Upgrade Costs constitute part of the limits for Security Event Expenses and Post Event Services Expenses described in this paragraph, and are not in addition to those amounts.

47.8.3. Duties Related to a Data Security Event. Upon the occurrence of a Data Security Event:

- a) You will contact us immediately and, as directed by us and/or required under this Agreement, investigate, perform remedial actions and cooperate fully with us.
- b) You will not take any action, or fail to take any action, which prejudices our rights under this Section 47 or this Agreement without our prior written consent.
- c) Under all circumstances, you will not admit any liability, assume any financial obligation, pay any money, or incur any expense in connection with any Data Security Event, unless due under our Agreement, without our prior written consent; and, if you do, it will be at your own expense.

47.8.4. Liability Waiver Exclusions. The Liability Waiver described in this Section 47 will not apply to:

- a) Any Security Event Expenses or Post Event Services Expenses arising out of or resulting, directly or indirectly, from any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of Applicable Law, committed by you or your employees, officers, agents or directors;
- b) Any Security Event Expenses or Post Event Services Expenses arising out of or resulting from a claim, suit, action or proceeding against you that is brought by or on behalf of any federal, state or local government agency;
- c) Any Data Security Event that you experience following a prior Data Security Event, unless you were certified as PCI DSS compliant by a QSA following the earlier Data Security Event and prior to the next Data Security Event;
- d) Any Data Security Event arising out of you allowing any party (other than your employees, us, or our vendors) to hold or access Cardholder Information other than as allowed under this Agreement or this Section 47;
- e) You if (i) you are categorized by any Card Organization as a "Level 1" merchant, or (ii) you process more than 6,000,000 Card transactions during the 12-month period prior to the date this Section 47 became effective;
- f) Any expenses, other than Security Event Expenses or Post Event Services Expenses, arising out of or resulting, directly or indirectly, from a Data Security Event, including, without limitation, expenses incurred to bring you into compliance with the PCI DSS requirements or any similar security standard;
- g) Any Security Event Expenses or Post Event Services Expenses arising out of or resulting, directly or indirectly, from physical injury, sickness, disease, disability, shock or mental anguish sustained by any Person, including, without limitation, required care, loss of services or death at any time resulting therefrom;
- h) Any Security Event Expenses or Post Event Services Expenses arising out of or resulting, directly or indirectly, from any of the following:
 - fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused, or
 - strikes or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions;
- i) Any Security Event Expenses or Post Event Services Expenses arising out of or resulting, directly or indirectly, from the presence of or the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants, or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of Pollutants;
- j) Your failure to comply with this Section 47 or this Agreement in connection with a Data Security Event;
- k) Any Data Security Event occurring before the effective date of this Section 47;
- l) Any expenses incurred for, or as a result of, regularly scheduled, recurring or routine security assessments, regulatory examinations, inquiries or compliance activities;
- m) Any fines or assessment levied against you that are not the direct result of a Data Security Event;
- n) Any Data Security Event arising from any software that is not within your control; provided, however, this exclusion will not apply to a Data Security Event arising out of a virus, Trojan horse or other software used by a third party to obtain fraudulent access to data on your Merchant Systems or to collect data in transit to or from your Merchant Systems; or

- o) Any Data Security Event arising out of a breach in a computer system in which you and other merchants, with no legal relationship to one another, have hosted accounts or share a common database, operating system or software applications.

47.9. Fees. Client will pay Processor the fee for use of the TransArmor Solution (the "TransArmor Solution Fee") as set forth in the Application.

Payment of the TransArmor Solution Fee does not affect your compliance responsibilities and obligations under this Agreement.

47.10. TransArmor Solution Does Not Guarantee Compliance or Security. You acknowledge and agree that your use of the TransArmor Solution does not guarantee your compliance with any of the rules or security standards established in this Agreement, by the Card Organizations or Applicable Law. You further acknowledge and agree that your use of the TransArmor Solution does not guarantee the security of your IP addresses or that your Merchant Systems are secure from unauthorized access. You are responsible for establishing and maintaining your own security policies and procedures, and for compliance with the Card Organization Rules and security standards, including any obligation to notify a Card Organization and/or us of any suspected breach of your Merchant Systems or any suspicious transactions or fraudulent activity. **You are responsible for any fines or penalties imposed by any Card Organization and any other expenses and liabilities pursuant to this Agreement, less only the relief to which you may be entitled under the Liability Waiver provisions of this Section 47.** In the event of a suspected breach of your Merchant Systems or any suspicious transactions or fraudulent activity, you (i) authorize us to share the details of any questionnaire or compliance report with the Card Organizations; (ii) grant us and our vendors the right to access and perform a scan of the IP addresses identified within your profile; and (iii) authorize us to take any and all other actions allowed pursuant to the terms of this Agreement. You agree you are responsible for, and hereby authorize payment for, any additional data security scans that may be required following a Data Security Event. You further agree to cooperate with an investigation into such matter to include complying with the Card Organization and us pursuant to the terms of this Agreement.

USE OF THE TRANSARMOR SOLUTION IS NOT A GUARANTY OF DATA SECURITY AND THERE IS NO GUARANTY IT WILL PREVENT A DATA SECURITY EVENT OR OTHER DATA COMPROMISE. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 47, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES (EXPRESS OR IMPLIED) THAT USE OF THE TRANSARMOR SOLUTION WILL DETECT EVERY VULNERABILITY (IF ANY) ON YOUR COMPUTERS, NETWORKS OR MERCHANT SYSTEMS; OR THAT OUR EVALUATIONS, SUGGESTED SOLUTIONS OR ADVICE WILL BE ERROR-FREE OR COMPLETE. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 47, YOU AGREE THAT WE WILL NOT BE RESPONSIBLE OR LIABLE TO YOU FOR THE ACCURACY OR USEFULNESS OF ANY INFORMATION PROVIDED BY US, OR THIRD PARTIES THROUGH US, NOR WILL WE BE RESPONSIBLE OR LIABLE TO YOU FOR YOUR USE OF ANY SUCH INFORMATION, IN CONNECTION WITH THE TRANSARMOR SOLUTION.

47.11. Data Collection. In the course of providing the TransArmor Solution, we may collect information relating to various activities on your network and/or Merchant Systems (such information, the "Data"); including, without limitation, network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horse information. You grant us, and we retain, the right to use the Data or aggregations thereof for any reasonable and lawful purpose.

47.12. Intellectual Property License.

47.12.1. Grant of License. Subject to the terms of this Section 47, we hereby grant to you a non-exclusive, non-transferable, non-assignable, revocable sub-license during the term of this Agreement to access and use the TransArmor Solution, its components, associated software, firmware or hardware, POS Monitor Software, Trusted Commerce Seal, end-user documentation and associated Marks, whether provided by us or a third party through us, in the United States on your computers, networks or Merchant Systems for their intended purpose. The foregoing license will automatically be revoked, and your right to access or use the TransArmor Solution will cease, upon termination, expiration or suspension of this Agreement or this Section 47 for any reason.

47.12.2. Copyrighted Material Restrictions. The TransArmor Solution and associated websites contain copyrighted material, Marks and other proprietary information, including, without limitation, text, software, photos, videos and graphics. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works from, or in any way exploit any of the TransArmor Solution and associated website content, in whole or in part, whether copyrighted, subject to Marks or otherwise subject to proprietary rights. You may download copyrighted material solely for your own internal use in connection with the TransArmor Solution as contemplated under this Section 47. Except as expressly provided by copyright law, you may not copy, redistribute or publish anything related to the TransArmor Solution without our express, written permission (or without the express, written permission of the applicable owner). You may not remove, delete, change or otherwise alter any author attribution or copyright notices that are in any way associated with the TransArmor Solution.

47.12.3. General License Limitations. You will not (i) decompile, reverse engineer, disassemble, or otherwise derive the source code from any of the components of the TransArmor Solution benefits or portals, including the software or firmware embedded therein; (ii) modify, enhance, translate, alter, tamper with, upgrade or create derivatives works of the portals, software, firmware or documentation associated with the TransArmor Solution; (iii) distribute, lease, license, sell, assign, sublicense or otherwise disseminate or transfer your rights to use any portion of the TransArmor Solution to any third party; or (iv) strip out or alter any Mark, copyright, patent, trade secret, ownership or any other proprietary or intellectual property notices, legends, warnings, markings or indications on or within any components, portals, software, firmware or documentation associated with the TransArmor Solution, or attempt (i), (ii), (iii) and/or (iv) above. Further, you will not file any action, in any forum that challenges the ownership any of the TransArmor Solution, Processor Technology or Processor IP. Failure to comply with this provision will constitute a material breach of this Section 47 and this Agreement. In the event you challenge our, or our third parties', ownership of the TransArmor Solution or any component thereof, we may immediately terminate this Section 47, this Agreement and/or your access to and use of the TransArmor Solution.

47.12.4. Processor Technology and IP; No Other Rights. All technology provided or used by us, our licensors, vendors or other third parties in connection with performing the TransArmor Solution, including, without limitation, software, firmware, portals, data processing systems (each of the foregoing, whether in object or source code form), report templates, documentation and materials (collectively, "Processor Technology"), and any of our, our licensors', vendors' or other third parties' patents, Marks, copyrights, trade secrets and other intellectual property (collectively, "Processor IP"), and any derivative works of or modifications to the Processor Technology or Processor IP, constitute the sole and exclusive property of, and is valuable, confidential and proprietary to, us, our licensors, vendors or other third parties. This Section 47 does not otherwise grant you with any other right, interest, claim, title or license (whether express or implied, by estoppel or otherwise) in or to the TransArmor Solution, Processor Technology or Processor IP (whether ours or a third party's); and all rights with respect thereto that we do not expressly grant to you in this Section 47 are deemed withheld.

47.13. Disclaimers; Liability Exclusions. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 47, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES (EXPRESS OR IMPLIED) WITH RESPECT TO THE TRANSARMOR SOLUTION REGARDING ITS MERCHANTABILITY, TITLE, NON-INFRINGEMENT, ACCURACY, ERROR-FREE OPERATION, ACCESSABILITY, OR FITNESS FOR A PARTICULAR PURPOSE; ALL OF WHICH ARE EXPRESSLY DISCLAIMED. THE TRANSARMOR SOLUTION IS PROVIDED TO YOU "AS-IS" AND "WITH ALL FAULTS." For clarity, except as specifically described in this Section 47 with respect to the Liability Waiver, the terms related to limitation of liability and exclusion of consequential damages in this Agreement will apply to this Section 47.

You acknowledge and agree that we will not be liable to you for any claims, damages, losses, obligations, costs or expenses or other liability arising directly or indirectly from or otherwise concerning (i) any termination, suspension, delay or disruption of service (including billing for a service) related to the Internet, any common carrier or any third party service provider; (ii) any failure, disruption or malfunction of any of the TransArmor Solution, the Internet, or any communications network, facility or equipment beyond our or a third party's reasonable control, whether or not attributable to one or more common carriers; (iii) your failed attempts to access the TransArmor Solution or to complete transactions processed using the TransArmor Solution or its component services; (iv) any failure to transmit, obtain or collect data, any failures due to human, machine or software errors, or failures due to faulty or erroneous data input by you; (v) any damages or losses resulting from any delays arising in connection with use of the TransArmor Solution; or (vi) any loss of or inability to access data or information stored or generated by the TransArmor Solution.

47.14. General Termination. Our obligations to provide the TransArmor Solution is subject to our ability to obtain and maintain any and all required governmental licenses, permits or other authorizations, and our ability to comply with any and all laws, regulations, orders and other governmental directives which may be imposed related to the TransArmor Solution. We may terminate this Section 47 or any of the TransArmor Solution at any time for any reason.

48. Special Provisions Regarding Online PCI Validation Access Service

The terms and conditions set forth in this Section govern the provision of the Online PCI Validation Access Service ("PVA Service"). The PVA Service is provided to you by Processor and not Bank. You acknowledge that Bank is not liable to you in any way with respect to the PVA Service. For the purposes of this Section 48, the words "we," "our" and "us" refer only to the Processor and not the Bank. The PVA Service, transactions processed, and other matters contemplated under this Section 48 are subject to the terms and conditions of the rest of this Agreement, as applicable, except to the extent the terms of this Section 48 directly conflict with another provision of this Agreement, in which case the terms of this Section 48 will control.

48.1. PVA Service. If you are a Level 4 Merchant, then you may elect to use the PVA Service. The PVA Service will provide you with access to on-line PCI DSS Self-Assessment Questionnaires (SAQs) that you can use to validate how well you meet PCI DSS requirements; including, if applicable, access to Internet based scanning services. **The PVA Service does not eliminate your PCI DSS and other data security compliance obligations or liabilities set forth in this Agreement.**

48.2. Access. You acknowledge and agree that, although you will generally have access to the PVA Service 24 hours per day, 7 days per week (except in the event of a force majeure event), access to customer accounts and certain other services may not be available on a continuous basis, and the PVA Service will be subject to periodic downtime to permit, among other things, hardware and/or software maintenance to take place.

48.2.1. Data Disposal. From time-to-time, your account data or information, which is over 180 days old, may be deleted, purged or otherwise disposed of from the PVA Service. In addition, only a limited amount of your account data or information may be available online. Therefore, you are advised to print and download your PVA Service account data and information on a periodic basis for record keeping purposes. You specifically agree that we are authorized to delete or dispose of the data or information gathered in connection with your use of the PVA Service from time-to-time and will not be responsible for the deletion or disposal of your data or information from the PVA Service. You assume full responsibility to backup and/or otherwise protect your PVA Service data against loss, damage or destruction prior to and during all phases of your use of PVA Service, and to take appropriate measures to respond to any potential adverse impact to your Merchant Systems or disruption of services involved with PVA Service.

48.3. Use of Portals. Your use of our, or our third parties', portals, reports, scanning and other services in connection with the PVA Service is subject to the following restrictions:

- a) The PVA Service, portals and reports may only be used for the stated purposes in this Section 48 and for your internal business purposes in accordance with Applicable Law (including any export control laws);

- b) You will limit access to the PVA Service, portals and reports to only those employees and/or contractors who have an obligation of confidentiality with you and who have a requirement for such access on a "need to know" basis – you will be solely responsible for disabling portals or accounts for those employees and/or contractors who no longer require access to the PVA Service, portals and reports;
- c) You will promptly notify us of any unauthorized use of the PVA Service, portals and reports;
- d) You will notify us immediately if you know, suspect or have reason to know that you or anyone you have granted access to the PVA Service violated any provision of this Section 48; and
- e) You will not share your personal information (e.g., Settlement Account, Tax ID or MID) with a third party so they may gain access to the PVA Service.

48.4. Fees. Client will pay Processor the fee for use of the PVA Service as set forth in the Application. Payment of the fees for the PVA Service does not affect your compliance responsibilities and obligations under this Agreement.

48.5. The PVA Service Does Not Guarantee Compliance or Security. You acknowledge and agree that your use of the PVA Service does not guarantee your compliance with any of the rules or security standards established in this Agreement, by the Card Organizations or Applicable Law. You further acknowledge and agree that your use of the PVA Service does not guarantee the security of your IP addresses or that your Merchant Systems are secure from unauthorized access. You are responsible for establishing and maintaining your own security policies and procedures, and for compliance with the Card Organization Rules and security standards, including any obligation to notify a Card Organization and/or us of any suspected breach of your Merchant Systems or any suspicious transactions or fraudulent activity. **You are responsible for any fines or penalties imposed by any Card Organization and any other expenses and liabilities pursuant to this Agreement.** In the event of a suspected breach of your Merchant Systems or any suspicious transactions or fraudulent activity, you (i) authorize us to share the details of any questionnaire or compliance report with the Card Organizations; (ii) grant us and our vendors the right to access and perform a scan of the IP addresses identified within your profile; and (iii) authorize us to take any and all other actions allowed pursuant to the terms of this Agreement. You agree you are responsible for, and hereby authorize payment for, any data security scans that may be required following a Compromised Data Event. You further agree to cooperate with an investigation into such matter to include complying with the Card Organization and us pursuant to the terms of this Agreement.

USE OF THE PVA SERVICE IS NOT A GUARANTY OF DATA SECURITY AND THERE IS NO GUARANTY IT WILL PREVENT A COMPROMISED DATA EVENT OR OTHER DATA COMPROMISE. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 48, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES (EXPRESS OR IMPLIED) THAT USE OF THE PVA SERVICE WILL BE ERROR-FREE OR COMPLETE. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE OR LIABLE TO YOU FOR THE ACCURACY OR USEFULNESS OF ANY INFORMATION PROVIDED BY YOU, US, OR THIRD PARTIES THROUGH US, NOR WILL WE BE RESPONSIBLE OR LIABLE TO YOU FOR YOUR USE OF ANY SUCH INFORMATION, IN CONNECTION WITH THE PVA SERVICE.

48.6. Data Collection. In the course of providing the PVA Service, we may collect information relating to various activities on your network and/or Merchant Systems (such information, the "Data"); including, without limitation, network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horse information. You grant us, and we retain, the right to use the Data or aggregations thereof for any reasonable and lawful purpose.

48.7. Intellectual Property License.

48.7.1. Grant of License. Subject to the terms of this Section 48, we hereby grant to you a non-exclusive, non-transferable, non-assignable, revocable sub-license during the term of this Agreement to access and to use the PVA Service, end-user documentation and associated Marks, whether provided by us or a third party through us, in the United States on your computers, networks or Merchant Systems for their intended purpose. The foregoing license will automatically be revoked, and your right to access or use the PVA Service will cease, upon termination, expiration or suspension of this Agreement or this Section 48 for any reason.

48.7.2. Copyrighted Material Restrictions. The PVA Service and associated websites contain copyrighted material, Marks and other proprietary information, including, without limitation, text, software, photos, videos and graphics. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works from, or in any way exploit any of the PVA Service and associated website content, in whole or in part, whether copyrighted, subject to Marks or otherwise subject to proprietary rights. You may download copyrighted material solely for your own internal use in connection with the PVA Service as contemplated under this Section 48. Except as expressly provided by copyright law, you may not copy, redistribute or publish anything related to the PVA Service without our express, written permission (or without the express, written permission of the applicable owner). You may not remove, delete, change or otherwise alter any author attribution or copyright notices that are in any way associated with the PVA Service.

48.7.3. General License Limitations. You will not (i) decompile, reverse engineer, disassemble, or otherwise derive the source code from the PVA Service, including the software embedded therein; (ii) modify, enhance, translate, alter, tamper with, upgrade or create derivatives works of the portals, software or documentation associated with the PVA Service; (iii) distribute, lease, license, sell, assign, sublicense or otherwise disseminate or transfer your rights to use any portion of the PVA Service to any third party; or (iv) strip out or alter any Mark, copyright, patent, trade secret, ownership or any other proprietary or intellectual property notices, legends, warnings, markings or indications on or within any components, portals, software or documentation associated with the PVA Service, or attempt (i), (ii), (iii) and/or (iv) above. Further, you will not file any action, in any forum that challenges the ownership any of the PVA Service, Processor Technology or Processor IP. Failure to comply with this provision will constitute a material breach of this Section 48 and this Agreement. In the event you challenge our, or our third

parties', ownership of the PVA Service, we may immediately terminate this Section 48, this Agreement and/or your access to and use of the PVA Service.

48.7.4. Processor Technology and IP; No Other Rights. All technology provided or used by us, our licensors, vendors or other third parties in connection with performing the PVA Service, including, without limitation, software, firmware, portals, data processing systems (each of the foregoing, whether in object or source code form), report templates, documentation and materials (collectively, "Processor Technology"), and any of our, our licensors', vendors' or other third parties' patents, Marks, copyrights, trade secrets and other intellectual property (collectively, "Processor IP"), and any derivative works of or modifications to the Processor Technology or Processor IP, constitute the sole and exclusive property of, and is valuable, confidential and proprietary to, us, our licensors, vendors or other third parties. This Section 48 does not otherwise grant you with any other right, interest, claim, title or license (whether express or implied, by estoppel or otherwise) in or to the PVA Service, Processor Technology or Processor IP (whether ours or a third party's); and all rights with respect thereto that we do not expressly grant to you in this Section 48 are deemed withheld.

48.8. Disclaimers; Liability Exclusions. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 48, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES (EXPRESS OR IMPLIED) WITH RESPECT TO THE PVA SERVICE REGARDING ITS MERCHANTABILITY, TITLE, NON-INFRINGEMENT, ACCURACY, ERROR-FREE OPERATION, ACCESSABILITY, OR FITNESS FOR A PARTICULAR PURPOSE; ALL OF WHICH ARE EXPRESSLY DISCLAIMED. THE PVA SERVICE IS PROVIDED TO YOU "AS-IS" AND "WITH ALL FAULTS."

You acknowledge and agree that we will not be liable to you for any claims, damages, losses, obligations, costs or expenses or other liability arising directly or indirectly from or otherwise concerning (i) any termination, suspension, delay or disruption of service (including billing for a service) related to the Internet, any common carrier or any third party service provider; (ii) any failure, disruption or malfunction of any of the PVA Service, the Internet, or any communications network, facility or equipment beyond our or a third party's reasonable control, whether or not attributable to one or more common carriers; (iii) your failed attempts to access the PVA Service or to complete transactions processed using the PVA Service; (iv) any failure to transmit, obtain or collect data, any failures due to human, machine or software errors, or failures due to faulty or erroneous data input by you; (v) any damages or losses resulting from any delays arising in connection with use of the PVA Service; or (vi) any loss of or inability to access data or information stored or generated by the PVA Service.

48.9. General Termination. Our obligations to provide the PVA Service is subject to our ability to obtain and maintain any and all required governmental licenses, permits or other authorizations, and our ability to comply with any and all laws, regulations, orders and other governmental directives which may be imposed related to the PVA Service. This Section 48 is solely for the benefit of the parties hereto and no other person or entity will have any right, interest or claim under or based upon this Section 48 or any of the representations, warranties, covenants or agreements contained herein. We may terminate this Section 48 at any time for any reason.

48.10. Effect on Portal Terms and Conditions. As part of the enrollment process on the portal for the PVA Service, you will be directed to a TransArmor Solution portal where you will be presented with terms and conditions for TransArmor Solution, which are intended to confirm, not supersede or replace, the terms of this Section 48, and notwithstanding those TransArmor Solution terms and conditions, the terms of this Section 48 will apply for your use of the PVA Service.

49. Choice of Law; Venue; Waiver of Jury Trial

49.1. Choice of Law. Our Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina (without regard to its choice of law provisions).

49.2. Venue. The exclusive venue for any actions or claims arising under or related to this Agreement shall be in the courts of the State of North Carolina and the United States for the Western District of North Carolina, Charlotte Division, located in Charlotte, North Carolina.

49.3. Waiver of Jury Trial. ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

50. Other Terms

50.1. Force Majeure. No party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by (i) fire, flood, earthquake, elements of nature or other acts of God; (ii) any terrorist attacks or outbreak or escalation of hostilities, war, riots or civil disorders in any country; (iii) any act or omission of the other party or any government authority; (iv) any labor disputes (whether or not employees' demands are reasonable or within the party's power to satisfy); or (v) the nonperformance by a Person for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications or other equipment. In any such event, the non-performing party shall be excused from any further performance and observance of the obligations so affected only for as long as such circumstances prevail and such party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable. Notwithstanding anything to the contrary in this Section, your failure to receive payment or funds from a Person shall not excuse the performance of your obligations to us under this Agreement.

50.2. Compliance with Laws. In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it. To the extent that your obligations under this Agreement would cause you to violate a provision Applicable Law, your obligation to comply with such law or regulation will prevail. You shall be solely responsible for (i) determining which laws and regulations apply to your activities under this Agreement and (ii) maintaining Servicers' compliance with all such laws and regulations. You further agree to cooperate and provide information requested by Servicers, as Servicers determine necessary, to facilitate Servicers' compliance with any

provision of Applicable Law, including, without limitation, the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"). You further acknowledge and agree that you will not use the Services for transactions prohibited by Applicable Law (including, but not limited to, laws enforced by OFAC) or the Card Organization Rules, including, without limitation, transactions prohibited for alcoholic beverages, tobacco products, gambling, Internet gambling (for example, those transactions prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq., as may be amended from time to time), drugs, weapons, adult-content material, adult web sites, services or entertainment or transactions involving any individual or entity listed on the OFAC Specially Designated Nationals and Blocked Persons List (available at www.treas.gov/ofac) or the U.S. Department of State's Terrorist Exclusion List (available at www.state.gov). If the Services are used in connection with the sale of Internet, mobile or interactive gaming services or applications that use gambling like mechanics for non-gambling purposes, such as casino style social gaming, you must not award prizes of monetary value or prizes of any kind or offer any incentives that would invoke state or federal regulations governing online gambling, online lottery, lottery, sweepstakes or contests of chance.

50.3. Notices. Except as otherwise specifically provided, all notices and other communications required or permitted hereunder (other than those involving normal operational matters relating to the processing of Card transactions) shall be in writing, and if to you, at your address appearing in the Application. If to us, at our address appearing in Section A.4 of Part IV of the Program Guide, with a copy to Attention: General Counsel's Office, 150 North College St., NC1-028-15-01, Charlotte, North Carolina 28255. Notices shall be deemed to have been given (i) if sent by mail, upon the earlier of five (5) days after mailing or when actually received, (ii) if sent by courier, when delivered, and (iii) if sent by facsimile machine, when the courier confirmation copy is actually received. Notice given in any other manner shall be effective when actually received. Notices sent to your last known address, as indicated in our records, shall constitute effective notice to you under this Agreement.

50.4. Headings; Rules of Interpretation. The headings contained in this Agreement are for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this Agreement. Each definition used in this Agreement includes the singular and the plural. Use of either the masculine or feminine includes the other unless expressly stated otherwise, and reference to the neuter gender includes the masculine and feminine where appropriate. Reference to Applicable Law means such law or regulation as amended as of the time of determination and includes any successor laws and regulations. Except as otherwise stated, reference to Sections means the Sections of this Agreement. The words "including" or "includes" or similar terms used herein shall be deemed to be followed by the words "without limitation", whether or not such additional words are actually set forth herein. Text enclosed in parentheses has the same effect as text that is not enclosed in parentheses.

50.5. Severability. The parties intend every provision of this Agreement to be severable. If any part of this Agreement is not enforceable, the remaining provisions shall remain valid and enforceable.

50.6. Entire Agreement; Waiver. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter thereof, and supersedes any previous agreements and understandings. A party's waiver of a breach of any term or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or another term or condition.

50.7. Amendment. We may modify any provision of this Agreement by providing written notice to you. You may choose not to accept the requirements of any such change by terminating this Agreement within twenty (20) days of receiving notice. If you choose to do so, notify us that you are terminating for this reason so that we may waive any early termination fee that might otherwise apply. For purposes of this section, an electronic or "click-wrap" notice intended to modify or amend this Agreement and which you check "I Accept" or "I Agree" or otherwise accept through an electronic process, shall constitute in writing as required herein. This section 50.7. does not apply to fee changes, which are governed by Sections 18.4. and 18.5.

50.8. No Third Party Beneficiaries. Our respective Affiliates and any Persons we use in providing the Services are third party beneficiaries of this Agreement and each of them may enforce its provisions as it was a party hereto. Except as expressly provided in this Agreement, (i) nothing in this Agreement is intended to confer upon any Person, any rights or remedies and (ii) the parties do not intend for any Persons to be third-party beneficiaries of this Agreement.

50.9. Card Organization Rules. The parties acknowledge that the Visa, MasterCard and Discover Card Organization Rules give Visa, MasterCard and Discover certain rights to require termination or modification of this Agreement with respect to transactions involving Visa, MasterCard and Discover Cards and the Visa, MasterCard and Discover Card systems and to investigate you. The parties also acknowledge that Issuers of other Cards, for which we perform services on your behalf, may have similar rights under their applicable Card Organization Rules with respect to this Agreement's applicability to transactions involving such other Cards.

50.10. No Publicity or Use of Our Names. Client may not use our Marks (or those of our agents or respective Affiliates) in any manner, including, without limitation, in any advertisements, displays, or press releases, without the prior written consent of Servicers (or such agents or Affiliates). In no event will either party publicly disparage the other party by any media (e.g., voice, print, electronic, social network or blog). You cannot record conversations with any of Processor's or Bank's employees or agents without the prior written consent of Processor or Bank or such agent, as applicable.

As used in this Agreement, the following terms mean as follows:

Acquirer: The party who settles your Card transactions to you. The Acquirer is Bank in the case of MasterCard and Visa Credit Card and Non-PIN Debit Card and certain PIN Debit Card transactions. The Acquirer is Processor in the case of Discover, American Express (only under Section 45) and other Card Organization transactions.

Address Verification Service ("AVS"): A service provided through which the merchant verifies the Cardholder's address, in whole or in part. Primarily used by Mail/Telephone/Internet order merchants, Address verification is intended to deter fraudulent transactions. However, it is not a guarantee that a transaction is valid. An AVS request should generally be submitted with an Authorization request. The AVS response, if available, however will not impact whether any associated authorization request is approved or denied. You may be charged an AVS fee for any AVS request you submit even if we are not able to provide a response to the request.

Affiliate: A Person who, directly or indirectly, (i) owns or controls a party to this Agreement or (ii) is under common ownership or control with a party to this Agreement.

Agreement: The Merchant Agreement and terms among Client, Processor and Bank, contained in Parts I and IV of the Program Guide and the Application, including the Schedules thereto and documents incorporated therein, as well as the Card Organization Rules, each as amended from time to time.

Anticipated Interchange Levels: See Non-Qualified Interchange Fee.

Applicable Law: (i) any law, statute, regulation, ordinance, or subordinate legislation in force from time to time to which Client is or Services are subject, (ii) the common law as applicable to them from time to time, (iii) any court order, judgment, or decree that is binding on them, and (iv) any directive, policy, rule, or order that is binding on them and that is made or given by a regulator or other government or government agency of the United States (or any of its territories), or federal, commonwealth, state, provincial, or local jurisdiction.

