

**MASTER SERVICES AGREEMENT**

**State of Georgia, The Office of the State Treasurer**

Legal Name

Doing Business As

**200 Piedmont Avenue, Suite 1204, West Tower**

**Atlanta**

**Georgia 30334-5527**

Street Address

City

State

Zip Code

Specify Whether CUSTOMER is a Corporation, Partnership, Sole Proprietorship, Non-Profit or Other Type of Entity

Taxpayer Identification Number (CUSTOMER certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct).

Recipient/Title For Notices

Facsimile Number

This Master Services Agreement ("MSA") is among the Office of the State Treasurer, State of Georgia ("OST") on behalf of the CUSTOMERS whereas CUSTOMERS are defined as State of Georgia government agencies, commissions, departments, boards, authorities, bureaus, institutions, and local government entities that sign a Participation Agreement and SUNTRUST MERCHANT SERVICES, LLC and/or its Affiliates (collectively, "PROVIDER") for the Services identified below. The OST is signing this MSA on behalf of the CUSTOMERS that are entitled to use this MSA and Addenda as part of the RFQB Event Number OST 17/001 dated March 15, 2017. Each CUSTOMER desiring to obtain the Services under this MSA shall execute a separate Participation Agreement with Servicers in the form attached as Schedule E. Each customer executing a Participation Agreement shall be responsible for its own individual performance and compliance with the terms of its Participation Agreement and OST may serve as a coordinator for Servicers' Services under, but shall not be a party to, any such Participation Agreement. The Participation Agreements are hereby incorporated by reference.

The intent of this MSA is to provide one set of standardized "Terms and Conditions" to be utilized for multiple relationships within the United States between CUSTOMER and PROVIDER. All services provided by PROVIDER ("Services") will be identified as individual addenda to this MSA ("Addendum") with specific operational specifications and selected by the CUSTOMER in the Participation Agreement. These Addenda will be subject to the Terms and Conditions of this MSA unless the applicable Addendum specifically states that additional and/or other terms and conditions apply.

In consideration of the mutual covenants and agreements set forth herein and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, PROVIDER and CUSTOMER agree as follows:

1. **Services.** The Services provided shall be more fully described in the attached Service Addendums: Bankcard Addendum and the following addenda attached as Schedule D: PayPoint Addendum, Payeezy Addendum, TransArmor Addendum, Clover Go Addendum, Debit Addendum, Amex Opt Blue Addendum, Convenience Fee Addendum, Data File Manager Addendum, TeleCheck ECA Verification Addendum, TeleCheck ICA Warranty Addendum, Clover Services and Equipment Addendum, TeleCheck CBP Warranty Addendum, and TeleCheck CBP Verification Addendum, all of which are incorporated herein by reference and the selection of which Services to be delivered will be made in each Participation Agreement.

2. **Term.** This MSA and any Addenda attached hereto shall be in effect upon signing of each document by all parties and shall remain effective for a period of one year. This MSA and any Addenda hereto may be renewed for successive one (1) year terms upon written notice to PROVIDER prior to the end of the then existing term.

3. **Financial and Other Information.**

3.1 During any periods in which CUSTOMER is not subject to the reporting requirements of the Securities Exchange Act of 1934 or, if subject to such reporting requirements, is not in compliance with such, CUSTOMER agrees to provide PROVIDER quarterly financial statements of CUSTOMER within forty five (45) days after the end of each fiscal quarter and annual audited financial statements within ninety (90) days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. CUSTOMER also shall provide such other financial statements and other information concerning CUSTOMER's compliance with the terms and provisions of this MSA as PROVIDER may reasonably request. CUSTOMER authorizes PROVIDER to obtain from third parties financial and credit information relating to CUSTOMER in connection with PROVIDER's determination whether to accept this MSA and PROVIDER's continuing evaluation of the financial and credit status of CUSTOMER. Upon PROVIDER'S request, CUSTOMER shall provide to PROVIDER or their representatives access to CUSTOMER's facilities and records during CUSTOMER's normal business hours of operation for the purpose of performing any inspection and/or copying of CUSTOMER's books and/or records pertaining to the Services contemplated in this MSA. If not requested by the Card Organizations or law enforcement, alternatively, CUSTOMER may elect to provide copies of such books and/or records to PROVIDER.

3.2 CUSTOMER will provide PROVIDER with written notice of CUSTOMER's intent to liquidate, substantially change the basic nature of its business, transfer or sell any substantial part (25% or more in value) of its total assets, or if CUSTOMER or its parent is not a corporation whose shares are listed on a national securities exchange or on the over-the-counter market, change the control or ownership of CUSTOMER or its parent, thirty (30) days prior to such

liquidation, change, transfer or sale taking place. CUSTOMER will also notify PROVIDER of any judgment, writ, warrant of attachment, execution or levy against any substantial part (25% or more in value) of CUSTOMER's total assets not later than three days after CUSTOMER obtains knowledge of any such judgment, writ, warrant of attachment, execution or levy.

**4. Responsibility.**

- 4.1 CUSTOMER agrees that it is responsible for all losses, liabilities, damages, expenses (including, attorneys' fees, collection costs and other costs incurred by PROVIDER) and Card Association fines or fees resulting from any breach of any representation, warranty, covenant, provision of this MSA or any Addenda or any misrepresentation by CUSTOMER under this MSA or any Addenda.
- 4.2 PROVIDER agrees to indemnify and hold harmless CUSTOMER from and against all losses, liabilities, damages and expenses (including, but not limited to, attorneys' fees) resulting from any breach of any representation, warranty, covenant, provision of this MSA or any Addenda or any misrepresentation by PROVIDER under this MSA or any Addenda.
- 4.3 In the event of any legal action or claim with any third parties concerning any transaction or event in which a claim pursuant to this Section 4 against a party may be made under this MSA, any Addenda hereto the party liable hereunder agrees to: (a) promptly notify the other party of the legal action or claim, (b) reasonably cooperate with the other party in the making of claims or defenses, and (c) provide information, assist in the resolution of the legal action or claim and make available at least one employee or agent who can testify regarding said claim or defenses. The other party shall, upon written notice from the claiming party, immediately undertake the defense of any said legal action or claim with counsel reasonably satisfactory to the claiming party. In any event the other party shall be entitled to direct the defense and settlement thereof with counsel reasonably satisfactory to the claiming party; provided, however, that the other party shall not compromise or settle any claim or action affecting the claiming party to the extent that it involves more than the payment of money by the other party without the claiming party's written consent.

**5. Warranties; Exclusion of Consequential Damages; Limitation on Liability**

- 5.1 Disclaimer of Warranties. THIS MSA AND ANY ADDENDA IS AN MSA FOR SERVICES AND EXCEPT AS EXPRESSLY PROVIDED IN THIS MSA AND ANY ADDENDA, PROVIDER AND ITS AFFILIATES DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO CUSTOMER OR ANY OTHER PERSON, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OTHERWISE (REGARDLESS OF ANY COURSE OF DEALING, CUSTOM OR USAGE OF TRADE) OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THIS MSA.
- 5.2 Exclusion of Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS MSA AND ANY ADDENDA TO THE CONTRARY, IN NO EVENT SHALL PROVIDER OR ITS AFFILIATES 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 MSA OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER ANY PARTY OR ANY ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 5.3 PROVIDER's Limitation of Liability. PROVIDER'S MAXIMUM LIABILITY TO CUSTOMER RELATING TO OR ARISING FROM THE SUBJECT MATTER OF THIS MSA OR ANY ADDENDA FOR ANY CLAIM OF ANY KIND IN THE AGGREGATE SHALL BE NO MORE THAN \$100,000 (THE "LIMITATION OF LIABILITY") REGARDLESS OF FORM OF ACTION OR LEGAL THEORY. THE LIMITATION OF LIABILITY SHALL CONTROL NOTWITHSTANDING ANY OTHER PROVISION OF THIS MSA OR ANY ADDENDA AND SHALL ALSO APPLY TO THE LIABILITY OF ANY SERVICERS OR ANY AFFILIATES OF THEM.

**6. Independent Contractor; Third Party Beneficiaries.** The parties are independent contractors. Neither party shall have any authority to bind the other. This MSA and any Addenda is entered into solely for the benefit of PROVIDER and CUSTOMER and will not confer any rights upon any person not expressly a party to this MSA and any Addenda, including consumers. PROVIDER may subcontract with others to provide Services.

**7. Publicity.** Neither party will initiate publicity relating to this MSA and any Addenda without the prior written approval of the other, except that: (i) either party may make disclosures required by legal, accounting or regulatory requirements; and (ii) PROVIDER may use CUSTOMER's name in publicity indicating that CUSTOMER and PROVIDER have entered into a contractual relationship.

**8. Confidentiality.** Each party acknowledges and agrees that the other may be providing to it and that it may become aware of the confidential and proprietary information of the other party, including but not limited to, the terms of this MSA, any Addenda attached hereto, financial information and other information related to each party's business operations. Each party agrees that it will maintain the confidentiality of such information and neither party shall disclose any such information to any other person or entity (other than to those of its employees, agents, contractors and Affiliates to whom disclosure is reasonably necessary in furtherance of the performance of this MSA). Notwithstanding the foregoing, the requirements of non-disclosure shall not apply to any information which: (a) at the time of disclosure is already in the possession of the receiving party; (b) is independently developed by the receiving party without reliance on the disclosed confidential or proprietary information; (c) is or becomes publicly available through no wrongdoing of the receiving party or (d) becomes available to receiving party on a non-confidential basis from a person, other than the disclosing party, who is not bound by a confidentiality obligation or otherwise restricted from transmitting the information to the receiving party. Furthermore, this Section shall not prohibit the receiving party from making legally required disclosures pursuant to the Georgia Open Records Act, O.C.G.A. § 50-18-70 *et. seq.*, subpoena, court order or the order of any other authority having jurisdiction; provided that receiving party shall provide disclosing party with prompt notice, unless prohibited by law or court order, thereof so that disclosing party may see an appropriate protective order or other remedy. If in the absence of a protective order or other remedy or waiver of the terms of this section, receiving party determines in its sole discretion that it is

required by law, regulation, legal process or regulatory authority to disclose any such confidential or proprietary information, receiving party may disclose such information upon written notice to disclosing party.

**9. Exclusivity. Reserved.**

**10. Compliance with Laws.** In performing its obligations under this MSA and any Addenda, each party agrees to comply with all federal, state, and local laws and regulations applicable to it. CUSTOMER further agrees to cooperate and provide information requested by PROVIDER, as PROVIDER determines necessary, to facilitate PROVIDER's compliance with any applicable law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the US Department of the Treasury. CUSTOMER further acknowledges and agrees that it will not use its merchant account and/or the 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, or those that prohibit processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control (OFAC).

**11. Assignment.** Neither party may assign its rights or delegate its obligations under this MSA and any Addenda without the other's prior written consent, which will not be unreasonably withheld. PROVIDER may, however, assign any or all of its rights or delegate any or all of its obligations to an Affiliate or to an entity that is acquiring all or substantially all of the assets of PROVIDER.

**12. Choice of Law and Venue.** This MSA and any Addenda shall be governed by and construed in accordance with the laws of the State of Georgia (without regard to its choice of law provisions). The exclusive venue for any actions or claims arising under or related to this MSA and any Addenda shall be in Fulton County Superior Court, Atlanta, Georgia

**13. Waiver of Jury Trial. Reserved.**

**14. Force Majeure.** PROVIDER shall not be held responsible for any delays in or failure or suspension of service caused, directly or indirectly, by mechanical or power failure, computer malfunctions (including, without limitation, software, hardware and firmware malfunctions), failure, delay or error in clearing or processing a transaction through the ACH Network or Federal Reserve system, if applicable, the nonperformance, delay or error by a third party or in any other third party system for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications, transmission links or other equipment; any outbreak or escalation of hostilities, war, riots, terrorism or civil disorders in any country; strikes, labor difficulties, fire, inability to operate or obtain service for its equipment, unusual delays in transportation, earthquake, fire, flood, elements of nature or other acts of God, any act or omission of the other party or any government authority, or other causes reasonably beyond the control of PROVIDER.

**15. Equipment.** CUSTOMER acknowledges that equipment and/or software purchased or rented from PROVIDER, if any, may not be compatible with another processor's systems. PROVIDER does not have any obligation to make such software and/or equipment compatible with any other processing systems. In the event that CUSTOMER elects to use another processing service provider upon the termination of this MSA or any Addenda, CUSTOMER acknowledges that it may not be able to use the equipment and/or software rented or purchased under this MSA or any Addenda.

**16. 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 Services) shall be in writing, shall be sent by mail, courier or facsimile (facsimile notices shall be confirmed in writing facsimile confirmation), if to CUSTOMER at the address appearing on the first page of this MSA and if to PROVIDER at the following address: First Data Merchant Services LLC, 1307 Walt Whitman Road, Melville, New York 11747, Facsimile (631) 683-7516, Attention: Executive Vice President Operations, with a copy to Attention: General Counsel's Office, 5775 DTC Blvd., Suite 100 North, Greenwood Village, Colorado 80111, and shall be deemed to have been given (i) if sent by mail or courier, when received, and (ii) if sent by facsimile machine, when the confirmation copy is actually received. Notice given in any other manner shall be effective when delivered.

**17. Headings.** The headings contained in this MSA and any Addenda are for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this MSA and any Addenda.

**18. Severability.** The parties intend every provision of this MSA and any Addenda to be severable. If any part of this MSA and any Addenda are not enforceable, the remaining provisions shall remain valid and enforceable. In such case, the parties will in good faith modify or substitute a provision consistent with their original intent. If any remedy fails of its essential purpose, then all other provisions, including the limitations on liability and exclusion of damages, will remain fully effective.

**19. Entire Agreement; Waiver.** This MSA and any Addenda hereto constitute the entire agreement between the parties with respect to the subject matter thereof, and supersedes any previous agreements and understandings. Except as provided in other Sections of this MSA or any Addenda, this MSA, along with any Addenda can be changed only by a written agreement signed by all parties. A party's waiver of a breach of any term or condition of this MSA and any Addenda shall not be deemed a waiver of any subsequent breach of the same or another term or condition. Purchase orders, requests for production, pre-printed terms or other CUSTOMER-generated documents that PROVIDER may receive are for administrative convenience only and do not modify this MSA and any Addenda and are expressly rejected by PROVIDER. The words "including", "include" and "includes" will each be deemed to be followed by the term "without limitation". This MSA and any Addenda may be executed in counterparts, each of which will be deemed an original for all purposes, but all of which when taken together will constitute one agreement.

**20. E-Verify.** The parties acknowledge the applicability of Georgia's E-Verify Requirements (Effective July 1, 2013) E-Verify Contractor Requirements Georgia law, O.C.G.A. § 13-10-91.

**21. RFQB Section E3.** Notwithstanding Section E3 of the RFQB, Provider will maintain all records in accordance with its document retention policies, which are designed to comply with all applicable laws, rules and regulations as well as Card Association

rules. PROVIDER will not retain CUSTOMER's data separately from its other clients but will retain payment and invoicing documents in accordance with E3.

22. **RFQB Section E6.** Notwithstanding Section E6 of the RFQB, Servicers shall provide the Services in accordance with Schedule B.


23. **RFQB Section G4.** Notwithstanding Section G4 of the RFQB, PROVIDER commits to maintaining the confidentiality of the transaction data related to CUSTOMER. PROVIDER will not disclose transaction data in any manner that permits any third party to identify the CUSTOMER or its customers except that PROVIDER does reserve the right to retain Subcontractors to assist in the performance of the PROVIDER's services at its discretion. PROVIDER shall retain the responsibility to ensure that the Subcontractors comply with the applicable terms of this Agreement.

24. **Compliance with O.C.G.A. § 50-5-85.** Provider certifies that Provider is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, in compliance with and as defined in O.C.G.A. § 50-5-85. In interpreting Provider's compliance with this provision, the Parties agree that O.C.G.A. § 50-5-85 shall not be construed to impose obligations or limitations beyond those in applicable federal law and regulations, including 15 C.F.R. Part 760, on the Contractor.

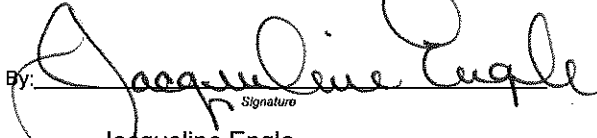
25. **Referral Fees.** PROVIDER will pay the OST of the State of Georgia an ongoing fee equal to \$0.005 for Net Visa/Mastercard/Discover® Network Cards Transaction Volume that PROVIDER receives for the Services for the State of Georgia CUSTOMERS that also have a Participation Agreement with PROVIDER (the "Referral Fees"). For the purposes of this Section, for the relevant period of time, "Net Visa/MasterCard/ Discover® Network Cards Transaction Volume" is "Gross Visa/MasterCard/ Discover® Network Card Sales Transaction less returns. PROVIDER will calculate and pay the OST of the State of Georgia the Referral Fees on a quarterly basis within forty-five (45) days of the end of the applicable calendar quarter via an ACH deposit into the OST of the State of Georgia's designated account.

The parties hereto have caused this MSA and any Addenda to be executed by their duly authorized officers. **THIS MSA AND ANY ADDENDA ARE NOT BINDING UPON PROVIDER UNTIL SIGNED BY PROVIDER.**

State of Georgia, The Office of the State Treasurer

By:   
Signature  
Name: Steven N. McCoy  
Print or Type  
Title: State Treasurer  
Date: Nov. 17, 2017

SUNTRUST MERCHANT SERVICES, LLC  
("PROVIDER")

By:   
Signature  
Name: Jacqueline Engle  
Print or Type  
Title: Vice President  
Date: 11.15.2017

**SUNTRUST MERCHANT SERVICES, LLC  
BANKCARD ADDENDUM TO MASTER SERVICES AGREEMENT**

This Merchant Services Bankcard Addendum ("Bankcard Addendum") is among the CUSTOMER identified in the MSA, SUNTRUST BANK ("BANK"), WELLS FARGO BANK, N.A. ("DEBIT SPONSOR BANK"), and SUNTRUST MERCHANT SERVICES, LLC ("PROVIDER") (BANK, PROVIDER, and DEBIT SPONSOR BANK are referred to as "SERVICERS," as described in the Definitions Annex). The terms of the MSA between PROVIDER and CUSTOMER are incorporated herein and the parties hereto agree to be bound by such terms.

This Bankcard Addendum, together with the incorporated terms and conditions of the MSA and the terms of Schedule A, contains the terms and conditions under which CUSTOMER will receive services.

BANK, as a wholly-owned operating subsidiary of a member of Visa U.S.A., Inc. ("VISA") and MasterCard International Incorporated ("MasterCard") (VISA and MasterCard, collectively, the "Card Organizations" or "Bankcard Associations"), is a licensee of the Bankcard Associations permitting it to acquire VISA and MasterCard transactions and has sponsored PROVIDER with the Bankcard Associations as a "Member Services Provider" (as defined in the Card Organization Rules). Accordingly, PROVIDER shall perform certain functions in connection with Authorization, processing and settlement for CUSTOMER hereunder. As between themselves, the respective rights and obligations of PROVIDER and BANK shall be governed by the agreements between them and/or their parent entities and the Card Organization Rules. CUSTOMER acknowledges that, notwithstanding anything contained in any or all of this Bankcard Addendum (which includes the Annex(es), Your Payment Acceptance Guide, attachment(s), schedule(s) or supplement(s) referred to herein or amendments to any of the aforesaid) to the contrary, BANK's obligations hereunder shall be limited to the sponsorship and settlement of certain Card transactions submitted in accordance with the terms and conditions of this Bankcard Addendum and the Card Organization Rules, and BANK shall not have any obligation or liability of any nature in connection with any related services or any services of any kind provided by PROVIDER or its affiliates provided hereunder or pursuant hereto.

In consideration of the mutual covenants and agreements set forth herein and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, SERVICERS and CUSTOMER agree as follows:

1. **Definitions.** As used in this Bankcard Addendum, capitalized terms will have the meaning set forth in Annex 1.
2. **Services.**
  - 2.1 Subject to the Card Organization Rules, Services may be performed by PROVIDER, BANK, DEBIT SPONSOR BANK, or other third party banks subject to the agreements between them as the same may be modified from time to time. With respect to SERVICERS' obligations under this Bankcard Addendum, any liability of BANK and PROVIDER, or DEBIT SPONSOR BANK and PROVIDER, to CUSTOMER will joint but not several.
  - 2.2 In addition to SERVICERS, one or more Affiliates of PROVIDER may assist in providing local support functions in connection with this Bankcard Addendum, provided that PROVIDER is fully responsible for the actions and/or omissions of any such Affiliates performed in connection with this Bankcard Addendum.
3. **Acceptance of Cards.** The following rules are requirements strictly enforced by Card Organizations, which include but not limited to:
  - 3.1 CUSTOMER's minimum Credit Card acceptance amount cannot exceed \$10.00. Such minimum amount must be established to all Credit Cards regardless of Card Issuer or Card brands.
  - 3.2 CUSTOMER may not impose a surcharge or fee for accepting a Debit Card.
  - 3.3 CUSTOMER cannot establish any special conditions for accepting a Card.
  - 3.4 CUSTOMER may provide a discount/incentive for a consumer to pay cash, check Credit Card, Debit Card, etc., however, CUSTOMER must clearly and conspicuously disclose the discount to consumers.. Also, CUSTOMER must offer the discount to all consumers and CUSTOMER cannot discriminate based on Card brand or Card Issuer.
  - 3.5 CUSTOMER may not require Cardholders to provide personal information (e.g., home or business phone number; home or business address; or driver's license number) unless instructed by the Authorized Center except for mail/telephone/Internet order or delivery-required transaction, or zip code for card-present key-entered transaction for purposes of obtaining an Address Verification. Any information that is supplied by the Cardholder must not be in plain view when mailed.
  - 3.6 CUSTOMER may not submit any transaction representing the refinance or transfer of an existing Cardholder obligation that is deemed uncollectible by the CUSTOMER.
  - 3.7 CUSTOMER shall not post signs indicating that CUSTOMER will refuse to honor Card transactions below or above a specified amount. CUSTOMER shall not engage in acceptance practices or procedures that discriminate against, discourage or favor the offered use of any particular Card accepted by CUSTOMER, other than co-branded Cards or other proprietary Cards.
  - 3.8 To the extent CUSTOMER processes a transaction that requires the Cardholder's signature, including, without limitation, a manually entered transaction, CUSTOMER must check each Card accepted for validity in accordance with the terms of this Bankcard Addendum, Your Payment Acceptance Guide and the applicable Card Organization Rules. CUSTOMER must not submit for settlement any sale that was not created between the CUSTOMER and the Cardholder for settlement and under no circumstances may a CUSTOMER submit any sale that has been previously charged back by the Cardholder and returned to CUSTOMER.
  - 3.9 CUSTOMER will check each Card used during a transaction for validity in accordance with the terms of this Bankcard Addendum, Your Payment Acceptance Guide and the applicable Card Organization Rules. CUSTOMER will not honor a Card that appears to be invalid or expired.