Application: Consists of (i) the Merchant Processing Application, (ii) Debit Network Fees Schedule (iii) the Non-Qualified Rate Schedule (specific to your industry), Interchange Rate Schedule or Qualification Tier Schedule (corresponding to the 2-Tier or 3-Tier Pricing Method), as applicable to your pricing method set forth in the Merchant Processing Application, and (iv) all additions and modifications to the foregoing (including, without limitation, all SMFs); each of the foregoing is a document that is part of the Agreement.

Authorization: Approval by, or on behalf of, the Issuer to validate a Credit Card or Debit Card transaction, or in the case of EBT Card transactions, the issuing state or related EBT service provider to validate an EBT Card transaction. An Authorization indicates only the availability of the Cardholder's Credit Limit, or funds or EBT customer's EBT benefits at the time the Authorization is requested. An Authorization Fee (see Fee Schedule) can be charged for each Authorization, whether approved or declined.

Authorization and Capture: Refers to the communication of instructions from your POS device or other systems to our computer systems, whether the communications are for authorization requests or any other capture of information. If your Service fee Schedule reflects an authorization and capture fee it may be applied to each communication you transmit to us.

Authorization Approval Code: A number issued to a participating merchant by the Authorization Center (or third party authorization service), which confirms the Authorization for a sale or service.

Authorization Center: A department that electronically communicates a merchant's request for Authorization to the Cardholder's bank and transmits such Authorization to the merchant via electronic equipment or by voice Authorization.

Bank: Bank of America, N.A. or its successors or assigns.

Bankruptcy Code: Title 11 of the United States Code, as amended from time to time.

Batch: A single Submission to us of a group of transactions (sales and Credits) for settlement. A Batch usually represents a day's worth of transactions.

Business Day: Monday through Friday, excluding Bank holidays.

Card: See either Credit Card or Debit Card.

Cardholder: The individual or entity whose name is embossed on a Card and any authorized user of such Card, including an individual or Entity that has entered into an agreement establishing a Card account with an Issuer.

Card Not Present Sale/Transaction: A transaction that occurs when the Card is not present at the point-of-sale, including Internet, mail-order and telephone-order Card sales.

Card Organization: Any entity formed to administer and promote Cards, including, without limitation, Visa, MasterCard, Discover and any applicable EBT and/or PIN Debit Networks.

Card Organization Rules: The rules, regulations, releases, interpretations, technical specifications and other requirements (whether contractual or otherwise) imposed or adopted by any Card Organization and related authorities, including, without limitation, those of the PCI Security Standards Council, LLC and the National Automated Clearing House Association (including, with respect to EBTs, the Quest Operating Rules).

Card Validation Codes: A three-digit value printed in the signature panel of most Cards and a four-digit value printed on the front of an American Express Card. Visa's Card Validation Code is known as CVV2; MasterCard's Card Validation Code is known as

CVC2; Discover's Card Validation Code is known as a CID. Card Validation Codes are used to deter fraudulent use of an account number in a non-face-to-face environment (e.g., mail orders, telephone orders and Internet orders).

Card Verification Method (CVM): A method used to confirm the identity of a Cardholder and to signify Cardholder acceptance of a transaction, such as signature, Offline PIN, and Online PIN.

Card Verification Value (CVV) / Card Validation Code (CVC) / Card Identification Data (CID): A unique value encoded on the Magnetic Stripe of a Card used to validate Card information during the Authorization process.

Cash Benefits: An EBT account maintained by an Issuer that represents pre-funded or day-of-draw benefits, or both, administered by one or more government entities, and for which the Issuer has agreed to provide access under the EBT program. Multiple benefits may be combined in a single cash benefit account.

Cash Over Transaction: Dispensing of cash by a merchant in connection with a Card sale, other than a PIN Debit Card transaction, for the purchase of goods or services.

Chargeback: A Card transaction (or disputed portion) that is returned to us by the Issuer. Client is responsible for payment to us for all Chargebacks.

Chip: An integrated microchip embedded on a Card containing Cardholder account information.

Chip Card: A Card with an embedded EMV-compliant chip containing memory and interactive capabilities used to identify and store additional data about a Cardholder's Card account.

Client: The party identified as "Client" on the Application. The words "Subscriber," "you" "your" and "Merchant" refer to Client.

Contactless Payment: payment performed in a Card-Present Environment with a Contactless Card or payment device (e.g., Mobile phone) at the Point-of-Transaction.

Credit: A refund or price adjustment given for a previous purchase transaction, including, without limitation, for the return of merchandise by a Cardholder to you.

Credit Card: A valid device (including a mobile phone or other electronic payment device) bearing the Marks of Visa, MasterCard, Discover or American Express (or, to the extent the Application or Schedules so provide, the Marks of any other Card Organization) and authorizing the Cardholder to buy goods or services on credit.

Credit Draft: A document evidencing a Credit by you to a Cardholder, whether electronic, paper or some other form, all of which must conform to Card Organization Rules and Applicable Law.

Credit Limit: The credit line set by the Issuer for the Cardholder's Credit Card account.

Customer Activated Terminal (CAT): A magnetic stripe terminal or chip-reading device (such as an automatic dispensing machine, Limited Amount Terminal, or Self-Service Terminal) that is not an ATM.

Debit Card: See either PIN Debit Card or Non-PIN Debit Card.

Dial-Up Terminal: An Authorization device which, like a telephone, dials an Authorization Center for validation of transactions.

Discount Rate: A percentage rate and/or amount charged a merchant for processing its Credit Card and Non-PIN Debit Card sale and Credit transactions, as set forth in the Application and further described in Section A.3 of Part IV of the Program Guide, unless the pricing method indicates that the Discount Rate also applies to PIN Debit Card transactions, in which case, the Discount Rate also applies to PIN Debit Card transactions. Transactions that fail to meet applicable interchange requirements will be charged additional amounts as set forth in Section 18.1 and as further described in Section A.3 of Part IV of the Program Guide.

Discover: DFS Services LLC, its subsidiaries and affiliates, and each of its and their respective successors or assigns.

EBT Card: See Section 29 of this Agreement.

EBT Rules: See Section 29.1 of this Agreement.

Electronic Benefit Transfer (EBT): An Electronic Benefits Transfer system used to deliver certain government delivered benefits, including, without limitation, Cash Benefits and FNS, SNAP and WIC Benefits to EBT customers.

Electronic Draft Capture (EDC): A process which allows a merchant's Dial-Up Terminal to receive Authorization and capture transactions and to electronically transmit them to the Processor. This eliminates the need to submit paper for processing.

EMV: Developed by Europay, MasterCard, and Visa. It is the global standard for Chip based payments.

Entity: Means a corporation, partnership, sole proprietorship, trust, association, or any other legally recognized entity or organization.

Factoring: The submission of Authorization requests and/or Sales Drafts by a merchant for Card sales or cash advances transacted by another business.

General Terms: Section of the Program Guide, including any amendments or modifications.

Gross: When referred to in connection with transaction amounts or fees, including, but not limited to the Discount Rate, refers to the total amount of Card sales, without set-off for any refunds or Credits.

Imprinter: A manual or electric machine used to physically imprint the merchant's name and ID number as well as the Cardholder's name and Card number on Sales Drafts.

Internet: A publicly accessible electronic communications network that connects computers and computer networks and organizational computer facilities around the world, including, the world wide web.

Issuer: The financial institution or Card Organization which has issued a Card to an individual or Entity.

Level 4 Merchant: A merchant that annually processes (a) less than a total of 1 million transactions or (b) if merchant processes eCommerce transactions, less than 20,000 eCommerce transactions.

Limited Amount Terminal: A Customer Activated Terminal that has data capture only capability, and accepts payment for items such as parking garage fees, road tolls, motion picture theater entrance, or magnetic-stripe telephones.

Magnetic Stripe: A stripe of magnetic information affixed to the back of a plastic Credit or Debit Card. The Magnetic Stripe contains essential Cardholder and account information.

Marks: Names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.

MasterCard: MasterCard International Incorporated, its subsidiaries and affiliates and each of its and their respective successors or assigns.

Media: The documentation of monetary transactions (i.e., Sales Drafts, Credit Drafts, computer printouts, etc.).

Merchant Account (MID): An account we establish for each of your locations (physical or Internet web site), outlet, or line of business for accounting and billing purposes in connection with the Services.

Merchant Account Number (MID): A number that numerically identifies each Merchant Account. Merchant Account Numbers appear on Merchant Account statements and other documentation from us. A different number, which varies based on the Card Organization Card type used for a transaction, may appear on the Sales Draft or Credit Draft for a location, outlet or line of business (referred to as an "entitlement number"). We use the entitlement numbers internally and with the related Card Organizations to cross reference each Merchant Number. The appearance of an entitlement number for the related location, outlet or line of business on a Sales Draft or Credit Draft satisfies the requirement under Section 3.1 that the Merchant Account Number appear on those documents.

Merchant Identification Card: A plastic embossed card supplied to each merchant to be used for imprinting information to be submitted with each Batch of paper Sales Drafts. Embossed data includes Merchant Account Number, name and sometimes merchant ID code and terminal number.

Merchant Processing Application: The Merchant Processing Application and Agreement executed by Client, which is one of the documents comprising the Agreement.

Merchant Provider: Any Person engaged by you to provide services to you involving or relating to (i) access to Cardholder data, transaction data or information related to either Cardholder data or transaction data or (ii) PIN encryption, including without limitation, Encryption Service Organizations (ESOs). "Merchant Provider" also includes any franchisor or other Person that provides or controls a centralized or hosted network environment, irrespective of whether Cardholder data is being stored, transmitted or processed through it.

Merchant Systems: Any and all equipment you use in connection with Card Authorization, Card transaction clearing, completing settling and transmitting or other related processing, or Cardholder or Card transaction data storage including, without limitation, all telecommunication lines and wireless connections and software, computers, networks, servers, systems, point-of-sale terminals, card readers, merchandise and card scanners, printers, PIN pad devices and other hardware, whether owned or licensed by you, Merchant Providers or other Persons used by you.

Non-Bank Services: Products and/or Services for which Bank is not responsible, including the services described in Sections 27, 29 through 41, 43-48 of this Agreement and other items as may be indicated in Part I of this Program Guide.

Non-PIN Debit Card: A device (including a mobile phone or other electronic payment device) bearing the Marks of Visa, MasterCard or Discover or other Card Organization Marks or an account number (or, to the extent the Application or Schedules so provide, the Marks of any other Card Organization) that is tied to a Cardholder's bank account or prepaid account which is issued and processed without the use of a PIN.

Non-Qualified Interchange Fee (Non-Qualified Interchange Rate): For certain pricing methods only, the percentage rate or amount, as further described in Section A.3 of Part IV of the Program Guide, that will be charged for transactions that do not qualify for the Card Organization interchange programs associated with your Merchant Account as identified in the rate Schedules provided to you by us for those pricing methods ("Anticipated Interchange Levels").

Non-Qualified Surcharge: For certain pricing methods only, a surcharge, which is a percentage rate or amount, applied to any transaction that fails to qualify for Anticipated Interchange Levels, as further described in Section A.3 of Part IV of the Program Guide. The Non-Qualified Surcharge (the amount of which is set forth on the Application) is in addition to the Non-Qualified Interchange Fee (see Section 18.1 of this Agreement and Section A.3. of Part IV of the Program Guide).

Operating Procedures: The information prepared by Processor, containing operational procedures, instructions and other directives relating to Card transactions. The current Operating Procedures are set forth in Subpart A of this Agreement.

PAN Truncation: A procedure that results in only the last four digits of a Cardholder's account number appearing on the copy of a Sales Draft or Credit Draft that the Client provides to the Cardholder and, as required by Applicable Law or Card Organization Rules, the Sales Draft or Credit Draft retained by the Client.

Person: A third party individual or Entity, other than the Client, Processor or Bank.

PIN: A Personal Identification Number entered by the Cardholder to submit a PIN Debit Transaction.

PIN Debit Card: A device bearing the Marks of one or more PIN Debit Networks, which is tied to a Cardholder's bank account or prepaid account and issued with a PIN.

PIN Debit Network: A telecommunications and processing system of a shared electronic funds transfer network (such as Interlink[®], NYCE[®] or Star[®]) for processing and settling PIN Debit Card transactions.

PIN Debit Sponsor Bank: The Bank identified on the Application signed by you.

PIN Debit Transaction: A transaction made with a PIN Debit Card at a merchant location by means of the Cardholder-entered PIN in the merchant PIN Pad.

PINless Debit Transaction: A transaction made with a PIN Debit Card at a merchant location (physical or Internet web site) without a PIN that is eligible for processing without a PIN and is processed through a participating PIN Debit Network that does not require Cardholders to enter their PINs (such as NYCE or Star).

Point of Sale (POS) Terminal: A device (including any terminal, tablet, or other Card accepting equipment) placed in a merchant location which is connected to the Processor's system via telephone lines and is designed to electronically authorize and record with, and transmit settlement data to, Processor for all sales transactions.

Prepaid Gift Cards: A non-reloadable Card with respect to which the identity of the Cardholder is known to the Issuer solely because the Cardholder registered the Card with the Issuer or its Agent for the Cardholder to be eligible to receive a replacement Card in the event the original Card Plastic is lost or stolen shall constitute a Prepaid Gift Card.

Processor: Banc of America Merchant Services, LLC or its successors and assigns. Except for Services provided by Servicers, the words "we," "us" and "our" refer to Processor.

Program Guide: The booklet contains (a) Part I: Merchant Agreement, including the Operating Procedures, General Terms and this Glossary, (b) Part II: Reserved, (c) Part III: TeleCheck Check Services, (d) Part IV: Electronic Funding Authorization, Additional Important Information for Card Processing and Electronic Disclosure Consent, (e) Part V: Confirmation Page and Duplicate Confirmation Page.

Recurring Payment Indicator: A value used to identify transactions for which a Cardholder provides permission to a merchant to bill the Cardholder's Card account at either a predetermined interval or as agreed by the Cardholder for recurring goods or services.

Referral: A message received from an Issuer when an attempt for Authorization requires a call to the Voice Authorization Center or Voice Response Unit (VRU).

Reserve Account: An account established and funded at our request or on your behalf, pursuant to Section 24 of the Agreement.

Resubmission: A transaction that the Client originally processed as a Store and Forward transaction but received a soft denial from the respective PIN Debit Network or Card Organization. The resubmission transaction allows the merchant to attempt to obtain an approval for the soft denial, in which case Client assumes the risk that the transaction fails.

Retrieval Request/Transaction Documentation Request: A request for documentation related to a Card transaction such as a copy of a Sales Draft or other transaction source documents.

Sales Draft: Evidence of a purchase, rental or lease of goods or services by a Cardholder from, and other payments to, Client using a Card, including preauthorized orders and recurring transactions (unless the context requires otherwise); regardless of whether the form of such evidence is in paper or electronic form or otherwise, all of which must conform to Card Organization Rules and Applicable Law.

Sales/Credit Summary: The identifying form used by a paper Submission merchant to indicate a Batch of Sales Drafts and Credit Drafts (usually one day's work). Not a Batch header, which is used by electronic merchants.

Schedules: The schedules, fee schedules, rate schedules, exhibits, attachments, enclosures, addenda and other documents, including revisions thereto, which may be incorporated into or made part of this Agreement concurrently with or after the date of this Agreement.

Self-Service Terminal: A Customer Activated Terminal that accepts payment of goods or services such as prepaid cards or video rental, has electronic capability, and does not accept PINs.

Service Modification Form (SMF): A form, including a Renewal Form, that Client completes and executes to confirm elections after the date of this Agreement, of Card types, Services, Other Services, or any special instructions, and Client's agreement to the fees therefor. Each SMF (including all Schedules thereto) is a document that is part of this Agreement and the Application.

Services: The activities undertaken by Processor and/or Bank, as applicable, to authorize, process and settle all United States Dollar denominated Visa, MasterCard and Discover transactions undertaken by Cardholders at Client's location(s) in the United States, and all Non-Bank Services.

Servicers: For Visa and MasterCard Credit and Non-PIN Debit Card transactions and for PIN Debit transactions, Bank and Processor collectively, in which case, subject to Applicable Law and Card Organization Rules, Bank and Processor, shall be jointly, but not also severally, liable to the Client. The words "we," "us" and "our" refer to Servicers for Services provided by Servicers; otherwise, those words refer to Processor.

Settlement Account: An account or account(s) at a financial institution designated by Client as the account to be debited and credited by Processor or Bank for Card transactions, fees, Chargebacks and other amounts due under the Agreement or in connection with the Agreement.

Split Dial: A process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization. In this instance, the merchant cannot be both EDC and Split Dial. Split Dial is also utilized for Check Guarantee companies.

Split Dial/Capture: Process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization and Electronic Draft Capture.

Store and Forward: A transaction that has been authorized by a merchant when the merchant cannot obtain an Authorization while the customer is present, typically due to a communications failure. The merchant will store the transaction electronically in their host system and retransmit the transaction when communications have been restored.

Submission: The process of sending Batch deposits to Processor for processing. This may be done electronically or by mail.

Summary Adjustment: An adjustment to your Submission and/or Settlement Accounts in order to correct errors. (See Sections 10.2 and 10.3.)

Telecommunication Card Sale: Individual local or long-distance telephone calls, for which the telephone service provider is paid directly by use of a Card. These do not include, however, calls paid for with pre-paid telephone service cards. Telecommunication Card Sales are considered Card Not Present Sales.

Transaction Fees: Service costs charged to a merchant on a per transaction basis.

Us, We and Our (us, we and our): See Servicers or Processor.

Visa: Visa Inc., its subsidiaries and affiliates and each of its and their respective successors or assigns.

You, Your (you; your): See Client.

1.0. TeleCheck Services Agreement

This TeleCheck Services Terms and Conditions (the "Agreement") is entered by and between TeleCheck Services, Inc. ("TeleCheck") and Subscriber ("Subscriber") as indicated on the Merchant Processing Application and Agreement: TeleCheck Electronic Check Acceptance® ("ECA®") warranty service ("ECA Warranty Service"), paper warranty service ("Paper Warranty Service"), ECA verification service ("ECA Verification Service"), paper verification service ("Paper Verification Service"), Checks by Phonesm ("CBPsm") warranty service ("CBP Warranty Service"), Checks by Phone verification service ("CBP Verification Service"), TeleCheck Internet Check Acceptance® ("ICA®") warranty service ("ICA Warranty Service"), TeleCheck Internet Check Acceptance verification service ("ICA Verification Service"), Remote Pay warranty service ("Remote Pay Warranty Service"), Remote Pay verification service ("Remote Pay Verification Service"), Lockbox warranty service ("Lockbox Warranty Service") or Lockbox verification service ("Lockbox Verification Service"), eDeposit warranty service ("eDeposit Warranty Service") or eDeposit non-warranty service ("eDeposit Service"). Upon processing Subscriber's first check through any of the TeleCheck® services or from the date Subscriber is entered into the TeleCheck system as a subscriber, whichever is earlier (the "Effective Date"), the terms and conditions of this Agreement, including payment and the Minimum Monthly Fee, shall apply from that point forward. Any of the TeleCheck services, including, without limitation, funds settlement, billing and customer service, may be performed by one or more of TeleCheck's affiliates.

1.1. Term, Termination and Amendment. This Agreement shall be effective for an initial term of 12 months from the Effective Date; provided, however, that Subscriber may terminate this Agreement if Subscriber gives and TeleCheck receives written notice of termination within the first 30 days of the Agreement. Thereafter, this Agreement shall automatically continue for successive 12 month terms until terminated as provided for herein. Subscriber may terminate this Agreement at the end of the initial term or hereafter upon at least 30 days' prior written notice to TeleCheck. TeleCheck reserves the right to amend, at its discretion, this Agreement, including, without limitation, any rates, fees, addenda and/or the TeleCheck Operational Procedures, by providing Subscriber notice and such amendments shall be effective 30 days from the date notice is mailed to Subscriber. In the event TeleCheck changes the rates, fees or warranty limits hereunder, Subscriber may terminate this Agreement upon written notice received by TeleCheck within such 30 day period. TeleCheck may terminate this Agreement at any time upon notice to Subscriber. Subscriber may terminate this Agreement at any time upon written notice if TeleCheck has failed to cure a material breach of this Agreement within 30 days following written notice of that breach given by Subscriber.

1.2. Definitions. As used in this Agreement, the following definitions apply: "ACH Network" means the Automated Clearing House Network, a processing and delivery system that provides for the distribution and settlement of electronic credits and debits. "Authorization Receipt" means the written authorization receipt, in the form approved by TeleCheck, signed by Consumer for each ECA Warranty Transaction or ECA Verification Transaction, as applicable. "Batch" means a collection of saved transactions transmitted to TeleCheck for settlement processing. "Claim" means any claim, demand, directive, suit or other proceeding, notice, damage, expense (including reasonable attorney's fees), assessment, fine or liability of any kind. "Consumer" means a person or entity that authorizes an Item. "Consumer Authorization Format" means the required format (including, without limitation, all verbiage for payment authorization, return item fees, check approvals and declines, etc.), provided by TeleCheck to Subscriber, as amended from time to time, for processing Consumer payments to Subscriber by an Electronic Item. "ECA Verification Transaction" or "ECA Warranty Transaction" means a transaction processed by TeleCheck under the ECA Verification Service or ECA Warranty Service (as applicable), as an electronic funds transfer, a remotely created check or a paper check for the contemporaneous purchase of goods or service by a Consumer at Subscriber's physical location. "eDeposit Warranty Transaction" or "eDeposit Transaction" means a check transaction processed by TeleCheck under the eDeposit Warranty Service or the eDeposit Service (as applicable) for the contemporaneous purchase of goods or service at Subscriber's physical location, or for a check mailed in for the purchase of goods or services. "Electronic Item Verification Transaction" or "Electronic Item Warranty Transaction" means a payment transaction which is processed as an Electronic Item under the applicable verification or warranty service, for the purchase of goods or services by a Consumer; provided, however, if the service is ICA Warranty Service or a CBP Warranty Service, the payment transaction must be for the contemporaneous purchase of goods or services. "Item" means an outstanding financial obligation pursuant to a paper check, electronic funds transfer or remotely created check processed under this Agreement. "Electronic Item" means a Phone Check or an Internet Check. "Internet Check" means an electronic debit transaction (including, without limitation, an electronic debit transaction processed as a demand draft) authorized by the Consumer on an internet website operated or maintained by or on behalf of Subscriber for the payment of an Electronic Item Warranty Transaction or an Electronic Item Verification Transaction (as applicable) subject to this Agreement. "Lockbox Warranty Transaction" or "Lockbox Verification Transaction" means the payment of goods or services by a paper check sent to Subscriber through the U.S. mail or delivered to Subscriber's drop box, which payment is processed by TeleCheck as an electronic fund transfer, a remotely created check or a paper check under the Lockbox Warranty Service or Lockbox Verification Service, as applicable. "Message Based (ICA) Service" is a type of ICA service under which (a) the Consumer submits Internet Check data to and interfaces with

an internet website which is designed for obtaining the Internet Check data and which is operated or maintained by or on behalf of Subscriber, and (b) such Internet Check data is transmitted from or on behalf of Subscriber to TeleCheck for processing. "NACHA Rules" means the National Automated Clearing House Association Operating Rules and Guidelines, as amended from time to time, that govern the ACH Network. "Paper Warranty Transaction" means a transaction for the contemporaneous purchase of goods or services pursuant to TeleCheck's Paper Warranty Service program. "Phone Check" means an electronic debit transaction (including, without limitation, an electronic debit transaction processed as a demand draft) verbally authorized by the Consumer in a telephone communication with Subscriber for the payment of an Electronic Item Warranty Transaction or an Electronic Item Verification Transaction (as applicable). "Remote Pay Check" means an electronic debit transaction (including an electronic debit transaction processed as a demand draft) authorized in writing by the Consumer for the payment of an Electronic Item Warranty Transaction or an Electronic Item Verification Transaction (as applicable) which transaction occurs offsite from Subscriber's location or which transaction is a recurring transaction. "Return Item Fee" means any fee or exemplary damages allowed by law that may be assessed on a Return Item. "Return Items" mean any Items that are dishonored, returned, reversed, charged back or otherwise unpaid by a Consumer's financial institution upon presentment for payment, regardless of the reason or timing. "Returned Payment" means any financial obligation pursuant to this Agreement not paid by Subscriber's financial institution. "Subscriber's Account" means Subscriber's financial institution account. "TeleCheck Approval Code" means (a) for warranty services, that TeleCheck has authorized an Item for warranty coverage under this Agreement, and (b) for verification services, that TeleCheck has authorized an Item as eligible for processing. "TeleCheck Operational Procedures" means TeleCheck's published policies and procedures contained in various documents provided to Subscriber concerning the services, equipment and maintenance provided pursuant to this Agreement. "TeleCheck Parties" means TeleCheck, its affiliates, officers, directors, employees, shareholders, agents and attorneys. "Warranty Maximum" (a) for an Item processed as an ECA Warranty Transaction or Lockbox Warranty Transaction or eDeposit Warranty Transaction means the lower of (i) the face amount of the Item, (ii) the amount set forth on the Merchant Processing Application; or (iii) \$25,000.00; (b) for an Item processed as a Paper Warranty Transaction means the lower of (i) the face amount of the Item; (ii) the amount set forth on the Merchant Processing Application; or (iii) \$99,999.99 and (c) for an Item processed as an Electronic Item Warranty Transaction means the lower of (i) the face amount of the Item; (ii) the amount set forth on the Merchant Processing Application; or (iii) \$5000.00.

TERMS APPLICABLE ONLY TO
TELECHECK ECA WARRANTY SERVICE

1.3. ECA Warranty Service.

1.3.1. Description. The TeleCheck ECA Warranty Service provides Subscriber with: (a) coded information to assist Subscriber in deciding whether or not to accept an Item; (b) processing services; and (c) warranty services for ECA Warranty Transactions that comply with the warranty requirements of Section 1.3.3, all in accordance with this Agreement.

1.3.2. Processing Services. For each ECA Warranty Transaction that TeleCheck issues a TeleCheck Approval Code that is processed by TeleCheck as an electronic funds transfer or remotely created check, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the amount of such transaction as part of a batch credit. Such credit shall typically occur within 2 banking days following Subscriber's regular close-out of the point of sale terminal and transmission of the saved ECA Warranty Transactions to TeleCheck for settlement processing, provided that the Batch is closed and received by TeleCheck by 9:00 p.m. Central Time. Subscriber authorizes TeleCheck on its behalf to initiate debits to the Consumer's accounts for each such ECA Warranty Transaction. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for ECA Warranty Transactions, including, without limitation, chargebacks or partial adjustments, to Subscriber's Account. TeleCheck reserves the right to decline to process any transaction as an ECA Warranty Transaction. As required by the NACHA Rules TeleCheck's Origination Depository Financial Institution (as defined by the NACHA Rules) shall have the right to audit Subscriber's compliance with this Agreement and the NACHA Rules.

TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any ACH Network participant or Subscriber's financial institution. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment of any amounts now due or hereafter to become due ("Funds Hold") should any questionable activity occur as determined by TeleCheck in its sole discretion including, without limitation, an excessive amount of Return Items or a breach of the NACHA Rules, or as otherwise required by the Originating Financial Institution or by law. In addition the right to place a Funds Hold with respect to any payment, TeleCheck also is also entitled without notice to freeze or terminate all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within 3 business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or

termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

1.3.3. Warranty Requirements. TeleCheck warrants the accuracy of its information provided that all requirements set forth in this Section are strictly met. TeleCheck agrees to purchase from Subscriber one Item per ECA Warranty Transaction for which a TeleCheck Approval Code was inaccurate; provided, however, that TeleCheck's liability shall be limited by the Warranty Maximum and warranty requirements, and shall not exceed the amount of the Item. Subscriber's sole and exclusive remedy for breach of warranty shall be the right to require TeleCheck to purchase such Item subject to the terms and conditions contained in this Agreement. Subscriber represents and warrants with respect to each ECA Warranty Transaction submitted to TeleCheck for processing under this Agreement that:

- a) The check is a first party check drawn on Consumer's deposit account at a United States financial institution and made payable to Subscriber. The name of the Consumer is imprinted or typed on the check by the check manufacturer;
- b) Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code. The transaction was not performed in an attempt to avoid the warranty requirements or Warranty Maximum (as more fully described in 1.3.6(f)), including through split sales;
- c) The transaction represents an obligation of Consumer at the point of sale (no phone, mail or internet orders) for goods sold or rented or services rendered for the price of such goods or services, and the transaction is not for credit, cash or payment on an account, debt or check already due Subscriber;
- d) The signature of Consumer on the Authorization Receipt is not substantially different from the name imprinted on the check;
- e) The date of the check and the ECA Warranty Transaction accurately coincides within 1 calendar day of (i) the date of the inquiry call to TeleCheck, and (ii) the date the transaction actually occurred. (Checks may not pre-date or post-date by more than 1 calendar day the date of the inquiry call and the transaction date);
- f) Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of Consumer's obligation or relieve Consumer from liability;
- g) The transaction is not subject to any stop payment, dispute or set-off;
- h) Subscriber has complied with and shall comply with all Applicable Laws, rules, regulations, and NACHA Rules including, without limitation, posting notice to authorize the ECA Warranty Transaction and the Return Item Fee in a prominent and conspicuous location, and providing a copy of the notice to the Consumer, all in accordance with Regulation E (12 C.F.R. Part 205);
- i) Consumer authorized the debiting of Consumer's account and the debit entry is in an amount agreed to by Consumer. Subscriber received a separate signed and completed Authorization Receipt from Consumer for each ECA Warranty Transaction;
- j) The paper check to which the ECA Warranty Transaction relates: (i) has not been used in any other transaction, (ii) is voided on the front by Consumer or Subscriber, and (iii) is returned to Consumer;
- k) The amount entered into the TeleCheck system and on the Authorization Receipt match exactly and does not exceed the Warranty Maximum; and
- l) If the ECA Warranty Transaction is approved as a paper check not eligible for processing as an electronic funds transfer, each representation and warranty set forth in Section 1.4.2 shall be applicable to such ECA Warranty Transaction.

1.3.4. Authorization Receipts. Subscriber shall (a) maintain the signed Authorization Receipt for a minimum period of 2 years from the date of the transaction or for the period specified by the NACHA Rules, whichever is longer, (b) physically deliver either the original or a legible copy of the signed Authorization Receipt to TeleCheck within 7 days of TeleCheck's request, and (c) permit TeleCheck to audit Subscriber (upon reasonable notice and during normal business hours) for compliance with this requirement.

1.3.5. Assignment of ECA Warranty Transactions. By electing to subscribe to the TeleCheck ECA Warranty Service, Subscriber ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Subscriber's rights, title and interest in any ECA Warranty Transaction submitted by Subscriber to TeleCheck under this Agreement. Subscriber shall, at TeleCheck's request, endorse such check and take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of TeleCheck's rights hereunder.

1.3.6. Chargeback and Reassignment. TeleCheck may chargeback to Subscriber any ECA Warranty Transaction processed by TeleCheck, or reassign to Subscriber any ECA Warranty Transaction which has been approved as a paper check and purchased by TeleCheck, in any of the following circumstances:

- a) The goods or services, in whole or in part, for which the ECA Warranty Transaction was submitted, have been returned to Subscriber, have not been delivered by Subscriber, are claimed by Consumer to have been unsatisfactory, or are subject to any stop payment, dispute or set-off;
- b) Subscriber has received full or partial payment or security in any form to secure payment of the Item, or the goods or services for which the Item was issued or authorized were initially delivered on credit or under a lease;

- c) The transaction is for any reason illegal, void or invalid; or purchase by or transfer to TeleCheck of the Item is not permitted by Applicable Law; or a court of law determines that the Item is, in whole or in part, not due and payable by Consumer, unless such determination results from Consumer's bankruptcy proceeding;
- d) Any of the representations made by Subscriber as set forth in Section 1.3.3 are or become false or inaccurate;
- e) Subscriber failed to comply with this Agreement;
- f) Subscriber, or any of Subscriber's owners, agents or employees: (i) materially altered either the check or the Authorization Receipt; or (ii) processed the transaction with reason to know that the Item was likely to be dishonored (including failure to receive a TeleCheck Approval Code) or that the identification used was forged, altered or did not belong to Consumer; or (iii) processed the transaction in a manner which was an attempt to avoid the warranty requirements or Warranty Maximum. "Knowledge" shall be presumed in the presence of facts or circumstances which, if known, would cause a non-subscribing merchant, using commercially reasonable judgment, to independently refuse to accept a check. "Knowledge" is also presumed where there is evidence of Subscriber's attempt to avoid warranty limitations through manipulation of transactions, including, but not limited to, the splitting of a single transaction into smaller components or resubmission of a previously denied transaction;
- g) The Authorization Receipt was incomplete or unsigned, or a legible copy of the Authorization Receipt was not received by TeleCheck within 7 days of a request by TeleCheck;
- h) A duplicate ECA Warranty Transaction relating to the same transaction was received and processed, or the original paper check was deposited, thereby creating a duplicate entry against Consumer's financial institution account;
- i) Consumer disputes authorizing the ECA Warranty Transaction or the validity or accuracy of the transaction;
- j) Subscriber received notice that Consumer filed bankruptcy and Subscriber failed to notify TeleCheck of the bankruptcy within three(3) business days of Subscriber's receipt of such notice; or
- k) The closeout of the Batch and transmission of the ECA Warranty Transaction to TeleCheck for settlement processing did not occur within seven (7) days from the date the TeleCheck Approval Code was issued for the transaction.

Subscriber shall immediately notify TeleCheck upon the happening of any of the above circumstances. If the Item is charged back or reassigned as provided herein, (a) TeleCheck may debit Subscriber's Account in the amount paid by TeleCheck for the Item, (b) TeleCheck may deduct or offset such Item against any amounts to be paid to Subscriber for ECA Warranty Transactions, or (c) upon request, Subscriber shall remit the amount of the Item to TeleCheck. TeleCheck may also chargeback to Subscriber any amount over the Warranty Maximum on any ECA Warranty Transaction where TeleCheck has not received payment for such transaction within 60 days of the date of the ECA Warranty Transaction. Upon charging back or reassigning an Item, TeleCheck shall have no further liability to Subscriber on such Item. Following termination of this Agreement, Subscriber shall continue to bear total responsibility for any reassignments, chargebacks and adjustments made under this Section.

1.3.7. Account Reconciliation. Payments processed by TeleCheck will be reflected on settlement reports made available to Subscriber by TeleCheck. Subscriber agrees to notify TeleCheck promptly of any discrepancy between Subscriber's records and the information provided in the reports, or of any funding failures or errors. In the event any ECA Warranty Transaction is not funded or otherwise paid by TeleCheck in accordance with Section 3.2, Subscriber is required to notify TeleCheck in writing within 30 days from the date of such transaction. If Subscriber fails to notify TeleCheck within such 30 day period of the discrepancy, funding failure or error, TeleCheck shall have no liability and Subscriber is precluded from asserting any claims, damages or losses arising from such discrepancy, funding failure or error.

1.3.8. "Goodwill" of a Non-Compliance Item. TeleCheck, in its sole discretion, may voluntarily elect not to chargeback or reassign to Subscriber a specific non-compliance Item which fails to comply with the warranty requirements set forth in Section 3.3. Such discretionary election by TeleCheck shall not (a) constitute a course of dealing or a waiver of TeleCheck's right to chargeback or reassign any other Return Item, or (b) relate to any other past or subsequent Return Item, or (c) act as a waiver of TeleCheck's right to decline to pay any other Return Item.

1.3.9. Reserve Account Establishment and Funding. Subscriber expressly authorizes TeleCheck to establish a reserve account for ECA Warranty Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon 3 days' notice to Subscriber or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (a) one or more debits to Subscriber's Account (and TeleCheck is hereby authorized to make such debits); (b) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (c) Subscriber's delivery to TeleCheck of a letter of credit issued or established by a financial institution acceptable to, and in a form satisfactory to, TeleCheck. In the event of termination of this Agreement by either TeleCheck or Subscriber, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for 10 months after termination of this Agreement. Subscriber's funds may be held in a commingled reserve account for the reserve funds of TeleCheck's subscribers without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's

funds in the reserve account are not sufficient to cover the delinquent fees, chargebacks or rejected and reassigned warranty Items, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above.

1.3.10. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The **"Inquiry Rate"** is the percentage rate which shall apply to the face amount of each Item (up to the Warranty Maximum), for which an authorization inquiry is made to TeleCheck by telephone, electronically or otherwise, whether or not a TeleCheck Approval Code is issued. The **"Transaction Fee"** is the additional per transaction charge for each ECA Warranty Transaction inquiry, whether or not a TeleCheck Approval Code is issued. The **"Monthly Minimum Fee"** is the minimum aggregate amount of Inquiry Rate fees that Subscriber shall pay on a monthly basis. If the total Inquiry Rate fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The **"Customer Requested Operator Call Fee"** "CROC" or **"Voice Authorization Fee"** is an additional fee per operator or Interactive Voice Response (IVR)-assisted call not requested by TeleCheck. The **"December Risk Surcharge"** is an additional percentage charge added to the Inquiry Rate for each authorization inquiry in December. The **"Monthly Statement/Processing Fee"** is a monthly fee for handling Subscriber's account.

The following additional fees may also be charged by TeleCheck: The **"Funding Report Fee"** is a \$15.00 monthly fee to receive daily funding reports or \$10.00 monthly fee to receive weekly funding reports. The **"Chargeback Fee"** is a \$5.00 handling fee for each chargeback of an ECA Warranty Transaction. The **"Correction Fee"** is a \$5.00 fee payable on each Item that must be corrected due to Subscriber's error or at Subscriber's request. The **"Recovery Processing Fee"** is a \$5.00 fee for each Item that fails to meet warranty requirements for which TeleCheck elects, in its discretion, to reimburse Subscriber as a **"Goodwill Item"** for a specific Return Item. A **"Terminal Application Update Fee"** of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. The above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

TERMS APPLICABLE ONLY TO TELECHECK PAPER WARRANTY SERVICE

1.4. Paper Warranty Service.

1.4.1. Description. The TeleCheck Paper Warranty Service provides Subscriber with: (a) coded information to assist Subscriber in deciding whether or not to accept a check; and (b) warranty services for checks that meet the warranty requirements of Section 4.2, all in accordance with this Agreement.

1.4.2. Warranty Requirements. TeleCheck warrants the accuracy of its information provided that all requirements set forth in this Section are strictly met. TeleCheck agrees to purchase from Subscriber one check per Paper Warranty Transaction for which a TeleCheck Approval Code was inaccurate; provided, however, that TeleCheck's liability shall be limited by the Warranty Maximum and warranty requirements, and shall not exceed the amount of the check. Subscriber's sole and exclusive remedy for breach of warranty shall be the right to require TeleCheck to purchase such check subject to the terms and conditions contained in this Agreement. Subscriber represents and warrants with respect to each Paper Warranty Transaction submitted to TeleCheck for processing under this Agreement that:

- The check is a first party check drawn on Consumer's deposit account at a United States or Canadian financial institution, completely and properly filled out, and made payable to Subscriber. The name of the Consumer is imprinted or typed on the check by the check manufacturer. If a P.O. Box is used or an address is not imprinted by the check manufacturer, a physical address description is written on the check according to TeleCheck Operational Procedures;
- Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code. The transaction was not performed in an attempt to avoid the warranty requirements or Warranty Maximum (as more fully described in Section 1.4.4(f)), including through split sales;
- The transaction represents an obligation of Consumer at the point of sale (no phone, mail or internet orders) for goods sold or rented or services rendered for the price of such goods or services, and the transaction is not for credit, cash or payment on an account, debt or check already due Subscriber;
- The signature in the signature block on the check is not substantially different from the name imprinted on the check;
- The date of the check accurately coincides within 1 calendar day of (i) the date of the inquiry call to TeleCheck, and (ii) the date the transaction actually occurred. (Checks may not pre-date or post-date by more than 1 calendar day the date of the inquiry call and the transaction date);
- Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of Consumer's obligation or relieve Consumer from liability;
- The TeleCheck Subscriber Number, Consumer's telephone number (including area code), identification type and number and TeleCheck Approval Code are printed or written on the check;

- The amount shown in words and figures on the check is (i) less than or equal to the amount entered into the TeleCheck system, or (ii) no more than \$1.00 over the amount entered into the TeleCheck system;
- The check is deposited in Subscriber's Account and received by TeleCheck for purchase within 30 days of the date of the check. Such check has been sent directly from Subscriber's financial institution after being presented for payment only once (no representations shall be allowed, whether paper or electronic); and
- The transaction is not subject to any stop payment, dispute or set-off.

1.4.3. Assignment of Checks. By electing to subscribe to the Paper Warranty Service, Subscriber ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Subscriber's rights, title and interest in any check submitted to TeleCheck for coverage under this Agreement. Subscriber shall, at TeleCheck's request, endorse such check and take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of TeleCheck's rights hereunder.

1.4.4. Reassignment. TeleCheck may reassign to Subscriber any check purchased by TeleCheck pursuant to the Paper Warranty Service provisions of this Agreement, in any of the following circumstances:

- The goods or service, in whole or in part, for which the check was issued have been returned to Subscriber, have not been delivered by Subscriber, claimed by Consumer to have been unsatisfactory, or are subject to any stop payment, dispute or set-off;
- Subscriber has received full or partial payment or security in any form to secure payment of the check, or the goods or services for which the check was issued were initially delivered on credit or under a lease;
- The transaction is for any reason illegal, void or invalid; or purchase by or transfer to TeleCheck of the check is not permitted by Applicable Law; or a court of law determines that the check is, in whole or in part, not due and payable by Consumer, unless such determination results from Consumer's bankruptcy proceeding;
- Any of the representations made by Subscriber as set forth in Section 1.4.2 are or become false or inaccurate;
- Subscriber failed to comply with this Agreement;
- Subscriber, or any of Subscriber's owners, agents or employees: (i) materially altered the check; or (ii) accepted the check with reason to know that it was likely to be dishonored (including failure to receive a TeleCheck Approval Code) or that the identification used was forged, altered or did not belong to Consumer; or (iii) processed the transaction in a manner which was an attempt to avoid the warranty requirements or Warranty Maximum. "Knowledge" shall be presumed in the presence of facts or circumstances which, if known, would cause a non-subscribing merchant, using commercially reasonable judgment, to independently refuse to accept a check. "Knowledge" is also presumed where there is evidence of Subscriber's attempt to avoid warranty limitations through manipulation of transactions, including, but not limited to, the splitting of a single transaction into smaller components or resubmission of a previously denied transaction; or
- Subscriber received notice that Consumer filed bankruptcy and Subscriber failed to notify TeleCheck of the bankruptcy within 3 business days of Subscriber's receipt of such notice.

Subscriber shall immediately notify TeleCheck upon the happening of any of the above circumstances. If the check is reassigned as provided herein, TeleCheck may debit Subscriber's Account in the amount paid by TeleCheck for the check, or upon request, Subscriber shall remit the amount of the check to TeleCheck. Upon reassignment of a check, TeleCheck shall have no further liability to Subscriber on such check. Following termination of this Agreement, Subscriber shall continue to bear total responsibility for any reassignments, chargebacks and adjustments made under this Section.

1.4.5. "Goodwill" of a Non-Compliance Item. TeleCheck, in its sole discretion, may voluntarily elect not to reassign to Subscriber a specific non-compliance Item which fails to comply with the warranty requirements set forth in Section 1.4.2. Such discretionary election by TeleCheck shall not (a) constitute a course of dealing or a waiver of TeleCheck's right to reassign any other Return Item, or (b) relate to any other past or subsequent Return Item, or (c) act as a waiver of TeleCheck's right to decline to pay any other Return Item.

1.4.6. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The **"Inquiry Rate"** is the percentage rate which shall apply to the face amount of each Item (up to the Warranty Maximum), for which an authorization inquiry is made to TeleCheck by telephone, electronically or otherwise, whether or not a TeleCheck Approval Code is issued. The **"Transaction Fee"** is the additional per transaction charge for each transaction inquiry, whether or not a TeleCheck Approval Code is issued. The **"Monthly Minimum Fee"** is the minimum aggregate amount of Inquiry Rate fees that Subscriber shall pay on a monthly basis. If the total Inquiry Rate fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The **"Customer Requested Operator Call Fee"** "CROC" or **"Voice Authorization Fee"** is an additional fee per operator or Interactive Voice Response (IVR)-assisted call not requested by TeleCheck. The **"December Risk Surcharge"** is an additional percentage charge added to the Inquiry Rate for each authorization inquiry in December. The **"Monthly Statement/Processing Fee"** is a monthly fee for handling Subscriber's account.

The following additional fees may be also be charged by TeleCheck: The **"Recovery Processing Fee"** is a \$5.00 fee for each Item that fails to meet warranty requirements for which TeleCheck elects, in its discretion, to reimburse Subscriber as a **"Goodwill Item"**

for a specific Return Item. A "Terminal Application Update Fee" of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. The above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

TERMS APPLICABLE ONLY TO ICA, CBP AND REMOTE PAY WARRANTY SERVICES

1.5. ICA, CBP and Remote Pay Warranty Services. TeleCheck will provide the TeleCheck ICA, CBP and Remote Pay Warranty Services upon the terms and conditions described in this Section, as applicable, for each of the following products as selected by Subscriber on the Merchant Processing Application: (a) Internet Check Acceptance or (b) Checks By Phone or (c) Remote Pay. (Subscriber may select either or all such services.)

1.5.1. Description. The TeleCheck ICA, CBP and Remote Pay Warranty Services provide Subscriber with (a) coded information to assist Subscriber in deciding whether or not to accept an Electronic Item; (b) processing services; and (c) warranty services for Electronic Item Warranty Transactions that comply with the warranty requirements of Section 1.5.8, all in accordance with this Agreement.

1.5.2. Promotion; Fees, Charges and Rates.

- a) If ICA Warranty Service are provided hereunder, Subscriber will promote ICA Warranty Service on its web site (including the TeleCheck logo on the point of sale and/or the checkout pages), and Subscriber may include a short description and promotion of the ICA Warranty Service in a weekly/monthly email and periodic direct mail to its customer base. TeleCheck will become a member of any affiliate marketing program of Subscriber. Additional marketing arrangements will be discussed by the parties from time to time, and the parties will cooperate in promoting use of the ICA Warranty Service on the Subscriber's web site.
- b) Subscriber shall pay to TeleCheck the fees and rates set forth on the Merchant Processing Application or in the terms and conditions herein, as changed from time to time by TeleCheck, plus all applicable taxes. The "Set Up Fees" are fees related to the establishment and set up of the TeleCheck Service which are charged on a per service by location basis. The "Inquiry Rate" is the percentage rate which shall apply to the face amount of each Electronic Item for which an authorization inquiry is made to TeleCheck, whether or not a TeleCheck approval code is issued, and is in addition to any Transaction Fee. The "Monthly Minimum Fee" is the minimum amount of inquiry fees that Subscriber shall pay on a monthly basis. If the total fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The "Monthly Statement/Processing Fee" is a monthly fee for handling Subscriber's account. The "Electronic Item Chargeback Fee" is a \$5.00 handling fee for each chargeback of an Electronic Item Warranty Transaction. The "Recovery Processing Fee" is a \$5.00 charge for each Electronic Item that fails to meet Warranty Requirements for which TeleCheck elects, in its discretion, to reimburse Subscriber as a "Goodwill Item" for a specific Returned Item. The "Order Confirmation Notice Fee" is the fee for each Electronic Item for which TeleCheck sends the required written confirmation notice to the Consumer on behalf of Subscriber. The "Reversal Fee" is a \$5.00 charge for any reversal of an Electronic Item Warranty Transaction requested by Subscriber. The "Transaction Fee" is the additional per transaction charge for each Electronic Item inquiry, whether or not a TeleCheck Approval Code is issued. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement. The "Funding Report Fee" is a \$15.00 monthly fee to receive daily funding reports or \$10.00 monthly fee to receive weekly funding reports. The "December Risk Surcharge" is an additional percentage charge added to the Inquiry Rate for each authorization inquiry in December. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. The above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

1.5.3. Reserve Account. Subscriber expressly authorizes TeleCheck to establish a reserve account for Electronic Item Warranty Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon three (3) days' notice to Subscriber, or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (i) one or more debits to Subscriber's financial institution (and TeleCheck is hereby authorized to make such debits); (ii) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (iii) Subscriber's delivery to TeleCheck of a letter of credit. Any such letter of credit shall be issued or established by a financial institution acceptable to TeleCheck and in a form satisfactory to TeleCheck, both in TeleCheck's discretion. In the event of termination of this Agreement by either Subscriber or TeleCheck, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for ten (10) months after termination of this Agreement. Subscriber's funds held in a reserve account may be held in a commingled reserve account for the reserve funds of TeleCheck's Subscribers, without involvement by an independent escrow agent, and shall not accrue interest. In the event of a failure by Subscriber to fund the Reserve Account, TeleCheck may fund such reserve account in the manner set forth in this Section.

1.5.4. Warranty. The sole purpose of the ICA, CBP and Remote Pay Warranty Service programs is to provide information and processing Services to Subscriber. TeleCheck warrants the accuracy of its information provided that all requirements set forth in the

Warranty Requirements in Section 1.5.8 below are strictly met. TeleCheck agrees to purchase from Subscriber one Item per Electronic Item Warranty Transaction for which a TeleCheck Approval Code was inaccurate; provided, however, that TeleCheck's liability shall be limited by the Warranty Maximum and warranty requirements, and shall not exceed the amount of the Item. Subscriber's sole and exclusive remedy for breach of warranty shall be the right to require TeleCheck to purchase such Item subject to the terms and conditions contained in this Agreement.

1.5.5. Electronic Item Processing. For each Electronic Item Warranty Transaction that TeleCheck issues a TeleCheck Approval Code and which otherwise meets the Warranty Requirements, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the full amount of such transaction. TeleCheck reserves the right to decline to process any transaction as an Electronic Item Warranty Transaction. Subscriber authorizes TeleCheck on its behalf to initiate debits to the Consumer's accounts for each such Electronic Item Warranty Transaction. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for Electronic Item Warranty Transactions, including, without limitation, chargebacks or partial adjustments, to Subscriber's Account. As required by NACHA Rules, TeleCheck's Originating Depository Financial Institution (as defined by the NACHA Rules) shall have the right to audit Subscriber's compliance with this agreement and the NACHA Rules.

TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any ACH Network participant or Subscriber's financial institution. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment of any amounts now due or hereafter to become due ("Funds Hold") should any questionable activity occur as determined by TeleCheck in its sole discretion including, without limitation an excessive amount of Return Items or a breach of the NACHA Rules, or as otherwise required by the Originating Depository Financial Institution or by law. In addition to the right to place a Funds Hold with respect to any payment, TeleCheck also has the right without notice to freeze or terminate all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within 3 business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

Account Reconciliation. In the event any Electronic Item Warranty Transaction is not funded or otherwise paid by TeleCheck in accordance with this Agreement, Subscriber is required to notify TeleCheck thereof in writing within thirty (30) days from the date of such Electronic Item Verification Transaction. If Subscriber fails to so notify TeleCheck within thirty (30) day period, TeleCheck will have no liability and Subscriber is precluded from asserting any claims, damages or losses relating to TeleCheck's failure to fund such Electronic Item Verification Transaction.

1.5.6. "Goodwill" of a Returned Item. TeleCheck, in its discretion, may voluntarily reimburse and not chargeback to a Subscriber for a specific Returned Item. TeleCheck's election to reimburse and not chargeback a Returned Item(s) shall not act as a waiver of TeleCheck's right to decline to pay or chargeback any other Returned Item.

1.5.7. Retention of Electronic Item Authorization Records. Subscriber shall cause the Consumer to provide a verbal authorization for each Phone Check, an electronic authorization for each Internet Check (if the Internet Check is processed under the Message Based (ICA) Service) and a written authorization for each Remote Pay Check submitted to TeleCheck for processing pursuant to this Agreement in the Consumer Authorization Format provided to Subscriber by TeleCheck prior to submission of such Electronic Item to TeleCheck for processing. If Subscriber shall not make a tape recording of the Consumer's verbal telephone authorization for the Phone Check Business Transaction, Subscriber shall provide a written confirmation notice to the Consumer of such verbal authorization in TeleCheck's required format in advance of the settlement date in connection with the electronic funds transfer processing of such Phone Check. Subscriber shall maintain a copy of (i) each such tape recording authorization or, alternatively, written confirmation notice provided to the Consumer of the Consumer's verbal authorization with respect to the Phone Check, (ii) each said electronic authorization (if Message Based (ICA) Service) with respect to an Internet Check and (iii) each written authorization with respect to a Remote Pay Check for a minimum period of two years from the date of the transaction or for the period specified by the NACHA Rules, whichever is longer. Within 7 days of TeleCheck's request therefore, Subscriber shall deliver to TeleCheck a (i) physical or electronic copy of the tape recording or, alternatively, a physical copy of the written confirmation notice provided to the Consumer of the Consumer's verbal authorization) if a Phone Check, or (ii) physical and electronic copy of said electronic authorization if an Internet Check, as applicable, to TeleCheck. Subscriber, upon reasonable notice and during normal business hours, shall permit TeleCheck to audit Subscriber for its compliance with this requirement. Notwithstanding anything to the contrary herein, if TeleCheck has agreed to provide the written confirmation notice referred to above on behalf of Subscriber to the Consumer, Subscriber shall not be responsible for maintaining such records nor shall Subscriber be considered in breach of such requirement.

1.5.8. Warranty Requirements and Subscriber's Representations. Subscriber covenants, represents, warrants and agrees (as applicable) with respect to all Electronic Item Warranty Transactions submitted to TeleCheck for processing under this Agreement the following representations:

- a) The Electronic Item Warranty Transaction is not the result of the Subscriber initiating an unsolicited telephone call to a Consumer with which Subscriber had no prior relationship;
- b) Each Electronic Item must be a first party personal or company check for which the Consumer has authorized payment to Subscriber drawn by electronic means on Consumer's deposit account at a United States, Puerto Rico or U.S. Virgin Island financial institution for the purchase of goods or services from Subscriber;
- c) The Consumer provided to Subscriber full and proper verbal authorization (if a Phone Check) or electronic authorization (if an Internet Check), or written authorization (if a Remote Pay Check), to process the payment in the amount agreed to by the consumer as a Phone Check, Remote Pay Check or an Internet Check, as applicable, including debiting the Consumer's financial institution account, as required pursuant to the NACHA Rules and as otherwise required pursuant to this Agreement, and such authorization has not been revoked, rescinded or terminated;
- d) The Consumer completely provided all required information, including, without limitation, name, physical address (no P.O. Box), telephone number (including area code), date of the authorization of the Electronic Item, and check number, check type (personal or company), consumer's bank routing and Account MICR number(s), driver's license or other identification acceptable to TeleCheck for the financial institution account on which the Electronic Item is authorized to be drawn. Subscriber shall provide to TeleCheck such Consumer information, the TeleCheck Subscriber Account Number and any other required information from Consumer in the data sent to TeleCheck for authorization and processing of such Electronic Item;
- e) Subscriber shall have made a request and inquiry to TeleCheck for processing the Electronic Item in strict accordance with TeleCheck Operational Procedures and Subscriber must have obtained a TeleCheck Approval Code. Subscriber will also properly indicate to TeleCheck, according to TeleCheck Operational Procedures, whether the transaction is an Internet Check or a Phone Check;
- f) The Electronic Item for the Electronic Item Warranty Transaction represents the obligation of the person who is presenting the respective Electronic Item Warranty Transaction and such Transaction is for goods or services actually sold or rendered by Subscriber for the actual price of such goods or services (including tax and shipping) and does not involve any element of credit for any purpose;
- g) The date of the Electronic Item Warranty Transaction shall accurately coincide with the date of the inquiry call to TeleCheck and the date the transaction actually occurred (No Pre- or Post-dated Electronic Items);
- h) The amount of the Electronic Item entered into the TeleCheck system for authorization and processing and the Electronic Item amount authorized by the Consumer shall agree;
- i) Subscriber must have contacted TeleCheck for a single TeleCheck Approval Code on only one Electronic Item per Electronic Item Warranty Transaction;
- j) Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of the Consumer's obligation or relieve the Consumer from liability for the Electronic Item;
- k) Subscriber shall not in any manner utilize any of the services provided pursuant to this Agreement for any transaction that, directly or indirectly, involves any: (i) product or service classified under a different SIC code than the code designated for Subscriber at the time this Agreement is executed by Subscriber (subject to any subsequent written agreement of the parties for a change in such SIC code); or (ii) sexually-oriented adult entertainment; gambling; or wagering service, product, business, entity or site;
- l) The Subscriber shall have directly tape recorded the verbal telephonic authorization directly from the Consumer, or, alternatively, Subscriber shall have sent the required written confirmation notice to the Consumer (unless TeleCheck has agreed to provide such written notice on behalf of Subscriber) for each Phone Check submitted to TeleCheck for processing pursuant to this Agreement;
- m) If, for any reason the payment for an Electronic Item Warranty Transaction cannot be processed as an Electronic Item, Subscriber has authorized TeleCheck to produce a demand draft on behalf of Subscriber and to deposit the funds in TeleCheck's financial institution account;
- n) Each Electronic Item Warranty Transaction submitted to TeleCheck pursuant to this Agreement is solely for the contemporaneous purchase of products or services by the Consumer from Subscriber;
- o) Subscriber shall use the Consumer Authorization Format in connection with processing the Electronic Item and shall not alter or modify the text of such format;
- p) Subscriber shall have complied with all requirements of Section 1.5.7 above;
- q) Subscriber and all Electronic Item transactions submitted to TeleCheck for processing are in compliance and Subscriber shall comply with (X) all federal, state and local laws and regulations, including, without limitation, Regulation E (12 C.F.R. Part 205) requirements for authorizing the Electronic Item and the Return Item Fee and the Federal Trade Commission Telemarketing Sales Rule (16 C.F.R. Part 310) and (Y) all NACHA Rules, including, without limitation, its obligations as an Originator under the NACHA Rules, those relating to Subscriber authenticating the Consumer's identity, security of websites and computer systems, internet session security, and internet

security audits. From time to time upon TeleCheck's request, Subscriber shall provide TeleCheck with copies of Subscriber's internet security audits. If Subscriber utilizes any third parties to provide internet hosting, gateway or other services in connection with Subscriber's Electronic Item transactions, Subscriber shall ensure and be responsible for such third parties complying with all requirements contained in this Agreement; and

- r) The Electronic Item Warranty Transaction is not subject to any stop payment, dispute or set-off.

All of the above foregoing covenants, requirements and representations are material terms of this Agreement. By execution of this Agreement, Subscriber acknowledges its full knowledge and understanding of the above covenants, requirements and representations as they pertain to the warranty services provided to Subscriber under this Agreement. Subscriber shall not be entitled to receive or retain any amounts with respect to any Electronic Items under this Agreement if Subscriber fails to timely satisfy any of the terms or conditions of, or breaches any covenant, warranty requirements or representation contained in: (i) this Section 1.5.8; or (ii) any other terms, conditions or limitations elsewhere in this Agreement.

1.5.9. Collection and Returned Check Fees. Subscriber agrees that TeleCheck shall be entitled to collect from the Consumer and retain any fees or exemplary damages, in addition to the face amount of any Electronic Item, which are allowed by law. Subscriber shall follow all TeleCheck policies and procedures and provide Consumers, at TeleCheck's direction, any notices which in TeleCheck's opinion may be required for TeleCheck to collect any such amounts arising from any returned, dishonored or unpaid Electronic Item.

1.5.10. Assignment of Electronic Items. By the execution of this Agreement, Subscriber ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Subscriber's rights, title and interests in any Electronic Item Warranty Transaction submitted to TeleCheck for processing. Subscriber authorizes TeleCheck to accept any such Electronic Items on behalf of Subscriber (notwithstanding the payee) for deposit into TeleCheck's financial institution account. Subscriber shall, at TeleCheck's request, take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of TeleCheck's rights under or with respect to the subject matter hereunder.