- 3.10 All Sales Drafts and Credit Vouchers must include (i) either a manual imprint or an electronic printing of the Card obtained by passing the Magnetic Stripe on the Card through a point-of-sale terminal, of Cardholder information contained on the Card or Magnetic Stripe; (ii) the signature of the authorized user as it appears on the Card, if required; (iii) the date of the transaction; (iv) a description of the merchandise sold or rented or the services rendered; and (v) the total cash price of the Card transaction (including taxes).
  - 3.11 Except for transactions completed by using Magnetic Stripe reading point-of-sale terminals that print Card transaction records or originated at limited amount terminals that are capable of reading Magnetic Stripes and limit each Card transaction to twenty-five (\$25), CUSTOMER is deemed to warrant the true identity of any Cardholder unless CUSTOMER manually imprints the Card on the Sales Draft, as described in subsection 3.8, above.
  - 3.12 Unless a Card transaction is governed by Section 6, Section 9 or otherwise specifically authorized by SERVICERS in writing, CUSTOMER may only complete a Card transaction when (i) the Card is present and (X) the data stored on the magnetic stripe or similar device is electronically read and printed by a magnetic stripe/device reader or (Y) the Card is manually imprinted, (ii) the Card is signed and the signature on the Sales Draft, if required, appears to be the same as the signature on the Card, (iii) the Cardholder resembles the person pictured (if any) on the Card, and (iv) all, or the appropriate portion, of the embossed account number on the Card matches with the corresponding digits printed on the Card and with the account number displayed and/or printed by a point-of-sale device reading the magnetic strip on the Card. (If a previously unsigned Card is signed at the time of a Card transaction, CUSTOMER will review (and identify on the Sales Draft) a current, official government identification document (such as a driver's license or passport) bearing the Cardholder's signature.) CUSTOMER will deliver at least one copy of the Sales Draft or agreement or Credit Voucher to the Cardholder.
4. **Your Payment Acceptance Guide; Card Organization Rules.** CUSTOMER acknowledges that it has received Your Payment Acceptance Guide (provided separately), the terms of which are incorporated into this Bankcard Addendum. CUSTOMER agrees to follow the procedures in Your Payment Acceptance Guide in connection with each Card transaction and to comply with all applicable Card Organization Rules. From time to time, SERVICERS may change Your Payment Acceptance Guide, in whole or in part, and other operating procedures, by providing CUSTOMER with at least thirty (30) days' prior written notice of the change. However, in the event of changes in the Card Organization Rules or due to security reasons, certain changes in Your Payment Acceptance Guide may become effective on shorter notice. If there is any conflict between the terms of this Bankcard Addendum and Your Payment Acceptance Guide, the terms of this Bankcard Addendum will govern, unless the conflict is directly related to a change in Your Payment Acceptance Guide or the Card Organization Rules which specifically addresses a procedure or requirement detailed in this Bankcard Addendum. If CUSTOMER loses or otherwise misplaces Your Payment Acceptance Guide or notices of changes thereto, CUSTOMER shall be responsible for contacting SERVICERS to obtain replacement copies.
5. **Authorization.**
- 5.1 CUSTOMER shall be responsible for obtaining Authorization in advance for each Card transaction. The Authorization number provided by SERVICERS shall be noted by CUSTOMER in the appropriate place on the Sales Draft. If Authorization is declined, CUSTOMER shall not complete the Card transaction.
  - 5.2 CUSTOMER shall comply with any special authorization procedures contained in any other sections of this Bankcard Addendum, Your Payment Acceptance Guide, and the Card Organization Rules.
  - 5.3 CUSTOMER acknowledges that Authorization, (i) indicates only the availability of credit at the time of Authorization; (ii) does not warrant that the person presenting the Card is the rightful Cardholder; and (iii) is not an unconditional promise or guarantee by SERVICERS that any Card transaction will not be subject to Chargeback.
  - 5.4 CUSTOMER may, as permitted in this Bankcard Addendum and for an additional fee, obtain a voice authorization or manually enter the transaction, in the event that the POS Terminal is not operating properly. SERVICERS will provide CUSTOMER with an approval number for voice authorized transactions and CUSTOMER shall record such approval number on the Sales Draft.
  - 5.5 SERVICERS shall have no obligation to process any transactions initiated with a Card type not selected by CUSTOMER and SERVICERS shall be entitled to decline such transactions without first attempting to obtain an authorization. In the event any such transaction is inadvertently not declined by SERVICERS and is authorized by a Card Issuer or Card Organization, CUSTOMER shall be fully liable for each transaction, as if the Card type initiating in such transaction was selected by CUSTOMER.
6. **Telephone and Mail Orders.**
- 6.1 If CUSTOMER is authorized to accept telephone or mail orders, Authorization for each such Card transaction, regardless of the face amount, must be obtained and CUSTOMER must write "TO" (indicating telephone order), or "MO" (indicating mail order) as applicable, on the Sales Draft in lieu of the Cardholder's signature. CUSTOMER assumes all responsibility for identification of the Cardholder and the validity of the Card information for telephone and mail orders. For telephone and mail order Card transactions where merchandise is to be shipped or delivered to or for the Cardholder, the shipping date shall not be more than seven (7) calendar days after the Authorization is obtained, and any shipping costs not included in the Authorization amount must not exceed fifteen percent (15%) of the amount authorized.
  - 6.2 An installment payment option may be offered for telephone or mail order merchandise if all terms are clearly disclosed, each installment is authorized, the first installment is not submitted for settlement until the merchandise is shipped, and subsequent installments are submitted no more frequently than monthly.
  - 6.3 Under no circumstances may CUSTOMER require that a Cardholder complete a postcard or other document which displays the Cardholder's account data in plain view when mailed.
7. **Multiple Sales Drafts and Partial Consideration.**
- 7.1 Except as shall be specifically set forth in Your Payment Acceptance Guide or the Card Organization Rules, CUSTOMER shall list all items of goods and services purchased during each Card transaction and the total amount thereof on a single Sales Draft.

7.2 CUSTOMER shall comply with all special procedures and conditions applicable under Your Payment Acceptance Guide and the Card Organization Rules with respect to any partial payment, installment payment, delayed delivery or advance deposit situation and any delayed or amended charges for a travel and entertainment transaction. CUSTOMER shall not use more than one Sales Draft to represent a single Card transaction to avoid the need for Authorization.

**8. Preauthorized Orders and Recurring Sales.**

8.1 A Preauthorized Order or Recurring Sale may include the payment of recurring charges such as insurance premiums, subscriptions, membership fees, tuition or utility charges and may also include preauthorized health care payments (subject to the associated preauthorized payment schedule between the Cardholder and CUSTOMER).

8.2 If CUSTOMER is authorized to accept Preauthorized Orders or Recurring Sales, Authorization for each such Card transaction, regardless of the amount, must be obtained and CUSTOMER must write "Recurring Transaction" (for Visa and other non-MasterCard Card transactions) or "PO" (for MasterCard Card transactions) as applicable, on the Sales Draft in lieu of the Cardholder's signature.

8.3 Except for preauthorized health care payments for the incremental costs not covered by insurance, advance deposits and installment payments, all made in compliance with this Bankcard Addendum and Your Payment Acceptance Guide and Card Organization Rules, a Preauthorized Order or Recurring Sale may not include partial payments made to CUSTOMER for goods or services purchased in a single transaction. In no event may any finance charges be imposed on any periodic payments in connection with a Preauthorized Order or Recurring Sale.

8.4 CUSTOMER may not accept a Preauthorized Order or Recurring Sale from a Cardholder for the purchase of goods or services which are delivered or performed periodically unless the Cardholder completes and delivers to CUSTOMER a written request (and, when applicable, a written renewal request) identifying (i) the goods or services to be charged to the Cardholder's account, (ii) the amount of the preauthorized or recurring charges (unless such charges are for variable amounts), (iii) the frequency of the preauthorized or recurring charges and (iv) the duration of time for which the Cardholder's permission is granted. If CUSTOMER accepts any Preauthorized Orders or Recurring Sales for variable amounts, CUSTOMER must comply with the associated preauthorized payment schedule between the Cardholder and CUSTOMER.

8.5 The Cardholder's written request (including any written renewal request) must be (i) retained for the duration of the preauthorized or recurring charges; (ii) provided in response to a Card issuing bank's request for original documentation; and (iii) used no longer after receiving notice of cancellation.

**9. Internet Processing.** If CUSTOMER is authorized to accept and process Internet transactions through SERVICERS, CUSTOMER also acknowledges that it must inform SERVICERS of its use of any processing software, third party Internet payment gateway, shopping cart, Web Site host, or other service provider (collectively "Internet Service Providers"), that any Internet payment gateway must be approved by SERVICERS and that CUSTOMER is prohibited from transmitting any Cardholder transaction data to any Internet Service Providers (or any third party) without the approval of SERVICERS. If CUSTOMER accepts Internet transactions without such approval, SERVICERS may, in addition to any other rights it may have under this Bankcard Addendum, establish a chargeback reserve account to protect them from risk of loss. If authorized to accept payment by Internet, the Sales Draft shall be completed without the Cardholder's signature or an Imprint but shall include the Cardholder's name, billing address, Card number, expiration date, of the Card, a description of the merchandise or service and the date and amount of all charges. All Internet transactions will be settled by SERVICERS into a depository institution in the United States. CUSTOMER shall process Internet transactions only (a) if the Internet transactions have been encrypted by SERVICERS or by an Internet Service Provider acceptable to SERVICERS and (b) Cardholder data is protected by CUSTOMER as required by the then-current Card Organization Rules, PCI data security requirements, or any other applicable regulations. Encryption is not guarantee of payment to CUSTOMER. CUSTOMER acknowledges that Internet transactions may be authorized and settled through separate BIN/ICA numbers and interchanges and that SERVICERS may be unable to combine deposits of Internet transactions and non-Internet Credit Card or Debit Card transactions. Because the transactions processed via the Internet are higher risk, CUSTOMER may be charged higher fees which are set forth on Schedule A. Internet transactions are subjected to a higher incidence of chargebacks and, as with non-Internet transactions, receiving an authorization and following procedures will not relieve the CUSTOMER of liability associated with chargebacks and/or the fraudulent use of customer data obtained off of CUSTOMER's Web Sites. All communications costs related to Internet transactions are CUSTOMER's responsibility. SERVICERS will not manage the Internet telecommunication link which is also CUSTOMER's responsibility. Obtaining any license or sub-license of software required to permit CUSTOMER to process Internet transactions shall be CUSTOMER's responsibility, and if obtained from SERVICER's, subject to a separate agreement. SERVICERS do not guarantee that obtaining required approvals from SERVICERS or implementing suggested security measures will cause CUSTOMER's Internet transactions to be secure or impregnable, and SERVICERS will not be responsible in the event of the infiltration of CUSTOMER's or any Internet Service Provider's security systems. CUSTOMER further acknowledges and agrees that SERVICERS are not responsible for the security of the Cardholder data or information stored on CUSTOMER's or any Internet Service Provider's computers, systems or Web Site(s) and that CUSTOMER will be solely responsible for any liability, fines, or penalties arising from its use, storage, or dissemination of Cardholder data.

**10. Cardholder Refunds and Credits.**

10.1 If a Cardholder returns goods or cancels services purchased from CUSTOMER with a Card, or CUSTOMER allows any other price adjustment after a sale has been completed and a refund or adjustment is due to the Cardholder (other than any involuntary refund required by applicable airline or other tariff or by law), CUSTOMER will not return cash to the Cardholder but will instead prepare a Credit Voucher and process each such refund or adjustment, as specified in Your Payment Acceptance Guide and Card Organization Rules. CUSTOMER will give the Cardholder a copy of the completed Credit Voucher.

- 10.2 If CUSTOMER establishes a policy limiting refunds or acceptance of returned merchandise (e.g., no refund, exchange only, in-store credit only, or special conditions), CUSTOMER must follow the procedures regarding refunds and returned merchandise as set forth in the Card Organization Rules including, without limitation, the proper disclosure of such policy on all copies of each Sales Draft in letters at least 1/4" high in close proximity to the space provided for the Cardholder's signature.
- 10.3 CUSTOMER will not accept money from a Cardholder for the purpose of preparing and depositing a Credit Voucher that will affect a deposit to the Cardholder's account. CUSTOMER must not process a Credit Voucher without having completed a previous Card transaction with the same Cardholder (or with a Cardholder who purchased a gift returned by the recipient). Under no circumstances may CUSTOMER require a Cardholder to waive the Cardholder's right to dispute a Card transaction with the Card issuing bank.
11. **Presentment of Card Transactions.**
- 11.1 CUSTOMER shall electronically or physically deliver to SERVICERS Sales Drafts for all Card transactions to be processed and settled hereunder.
- 11.2 CUSTOMER will not submit any Sales Draft that was not created in conjunction with a Card transaction between CUSTOMER and the applicable Cardholder. Under no circumstances will CUSTOMER submit any Sales Draft that has been previously charged back by the Cardholder and subsequently returned to CUSTOMER.
12. **Settlement of Card Transactions.**
- 12.1 SERVICERS will only be required to settle CUSTOMER's Card transactions for Cards as specified in this Section 12. After presentment of Sales Drafts pursuant to Section 11, above, SERVICERS will initiate a transfer via Automated Clearing House of the applicable settlement funds to CUSTOMER. After SERVICERS receive payment of settlement funds through ACH, SERVICERS will initiate a transfer of such applicable settlement funds through ACH to CUSTOMER's Settlement Account, usually on the same or next banking day. CUSTOMER agrees that SERVICERS may credit CUSTOMER's Settlement Account as described in this Section 12.1.
- 12.2 All credits to CUSTOMER's Settlement Account or other payments to CUSTOMER are provisional and are subject to SERVICERS' final audit and trailing amounts due from Customer for returns, refunds, Chargebacks (including SERVICERS' related losses), SERVICERS' fees (based on Schedule A), Third Party Fees, other amounts payable to Third Parties pursuant to instructions given by CUSTOMER to SERVICERS, and any other obligations of CUSTOMER under Card Organization Rules or this MSA.
- 12.3 SERVICERS will deduct any amounts due from CUSTOMER for returns, refunds, Chargebacks, SERVICERS' fees (based on Schedule A), Third Party Fees, other amounts payable to Third Parties pursuant to instructions given by CUSTOMER to SERVICERS, and any other obligations of CUSTOMER under Card Organization Rules or this MSA. CUSTOMER agrees that SERVICERS may debit CUSTOMER's Settlement Account as described in this Section 12.3 and as described in Section 12.2 in connection with SERVICERS' final audit and trailing amounts due from CUSTOMER.
- 12.4 SERVICERS will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by third parties, including but not limited to delay or error in clearing or processing a transaction through the ACH Network or Federal Reserve system, or delays caused by any Card Organization or CUSTOMER's financial institution. In addition to any other remedies available to SERVICERS under this Bankcard Addendum, CUSTOMER agrees that should any of the events set forth in Section 21.3 occur, SERVICERS may, upon at least 24 hours' advance written notice, change processing or payment terms to suspend credits or other payments of any and all funds, money and amounts now due or hereafter to become due to CUSTOMER from SERVICERS pursuant to the terms of this Bankcard Addendum, until SERVICERS have had reasonable opportunity to investigate and discuss such event with CUSTOMER. In cases of fraud or similar cause, no prior notice shall be required, but SERVICERS shall notify CUSTOMER in writing within three (3) business days after effectuating a suspension of credits or other payments, which notice shall state SERVICERS' reason for the belief that such fraud or similar cause exists.
13. **Fees; Adjustments; Collection of Amounts Due.**
- 13.1 On a monthly basis, CUSTOMER will be charged, and CUSTOMER will pay (via a monthly invoice statement) SERVICERS' fees (based on Schedule c-7) and Third Party Fees attributable to CUSTOMER's Card transactions. CUSTOMER acknowledges that some of the fees referenced in Schedule C-7 are based upon the qualification of CUSTOMER's transactions for certain reduced interchange fees as set by the applicable Card Organization.
- 13.2 The fees for Services set forth in Schedule A, are based upon assumptions associated with the anticipated annual volume, average transaction size and CUSTOMER's method of doing business. If the actual volume or average transaction size are not as expected or if CUSTOMER significantly alters its method of doing business, SERVICERS may adjust its Transaction Fees without prior notice.
- 13.3 The fees for Services set forth in Schedule A may be adjusted to reflect increases or decreases by Card Organizations in interchange, assessment or other Card Organization fees or to pass through increases charged by third parties for on-line communications and similar items. All such adjustments shall be CUSTOMER's responsibility to pay and shall become effective upon the date any such change is implemented by the applicable Card Organization or other third party. CUSTOMER shall at all times be responsible for, payment of all fees and charges set forth in Schedule A (including increases, additions, or modifications made thereto), as well as, without limitation, Third Party Fees imposed upon SERVICERS due to any failure by CUSTOMER to comply with its obligation under this Addendum.
- 13.4 In addition to the regular Chargeback fees, as set forth on Schedule A, CUSTOMER agrees to pay SERVICERS any Third Party Fees imposed on SERVICERS, resulting from Chargebacks and any other Third Party Fees with respect to acts or omissions of CUSTOMER.



- 13.5 If CUSTOMER's Chargeback Percentage for any line of business exceeds the estimated industry chargeback percentage, CUSTOMER shall, in addition to the regular Chargeback fees due to SERVICERS and any applicable Chargeback or Third Party Fees, pay SERVICERS the excessive Chargeback fee shown on Schedule A 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 SERVICERS in order to reflect changes in the industry chargeback percentage reported by VISA or MasterCard.
- 13.6 If CUSTOMER believes any adjustments should be made with respect to CUSTOMER's Settlement Account for any amounts due to or due from SERVICERS, CUSTOMER shall notify SERVICERS (at the addresses set forth in Sections 26.2 and 27, respectively) in writing within forty-five (45) days after any debit or credit is or should have been effected. If CUSTOMER notifies SERVICERS after such time period, SERVICERS may, in their discretion, assist CUSTOMER, at CUSTOMER's expense, in investigating whether any adjustments are appropriate and whether any amounts are due to or from SERVICERS, but SERVICERS shall not have any obligation to investigate or effect any such adjustments. Any voluntary efforts by SERVICERS to assist CUSTOMER in investigating such matters shall not create any obligation to continue such investigation or assist with any investigation in response to any future notices of possible adjustments that are not timely submitted.

**14. Chargebacks.**

- 14.1 CUSTOMER shall be responsible for all Chargeback amounts relating to Card transactions settled by SERVICERS where, including, but not limited to:
- (i) merchandise is returned and a proper credit for Cardholder is not received by SERVICERS for processing;
  - (ii) the Sales Draft is, or is alleged to have been, executed, accepted, endorsed, completed or assigned improperly without authority or not in accordance with the Authorization requirements or provisions of this Bankcard Addendum;
  - (iii) regardless of any Authorization obtained (including without limitation, telephone and mail order transactions), CUSTOMER completed a transaction when the Cardholder did not sign the Sales Draft;
  - (iv) the signature on the draft was unauthorized as compared to the signature appearing on the Card, the signature panel on the Card was blank, or a limited purpose business purchasing card was accepted without appropriate authorization of the nature of the goods or services purchased (in addition to Authorization of the transaction amount);
  - (v) the Sales Draft is incorrectly completed, incomplete or illegible;
  - (vi) the Cardholder disputes the sale, quality or delivery (or availability for pre-arranged pick-up) of merchandise or the performance or quality of service covered by the Sales Draft or agreement accepted by such Cardholder;
  - (vii) the circumstances in which the Sales Draft was created or submitted by, or credit was received by, CUSTOMER constituted or otherwise involved a breach of any term, condition, representation, warranty or duty of CUSTOMER hereunder;
  - (viii) multiple Sales Drafts were executed to avoid the need to obtain authorization necessary to complete the transaction;
  - (ix) the extension of credit for merchandise sold or rented or services performed was in violation of law or the rules or regulations of any governmental agency, whether federal, state, local or otherwise;
  - (x) a legible copy of the Sales Draft or Credit Voucher cannot be produced by CUSTOMER within ten days of SERVICERS' request (except to the extent SERVICERS are responsible pursuant to Paragraph 16.1);
  - (xi) the Cardholder asserts any claim or defense which the Cardholder has as a consumer of goods or services;
  - (xii) the Cardholder disputes the validity of a telephone or mail order Card transaction;
  - (xiii) the Card transaction is otherwise subject to Chargeback by the Card issuing bank or Cardholder in accordance with Card Organization Rules or applicable law; or
  - (xiv) the Card transaction is subject to Chargeback in accordance with the procedures set forth in Your Payment Acceptance Guide.
- 14.2 CUSTOMER shall reimburse SERVICERS for any Chargebacks, return items, or other losses resulting from CUSTOMER's failure to produce a Card transaction record requested by SERVICERS within the applicable time limits.