1.5.11. Reassignment and Chargeback. TeleCheck, as applicable, may: (i) reassign to Subscriber any Electronic Item Warranty Transaction purchased by TeleCheck pursuant to the warranty service program provisions of this Agreement; or (ii) chargeback to Subscriber and debit Subscriber's Account the amount of any Electronic Item related to an Electronic Item Warranty Transaction submitted to TeleCheck for processing pursuant to this Agreement, in any of the following circumstances:

- a) The goods and/or services, in whole or in part, for which the Electronic Item Warranty Transaction was submitted to TeleCheck for authorization and processing, have been returned to Subscriber, have not been delivered by Subscriber or, are claimed by the Consumer to have been unsatisfactory, are subject to any dispute, set-off or counterclaim, or by the Consumer, or the Consumer's authorization for such Electronic Item has been stopped, revoked, rescinded or reversed by the Consumer due to any such dispute;
- b) Subscriber has received full or partial payment or security in any form whatsoever to secure payment of or for the: (i) Electronic Item for the Electronic Item Warranty Transaction; or (ii) goods or services for which the Electronic Item for the Electronic Item Warranty Transaction was authorized;
- c) The transaction for which the Electronic Item was tendered, or transfer of the Consumer's authorized Electronic Item to TeleCheck, is for any reason: (i) not permitted by Applicable Law; or (ii) a court of law determines that the Electronic Item for the Electronic Item Warranty Transaction is, in whole or in part, not due and payable by the Consumer, unless such determination results from the Consumer's bankruptcy proceeding;
- d) The consumer's authorization of an electronic funds transfer was not issued in connection with an Electronic Item Warranty Transaction;
- e) Any of the warranties and representations made by Subscriber as set forth in Section 1.5.8 above are or become false or inaccurate; or, Subscriber fails or failed to comply with any of the terms, conditions, provisions or obligations under this Agreement;
- f) Subscriber, or any of its owners, agents or employees: (i) materially altered either the Electronic Item Warranty Transaction or the Consumer's authorization for such Electronic Item; or (ii) processed the Electronic Item Warranty Transaction with reason to know that the Electronic Item for such Electronic Item Warranty Transaction was likely to be dishonored, that the identification used to authorize the Electronic Item for such Electronic Item Warranty Transaction was forged or altered or that the Consumer did not authorize the Electronic Item for such Electronic Item Warranty Transaction;
- g) A duplicate Electronic Item Warranty Transaction relating to the same Electronic Item Warranty Transaction was received and processed, thereby creating a duplicate entry against the Consumer's financial institution account;
- h) A legible and acceptable copy of the authorization documentation for the Electronic Item is not received by TeleCheck within 7 days of a request therefore by TeleCheck as required by Section 1.5.7 above;
- i) The Consumer disputes authorizing the Electronic Item and the Electronic Item Warranty Transaction or the validity or accuracy of such Electronic Item Warranty Transaction;

- j) A TeleCheck Approval Code has not been issued for the Electronic Item or the submission of the Electronic Item to TeleCheck for settlement processing does not occur within seven (7) days from the date the TeleCheck Approval Code is issued for the Electronic Item; or
- k) Subscriber receives notice that the Consumer filed bankruptcy and Subscriber failed to notify TeleCheck of the bankruptcy within three (3) days of Subscriber's receipt of such notice.

Subscriber shall immediately notify TeleCheck upon Subscriber's obtaining knowledge of the occurrence of notice of any of the above circumstances. If an Electronic Item is reassigned or charged back to Subscriber as provided herein, TeleCheck may debit Subscriber's financial institution account in the amount paid by TeleCheck for the Electronic Item, or, upon request, Subscriber shall remit the amount of the Electronic Item to TeleCheck. TeleCheck may also chargeback to Subscriber any amount over the Warranty Maximum on any Electronic Item Warranty Transaction where TeleCheck has not received payment for such Electronic Item Warranty Transaction within sixty (60) days of the date of the Electronic Item Warranty Transaction. Upon reassignment or charging back an Electronic Item, TeleCheck shall have no further liability to Subscriber on such Electronic Item. Following termination of this Agreement, Subscriber shall continue to bear total responsibility for any reassignments, chargebacks and adjustments made under this Section 1.5.11.

TERMS APPLICABLE ONLY TO TELECHECK ECA VERIFICATION SERVICE

1.6. ECA Verification Service.

1.6.1. ECA Verification Service. The TeleCheck ECA Verification Service provides Subscriber with: (a) coded information to assist Subscriber in deciding whether or not to accept an Item; and (b) processing services, all in accordance with this Agreement. TeleCheck does not guarantee the accuracy or completeness of the information provided to Subscriber. Subscriber agrees that there shall be no payment to Subscriber for any loss from transactions processed through the ECA Verification Service. Subscriber assumes all risks that Items accepted by Subscriber may result in Return Items. The maximum amount of an ECA Verification Transaction which can be processed through TeleCheck is the lesser of (a) the face amount of the Item, or (b) \$25,000; it being understood that TeleCheck may also decline to process Items in excess of its risk parameters.

1.6.2. ECA Processing. For each ECA Verification Transaction that TeleCheck issues a TeleCheck Approval Code that is processed by TeleCheck as an electronic funds transfer or remotely created check, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the amount of such transaction as part of a batch credit. Such credit shall typically occur within 2 banking days following Subscriber's regular close-out of the point of sale terminal and transmission of the saved ECA Verification Transactions to TeleCheck for settlement processing, provided that the Batch is closed and received by TeleCheck by 9:00 p.m. Central Time. Subscriber authorizes TeleCheck on its behalf to initiate debits to Consumer's accounts for each such ECA Verification transaction. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for ECA Verification Transactions, including, without limitation, chargebacks or partial adjustments, to Subscriber's Account. TeleCheck reserves the right to decline to process any transaction as an ECA Verification Transaction.

As required by NACHA Rules TeleCheck's Original Depository Financial Institution (as defined by the NACHA Rules) shall have the right to audit Subscriber's compliance with this Agreement and the NACHA Rules. TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any ACH Network participant or Subscriber's financial institution. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment of any amounts now due or hereafter to become due ("Funds Hold") should any questionable activity occur as determined by TeleCheck in its sole discretion including, without limitation, an excessive amount of Return Items or a breach in the NACHA Rules, or as otherwise required by the Originating Depository Financial Institution or by law. In addition to the right to place a Funds Hold with respect to any payment, TeleCheck is also entitled without notice to freeze or terminate all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within 3 business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

1.6.3. ECA Verification Transaction Requirements and Representations. Subscriber represents and warrants with respect to each ECA Verification Transaction submitted to TeleCheck for processing under this Agreement that:

- a) The check is a first party check drawn on a Consumer's account at a United States financial institution and made payable to Subscriber. The name of the Consumer is imprinted or typed on the check by the check manufacturer;

- b) Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code;
- c) The transaction represents an obligation of Consumer at the point of sale (no phone, mail or internet orders) for goods sold or rented or services rendered for the price of such goods or services, and the transaction is not for credit, cash or payment on an account, debt or check already due Subscriber;
- d) The signature of Consumer on the Authorization Receipt is not substantially different from the name imprinted on the check;
- e) The date of the check and the ECA Verification Transaction accurately coincides within 1 calendar day of (i) the date of the inquiry call to TeleCheck, and (ii) the date the transaction actually occurred. (Checks may not pre-date or post-date by more than 1 calendar day the date of the inquiry call and the transaction date);
- f) Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of Consumer's obligation or relieve Consumer from liability;
- g) Subscriber has complied and shall comply with all Applicable Laws, rules, regulations, and NACHA Rules including, without limitation, its obligations as an Originator under the NACHA Rules, posting notice to authorize the ECA Verification Transaction and the Return Item Fee in a prominent and conspicuous location, and providing a copy of the notice to the Consumer, all in accordance with Regulation E (12 C.F.R. Part 205);
- h) Consumer authorized the debiting of Consumer's account and the debit entry is in an amount agreed to by Consumer. Subscriber received a separate signed Authorization Receipt from Consumer for each ECA Verification Transaction;
- i) The paper check to which the ECA Verification Transaction relates: (i) has not been used in for any other transaction, (ii) is voided on the front by Consumer or Subscriber, and (iii) is returned to Consumer; and
- j) The amount entered into the TeleCheck system and on the Authorization Receipt match exactly.

1.6.4. Account Reconciliation. Payments processed by TeleCheck shall be reflected on settlement reports made available to Subscriber by TeleCheck. Subscriber agrees to notify TeleCheck promptly of any discrepancy between Subscriber's records and the information provided in such reports, or of any funding failures or errors. In the event any ECA Verification Transaction is not funded or otherwise paid by TeleCheck in accordance with Section 1.6.2, Subscriber is required to notify TeleCheck in writing within 30 days from the date of the transaction. If Subscriber fails to notify TeleCheck within such 30 day period of the discrepancy, funding failure or error, TeleCheck shall have no liability and Subscriber is precluded from asserting any claims, damages or losses arising from such discrepancy, funding failure or error.

1.6.5. Return Items and Returned Payments. Subscriber shall be fully responsible and liable to TeleCheck for all Return Items and Returned Payments, regardless of the or timing. TeleCheck shall deduct or offset all Return Items and Returned Payments against any amounts to be paid to Subscriber for ECA Verification Transactions or, alternatively, TeleCheck may initiate debits to Subscriber's Account for all such Return Items and Returned Payments.

1.6.6. Authorization Receipts. Subscriber shall (a) maintain the signed Authorization Receipt for a minimum period of 2 years from the date of the transaction or for the period specified by the NACHA Rules, whichever is longer, (b) physically deliver either the original or a legible copy of the signed Authorization Receipt to TeleCheck within 7 days of TeleCheck's request, and (c) permit TeleCheck to audit Subscriber (upon reasonable notice and during normal business hours) for compliance with this requirement.

1.6.7. Reserve Account Establishment and Funding. Subscriber expressly authorizes TeleCheck to establish a reserve account for ECA Verification Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon 3 days' notice to Subscriber or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (a) one or more debits to Subscriber's Account (and TeleCheck is hereby authorized to make such debits); (b) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (c) Subscriber's delivery to TeleCheck of a letter of credit issued or established by a financial institution acceptable to, and in a form satisfactory to, TeleCheck. In the event of termination of this Agreement by either TeleCheck or Subscriber, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for 10 months after termination of this Agreement. Subscriber's funds may be held in a commingled reserve account for the reserve funds of TeleCheck's subscribers without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's funds in the reserve account are not sufficient to cover the delinquent fees, chargebacks or rejected and reassigned warranty Items, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above.

1.6.8. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The **"Transaction Fee"** is the per transaction charge for each Item for which an authorization inquiry is made to TeleCheck by telephone, electronically or otherwise, whether or not a TeleCheck Approval Code is issued. The **"Monthly Minimum Fee"** is the minimum aggregate amount of Transaction Fees that Subscriber shall pay on a monthly basis. If the total Transaction Fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The **"Customer Requested Operator Call Fee"** "CROC" or **"Voice Authorization Fee"** is an additional fee per operator or Interactive Voice Response (IVR)-assisted call not requested by TeleCheck. The **"Monthly Statement/Processing Fee"** is a monthly fee for handling Subscriber's account.

The following additional fees may be also be charged by TeleCheck: The **"Chargeback Fee"** is a \$5.00 handling fee for each chargeback of an ECA Verification Transaction. The **"Correction Fee"** is a \$5.00 fee payable on each Item that must be corrected due to Subscriber's error or at Subscriber's request. A **"Terminal Application Update Fee"** of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. The **"Administrative Return Fee"** is a \$0.10 handling fee for each Return Item that is returned under NACHA Rules, and is classified by TeleCheck as an administrative return. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. The above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

TERMS APPLICABLE ONLY TO TELECHECK PAPER VERIFICATION SERVICE

1.7. Paper Verification Service.

1.7.1. Description. The TeleCheck Paper Verification Service provide Subscriber with coded information to assist Subscriber in deciding whether or not to accept a check submitted at a point of sale or cash on delivery (C.O.D.) transaction, or in a mail order transaction. TeleCheck does not guarantee the accuracy or completeness of the information provided to Subscriber. Subscriber agrees that there shall be no payment to Subscriber for any loss from transactions processed through the Paper Verification Service. Subscriber assumes all risks that checks accepted by Subscriber may result in Return Items.

1.7.2. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The **"Transaction Fee"** is the per transaction charge for each Item for which an authorization inquiry is made to TeleCheck by telephone, electronically or otherwise, whether or not a TeleCheck Approval Code is issued. The **"Monthly Minimum Fee"** is the minimum aggregate amount of Transaction Fees that Subscriber shall pay on a monthly basis. If the total Transaction Fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The **"Customer Requested Operator Call Fee"** "CROC" or **"Voice Authorization Fee"** is an additional fee per operator or Interactive Voice Response (IVR)-assisted call not requested by TeleCheck. The **"Monthly Statement/Processing Fee"** is a monthly fee for handling Subscriber's account.

The following additional fees may be also be charged by TeleCheck: A **"Terminal Application Update Fee"** of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Any additional requests or other Services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

TERMS APPLICABLE ONLY TO TELECHECK LOCKBOX WARRANTY SERVICE

1.8. Lockbox Warranty Service.

1.8.1. Description. The TeleCheck Lockbox Warranty Service (formerly known as PayItSM) provide Subscriber with: (a) coded information to assist Subscriber in deciding whether or not to accept an Item; (b) processing services; and (c) warranty services for Lockbox Warranty Transactions that comply with the warranty requirements of Section 1.8.3, all in accordance with this Agreement.

1.8.2. Processing Services. For each Lockbox Warranty Transaction that TeleCheck issues a TeleCheck Approval Code that is processed by TeleCheck as an electronic funds transfer or remotely created check, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the amount of such transaction as part of a batch credit. Such credit shall typically occur within two (2) banking days following TeleCheck's receipt and acceptance of completed Lockbox Warranty Transactions received prior to 9:00 p.m. Central Time. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for Lockbox Warranty Transactions, including, without limitation, chargebacks or partial adjustments, to Subscriber's Account. TeleCheck reserves the right to decline to process any transaction as a Lockbox Warranty Transaction.

TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any ACH Network participant or Subscriber's financial institution. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment of any amounts now due or hereafter to become due ("Funds Hold")

should an excessive amount of Return Items or other questionable activity occur as determined by TeleCheck in its discretion, or as otherwise required by law. In addition to placing a Funds Hold with respect to any payment, TeleCheck may also freeze all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within three (3) business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

1.8.3. Warranty Requirements. TeleCheck warrants the accuracy of its information provided that all requirements set forth in this Section are strictly met. TeleCheck agrees to purchase from Subscriber one Item per Lockbox Warranty Transaction for which a TeleCheck Approval Code was inaccurate; provided, however, that TeleCheck's liability shall be limited by the Warranty Maximum and warranty requirements, and shall not exceed the amount of the Item. Subscriber's sole and exclusive remedy for breach of warranty shall be the right to require TeleCheck to purchase such Item subject to the terms and conditions contained in this Agreement. Subscriber represents and warrants with respect to each Lockbox Warranty Transaction submitted to TeleCheck for processing under this Agreement that:

- The check is a first party check drawn on Consumer's deposit account (not a corporate check) at a United States financial institution, completely and properly filled out, and made payable to Subscriber. The name of the Consumer and check serial number are imprinted on the check by the check manufacturer;
- The check is sent to Subscriber through the U.S. mail or delivered to Subscriber's drop box;
- Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code. The transaction was not performed in an attempt to avoid the warranty requirements or Warranty Maximum (as more fully described in Section 1.8.6(f)), including through split sales;
- The signature in the signature block on the check is not substantially different from the name imprinted on the check;
- The check is not post-dated or dated earlier than 20 days from the date of inquiry to TeleCheck, and the amount called into TeleCheck and the amount shown in words and figures on the check match exactly;
- The check must not be for a payment which is more than 60 days past due.
- Consumer did not notify Subscriber that the check was not to be converted to an electronic funds transfer;
- The transaction represents an obligation of Consumer for the purchase or payment for goods or services from Subscriber for the price of such goods or services;
- The transaction is not subject to any stop payment, dispute or set-off;
- Subscriber complied with all Applicable Laws, rules, regulations, and NACHA Rules including, without limitation, providing a separate notice to authorize each Lockbox Warranty Transaction and each Return Item Fee in accordance with Regulation E (12 C.F.R. Part 205);
- Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of Consumer's obligation or relieve Consumer from liability; and
- If the Lockbox Warranty Transaction is approved as a paper check not eligible for processing as an electronic funds transfer, each representation and warranty set forth Section 1.4.2 shall be applicable to such Lockbox Warranty Transaction, except that the check is (i) received by TeleCheck for purchase within 45 days of the check, (ii) sent to Subscriber through the U.S. mail or delivered to Subscriber's drop box, (iii) for payment that is not more than 60 days past due, and (iv) not post-dated or dated earlier than 20 days from the date of inquiry to TeleCheck.

1.8.4. Additional Requirements for Lockbox Warranty Transaction Notices. Subscriber shall provide Consumer with a separate notice for each Item that includes the following, or substantially similar, language: "When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction."

1.8.5. Assignment of Lockbox Warranty Transactions. By electing to subscribe to the TeleCheck Lockbox Warranty Service, Subscriber ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Subscriber's rights, title and interest in any Lockbox Warranty Transaction submitted by Subscriber to TeleCheck under this Agreement. Subscriber shall, at TeleCheck's request, endorse such check and take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of TeleCheck's rights hereunder.

1.8.6. Chargeback and Reassignment. TeleCheck may chargeback to Subscriber any Lockbox Warranty Transaction processed by TeleCheck, or reassign to Subscriber any Lockbox Warranty Transaction which has been approved as a paper check and purchased by TeleCheck, in any of the following circumstances:

- a) The goods or services, in whole or in part, for which the Item was submitted have been returned to Subscriber, have not been delivered by Subscriber, are claimed by Consumer to have been unsatisfactory, or are subject to any stop payment, dispute or set-off;
- b) Subscriber has received full or partial payment or security in any form to secure payment of the Item, or the goods or services for which the Item was issued or authorized were initially delivered on credit or under a lease;
- c) The transaction is for any reason illegal, void or invalid; or purchase by or transfer to TeleCheck of the Item is not permitted by Applicable Law; or a court of law determines that the Item is, in whole or in part, not due and payable by Consumer, unless such determination results from Consumer's bankruptcy proceeding;
- d) Any of the representations made by Subscriber as set forth in Section 1.8.3 are or become false or inaccurate;
- e) Subscriber failed to comply with this Agreement;
- f) Subscriber, or any of Subscriber's owners, agents or employees (i) materially altered the check; or (ii) processed the transaction with reason to know that the Item was likely to be dishonored (including failure to receive a TeleCheck Approval Code); or (iii) processed the transaction in a manner which was an attempt to avoid the warranty requirements or Warranty Maximum. "Knowledge" shall be presumed in the presence of facts or circumstances which, if known, would cause a non-subscribing merchant, using commercially reasonable judgment, to independently refuse to accept a check. "Knowledge" is also presumed where there is evidence of Subscriber's attempt to avoid warranty limitations through manipulation of transactions, including, but not limited to, the splitting of a single transaction into smaller components or resubmission of a previously denied transaction;
- g) A duplicate Lockbox Warranty Transaction relating to the same transaction was received and processed, or the original paper check was deposited, thereby creating a duplicate entry against Consumer's financial institution account;
- h) Consumer disputes authorizing the transaction or the validity or accuracy of the transaction; or
- i) Subscriber received notice that Consumer filed bankruptcy and Subscriber failed to notify TeleCheck of the bankruptcy within 3 business days of Subscriber's receipt of such notice.

Subscriber shall immediately notify TeleCheck upon the happening of any of the above circumstances. If the Item is charged back or reassigned as provided herein, (a) TeleCheck may debit Subscriber's Account in the amount paid by TeleCheck for the Item, (b) deduct or offset such Item against any amounts to be paid to Subscriber for Lockbox Warranty Transactions, or (c) upon request, Subscriber shall remit the amount of the Item to TeleCheck. TeleCheck may also chargeback to Subscriber any amount over the Warranty Maximum on any Lockbox Warranty Transaction where TeleCheck has not received payment for such transaction within 60 days of the date of the Lockbox Warranty Transaction. Upon charging back or reassigning an Item, TeleCheck shall have no further liability to Subscriber on such Item. Following termination of this Agreement, Subscriber shall continue to bear total responsibility for any reassignments, chargebacks and adjustments made under this Section.

1.8.7. Account Reconciliation. Payments processed by TeleCheck will be reflected on settlement reports made available to Subscriber by TeleCheck. Subscriber agrees to notify TeleCheck promptly of any discrepancy between Subscriber's records and the information provided in the reports, or of any funding failures or errors. In the event any Lockbox Warranty Transaction is not funded or otherwise paid by TeleCheck in accordance with Section 1.8.2, Subscriber is required to notify TeleCheck in writing within 30 days from the date of such transaction. If Subscriber fails to notify TeleCheck within such 30 day period of the discrepancy, funding failure or error, TeleCheck shall have no liability and Subscriber is precluded from asserting any claims, damages or losses arising from such discrepancy, funding failure or error.

1.8.8. Information Storage. Subscriber shall use commercially reasonable methods to securely store the check used in a Lockbox Warranty Transaction until destruction and all banking information relating to the transaction.

1.8.9. "Goodwill" of a Non-Compliance Item. TeleCheck, in its sole discretion, may voluntarily elect not to chargeback to Subscriber a specific non-compliance Item which fails to comply with the warranty requirements set forth in Section 1.8.3. Such discretionary election by TeleCheck shall not (a) constitute a course of dealing or a waiver of TeleCheck's right to chargeback or reassign any other Return Item, or (b) relate to any other past or subsequent Return Item, or (c) act as a waiver of TeleCheck's right to decline to pay any other Return Item.

1.8.10. Reserve Account Establishment and Funding. Subscriber expressly authorizes TeleCheck to establish a reserve account for Lockbox Warranty Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon three (3) days' notice to Subscriber or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (a) one or more debits to Subscriber's Account (and TeleCheck is hereby authorized to make such debits); (b) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (c) Subscriber's delivery to TeleCheck of a letter of credit issued or established by a financial institution acceptable to, and in a form satisfactory to, TeleCheck. In the event of termination of this Agreement by either TeleCheck or Subscriber, an immediate reserve

account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for ten (10) months after termination of this Agreement. Subscriber's funds may be held in a commingled reserve account for the reserve funds of TeleCheck's subscribers without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's funds in the reserve account are not sufficient to cover the delinquent fees, chargebacks or rejected and reassigned warranty Items, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above.

1.8.11. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The **"Inquiry Rate"** is the percentage rate which shall apply to the face amount of each Item (up to the Warranty Maximum), for which an authorization inquiry is made to TeleCheck by telephone, electronically or otherwise, whether or not a TeleCheck Approval Code is issued. The **"Transaction Fee"** is the additional per transaction charge for each Lockbox Warranty Transaction inquiry, whether or not a TeleCheck Approval Code is issued. The **"Monthly Minimum Fee"** is the aggregate minimum amount of Inquiry Rate fees that Subscriber shall pay on a monthly basis. If the total Inquiry Rate fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The **"Customer Requested Operator Call Fee"** "CROC" or **"Voice Authorization Fee"** is an additional fee per operator or Interactive Voice Response (IVR)-assisted call not requested by TeleCheck. The **"December Risk Surcharge"** is an additional percentage charge added to the Inquiry Rate for each authorization inquiry in December. The **"Monthly Statement/Processing Fee"** is a monthly fee for handling Subscriber's account.

The following additional fees may be also be charged by TeleCheck: The **"Funding Report Fee"** is a \$15.00 monthly fee to receive daily funding reports or \$10.00 monthly fee to receive weekly funding reports. The **"Chargeback Fee"** is a \$5.00 handling fee for each chargeback of a Lockbox Warranty Transaction. The **"Correction Fee"** is a \$5.00 fee payable on each Item that must be corrected due to Subscriber's error or at Subscriber's request. The **"Recovery Processing Fee"** is a \$5.00 fee for each Item that fails to meet warranty requirements for which TeleCheck elects, in its discretion, to reimburse Subscriber as a "Goodwill Item" for a specific Return Item. A **"Terminal Application Update Fee"** of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

TERMS APPLICABLE ONLY TO TELECHECK LOCKBOX VERIFICATION SERVICE

1.9. Lockbox Verification Service.

1.9.1. Description. The TeleCheck Lockbox Verification Service (formerly known as Pay1SM) provide Subscriber with: (a) coded information to assist Subscriber in deciding whether or not to accept an Item; and (b) processing services, all the foregoing in accordance with this Agreement. TeleCheck does not guarantee the accuracy or completeness of the information provided to Subscriber. Subscriber agrees that there shall be no payment to Subscriber for any loss from transactions processed through the Lockbox Verification Service. Subscriber assumes all risks that Items accepted by Subscriber may result in Return Items. The maximum amount of a Lockbox Verification Transaction which can be processed through TeleCheck is the lesser of (a) the face amount of the Item, or (b) \$25,000; it being understood that TeleCheck may also decline to process Items in excess of its risk parameters.

1.9.2. Processing Service. For each Lockbox Verification Transaction that TeleCheck issues a TeleCheck Approval Code that is processed by TeleCheck as an electronic funds transfer or remotely created check, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the amount of such transaction as part of a batch credit. Such credit shall typically occur within two (2) banking days following TeleCheck's receipt and acceptance of completed Lockbox Verification Transactions received prior to 9:00 p.m. Central Time. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for Lockbox Verification Transactions, including, without limitation, chargebacks or partial adjustments, to Subscriber's Account. TeleCheck reserves the right to decline to process any transaction as a Lockbox Verification Transaction.

TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any ACH Network participant or Subscriber's financial institution. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment of any amounts now due or hereafter to become due should an excessive amount of Return Items or other questionable activity occur as determined by TeleCheck in its discretion, or as otherwise required by law. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within three (3) business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to

a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

1.9.3. Lockbox Verification Transaction Requirements and Representations. Subscriber represents and warrants with respect to each Lockbox Verification Transaction submitted to TeleCheck for processing under this Agreement that:

- a) The check is a first party check drawn on Consumer's account (not a corporate check) at a United States financial institution, completely and properly filled out, and made payable to Subscriber. The name of the Consumer and check serial number are imprinted on the check by the check manufacturer;
- b) The check is sent to Subscriber through the U.S. mail or delivered to Subscriber's drop box;
- c) Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code;
- d) The signature in the signature block on the check is not substantially different from the name imprinted on the check;
- e) The check is not post-dated or dated earlier than 20 days from the date of inquiry to TeleCheck, and the amount called into TeleCheck and the amount shown in words and figures on the check match exactly;
- f) Consumer did not notify Subscriber that the check was not to be converted to an electronic fund transfer;
- g) Subscriber complied with all Applicable Laws, rules, regulations, and NACHA Rules including, without limitation, providing a separate notice to authorize each Lockbox Verification Transaction and each Return Item Fee in accordance with Regulation E (12 C.F.R. Part 205);
- h) The transaction represents an obligation of Consumer for the purchase or payment for goods or services from Subscriber for the price of such goods or services; and
- i) Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of Consumer's obligation or relieve Consumer from liability.

1.9.4. Additional Requirements for Lockbox Verification Transaction Notices. Subscriber shall provide Consumer with notice for each item that includes the following, or substantially similar, language: "When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction."

1.9.5. Account Reconciliation. Payments processed by TeleCheck will be reflected on settlement reports made available to Subscriber by TeleCheck. Subscriber agrees to notify TeleCheck promptly of any discrepancy between Subscriber's records and the information provided in the reports, or of any funding failures or errors. In the event any Lockbox Verification Transaction is not funded or otherwise paid by TeleCheck in accordance with Section 1.9.2, Subscriber is required to notify TeleCheck in writing within 30 days from the date of such transaction. If Subscriber fails to notify TeleCheck within such 30 day period of the discrepancy, funding failure or error, TeleCheck shall have no liability and Subscriber is precluded from asserting any claims, damages or losses arising from such discrepancy, funding failure or error.

1.9.6. Return Items and Returned Payments. Subscriber shall be fully responsible and liable to TeleCheck for all Return Items and Returned Payments, regardless of the reason or timing. TeleCheck shall deduct or offset all Return Items and Returned Payments against any amounts to be paid to Subscriber for Lockbox Verification Transactions or, alternatively, TeleCheck may initiate debits to Subscriber's Account for all such Return Items and Returned Payments.

1.9.7. Information Storage. Subscriber shall use commercially reasonable methods to securely store the check used in a Lockbox Verification Transaction until destruction and all banking information relating to the transaction.

1.9.8. Reserve Account Establishment and Funding. Subscriber expressly authorizes TeleCheck to establish a reserve account for Lockbox Verification Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon three (3) days' notice to Subscriber or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (a) one or more debits to Subscriber's Account (and TeleCheck is hereby authorized to make such debits); (b) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (c) Subscriber's delivery to TeleCheck of a letter of credit issued or established by a financial institution acceptable to, and in a form satisfactory to, TeleCheck. In the event of termination of this Agreement by either TeleCheck or Subscriber, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for ten (10) months after termination of this Agreement. Subscriber's funds may be held in a commingled reserve account for the reserve funds of TeleCheck's subscribers without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's funds in the reserve account are not sufficient to cover the delinquent fees, chargebacks or rejected and reassigned warranty Items, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above.

1.9.9. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The "Transaction Fee" is the per transaction charge for each Item for which an authorization inquiry is made to TeleCheck by telephone, electronically or otherwise, whether or not a TeleCheck Approval Code is issued. The "Monthly Minimum Fee" is the minimum aggregate amount of Transaction Fees that Subscriber shall pay on a monthly basis. If the total Transaction Fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The "Customer Requested Operator Call Fee" "CROC" or "Voice Authorization Fee" is an additional fee per operator or Interactive Voice Response (IVR)-assisted call not requested by TeleCheck. The "Monthly Statement/Processing Fee" is a monthly fee for handling Subscriber's account.

The following additional fees may be also be charged by TeleCheck: The "Chargeback Fee" is a \$5.00 handling fee for each chargeback of a Lockbox Verification Transaction. The "Correction Fee" is a \$5.00 fee payable on each Item that must be corrected due to Subscriber's error or at Subscriber's request. The "Administrative Return Fee" is a \$0.10 handling fee for each Return Item that is returned under NACHA Rules, and is classified by TeleCheck as an administrative return. A "Terminal Application Update Fee" of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

TERMS APPLICABLE ONLY TO ICA, CBP AND REMOTE PAY VERIFICATION SERVICES

1.10. ICA, CBP and Remote Pay Verification Services. TeleCheck will provide the TeleCheck ICA, CBP and Remote Pay Verification Services upon the terms and conditions described in this Section as applicable, for each of the following products as selected by Subscriber on the Merchant Processing Application: (a) Internet Check Acceptance or (b) Checks By Phone or (c) Remote Pay (Subscriber may select either or all such services).