**15. Representations; Warranties.**

- 15.1 Without limiting any other warranties hereunder, CUSTOMER represents and warrants as to each Card transaction submitted by CUSTOMER under this Bankcard Addendum that:
- (i) the Card transaction represents a bona fide sale/rental of merchandise or services not previously submitted;
  - (ii) the Card transaction represents an obligation of the Cardholder for the amount of the Card transaction;
  - (iii) the amount charged for the Card transaction is not subject to any dispute, setoff, or counterclaim;
  - (iv) the Card transaction amount is only for the merchandise or services (including taxes, but without any surcharge) sold or rented and, except for any delayed delivery or advance deposit Card transactions expressly authorized by this Bankcard Addendum, the merchandise or service was actually delivered to or performed for the person entering into the Card transaction simultaneously upon CUSTOMER's accepting and submitting the Card transaction for processing;
  - (v) the Card transaction does not represent the refinancing of an existing obligation of the Cardholder (including any obligation otherwise owed to CUSTOMER by a Cardholder or arising from the dishonor of a personal check);
  - (vi) CUSTOMER has no knowledge or notice of any fact, circumstances or defense which would indicate that the Card transaction was fraudulent or not authorized by the Cardholder or which would otherwise impair the validity or collectability of the Cardholder's obligation arising from such Card transaction or relieve the Cardholder from liability with respect thereto;
  - (vii) the Card transaction submitted to SERVICERS was entered into by CUSTOMER and the Cardholder; and
  - (viii) the Card transaction was made in accordance with the terms of this Bankcard Addendum, Card Organization Rules and Your Payment Acceptance Guide.

- 15.2 **SERVICERS** represent and warrant that: (i) **SERVICERS** will provide the services in accordance with the then current applicable Card Organization Rules.
16. **Retention of Records.**
- 16.1 If Schedule A provides that **PROVIDER** shall prepare and retain images (on microfilm or otherwise) of **CUSTOMER's** paper Sales Drafts and Credit Vouchers, **CUSTOMER** shall deliver to **PROVIDER** the originals or copies of **CUSTOMER's** Sales Drafts and Credit Vouchers in suitable form for imaging no later than seven calendar days from the date of the transaction; provided however, that **CUSTOMER** shall retain legible copies of Sales Drafts and Credit Vouchers for at least six months following the date of each such transaction. If Schedule A provides that **PROVIDER** shall capture and store data reflecting Card transactions electronically transmitted to **PROVIDER**, **CUSTOMER** shall transmit to **PROVIDER** all data required to be included on Sales Drafts and Credit Vouchers (or **CUSTOMER** shall be responsible for any deficiencies in the data transmitted).
- 16.2 If Schedule A provides that **CUSTOMER** shall retain images (on microfilm or otherwise) or legible copies of **CUSTOMER's** Sales Drafts and Credit Vouchers, **CUSTOMER** shall retain legible copies of Sales Drafts and Credit Vouchers for a period of at least eighteen months from the date of each such transaction. **CUSTOMER** shall submit to **SERVICERS** a legible copy of a Sales Draft or Credit Voucher within 5 days of a request by **SERVICERS**.
- 16.3 Unless Schedule A provides that **PROVIDER** is responsible for retaining records of **CUSTOMER's** Card transaction data and **CUSTOMER** has actually delivered to **PROVIDER** the applicable Card transaction data containing all required information in legible and suitable form for imaging or electronic capture and storage (as applicable), **CUSTOMER** shall be responsible for the retrieval of all Sales Drafts and Credit Vouchers requested by **SERVICERS** within the shortest time limits established by the Card Organization Rules, as specified in Your Payment Acceptance Guide, this Bankcard Addendum, or other notice from **SERVICERS**. **CUSTOMER** shall not be relieved of its responsibility under the preceding sentence for any deficiencies in Card transaction data transmitted or otherwise delivered to **SERVICERS**, even though **PROVIDER** may agree to capture or produce images of, store and retrieve any such incomplete data on **CUSTOMER's** behalf.
17. **Cash Payments by and Cash Disbursements to Cardholders.** **CUSTOMER** shall not accept any direct payments from Cardholders for charges of merchandise or services which have been included on a Sales Draft, it being the right of the Card issuing bank to receive such payments. Taxes on Card transactions must be included in the amount charged and may not be collected by **CUSTOMER** in cash. **CUSTOMER** shall not make any cash disbursements to a Cardholder as part of a Card transaction except to the extent expressly authorized by one or more of Schedule A, Your Payment Acceptance Guide or the Card Organization Rules.
18. **Confidentiality.**
- 18.1 Unless **CUSTOMER** obtains consents from each applicable Card Organization, **SERVICERS**, Card issuing bank and Cardholder, **CUSTOMER** shall not use, disclose, 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 Georgia Open Records Act, O.C.G.A. § 50-18-70 *et. seq.*, a court or governmental agency request, subpoena or order. **CUSTOMER** shall use proper controls for and shall limit access to, and shall render unreadable prior to discarding, all records containing Cardholder account numbers and Card imprints. **CUSTOMER** must not retain or store Magnetic-Stripe data after a transaction has been authorized. If **CUSTOMER** stores any electronically captured signature of a Cardholder, **CUSTOMER** shall not reproduce such signature except upon specific request of **SERVICERS**.
- 18.2 **CUSTOMER** acknowledges that it obtains no 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 third party as an asset upon a bankruptcy, insolvency or failure of **CUSTOMER's** business. Upon a bankruptcy, insolvency or failure of **CUSTOMER's** business all Card transactions information must be returned to **SERVICERS** or acceptable proof of the destruction of all Card transaction information must be provided to **SERVICERS**.
- 18.3 In the event of termination or expiration of this Bankcard Addendum for any reason, upon request: (i) **SERVICERS** shall promptly return to **CUSTOMER** or destroy (as directed by **CUSTOMER**) any **CUSTOMER** Confidential Information in **SERVICER'S** possession; and (ii) **CUSTOMER** shall promptly return to **SERVICERS** or destroy (as directed by **SERVICERS**) any **SERVICERS** Confidential Information in **CUSTOMER's** possession.
19. **Supplies; Advertising.** At **CUSTOMER's** option and at charges specified from time to time by **SERVICERS**, **SERVICERS** may furnish **CUSTOMER** with operational supplies such as the forms of sales drafts, credit vouchers and Card Organization decals (excluding any supplies for terminals or other equipment, which shall be **CUSTOMER's** responsibility). **CUSTOMER** shall display VISA, MasterCard and, if applicable, other Card Organization decals and program marks on promotional materials furnished by **SERVICERS**, as required by Card Organization Rules, but shall not indicate that VISA, MasterCard or any other Card Organization endorses **CUSTOMER's** goods or services and shall not continue using such materials after termination of this Bankcard Addendum.

**20. Assignment.**

- 20.1 Any transfer or assignment of this Bankcard Addendum by CUSTOMER without SERVICERS' prior written consent, by operation of law or otherwise, is voidable at either SERVICER'S sole discretion. In the event of such transfer or assignment, the party to whom the Bankcard Addendum was transferred or assigned shall be bound to the terms and conditions of this Bankcard Addendum to the same extent as if SERVICERS and such assignee or transferee, as the case may be, entered into an agreement identical to this Bankcard Addendum on the effective date of such transfer or assignment. Furthermore, if the assignment is not approved by SERVICERS, CUSTOMER shall be responsible for all liabilities, Chargebacks, expenses, costs, fees and fines arising in connection with such transferees or assignees', as the case may be, submission of Card transactions to SERVICERS for processing. For purposes of this Bankcard Addendum, any transfer of voting control of CUSTOMER or its parent shall be considered an assignment or transfer hereof.
- 20.2 Notwithstanding anything to the contrary in Section 11 of the MSA, upon notice to CUSTOMER, another VISA and MasterCard member may be substituted for BANK under whose sponsorship this Bankcard Addendum is performed. Upon substitution, such other VISA and MasterCard member shall be responsible for all obligations required of BANK, including without limitation, as may be expressly required by applicable Card Organization Rules. Subject to the Card Organization Rules, SERVICERS may assign or transfer this Bankcard Addendum and their rights and obligations hereunder and may delegate their duties hereunder, in whole or in part, to any third party, in connection with a change in sponsorship, as set forth in the preceding sentence, without the notice to or consent of CUSTOMER.
- 20.3 Except as provided in the following sentence, this Bankcard Addendum shall be binding upon permitted 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, sheriff or any other officer of a court, or other person charged with taking custody of a party's assets or business, shall have any right to continue or to assume or to assign this Bankcard Addendum.

**21. Term; Events of Default.**

- 21.1 This Bankcard Addendum and the applicable Schedules shall become effective upon the date this Bankcard Addendum and the applicable Schedules are signed by BANK and/or DEBIT SPONSOR BANK, which shall in all instances be on or after the date(s) CUSTOMER and PROVIDER sign this Bankcard Addendum and the applicable Schedules and CUSTOMER will be advised of the effective date by SERVICERS.
- 21.2 The initial term and any subsequent terms of this Bankcard Addendum shall commence and shall continue in force as described in the MSA.
- 21.3 If any of the following events shall occur (each an Event of Default"):
- (i) (a) a material adverse change in the financial condition of CUSTOMER, or (b) a material adverse change in CUSTOMER's business procedures or procedures regarding Card acceptance, or (c) a material adverse change in the products or services sold by CUSTOMER; or
  - (ii) any assignment or transfer of voting control of CUSTOMER or its parent; or
  - (iii) a sale of all or a substantial portion of CUSTOMER's assets; or
  - (iv) irregular Card sales submitted by CUSTOMER, fraudulent or suspected fraudulent Card sales submitted by CUSTOMER excessive Chargebacks, or any other circumstances which, in SERVICERS' sole reasonable discretion, may increase SERVICERS' exposure for CUSTOMER's chargebacks or otherwise presents a financial or security risk to SERVICERS; or
  - (v) any representation or warranty of either party in this Bankcard Addendum is breached in any material respect or was or is incorrect in any material respect when made or deemed to be made; or
  - (vi) either party shall default in any material respect in the performance or observance of any term, covenant, condition or agreement contained in this Bankcard Addendum, including, without limitation on the part of CUSTOMER, the establishment or maintenance of funds in a Reserve Account, as detailed in Paragraph 22; or the Data Security requirements as detailed in Section 25; or
  - (vii) CUSTOMER shall default in any material respect in the performance or observance of any term, covenant or condition contained in any agreement with any affiliate of SERVICERS, including, but not limited to, any agreement governing check guarantee or check verification services; or
  - (viii) CUSTOMER shall default in the payment when due, whether upon maturity or otherwise, of any material indebtedness for borrowed money or any material trade payable; or
  - (ix) CUSTOMER shall: commence a voluntary case under the Bankruptcy Code; file a petition seeking to take advantage of any other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or entry into a composition agreement or similar arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against it in an involuntary case under such bankruptcy laws or other 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 itself or of a substantial part of its property, domestic or foreign; generally become unable to pay its debts or trade obligations as they become due; make a general assignment for the benefit of creditors; or take any corporate action for the purpose of authorizing any of the foregoing; or
  - (x) a case or other proceeding shall be commenced against CUSTOMER, in any court of competent jurisdiction seeking relief under the Bankruptcy Code or under any other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts, the appointment of a trustee, receiver, custodian, liquidator or the like of CUSTOMER, or of all or any substantial part of the assets, domestic or foreign, of CUSTOMER, and such case or proceeding shall continue undismissed or unstayed for a period of sixty (60) consecutive days, or an order granting the relief requested in such case or proceeding against CUSTOMER (including, but not limited to, an order for relief under the Bankruptcy Code) shall be entered; or
  - (xi) the independent certified accountants retained by CUSTOMER shall refuse to deliver an unqualified opinion with respect to the annual financial statements of CUSTOMER and its consolidated subsidiaries;

then, upon the occurrence of (1) an Event of Default specified in subparagraphs (iv), (vi), (ix) or (x) above, the non-defaulting party may consider this Bankcard Addendum to be terminated immediately, upon notice, and all amounts payable hereunder by CUSTOMER to SERVICERS shall be immediately due and payable in full without demand or other notice of any kind, all of which are expressly waived by CUSTOMER, and (2) any other Event of Default, this Bankcard Addendum may be terminated by the non-defaulting party by giving not less than ten (10) days' notice to the defaulting party, and upon such notice, all amounts payable hereunder by CUSTOMER to SERVICERS shall be due and payable on demand.

- 21.4 Neither the expiration nor termination of this Bankcard Addendum shall terminate the obligations and rights of the parties pursuant to provisions of this Bankcard Addendum which by their terms are intended to survive or be perpetual or irrevocable and such provisions shall survive the expiration or termination of this Bankcard Addendum.
- 21.5 If any Event of Default shall have occurred and be continuing, SERVICERS may, in their sole discretion, exercise all of their rights and remedies under applicable law.
- 21.6 This Bankcard Addendum also may be terminated by SERVICERS prior to the then-current expiration date upon at least 90 days' advance written notice, if CUSTOMER's Card transactions fail to conform to the volume or average transaction size representations as set forth in Schedule A.
- 21.7 This Bankcard Addendum also may be terminated by SERVICERS without notice or penalty, if in their sole discretion, such termination is necessary for SERVICERS to comply with their obligations under any applicable law, rule or regulation including, but not limited to, the Office of Foreign Assets Control ("OFAC") Regulations and Card Organization Rules. SERVICERS' termination of this Bankcard Addendum pursuant to this Section 21.7 shall not be deemed a breach of contract by SERVICERS.
- 21.8 If this Bankcard Addendum is terminated for cause, CUSTOMER acknowledges that SERVICERS may be required to report CUSTOMER's business name and the names and other identification of its principals to the Combined Terminated Merchant File maintained by VISA and MasterCard. CUSTOMER expressly agrees and consents to such reporting in the event CUSTOMER is terminated as a result of the occurrence of an Event of Default or for any reason specified as cause by VISA or MasterCard.
- 21.9 The provisions governing processing and settlement of Card transactions, all related adjustments, fees and other amounts due from CUSTOMER and the resolution of any related chargebacks, disputes or other issues involving Card transactions will continue to apply even after termination of this Bankcard Addendum, until all Card transactions made prior to such termination are settled or resolved. In addition, the provisions of Sections 13 through 18, inclusive, 20, 22, 24 and 25, and Subsections 21.7, 21.9, 26.2 and 26.3, all in this Bankcard Addendum, shall survive any termination. Upon termination of this Bankcard Addendum, CUSTOMER agrees to immediately send SERVICERS all the data relating to Card transactions conducted prior to the date of termination.
- 21.10 After termination of this Bankcard Addendum for any reason whatsoever, CUSTOMER shall continue to bear total responsibility for all Chargebacks, fees, credits and adjustments resulting from Card transactions processed pursuant to this Bankcard Addendum and all other amounts then due or which thereafter may become due to SERVICERS under this Bankcard Addendum or which may be due to SERVICERS before or after such termination to either SERVICERS or any of SERVICERS' Affiliates for any related equipment or related services.

**22. Reserve Account; Security Interest. Reserved.**

23. **Responsibility.** In addition to the obligations set forth in Section 4 of the MSA, CUSTOMER agrees to be responsible for all losses, liabilities, damages and expenses (including attorneys' fees and collection costs) resulting from any breach of any warranty, covenant, provision of this Bankcard Addendum or any misrepresentation by CUSTOMER under this Bankcard Addendum, or arising out of any gross negligence or willful misconduct of CUSTOMER, its employees, or agents in connection with CUSTOMER's Card transactions or otherwise arising from CUSTOMER's provision of goods and services to Cardholders.

**24. Liquidated Damages. Reserved.**

**25. Data Security.**

- 25.1 Per the terms of this Bankcard Addendum, CUSTOMER is required to follow Your Payment Acceptance Guide and CUSTOMER and SERVICERS will comply with applicable Card Organization Rules as they may each be amended from time to time. The Card Organization may impose different compliance requirements on different types and levels of customers. The Card Organization may impose restrictions, fines, or prohibit CUSTOMER from participating in Card Organization programs if it is determined CUSTOMER is non-compliant with such programs. CUSTOMER understands that it must be in compliance with applicable data security regulations for its type or level of customer as defined by the Card Organizations security procedures as well as comply with general security procedures. SERVICERS will endeavor to provide CUSTOMER with amended operating procedures outlining the various Card Organization requirements with regard to Data Security, and other matters, pursuant to the terms of the Bankcard Addendum, however, CUSTOMER understands and acknowledges that it is solely the responsibility of CUSTOMER to maintain compliance with all applicable Card Organization PCI Data Security procedures and regulations, and to pay any and all fines, assessments and other liabilities levied by the applicable Card Organization for its non-compliance, whether or not SERVICERS provide to CUSTOMER the amended operating procedures.
- 25.2 CUSTOMER also understands and acknowledges that it is solely responsible for the compliance of any and all third parties (including but not limited to Internet Service Providers) that are granted access by CUSTOMER to Cardholder data, and for any third party POS VAR software that CUSTOMER may use. CUSTOMER further acknowledges that it is CUSTOMER's responsibility to inform SERVICERS of any of CUSTOMER's third party providers that are given access by CUSTOMER to Cardholder data. CUSTOMER also acknowledges that it is CUSTOMER's duty to notify SERVICERS of any data security compromise and to cooperate and assist SERVICERS in any subsequent investigation and that CUSTOMER is solely responsible to pay any and all fines, assessments and other liabilities resulting from any such data security compromise.

25.3 SERVICERS may in their sole discretion, suspend or terminate card processing services under the Bankcard Addendum for any data security compromise.

26. **Miscellaneous.**

26.1 If CUSTOMER requests SERVICERS to perform or provide any system enhancements, custom reports, or related service enhancements that are different from or in addition to the system, services and reports SERVICERS otherwise agree to provide to CUSTOMER (collectively, "System Enhancements"), SERVICERS will use reasonable efforts to provide such System Enhancements if CUSTOMER pays SERVICERS the additional fees charged by SERVICERS for such System Enhancements. Following receipt of any request for System Enhancements and prior to providing the requested System Enhancements, SERVICERS shall provide CUSTOMER with a description of the System Enhancements to be made, together with an estimate of SERVICERS' fee for providing such System Enhancements. If CUSTOMER thereafter instructs SERVICERS in writing to make such System Enhancements, SERVICERS shall do so, and CUSTOMER shall pay the additional fees charged by SERVICERS for such System Enhancements.

26.2 Any notice to BANK shall be sent to BANK at 200 S. Orange Avenue, 4<sup>th</sup> Floor, MC: FL-Orlando-1044, Orlando, Florida 32801, Attn: Merchant Services. Notices to PROVIDER or CUSTOMER shall be in the same manner provided under the MSA.

26.3 This Bankcard Addendum, along with the MSA, any Schedules and Your Payment Acceptance Guide, constitutes the entire agreement between the parties with respect to the subject matter.

26.4 The parties acknowledge that the VISA and MasterCard Card Organization Rules give VISA and MasterCard certain rights to require termination or modification of this Bankcard Addendum with respect to transactions involving VISA and MasterCard Cards and the VISA and MasterCard Card system and to investigate CUSTOMER. The parties also acknowledge that issuers of other Cards, for which PROVIDER performs services on behalf of CUSTOMER, may have similar rights under their applicable Card Organization Rules with respect to this Bankcard Addendum's applicability to transactions involving such other Cards.

26.5 CUSTOMER acknowledges and agrees that any of information obtained by SERVICERS may be shared with SERVICERS' Affiliates, on a need-to-know basis, in connection with the provision of other services provided to CUSTOMER by SERVICERS, as long as the Affiliates are under obligation to treat such information with the same degree of care as required of SERVICERS under this Addendum or the MSA.

27. **Visa and MasterCard Disclosure**

Member BANK Information: SunTrust Bank

The BANK's mailing address is 200 S. Orange Avenue, 4<sup>th</sup> Floor, MC: FL-Orlando-1044, Orlando, Florida 32801, Attn: Merchant Services and its phone number is 407-237-6727.

Important Member BANK Responsibilities

- (a) The BANK is the only entity approved to extend acceptance of Visa and MasterCard products directly to a Merchant.
- (b) The BANK must be a principal (signer) to the Merchant Bankcard Addendum.
- (c) 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 CUSTOMER by PROVIDER.
- (d) The BANK is responsible for and must provide settlement funds to the Merchant in accordance with the terms of the Bankcard Addendum.
- (e) The BANK is responsible for all funds held in reserve that are derived from settlement.

Important Merchant Responsibilities

- (a) Ensure compliance with Cardholder data security and storage requirements.
- (b) Maintain fraud and Chargebacks below Card Organization thresholds.
- (c) Review and understand the terms of the Bankcard Addendum.
- (d) Comply with Card Organization Rules.

**THE PARTIES HERETO HAVE CAUSED THIS BANKCARD ADDENDUM TO BE EXECUTED BY THEIR DULY AUTHORIZED OFFICERS. THIS BANKCARD ADDENDUM IS NOT BINDING UPON SERVICERS UNTIL SIGNED BY SERVICERS.**

State of Georgia, The Office of the Treasurer

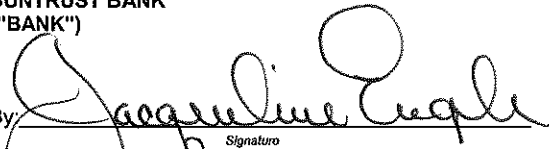
By:   
Signature

Name: Steven N. McCoy  
Print or Type

Title: State Treasurer

Date: 11-17-17

SUNTRUST BANK  
("BANK")

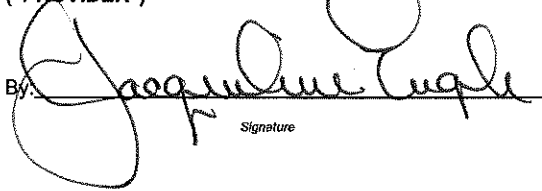
By:   
Signature

(under limited powers of attorney granted to  
First Data Merchant Services LLC)  
Name: Jacqueline Engle  
Print or Type

Title: Vice President

Date: 11.15.2017

SUNTRUST MERCHANT SERVICES, LLC  
("PROVIDER")

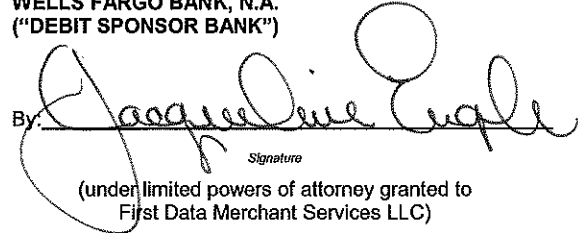
By:   
*Signature*

Name: Jacqueline Engle  
*Print or Type*

Title: Vice President

Date: 11.15.2017

WELLS FARGO BANK, N.A.  
("DEBIT SPONSOR BANK")

By:   
*Signature*  
(under limited powers of attorney granted to  
First Data Merchant Services LLC)

Name: Jacqueline Engle  
*Print or Type*

Title: Vice President

Date: 11.15.2017

## ANNEX 1

As used in the MSA, Bankcard Addendum or any Schedule hereto, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

**Acquirer:** (i) BANK for Visa or MasterCard Credit Card and Signature Debit Card transactions, (ii) DEBIT SPONSOR BANK for PIN Debit Card transactions and for Signature Debit Card transactions involving a Card Organization other than Visa or MasterCard, or (iii) PROVIDER for Discover Network transactions that acquire Card transactions from CUSTOMER.

**Address Verification:** 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.

**Affiliate:** is an entity that, 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.

**Authorization:** Approval by, or on behalf of, the Issuer to validate a transaction. An Authorization indicates only the availability of the Cardholder's credit limit or funds at the time the Authorization is requested.

**Authorized Center:** A department that electronically communicates a merchant's request for Authorization on Credit Card transactions to the Cardholder's bank and transmits such Authorization to the merchant via electronic equipment or by voice Authorization.

**Bankruptcy Code:** Title 11 of the United States Code, as amended from time to time.

**Business Day:** Monday through Friday, excluding Bank holidays.

**Card:** See either Credit Card or Debit Card.

**Cardholder:** Means the individual, entity, or association whose name is embossed on a Card (or Debit Card, as applicable) and any authorized user of such Card.

**Card Organization:** Any entity that is (i) formed to administer and promote Credit Cards and/or Debit Cards, and (ii) supported by PROVIDER.

**Card Organization Rules:** The rules, regulations, releases, interpretations 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).

**Chargeback:** A Card transaction (or disputed portion) that is returned to us by the Issuer. CUSTOMER is responsible for payment to SERVICERS for all Chargebacks.

**Chargeback Percentage:** Monthly percentage calculated by dividing CUSTOMER's total monthly Visa and MasterCard Chargeback items by the number of CUSTOMER's total monthly VISA and MasterCard transactions.

**Credit:** A refund or price adjustment given for a previous purchase transaction.

**Credit Card:** An account that (i) may be presented in various form factors (including, but not limited to, mobile devices, cards, fobs or tags), (ii) bears the Mark of a Card Organization, and (iii) enables the Cardholder to buy goods or services on credit.

**Credit Voucher:** The evidence of a refund or price adjustment by CUSTOMER to a Cardholder's Card account in connection with a prior purchase by such Cardholder using a Card, regardless of whether the form of such evidence is in paper, electronic or otherwise.

**Debit Cards:** PIN Debit Cards and Signature Debit Cards.

**Debit Sponsor Bank:** A bank that is a member of a debit network in which CUSTOMER participates and that sponsors CUSTOMER's acceptance of debit transactions.

**Discount Rate:** A percentage rate and/or other amount charged to a merchant for processing its qualifying daily credit and/or debit transactions.

**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.

**Issuer:** The financial institution or Card Organization that has issued a Card to a person.

**Magnetic Stripe:** A stripe of magnetic information affixed to the back of a plastic Credit Card or Debit Card that contains essential Cardholder and account information.

**Marks:** names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.

**Merchant Account Number (Merchant Number):** A number that numerically identifies each merchant location, outlet, or line of business to PROVIDER for accounting and billing purposes.

**N/A:** If "n/a" is used when referring to a fee or a selection in Schedule A, "n/a" means that the service relating to the fee or the selection is not being provided.

**PIN:** A personal identification number entered by the Cardholder to authenticate a PIN debit transaction.

**PIN Debit Card:** A card or other payment form (including, but not limited to, mobile devices, fobs, or tags) that (i) bears the Marks of PIN debit networks, (ii) enables the Cardholder to buy goods or services by debiting the Cardholder's demand deposit account or stored value/prepaid account, and (iii) is authenticated either with a PIN or, under applicable Card Association Rules, without a PIN for qualifying transactions.

**Point of Sale (POS) Terminal:** A device placed in a merchant location which is connected to PROVIDER's system via telephone lines and is designed to authorize, record and transmit settlement data by electronic means for all sales transactions with PROVIDER.

**Preauthorized Order:** A Cardholder's written authorization to make one or more future charges to such Cardholder's MasterCard Card account.

**Recurring Sale:** A Cardholder's written authorization to make one or more future charges to such Cardholder's VISA or other non-MasterCard Card account.

**Reserve Account:** An account established and funded at our request or on your behalf, pursuant to Section 22 of the Bankcard Addendum.

**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, CUSTOMER 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.

**Schedules:** The attachments, addenda and other documents, including revisions thereto, which may be incorporated into and made part of this Bankcard Addendum concurrently with or after the date of this Bankcard Addendum.

**Services:** The activities undertaken by BANK, DEBIT SPONSOR BANK, and/or PROVIDER, as applicable, to authorize, process and settle all United States Dollar denominated Visa, MasterCard, and Discover Network transactions undertaken by Cardholders at CUSTOMER's location(s) in the United States, and all other activities necessary for PROVIDER to perform the functions required by this Bankcard Addendum for Discover Network and all other Cards covered by this Bankcard Addendum.

**Servicers:** Unless otherwise indicated in a Schedule: (i) for Visa and MasterCard Credit Card transactions and for Visa and MasterCard Signature Debit Card transactions, "Servicers" means BANK and PROVIDER collectively (with the words "we," "us," and "our" referring to BANK and PROVIDER); (ii) for Signature Debit Card transactions involving a Card Organization other than Visa or MasterCard and for PIN Debit Card transactions, "Servicers" means DEBIT SPONSOR BANK and PROVIDER collectively (with the words "we," "us," and "our" referring to DEBIT SPONSOR BANK and PROVIDER); and (iii) for all other Card transactions, "Servicer" means PROVIDER only (with the words "we," "us," and "our" referring to PROVIDER only).

**Settlement Account:** An account at a financial institution designated by CUSTOMER as the account to be debited and credited by PROVIDER, BANK, or DEBIT SPONSOR BANK for CUSTOMER's Credit Card or Debit Card transactions, SERVICERS' fees, Third Party Fees, and other amounts due under or in connection with the Bankcard Addendum, including returns, refunds, adjustments, Chargebacks (including SERVICERS' related losses), other amounts payable to Third Parties under instructions given by CUSTOMER to SERVICERS, and any other obligations of CUSTOMER under Card Organization Rules, the MSA, or the Bankcard Addendum.

**Signature Debit Card:** A card or other payment form (including, but not limited to, mobile devices, fobs, or tags) that (i) bears the Marks of signature debit networks, (ii) enables the Cardholder to buy goods or services by debiting the Cardholder's demand deposit account or stored value/prepaid account, and (iii) is authenticated without a PIN.

**Third Party:** Any person, entity, or association other than SERVICERS or CUSTOMER, including but not limited to Card Organizations, card-issuing organizations, telecommunications providers, delivery service providers/couriers, gateways, CUSTOMER's software providers/integrators or other service providers, and federal, state, or local governmental authorities. Star Networks, Inc. is a Third Party.

**Third Party Fees:** Fees, charges, liabilities, or obligations imposed at any time by a Third Party (i) in connection with CUSTOMER's Credit Card or Debit Card transactions, (ii) as a result of CUSTOMER's acts or omissions, or (iii) as a result of the acts or omissions of others that act on CUSTOMER's behalf or that provide services to CUSTOMER. Third Party Fees include but are not limited to: interchange; Card Organization assessments (including but not limited to dues, issuer reimbursements, fines, penalties, and fraud recovery losses); fees established by the Card Organizations (including but not limited to access fees, switch fees, and file fees); adjustments; and Chargebacks.

**Transaction Fees:** Service costs charged to a merchant on a per transaction basis.



**Schedule A  
Bankcard Addendum to Master Services Agreement**

**Fee Schedule**

Unless otherwise indicated below, CUSTOMER will be charged, and will pay (as described in Section 12 of the Bankcard Addendum), all fees, charges, liabilities, obligations, and other amounts described or referenced in this Schedule A (including Third Party Fees) on a daily basis.

**1. TRANSACTION FEES FOR CREDIT TRANSACTIONS:**

- (a) The fees below are based on:
  - (i) an annual Visa/MasterCard volume of \$149,375,997; and
  - (ii) an average ticket value (all Card types) of \$55.21.

**See Schedule C-7 attached.**
- (b) Each foreign Credit Card transaction submitted by CUSTOMER will be subject to a 0.2% international transaction handling fee.
- (c) The fees in this Section may be adjusted without notice to reflect increases or decreases in applicable sales or telecommunication taxes as levied by federal, state or local authorities.
- (d) Supplies are provided at PROVIDER's then-current price, plus a minimum supplies handling fee of \$11.95 per shipment.
- (e) CUSTOMER shall be responsible for payment of all shipping costs associated with any equipment purchased, leased or maintained by Servicers hereunder.
- (f) CUSTOMER will pay PROVIDER for all Third Party Fees incurred in connection with the Services provided to CUSTOMER.

**2. INTERCHANGE, ASSESSMENTS, AND CARD ORGANIZATION FEES:**

The Card Organizations impose certain fees and charges on CUSTOMER's transactions, some or all of which are charged to PROVIDER as the processor for CUSTOMER's transactions. In addition to the fees referenced in Section 1 and Section 3, CUSTOMER will pay PROVIDER for all fees, charges, liabilities, and obligations imposed by the Card Organizations in connection with CUSTOMER's transactions (including but not limited to interchange; assessments (including but not limited to dues, issuer reimbursements, fines, penalties, and fraud recovery losses); access fees, switch fees, and other fees established by the Card Organizations; adjustments; and Chargebacks.

Interchange (Visa, MasterCard, and Other Card Organizations)	Pass-through	per transaction
Assessments (Visa, MasterCard, and Other Card Organizations)	Pass-through	per transaction
Fees Established by Visa, MasterCard, and Other Card Organizations	Pass-through	per transaction
Adjustments/Chargebacks	Pass-through	each

**3. ADDITIONAL FEES:**

**See Schedule C-7 attached**

**4. OTHER SERVICES:**

- A. Services for the transaction types selected below are provided by PROVIDER and not BANK, and the fees and charges for these Services are set forth in Sections 1 through 3 of this Schedule A.

None Enabled       American Express\*       Discover Authorization Only\*  
 JCB\*       Diners Club\*       Voyager\*\*  
 Wright Express\*       Fleet\*

The Card Organizations selected above are collectively referred to as ("Issuer") in this Section 4.

\*Card processing services for these transaction types may be subject to a separate agreement.

\*\*Servicers will settle Voyager transactions directly to merchants. The other Card Organizations selected above will settle the transactions of those Card Organizations.

**General.** In the event CUSTOMER has a separate Issuer agreement with a respective Issuer, all Chargeback and financial obligations including but not limited to fees and issues related thereto shall be governed by the terms of such Issuer agreement. Notwithstanding the foregoing, in the event PROVIDER is providing settlement services for Diners Club and/or JCB transactions PROVIDER shall be responsible for providing such services pursuant to the terms of the Bankcard Addendum. CUSTOMER shall comply with all terms and conditions of the Issuer agreement and the applicable rules, regulations, interpretations and other requirements of the respective Issuer and shall not seek authorization for or submit for processing or settlement hereunder any Issuer Card transactions at any time when CUSTOMER does not have in effect a valid Issuer agreement with such Issuer. CUSTOMER agrees to notify PROVIDER immediately upon the termination of any Issuer agreement to which it is a party. Upon such termination, PROVIDER shall have no further obligations hereunder to provide any services to CUSTOMER with respect to any transactions involving such Issuer Cards.

In the event CUSTOMER does not have a separate Issuer agreement with a respective Issuer, the Issuer Card services to be provided hereunder shall be in accordance with the terms herein and the Bankcard Addendum.

**Issuer Consents.** CUSTOMER shall be responsible for obtaining any operational consents required of Issuer to comply with procedures or practices contemplated by both CUSTOMER and PROVIDER under this Bankcard Addendum. PROVIDER does not warrant or bear responsibility for the performance of any Issuer in any way.

**Authorization Services Only.** For each of the networks selected above, PROVIDER is providing authorization services only for Issuer Card transactions as specified herein, and CUSTOMER shall seek such authorization through PROVIDER. PROVIDER will submit the settlement file to the applicable Issuer on behalf of CUSTOMER. For any network not selected above, PROVIDER is not providing processing services for Issuer Card transactions, and CUSTOMER shall be responsible for processing and submitting directly to the applicable Issuer for settlement of such Card transactions, if CUSTOMER accepts such networks' Cards.

**Processing and Submission to Issuers.** In the event PROVIDER is providing processing services for Issuer Card transactions as specified herein, CUSTOMER shall submit to PROVIDER for processing all of CUSTOMER's Issuer Card transactions and PROVIDER shall process such transactions and transmit them electronically to the applicable Issuer with a summary of such Card transactions.

- B. Discover® Network/Full Service Program:** Services for the Discover Network/Full Service Program are provided by PROVIDER and not BANK, and the fees and charges for these Services are set forth in Sections 1 through 3 of this Schedule A.

Discover Network/Full Service Program Not Enabled

Discover Network/Full Service Program

The terms and conditions of the Bankcard Addendum and Your Payment Acceptance Guide shall govern CUSTOMER's acceptance of Discover® Network Cards, and PROVIDERS' provision of Services to CUSTOMER in connection with Discover® Network Card transactions.

PROVIDER is the Acquirer for Discover transactions under this Section B and the Discover services are solely between CUSTOMER and PROVIDER. BANK is not an Acquirer or sponsor of any services that are related to Discover Card Transactions and shall bear no responsibility.

**Settlement of Transactions:** The timing of CUSTOMER's Settlement payments is described in Your Payment Acceptance Guide and Bankcard Addendum, unless otherwise indicated by PROVIDER in writing. PROVIDER may, at its discretion, change the timing of CUSTOMER's Settlement payment upon five (5) calendar days' advance written notice if required by Discover® Network. CUSTOMER's terminals or point-of-sales devices must be programmed with the Merchant Account Number that PROVIDER assigned to CUSTOMER if CUSTOMER is to receive Settlement for Discover® Network Card Sales. CUSTOMER is responsible for reprogramming of CUSTOMER's terminals. If a third party programs CUSTOMER's terminals, CUSTOMER is responsible for such third party's acts and omissions in connection there-with, including, without limitation, any payment of CUSTOMER's Settlement amounts to the incorrect party. If CUSTOMER does not receive Settlement amounts for Discover® Network Card sales in accordance with the Bankcard Addendum and Operation Regulations, CUSTOMER must contact PROVIDER immediately or risk non-payment for such Discover® Network Card sales.

**Term.** PROVIDER may terminate the Discover® Network Program or this Discover® Network Program Addendum at any time and for any reason by giving you thirty (30) days prior written notice. PROVIDER may terminate immediately and without such notice if CUSTOMER has materially breached the Discover® Network Program due to an Event of Default as outlined in the Bankcard Addendum, or if the Discover® Network Card sales conducted by CUSTOMER, the goods or services sold by CUSTOMER or CUSTOMER's business practices violate any U.S. federal, state or local laws, statute or regulation. Furthermore, CUSTOMER acknowledges that the Discover® Network Operating Procedures give Discover® Network certain rights to require termination or modification of the Discover® Network Program with respect to transactions involving Discover® Network Cards and Discover® Network Card system and to investigate CUSTOMER.

**Retention of Records.** CUSTOMER agrees to keep an original copy of all Sales Drafts, mail/telephone order forms, documentation required in Your Payment Acceptance Guide and other related document(s), e.g. shipping invoices, for no less than three hundred and sixth five (365) days from the Discover® Network Card transaction date, or one hundred and eighty (180) days from the date of submission of the Sales Draft, whichever is later. CUSTOMER also agrees to keep

microfilm or other copies of Sales Drafts for no less than three (3) years from the date of the Discover® Network Card transaction.

Factoring. CUSTOMER agrees that they will not factor any Discover® Network Card sales. See Operating Procedures for complete details regarding what constitutes factoring and the liability incurred if CUSTOMER factors any Discover® Network Card sales.

Contact. Any provision contained in the Bankcard Addendum which directs CUSTOMER to contact Discover Network for customer services or for any other inquiry or purpose is modified hereby to provide that CUSTOMER is to contact PROVIDER for customer service or in relation to such inquiry or purpose.

References to Discover® Network Procedures. Any provisions contained in the Bankcard Addendum which refers to Cards other than Visa or MasterCard shall be construed so as not to apply to Discover® Network Cards, and any provision which refers CUSTOMER specifically to procedures or terms and conditions of Discover® Network (but not references to Card Organization Rules) will be disregarded.

## **5. DEBIT SERVICES:**

### **A. General**

PROVIDER works with DEBIT SPONSOR BANK to provide CUSTOMER with Services relating to the Debit Card transaction types CUSTOMER has selected below. The debit Services are provided to CUSTOMER only by DEBIT SPONSOR BANK and PROVIDER. If DEBIT SPONSOR BANK is not the same as "BANK," then BANK is not providing the debit Services to CUSTOMER and is not liable to CUSTOMER in any way with respect to the debit Services.

DEBIT SPONSOR BANK's obligations relating to the debit Services are limited to the sponsorship and settlement of CUSTOMER's Debit Card transactions that are submitted in compliance with the Bankcard Addendum and Card Organization Rules.

Periodically, another debit network member bank may be substituted for an existing DEBIT SPONSOR BANK, and PROVIDER will give CUSTOMER notice of the substitution. Any new DEBIT SPONSOR BANK will be responsible for all obligations required of the former sponsor bank (including but not limited to all obligations under applicable Card Association Rules).

CUSTOMER acknowledges its understanding that all parties involved in processing adjustments and Chargebacks to Debit Card transactions are regulated by time frames specified in the Card Organization Rules, the Electronic Funds Transfer Act, Regulation E, and other applicable laws. CUSTOMER must reconcile Debit Card transactions at each of its locations within one (1) business day of the original Debit Card transaction. If CUSTOMER discovers an error involving any Debit Card transaction processed by PROVIDER, CUSTOMER must promptly initiate the appropriate adjustment transaction to correct the error, or CUSTOMER may be subject to additional fees, fines, or other action.

Unless otherwise authorized by PROVIDER in writing, CUSTOMER agrees to use PROVIDER-compatible terminals/PIN pads or systems capable of processing all on-line Debit Card transactions, and to place them at its merchant locations. As between PROVIDER and CUSTOMER, all software residing on these terminals or systems is the sole property of PROVIDER. Any software residing in CUSTOMER-owned terminals or systems must be PROVIDER-compatible. CUSTOMER's placement of the terminals or system at its merchant locations shall constitute acceptance of all terms and conditions set forth in this Bankcard Addendum. In the case of an inoperative terminal or system CUSTOMER may consult CUSTOMER's warranty, or terminal maintenance addendum, as applicable. Responsibility for the installation of and training in the use of terminals is dependent upon the type of equipment or system being used by CUSTOMER.

Which debit network is used for a Debit Card transaction will depend on various factors, including whether a particular debit network is available at the time of the transaction, whether a particular Debit Card is enabled for a particular debit network, and other legal requirements relating to routing. SERVICERS may use, at our sole discretion, any debit network available to us for a given Debit Card transaction.

Only equipment approved by Provider can be used with the debit services. Equipment for the debit services is provided under a separate equipment addendum.