1.10.1. Verification Program. TeleCheck shall provide the verification services to assist Subscriber in deciding whether or not to accept an Electronic Item. TeleCheck does not guaranty the accuracy or completeness of the information and Subscriber agrees that there shall be no payments to Subscriber by TeleCheck for any loss from transactions processed through the verification service and that Subscriber assumes all risks that Electronic Items accepted by it may be returned, dishonored, reversed or otherwise unpaid, regardless of the reason therefore ("Returns"). The maximum amount of a transaction under the Verification Program is \$2500 for ICA and Remote Pay; and \$5000 for CBP; it being understood that TeleCheck may also decline to process transactions in excess of its risk parameters. Subscriber shall only report Electronic Items to TeleCheck if the Electronic Items were made payable to Subscriber. This Agreement is solely between the Subscriber and TeleCheck; the Subscriber shall not provide or resell, directly or indirectly, the services provided by TeleCheck to any other third party.

1.10.2. Promotion; Fees, Charges and Rates.

- a) If ICA Verification Service is provided hereunder, Subscriber will promote ICA Verification Service on its web site (including the TeleCheck logo on the point of sale and/or the checkout pages), and Subscriber may include a short description and promotion of the ICA Verification Service in a weekly/monthly email and periodic direct mail to its customer base. Additional marketing arrangements will be discussed by the parties from time to time, and the parties will cooperate in promoting use of the ICA Verification Service on the Subscriber's web site.
- b) Subscriber shall pay to TeleCheck the fees and rates set forth on the Price/Service Schedule or in the terms and conditions herein, as changed from time to time by TeleCheck, plus all applicable taxes. The "Set Up Fees" are fees related to the establishment and set up of the TeleCheck Service which are charged on a per service by location basis. The "Monthly Minimum Fee" is the minimum amount of transaction fees that Subscriber shall pay on a monthly basis. If the total fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The "Monthly Statement/Processing Fee" is a monthly fee for handling Subscriber's account. The "Electronic Item Chargeback Fee" is a \$5.00 handling fee for each chargeback of an Electronic Item Verification Transaction. The "Order Confirmation Notice Fee" is the fee for each Electronic Item for which TeleCheck sends the required written confirmation notice to the Consumer on behalf of Subscriber. The "Reversal Fee" is a \$5.00 charge for any reversal of an Electronic Item Verification Transaction requested by Subscriber. The "Transaction Fee" is the base charge for each Electronic Item processing request submitted by Subscriber pursuant to this Agreement, whether or not a TeleCheck Approval Code is issued. The Transaction Fee applies and is payable for each Electronic Item inquiry submitted to TeleCheck whether or not TeleCheck authorizes and processes such Electronic Item. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement. Any additional requests or other services not included in this Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. The above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement.

1.10.3. Reserve Account. Subscriber expressly authorizes TeleCheck to establish a reserve account for Electronic Item Verification Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon

Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon three (3) days' notice to Subscriber, or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (i) one or more debits to Subscriber's financial institution (and TeleCheck is hereby authorized to make such debits); (ii) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (iii) Subscriber's delivery to TeleCheck of a letter of credit. Any such letter of credit shall be issued or established by a financial institution acceptable to TeleCheck and in a form satisfactory to TeleCheck, both in TeleCheck's discretion. In the event of termination of this Agreement by either Subscriber or TeleCheck, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for ten (10) months after termination of this Agreement. Subscriber's funds held in a reserve account may be held in a commingled reserve account for the reserve funds of TeleCheck's Subscribers, without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's funds in the reserve account are not sufficient to cover the delinquent fees, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the Reserve Account, TeleCheck may fund such reserve account in the manner set forth in this Section.

I.10.4. Electronic Item Processing.

- a) **Processing.** For each Electronic Item submitted to and accepted by TeleCheck, TeleCheck will, on behalf of Subscriber, initiate ACH entries to Subscriber's Account from Consumers' account as authorized by each Consumer. TeleCheck reserves the right to decline to process any transaction as an Electronic Item Verification Transaction. Subscriber authorizes TeleCheck on its behalf to initiate debits to the Consumers' accounts for each such Electronic Item Verification Transaction. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for Electronic Item Verification Transactions, including, without limitation, chargebacks or partial adjustments, to Subscriber's Account. As required by the NACHA Rules, TeleCheck's Originating Depository Financial Institution (as defined by the NACHA Rules) shall have the right to audit Subscriber's compliance with this Agreement and the NACHA Rules.
- b) **Returns.** Subscriber shall be fully responsible and liable to TeleCheck for all Returns. TeleCheck may deduct or offset Returns against amounts to be paid Subscriber hereunder for Electronic Items or, alternatively TeleCheck may initiate ACH debits to Subscriber's Account for all such Returns.
- c) TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any ACH Network participant or Subscriber's financial institution. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment of any amounts now due or hereafter to become due ("Funds Hold") should in its sole discretion including, without limitation, an excessive amount of Return Items or a breach of the NACHA Rules, or as otherwise required by a breach of the NACHA Rules law. In addition to the right to place a Funds Hold with respect to any payment, TeleCheck also has the right without notice to freeze or to terminate all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within 3 business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.
- d) **Processing Entries.** TeleCheck is responsible only for processing Electronic Items that have been transmitted by Subscriber in a timely manner and in the proper format. Subscriber understands that TeleCheck may rely solely on identifying numbers provided by Subscriber or a Consumer to determine the bank and account of Consumer, even if the numbers identify a bank or account holder different from the one identified by name.
- e) **Account Reconciliation.** In the event any Electronic Item Verification Transaction is not funded or otherwise paid by TeleCheck in accordance with this Agreement, Subscriber is required to notify TeleCheck thereof in writing within thirty (30) days from the date of such Electronic Item Verification Transaction. If Subscriber fails to so notify TeleCheck within thirty (30) day period, TeleCheck will have no liability and Subscriber is precluded from asserting any claims, damages or losses relating to TeleCheck's failure to fund such Electronic Item Verification Transaction.

I.10.5. Compliance with Laws. Subscriber covenants, represents and warrants (as applicable) that Subscriber and all Electronic Item Verification Transactions and related Electronic Items submitted to TeleCheck for processing under this Agreement are now and shall during the term of this Agreement be (i) in compliance with all federal, state and local laws and regulations, including, without limitation, the Federal Trade Commission

Telemarketing Sales Rule (16 C.F.R. Part 310), and Regulation E (12 C.F.R. Part 205); and (ii) in compliance with and bound by all NACHA Rules, including, without limitation, its obligations as Originator under the NACHA Rules, those relating to Subscriber verifying the identity of the Consumer, security of websites and computer systems, Internet session security, and Internet security audits. From time to time upon TeleCheck's request, Subscriber shall provide TeleCheck with copies of Subscriber's Internet security audits. If Subscriber utilizes any third parties to provide Internet hosting, gateway or other services in connection with Subscriber's Electronic Item transactions, Subscriber shall ensure and be responsible for such third parties complying with all requirements contained in this Agreement. Subscriber also represents and warrants that each Electronic Item and applicable Return Item Fee has been authorized by the Consumer in compliance with all laws and NACHA Rules and as required in Section 1.11.6 below and, such authorization has not been reversed, revoked, rescinded or terminated.

I.10.6. Retention of Electronic Item Authorization Records. Subscriber shall cause the Consumer to provide (i) a verbal authorization for each Phone Check and (ii) an electronic authorization for each Internet Check (if the Internet Check is processed under the Message Based (ICA) Service) submitted to TeleCheck for processing pursuant to this Agreement in the Consumer Authorization Format provided to Subscriber by TeleCheck prior to submission of such Electronic Item to TeleCheck for processing. If Subscriber shall not make a tape recording of the Consumer's verbal telephone authorization for the Phone Check Business Transaction, Subscriber shall provide a written confirmation notice to the Consumer of such verbal authorization in TeleCheck's required format in advance of the settlement date in connection with the electronic funds transfer processing of such Phone Check. Subscriber shall maintain a copy of (i) each such tape recording authorization or, alternatively, written confirmation notice provided to the Consumer of the Consumer's verbal authorization with respect to the Phone Check and (ii) said electronic authorization (if Message Based ICA Service) with respect to an Internet Check for a minimum period of two years from the date of the transaction or for the period specified by the NACHA Rules, and (iii) said written authorization with respect to Remote Pay Check, whichever is longer. Within 7 days of TeleCheck's request therefore, Subscriber shall deliver to TeleCheck a (i) physical or electronic copy of the tape recording or, alternatively, a physical copy of the written confirmation notice provided to the Consumer of the Consumer's verbal authorization) if a Phone Check and (ii) physical and electronic copy of said electronic authorization if an Internet Check, or (iii) a physical copy of the written authorization if a Remote Pay Check as applicable, to TeleCheck. Subscriber, upon reasonable notice and during normal business hours, shall permit TeleCheck to audit Subscriber for its compliance with this requirement. Notwithstanding anything to the contrary herein, if TeleCheck has agreed to provide the written confirmation notice referred to above on behalf of Subscriber to the Consumer, Subscriber shall not be responsible for maintaining such records nor shall Subscriber be considered in breach of such requirement.

TERMS APPLICABLE TO ONLY eDEPOSIT WARRANTY SERVICE

I.11. eDeposit Warranty Service.

I.11.1. Description. The TeleCheck eDeposit Warranty Service provides Subscriber with: (a) coded information to assist Subscriber in deciding whether or not to accept a check item; (b) processing services; and (c) warranty services for eDeposit Warranty Transactions that comply with the warranty requirements of Section 1.11.4, all in accordance with this Agreement.

I.11.2. eDeposit Check Images. Under the eDeposit Warranty Service, certain checks ("eDeposit Checks") receiving a TeleCheck Approval Code will be submitted by TeleCheck to the check collection system for payment from the checkwriter's account using the check image provided by Subscriber. Subscriber authorizes TeleCheck to deposit such imaged eDeposit Checks into TeleCheck's financial institution account to process such payments. If Subscriber is obtaining ECA Services in addition to the services hereunder, the eDeposit Checks are being submitted to the check collection system hereunder because TeleCheck determined that the eDeposit Check may not be available for payment electronically from the checkwriters account. TeleCheck will provide a response to the point of sale terminal for printing on the receipt indicating that such check needs to be retained.

TELECHECK MAKES NO REPRESENTATION OR WARRANTY THAT AN IMAGED CHECK CAN OR WILL BE SETTLED FOR PAYMENT. SUBSCRIBER ACKNOWLEDGES THAT CERTAIN IMAGES MAY BE REJECTED BY THE CHECK COLLECTION SYSTEM AS INELIGIBLE FOR SETTLEMENT, INCLUDING, WITHOUT LIMITATION, DUE TO IMAGE QUALITY. AS A RESULT, SUBSCRIBER AGREES THAT IT WILL MAINTAIN POSSESSION OF ALL ORIGINAL eDEPOSIT CHECKS FOR AT LEAST 21 DAYS FROM THE DATE OF THE TRANSACTION AND, IF REQUESTED BY TELECHECK BECAUSE THE IMAGED CHECK IS NOT ELIGIBLE FOR SETTLEMENT, DEPOSIT SAID eDEPOSIT CHECKS INTO SUBSCRIBER'S BANK ACCOUNT WITHIN 2 DAYS OF SUCH REQUEST. SUBSCRIBER SHALL SECURELY STORE ALL ORIGINAL eDEPOSIT CHECKS UNTIL DESTRUCTION AND USE APPROPRIATE MEASURES TO ENSURE THAT THE ORIGINAL CHECK IS NOT DEPOSITED UNLESS REQUESTED BY TELECHECK.

I.11.3. Processing Services. For each eDeposit Warranty Transaction that TeleCheck submits to and is accepted by the banking system for payment, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the amount of such transaction as part of a batch credit. Such credit shall typically occur within 2 banking days following TeleCheck's receipt and acceptance of completed eDeposit Warranty Transactions received prior to 9:00 p.m. Central Time. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for eDeposit Warranty

Transactions, including, without limitation, Returned Items or partial adjustments, to Subscriber's Account. TeleCheck reserves the right to decline to process any transaction as an eDeposit Warranty Transaction. TeleCheck's Depository Financial Institution shall have the right to audit Subscriber relating to its eDeposit processes and its compliance with this Agreement.

TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any financial institution or ACH Network participant. Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend payment ("Funds Hold") of any amounts now due or hereafter to become due should any questionable activity occur as determined by TeleCheck in its sole discretion including, without limitation an excessive amount of Return Items or as otherwise required by TeleCheck's Depository Financial Institution or by law. In addition to the right to place a Funds Hold with respect to any payment, TeleCheck is also entitled without notice to freeze or terminate all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within 3 business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

1.11.4. Warranty Requirements. TeleCheck warrants the accuracy of its information provided that all requirements set forth in this Section are strictly met. TeleCheck agrees to purchase from Subscriber one Item per eDeposit Warranty Transaction for which a TeleCheck Approval Code was inaccurate; provided, however, that TeleCheck's liability shall be limited by the Warranty Maximum and warranty requirements, and shall not exceed the amount of the Item. Subscriber's sole and exclusive remedy for breach of warranty shall be the right to require TeleCheck to purchase such item subject to the terms and conditions contained in this Agreement. Subscriber represents and warrants with respect to each eDeposit Warranty Transaction submitted to TeleCheck for processing under this Agreement that:

- a) The check is a first party check drawn on Consumer's deposit account at a United States financial institution, completely and properly filled out, and made payable to Subscriber. **Accordingly, for avoidance of doubt, warranty will not be provided for any money orders, cashier's checks, travelers checks, insurance checks or other checks which are not first party checks so drawn on Consumer's deposit account at a U.S. institution.** The name of the Consumer is imprinted or typed on the check by the check manufacturer. If a P.O. Box is used or an address is not imprinted by the check manufacturer, a physical address description is written on the check according to TeleCheck Operational Procedures;
- b) Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code. The transaction was not performed in an attempt to avoid the warranty requirements or Warranty Maximum (as more fully described in Section 1.11.6.(f)), including through split sales;
- c) The transaction represents an obligation of Consumer at the point of sale (no phone, or internet orders) for goods sold or rented or services rendered for the price of such goods or services, and the transaction is not for credit, cash or payment on an account, debt or check already due Subscriber;
- d) The signature in the signature block on the check is not substantially different from the name imprinted on the check;
- e) The date of the check accurately coincides within 1 calendar day of (A) the date of the inquiry call to TeleCheck, and (B) the date the transaction actually occurred. (Checks may not pre-date or post-date by more than 1 calendar day the date of the inquiry call and the transaction date unless mailed in as provided below);
- f) Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of Consumer's obligation or relieve Consumer from liability;
- g) The TeleCheck Subscriber Number, Consumer's telephone number (including area code), identification type and number and TeleCheck Approval Code are printed or written on the check;
- h) The amount shown in words and figures on the check is equal to the amount entered into the TeleCheck system;
- i) The original paper check has not been deposited (unless otherwise requested by TeleCheck), thereby creating a duplicate check entry against Consumer's financial institution account;
- j) Subscriber must (A) maintain the original check for at least 21 days from the date the transaction is submitted to TeleCheck and (B) if TeleCheck requests Subscriber to deposit the check, the check must be deposited in Subscriber's Account within 2 days of such request and received by TeleCheck for purchase within 30 days of the date of the check. Such check has been sent directly from Subscriber's financial institution after being presented for payment only once (no representations shall be allowed, whether paper or electronic);

- k) If the check was mailed in, it must be (A) received by TeleCheck for purchase within 45 days of the date of the check, (B) sent to Subscriber through the U.S. mail or delivered to Subscriber's drop box, (iii) for payment that is not more than 60 days past due; and (C) not post-dated or dated earlier than 20 days from the date of inquiry to TeleCheck; and

- l) The transaction is not subject to any stop payment, dispute or set-off.

1.11.5. Assignment of Checks. By electing to subscribe to the eDeposit Warranty Service, Subscriber ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Subscriber's rights, title and interest in any check submitted to TeleCheck for coverage under this Agreement. Subscriber shall, at TeleCheck's request, endorse such check and take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of TeleCheck's rights hereunder.

1.11.6. Reassignment. TeleCheck may reassign to Subscriber any check purchased by TeleCheck pursuant to the eDeposit Warranty Service provisions of this Agreement, in any of the following circumstances:

- a) The goods or service, in whole or in part, for which the check was issued have been returned to Subscriber, have not been delivered by Subscriber, claimed by Consumer to have been unsatisfactory, or are subject to any stop payment, dispute or set-off;
- b) Subscriber has received full or partial payment or security in any form to secure payment of the check, or the goods or services for which the check was issued were initially delivered on credit or under a lease;
- c) The transaction is for any reason illegal, void or invalid; or purchase by or transfer to TeleCheck of the check is not permitted by Applicable Law; or a court of law determines that the check is, in whole or in part, not due and payable by Consumer, unless such determination results from Consumer's bankruptcy proceeding;
- d) Any of the representations made by Subscriber as set forth in Section 1.11.4 are or become false or inaccurate;
- e) Subscriber failed to comply with this Agreement;
- f) Subscriber, or any of Subscriber's owners, agents or employees: (i) materially altered the check; or (ii) accepted the check with reason to know that it was likely to be dishonored (including failure to receive a TeleCheck Approval Code) or that the identification used was forged, altered or did not belong to Consumer; or (iii) processed the transaction in a manner which was an attempt to avoid the warranty requirements or Warranty Maximum. "Knowledge" shall be presumed in the presence of facts or circumstances which, if known, would cause a non-subscribing merchant, using commercially reasonable judgment, to independently refuse to accept a check. "Knowledge" is also presumed where there is evidence of Subscriber's attempt to avoid warranty limitations through manipulation of transactions, including, but not limited to the splitting of a single transaction into smaller components or resubmission of a previously denied transaction; or
- g) Subscriber received notice that Consumer filed bankruptcy and Subscriber failed to notify TeleCheck of the bankruptcy within 3 business days of Subscriber's receipt of such notice.

Subscriber shall immediately notify TeleCheck upon the happening of any of the above circumstances. If the check is reassigned as provided herein, TeleCheck may debit Subscriber's Account in the amount paid by TeleCheck for the check, or upon request, Subscriber shall remit the amount of the check to TeleCheck. Upon reassignment of a check, TeleCheck shall have no further liability to Subscriber on such check. Following termination of this Agreement, Subscriber shall continue to bear total responsibility for any reassignments, chargebacks and adjustments made under this Section.

1.11.7. "Goodwill" of a Non-Compliance Item. TeleCheck, in its sole discretion, may voluntarily elect not to reassign to Subscriber a specific non-compliance Item which fails to comply with the warranty requirements set forth in Section 1.11.4. Such discretionary election by TeleCheck shall not (a) constitute a course of dealing or a waiver of TeleCheck's right to reassign any other Return Item, or (b) relate to any other past or subsequent Return Item, or (c) act as a waiver of TeleCheck's right to decline to pay any other Return Item.

1.11.8. Account Reconciliation. Payments processed by TeleCheck will be reflected on settlement reports made available to Subscriber by TeleCheck. Subscriber agrees to notify TeleCheck promptly of any discrepancy between Subscriber's records and the information provided in the reports, or of any funding failures or errors. In the event any eDeposit Warranty Transaction is not funded or otherwise paid by TeleCheck in accordance with Section 1.11.3 above, Subscriber is required to notify TeleCheck in writing within 30 days from the date of such transaction. If Subscriber fails to notify TeleCheck within such 30 day period of the discrepancy, funding failure or error, TeleCheck shall have no liability and Subscriber is precluded from asserting any claims, damages or losses arising from such discrepancy, funding failure or error.

1.11.9. Reserve Account Establishment and Funding. Subscriber expressly authorizes TeleCheck to establish a reserve account for eDeposit Warranty Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon 3 days' notice to Subscriber or in instances of fraud or breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (a) one or more debits to Subscriber's Account (and TeleCheck is hereby authorized to make such debits); (b) one or more deductions or offsets to any payments

otherwise due to Subscriber from TeleCheck or any of its affiliates; or (c) Subscriber's delivery to TeleCheck of a letter of credit issued or established by a financial institution acceptable to, and in a form satisfactory to, TeleCheck. In the event of termination of this Agreement by either TeleCheck or Subscriber, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for 10 months after termination of this Agreement. Subscriber's funds may be held in a commingled reserve account for the reserve funds of TeleCheck's subscribers without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's funds in the reserve account are not sufficient to cover the delinquent fees, chargebacks or rejected Items, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above.

1.11.10. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and Agreement and addenda, if any, or in this Agreement, as changed from time to time by TeleCheck, plus all applicable taxes. The **"Inquiry Rate"** is the percentage rate which shall apply to the face amount of each eDeposit Check (up to the eDeposit Warranty Maximum), for which an authorization inquiry is made to TeleCheck by telephone, electronically, or otherwise, whether or not a TeleCheck Approval Code is issued. The **"Transaction Fee"** is the additional per transaction charge for each Item for which a transaction is submitted to TeleCheck, whether or not a TeleCheck Approval Code is issued. The **"Monthly Minimum Fee"** is the minimum aggregate amount of Inquiry Rate Fees that Subscriber shall pay on a monthly basis. If the total Inquiry Rate fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The **"Customer Requested Operator Call Fee"** "CROC" or **"Voice Authorization Fee"** is an additional fee per operator or IVR-assisted call not requested by TeleCheck. The **"Monthly Statement/Processing Fee"** is a monthly fee for handling Subscriber's account. The **"December Risk Surcharge"** is an additional percentage charge added to the Inquiry Rate for each authorization inquiry in December.

The following additional fees may be also be charged by TeleCheck: The **"Funding Report Fee"** is a \$15.00 monthly fee to receive daily funding reports or \$10.00 monthly fee to receive weekly funding reports. The **"Chargeback Fee"** is a \$5.00 handling fee for each chargeback of a eDeposit Warranty Transaction. The **"Correction Fee"** is a \$5.00 fee payable on each Item that must be corrected due to Subscriber's error or at Subscriber's request. The **"Administrative Return Fee"** is a \$0.10 handling fee for each Return Item that is returned and is classified by TeleCheck as an administrative return. A **"Terminal Application Update Fee"** of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Additionally, TeleCheck may charge Subscriber for any non-standard requests made by Subscriber. Fees for non-standard items may be obtained by contacting TeleCheck. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement. The eDeposit Maximum is the maximum check amount that Subscriber will submit to TeleCheck hereunder.

TERMS APPLICABLE TO ONLY THE eDEPOSIT SERVICE (NON-WARRANTY)

1.12. eDeposit Service (Non-Warranty)

1.12.1. Description. The TeleCheck eDeposit Service provides Subscriber with processing services for checks presented by Subscriber's customers for the purchase of goods and services in accordance with this Agreement. Under the eDeposit Service, certain checks ("eDeposit Checks") receiving a TeleCheck Approval Code will be submitted by TeleCheck to the check collection system for payment from the checkwriter's account using the check image provided by Subscriber. Subscriber authorizes TeleCheck to deposit such imaged eDeposit Checks into TeleCheck's financial institution account to process such payment.

If Subscriber is obtaining ECA Services in addition to the services hereunder, the eDeposit Checks are being submitted to the check collection system hereunder because TeleCheck determined that the eDeposit Check may not be available for payment electronically from the checkwriters account. TeleCheck will provide a response to the point of sale terminal for printing on the receipt indicating that such check needs to be retained.

1.12.2. Processing Services. For each e-Deposit Transaction that TeleCheck submits to and is accepted by the banking system for payment, TeleCheck shall, via an electronic funds transfer, effect a credit to Subscriber's Account for the amount of such transaction as part of a batch credit. Such credit shall typically occur within 2 banking days following TeleCheck's receipt and acceptance of completed e-Deposit Transactions received prior to 9:00 p.m. Central Time. TeleCheck may reduce such credit, or initiate a debit, by the amount of any necessary adjustments for e-Deposit Transactions, including, without limitation, Returned Items or partial adjustments, to Subscriber's Account. TeleCheck reserves the right to decline to process any transaction as an e-Deposit Transaction. TeleCheck's depository financial institution shall have the right to audit Subscriber relating to its eDeposit processes and its compliance with this Agreement. The maximum amount of an e-Deposit Verification item which can be processed through TeleCheck is \$25,000; it being understood that TeleCheck may also decline to process transactions in excess of its risk parameters.

TeleCheck shall not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including, without limitation, any financial institution or ACH Network participant. Notwithstanding anything contained herein to the contrary,

TeleCheck shall be entitled without notice to place a hold on or suspend payment ("Funds Hold") of any amounts now due or hereafter to become due should any questionable activity occur as determined by TeleCheck in its sole discretion including, without limitation, an excessive amount of Return Items as otherwise required by TeleCheck's Depository Financial Institution or by law. In addition to the right to place a Funds Hold with respect to any payment, TeleCheck is also entitled without notice to freeze or terminate all processing activities. In addition to any other remedies available to TeleCheck under this Agreement, Subscriber agrees that, if Subscriber breaches or fails to comply with this Agreement, TeleCheck may, with notice to be provided within 3 business days following such action, change processing or payment terms, suspend settlement or other payments of any amounts now due, or hereafter to become due, until TeleCheck has had reasonable opportunity to investigate such event. Continuance of service and payment processing during any period of delinquency shall not constitute a waiver of TeleCheck's rights of suspension or termination. In the event TeleCheck makes a partial adjustment to an Item or a credit to a Consumer's account at the request of Subscriber or as a result of a Subscriber error, and the Item becomes a Return Item, TeleCheck may recover all such amounts from Subscriber. TeleCheck may also recover from Subscriber the amount of any fees paid by a Consumer to Consumer's financial institution which resulted from a Subscriber error.

1.12.3. Settlement Disclaimer. TELECHECK MAKES NO REPRESENTATION OR WARRANTY THAT AN IMAGED CHECK CAN OR WILL BE SETTLED FOR PAYMENT. SUBSCRIBER ACKNOWLEDGES THAT CERTAIN IMAGES MAY BE REJECTED BY THE CHECK COLLECTION SYSTEM AS INELIGIBLE FOR SETTLEMENT, INCLUDING DUE TO IMAGE QUALITY. SUBSCRIBER FURTHER, WITHOUT LIMITATION, ACKNOWLEDGES AND CONFIRMS THAT TELECHECK HAS ADVISED SUBSCRIBER TO MAINTAIN ALL ORIGINAL CHECKS FOR AT LEAST 21 DAYS FROM SUBMISSION TO TELECHECK. SUBSCRIBER SHALL SECURELY STORE ALL ORIGINAL eDEPOSIT CHECKS UNTIL DESTRUCTION AND USE APPROPRIATE MEASURES TO ENSURE THAT THE ORIGINAL CHECK IS NOT DEPOSITED UNLESS TELECHECK OTHERWISE ADVISES THAT THE IMAGED CHECK IS NOT ELIGIBLE FOR SETTLEMENT.

1.12.4. e-Deposit Transaction Requirements and Representations. Subscriber represents, warrants and agrees with respect to each e-Deposit Transaction submitted to TeleCheck for processing under this Agreement that:

- The check is a first party check completed, signed and payable to Subscriber;
- Subscriber complied with all Applicable Laws, rules and regulations;
- The transaction represents an obligation of the check writer for the purchase or payment for goods or services from Subscriber for the price of such goods or services;
- The amount shown in words and figures on the check is equal to the amount entered into the TeleCheck system;
- The original paper check has not been deposited (unless otherwise advised by TeleCheck that the imaged check is not eligible for settlement), thereby creating a duplicate check entry against Consumer's financial institution account
- Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of the checkwriter's obligation or relieve Consumer from liability; and
- Subscriber has not submitted (and will not submit) the item to TeleCheck for authorization under any warranty services it may have with TeleCheck. If so submitted, it will be deemed a violation of the TeleCheck Operating Procedures and warranty requirements and TeleCheck will not warranty the item whether or not TeleCheck issued an approval code for such item under such other service.

1.12.5. Account Reconciliation. Payments processed by TeleCheck will be reflected on settlement reports made available to Subscriber by TeleCheck. Subscriber agrees to notify TeleCheck promptly of any discrepancy between Subscriber's records and the information provided in the reports, or of any funding failures or errors. In the event any e-Deposit Transaction is not funded or otherwise paid by TeleCheck in accordance with Section 1.12.2 above, Subscriber is required to notify TeleCheck in writing within 30 days from the date of such transaction. If Subscriber fails to notify TeleCheck within such 30 day period of the discrepancy, funding failure or error, TeleCheck shall have no liability and Subscriber is precluded from asserting any claims, damages or losses arising from such discrepancy, funding failure or error.

1.12.6. Return Items and Returned Payments. e-Deposit Services are not payment warranty services. TeleCheck will have no liability for any check that is processed using e-Deposit Services that is subsequently returned, dishonored, reversed or otherwise unpaid, and does not warranty the checks processed using the e-Deposit Services. Subscriber agrees that there shall be no payment to Subscriber for any loss from transactions processed through the e-Deposit services. Subscriber assumes all risks that Items accepted by Subscriber may result in Return Items. Subscriber shall be fully responsible and liable to TeleCheck for all Return Items and Returned Payments, regardless of the reason or timing. TeleCheck shall deduct or offset all Return Items and Returned Payments against any amounts to be paid to Subscriber for e-Deposit Transactions or, alternatively, TeleCheck may initiate debits to Subscriber's Account for all such Return Items and Returned Payments.