### **B. SETTLEMENT, FEES, AND DEBIT CARD TRANSACTION TYPES (INCLUDING PIN, PINLESS, AND SIGNATURE):**

The Card Organizations impose certain fees and charges on CUSTOMER's Debit Card transactions, some or all of which are charged to PROVIDER as the processor for CUSTOMER's Debit Card transactions. In addition to the fees and charges described above, CUSTOMER will pay PROVIDER for all fees, charges, liabilities, and obligations imposed by the Card Organizations in connection with CUSTOMER's Debit Card transactions (including but not limited to interchange; assessments (including but not limited to dues, issuer reimbursements, fines, penalties, and fraud recovery losses); access fees, switch fees, and other fees established by the Card Organizations; adjustments; and Chargebacks, as referenced in Section 2 of this Schedule.

Settlement of CUSTOMER's Debit Card transactions will occur on a "net settlement" basis, as described in the Bankcard Addendum. As part of the settlement process for CUSTOMER's Debit Card transactions, CUSTOMER will pay on a daily basis (via deduction from applicable settlement funds) all returns, refunds, adjustments, Chargebacks (including SERVICERS' related losses), SERVICERS' fees (based on this Schedule), Third Party Fees, other amounts payable to Third Parties under instructions given by CUSTOMER to SERVICERS, and any other obligations of CUSTOMER under Card Organization Rules, the MSA, or the Bankcard Addendum.

Each foreign Debit Card transaction CUSTOMER submits (where available) will be subject to a 0.2% international transaction handling fee, in addition to the fees below.

CUSTOMER will pay the following transaction fees for the selected Debit Card transaction types:

**See Schedule C-7 attached**

CUSTOMER will pay the following additional fees in connection with its Debit Card transactions:

**See Schedule C-7 attached**

## Schedule B

### Service Level Agreement

This Service Level Agreement is made a part of that certain Bankcard Addendum to the Master Services Agreement by and among SunTrust Merchant Services LLC, ("Provider"), SunTrust Bank. ("Bank," and together with Provider, "Servicers") and CUSTOMER as defined in the MSA ("Customer"). Any term not otherwise defined herein shall have the meaning ascribed to it in the Bankcard Addendum. The rights described in this Schedule shall be Customer's exclusive remedy under the MSA and this Bankcard Addendum for Provider's failure to meet the SLAs (defined herein) in accordance with the terms below.

#### **A. Authorization System Availability and Transaction Authorization Response Time.**

- (i) Provider's authorization system, will be available to respond to transaction authorization inquiries as set forth below.
- (ii) Providers monthly response time for authorization transactions shall be as set forth below, excluding authorization timeouts, voids, authorization reversals, offline transactions, and invalid format authorizations ("Response Time"). Response Time is measured from the time that the transaction enters the Provider host authorization system to the time the response exits the Provider host authorization system, less the time in the Card Organization's system, and any delay that either party can directly attribute to Customer, third party networks, issuers, and communications carrier. This Service Level (defined herein) assumes Customer is using the authorization transaction processing method in place at the signing of the Bankcard Addendum.

Note: Each system will have its own Availability measurement. For clients using multiple system, PROVIDER tracks and reports by system. Depending on the client specific agreement, the system availability may get rolled into an overall Authorization System Availability measurement or percentage.

#### **North Platform**

**Availability** - The Authorization System will be available to respond to authorization inquiries 24 hours per day, 7 days per week for 99.95% of the total minutes in the month.

Merchant authorizations during periods when third party networks, issuers, associations and communications carrier outages, slow responses and scheduled maintenance occur will be excluded from this measurement.

**Response time** - PROVIDER's monthly response time for authorization transactions shall be within three (3) seconds for at least 99.5% of all authorization transactions during a calendar month, excluding Authorization timeouts, voids, Authorization reversals, offline transactions, and invalid format Authorizations.

Response times are measured from the time that the transaction enters the PROVIDER host authorization system to the time the response exits the PROVIDER host authorization system, less the time in the Association's system, any delay that either party can directly attribute to Client, third party networks, issuers, and communications carrier.

#### **Compass Platform**

##### **Availability -**

The compass on-line authorization system will be available to respond to authorization inquiries 24 hours per day, 7 days per week for 99.95% of the total minutes in the month excluding scheduled maintenance.

##### **Response time -**

Response Time for Automated Transactions: The processor Authorization System shall exert their commercially reasonable to respond to an authorization request within 2 seconds or less, on average, during any calendar month period, if the customer has the ability to leverage both physical sites (Omaha and Chandler), excluding scheduled maintenance, or customer/third party caused issues, Paypal and Flexdetect transactions.

Response times are measured from the time that the transaction enters the PROVIDER host authorization system to the time the response exits the PROVIDER host authorization system, excluding any delay that either party can directly attribute to Client, third party networks, issuers, Associations, communications carrier outages.

This service level assumes Client is using the standard authorization transaction processing method and is based on the authorization transaction processing method in place at the signing of this contract. Any customization or implementation of addition service such as Perka, TransArmor<sup>®</sup>, Offers, Smart Routing, biometrics which may impact this service level may result in a modification to this service level.

#### **Buypass Platform**

##### **Availability -**

The Authorization System will be available to respond to authorization inquiries 24 hours per day, 7 days per week, for 99.95% of the total minutes in the month.

Merchant authorizations during periods when third party networks, issuers, associations and communications carrier outages, slow responses and scheduled maintenance occur will be excluded from this measurement.

Response time

Bypass Response Time for Automated Transactions: The processor Authorization System shall exert their best efforts to respond to an authorization request within 2 seconds or less, on average, during any calendar month period if the customer has the ability to leverage both physical sites (Omaha and Chandler).

Response times are measured from the time that the transaction enters the PROVIDER host authorization system to the time the response exits the PROVIDER host authorization system, excluding any delay that either party can directly attribute to Client, third party networks, issuers, Associations, communications carrier outages. First Data scheduled maintenance and non-financial transactions such as nightly totals requests, email, loads etc. will be excluded from this measurement.

This service level assumes Client is using the standard authorization transaction processing method and is based on the authorization transaction processing method in place at the signing of this contract.

Clientline

Availability --

Client Line Application Availability: The Clientline Application will be available 24 hours a day, 7 days a week for 98% of the total minutes in the month excluding outages associated with scheduled maintenance and outages beyond the control of PROVIDER.

Note: : For clients that have both Business Track Availability and Clientline Application Availability a SLA miss counts toward only one single penalty, not multiple penalties and it will apply only to the most onerous penalty. (so if both measures missed we count as single failure not multiple).

Payeezy

Availability

The Payeezy API system will be available for the Purchase, Refund, Pre-Authorization transmission processing, 24 hours per day, 7 days per week, excluding downtime during scheduled system maintenance or Customer-caused and/or third party-caused incidents and non-PROVIDER caused issues, for 99.9% of the minutes in the month.

PayPoint

Availability

The PayPoint Payment Gateway will be available to process payment transactions 24 hours per day, 7 days per week, for 99.7% of the total minutes in the month.

Payment processing during periods when merchant processors, third party networks, issuers, associations and communications carrier outages, slow responses and scheduled maintenance occur will be excluded from this measurement.

Note: All servers in a single tier must be unavailable concurrently before a defect is taken. Also, when an outage occurs on a server causing the rollover to another server, we count the time it takes to rollover as downtime time since there could be transactions that are impacted during the rollover process. A minimum of one minute down time is taken during rollover if the actual time is less than one (1) minute.

TeleCheck

Availability

The TeleCheck Authorization System will be available via primary, secondary, or tertiary to process check authorization transactions 24 hours per day, 7 days per week for at least 99.8% of the total minutes in the month. This metric shall at all times exclude time that may be unavailable due to Force Majeure as described in the Agreement, schedule maintenance or other scheduled downtime.

Outages that can be attributed to third party networks, issuers, associations and communications carrier outages will be excluded from this measurement.

Clover

Availability

The Clover System will be available for the retrieval or sending of transmissions, 24 hours per day, 7 days per week, excluding downtime during scheduled system maintenance or Customer-caused and/or third party-caused incidents and non-PROVIDER caused issues, for 99.9% of the minutes in the month.

**B. Service Level Credits.** In the event Provider fails to meet any or all of the required Service Levels set out in Section A in any calendar month after the third (3rd) month of the Term following a full chain migration, Provider shall provide Customer a Credit in the amount of 5% of the transaction processing fees for that month. At the end of each month, Provider will issue a Credit to Customer which will be applied against the monthly transaction fees for the next month. In the event of both an Availability and Response Time Service Level deficiency in a month, Customer shall only be entitled to one Credit and not both per month for such Service Level deficiencies. Credits will be applied to future amounts owed, except to the extent the Credit is issued in the last month of the Term, in which case such Credits will be used to offset any unpaid invoices sent to Customer.

**C. Service Level Reports and Reviews.** Provider will prepare a monthly performance report indicating the degree of compliance with each Service Level above and provide it to Customer monthly at no additional cost beginning thirty (30) days from the date of full chain migration. To the extent Provider fails to achieve a particular Service Level, Provider will perform a root cause analysis identifying the causes of failure and provide a recommended corrective action within a commercially reasonable time after a Service Level has been missed. Provider and Customer shall review the Service Levels on a quarterly basis or monthly if Service Levels are not being met. In addition, if Customer disputes the results of the monthly performance report, Customer shall notify Provider of the basis of the dispute along with any available information or documentation supporting its position and Provider shall make available a knowledgeable person from operations to review the information from Customer, and such person shall meet with Customer and provide additional information to resolve the discrepancy in the performance report. In the event the discrepancy is not resolved to Customer's satisfaction, Customer may request a senior executive to senior executive meeting to attempt to resolve the issue.

**D. Right to Terminate Services for Missed Service Levels.** If the Provider fails to meet a particular Service Level in three (3) consecutive months, Customer may terminate Services without incurring any penalty or termination fees, by providing Provider written notice of its intention to terminate the Bankcard Addendum. Such notice shall be given within 30 days of Customer's receipt of the report indicating the Service Level miss giving rise to the right to terminate or the right shall be deemed waived.

**E. Exclusion Events.** The Provider will not be responsible for any Service Level deficiency resulting from any of the following, and as such it will not constitute a Service Level deficiency:

- i. Service Level deficiency caused by a failure of any component for which Provider is not responsible, including but not limited to, all Customer-provided or Customer-managed electrical power sources, networking equipment, computer hardware, computer software or internet or telecommunications access.
- ii. Service Level deficiency caused by Force Majeure Events, so long as Provider has implemented its business continuity plan;
- iii. Service Level deficiency which occurs during implementation of Customer-initiated changes (e.g. if Customer requests a change that requires Provider to take the system down during business service hours) whether implemented by Customer or the Provider on behalf of Customer but only if Customer expressly requests the changes in writing;
- iv. Service Level deficiency caused by the acts or omissions of Customer, its employees, third party contractors, vendors or agents;
- v. Service Level deficiency due to Customer providing inadequate network capacity or bandwidth or for delays caused by the flow of data outside Provider's control.

**F. Definitions.** The following definitions shall apply to this Schedule B.

**Scheduled Maintenance:** shall mean non-emergency maintenance on the Servicers' systems that is pre-planned and conducted in accordance with schedules published by the Servicers with no less than seven (7) days' prior written notice to Customer.

**Total Minutes:** shall mean the total number of minutes in a month minus the number of minutes in a month of (i) Scheduled Maintenance; and (ii) slow responses not caused by Servicers or its subcontractors providing the Services and caused by third party networks, issuers, Card Organizations and communications carriers.

**Unplanned Outages:** shall mean the period of time that Provider's authorization system is unavailable, including when due to an immediate maintenance requirement such as reactive patches or infrastructure repair, or Scheduled Maintenance that was not timely communicated to Customer as set forth herein.

**Schedule C-7**  
**Exhibit C-7 of RFQB**



**Attachment C.7 - Pricing Proposal**

**Merchant Card Services Request for Qualified Banks (RFQB) –**

Each Bank (hereinafter, "Bank") is required to submit a pricing proposal as part of its response. The pricing proposal should be submitted in three parts.

This proposal is meant to allow Banks to address all costs of their services. Please ensure that all costs associated with the processes and systems described in this RFQB are included. Any fee not fully documented in your proposal will not be allowed during the course of the contract.

1. This section of the pricing proposal should include all transaction processing fees. Interchange and assessment costs incurred by the Bank will be passed directly to each User Entity on a monthly basis. In the event the Interchange fee increases or decreases at any transaction qualification level, the new rate will be passed on to the User Entity. The Bank should specify any transaction fees which it proposes to add to the Interchange and assessments fees. Please provide all fees and charges in the format provided in the pricing proposal below:

Category	3-Year Contract Price	5-Year Contract Price	Volume Based Discount?	
	<i>(excludes renewal periods)</i>		(Yes/No)	
<b>VISA/MasterCard</b>			If Yes, please provide tiers and prices.	
Transaction Fee	\$0.01	\$0.01	No	
Assessments	0	0	No	
Access Fees	0	0	No	
Other Fee (Describe)	0	0	No	
Other Fee (Describe)	0	0	No	
<b>Other Card Types</b>				
PIN Based Debit Card Fee	\$0.01	\$0.01	No	
American Express Transaction Fee	\$0.01	\$0.01	No	
Discover/Diners Transaction Fee	\$0.01	\$0.01	No	
American Express Full Service (for User Entities processing < \$1 million in Amex per year)	.30%	.30%	No	
PINless Debit Card Fee	\$0.01	\$0.01	No	
Other Card Fee (Describe)				
<b>Electronic Check Fees (TeleCheck)</b>				
Electronic Check Acceptance (ECA) Transaction Fee (Verification Only)	\$0.18	\$0.18	No	

ECA with Check Warranty Inquiry Rate	0.68%	0.68%	No
ECA with Check Warranty Transaction Fee	\$0.10	\$0.10	No
Internet Check Acceptance (Verification) Transaction Fee	\$0.18	\$0.18	No
Internet Check Acceptance (Warranty) Inquiry Rate	2.70%	2.70%	No
Internet Check Acceptance (Warranty) Transaction Fee	\$0.18	\$0.18	No
Checks by Phone (Warranty) Inquiry Rate	3.60%	3.60%	No
Checks by Phone (Warranty) Transaction Fee	\$0.18	\$0.18	No
Checks by Phone (Verification) Transaction Fee	\$0.18	\$0.18	No

Reporting Fees (specify e.g., price per month, price per report, etc.) terms,	3-Year Contract Price	5-Year Contract Price	Volume Based Discount?
Reporting System Access	\$0	\$0	No
Daily Reports	\$0	\$0	No
Data File Manager	\$3,000 set up fee	\$3,000 Set up fee	No
-DFM Monthly Fee per user < 8GB	\$198 per user	\$198 per user	No
- DFM Monthly Fee per user > 8GB	\$900 per user	\$900 per user	No

**Other Fees (Describe in detail)**

Additional Services	Charge Basis (one time, per minute, per transaction)	Pricing	Comments
TransArmor Data Protection	Per Transaction	\$0.0141	Encryption/Tokenization
TransArmor Data Protection	One-time	\$18 per Verifone Device	One-time fee for TransArmor Verifone Edition
GGe4 - Payeezy	Per Authorization	\$0.05	
PCI Compliance Program (PCI Rapid Comply)	Per Merchant ID	\$99/year	Cost of PCI Program for PCI Level 3 and 4; N/A for PCI Level 1/2
PCI Non-Compliance Fee	Per Merchant ID	\$19.95/month	Cost for Non-Compliance with PCI
ACH Reject	Per Reject	\$20.00	
Wire Deposit	Per Wire	\$8.00	
Chargeback Fee	Per Chargeback	\$10.00	
Retrieval Fee	Per Retrieval	\$10.00	
Adjustments	Per Adjustments	\$2.50	
Paper Statement Fees	Per Statement	\$10.00	No charge if email/online access
Manual Voice Authorization	Per voice call	\$1.00	
IVR Authorization	Per IVR call	\$0.25	

**PayPoint Fees**

<b>Name</b>	<b>Description of File Type Action</b>	<b>Fee</b>
Corporate Site Set-Up Fee	The one-time charge for Servicers to configure and deploy PayPoint	\$5,000 (WAIVED)
Corporate Site Participant Set-up Fee	The charge for the initial set-up of each participant enrolled by OST at each corporate site level.	\$500
Transaction Fee	The transaction charge to process each Payment initiated by a consumer using a credit card and debit card	\$0.08 per transaction
Transaction Fee	The transaction charge to process each Payment initiated by a consumer using a ACH (eCheck)	\$0.14 per transaction
User Interface Surcharge	The charge for each transaction that is initiated by a consumer using the internet or interactive voice response.	\$0.10
Authentication Surcharge	The charge to validate data during a transaction when a consumer is required to upload additional data requested by the authentication-challenge data feature during a transaction.	\$0.05
Summary Presentment Surcharge	The charge to upload summary billing data and provide it to a consumer in connection with the consumer's review and completion of initiated payments using the summary presentment feature.	\$0.10
Enrollment Surcharge	The charge to process enrollment for each consumer that enables multiple methods (i.e., credit card, debit card and eCheck) for making its payments using the PayPoint Gateway.	\$0.02
Telecom IVR Surcharge	The per minute charge to process transactions using the Telecom IVR feature.	\$0.08
Minimum Fee	This element identifies the monthly minimum charges. This will be charged, at the site level, if the total of PayPoint charges does not exceed this minimum amount.	\$1,000/per month
Application Development	This element identifies the custom development charges.  Custom development or custom client integration are not included in the Standard Pricing and will be quoted separately.	\$200/per hour

<b>Sample Transaction (Assume \$100 Sale)</b>				
	Visa	Amount	MasterCard	Amount
<b>Interchange</b>				
<b>Assessments</b>				
<b>Access Fees</b>				
<b>Other Fee (Specify)</b>				
<b>Interchange Per Item</b>				
<b>Transaction Fee</b>		\$0.01		\$0.01
<b>Total</b>		\$0.01		\$0.01

2. In this section of the pricing proposal, Banks should estimate the cost of equipment needed to replace existing equipment and software for our Large Volume User Entities. Provide separate lists and totals for equipment and software which must be replaced on an immediate basis and equipment which must be replaced over an 18 to 24 month period. This is so that you can provide all of the mandatory services you are proposing in your response to the OST's RFQB.

Because the User Entities are already processing on First Data there is very little equipment that needs to be replaced immediately. Here's our list of user entities that should replace terminals in the immediate future.

Entity	Quantity	Current Terminal	Recommended Replacement	Cost per unit	Total
GSU Parking	8	VX-610 CDMA	FD400 GT CDMA	\$656.10	\$5,248.80
Jekyll Island Conv.	6	VX-610 CDMA	FD400 GT CDMA	\$656.10	\$3,936.60
CSU	13	VX-570	Clover Mini	\$359.10	\$4,668.30
GA Forestry Comm	13	Linkpoint AIO	Clover Mini	\$359.10	\$4,668.30
Dept. of Water Res.	8	FD-100	Clover Mini	\$359.10	\$2,872.80
Albany Tech	2	Hypercom T-7+	Clover Mini	\$359.10	\$718.20
Athens Tech	3	Hypercom T-7+	Clover Mini	\$359.10	\$1,077.30
Central Ga Tech	3	Eclipse	Clover Mini	\$359.10	\$1,077.30
GA Int'l. Conv. Cent.	3	Hypercom T-7+	Clover Mini	\$359.10	\$1,077.30
GSU Post Office/Commons Market	6	Hyp T4220, 4210, P1300	Clover Mini	\$359.10	\$2,154.60
Cobb County – Coff Safe	1	Hyp T4220	Clover Mini	\$359.10	\$359.10
Juvenile Court	2	Hype T7+	Clover Mini	\$359.10	\$718.20
Mable House Barnes Amph	2	Hyp T4220	Clover Mini	\$359.10	\$718.20
Ogeechee Tech college	1	Eclipse	Clover Mini	\$359.10	\$359.10
Parks & Rec	1	Hyp T-7+/S9 PP	Clover Mini w/KeyPad	\$699	\$699
RTI Billiting Funt Sanitation	2	Hyp T7P	Clover Mini	\$359.10	\$718.20
	2	Hyp T-7+/S9 PP	Clover Mini w/KeyPad	\$699	\$1,398
Student Center Info	1	Hyp T4210	Clover Mini	\$359.10	\$359.10
Univ Cntr. Campus Tix	1	Hyp T4210	Clover Mini	\$359.10	\$359.10
University Career Servic	1	Hyp T4210	Clover Mini	\$359.10	\$359.10

**Recommended replacement in next 18-24 months**

Entity	Quantity	Current Terminal	Recommended Replacement	Cost per unit	Total
City of Lumpkin	1	FD300	FD-130	\$449.10	\$449.10
CWR – City Hall/utilities	13	FD300	FD-130	\$449.10	\$5,838.30
General Fund-Tybee	2	FD300TI	FD-130	\$449.10	\$898.20
Jail Bond - Tybee	3	FD300TI	FD-130	\$449.10	\$1,347.30
Macon-Bibb County	1	FD300	FD-130	\$449.10	\$449.10
Magistrate Court	3	FD-300TI	FD-130	\$449.10	\$1,347.30
Morgan County Tax	2	FD300TI	FD-130	\$449.10	\$898.20
Municipal Court	3	FD300TI	FD-130	\$449.10	\$1,347.30
Worth Co Tag Office	3	FD300TI	FD-130	\$449.10	\$1,347.30
Acworth Municipal	2	FD100TI	Clover Mini	\$359.10	\$718.20

OST requests essential additional equipment costs by User Entity because each User Entity will be responsible for paying for its own equipment costs and the equipment needs vary by User Entity. Equipment costs should not be incorporated into transaction processing fees but accounted for separately: A list of the equipment currently being used by our Large Volume User Entities for processing merchant card transactions is attached as **Attachment C.9**.

Entity	Quantity	Current Terminal	Recommended Replacement	Cost per unit	Total
Adult Health	2	FD100TI	Clover Mini	\$359.10	\$718.20
Alpharetta	7	FD-100TI	Clover Mini	\$359.10	\$2,513.70
Athens Tech	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Augusta Tech	4	FD-100TI	Clover Mini	\$359.10	\$1,436.40
Bibb County	3	FD-100TI	Clover Mini	\$359.10	\$1,077.30
Carol Campus	3	FD-100TI	Clover Mini	\$359.10	\$1,077.30

Charlie Elliott Wild	2	FD-100TI	Clover Mini	\$359.10	\$718.20
City of College Park	2	FD-100TI	Clover Mini	\$359.10	\$718.20
City of Alpharetta	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
City of Baxley	3	FD-100	Clover Mini	\$359.10	\$1077.30
City of CP	6	FD-100	Clover Mini	\$359.10	\$2,154.60
City of Johns Creek	5	FD-100	Clover Mini	\$359.10	\$1,795.50
City of Valdosta	10	FD-100	Clover Mini	\$359.10	\$3,591
City of Waycross	1	FD-100	Clover Mini	\$359.10	\$359.10
City Schools of Decatur	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Coastal Pines	7	FD-100	Clover Mini	\$359.10	\$2,513.70
Cobb County	12	FD-100TI	Clover Mini	\$359.10	\$4,309.20
Columbus Tech	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Corporations	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Coweta Campus	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
CWR	7	FD-100	Clover Mini	\$359.10	\$2,513.70
Dekalb County	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Douglas Campus	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Env. Health	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Fayette 4H	1	FD-100	Clover Mini	\$359.10	\$359.10
Franklin Location	1	FD-100	Clover Mini	\$359.10	\$359.10
Fredrick Brown	1	FD-100	Clover Mini	\$359.10	\$359.10
Ga Dept. of Natural	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Ga Int'l Con center	4	FD-100TI	Clover Mini	\$359.10	\$1,436.40
GRTA	1	FD-100	Clover Mini	\$359.10	\$359.10
Garden City	6	FD-100	Clover Mini	\$359.10	\$2,154.60
George T Bagby	1	FD-100	Clover Mini	\$359.10	\$359.10
GGTC Billeting	1	FD-100	Clover Mini	\$359.10	\$359.10
Glynn County	5	FD-100	Clover Mini	\$359.10	\$1,795.50
GPTC	6	FD-100	Clover Mini	\$359.10	\$2,154.60
Great Dunes Golf	1	FD-100	Clover Mini	\$359.10	\$359.10
Entity	Quantity	Current Terminal	Recommended Replacement	Cost per unit	Total
Griffin Campus	1	FD-100	Clover Mini	\$359.10	\$359.10
Hall County 4H	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Irwin Co Board of He	1	FD-100	Clover Mini	\$359.10	\$359.10
Jekyll Island	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
John Bowens	1	FD-100	Clover Mini	\$359.10	\$359.10
Jongtl - Gas	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Kirkwood Health	1	FD-100TI	Clover Mini	\$359.10	\$359.10
LaGrange Campus	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Lowndes Co.	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Macon Bibb	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Murphy Campus	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Non-Game Wildlife	7	FD-100	Clover Mini	\$359.10	\$2,513.70
North Dekalb Hlth	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Pharmacy Bus Aff	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Planning & Dev.	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Population Health	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Prof & Personal	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Providence Canyon	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Pulaski County	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Rideshare Dept.	2	FD-100TI	Clover Mini	\$359.10	\$718.20
Rocky Mountain PFA	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Ryan White Clinic	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Sapelo Island	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Sara Hightower	1	FD-100	Clover Mini	\$359.10	\$359.10
Secretary of State	2	FD-100TI	Clover Mini	\$359.10	\$718.20
South Ga	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Special Permits	1	FD-100TI	Clover Mini	\$359.10	\$359.10
St. Mary's Aquatic	5	FD-100TI	Clover Mini	\$359.10	\$1,795.50
SW GA Railroad	3	FD-100TI	Clover Mini	\$359.10	\$1077.30
Tech College Syst	1	FD-100TI	Clover Mini	\$359.10	\$359.10
Terrel Co	1	FD-100	Clover Mini	\$359.10	\$359.10
Travelers Rest	1	FD-100	Clover Mini	\$359.10	\$359.10
Turner Co Fee	1	FD-100	Clover Mini	\$359.10	\$359.10
Wiregrass	5	FD-100TI	Clover Mini	\$359.10	\$1,795.50
Worth Co Tag	1	FD-100	Clover Mini	\$359.10	\$359.10

WRD License	1	FD-100TI	Clover Mini	\$359.10	\$359.10
<b>PIN Pads</b>					
Acworth Municipal	3	FD-10 PP	FD-35	\$179.10	\$537.30
Adult Health	1	FD-10 PP	FD-35	\$179.10	\$179.10
Baldwin Co	5	FD-10 PP	FD-35	\$179.10	\$895.50
Bibb County Animal	1	FD-10 PP	FD-35	\$179.10	\$179.10
Child Health	3	FD-10 PP	FD-35	\$179.10	\$537.30
City of Acworth	1	FD-10 PP	FD-35	\$179.10	\$179.10
City of Baxley	1	FD-10 PP	FD-35	\$179.10	\$179.10
City of St. Mary's	2	FD-10 PP	FD-35	\$179.10	\$358.20
City Schools of Decatur	2	FD-10 PP	FD-35	\$179.10	\$358.20
Clifton Springs Hlth	1	FD-10 PP	FD-35	\$179.10	\$179.10
College Hts Early	1	FD-10 PP	FD-35	\$179.10	\$179.10
Countywide Services	1	FD-10 PP	FD-35	\$179.10	\$179.10
Dekalb County	2	FD-10 PP	FD-35	\$179.10	\$358.20
East Dekalb Hlth	1	FD-10 PP	FD-35	\$179.10	\$179.10
Glynn County Board	1	FD-10 PP	FD-35	\$179.10	\$179.10
John Bowens Sheriff	1	FD-10 PP	FD-35	\$179.10	\$179.10
Little Fishing Creek	1	FD-10 PP	FD-35	\$179.10	\$179.10
Police	1	FD-10 PP	FD-35	\$179.10	\$179.10
Rideshare Dept.	1	FD-10 PP	FD-35	\$179.10	\$179.10
Entity	Quantity	Current Terminal	Recommended Replacement	Cost per unit	Total
Sara Hightower	1	FD-10 PP	FD-35	\$179.10	\$179.10
Solid Waste Dept.	1	FD-10 PP	FD-35	\$179.10	\$179.10
St. Mary's Aquatic	4	FD-10 PP	FD-35	\$179.10	\$716.40
Terrel Co BOC	1	FD-10 PP	FD-35	\$179.10	\$179.10
Wiregrass	3	FD-10 PP	FD-35	\$179.10	\$537.30

Purchased Hardware	Number of Units	Cost Per Unit
<b>Terminals</b>		
• FD400 GT CDMA	14	\$656.10
• Clover Mini	255	\$359.10
• Clover Mini w/Keypad	3	\$699
• FD-130	31	\$449.10
Printers	N/A	N/A
Terminal/Printer	N/A	N/A
Pin/Pad		
• FD-35 PIN Pad	40	\$179.10
Keyboard Swipe	N/A	N/A

**Software Reprogramming Costs:**

No Cost

**Lease/Rental Equipment**

- Lease pricing is for 3 Years.

5 Year Lease is not available.

- Rentals are Month to Month

**DESCRIPTION**

DESCRIPTION	Lease	Rental
	Price/Month	Price/Month
FD130 DUO WiFi Terminal & FD 35 Pin Pad	\$29.29	\$68.95
FD130 WiFi Terminal	\$25.07	\$56.95
FD200 WiFi Terminal	\$28.24	\$66.95
FD35 Pin Pad with Countertop Stand	\$8.66	\$32.95
FD400GT CDMA Terminal*	\$43.07	\$80.95
FD410 Terminal*	\$43.07	\$80.95
Clover Mini Wifi/3G	\$18.30	na/
Clover Mini Ethernet/Wifi	\$16.97	n/a
Clover Mini Wifi/3G With Keypad	\$35.93	n/a
MagTek Mini Check Reader Micr 3800	\$8.48	n/a
Printer P8000S USB	\$13.41	n/a
MagTek Mini USB Card	\$8.48	\$32.95
FD-130 Duo	\$29.29	\$68.95
Clover Mobile Wifi/3G*	\$19.20	n/a
Clover Mobile Wifi/3G+Printer+Docking Stand*	\$26.21	n/a
Clover Station with cash drawer with FD40	\$59.93	\$94.95
Clover Station with cash drawer without FD40	\$49.93	79.95
Clover Go**	\$39.93	n/a

**DESCRIPTION**

DESCRIPTION	Purchase
	Price
FD130 DUO WiFi Terminal & FD 35 Pin Pad	\$570.60
FD130 WiFi Terminal	\$449.10
FD200 WiFi Terminal	\$561.60
FD35 Pin Pad with Countertop Stand	\$179.10
FD400GT CDMA Terminal*	\$656.10
FD410 Terminal*	\$656.10
Clover Mini Wifi/3G	\$381.60
Clover Mini Ethernet/Wifi	\$359.10
Clover Mini Wifi/3G With Keypad	\$699.00
FD35 PIN Pad	\$179.10
MagTek Mini Check Reader Micr 3800	\$215.10
Clover Cash Drawer	\$50.00
Printer P8000S USB	\$422.10
MagTek Mini USB Card	\$179.10
FD-130 Swivel Stand	n/a
FD-130 Duo	\$570.60
Clover Mobile Wifi/3G*	\$426.60
Clover Mobile Wifi/3G*+Printer+Docking Stand	\$642.60
Clover Station with cash drawer with FD40	\$1,199.00
Clover Station with cash drawer without FD40	\$999
Clover Go (350 model)**	\$39.99

Clover Go (457 NFC Model)**	\$80
Clover Flex*	\$649

\*\$15 monthly wireless access fee  
 \*\*\$4.95 monthly fee

	Saas Version	Monthly Fee
Clover Station	Classic/Register	\$29.95
Clover Mini Ethernet/Wifi	Payments Plus	\$0.00
	Register	\$29.95
Clover Mini Wifi/3G	Payments Plus	\$0.00
	Register	\$29.95
Clover Mobile Wifi/3G	Payments Plus	\$0.00
	Register	\$29.95

Note: Clover has TransArmor built-in so \$0.0141 per transaction fee applies on transactions processed through Clover devices.

**Equipment Maintenance/Repair**

1 year warranty on terminal purchases at no cost, then \$125.00 to replace equipment with like or newer model. Shipping fees apply. Leases and Rentals are under warranty for term of lease/rental. Same for 3 and 5 year pricing.

3. Please describe the cost structure of the gateway process the Bank employs to incorporate the processing of convenience fees, defining any cost to OST and user entities and the proposed division of any convenience fee imposed:

Convenience fee pricing is a "managed convenience fee model" where the fee covers all processing costs and page development and is passed to the customer. There is no cost to OST and user entities.

Average Ticket Size	Option 1 Convenience Fee %	Option 2 Convenience Fee \$
<\$100	5 year 3.25% - 3 year 3.50%	5 year \$3.25 - 3 year \$3.50
\$101-\$200	5 year 3.25% - 3 year 3.50%	5 year \$5.75 - 3 year \$6.00
\$201-\$300	5 year 3.15% - 3 year 3.25%	5 year - 3 year \$8.00
\$301-\$400	5 year 3.15% - 3 year 3.25%	5 year - 3 year \$12.00
\$401-\$500	5 year 2.75% - 3 year 2.75%	5 year - 3 year \$15.00
\$501-\$1000	5 year 2.75% - 3 year 2.75%	5 year - 3 year \$25.00
\$1001-\$2000	5 year 3.00% - 3 year 3.00%	5 year - 3 year \$50.00
\$2001- Over	5 year 3.25% - 3 year 3.25%	5 year - 3 year N/A

**Other Costs**

Terminal Injections:	3 year	5 year
• Injection (per debit injection)	\$12	\$12
• Application (per load)	\$12	\$12
• TransArmor Injection	\$29	\$29
<b>Token Conversion</b> Note: There was no mention of existing tokens in the RFQB. This would only apply if we have to convert any merchants from BAMS who are storing Tokens. We will need to convert those to Personal Account Numbers (PAN) and then back to a token.	\$0.07 per token	\$0.07 per token



#### SCHEDULE D

The following Addenda are included in Schedule D: PayPoint Addendum, Payeezy Addendum, TransArmor Addendum, Clover Go Addendum, Debit Addendum, Amex Opt Blue Addendum, Convenience Fee Addendum, Data File Manager Addendum, TeleCheck ECA Verification Addendum, TeleCheck ICA Warranty Addendum and Clover Services and Equipment. All of the Services under these Addenda are provided by SunTrust Merchant Services, LLC and/or its affiliates and not Bank. Pricing for the Services are set forth in Schedule C-7.

## PAYPOINT ADDENDUM

1. **PayPoint Services.** As an additional Service, Processor, through one or more of its affiliates or other subcontractors, will provide Merchant with a payment administration solution that will allow Merchant to manage payment and payment transaction data ("PayPoint Services") using an internet based gateway ("PayPoint Gateway") described herein.

(a) The PayPoint Services will enable Merchant to submit payment instructions initiated by their consumers ("Consumers") to Processor using the following payment channels: web based applications, interactive voice response ("IVR"), customer representative assisted calls, point-of-sale devices, payment kiosk or Consumer walk-in. The PayPoint Services will enable Merchant to: (i) consolidate payment output files utilizing the PayPoint posting file(s); (ii) review payment reporting; (iii) perform detailed payment research related to status, date tracking, time tracking and successful or negative payment results; (iv) review payment authorization and return processing information; (v) perform payment void and refund processing; (vi) track payment chargeback and settlement activity; (vii) apply notes to specific payments or transactions; (viii) process ad hoc payments; (ix) access and manage multiple individual Consumer accounts; and (x) add certain personalization (Merchant specific logo, color theme and/or text) to the Consumer Payment solution (if applicable).

(b) The PayPoint Services will support multiple payment types, including Card payments and electronic check ("eCheck") payments and other Automated Clearing House ("ACH") payments (collectively, "Payments"). The PayPoint Services will support Card Payments initiated by Consumers and processed using American Express Card, Discover Card, MasterCard Card, or VISA Card as well as other Card Payments that Processor identifies from time-to-time. The PayPoint Services will support eCheck Payments initiated by Consumers and submitted by Merchant for processing by Processor using the ACH system. The PayPoint Services supports the following ACH Payment entry classes: TEL, WEB, CCD and PPD, as defined by the National Automated Clearing House Association ("NACHA") Operating Rules and Guidelines (collectively, the "Rules"). **To accept eCheck payments using TeleCheck premium services, including Verification, the Merchant must have a separate agreement with TeleCheck. To accept debit card or credit card payments, the Merchant must have a separate merchant agreement that includes card processing.**

(c) Processor will fully host the PayPoint Services. In addition, if selected by Merchant, the PayPoint Solution will provide Merchant with a front-end solution ("Consumer Payments") that includes a ready-made website and/or IVR that can be personalized and a toolkit for Merchant to manage the web-site personalization, branding the consumer payments site with Merchant's trademark and logo provided by Merchant. Merchant shall integrate to the PayPoint Solution via (i) real time integration of Merchant front end website with the PayPoint application programming interface; (ii) xml batch integration; or (iii) the Consumer Payments solution. Prior to the implementation of the PayPoint Gateway for Merchant, and upon request from Processor at any time during Merchant's use of the PayPoint Gateway, Merchant will complete any requested documentation and provide any requested information regarding Merchant's use of the PayPoint Gateway. Processor will have the right to reasonably audit Merchant's use of the PayPoint Gateway at any time while Merchant is utilizing the PayPoint Gateway. Merchant will maintain a copy of each Merchant's authorization for the longer of (i) 2 years, or (ii) the period of time required by the Rules. Merchant will provide Processor with legible copies of the authorizations within seven (7) days of Processor's request for them.

(d) Merchant will submit all Payments initiated by Consumers using the PayPoint Services and Processor's System. Merchant will provide all transaction data, personal information, related information and instructions (collectively "Payment Data") necessary for Processor to perform the Services. Merchant will be the "Originator" (as defined in the Rules) of any ACH Payments that Merchant submits for processing under this Agreement and shall have all responsibilities and liabilities of an Originator under the Rules and Card association rules for such ACH Payments. Processor will be a "Third-Party Sender" (as defined in the Rules) with respect to such ACH Payments and shall have all of the responsibilities and liabilities of a Third Party Sender under the Rules with respect to such ACH Payments. Merchant will comply with all applicable Rules and will not originate transactions in violation of any applicable law. Merchant will not itself act as a Third-Party Sender on behalf of any other Originator under this Agreement without Processor's prior written consent. Processor may withhold its consent for any reason, including if the Originating Depository Financial Institution ("ODFI") (as defined in the Rules) utilized by Processor does not provide consent to Processor. Processor will facilitate processing ACH Payments submitted by Merchant by transmitting ACH files to one or more ODFIs that has agreed to originate ACH Payments for Processor's Originators. Merchant authorizes Processor and its ODFI to originate entries on behalf of Merchant to the accounts designated in the Payment Data. Merchant will be fully responsible and liable for the amount of any ACH Payments that are returned or reversed for any reason, including non-sufficient funds. If Merchant assesses and collects convenience fees, Merchant shall be solely responsible for complying with the Card association rules and Rules related to convenience fees. Processor may deduct or offset Returns or Reversals (as each is defined in the Rules) against amounts to be paid Merchant hereunder for transactions or, alternatively Processor may initiate ACH debits to Merchant's account for all such Returns or Reversals. Merchant assumes all responsibilities and liabilities under applicable association rules or regulations related to processing Card Payments of its users. Merchant represents and warrants that all Payments that its submits to Processor have been validly authorized in accordance with applicable law and the applicable Rules or the applicable card association rules and regulations for any Card Payments. **MERCHANT WILL BE SOLELY RESPONSIBLE FOR ENSURING THE VALIDITY, ACCURACY AND COMPLETENESS OF ALL PAYMENT DATA. PROCESSOR WILL RELY UPON AND USE PAYMENT DATA SUBMITTED BY MERCHANT WITHOUT FURTHER VERIFICATION IN ORDER TO PROVIDE THE SERVICES.** Merchant will be liable for any fees and fines (including fees and fines incurred by Processor) that result from inaccurate, incomplete or untimely Payment Data. Processor will have no responsibility or liability for any error, omission, delay, failure to meet any processing timelines or accurately perform any of its PayPoint Services due to Merchant (or its Consumers) submitting inaccurate, incomplete or untimely Payment Data, or failing to perform its settlement obligations.

(e) If Processor consents in writing to Merchant, itself, acting as a Third Party Sender on behalf of any other Originator under this Agreement, Merchant will (i) flow down all terms and conditions required by the Rules, including the applicable terms of Section (d) above, to the Originator, (ii) flow down Processor's right to audit the Originator's use of the PayPoint Gateway as described in Section (c) above, (iii) flow down to the Originator the obligation to complete any documentation and provide any information requested by Processor regarding its use of the PayPoint Gateway as described in Section (c) above, and (iv) shall have all of the responsibilities and liabilities of a Third-Party Sender under the Rules with respect to such ACH Payments. Processor may terminate or suspend Merchant's ability to originate ACH Payments upon notice to Merchant if Merchant has violated the Rules.

(f) Convenience Fee Support is available through the PayPoint Services where an additional processing fee can be charged along with the primary payment. The PayPoint Services do not process settlement of convenience fees. Rather, the PayPoint Services enable tracking and management of convenience fee data submitted with other payment data received from Merchant that assesses and collects convenience fees. Accordingly, if Merchant assesses and collects convenience fees through the PayPoint Services, Merchant shall be solely responsible for complying with the card association and NACHA rules related to convenience fees.

(g) The PayPoint Services **do not** include the following: (i) processing or management of TeleCheck® agreements for eCheck payments; (ii) processing or management of merchant acquiring agreements for credit and/or debit card payments; (iii) custom development by Processor (if Merchant requires custom development, the effort will be separately scoped and quoted); or (iv) providing support directly to Consumers.

**2. Payment for PayPoint Services.** See Schedule C-7

**3. Representations and Warranties.** Merchant and Processor each represent and warrant: (i) they have corporate authority to execute this PayPoint Addendum; (ii) executing this PayPoint Addendum does not constitute a material conflict with, breach or default under any applicable law, their respective charter or bylaws, or any documents, agreements or other instruments which are binding upon the parties; and (iii) this PayPoint Addendum creates valid, legal and binding obligations that are enforceable against the parties. Further, Merchant represents and warrants that it owns the Merchant Logo.

**4. Intellectual Property.** This PayPoint Addendum does not grant Merchant with any right, title, interest, license (express or implied) to any patent, trademark, service mark, copyright, trade secret or proprietary right associated with the PayPoint Gateway, Processor System, applications or business methods required or provided in connection with the PayPoint Services.

**5. Processor System.** Processor may update or alter the logical, physical or archival structure or organization of the Processor System, including any applications, databases, files, documentation or other information used to provide the PayPoint Services, from time to time in its sole discretion. Processor will conduct regular maintenance on the Processor System during designated time periods ("Scheduled Maintenance Windows") during which it may limit or suspend the PayPoint Services. Scheduled Maintenance Windows may be modified by Processor from time to time during the Term upon prior written notice to Merchant. Processor will make commercially reasonable efforts to notify Merchant prior to performing any maintenance that will interrupt the PayPoint Services; provided, however, Processor may perform any emergency or other maintenance necessary to ensure the safety, security or stability of the Processor System at any time without prior notice to Merchant. The Processor System will be accessible 99.7% of the time each calendar month, excluding Scheduled Maintenance Windows.