1.12.7. Reserve Account Establishment and Funding. Subscriber expressly authorizes TeleCheck to establish a reserve account for e-Deposit Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Subscriber's processing history and the anticipated risk of loss to TeleCheck. The reserve account shall be fully funded upon 3 days' notice to Subscriber or in instances of fraud or

breach of this Agreement, the reserve account may be funded immediately at TeleCheck's election. The reserve account may be funded by all or any combination of the following: (a) one or more debits to Subscriber's Account (and TeleCheck is hereby authorized to make such debits); (b) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; or (c) Subscriber's delivery to TeleCheck of a letter of credit issued or established by a financial institution acceptable to, and in a form satisfactory to, TeleCheck. In the event of termination of this Agreement by either TeleCheck or Subscriber, an immediate reserve account may be established without notice in the manner provided above. Any reserve account will be held by TeleCheck for 10 months after termination of this Agreement. Subscriber's funds may be held in a commingled reserve account for the reserve funds of TeleCheck's subscribers without involvement by an independent escrow agent, and shall not accrue interest. If Subscriber's funds in the reserve account are not sufficient to cover the delinquent fees, chargebacks or rejected Items, or any other fees and charges due from Subscriber to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Subscriber shall immediately pay TeleCheck such sums upon request. In the event of a failure by Subscriber to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above.

1.12.8. Fees and Rates. Subscriber shall pay TeleCheck the fees and rates set forth on the Merchant Processing Application and Agreement and addenda, if any, or in this Addendum, as changed from time to time by TeleCheck, plus all applicable taxes. The "Transaction Fee" is the per transaction charge for each Item for which a transaction is submitted to TeleCheck. The "Monthly Minimum Fee" is the minimum aggregate amount of Transaction Fees that Subscriber shall pay on a monthly basis. If the total Transaction Fees for Subscriber's inquiries for any month are less than the Monthly Minimum Fee, then the Monthly Minimum Fee shall apply. The "Customer Requested Operator Call Fee" "CROC" or "Voice Authorization Fee" of \$2.50 is an additional fee per operator or IVR-assisted call not requested by TeleCheck. The "Monthly Statement/Processing Fee" of \$10.00 is a monthly fee for handling Subscriber's account.

The following additional fees may be also be charged by TeleCheck: The "Funding Report Fee" is a \$15.00 monthly fee to receive daily funding reports or \$10.00 monthly fee to receive weekly funding reports. The "Chargeback Fee" is a \$5.00 handling fee for each chargeback of an e-Deposit Transaction. The "Correction Fee" is a \$5.00 fee payable on each Item that must be corrected due to Subscriber's error or at Subscriber's request. The "Administrative Return Fee" is a \$0.10 handling fee for each Return Item that is returned and is classified by TeleCheck as an administrative return. A "Terminal Application Update Fee" of \$25.00 per terminal shall be charged for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. Any additional requests or other services not included in the Agreement may be subject to additional fees. Fees for these items may be obtained by contacting TeleCheck. These above fees are in addition to any fees charged by TeleCheck to Subscriber under any other agreement. The e-Deposit Maximum is the maximum check amount that Subscriber will submit to TeleCheck hereunder.

GENERAL TERMS APPLICABLE TO ALL TELECHECK SERVICES

1.13. Payment. All fees and charges are due upon receipt of invoice. Subscriber authorizes TeleCheck to debit from Subscriber's Account, all payments and other amounts owed (including, without limitation, all Return Items, Returned Payments, chargebacks, adjustments, fees and charges, and delinquency charges) under this Agreement or any other agreement between Subscriber and TeleCheck or its affiliates, and to credit all amounts owing to Subscriber under this Agreement to Subscriber's Account. If there are insufficient funds in Subscriber's Account to pay amounts owed to TeleCheck or its affiliates, or if debits to Subscriber's account are rejected due to ACH debit blocks, or if there are any amounts otherwise not paid by Subscriber when due, including, without limitation, delinquency charges, chargebacks or rejected or reassigned warranty Items, Subscriber shall immediately reimburse TeleCheck or its affiliates upon demand, or at TeleCheck's option, TeleCheck may offset or recoup such amounts against any amounts due Subscriber under this Agreement or any other agreement between Subscriber and TeleCheck or its affiliates. A delinquency charge of 1-1/2% per month or the highest amount permitted by law, whichever is lower, shall be added to the outstanding balance of any account over 15 days delinquent. TeleCheck shall have the right to suspend all services and obligations to Subscriber, including the payment of all warranties due and all transactions previously authorized, during any period in which Subscriber's account is delinquent. Subscriber agrees to pay to TeleCheck a fee of \$25.00 or the highest amount permitted by law, whichever is lower, for any Returned Payment. Subscriber shall also be responsible for paying for all of the point of sale supplies related to the TeleCheck services (i.e., paper and ink for terminals, rubber stamps, if applicable).

1.14. Security Interest. To secure Subscriber's obligations to TeleCheck and its affiliates under this Agreement and any other agreement (including any check or Credit Card processing services), Subscriber grants to TeleCheck a lien and security interest in and to any of Subscriber's funds pertaining to the transactions contemplated by this Agreement now or hereafter in the possession of TeleCheck or its affiliates, whether now or hereafter due or to become due to Subscriber from TeleCheck. Any such funds may be commingled with other funds of TeleCheck, or, in the case of any funds held in a reserve account, with any other funds of other subscribers of TeleCheck. In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, TeleCheck is hereby authorized by Subscriber at any time and from time to time, without notice or demand to Subscriber or to any other person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all such funds against and on account of Subscriber's obligations to TeleCheck and

its affiliates under this Agreement and any other agreement, including, without limitation, fees for any other services (including any check or credit card processing services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. Subscriber agrees to duly execute and deliver to TeleCheck such instruments and documents as TeleCheck may reasonably request to perfect and confirm the lien, security interest, right of set off, recoupment and subordination set forth in this Agreement.

1.15. Point of Sale Notices; Return Item Fees. Subscriber agrees to follow procedures and post and provide at TeleCheck's direction any notices (including any updates to such notices) which in TeleCheck's opinion may be required for TeleCheck to process the Item and/or the Return Item Fee, as an electronic funds transfer, draft or otherwise. Subscriber also agrees to assess a Return Item Fee on all Return Items, and that TeleCheck shall be entitled to collect and retain the Return Item Fee from Consumer.

1.16. TeleCheck Approval Code. Subscriber acknowledges that TeleCheck will use its internal and proprietary risk management systems to evaluate the risk associated with any particular Item and to assist in its decision whether or not to issue a TeleCheck Approval Code. The decision to issue a TeleCheck Approval Code shall be within the discretion of TeleCheck.

1.17. Credit Law Compliance. Subscriber certifies that: (a) Subscriber has a legitimate business need, in connection with a business transaction initiated by Consumer, for the information provided by TeleCheck under this Agreement regarding such Consumer; and (b) the information provided by TeleCheck shall only be used for permissible purposes as defined in the Fair Credit Reporting Act, and applicable state and federal laws, with the exception that the information shall not be used for employment purposes, and shall not be used by Subscriber for any purpose other than a single business transaction between Consumer and Subscriber occurring on the date of the inquiry call to TeleCheck. Neither Subscriber, nor Subscriber's agents or employees, shall disclose the results of any inquiry made to TeleCheck except to Consumer about whom such inquiry is made and in no case to any other person outside Subscriber's organization. If Subscriber decides to reject any transaction, in whole or in part, because of information obtained from TeleCheck, Subscriber agrees to provide Consumer with all information required by law and TeleCheck.

1.18. Use of TeleCheck Materials and Marks. Pursuant to authorization granted to TeleCheck by TeleCheck International, Inc., the owner of the trademarks referenced in this section, TeleCheck grants to Subscriber, and Subscriber accepts, a nonexclusive, nonassignable and nontransferable limited license, uncoupled with any right or interest, to use the TELECHECK and the TELECHECK logo service marks, and for those Subscribers who are receiving ECA Warranty Service or ECA Verification Service, the TELECHECK ELECTRONIC CHECK ACCEPTANCE and ECA Service marks (collectively, the "TeleCheck Marks") as follows. Subscriber may use and display decals, identification data and other materials provided by TeleCheck during the term of this Agreement at Subscriber's location solely in connection with the offering of TeleCheck services as authorized under this Agreement. Subscriber shall not permit any persons other than its own officers or employees at Subscriber's locations to use the TeleCheck Subscriber number assigned by TeleCheck. Subscriber agrees that upon termination of this Agreement it will, at its own expense, either return or destroy all TeleCheck materials (including the prompt removal of any TeleCheck decals, electronic files, logos or other materials or references to TeleCheck that are displayed to the public, including those affixed to equipment, doors or windows). The monthly fees payable by Subscriber will apply for all months or fractions of a month that any materials or TeleCheck-owned equipment remain in use. Subscriber shall not create any print, electronic or Internet-based materials including but not limited to any advertising or promotional materials using any TeleCheck Marks without the prior written consent of TeleCheck. Subscriber acknowledges TeleCheck International, Inc.'s ownership of the TeleCheck Marks and will not contest the validity of the marks or the ownership thereof. Subscriber further agrees to refrain from performing any acts that might discredit, disparage, dilute, infringe or negatively affect the value of the TeleCheck Marks or constitute unfair competition to TeleCheck or TeleCheck International, Inc. Subscriber agrees promptly to bring to TeleCheck's attention any unauthorized use of the TeleCheck Marks by third parties of which Subscriber becomes aware. Subscriber shall use the TeleCheck Marks pursuant to any guidelines provided by TeleCheck, as may be amended from time to time. The following shall appear at least once on every piece of advertising or promotional material created by Subscriber which uses the TeleCheck Marks and has received prior written approval from TeleCheck: "The ("Applicable Mark") trademark is owned by TeleCheck International, Inc. and is licensed for use by ("Subscriber Name")."

1.19. Use of Information. Subscriber agrees that: (a) any data and other information relating to an Item or Consumer obtained by TeleCheck in connection with any service provided hereunder (including any electronic or other image of all or any portion of any check or driver's license or other identification) shall be owned by TeleCheck, with all right, title, and interest thereto; (b) TeleCheck may use any credit information provided to a TeleCheck affiliate for TeleCheck's credit review; and (c) TeleCheck may provide or receive any experiential information regarding Subscriber or Subscriber's customers to or from any TeleCheck affiliate.

1.20. TeleCheck Operational Procedures. Subscriber shall strictly follow all TeleCheck Operational Procedures provided to Subscriber, as may be amended from time to time by TeleCheck, in its discretion.

1.21. Equipment.

1.21.1. General. Subscriber may purchase point-of-sale equipment or Subscriber may rent equipment from TeleCheck as indicated on the Merchant Processing Application. Title to all rental or loaned equipment, if any, is retained by TeleCheck. Monthly rental fees will apply to all months or fractions of a month any equipment remains in use by or in

the actual or constructive possession of Subscriber. Upon termination of this Agreement, Subscriber, at Subscriber's expense, shall return all rented or loaned equipment to TeleCheck in good repair, ordinary wear and tear excepted. TeleCheck will replace terminal equipment rented or purchased from TeleCheck; provided, however that a swap fee of \$129.00 shall be charged per POS terminal replaced. Subscriber bears the entire risk of loss, theft or damage of or to equipment, whether or not owned by Subscriber. If TeleCheck provides replacement equipment to Subscriber via mail or other delivery service, Subscriber must return replaced equipment to TeleCheck within thirty (30) business days or Subscriber will be deemed to have purchased the equipment and will be billed for it. Subscriber will not permit anyone other than authorized representatives of TeleCheck to adjust, maintain, program or repair equipment. A reprogramming fee of \$25.00 rate will be charged for each occasion that a piece of equipment is reprogrammed for additional features or different information. Subscriber will install all product updates to the equipment, its software or firmware, within thirty (30) days of receiving the updates from TeleCheck. There is a 30-day manufacturer's warranty on purchased equipment. A fee for the shipping and handling of equipment and parts will be charged to the Subscriber.

1.21.2. Equipment Software, Firmware License. TeleCheck grants to Subscriber, and Subscriber accepts, a nonexclusive, non-assignable and nontransferable limited license to use the software and firmware provided with the equipment; provided, Subscriber will not: (i) export the equipment, software or firmware outside the US; (ii) copy or use the software, firmware or documentation provided by TeleCheck with the equipment; (iii) sublicense or otherwise transfer any portion of such software, firmware, documentation or the equipment; (iv) alter, change, reverse engineer, decompile, disassemble, modify or otherwise create derivative works of such software, firmware, documentation or the equipment; or (v) remove or alter any intellectual property or proprietary notices, markings, legends, symbols, or labels appearing on, in or displayed by such software, firmware, documentation or the equipment.

1.22. Limitation of Liability. In no event shall either TeleCheck or Subscriber be liable to the other party, or to any other person or entity, under this Agreement, or otherwise, for any punitive, exemplary, special, incidental, indirect or consequential damages, including, without limitation, any loss or injury to earnings, profits or goodwill, regardless of whether such damages were foreseeable or whether such party has been advised of the possibility of such damages. Notwithstanding anything to the contrary contained in this Agreement, in no event shall TeleCheck's liability under this Agreement for all Claims arising under, or related to, this Agreement exceed, in the aggregate (inclusive of any and all Claims made by Subscriber against TeleCheck, whether related or unrelated), the lesser of: (a) the total amount of fees paid to TeleCheck by Subscriber pursuant to this Agreement during the 12 month period immediately preceding the date the event giving rise to such Claims occurred; or (b) \$75,000.00.

1.23. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, TELECHECK MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND NO IMPLIED AT LAW WARRANTY SHALL ARISE FROM THIS AGREEMENT OR FROM PERFORMANCE BY TELECHECK, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, ALL OF WHICH ARE EXPRESSLY WAIVED BY SUBSCRIBER. All decisions to reject any item, driver's license or other form of identification or payment for Subscriber's products or services are solely Subscriber's responsibility.

1.24. Changes in Law or NACHA Rules. Notwithstanding anything to the contrary in this Agreement, if the continued performance of all or any portion of the obligations of TeleCheck becomes impossible or illegal due to changes in applicable federal, state or local laws or regulations, or by NACHA Rules, as determined by TeleCheck in its reasonable discretion, TeleCheck may, upon 30 days' written notice to Subscriber, modify or discontinue TeleCheck's performance of its obligations to the extent necessary to avoid a violation of law or NACHA Rules or, if TeleCheck chooses in its sole discretion to incur additional expenses to comply, increase its fees to cover the additional cost of compliance. Additionally, if any fees or charges to TeleCheck increase for processing transactions through the ACH Network, TeleCheck may increase its fees by providing Subscriber 30 days written notice. Any notice under this section to increase fees or modify obligations will be effective 30 days from the date notice is mailed to Subscriber, and in such event Subscriber may terminate this Agreement upon written notice received by TeleCheck within such 30 day period.

1.25. Data Security. Subscriber shall implement commercially reasonable and prudent policies and procedures, including administrative, physical and technical safeguards which are designed to meet the following objectives: (a) ensure the security and confidentiality of Customer Information, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of such Customer Information, and (c) protect against unauthorized access to or use of Customer Information that could result in substantial harm or inconvenience to Subscriber's customer. "Customer Information" means all Subscriber customer information received by Subscriber in connection with any transaction contemplated by this Agreement. Subscriber agrees to comply with all provisions of applicable federal and state laws and regulations and NACHA Rules, as amended from time to time, related to the protection of Customer Information.

1.26. Updating Information. With regard to any Return Items submitted to TeleCheck, Subscriber shall promptly notify TeleCheck if: (a) a Consumer makes any payment to Subscriber; (b) there is a return of goods or services, in whole or in part; or (c) there is a dispute of any amount, notice of bankruptcy or any other matter.

1.27. Confidentiality. Subscriber shall maintain the confidentiality of this Agreement and any information provided to Subscriber by either TeleCheck, including, without limitation, TeleCheck Operational Procedures, pricing or other proprietary business information, whether or not such information is marked confidential. Such information shall not be used except as required in connection with the performance of this Agreement or disclosed to third parties.

1.28. No Resale, Assignment of Agreement. This Agreement is solely between TeleCheck and Subscriber. Subscriber shall not provide or resell directly or indirectly, the services provided by TeleCheck to any other third party. This Agreement may be assigned by Subscriber only with the prior written consent of TeleCheck. TeleCheck may freely assign this Agreement, its rights, benefits or duties hereunder. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of TeleCheck and Subscriber's heirs, executors, administrators, successors and assigns.

1.29. Indemnification. In the event Subscriber (a) fails to strictly comply, in whole or in part, with any: (i) terms and conditions of this Agreement and any addenda hereto or TeleCheck Operational Procedures; or (ii) Applicable Law, rules, regulations and NACHA Rules, or (b) makes any false or inaccurate representation, Subscriber shall indemnify, defend and hold harmless the TeleCheck Parties from and against any and all Claims arising therefrom, including payment of all costs and reasonable attorneys' fees for actions taken by TeleCheck, whether by suit or otherwise, to defend the TeleCheck Parties from any Claim related thereto or to preserve or enforce TeleCheck's rights under this Agreement. In the event of any legal action with third parties or regulatory agencies concerning any transaction or event arising under this Agreement, Subscriber shall: (a) promptly notify TeleCheck of the Claims or legal action; (b) reasonably cooperate with TeleCheck in the making of any Claims or defenses; and (c) provide information, assist in the resolution of the Claims and make available at least one employee or agent who can testify regarding such Claims or defenses. Upon written notice from TeleCheck to Subscriber, Subscriber shall immediately undertake the defense of such Claim by representatives of its own choosing, subject to TeleCheck's reasonable approval; provided, however, that TeleCheck shall have the right to control and undertake such defense by representatives of its own choosing, but at Subscriber's cost and expense, if the Claim arises out of patent, trademark, or other intellectual property rights or laws.

1.30. Notices. Any notice or other communication required or permitted to be given hereunder shall be in writing, if to Subscriber, at the Subscriber's address appearing on the Merchant Processing Application or, if to TeleCheck, at TeleCheck Merchant Services, Mail Stop A-12, 7301 Pacific Street, Omaha, NE 68114, with a copy to General Counsel's Office, 3975 N.W. 120th Avenue, Coral Springs, FL 33065, and shall be deemed to have been properly given (a) upon receipt if by facsimile transmission, as evidenced by the date of transmission indicated on the transmitted material, (b) upon receipt if deposited on a prepaid basis with a nationally recognized overnight courier for next business day delivery or (c) on the date of delivery indicated on the return receipt, if mailed by certified or registered mail. Notices sent to Subscriber's last known address (including email address) as indicated in our records, shall constitute effective notice to the Subscriber under this Agreement. TeleCheck shall also be permitted to provide notice by regular mail and such notice shall be deemed effective 10 days after mailing, unless otherwise provided in this Agreement. The parties' addresses may be changed by written notice to the other party as provided herein.

1.31. Force Majeure. TeleCheck shall not be held responsible for any delays in or failure or suspension of service caused by mechanical or power failure, computer malfunctions (including, without limitation, software, hardware and firmware malfunctions), transmission link failures, communication failures, failure, delay or error in clearing or processing a transaction through the ACH Network or Federal Reserve system, failure, delay or error by any third party or any other third party system, strikes, labor difficulties, fire, inability to operate or obtain service for its equipment, unusual delays in transportation, act of God or other causes reasonably beyond the control of TeleCheck.

1.32. Compliance with Laws, Governing Law, Integration and Waiver of Jury Trial. The parties agree to comply with all federal and state laws, regulations and rules, including NACHA Rules, each as amended, relating to the services provided hereunder. **Subscriber further acknowledges and agrees that it will not use Subscriber's Account and/or TeleCheck Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq., as may be amended from time to time.** Subscriber certifies that it has not been suspended by NACHA or any credit card association, or cancelled by an ODFI or Third Party Sender (as defined in the NACHA Rules). This Agreement, plus any addenda attached hereto, constitutes the entire Agreement between the parties concerning subject matter hereof and supersedes all prior and contemporaneous understandings, representations and agreements in relation to its subject matter. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF**

ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

1.33. Severability and Interpretation, Third Party Beneficiaries. If any provision, in whole or in part, of this Agreement is held invalid or unenforceable for any reason, the invalidity shall not affect the validity of the remaining provisions of this Agreement, and the parties shall substitute for the invalid provision a valid provision which most closely approximates the intent and economic effect of the invalid provision. Neither this Agreement, nor any addenda or TeleCheck Operational Procedures, shall be interpreted in favor or against any party because such party or its counsel drafted such document. No course of dealing, usage, custom of trade or communication between the parties shall modify or alter any of the rights or obligations of the parties under this Agreement. This Agreement is solely for the benefit of TeleCheck (and its affiliates) and Subscriber and no other person or entity shall have any right, interest or claim under this Agreement.

1.34. Amendment and Waiver. No modification, amendment or waiver of any of the terms and conditions of this Agreement shall be binding upon TeleCheck unless made in writing and approved and signed by TeleCheck. No waiver of any rights hereunder shall be deemed effective unless in writing executed by the waiving party. No waiver by any

party of a breach or any provision of this Agreement shall constitute a waiver of any prior or subsequent breach of the same or any other provision of this Agreement. The parties agree that no failure or delay in exercising any right hereunder shall operate as a waiver of any such right. All of TeleCheck's rights are cumulative, and no single or partial exercise of any right hereunder shall preclude further exercise of such right or any other right.

1.35. Damages. Upon Subscriber's breach of this Agreement, including any unauthorized termination, TeleCheck shall be entitled to recover from Subscriber liquidated damages in an amount equal to ninety percent (90%) of the aggregate Monthly Minimum Fees and Monthly Statement/Processing Fees payable for the unexpired portion of the then current term of this Agreement. TeleCheck and Subscriber hereby acknowledge and agree that, after giving due consideration to the costs TeleCheck may incur by reason of Subscriber's breach of this Agreement, to the possibility that TeleCheck will not be able to mitigate its damages, and to the expense savings that TeleCheck may obtain by not having to provide services or maintenance, the liquidated damages specified herein constitute a realistic pre-estimate of the loss to TeleCheck in the event of such breach.

1.36. Financial and Other Information.

1.36.1. Upon request, Subscriber will provide us and our affiliates, quarterly financial statements within 45 days after the end of each fiscal quarter and annual audited financial statements within 90 days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. Subscriber will also provide such other financial statements and other information concerning its business and your compliance with the terms and provisions of this Agreement as we may reasonably request. Subscriber authorizes TeleCheck and its affiliates to obtain from third parties financial and credit information relating to Subscriber in connection with our determination whether to accept this Agreement and TeleCheck's continuing evaluation of Subscriber's financial and credit status. Upon request, Subscriber shall provide, and/or cause to be provided, to us and TeleCheck's affiliates, or TeleCheck's representatives or regulators reasonable access to Subscriber or Subscriber's service provider's facilities and records for the purpose of performing any inspection and/or copying of books and/or records deemed appropriate. In such event, Subscriber shall pay the costs incurred by TeleCheck or its affiliates for such inspection, including, but not limited to, costs incurred or airfare and hotel accommodations.

1.36.2. Subscriber will provide TeleCheck with written notice of any judgment, writ, warrant, or attachment, execution or levy against any substantial part (25% or more in value) of Subscriber's total assets not later than three (3) days after Subscriber becomes aware of the same.

1.37. Survivability. All representations, warranties, indemnities, limitations of liability and covenants made herein shall survive the termination of this Agreement and shall remain enforceable after such termination.

1.38. IRS Reporting. 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 beginning January 1, 2011 reporting all payment card transactions and third party network transactions with payees occurring in that calendar year. Accordingly, for applicable transactions, you will receive a Form 1099 reporting your gross transaction amounts for each calendar year beginning with transactions processed in calendar year 2011. In addition, amounts reportable under Section 6050W are subject to backup withholding requirements. Payors are 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 you provide us with the correct name and TIN that you use when filing your tax return that includes the transactions for your business.

**ADDENDA TO
TELECHECK SERVICES AGREEMENT**

2.0. CHECK CASHING WARRANTY SERVICE ADDENDUM.

If you elect to subscribe to the Check Cashing Warranty Service, the terms and conditions of this Section shall apply, and the TeleCheck Service Agreement ("the Agreement") is amended to include the Check Cashing Warranty Service for the warranty of certain paper checks that meet the warranty requirements. TeleCheck and Subscriber agree as follows:

2.1. Amendment to Definitions. The following definitions shall be applicable to Check Cashing Warranty Service:

- a) For purposes of a Check Cashing Transaction, "Warranty Maximum" means the lower of (i) the face amount of the check; or (ii) \$100.00 for a Personal Check made payable to a Subscriber; or (iii) \$750.00 for a Company or Government Check.
- b) The following definitions shall be added to this Section: "**Check**" means a Company Check, a Government Check or a Personal Check. "**Check Cashing Consumer**" means a person who authorizes a Check Cashing Transaction for: (i) a Company Check or Government Check made payable to the Check Cashing Consumer; or (ii) a Personal Check made payable to Subscriber. "**Check Cashing Transaction**" means the contemporaneous presentment of a Company Check, Government Check or Personal Check for cash in accordance with the procedures of the Agreement and this Addendum. "**Company Check**" means a company payroll, expense reimbursement or non-medical insurance refund check. "**Convenience Check**" means a check provided by a third party (i.e., credit card issuer) to a Check Cashing Consumer on behalf of such Check Cashing Consumer, for which such check does not debit against the Check Cashing Consumer's own demand deposit account. "**Government Check**" means a U.S. federal, state, or local government payroll, expense reimbursement, tax

refund or benefit/assistance (i.e., Social Security, disability, child support) check. "**PayDay Loan**" (also called a Deferred Deposit Loan, Deferred Presentment Loan, Small Loan or Short Term Loan) means a transaction for which a merchant makes a cash advance to a consumer and, for a fee, finance charge or other consideration: (i) accepts a check (sometimes post-dated) from the consumer; (ii) agrees to hold the check for a period of time prior to negotiation, deposit or presentment of the check for payment; and (iii) advances to the consumer, credits the consumer's account, or pays to another person or entity on the consumer's behalf, the amount of the check, less any fee, finance charge or other consideration. "**Payor**" means a company or governmental agency that issues a Company Check or Government Check made payable to a Check Cashing Consumer. "**Personal Check**" means a personal check made payable to the Subscriber which debits against the Check Cashing Consumer's own demand deposit account.

2.2. Warranty Requirements and Representations for Check Cashing Transactions. During the initial or any renewal term, Subscriber agrees that it will process through TeleCheck's authorization system all Checks presented to Subscriber for check cashing prior to acceptance thereof. TeleCheck agrees to purchase from Subscriber one check per Check Cashing Transaction for which a TeleCheck Approval Code was inaccurate; provided, however, that TeleCheck's liability shall be limited by the Warranty Maximum and warranty requirements, and shall not exceed the amount of the check. Subscriber's sole and exclusive remedy for breach of warranty shall be the right to require TeleCheck to purchase such check subject to the terms and conditions contained in this Agreement. Subscriber represents and warrants with respect to each Check Cashing Transaction submitted to TeleCheck for processing under this Agreement that:

- a) The Check is drawn on a United States or Canadian financial institution, and is completely and properly filled out.
- b) Subscriber made an inquiry to TeleCheck in strict accordance with TeleCheck Operational Procedures and obtained a single TeleCheck Approval Code.
- c) The TeleCheck Subscriber Number, TeleCheck Approval Code, and Payor's or Check Cashing Consumer's telephone number (including area code) and identification type and number are printed, written, endorsed or franked on the Check. If a P.O. Box is used or an address is not imprinted by the check manufacturer, a physical address description of Check Cashing Consumer is written on the front of the check according to TeleCheck Operational Procedures.
- d) The amount entered into the TeleCheck system and on the Check (in words and figures) match and does not exceed the Warranty Maximum.
- e) The Personal Check is a first party check made payable to Subscriber.
- f) The Company or Government Check is payable to, and endorsed by, the Check Cashing Consumer, without any restrictions or limitations of any kind (except for time limitations), and the name and address of the Payor is imprinted or typed on the Check by the check manufacturer.
- g) The signature in the signature block on a Personal Check is not substantially different from the name imprinted on the check, and reasonably corresponds to any signature contained in the piece of identification. The physical description of the Check Cashing Consumer reasonably corresponds to the description contained in the piece of identification.
- h) The endorsement signature by the Check Cashing Consumer on the back of a Company or Government Check is not substantially different from the name of the Check Cashing Consumer on the front side of such Check. The endorsement signature and physical description of the Check Cashing Consumer reasonably corresponds to any signature and physical description contained in the piece of identification.
- i) The Personal Check transaction represents an obligation of the Check Cashing Consumer presenting the Check for cash and does not involve any element of credit for any purpose. TeleCheck does not warrant any Payday Loans or Convenience Checks.
- j) The date of the Personal Check accurately coincides with the date of the inquiry call to TeleCheck and the date the Check Cashing Transaction actually occurred (No Pre- or Post-dated checks).
- k) The date of the transaction is within 30 days of the date of issuance on the Company or Government Check (no post-dated Company or Government Checks). The date of the inquiry call to TeleCheck is the same date as the Check Cashing Transaction.
- l) The Check is deposited in Subscriber's Account and received by TeleCheck for purchase: (i) in the case of a Personal Check, within 30 days of the date of the Check, and (ii) in the case of a Company or Government Check, within 30 days following the date the Check was presented to Subscriber. Such Check has been sent directly to TeleCheck after being presented for payment only once (no representations shall be permitted, whether paper or electronic).
- m) Subscriber has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of the Payor's or Check Cashing Consumer's obligation or relieve the Check Cashing Consumer from liability.

2.3. Limitations. TeleCheck shall warrant a Personal Check for a Check Cashing Transaction only to subscribers using TeleCheck's Check Cashing Warranty Service in SICs 5541 (convenience stores), 5411 (grocery stores), and 7011 (general lodging such as hotels/motels), and such subscribers must fully comply with TeleCheck's sales management qualifications. For SIC 7011 Only: TeleCheck shall only warrant a Personal Check if the Check Cashing Consumer: (a) is a registered guest of Subscriber on the date of the Check Cashing Transaction; and (b) presents a maximum of one Check Cashing Transaction per day.

2.4. Termination. This Addendum may be terminated by either party at any time by providing 30 days written notice to the other party and is not valid until accepted by TeleCheck's management.

Except as expressly modified by this Check Cashing Warranty Service Addendum, all provisions contained in the Agreement and applicable to the TeleCheck Paper Warranty Service shall remain in full force and effect. In the event of any conflict or any inconsistency between the Agreement and this Addendum, the provisions of this Addendum shall govern and control.