**6. Conflict with Merchant Agreement.** This PayPoint Addendum shall supplement the provisions of the Merchant Agreement set forth herein and all of the terms, conditions and provisions of the Merchant Agreement shall not be modified or amended hereby and shall continue in full force and effect. In the event of any conflict between this PayPoint Addendum and the Merchant Agreement, the terms of the PayPoint Addendum shall govern.

**FIRST DATA PAYEEZY<sup>SM</sup> GATEWAY SERVICE ADDENDUM  
TO MASTER SERVICES AGREEMENT**

In consideration of the mutual promises and covenants hereinafter contained in this Addendum, the parties hereby agree as follows:

1. **Term; Termination; Pricing.**
- 1.1 **Term and Termination.** This Addendum shall commence as of the Effective Date and shall remain in effect until terminated by either party as provided herein. Either party may terminate this Addendum upon giving the other party at least thirty (30) days prior written notice of its intention to terminate this Addendum.
- 1.2 **Pricing for Payeezy Gateway Services.** See Schedule C-7.
- 1.3 **Amendment.** Notwithstanding any other provision of this Addendum, we reserve the right to amend, at our discretion, the terms and conditions herein, including, without limitation, any Exhibit/Annex, and/or pricing and fees, by providing you notice thereof. Such amendments shall be effective thirty (30) days from the date notice is sent to you.
2. **License Grant**
- 2.1 **License.** Subject to the terms and conditions of this Addendum (including additional rights and licenses granted in the Documentation and/or an Exhibit to this Addendum), we hereby grant you and you hereby accept a nonsublicensable, royalty free, non-exclusive, nontransferable, revocable limited license to use the Services, during the term of this Addendum for the sole and limited purpose of submitting payment transactions to us for processing and otherwise using our Services as set forth herein. For clarity, all references to Services in this Addendum shall include the applicable Software.
- 2.2 **Documentation License.** Subject to the terms and conditions of this Addendum, we hereby grant, and you hereby accept, a nonsublicensable, royalty free, non-exclusive, non-transferable, revocable limited license to use the Documentation (defined in Annex I) during the term of this Addendum for the sole and limited purpose of supporting your use of the Services. You shall strictly follow all Documentation provided to you, as it may be amended from time to time by us, in our discretion. To the extent that there is any conflict between the Documentation and the terms of Addendum, the terms of this Addendum shall govern and control.
- 2.3 **Use Restrictions.** You acknowledge that the Services and Documentation constitute our intellectual property, therefore, you shall not, and shall not cause or permit any third party to: (i) use the Services in any way, other than in accordance with this Addendum or the Documentation or as otherwise instructed by us in writing; (ii) use the Services or Documentation, either directly or indirectly, for benchmarking purposes or to develop any product or service that competes with the products and services provided under this Addendum; (iii) disassemble, decompile, decrypt, extract, reverse engineer or modify the Services, or otherwise apply any procedure or process to the Services in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for the Services or any algorithm, process, procedure or other information contained in the Services, except as otherwise specifically authorized in accordance with this Addendum; (iv) provide the Services or Documentation to any third party, other than to your authorized employees and contractors who are subject to a written confidentiality agreement, the terms of which are no less restrictive than the confidentiality provisions of the Agreement; (v) use, modify, adapt, reformat, copy or reproduce the Services or Documentation or any portion thereof, except as is incidental to the purposes of this Addendum, or for archival purposes (any copies made hereunder shall contain all appropriate proprietary notices); (vi) rent, lease, upload, assign, sublicense, transfer, distribute, allow access to, or time share the Services or Documentation; (vii) circumvent or attempt to circumvent any applicable security measures of the Services; (viii) attempt to access or actually access portions of the Platform or Services not authorized for your use; and/or (ix) use the Services in any unlawful manner or for any unlawful purpose.
- 2.4 **Updates.** From time to time we may, at our discretion, release Updates, or modify the Software. In the event we notify you of any such Update, you shall integrate and install such Update into Your Systems within thirty (30) days of your receipt of such notice. You acknowledge that failure to install Updates in a timely fashion may impair the functionality of the Platform or any of our Services provided hereunder. We will have no liability for your failure to properly install the most current version of the Software or any Update, and we will have no obligation to provide support or Services for any outdated versions.
- 2.5 **Licensors.** The licenses granted hereunder may be subject to other licenses currently held by us or our subcontractors. Should any license held by us to certain technology or software be terminated or suspended, the corresponding license(s) granted to you hereunder may also be terminated or suspended in our sole and absolute discretion. You acknowledge and agree to such potential termination or suspension and hereby waive any and all damages, whether actual, incidental or consequential resulting therefrom.
- 2.6 **Export Compliance.** You agree not to export or re-export the Software or any underlying information or technology except in full compliance with all applicable laws and regulations. In particular, but without limitation, none of the Software or underlying information or technology may be downloaded or otherwise exported or re-exported (i) to any country to which the United States has embargoed goods (or any national or resident thereof); (ii) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders; or (iii) in any manner not in full compliance with the requirements of the United States Bureau of Industry and Security and all applicable Export Administration Regulations. If you have rightfully obtained the Software outside of the United States, you agree not to re-export the Software except as permitted by the laws and regulations of the United States and the laws and regulations of the jurisdiction in which you obtained the Software. You warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.
- 2.7 **Federal Acquisition Regulations.** If you are acquiring the Software on behalf of any part of the United States Government (the "Government"), the following provisions apply: Any use, duplication, or disclosure by the Government is

subject to the restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. We are the contractor/manufacturer, with the address set forth below. Any use, modification, reproduction, release, performance, display or disclosure of the Software and/or the accompanying documentation by the Government or any of its agencies shall be governed solely by the terms of this Addendum and shall be prohibited except to the extent expressly permitted by the terms of this Addendum.

2.8 **Return/Destruction.** Upon termination or expiration of this Addendum, all licenses granted hereunder shall immediately terminate, and within five (5) days thereof, you shall either return to us or destroy the Software and the Documentation, and shall so certify to us in writing.

2.9 **No other Licenses.** Except as expressly provided above, no license for any patents, copyrights, trademarks, trade secrets or any other Intellectual Property Rights, express or implied, are granted hereunder.

### 3. Platform Matters

3.1 **Integration with Your Systems.** While we provide Software to you, you acknowledge that the Software itself is insufficient to allow Your Systems to function with the Platform. Programming, development and maintenance of Your Systems and their functionality are your sole responsibility. You have the sole responsibility to select and employ any competent programming agent(s) to accomplish the programming required to make Your Systems function correctly with the Platform and the payment services contemplated hereunder ("Integration"). You shall be responsible for all technical support for Your Systems and Integration related issues. You agree that you will use commercially reasonable efforts to complete the Integration as soon as possible. You will be responsible for all of your own development and implementation costs associated with such Integration. Notwithstanding any other provision of this Addendum, you acknowledge that unless and until you complete the Integration, no Services need be provided by us to you pursuant to this Addendum, except as otherwise specifically provided in Section 3.2 below. In addition, you acknowledge and agree that, even if you have completed Integration, if you have not entered into a valid merchant processing agreement with an authorized bank card processor, you cannot receive the Services through the Platform.

3.2 **Set-Up Assistance Services.** Subject to Section 3.1 above, upon your request to us, and upon payment of any applicable Fees, we will provide you with PROVIDER personnel to assist with the Integration.

3.3 **Shut Downs.** We reserve the right, from time to time, without prior notice, to shut down and restart the Platform for maintenance and/or software upgrades for reasonable time periods of one minute or more.

3.4 **Orders by Customers.** You are solely responsible for accepting, processing, and filling any orders for purchases by your Customers, and for handling any inquiries arising therefrom. You shall use the highest standards in the industry in responding to complaints by Customers. We are not responsible or liable for any unauthorized access to your data or Your Systems by any means or device.

3.5 **Suspension of Access to the Platform and Services.** We may suspend your access to the Platform and Services, without prior notice, with cause. For purposes of this Addendum the term "cause", in addition to cause as defined under the Agreement, shall mean that significant activity by you has been detected (which excludes a high volume of transactions) or the security or integrity of the Platform is materially compromised. We will make commercially reasonable efforts to provide prior notification to you of any such proposed suspension and provide you with a reasonable opportunity to cure, provided just you (and no other user) are affected, and provided such cure is allowed by the applicable law or the Card Organization Rules. If prior notification to you is not possible because such significant activity or security issue would materially and adversely affect other users of the Platform and Services, then we will provide notice of such suspension as promptly as possible thereafter with detailed information regarding the suspected fraudulent activity or security issue, as well as any other information that can assist you with identifying the root cause of the problem responsible for such suspension. Upon a determination by us that you are not responsible for the fraudulent activity or security issue resulting in the suspension or any security threat as abated, the Services and your license to the Software shall be promptly re-activated and the Services under this Addendum shall recommence. Regardless of the reason for such suspension, you shall be responsible for the payment of all fees due up to and including the effective date of the suspension.

4. **Security of Information.** We will use commercially reasonable efforts to maintain the security of the Services and the Platform. You will use commercially reasonable efforts to maintain the security of Your Systems. Such steps by you will be taken at your sole cost and expense, and shall include, without limitation: (i) creating firewalls to protect against unauthorized access to Your Systems by your employees, contractors, Customers, or by any other person; and (ii) implementing reasonable protective techniques suggested by us. You further agree that you will be bound by and comply with all of our and all Card Organization security rules and regulations as they now exist or as each may be amended or supplemented from time to time. Notwithstanding the foregoing, the parties recognize that there is no guarantee or absolute security of information that is communicated over the internet.

5. **Privacy.** We have adopted online Privacy Statement(s) to inform individuals as to our online collection and use of personal information. You agree that, during the term of this Addendum, you will adequately communicate and comply with an appropriate privacy policy explaining your online collection and use of the personal information of your Customers.

### 6. Limitation of Liability.

6.1 **General Limitation.** In addition to limitation of liability set forth in the Agreement, we are not liable for your use or misuse of the Services including the merit and legitimacy of the orders forwarded by you. All liability for validity of orders remains with you. We are not responsible for any data entry errors, Customer misrepresentations, or reporting errors resulting from your actions.

6.2 **Other Damages.** In addition to the limitation of liability provisions set forth herein and in the Agreement, we will not be liable for any Claims under this Addendum arising directly or indirectly from or otherwise concerning: (a) any termination, suspension, delay or disruption of service (including billing for a service) by the internet, any common carrier or any third

party service provider; (b) any failure, disruption or malfunction of the Services, the internet, or any communications network, facility or equipment beyond our reasonable control, whether or not attributable to one or more common carriers or third party service providers; (c) any failed attempts by you or your Customers to access any Systems or to complete processing transactions; (d) any failure to transmit, obtain or collect data from Customers; (e) human, machine or software errors or faulty input or your or your Customer's erroneous input. Except as expressly agreed to by us in writing with respect to any Separate Product, we are not liable for any Excluded Products.

7. **Subcontractors.** PROVIDER may subcontract all or part of the Services using a variety of providers globally, but, notwithstanding any such subcontract, PROVIDER shall remain fully responsible for performance of the Services, including ensuring the compliance of subcontractors with the terms of this Agreement applicable to such subcontractors.
8. **Survival.** Upon termination or expiration of this Addendum, a party's obligations shall cease except for those remaining or required to be performed following such termination. For the avoidance of doubt, the Definitions and the provisions of Sections 2.5, 2.7, 2.10, 3, 4, 5 and 6 shall survive the termination or expiration of this Addendum. All representations, warranties, indemnities and covenants made herein shall survive the termination of this Addendum and shall remain enforceable after such termination.

## ANNEX 1 – DEFINITIONS

As used herein, the following definitions apply:

**"Claim"** means any arbitration award, assessment, charge, citation, claim, damage, demand, directive, expense, fine, interest, joint or several liability, lawsuit or other litigation, notice, infringement or misappropriation of any Intellectual Property Right or violation of any law, and any consequential, indirect, special, incidental or punitive damages and any attorney's fees and expenses incurred in connection therewith. For purposes of the foregoing Claim definition, a Claim shall be considered to exist even though it may be conditional, contingent, indirect, potential, secondary, unaccrued, unasserted, unknown, unliquidated, or unmaturing.

**"Customer"** means your customer who would like to provide payment for your goods or services.

**"Documentation"** means any and all manuals and other written materials in any form provided for use with the Software, as amended by us from time to time, the terms of which are incorporated in this Addendum as if fully set forth herein.

**"Intellectual Property Rights"** means any and all patents, copyrights, trademarks, trade secrets, service marks, and any other intellectual property rights, and any applications for any of the foregoing, in all countries in the world.

**"Merchant Account"** shall mean an account set up for a merchant that requires a card processor, bank, merchant ID, terminal ID, merchant account number, or otherwise named unique merchant number. Multiple physical or virtual storefronts that process transactions under the same unique merchant number shall be deemed as one (1) Merchant Account.

**"Payeezy Gateway Services or Services"** means the payment processing services offered through the Platform (including, but not limited to authorization of transactions, routing transactions to the appropriate payment processing network or third party service provider, transaction responses (approved, declined), and the detailed reporting of those transactions) and related Software, as applicable. Payeezy Gateway Services do not include alternative payment products or services that are supported by or may be accessed through the Platform and with respect to which you enter into an agreement: (i) with us (which agreement may consist of an amendment to this Agreement or specific terms in this Agreement expressly covering such alternative payment products or services) (such alternative payment products or services, **"Separate Products"**), or (ii) a third party service provider (e.g., PayPal) regarding your participation in such alternative payment products or services (together with Separate Products, the **"Excluded Products"**).

**"Platform"** means our operated, or approved, electronic payment platform(s) and/or gateway(s) (also referred to as the **"Payeezy Gateway"**) through which the Services contemplated under this Addendum are provided.

**"Software"** means all applications, protocols, software components and other interfaces and software provided by us to you pursuant to this Addendum, and any and all Updates.

**"Your Systems"** means any web site(s) or interface(s) to the Services that are operated or maintained by you or on your behalf through which transactions are submitted for processing, and all your other associated systems.

**"Updates"** means an embodiment of the Software that provides enhancements and/or improvements.

**EXHIBIT A**

**DESCRIPTION OF FIRST DATA PAYEEZY GATEWAY SERVICES**

<b>General Description of First Data Payeezy Gateway Services</b>	
Payeezy Gateway:	The Payeezy Gateway is a messenger that sends information between the consumer, the merchant, the acquirer, and the consumer's bank. The components within the Payeezy Gateway offering are described in (i) through (iii).
(i) Web Services Application Programming Interface ("API"):	The API is a web service that allows third-party applications to process transactions through the Payeezy Gateway. A range of processing scenarios (purchase, refund, pre-authorization, etc.) enables ways to implement custom business logic. PROVIDER also provides SDKs and client libraries that assist the integration with API. The API is available in both SOAP and REST, where the latter supports XML and JSON message formats. The same range of transaction processing scenarios are supported regardless of the API style.
(ii) Payment Pages	<p>A Payment Page is a securely hosted web payment form designed to accept internet-based eCommerce transactions. Payment Pages provide access to an expanding toolkit of payment options and fraud prevention tools without the need for additional development. Payment Pages redirect the customer to a payment form hosted by the Payeezy Gateway. To accomplish this the merchant displays a "Checkout" button within an HTML form on their website that will submit a POST request to the following URL:</p> <p><a href="https://checkout.globalgateway4.firstdata.com/payment">https://checkout.globalgateway4.firstdata.com/payment</a></p> <p>Within the parameters of this HTML form, the merchant specifies the location of the Payment Page along with payment details and authentication information.</p> <ul style="list-style-type: none"> <li>The appearance and payment options displayed on the payment form are configured through an online management interface available to all Payeezy Gateway merchants.</li> </ul>
(iii) Realtime Payment Manager ("RPM"):	<ul style="list-style-type: none"> <li>RPM is a hosted application able to turn any internet connected PC into a point of sale (POS) device. RPM also allows a merchant to monitor and manage its accounts. RPM is internet-based and requires no installation of software.</li> <li>RPM gives merchants the ability to process Retail and MO/TO payments using any internet connected PC and a standard web browser.</li> <li>Once a merchant is logged into RPM, orders can be input by an employee in a MO/TO, call center or back office environment or cards can be swiped in a retail, POS environment.</li> <li>A receipt is then provided and can be printed or emailed to the cardholder.</li> <li>RPM is the merchant's central administrative tool for their Payeezy Gateway account. User administration, gateway reporting, and Hosted Payment Page configuration are all accessed through RPM.</li> </ul>
(iv) Pricing:	<ul style="list-style-type: none"> <li>Monthly access fee to all the Services provided by product variation of choice.</li> <li>Setup fee – one time charge to set up the MID to access all the services provided by product variation of choice.</li> <li>Transaction fee – fee per each transaction processed through the gateway.</li> </ul>



**TRANSARMOR<sup>SM</sup> SERVICE ADDENDUM TO  
MASTER SERVICES AGREEMENT ("MSA")**

The TransArmor Service provided, transactions processed and other matters contemplated under this Addendum are subject to the MSA, as applicable, except to the extent the terms of this Addendum directly conflict with another provision the MSA, in which case the terms of this Addendum will control.

1. **Definitions.** Capitalized terms used and defined herein shall have the meanings given to such terms as set forth in this Addendum. If not defined herein, capitalized terms shall have the meanings given to such terms in Annex 1 of the MSA.

"Legacy Data Conversion" means that process by which historical information containing primary account numbers (PAN) from transactions completed by CUSTOMER prior to implementation of TransArmor will be delivered to PROVIDER by CUSTOMER and converted to information containing a Token.

"Registered PAN" is defined as the process of creating a CUSTOMER specific Token for a PAN.

"Multi-Pay Token" shall mean CUSTOMER's specific alpha-numeric value that is: (i) randomly generated when a Card number is requested to be registered by CUSTOMER as CUSTOMER's specific Token upon receipt of Cardholder approval to register the Card number; (ii) becomes associated with CUSTOMER and the Card within PROVIDER and its Affiliates' systems; (iii) can be stored by CUSTOMER in CUSTOMER's systems in lieu of the Card number to represent the Card number; (iv) can be used to initiate a Transaction submitted by CUSTOMER that registered the Token for authorization processing for Cardholder initiated or recurring payments; (v) may be retrieved by CUSTOMER or its Affiliates within their systems in connection with processing future Transactions involving the same Card number or Registered Token when submitted by CUSTOMER for authorization processing; and (vi) is returned to CUSTOMER from PROVIDER or its Affiliates' systems as part of the Register PAN response and/or authorization response.

"Token" means an alpha-numeric value that: (i) is randomly generated when a Card number used in a Transaction is initially submitted by CUSTOMER for authorization processing; (ii) becomes associated with the Card within PROVIDER and its Affiliates' systems; (iii) may not be retrieved by PROVIDER or its Affiliates within their systems in connection with processing future Transactions involving the same Card number when submitted by CUSTOMER for authorization processing; and (iv) is returned to CUSTOMER from PROVIDER or its Affiliates' systems as part of the authorization response.

"Token Request" shall mean CUSTOMER's ability to obtain a Multi-Pay Token for credit card information only without an immediate authorization required which permits CUSTOMER to store a Multi-Pay Token for future transactions involving its customer.

"TransArmor Service" means those services described in Section 3 and may be either TransArmor VeriFone Edition Service or TransArmor Base Service as selected by CUSTOMER in Section 3.

2. **Grant of License.** PROVIDER grants to CUSTOMER a non-transferable, non-assignable, non-exclusive, revocable sublicense during the term of this Addendum to use the TransArmor Service and the TransArmor Service Marks in accordance with this Addendum, including without limitation the TransArmor Rules and Procedures. Any rights with respect to the TransArmor Service not expressly granted by PROVIDER in this Addendum are deemed withheld.

3. **Services.** The TransArmor Service applies only to Card transactions sent from CUSTOMER to PROVIDER for authorization and interchange settlement pursuant to the MSA, and specifically excludes electronic check transactions, STAR contactless transactions read in contactless mode, Wright Express Transactions, Voyager Transactions, and other Card types that are not capable of being Tokenized. PROVIDER and CUSTOMER may agree to include additional transaction types in the TransArmor Service when made available by PROVIDER. PROVIDER will provide an encryption key or other encryption capability to CUSTOMER to be used to encrypt (make unreadable) Card data during transport of the authorization request from CUSTOMER's point of sale to PROVIDER's systems. During the period when the transaction is being transmitted to PROVIDER for authorization processing, card number and full magnetic stripe data (track data and expiration date), will be encrypted. PROVIDER will then generate or retrieve a unique, randomly generated Token or Multi-Pay Token assigned to the Card number that will be returned to CUSTOMER in the authorization response. CUSTOMER acknowledges that should they make the business decision to enter Card data into a point of sale device not capable of supporting the TransArmor Service, any such Card data will not be encrypted during the period when the transaction is being transmitted to PROVIDER for authorization processing. CUSTOMER further acknowledges that unencrypted Card data is not protected in the event it is stolen from Customer and assumes the risk associated with their business decision.

CUSTOMER selects the following TransArmor Service:

- o TransArmor VeriFone Edition. This service option is limited to those CUSTOMERS which have an eligible VeriFone point of sale ("POS") devices and desire the software or hardware based encryption and tokenization to be activated through the VeriFone device.
- o TransArmor Base Service. This service option provides software based encryption and tokenization that is available to all Customers to integrate into their POS or the point of sale device, if available.