3.0. CHECK CASHING VERIFICATION SERVICE ADDENDUM.

If you elect to subscribe to the Check Cashing Verification Service, the terms and conditions of this Section shall apply, and the TeleCheck Service Agreement ("the Agreement") is amended to include the Check Cashing Verification Service. TeleCheck and Subscriber agree as follows:

3.1. Description. The TeleCheck Check Cashing Verification Service provide Subscriber with coded information to assist Subscriber in deciding whether or not to accept a Check (as defined below). TeleCheck does not guarantee the accuracy or completeness of the information provided to Subscriber. Subscriber agrees that there shall be no payment to Subscriber for any loss from transactions processed through the Check Cashing Verification Service. Subscriber assumes all risks that checks accepted by Subscriber may result in Return Items.

3.2. Definitions. The following definitions shall be applicable to Check Cashing Verification Service: "**Check**" means a Company Check, a Government Check or a Personal Check. "**Check Cashing Consumer**" means a person who authorizes a Check Cashing Verification Service transaction for: (i) a Company Check or Government Check made payable to the Check Cashing Consumer; or (ii) a Personal Check made payable to Subscriber. "**Company Check**" means a company payroll, expense reimbursement or non-medical insurance refund check. "**Convenience Check**" means a check provided by a third party (i.e., credit card issuer) to a Check Cashing Consumer on behalf of such Check Cashing Consumer, for which such check does not debit against the Check Cashing Consumer's own demand deposit account. "**Government Check**" means a U.S. federal, state, or local government payroll, expense reimbursement, tax refund or benefit/assistance (i.e., Social Security, disability, child support) check. "**PayDay Loan**" (also called a Deferred Deposit Loan, Deferred Presentment Loan, Small Loan or Short Term Loan) means a transaction for which a merchant makes a cash advance to a consumer and, for a fee, finance charge or other consideration: (i) accepts a check (sometimes post-dated) from the consumer; (ii) agrees to hold the check for a period of time prior to negotiation, deposit or presentation of the check for payment; and (iii) advances to the consumer, credits the consumer's account, or pays to another person or entity on the consumer's behalf, the amount of the check, less any fee, finance charge or other consideration. "**Personal Check**" means a personal check made payable to the Subscriber which debits against the Check Cashing Consumer's own demand deposit account.

3.3. Eligible Checks. The Check Cashing Verification Service shall be limited to (a) Company Checks made payable to the Check Cashing Consumer, (b) Government Checks made payable to the Check Cashing Consumer, and (c) Personal Check made payable to Subscriber. In no event may the transaction involve (i) a Convenience Check, or (ii) a PayDay Loan.

3.4. Eligible Subscribers. TeleCheck shall process a Personal Check in a check cashing transaction only for subscribers using services in SICs 5541 (convenience stores), 5411 (grocery stores), 5933 (pawn shops), 5921 (liquor stores), 6010 (general check cashing) and 7011 (general lodging such as hotels/motels), and such subscribers must fully comply with TeleCheck's sales management qualifications.

3.5. Termination. This Addendum may be terminated by either party at any time by providing 30 days written notice to the other party and is not valid until accepted by TeleCheck's management.

Except as expressly modified by this Check Cashing Verification Service Addendum, all provisions contained in the Agreement shall remain in full force and effect. In the event of any conflict or any inconsistency between the Agreement and this Addendum, the provisions of this Addendum shall govern and control.

4.0. MAIL ORDER WARRANTY SERVICE ADDENDUM.

If you elect to subscribe to the Mail Order Warranty Service, the terms and conditions of this Section shall apply, and the TeleCheck Service Agreement ("the Agreement") is amended to include the Mail Order Warranty Service for the warranty of paper checks issued in mail order transactions. TeleCheck and Subscriber agree as follows:

4.1. Warranty Requirements. The warranty requirements for Paper Warranty Service as set forth in Section 4.2 of the Agreement shall apply to the Mail Order Warranty Service except for the additions and modifications to the requirements as follows:

- The date of the check and the date of the inquiry call to TeleCheck are no later than the date of the deposit of the check;
- The goods purchased through mail order are not mailed to a P.O. Box address unless the order is mailed to a post office box located in Alaska;
- The date of the inquiry is written on the check; and
- The check is received by TeleCheck for purchase within 45 days from the date of the inquiry call. A copy of the invoice must accompany each warranty request.

4.2. Termination. This Addendum may be terminated by either party at any time by providing 30 days written notice to the other party and is not valid until accepted by TeleCheck's management.

Except as expressly modified by this Mail Order Warranty Service Addendum, all provisions contained in the Agreement and applicable to the TeleCheck Paper Warranty Services shall remain in full force and effect. In the event of any conflict or any inconsistency between the Agreement and this Addendum, the provisions of this Addendum shall govern and control.

5.0. C.O.D. WARRANTY SERVICE ADDENDUM.

If you elect to subscribe to the C.O.D. Warranty Service, the terms and conditions of this Section shall apply, and the TeleCheck Service Agreement ("the Agreement") is amended to include the C.O.D. Warranty Service for the warranty of paper checks issued in a C.O.D. transaction that meet the warranty requirements. TeleCheck and Subscriber agree as follows:

5.1. Check Approval Amount. To obtain an authorization, Subscriber may need to estimate the amount of the check to include freight and handling charges. TeleCheck will honor the warranty on the check in accordance with the warranty requirements up to the Warranty Maximum if the amount of the check differs from the check approval amount by no more than 10%.

5.2. Warranty Requirements. The warranty requirements for Paper Warranty Service as set forth in Section 4.2 of the Agreement shall apply to the C.O.D. Warranty Service except for the additions and modifications to the requirements as follows:

- The date of the inquiry call to TeleCheck is no later than 10 days of the date of the check;
- The date of inquiry call and TeleCheck Approval Code are written on the check; and
- The check is received by TeleCheck for purchase within 45 days from the date of the inquiry call. A copy of the invoice must accompany each warranty request.

5.3. Termination. This Addendum may be terminated by either party at any time by providing 30 days written notice to the other party and is not valid until accepted by TeleCheck's management.

Except as expressly modified by this C.O.D. Warranty Service Addendum, all provisions contained in the Agreement and applicable to the TeleCheck Paper Warranty Service shall remain in full force and effect. In the event of any conflict or any inconsistency between the Agreement and this Addendum, the provisions of this Addendum shall govern and control.

6.0. LOCKBOX PRO 21 WARRANTY SERVICE ADDENDUM

If you elect to subscribe to the Lockbox Pro 21 Warranty Service, the terms and conditions of this Section shall apply, and the TeleCheck Service Agreement ("the Agreement") is amended to include the Lockbox Pro 21 Warranty Service. TeleCheck and Subscriber agree as follows:

6.1. Description. Under the Lockbox Warranty Service, TeleCheck provides check authorization and processing services with respect to checks received by Subscriber as payment from individuals or other entities using Subscriber's drop box locations or through the US or other mail for transactions for the purchase of goods or services. Under the Lockbox Pro 21 Warranty Services TeleCheck will determine that certain checks ("Pro 21 Checks") may not be not available for payment electronically from the check writer's account, and will instead submit the Pro 21 Checks to the check collection system for payment using the check image provided by Subscriber. Subscriber authorizes TeleCheck to deposit such imaged Pro 21 Checks into TeleCheck's financial institution account to process such payment. TeleCheck will also provide a response to the point of sale terminal for printing on the receipt indicating that such check needs to be retained.

The Pro 21 Checks will be deemed Items and Lockbox Warranty Transactions for all purposes under the Agreement including, without limitation, settlement to Subscriber as credit to its financial institution account by electronic funds transfer in accordance with the terms of the Lockbox Warranty Service.

6.2. Settlement Disclaimer. TELECHECK MAKES NO REPRESENTATION OR WARRANTY THAT AN IMAGED CHECK CAN OR WILL BE SETTLED FOR PAYMENT. SUBSCRIBER ACKNOWLEDGES THAT CERTAIN IMAGES MAY BE REJECTED BY THE CHECK COLLECTION SYSTEM AS INELIGIBLE FOR SETTLEMENT, INCLUDING DUE TO IMAGE QUALITY. AS A RESULT, SUBSCRIBER AGREES THAT IT WILL MAINTAIN POSSESSION OF ALL ORIGINAL PRO 21 CHECKS FOR AT LEAST 21 DAYS FROM THE DATE OF THE TRANSACTION AND, IF REQUESTED BY TELECHECK BECAUSE THE IMAGED CHECK IS NOT ELIGIBLE FOR SETTLEMENT, DEPOSIT SAID PRO 21 CHECKS INTO SUBSCRIBER'S BANK ACCOUNT WITHIN 2 DAYS OF SUCH REQUEST. SUBSCRIBER SHALL SECURELY STORE ALL ORIGINAL PRO 21 CHECKS UNTIL DESTRUCTION AND USE APPROPRIATE MEASURES TO ENSURE THAT THE ORIGINAL CHECK IS NOT DEPOSITED UNLESS REQUESTED BY TELECHECK.

6.3. Warranty Requirements. The Warranty Requirements for Lockbox Warranty Services set forth in Section 1.8.3 of the Agreement shall apply to the Lockbox Pro 21 Warranty Services except for the additions and modifications as follows:

- Subscriber must (i) maintain the original Pro 21 Check for at least 21 days from the date the transaction is submitted to TeleCheck and (ii) deposit the original check into its bank account within 2 business days from TeleCheck's request to deposit the item.
- The original paper check has not been deposited (unless otherwise requested by TeleCheck), thereby creating a duplicate check entry against Consumer's financial institution account; and

- c) If TeleCheck requested the physical Pro 21 Check to be deposited as set forth above, each representation and warranty set forth in Service Agreement for the Paper Warranty Services shall apply to such transaction, except that the check must be (i) received by TeleCheck for purchase within 45 days of the date of the check, (ii) sent to Subscriber through the U.S. mail or delivered to Subscriber's drop box, (iii) for payment that is not more than 60 days past due, and (iv) not post-dated or dated earlier than 20 days from the date of inquiry to TeleCheck.

As set forth in the warranty requirements in Section 1.8.3 of Agreement, the check must be a first party check drawn on Consumer's deposit account at a U.S. financial institution. Accordingly, for avoidance of doubt, warranty will not be provided for any money orders, cashier's checks, travelers checks, insurance checks or other checks which are not first party checks so drawn on Consumer's deposit account at a U.S. institution.

Except as expressly modified by this Lockbox Pro 21 Warranty Service Addendum, all provisions contained in the Agreement and applicable to the Lockbox Warranty Service shall remain in full force and effect. In the event of any conflict or any inconsistency between the Agreement and this Addendum, the provisions of this Addendum shall govern and control.

7.0. LOCKBOX PRO 21 VERIFICATION SERVICE ADDENDUM

If you elect to subscribe to the Lockbox Pro 21 Verification Service, the terms and conditions of this Section shall apply, and the TeleCheck Service Agreement ("the Agreement") is amended to include the Lockbox Pro 21 Verification Service. TeleCheck and Subscriber agree as follows:

7.1. Description. Under the Lockbox Verification Service, TeleCheck provides check authorization and processing services with respect to checks received by Subscriber as payment from individuals or other entities using Subscriber's drop box locations or through the US or other mail for transactions for the purchase of goods or services. Under the Lockbox Pro 21 Verification Services TeleCheck will determine that certain checks ("Pro 21 Verification Checks") may not be not available for payment electronically from the check writer's account, and will instead submit the Pro 21 Verification Checks to the check collection system for payment using the check image provided by Subscriber. Subscriber authorizes TeleCheck to deposit such imaged Pro 21 Verification Checks into TeleCheck's financial institution account to process such payment. TeleCheck will also provide a response to the point of sale terminal for printing on the receipt indicating that such check needs to be retained.

The Pro 21 Verification Checks will be deemed Items and Lockbox Verification Transactions for all purposes under the Agreement including, without limitation, settlement to Subscriber as credit to its financial institution account by electronic funds transfer in accordance with the terms of the Lockbox Verification Service. In addition to the representations and warranties in Section 1.9.3, Subscriber represents and warrants that the original paper check has not been deposited (unless otherwise advised by TeleCheck that the imaged check is not eligible for settlement), thereby creating a duplicate check entry against Consumer's financial institution account.

7.2. Settlement Disclaimer. TELECHECK MAKES NO REPRESENTATION OR WARRANTY THAT AN IMAGED CHECK CAN OR WILL BE SETTLED FOR PAYMENT. SUBSCRIBER ACKNOWLEDGES THAT CERTAIN IMAGES MAY BE REJECTED BY THE CHECK COLLECTION SYSTEM AS INELIGIBLE FOR SETTLEMENT, INCLUDING DUE TO IMAGE QUALITY. SUBSCRIBER FURTHER ACKNOWLEDGES AND CONFIRMS THAT TELECHECK HAS ADVISED SUBSCRIBER TO MAINTAIN ALL ORIGINAL PRO 21 VERIFICATION CHECKS FOR AT LEAST 21 DAYS FROM SUBMISSION TO TELECHECK. SUBSCRIBER SHALL SECURELY STORE ALL ORIGINAL PRO 21 VERIFICATION CHECKS UNTIL DESTRUCTION AND USE APPROPRIATE MEASURES TO ENSURE THAT THE ORIGINAL CHECK IS NOT DEPOSITED UNLESS TELECHECK OTHERWISE ADVISES THAT THE IMAGED CHECK IS NOT ELIGIBLE FOR SETTLEMENT.

7.3. Returns. Lockbox Pro 21 Verification Service is not payment warranty services. TeleCheck will have no liability for any check that is processed using the Lockbox Pro 21 Services that is subsequently returned, dishonored, reversed or otherwise unpaid ("Return Items"), and does not warranty the checks processed using the Lockbox Pro 21 Verification Service. Subscriber shall be fully responsible and liable to TeleCheck for all Return Items, regardless of the reason or timing. TeleCheck shall deduct or offset all Return Items against any amounts to be paid to Subscriber for Items or, alternatively, TeleCheck may initiate debits to Subscriber's Account for all such Return Items.

Except as expressly modified by this Lockbox Pro 21 Verification Service Addendum, all provisions contained in the Agreement and applicable to the Lockbox Verification Service shall remain in full force and effect. In the event of any conflict or any inconsistency between the Agreement and this Addendum, the provisions of this Addendum shall govern and control.

PART IV: ELECTRONIC FUNDING AUTHORIZATION, ADDITIONAL IMPORTANT INFORMATION FOR CARD PROCESSING AND ELECTRONIC DISCLOSURE CONSENT

This Part IV of the Program Guide contains your electronic funding authorization and certain other additional information important to you in connection with the Merchant Agreement (as further described in the first introductory paragraph of Part I, Subpart A, and also defined as "Agreement" in the Glossary in Part I, of the Program Guide), of which this Part IV is a part. Capitalized terms not defined in this Part IV shall have the meanings set forth in the Agreement or the Application. References to "you" and "your" mean Client and references to "our," "us" and "we" mean Servicers.

A.1. Electronic Funding Authorization

All payments to Client shall be through the Automated Clearing House ("ACH") and shall normally be electronically transmitted directly to the Settlement Account you have designated or any successor account designated to receive provisional funding of Client's Card sales pursuant to the Agreement. Client agrees that any Settlement Account designated pursuant to the preceding sentence will be an account primarily used for business purposes. Neither Bank of America, N.A. nor Banc of America Merchant Services, LLC can guarantee the time frame in which payment may be credited by Client's financial institution where the Settlement Account is maintained.

Client hereby authorizes Bank of America, N.A. and Banc of America Merchant Services, LLC, to access information from the Settlement Account and to initiate credit and/or debit entries by bankwire or ACH transfer and to authorize your financial institution to block or to initiate, if necessary, reversing entries and adjustments for any original entries made to the Settlement Account and to authorize your financial institution to provide such access and to credit and/or debit or to block other transactions to such account. This authorization is without respect to the source of any funds in the Settlement Account and is irrevocable and coupled with an interest. This authority extends to any equipment rental or purchase agreements which may exist with Client as well as to any fees and assessments, Chargebacks and other amounts of whatever kind or nature due to Bank of America, N.A. or Banc of America Merchant Services, LLC under terms of this Agreement, whether arising during or after termination of the Agreement. This authority is to remain in full force and effect at all times unless and until Bank of America, N.A. and Banc of America Merchant Services, LLC have consented to its termination at such time and in such a manner as to afford them a reasonable opportunity to act on it. In addition, Client shall be charged twenty-five dollars (\$25.00) for each ACH which cannot be processed, and all subsequent funding may be suspended until Client either (i) notifies Banc of America Merchant Services, LLC that ACH's can be processed or (ii) a new electronic funding authorization is signed by Client. Client's Settlement Account must be able to receive electronic transfers via ACH.

A.2. Funding Acknowledgement

You will electronically (or physically, when authorized by us) deliver to us, Sales Drafts and Credit Drafts for all Card transactions to be processed and settled under the Agreement. The deadlines for submitting Sales Drafts and Credit Drafts are set forth in the Card Organization Rules corresponding to the applicable Card types and desired rates. In no event shall such deadlines be later than the fifth calendar day or third Business Day (whichever is earlier) after completing Card transactions (unless you are entitled to any special extension of these deadlines). You acknowledge that the times specified in the preceding sentence are the maximum deadlines and that faster time frames are required to qualify for incentive programs.

A.3. Additional and Early Termination Fees; Information Regarding Fees, Equipment and IRS Reporting

This Section A.3 describes certain fees set forth in the Application, as well as additional fees that may apply to you, Discount Rates, PIN Debit Transaction and PINless Debit Transaction Fees and the Early Termination Fee and includes other important information regarding IRS reporting and equipment.

Certain Fees Set forth in Application

Note: Application Fee descriptors may be similar to but not exactly the same as those that appear on your account statement for the related fees or rates. Please contact Customer Service if you have any questions about your statement. As used below, "TID" means "Terminal ID."

START UP FEES

Account Setup Fee – Charged upon approval of your Application to set up your account.

Reprogramming Fee – Charged for any programming of equipment you did not purchase from Processor, per piece of equipment.

Debit Set-up Fee – Charged for implementation of PIN Debit Card acceptance for your Merchant Account on our and our agents' systems.

Mobile Pay Web Set-up Fee – Charged per TID for implementation of the Mobile Pay Web product on our and our agents' systems and appears on the merchant statement as "FD MobilePay Setup."

Mobile Pay App Set-up Fee – Charged per TID for implementation of the Mobile Pay App product on our and our agents' systems and appears on the merchant statement as "FD Mobile Pay Set Up Fee."

PAYWare Mobile Set-up Fee – Setup fees associated with the implementation of the PAYWare Mobile product on our and our agents' systems.

Load Fee (Clover) – This fee, if applicable, is charged for each time we load your menu or list of services or products to your Device for the Clover Service.

Wireless Fee (Terminal Download) – Fee charged to download customer owned wireless terminal with new SIM card.

BILLED MONTHLY FEES

Monthly Service Charge – Our customer service fee.

Minimum Processing Fee – Charged per location and appears on the merchant statement as "Account Minimum Fee." The "Discount Fees" you pay to Servicers (as set forth on the Application) count toward the Minimum Processing Fee; however, the product fees, other monthly non-processing fees, equipment fees and the Card Organization assessment fees are excluded from this calculation. If these fees are equal to, or greater than, the amount set forth on the Application for the Minimum Processing Fee, then no fee is charged. This fee will be either calculated beginning thirty (30) days after the date Client's Application is approved or beginning with the Deferred Billing Month, if indicated on the Application.

Monthly Wireless Fee – Charged for wireless terminal telecommunication network access per TID.

Premium Equipment Service Program – If you purchase equipment from Processor, you may be eligible to participate in Processor's Premium Equipment Service Program. The Premium Equipment Service Program provides a lifetime replacement of your point-of-sale terminal for as long as you participate in the program. The Premium Equipment Service Program includes a free comparable replacement terminal (refurbished) in the event of a defect or malfunction (terminal defects or malfunctions caused by acts of God or Client abuse are not covered by this program). You will be charged for shipping and handling on all terminals and supplies ordered under the Premium Equipment Service Program. All limits on liability and exclusions of damages under the Agreement apply to this Premium Equipment Service Program. If you don't return your damaged equipment, you will be charged our refurbished equipment purchase price for the replacement equipment.

The monthly fee set forth on the Application for the optional Premium Equipment Service Program is a per TID fee. Only certain types of equipment are eligible to participate in this program. A list of eligible terminals is available from our Customer Service department. Any equipment shipped to you under this program, including any such equipment for which you are obligated to pay us, constitutes Purchased Equipment, as defined in and governed by Section 33 of the Agreement.

Online PCI Validation Access Fee – Provides Level 4 Merchants with access to the Online PCI Validation Access Service, as further described in Part I, Section 48 of the Agreement. The payment of this fee does not affect your PCI compliance responsibilities and obligations associated with your Merchant Account(s). This fee appears on the merchant statement as "PCI Compliance PGM Fee."

Monthly PCI Support Package Fee – Charged for notifying you of Card Organization mandated changes and for changing our and our agents' systems as result of those mandated changes. The payment of the monthly PCI Support Package Fee does not affect your compliance responsibilities and obligations associated with your Merchant Account(s). Payment of this fee also provides Level 4 Merchants with access to the BAMS PCI Compliance Support Package for Level 4 Merchants, as further described in Part I, Section 32.1 of this Agreement.

PAYWare Mobile Monthly Svc Fee – Monthly maintenance fee charged for continued access to the PAYWare Mobile product on our and our agents' systems.

Mobile Pay App Version – Monthly maintenance fee charged per TID for continued access to the Mobile Pay App product on our and our agents' systems and appears on the merchant statement as "FD Mobile Pay Monthly Fee."

Mobile Pay Web Version (Single User or Multi User) – Monthly maintenance fee charged per TID for continued access to the Mobile Pay Web product on our and our agents' systems and appears on the merchant statement as "FD MobilePay S-User" or "FD MobilePay M-User."

Clover Services Fee – This fee is charged monthly for the license of the Clover Service for the quantity of Devices listed in the Application. Additional Devices are available for an additional charge. This fee will appear on your Merchant Account statement as one amount for all Devices (including additional Devices requested after the date of the Application).

Insights Solution – Fee charged monthly for access to the Insights Solution software on our and our agents' systems.

Perka – Fee charged monthly for access to the Perka App on our and our agents' systems.

MAINTENANCE FEES

Annual/Quarterly Maintenance Fee – Charged for notifying you of Card Organization mandated changes and for changing our and our agents' systems as result of those mandated changes. The payment of the Maintenance Fee does not affect your compliance responsibilities and obligations associated with your Merchant Account(s). Payment of

this Maintenance Fee (i) also provides Level 4 Merchants with access to the BAMS PCI Compliance Support Package for Level 4 Merchants, as further described in Part 1, Section 32.1 of the Agreement and (ii) does not affect your compliance responsibilities and obligations associated with your Merchant Account(s).

INTERNET/START-UP FEES

Global Gateway – Charged per TID for implementation of Global Gateway on our and our agents' systems and appears on the merchant statement as "Global Gateway Setup Fee."

Global Gateway e4 – Charged per TID for implementation of Global Gateway e4. This fee currently appears on the merchant statement as "Global Gateway e4 Setup Fee."

Payeezy Gateway – Charged per TID for implementation of Payeezy Gateway on our and our agents' systems and appears on the merchant statement as "Payeezy Gateway Setup Fee"

CyberSourceSBB/SBC – Charged per TID for Implementation of CyberSource on our and our agents' systems and appears on the merchant statement as "Cybersource Setup Fee."

Skipjack Gateway – Charged per TID for implementation of Skipjack on our and our agents' systems and appears on the merchant statement as "Skipjack Setup Fee."

Internet Setup Fee – Setup fees associated with implementing third party Internet services on our and our agents' systems. Charged per TID.

INTERNET BILLED MONTHLY FEES

Global Gateway – Maintenance fee charged per TID for continued access to Global Gateway on our and our agents' systems and appears on the merchant statement as "Global Gtwy Usage Fee."

Global Gateway e4 – Maintenance fee charged per TID for continued access to Global Gateway e4 on our and our agents' systems and appears on the merchant statement as "Global Gateway e4 Monthly Fee."

Payeezy Gateway – Maintenance fee charged per TID for continued access to Payeezy Gateway on our and our agents' systems and appears on the merchant statement as "Payeezy Gateway Monthly Fee."

CyberSource SBB/SBC – Maintenance fee charged per TID for continued access to CyberSource on our and our agents' systems and appears on the merchant statement as "CyberSource Monthly Fee."

Skipjack Gateway – Maintenance fee charged per TID for continued access to Skipjack on our and our agents' systems and appears on the merchant statement as "Skipjack Monthly Fee".

Internet Service Fee – Monthly fees associated with third party Internet services. Charged per TID.

Trans/Other Fees – Charged for Internet transaction Authorization (including Address Verification Service) for the applicable Card Organizations and for (a) each Card Organization will appear on the merchant statement in the form "[Card Organization name] Internet Auth Fee" and (b) Address Verification Service will appear on the merchant statement as "Internet AVS Auth Fee."

TRANSARMOR FEES

TransArmor Solution Monthly Fee – This fee is charged monthly for access to TransArmor Solution on our and our agents' systems, as further described in Section 47 of the Agreement.

TransArmor Monthly Fee – Monthly maintenance fee charged for continued access to the TransArmor product on our and our agents' systems.

TransArmor Minimum Monthly Fee – Charged per location and appears on the merchant statement as "TransArmor Monthly Min Fee." The TransArmor Monthly Fee and TransArmor authorization fees you pay to Servicers (as set forth on the Application) count toward the TransArmor Minimum Monthly Fee. If these fees are equal to, or greater than, the amount set forth on the Application for the TransArmor Minimum Monthly Fee, then no fee is charged.

TransArmor Token & Encrypt (RSA Encryption and VeriFone Encryption) – Charged for each TransArmor Token and Encryption authorization.

TransArmor Token Only – Charged per each TransArmor Token authorization.

TransArmor Token Registration (Get Token) – Charged per each TransArmor Token registration.

DISCOUNT RATES AND RELATED FEES

Your Discount Rates are set forth in the Application and may be adjusted from time to time, as further described in Section 18 of the Agreement. Below is a summary of important information about certain pricing methods associated with your Merchant Account(s) and the Application and Schedules you received from us. Please refer to the Application for more information about fees applicable to the Services and any pricing methods not described below. Discount Rates apply to all Credit Card and Non-PIN Debit Card transactions and, if the pricing method on the Application indicates that the Discount Rate also applies to PIN Debit Card transactions, also PIN Debit Card transactions. Except to the extent expressly provided in the below description of the MasterCard/Visa/Discover/AXP OptBlue Interchange Plus pricing method, no fees (including, without limitation, the Discount Rates, related interchange and other Card Organization-Based Fees) charged for the original sales transactions, and their related Credits, reversals or Chargebacks, will be refunded. The titles of the Schedules and pricing

methods referenced below may vary over time. A change in pricing method constitutes a change in fees as described in Section 18.5 of the Agreement.

Non-Qualified Rate Schedule. This Schedule is associated with the MasterCard/Visa/Discover/AXP OptBlue Discount Rate pricing method. This pricing method involves a Discount Rate applied to all transactions. In addition, a billback and surcharge will apply to non-qualified transactions. This Schedule identifies your Anticipated Interchange Levels and includes rates reflecting the differences between interchange rates or AXP OptBlue program pricing, as applicable, associated with your Anticipated Interchange Levels and other interchange programs that actually apply to your transactions (we refer to this difference as "billback," "Non-Qualified Interchange Fee," or "Non-Qualified Interchange Rate"). For qualified and non-qualified transactions, you will be charged the Discount Rate, the amounts of which will appear on your Merchant Account statement(s). For non-qualified transactions, in addition to the Discount Rate, you will be charged the billback value and the Non-Qualified Surcharge reflected on your Application (if the billback is a negative value, you will not be charged or credited for it). The Non-Qualified Interchange Fees and Non-Qualified Surcharges for each type of non-qualified transactions will be added together and appear on your Merchant Account statement(s) as one entry with the identifier "BB" or "Billback."

Interchange Rate Schedules (for the Card Organizations applicable to you) and **Program Rate Schedule for AXP OptBlue.** This Schedule is associated with the MasterCard/Visa/Discover/AXP OptBlue Interchange Plus pricing method. This Schedule provides the most common interchange rates and AXP OptBlue program pricing applicable to your transactions. For each qualified or non-qualified transaction, you will be charged the Discount Rate, the interchange rate and other Card Organization-Based Fees applicable to that transaction. If a "G" is indicated on the Application for this pricing method, your Merchant Account will not be refunded for any fees regarding Credits, reversals or Chargebacks or their original related sales transactions. If an "N" is indicated on the Application for this pricing method, you will receive the Credit voucher rates indicated in the Interchange Rate Schedule for your Credits.

Qualification Tier Schedule (for the Tier type applicable to you). This Schedule is associated with the MasterCard/Visa/Discover/AXP OptBlue 2-Tier and MasterCard/Visa/Discover/AXP OptBlue 3-Tier pricing methods. The Tier pricing methods involve different Discount Rates for Qualified, Mid-Qualified, and Non-Qualified tiers. This Schedule provides the qualification criteria used to determine the applicable Tier for each transaction.

PIN DEBIT FEES

Network Plus PIN Debit – Our fee for processing your PIN Debit Card transactions and appears on the merchant statement as "Debit/ATM Card Transaction Fee." In addition to the debit card transaction fees set forth on the Application, you shall be responsible for the amount of any fees imposed upon a transaction by the applicable PIN Debit Network.

PROCESSING FEES

Chargeback Fee – Fee charged per Chargeback.

MasterCard/Visa/Discover/American Express Voice Auth and Discover Voice/AVS – Our fee charged for Authorization requests made by telephone and will appear on the merchant statement in the form "[Card Organization name] Voice Auth Fee", "[Card Organization name] Voice Addr Verif" or "[Card Organization name] Voice Addr Ver/Auth."

MasterCard/Visa/American Express AVS and Discover AVS – Our fee charged per Address Verification Service (AVS) inquiry and will appear on the merchant statement as "AVS Local Authorization Fee", "AVS WATS Authorization Fee", "AVS Regional Authorization Fee", or "AVS 950 Call Authorization Fee" or in the form of "[Card Organization name] Auto Address Verif" or "[Card Organization name] ECR Address Verif."

AXP Direct Auth Fee – Charged per Authorization and appears on the merchant statement as "Amex Auth Fee."

ACH Reject Fee – Fee charged per ACH reject.

Batch Settlement Fee – Fee charged for each credit/signature debit transaction batch and each PIN Debit Card transaction batch transmitted.

EBT – Charged per EBT Authorization or decline, EBT food stamp return, and EBT balance inquiry, and will appear on the Merchant Account statement accordingly.

MasterCard Global ePricing Svc – Fee charged on MasterCard sales and credits (return) volume processed through the Global ePricing product.

Visa Global ePricing Svc – Fee charged on Visa sales and credits (return) volume processed through the Global ePricing product.

CARD ORGANIZATION FEES

MasterCard Cross Border Fee USD – Fee assessed on all consumer, commercial, credit and debit MasterCard Card transactions where the MasterCard country code for you is different from the MasterCard country code for the Cardholder; all sales must be processed in U.S. dollars. This fee will appear on the Merchant Account statement as "US Cross Border Fee."

MasterCard Cross Border Fee Non-USD – Fee assessed on all consumer, commercial, credit and debit MasterCard Card transactions where the MasterCard country code for you is different from the MasterCard country code for the Cardholder and the transaction is not processed in U.S. dollars. This fee will appear on the Merchant Account statement as "US Cross Border Fee, NonUSD."

MasterCard Cross Border Fee AP/LAC – Fee assessed for MasterCard Card transactions in which the country code of the merchant differs from the country code of the Cardholder. Fee applies to Merchant Account(s) in the Asia Pacific (AP) and Latin America and Caribbean (LAC) regions.

MasterCard AVS Card Not Present – Fee charged on all MasterCard Card Not Present Authorizations that use the Address Verification Service (AVS) that are submitted for more than \$0. Fee will appear on your Merchant Account statement as “CNP AVS Fee”.

MasterCard Acquirer AVS Billing – Fee charged on all MasterCard Card Present Authorizations that use the Address Verification Service (AVS) that are submitted for more than \$0. Fee will appear on your Merchant Account statement as “MC Acquirer AVS Billing”.

MasterCard Processing Integrity Fee – Fee assessed on all MasterCard authorized transactions which are not followed by a matching MasterCard clearing transaction (or reversed in the case of a cancelled transaction). Automated Fuel Dispensers (MCC 5542) are not subject to this fee. Rate (as set forth on the Application) includes an additional \$0.01 reporting cost from MasterCard for each transaction.

MasterCard License Volume Fee – Fee assessed on the gross dollar amount of all MasterCard transactions (credit and signature debit). Fee based on good faith effort to recover and allocate among all customers MasterCard's annual fee for licensing and third party processing.

MasterCard US Acct Status Inquiry Svc Interregional – Fee charged on all Account Status Inquiry Service messages where the MasterCard country code for you is different from the MasterCard country code for the Cardholder. Account Status Inquiry Service transactions must be submitted for \$0 and are used to validate Cardholder account numbers and other elements, such as CVC2 and AVS, prior to obtaining an actual Authorization. This fee appears on the merchant statement as “MC Acct Status Inq Svc Interre.”

MasterCard US Acct Status Inquiry Svc Intraregional – Fee charged on all Account Status Inquiry Service messages where the MasterCard country code for you is the same as the MasterCard country code for the Cardholder. Account Status Inquiry Service transactions must be submitted for \$0 and are used to validate Cardholder account numbers and other elements, such as CVC2 and AVS, prior to obtaining an actual Authorization. This fee appears on the merchant statement as “MC Acct Status Inq Svc Intrare.”

MasterCard CVC 2 Fee – Fee assessed on all authorizations that include Card Validation Code 2 (CVC 2) validation, excluding Account Status Inquiry transactions. CVC 2 is an optional service from MasterCard that was implemented to help reduce the risk of fraud and is part of the screening tools used by merchants to ensure that the person placing the order has the card.

MasterCard Auth Suspect Fraud Reversal Rebate – Rebate per MasterCard Card Not Present/eCommerce authorization reversal that includes the suspect fraud indicator. The suspect fraud indicator is required when an authorization-approved transaction is reversed because the merchant suspects the transaction may be fraudulent. Note: Merchants may or may not be in the practice of reversing previously approved transactions for reason of suspected fraud.

MasterCard Digital Enablement Fee - Fee assessed on all MasterCard Card Not Present transactions.

MasterCard/Visa Ntwrk Access Fee – Fee charged per applicable Card Organization, for accessing networks of Visa and MasterCard, as applicable, on your behalf and is based on similar charges we pay for access to those Card Organizations.

Visa International Svc Fee Base – Applies to international Visa Card transactions where the Issuer is non-U.S. and the merchant is located in the U.S. Fee applies to sales processed in U.S. dollars.

Visa International Svc Fee Enhanced - Applies to international Visa Card transactions where the Issuer is non-U.S. and the merchant is located in the U.S. Fee applies to sales that are not processed in U.S. dollars.

Visa Zero Amt + AVS Fee/Visa Zero Amount Fee – Fee assessed on account verification messages, including both approved and declined, AVS, and SMS account verification transactions. Account verification transactions must be submitted for zero dollars and are used to validate Cardholder account numbers and other elements, such as CVV2 and AVS, prior to obtaining an actual Authorization. When AVS is used, the fee billed is the Visa Zero Amt + AVS Fee; for non AVS transactions, it is the Visa Zero Amount Fee. This fee will appear on the Merchant Account statement as “Visa Zero Amt & AVS Fee” or “Visa Zero Amt Fee,” as applicable.

Visa Misuse of Auth Fee – Fee assessed on each Visa transaction for which you receive an Authorization that is not followed by a matching Visa clearing transaction (or not reversed in the case of a canceled transaction).

Visa Zero Floor Limit – Fee assessed on each Visa clearing transaction for which you did not obtain an Authorization.

Visa Partial Auth NP Trans Fee – Fee assessed on AFD (Automated Fuel Dispensers) merchants in MCC 5542 on transactions that do not support partial Authorization.

Visa US Debit Transaction Integrity Fee – Fee charged on each signature debit Card and Non-PIN Debit Card transaction (including Visa Consumer and Business debit cards and Visa Consumer and Commercial Prepaid cards) that does not meet the qualification criteria defined under the Visa U.S. Custom Payment Service (CPS) program. This fee will appear on your Merchant Account statement as “VI-Transaction Integrity Fee.”

Visa Fixed Acquirer Network Fee – Fee charged per merchant location based on the following Visa criteria: 1) the number of merchant locations, 2) Visa sales volume, 3) comparison of Card present and Card Not Present Transactions, and 4) Merchant Category Code (MCC). These criteria are assessed at a single taxpayer identification number level. Fee will appear on your Merchant Account Statement as “Visa Network Fee CP TB-TR” or “Visa Network Fee CNP TB-TR”, where TB indicates the FANF table on the rate schedule for the pricing method for your Merchant Account (Table 1a, 1b, or 2) and TR indicates the applicable tier in the fee table (Tiers 1-20).

Visa Intl Acquirer Fee – Fee assessed for each transaction conducted at U.S. merchant locations with a non-U.S. issued Card for merchants in high risk MCCs: Direct Marketing - Travel-Related Arrangement Services (5962), Direct Marketing - Outbound Telemarketing Merchants (5966), and Direct Marketing - Inbound Telemarketing Merchants (5967).

Discover Data Usage Fee – Fee charged on all Discover Card sales and credit (return) transactions.

Discover Network Auth Fee - Fee assessed on all Discover, JCB, UnionPay, Diners Club International, and Korea BCCard authorizations.

Discover Intl Service Fee – Fee assessed for transactions where the merchant country is different from the issuer country.

BUYPASS FEES

Datawire Micronode 960-AS Monthly Fee – Fee charged monthly for Datawire Micronode access and will appear on the Merchant Account statement as “Monthly Maintenance Fee.”

IRS REPORTING INFORMATION

Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities (like us) and third party settlement organizations are required to file an information return reflecting all payment card transactions and third party network transactions occurring in a calendar year. This requirement applies to returns for calendar years after December 31, 2010. Accordingly, you will receive a form 1099-K reporting your gross transaction amounts for each prior calendar year, beginning with transactions processed in calendar year 2011.

In addition, amounts reportable under Section 6050W are subject to backup withholding requirements. Payors are 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 you provide us with the correct name and TIN that you use when filing your tax return that includes the transactions for your business.

Equipment Rental Fee Information

An equipment rental fee will be charged each month for each piece of Rental Equipment, plus tax as applicable. Client will be charged for cost of supplies and shipping fees for equipment and supplies. Processor will cover or replace all inoperable Rental Equipment during the rental term. If you don't return Rental Equipment, you will be charged the full purchase price of the replacement equipment sent to you.

Early Termination Fee

The parties further agree and acknowledge that, in addition to any remedies contained herein or otherwise available under Applicable Law and, if (a) Client breaches the Agreement by terminating it prior to the expiration of the initial term set forth in Section 23.2 of the Agreement, or (b) this Agreement is terminated prior to the expiration of such initial term due to an Event of Default, then Servicer will suffer a substantial injury that is difficult or impossible to accurately estimate. Accordingly, in an effort to liquidate in advance the sum that should represent such damages, the parties have agreed that the amount calculated in the manner specified below is a reasonable pre-estimate of Servicer's probable loss. Such amount shall be paid to Servicer within 15 days after Client's receipt of Servicer's calculation of the amount due.

If Client's annualized transaction volume for the twelve months immediately prior to the date of termination is less than \$5,000,000, then the amount shall equal \$500 per Client location. If Client's annualized transaction volume for the twelve months immediately prior to the date of termination is equal to or exceeds \$5,000,000, then the per Client location amount shall be the greater of (a) \$500, or (b) \$100 per month for the number of months, including any pro rata portion of a month, then remaining prior to the date on which Client may terminate the Agreement in accordance with the terms thereof.

Purchased Equipment (One Year Warranty)

Purchased Equipment is warranted against material defects for a one year period after the original date of purchase. This warranty does not include damage to the equipment resulting from accident or misuse or any other breach of Section 33. If the equipment should otherwise become defective within the warranty period, Processors will replace it free of charge (except that appropriate shipping charges may apply). This warranty does not apply to equipment that may become obsolete; notwithstanding this limited warranty, it may be necessary for you to upgrade your equipment or purchase new equipment from time to time, for which you will be charged.

Customer Owned Equipment

Customer-owned equipment is not covered under any warranty. If Customer Owned equipment needs to be replaced, you will be charged a replacement fee as well as the appropriate shipping fees.

If you have any additional equipment needs please contact the POS Help Desk number listed in Section A.4.

A.4. Addresses For Notices; Customer Service

PROCESSOR:

**Banc of America
Merchant Services, LLC:**
1307 Walt Whitman Road
Melville, NY 11747
Attn: Merchant Services

BANK:

Bank of America, N.A.
1231 Durrett Lane
Louisville, KY 40213
Attention: Operations Manager.

Important Phone Numbers:
(see also Sections 3.3 and 5.4 of
Part I of the Program Guide)

Customer Service
1-800-430-7161

Authorizations
1-800-430-7161, Option 1

POS Help Desk
1-800-430-7161, Option 2

Supplies
1-800-430-7161, Option 4

A5. ELECTRONIC DISCLOSURE CONSENT

YOU CONSENT AND AGREE THAT:

- A) WHERE REQUIRED OR REQUESTED, YOUR ELECTRONIC SIGNATURE (VIA "CLICK-THROUGH" OR OTHER METHOD) ON CONFIRMATIONS RELATED TO THIS AGREEMENT, OTHER AGREEMENTS OR DOCUMENTS OR DISCLOSURES (DEFINED BELOW) RELATED TO THE SERVICES HAS THE SAME EFFECT AS IF YOU SIGNED THEM IN INK.
- B) WE MAY PROVIDE ALL CURRENT OR FUTURE DISCLOSURES RELATED TO THE SERVICES REQUIRED BY LAW, RULE OR REGULATION, AS WELL AS OTHER INFORMATION ABOUT YOUR LEGAL RIGHTS AND DUTIES TO YOU ELECTRONICALLY.
- C) WE MAY SEND ALL CURRENT OR FUTURE COMMUNICATIONS, BILLING STATEMENTS, AMENDMENTS TO THIS AGREEMENT, NOTICES, USER DOCUMENTATION AND OTHER DISCLOSURES OR INFORMATION REGARDING THE SERVICES OR YOUR USE OF THE SERVICES (COLLECTIVELY, "DISCLOSURES") TO YOU ELECTRONICALLY (1) VIA E-MAIL, (2) BY ACCESS TO A WEBSITE THAT WE DESIGNATE IN AN E-MAIL OR WRITTEN NOTICE WE SEND TO YOU FROM TIME-TO-TIME, (3) TO THE EXTENT PERMISSIBLE BY LAW, BY ACCESS TO A WEBSITE THAT WE WILL GENERALLY DESIGNATE IN ADVANCE FOR SUCH PURPOSE, OR (4) AS OTHERWISE ALLOWED BY APPLICABLE LAW, RULE OR REGULATION.
- D) IF YOU WOULD LIKE A PAPER COPY OF DISCLOSURES FOLLOWING THEIR ELECTRONIC DELIVERY, YOU MAY PRINT A COPY OR DOWNLOAD THE INFORMATION FOR YOUR RECORDS.
- E) ELECTRONIC DISCLOSURES HAVE THE SAME MEANING AND EFFECT AS IF WE PROVIDE THE DISCLOSURES TO YOU IN WRITING VIA PAPER. WHEN WE SEND YOU AN EMAIL OR OTHER ELECTRONIC NOTIFICATION ALERTING YOU THAT A DISCLOSURE IS AVAILABLE ELECTRONICALLY AND THEREBY MAKE IT AVAILABLE, SUCH ACTION WILL HAVE THE SAME MEANING AND EFFECT AS IF WE HAD PROVIDED THE DISCLOSURE TO YOU IN WRITING VIA PAPER, WHETHER OR NOT YOU CHOOSE TO VIEW, PRINT OR DOWNLOAD THE DISCLOSURE.

Please read this Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you. From time to time you may have questions regarding the contents of this Program Guide and your Agreement with Servicers (Parts I and IV; also referred to below as the "Merchant Agreement") or the contents of your TeleCheck Services Agreement with TeleCheck (Part III; also referred to below as the "TeleCheck Agreement"). The following information summarizes portions of this Program Guide in order to assist you in answering some of the questions we are most commonly asked. Capitalized terms appearing on this page and not defined have the meanings set forth in Part I or Part III, as applicable; references to "you" and "your" mean the Client and "our," "us" and "we" mean Servicers).

If you have executed the Application and the Merchant Agreement and/or other agreements contained in Parts II and III of this Program Guide or separate agreements with our respective Affiliates (e.g., a leasing agreement with First Data Global Leasing) for services and equipment you have elected (collectively, the Application, Merchant Agreement and such other agreements (if any) are referred to below as the "Agreements") via Electronic Process, please also refer to the below Acknowledgement and Covenant Regarding Agreements Executed via Electronic Process.

- Your Discount Rates under the Merchant Agreement** are assessed on transactions that qualify for certain (i) interchange rates imposed by MasterCard, Visa and Discover and (ii) program pricing imposed by American Express for the AXP OptBlue Service. Any transactions that fail to qualify for these rates will be charged higher rates and/or additional fees (see Part I, Section 18 and Part IV, Section A.3 of this Program Guide).
- Servicers and TeleCheck may debit your bank account(s)** (also referred to as your Settlement Account(s)) from time to time for amounts owed to them respectively under their Agreements.
- There are many reasons why a Chargeback may occur.** When a Chargeback occurs Servicers, or TeleCheck, when a chargeback or reassignment occurs, will debit your settlement funds or Settlement Account. For a more detailed discussion regarding (i) Chargebacks, see Merchant Agreement Sections 10 and 19 and (ii) for chargebacks or reassignment for TeleCheck, see TeleCheck Agreement Sections 1.3.6, 1.4.4, 1.5.11, 1.6.5, 1.8.6, 1.10.4, 1.11.6 and 1.12.6.
- If you dispute any charge or funding,** you must notify (i) Servicers within 60 days of the date of the statement where the charge or funding appears for Card processing, as further described in Merchant Agreement, Section 18.10, and (ii) TeleCheck, within 30 days of the date of a TeleCheck transaction, as further described in the TeleCheck Agreement, Sections 1.3.7, 1.5.5, 1.6.4, 1.8.7, 1.9.5, 1.10.4, 1.11.8 and 1.12.5.
- The Merchant Agreement and TeleCheck Services Agreement limit liability to you.** For detailed descriptions of the limitations of liability, see Merchant Agreement Section 20 and TeleCheck Agreement, Section 1.22.
- Servicers and TeleCheck have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, each of them may take certain actions to mitigate their risk, including terminating the related agreement, and/or holding monies otherwise payable to you (see Merchant Agreement Sections 23 and 24) and TeleCheck Agreement, Sections 1.1, 1.3.2, 1.3.9, 1.6.2, 1.6.7, 1.8.2, 1.8.10, 1.9.2, 1.9.8, 1.13 and 1.14).
- By executing the Application,** you are authorizing Banc of America Merchant Services, LLC, Bank of America, N.A., First Data Merchant Services Corporation, American Express Travel Related Services Company, Inc. and TeleCheck Services, Inc., as applicable, to obtain financial and credit information regarding your business and the signer and guarantors of the applicable agreements until all your obligations to the providers under those agreements are satisfied.
- The Merchant Agreement and TeleCheck Agreement each contain Early Termination Fee provisions.** In the event you terminate the Merchant Agreement prior to its three (3) year initial term, you may be charged an Early Termination Fee (See Part I, Section 23.2 and Part IV, Section A.3, Early Termination Fee). If you terminate the TeleCheck Agreement prior to its 12 month initial term, you may be charged liquidated damages (See Part III, Sections 1.1 and 1.35).

9. Card Organization Disclosure

Visa and MasterCard Member Bank Information: Bank of America, N.A.

The Bank's mailing address is 1231 Durrett Lane, Louisville, KY 40213, and its phone number is 800-430-7161.

Important Visa and MasterCard Member Bank Responsibilities:

- The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a Merchant.
- The Bank must be a principal (signer) to the Merchant Agreement.
- The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply; but this information may be provided to you by Processor.
- The Bank is responsible for and must provide settlement funds to you.
- The Bank is responsible for all funds held in reserve that are derived from settlement.
- The Bank is the ultimate authority should you have any problems with Visa or MasterCard products (however, Processor also will assist you with any such problems).

Important Merchant Responsibilities:

- Ensure compliance with Cardholder data security and storage requirements.
- Maintain fraud and Chargebacks below Card Organization thresholds.
- Review and understand the terms of the Merchant Agreement.
- Comply with Card Organization Rules.
- Retain a signed copy of this Disclosure Page.
- You may download "Visa Regulations" from Visa's website at: <http://usa.visa.com/merchants/merchant-support/international-operating-regulations.jsp>
- You may download "MasterCard Regulations" from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>
- For the AXP OptBlue Service only, you may download "American Express Merchant Operating Guide" from American Express' website at: www.americanexpress.com/merchantopguide

ACKNOWLEDGEMENT AND COVENANT REGARDING AGREEMENTS EXECUTED VIA ELECTRONIC PROCESS

BY YOUR SIGNATURE BELOW, YOU ACKNOWLEDGE AND AGREE THAT (A) YOU HAVE EXECUTED AND INITIALED THE AGREEMENTS BY (I) YOUR SELECTION AND ADOPTION OF AN ELECTRONIC REPRESENTATION OF YOUR SIGNATURE AND INITIALS WITH A PRE-DETERMINED FONT ("ADOPTED SIGNATURE") OR (II) YOUR USE OF A STYLUS OR YOUR FINGER, A COMPUTER MOUSE OR SIMILAR MEANS ("ELECTRONIC PAD SIGNATURE"), (B) USE OF THE ADOPTED SIGNATURE OR POSSIBLE LIMITS ON YOUR ABILITY OR INABILITY TO CONTROL THE DEVICE OR YOUR FINGER TO THE SAME EXTENT THAT YOU WOULD CONTROL A PEN IN YOUR HAND, YOUR ADOPTED SIGNATURE OR ELECTRONIC PAD SIGNATURE MAY NOT RESEMBLE YOUR MANUAL WET SIGNATURE ("WET SIGNATURE"); AND (C) EVEN IF YOUR ADOPTED SIGNATURE OR ELECTRONIC PAD SIGNATURE DOES NOT RESEMBLE YOUR WET SIGNATURE, YOU WILL BE BOUND BY THE TERMS OF THE AGREEMENTS YOU HAVE EXECUTED IN THIS MANNER. YOU COVENANT WITH US AND OUR RESPECTIVE AFFILIATES THAT YOU WILL NOT CONTEST THE ENFORCEABILITY OF ANY OF THE AGREEMENTS EXECUTED BY YOUR ADOPTED SIGNATURE OR ELECTRONIC PAD SIGNATURE BASED ON THE MANNER OF THEIR EXECUTION.

YOU CONSENT AND AGREE TO THE TERMS OF THE ELECTRONIC DISCLOSURE CONSENT SET FORTH IN PART IV, SECTION A.5 OF THIS PROGRAM GUIDE.

Print Client's Business Legal Name: CITY OF LEAGUE CITY, TEXAS

By its signature below, Client acknowledges that it received (1) one of the following, as applicable to the Pricing Method set forth on the Application: (i) Qualification Tier Schedule corresponding to the 2-Tier or 3-Tier Pricing Method, (ii) Non-Qualified Rate Schedule for the Visa/MC/Discover/American Express Discount Rate Pricing Method (specific to your Merchant Account(s)), or (iii) the Interchange Rate Schedule for the Visa/MC/Discover Interchange Plus Pricing Method and American Express Program Pricing, (2) the Debit Network Fees Schedule and (3) complete Program Guide (Version BAMS1805) consisting of 72 pages (including this confirmation). Client further acknowledges reading and agreeing to all terms in the Program Guide. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM GUIDE WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X [Signature]

R. MARK ROTH

Please Print Name of Signer

CITY MANAGER

Title

2/17/16

Date

Please read this Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you. From time to time you may have questions regarding the contents of this Program Guide and your Agreement with Servicers (Parts I and IV; also referred to below as the "Merchant Agreement") or the contents of your TeleCheck Services Agreement with TeleCheck (Part III; also referred to below as the "TeleCheck Agreement"). The following information summarizes portions of this Program Guide in order to assist you in answering some of the questions we are most commonly asked. Capitalized terms appearing on this page and not defined have the meanings set forth in Part I or Part III, as applicable; references to "you" and "your" mean the Client and "our," "us" and "we" mean Servicers).

If you have executed the Application and the Merchant Agreement and/or other agreements contained in Parts II and III of this Program Guide or separate agreements with our respective Affiliates (e.g., a leasing agreement with First Data Global Leasing) for services and equipment you have elected (collectively, the Application, Merchant Agreement and such other agreements (if any) are referred to below as the "Agreements") via Electronic Process, please also refer to the below Acknowledgement and Covenant Regarding Agreements Executed via Electronic Process.

- Your Discount Rates under the Merchant Agreement** are assessed on transactions that qualify for certain (i) interchange rates imposed by MasterCard, Visa and Discover and (ii) program pricing imposed by American Express for the AXP OptBlue Service. Any transactions that fail to qualify for these rates will be charged higher rates and/or additional fees (see Part I, Section 18 and Part IV, Section A.3 of this Program Guide).
- Servicers and TeleCheck may debit your bank account(s)** (also referred to as your Settlement Account(s)) from time to time for amounts owed to them respectively under their Agreements.
- There are many reasons why a Chargeback may occur.** When a Chargeback occurs Servicers, or TeleCheck, when a chargeback or reassignment occurs, will debit your settlement funds or Settlement Account. For a more detailed discussion regarding (i) Chargebacks, see Merchant Agreement Sections 10 and 19 and (ii) for chargebacks or reassignment for TeleCheck, see TeleCheck Agreement Sections 1.3.6, 1.4.4, 1.5.11, 1.6.5, 1.8.6, 1.10.4, 1.11.6 and 1.12.6.
- If you dispute any charge or funding,** you must notify (i) Servicers within 60 days of the date of the statement where the charge or funding appears for Card processing, as further described in Merchant Agreement, Section 18.10, and (ii) TeleCheck, within 30 days of the date of a TeleCheck transaction, as further described in the TeleCheck Agreement, Sections 1.3.7, 1.5.5, 1.6.4, 1.8.7, 1.9.5, 1.10.4, 1.11.8 and 1.12.5.
- The Merchant Agreement and TeleCheck Services Agreement limit liability to you.** For detailed descriptions of the limitations of liability, see Merchant Agreement Section 20 and TeleCheck Agreement, Section 1.22.
- Servicers and TeleCheck have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, each of them may take certain actions to mitigate their risk, including terminating the related agreement, and/or holding monies otherwise payable to you (see Merchant Agreement Sections 23 and 24) and TeleCheck Agreement, Sections 1.1, 1.3.2, 1.3.9, 1.6.2, 1.6.7, 1.8.2, 1.8.10, 1.9.2, 1.9.8, 1.13 and 1.14).
- By executing the Application,** you are authorizing Banc of America Merchant Services, LLC, Bank of America, N.A., First Data Merchant Services Corporation, American Express Travel Related Services Company, Inc. and TeleCheck Services, Inc., as applicable, to obtain financial and credit information regarding your business and the signer and guarantors of the applicable agreements until all your obligations to the providers under those agreements are satisfied.
- The Merchant Agreement and TeleCheck Agreement each contain Early Termination Fee provisions.** In the event you terminate the Merchant Agreement prior to its three (3) year initial term, you may be charged an Early Termination Fee (See Part I, Section 23.2 and Part IV, Section A.3, Early Termination Fee). If you terminate the TeleCheck Agreement prior to its 12 month initial term, you may be charged liquidated damages (See Part III, Sections 1.1 and 1.35).

9. Card Organization Disclosure

Visa and MasterCard Member Bank Information: Bank of America, N.A.

The Bank's mailing address is 1231 Durrett Lane, Louisville, KY 40213, and its phone number is 800-430-7161.

Important Visa and MasterCard Member Bank Responsibilities:

- The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a Merchant.
- The Bank must be a principal (signer) to the Merchant Agreement.
- The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply; but this information may be provided to you by Processor.
- The Bank is responsible for and must provide settlement funds to you.
- The Bank is responsible for all funds held in reserve that are derived from settlement.
- The Bank is the ultimate authority should you have any problems with Visa or MasterCard products (however, Processor also will assist you with any such problems).

Important Merchant Responsibilities:

- Ensure compliance with Cardholder data security and storage requirements.
- Maintain fraud and Chargebacks below Card Organization thresholds.
- Review and understand the terms of the Merchant Agreement.
- Comply with Card Organization Rules.
- Retain a signed copy of this Disclosure Page.
- You may download "Visa Regulations" from Visa's website at: <http://usa.visa.com/merchants/merchant-support/international-operating-regulations.jsp>
- You may download "MasterCard Regulations" from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>
- For the AXP OptBlue Service only, you may download "American Express Merchant Operating Guide" from American Express' website at: www.americanexpress.com/merchantopguide

ACKNOWLEDGEMENT AND COVENANT REGARDING AGREEMENTS EXECUTED VIA ELECTRONIC PROCESS

BY YOUR SIGNATURE BELOW, YOU ACKNOWLEDGE AND AGREE THAT (A) YOU HAVE EXECUTED AND INITIALED THE AGREEMENTS BY (I) YOUR SELECTION AND ADOPTION OF AN ELECTRONIC REPRESENTATION OF YOUR SIGNATURE AND INITIALS WITH A PRE-DETERMINED FONT ("ADOPTED SIGNATURE") OR (II) YOUR USE OF A STYLUS OR YOUR FINGER, A COMPUTER MOUSE OR SIMILAR MEANS ("ELECTRONIC PAD SIGNATURE"), (B) USE OF THE ADOPTED SIGNATURE OR POSSIBLE LIMITS ON YOUR ABILITY OR INABILITY TO CONTROL THE DEVICE OR YOUR FINGER TO THE SAME EXTENT THAT YOU WOULD CONTROL A PEN IN YOUR HAND, YOUR ADOPTED SIGNATURE OR ELECTRONIC PAD SIGNATURE MAY NOT RESEMBLE YOUR MANUAL WET SIGNATURE ("WET SIGNATURE"); AND (C) EVEN IF YOUR ADOPTED SIGNATURE OR ELECTRONIC PAD SIGNATURE DOES NOT RESEMBLE YOUR WET SIGNATURE, YOU WILL BE BOUND BY THE TERMS OF THE AGREEMENTS YOU HAVE EXECUTED IN THIS MANNER. YOU COVENANT WITH US AND OUR RESPECTIVE AFFILIATES THAT YOU WILL NOT CONTEST THE ENFORCEABILITY OF ANY OF THE AGREEMENTS EXECUTED BY YOUR ADOPTED SIGNATURE OR ELECTRONIC PAD SIGNATURE BASED ON THE MANNER OF THEIR EXECUTION.

YOU CONSENT AND AGREE TO THE TERMS OF THE ELECTRONIC DISCLOSURE CONSENT SET FORTH IN PART IV, SECTION A.5 OF THIS PROGRAM GUIDE.

Print Client's Business Legal Name: _____

By its signature below, Client acknowledges that it received (1) one of the following, as applicable to the Pricing Method set forth on the Application: (i) Qualification Tier Schedule corresponding to the 2-Tier or 3-Tier Pricing Method, (ii) Non-Qualified Rate Schedule for the Visa/MC/Discover/American Express Discount Rate Pricing Method (specific to your Merchant Account(s)), or (iii) the Interchange Rate Schedule for the Visa/MC/Discover Interchange Plus Pricing Method and American Express Program Pricing, (2) the Debit Network Fees Schedule and (3) complete Program Guide (Version BAMS1805) consisting of 72 pages (including this confirmation). Client further acknowledges reading and agreeing to all terms in the Program Guide. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM GUIDE WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below): _____

X _____

Title _____

Date _____

Please Print Name of Signer _____