4. **TransArmor Rules & Procedures.** CUSTOMER acknowledges that it has received the TransArmor Rules & Procedures (a current version of which is attached hereto as Exhibit I), the terms of which are incorporated into Addendum. CUSTOMER agrees to follow the procedures in the TransArmor Rules & Procedures in connection with the TransArmor Service. From time to time, we may change the TransArmor Rules & Procedures, in whole or in part, and with at least thirty (30) days' prior written notice of the change.

5. **Responsibilities of CUSTOMER.** CUSTOMER is responsible to comply with the following regarding CUSTOMER's

use of the TransArmor Service:

- a. CUSTOMER is required to comply with the Association Rules, including taking all steps required to comply with the Payment Card Industry Data Security Standards (PCI DSS). Use of the TransArmor Service will not, on its own, cause CUSTOMER to be compliant or eliminate CUSTOMER'S obligation to comply with PCI DSS or any other Association Rule. CUSTOMER must demonstrate and maintain 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 CUSTOMER's business, ensure passing quarterly network scans performed by an Approved Scan Vendor, all in accordance with Association Rules and PCI DSS.
- b. Use of the TransArmor Service is not a guarantee against an unauthorized breach of CUSTOMER's point of sale systems or any facility where CUSTOMER processes and/or stores transaction data (collectively, "CUSTOMER Systems").
- c. CUSTOMER has no right, title or interest in or to the TransArmor Service, any related software, materials or documentation, or any derivative works thereof, and nothing in this Addendum assigns or transfers any such right, title or interest to CUSTOMER. CUSTOMER shall not take any action inconsistent with the stated title and ownership in this Addendum. CUSTOMER will not file any action, in any forum that challenges the ownership of the TransArmor Service, any related software, materials or documentation. Failure to comply with this provision will constitute a material breach of this Addendum. We have the right to immediately terminate this Addendum and CUSTOMER's access to and use of the TransArmor Service in the event of a challenge by CUSTOMER. No additional rights are granted by implication, estoppel or otherwise.
- d. CUSTOMER will not: (i) distribute, lease, license, sublicense or otherwise disseminate the TransArmor 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 TransArmor Service or any portion of it; or (iii) sell, license or otherwise distribute the TransArmor Service or any portion of it; (iv) make any copies, or permit any copying, of the TransArmor Service or any portion of it; or (v) use any portion of the TransArmor Service as a standalone program or in any way independently from the TransArmor Service. If any portion of the TransArmor Service contains any copyright notice or any other legend denoting the proprietary interest of PROVIDER or any third party, CUSTOMER will not remove, alter, modify, relocate or erase such notice or legend on such item.
- e. CUSTOMER will promptly notify PROVIDER of a breach of any terms of this Addendum.

**6. Term; Amendment; Termination.** The TransArmor Service being provided under this Addendum is coterminous with the MSA.

Unless prohibited by applicable law, PROVIDER may modify this Addendum by providing written notice of such modifications to CUSTOMER. CUSTOMER may choose not to accept the requirements of any such modifications by notifying PROVIDER in writing within thirty (30) days after receiving such notice that CUSTOMER is terminating the TransArmor Service provided under this Addendum.

In addition to any termination rights in the MSA, PROVIDER may terminate this Addendum immediately if CUSTOMER'S material breach of the terms contained in this Addendum remains uncured for ten days following CUSTOMER's receipt of written notice of such breach from PROVIDER.

**7. Fees.** See Schedule C-7.

**8. TransArmor Limited Warranty.** PROVIDER warrants that the Token or Multi-Pay Token, as applicable, returned to CUSTOMER, as a result of using the TransArmor Service, cannot be used to initiate a financial sale transaction by an unauthorized entity/person outside the CUSTOMER Systems. This warranty by PROVIDER is referred to herein as the "Limited Warranty" and is subject to the terms and conditions set forth in this Addendum. To be eligible for the Limited Warranty, CUSTOMER must maintain a processing relationship with PROVIDER and be in compliance with all the terms of the MSA, including this Addendum, and any other agreement relating to Transaction Cards eligible for the TransArmor Service; provided that such compliance by CUSTOMER directly or indirectly impacts the security of the Tokens or Multi-Pay Tokens, as applicable. Subject to the terms, conditions and limitations set forth in the MSA, including the limitation of liability provisions, PROVIDER agrees to indemnify and hold CUSTOMER harmless from direct damages, including third party claims, resulting from PROVIDER's breach of the Limited Warranty. The express remedy for PROVIDER's breach of the Limited Warranty set forth in this paragraph constitutes PROVIDER's entire liability and CUSTOMER's sole and exclusive remedy for PROVIDER's breach of the Limited Warranty. The Limited Warranty is void if (i) CUSTOMER uses the TransArmor Service in a manner not contemplated by, or in violation of, the MSA, including this Addendum, or any other agreement relating to Transaction Cards eligible for the TransArmor Service or (ii) CUSTOMER is grossly negligent or engages in intentional misconduct.

## Exhibit I

### TransArmor Rules and Procedures

1. CUSTOMER must ensure that all third parties and software used by CUSTOMER in connection with CUSTOMER'S payment card processing are compliant with PCI DSS.
2. CUSTOMER must deploy the TransArmor Service (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout CUSTOMER'S Systems including replacing existing Card numbers on CUSTOMER'S Systems with Tokens or Multi-Pay Tokens, as applicable. Full Card numbers must never be retained, whether in electronic form or hard copy.
3. CUSTOMER must use the Token or Multi-Pay Token, as applicable, 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.
4. Any point of sale device, gateway and/or value-added reseller used by CUSTOMER in connection with the TransArmor Service must be certified by PROVIDER for use with the TransArmor Service.
5. If CUSTOMER sends batch files containing completed Card transaction information to/from PROVIDER, CUSTOMER must utilize the service provided by PROVIDER to enable such files to contain only Tokens or Multi-Pay Tokens, as applicable, or truncated information.
6. CUSTOMER must utilize truncated report viewing and data extract creation within reporting tools provided by PROVIDER.
7. CUSTOMER will only use the TransArmor Service for CUSTOMER'S internal business purposes in a manner consistent with this Agreement.
8. CUSTOMER will use only unaltered version(s) of the TransArmor Service and will not use, operate or combine the TransArmor 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 Addendum.
9. CUSTOMER must obtain a Cardholder's written or electronic consent to store a Multi-Pay Token to represent such Cardholder's Card number for future purchases.
10. CUSTOMER must store the Multi-Pay Token in its CUSTOMER systems in lieu of the Card number for all Cardholder profile records.
11. CUSTOMER must require Cardholders to log into their Cardholder profile in order to initiate a Transaction with the Registered Token. This login must require two factors authentication, such as a User ID and password.
12. If CUSTOMER ceases a processing relationship, then CUSTOMER must permanently delete all Tokens or Multi-Pay Tokens, as applicable, contemplated under this Addendum from all CUSTOMER systems no later than ninety (90) days after the termination or expiration of the processing relationship.

## To Bankcard Addendum To Master Services Agreement

### Clover® Go Addendum

**1. Service Description.** The Clover Go Service enables you to: (a) accept card-based payments using (i) a smart phone or other supported mobile device that you or your Users provide ("Your Device"), (ii) an approved card reader you obtain from us ("Clover Go Reader"), and (iii) an application ("Clover Go App") that you download from a supported application distributor; and (b) provide your customers with an electronic receipt via text or e-mail (paper receipts are not supported). In addition, you will receive access to the website located at [www.clover.com](http://www.clover.com) ("Clover Go Website") which, via a web dashboard, provides you with ancillary payments management, reporting, and other tools that can be used in connection with the mobile payments you accept using the Clover Go Reader, the Clover Go App, and Your Devices. We may modify the Clover Go Website from time to time. The Clover Go App and Clover Go Service do not support offline point of sale activities and require Internet connectivity for proper functioning.

**2. Compatibility and Supported Devices.** As of the date of this Addendum: (a) only the Apple iOS and Google Android operating systems are compatible with the Clover Go Service; (b) only certain types of mobile devices using Apple iOS and Google Android are supported for the Clover Go App and Clover Go Service; and (c) the Clover Go App is available only from the Apple App Store and Google Play. Please contact us for information on whether a particular mobile device is supported for the Clover Go App and Clover Go Service. We will ensure that the Clover Go App is compatible with the then-current and immediately preceding major releases for the Apple iOS and Google Android operating systems. For example, if Apple iOS 8 and Google Android 5 are the current operating system major releases, the Clover Go App will be compatible with Apple iOS 7 and 8 and Google Android 4 and 5. However, if we reasonably determine that the Clover Go App should not remain compatible with a particular version of a major release (for example, because of security vulnerabilities), we may limit compatibility to certain versions of a major release.

**3. TransArmor.** To use the Clover Go Service, you must also be using, at a minimum, the TransArmor<sup>SM</sup> Service (which may also be referred to as the "TransArmor Data Protection Service" or "TransArmor Tokenization and Encryption"). If you are already using the single-token version of either the TransArmor Service or TransArmor Solution Services, then no additional TransArmor products are needed for the Clover Go Service. If you are not already using the TransArmor Service or TransArmor Solution Services, then you must first sign an addendum for one of these TransArmor products. If you are using the multi-token version of the TransArmor Service or TransArmor Solution Services, please contact us for information on obtaining the single-token version.

**4. Users.** You are responsible for all persons using any part of the Clover Go Service under authentication credentials associated with your merchant account number(s) (collectively, "Users"). To use the Clover Go Service, each User will first be required to register and create a Clover account. After a User logs into the Clover Go App for the first time using the User's authentication credentials, terms of use for the Clover Go Service ("Clover Go Terms") will be presented to the User electronically on an "in-application" basis, and the User will be required to "click to agree" before being permitted to use the Clover Go App. We may update both the Clover Go App and the Clover Go Terms from time to time. Any updated Clover Go Terms will be presented to Users electronically on an "in-application" basis (usually in connection with an update to the Clover Go App), and Users will be required to "click to agree" before being permitted to use the Clover Go App again. You acknowledge that, by clicking to agree, the User is agreeing to the Clover Go Terms on your behalf and is also representing and warranting on your behalf that: (a) s/he is authorized to bind you to the Clover Go Terms; and (b) neither you nor that User is barred or otherwise legally prohibited from accessing or using the Clover Go App or Clover Go Service. If there is a direct conflict between this Addendum and the Clover Go Terms, this Addendum will apply. You and your Users will comply with any operating procedures, requirements, or guidelines regarding use of the Clover Go App or Clover Go Service that are posted on the Clover Go Website or otherwise provided or made available to you and your Users.

#### **5. License; Reservation of Rights; Restrictions.**

**5.1** While this Addendum is in effect, we grant you and each User a personal, limited, non-exclusive, revocable, non-transferable license, without the right to further sublicense or assign in any way, to: (a) install the Clover Go App on Your Devices; and (b) electronically access and use (in the United States only) the Clover Go App and Clover Go Service to conduct point of sale and associated activities for your business in compliance with this Addendum, the Clover Go Terms, and the Agreement. The Clover Go App and Clover Go Service are for your internal business use only. For purposes of this Addendum, "United States" does not include US Territories or possessions.

**5.2** This Addendum does not grant you any rights to any trademarks or service marks used in connection with the Clover Go Service (collectively, "Clover Go Marks"). All intellectual property rights and other proprietary rights in or related to the Clover Go App, Clover Go Service, or Clover Go Marks are, and will remain, our sole and exclusive property or the sole and exclusive property of our vendors or our licensors (as applicable). We reserve and withhold any and all right, title, and interest associated with the Clover Go App, Clover Go Service, or the Clover Go Marks not expressly licensed by us in this Addendum. We may revoke this license if (a) you or your Users fail to comply with this Addendum, the Clover Go Terms, or the Agreement, or (b) you misuse the Clover Go App, Clover Go Reader, Clover Go Website, or any part of the Clover Go Service. Any license we provide to the Clover Go App or Clover Go Service will automatically terminate when this Addendum terminates.

5.3 Neither you nor your Users are permitted to do any of the following: (a) attempt to access any part of the Clover Go App, Clover Go Website, or Clover Go Service that is not intended to be available to you or your Users; (b) attempt to avoid or defeat any security or authentication measure in the Clover Go App, Clover Go Website, or any part of the Clover Go Service; (c) attempt to decompile, disassemble, reverse engineer, reconstruct, or discover any source code, underlying ideas, or algorithms of the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing); (d) modify, translate, or alter in any manner the Clover Go Marks, Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing); (e) create derivative works of or based on the Clover Go Marks, Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing); (f) directly or indirectly copy the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing) except for backup purposes and except as strictly necessary to execute a separately downloaded instance of the Clover Go App on any of Your Devices; (g) re-publish, upload, post, transmit, disclose, or distribute (in any format) the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing); (h) access or use (in any format) the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing) through any time-sharing service, service bureau, network, consortium, or other means; (i) rent, lease, sell, sublicense, assign, or otherwise transfer your license to any third party, whether by operation of law or otherwise; (j) without first obtaining our written consent (i) use, ship, or transship the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing) outside of the United States, or (ii) access the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing) from outside the United States; (k) remove, relocate, or otherwise alter any proprietary rights notices from the Clover Go Reader, Clover Go App, Clover Go Website, Clover Go Service, or Clover Go Marks; (l) attempt to perform any action that is reasonably likely to (i) interfere with the proper working of the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing), (ii) prevent access to or use of the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing) by other users, or (iii) in our reasonable judgment impose an unreasonable or disproportionately large load on our infrastructure, network capability, or bandwidth; or (m) use the Clover Go App, Clover Go Website, or Clover Go Service (or any part of any of the foregoing) except as permitted in this Addendum and the Clover Go Terms.

**6. Accuracy of Information.** You are solely responsible for ensuring the accuracy and completeness of all information and data regarding you, your Users, or your business provided to us or our service providers in connection with the Clover Go Service (including ensuring that such information and data remains accurate and complete). In addition, you are solely responsible for verifying that all information and data loaded onto any of Your Devices by us or our service providers at your request are accurate before you use the Clover Go App and Clover Go Service with Your Devices. We and our service providers disclaim any and all liability arising out of any inaccuracies with respect to such information or data.

**7. Connectivity Required.** The Clover Go App may be used, and the Clover Go Service may be accessed, through Your Devices using a wireless (Wi-Fi or cellular) connection to the Internet. Other devices with Internet service can be used to access the Clover Go Website. You and/or your Users (as applicable) are solely responsible for the payment of any fees that may be imposed by any Internet, telecommunications, or other data provider for Your Devices or any other device used to access the Clover Go Website ("Telecom Provider"). Use of the Clover Go App and Clover Go Service may be subject to: (a) the terms of any agreement with a Telecom Provider; and (b) the availability, transmission range, or uptime of the services provided by a Telecom Provider (collectively, "Communications Services"). The Clover Go Service will not function unless Your Device is in the range of the applicable Telecom Provider's transmission sites and there is sufficient network capacity available. There are places, particularly in rural or remote areas, with no service at all. Weather, topography, buildings, Your Devices, and other conditions we do not control may also cause failed transmissions or other problems. We are not responsible in any way for providing, maintaining, servicing, supporting, or ensuring the availability any Communications Service.

**8. Maintenance; Betas.** We or our service providers may perform maintenance on the Clover Go Service from time to time, which may result in service interruptions, delays, or errors. We reserve the right to schedule, from time to time, interruptions of service for maintenance activities. In addition, you may be offered new services, software, or applications that may be in beta testing and not final. As such, the Clover Go App and Clover Go 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 Go App and Clover Go Service and to obtain information needed to identify and fix any errors.

**9. Improvements/General Administration.** In addition to the modifications and updates referenced elsewhere in this Addendum, we reserve the right to make changes, from time to time, in the configuration of the Clover Go Service, 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.

**10. Disclaimer.** USE OF THE CLOVER GO APP, CLOVER GO SERVICE, AND CLOVER GO READER IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CLOVER GO APP, CLOVER GO SERVICE, AND CLOVER GO READERS ARE PROVIDED "AS IS," AND WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) WITH RESPECT TO THE CLOVER GO APP, CLOVER GO SERVICE, CLOVER GO READERS, OR COMMUNICATIONS SERVICES, INCLUDING BUT NOT LIMITED TO (a) WARRANTIES OF QUALITY, ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, (b) ANY WARRANTY THAT THE CLOVER GO APP, CLOVER GO SERVICE, OR CLOVER GO READERS WILL FUNCTION UNINTERRUPTED OR ERROR-FREE, (c) ANY WARRANTY THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED, OR (d) ANY WARRANTY THAT THE CLOVER GO APP, CLOVER GO SERVICE, OR CLOVER GO READERS ARE SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

**11. Consent to Electronic Communication.** You agree that we or our service providers may: (a) use live agent calls, an automatic telephone dialing system, an artificial or pre-recorded voice, or text messages to contact you at the telephone number(s) you have provided; (b) may leave a detailed voice message if you are unable to be reached; (c) may contact you via fax communications if you have provided us with a fax number; and (d) send you commercial electronic messages (including e-mail messages, SMS and text messages, and telephone calls). You agree to these electronic communications even if the number you have provided is a cellular or wireless number, you have previously registered on a Do Not Call list, or you have otherwise requested not to be contacted for solicitation purposes. You acknowledge that by giving these consents, the electronic communications from us to you may be subject to charges or fees by your telecommunications or other applicable service provider, and you agree that any charges or fees are your responsibility to pay. You also acknowledge that these consents are not a condition of receiving the Clover Go Service.

**12. Customer Information.** You understand, acknowledge, and agree that when a customer provides information about him/herself ("Customer Information") in order to obtain a receipt from you or otherwise in connection with your use of the Clover Go Service, the customer is NOT consenting to receive any kind or form of marketing material or other communication from you via text message or e-mail. NOTWITHSTANDING THE CAPABILITY OF THE CLOVER GO SERVICE TO COLLECT AND STORE CUSTOMER INFORMATION AND TO ALLOW YOU TO PROVIDE MARKETING MATERIALS TO YOUR CUSTOMERS, SOME LAWS LIMIT YOUR USE AND/OR DISCLOSURE TO THIRD PARTIES OF CUSTOMER INFORMATION ONCE COLLECTED, EVEN IF THE CUSTOMER PROVIDES CONSENT, VERBALLY OR IN WRITING. YOU UNDERSTAND, ACKNOWLEDGE, AND AGREE THAT: (a) YOUR USE, AND/OR DISCLOSURE TO THIRD PARTIES, OF CUSTOMER INFORMATION OBTAINED THROUGH YOUR USE OF THE CLOVER GO APP OR OTHERWISE IN CONNECTION WITH YOUR USE OF THE CLOVER GO SERVICE MAY BE SUBJECT TO LOCAL, STATE, AND/OR FEDERAL LAWS, RULES, AND REGULATIONS; (b) YOU ARE SOLELY RESPONSIBLE FOR KNOWING ALL SUCH LAWS, RULES, AND REGULATIONS; AND (c) YOU WILL AT ALL TIMES STRICTLY COMPLY WITH ALL SUCH LAWS, RULES, AND REGULATIONS.

**13. Privacy and Data Use.**

13.1 Account Data is collected by Clover Network, Inc. ("Clover Network") and not by us or BANK; therefore, the use and sharing of Account Data is controlled by the Clover Network Privacy Policy (available at [https://www.clover.com/privacy\\_policy](https://www.clover.com/privacy_policy)). PLEASE NOTE THAT THE CLOVER NETWORK PRIVACY POLICY IS NOT THE SAME AS OUR PRIVACY POLICY OR THE BANK'S PRIVACY POLICY, AND YOU MUST REVIEW THE CLOVER PRIVACY POLICY TO ENSURE IT MEETS YOUR NEEDS AND IS CONSISTENT WITH THE AGREEMENT YOU HAVE WITH YOUR CUSTOMERS. You acknowledge and agree that: (a) at our request to Clover Network, we may access your Account Data, and our use of your Account Data is governed by the terms of the Agreement; and (b) certain data collected by us or Clover Network in connection with the Clover Go Service may be shared with third parties, and may be retained and used by us, Clover Network, or third parties for purposes of improving our products and services and providing additional products and services to you, other merchants, or other third parties. PLEASE BE AWARE THAN ANY INFORMATION COLLECTED FROM YOU, OR PROVIDED BY YOU, IN CONNECTION WITH A THIRD PARTY SERVICE IS GOVERNED SOLELY BY THE PRIVACY POLICY OF THE THIRD PARTY SERVICE DEVELOPER. YOU WILL BE ABLE TO REVIEW THE PRIVACY POLICIES OF THIRD PARTY SERVICE DEVELOPERS BEFORE USING THE THIRD PARTY SERVICES.

13.2 For purposes of this Addendum: (a) "Account Data" means, collectively: (i) all data collected from you and your Users by the Clover Go Website; and (ii) all data provided by you and your Users, or collected from you and your Users, through use of the Clover Go App or the Clover Go Service; and (b) "Third Party Service" means any service, product, or promotion provided through a software application obtained via an agreement between (i) the developer of the application, and (ii) you or any User. For the avoidance of doubt, Third Party Services are not part of the Clover Go Service.

**14. Protecting Information.** You are solely responsible for ensuring that Customer Information and your Security Information are kept safe and confidential and for preventing unauthorized access to or use of Customer Information, and your Security Information. "Security Information" means your merchant account number(s), authentication credentials (including, but not limited to, user names and passwords, as well as security questions and answers), login details, and any other security or access information used in connection with the Clover Go App or Clover Go Service. You are responsible for all electronic communications sent to us, Clover Network, or any other third party containing Customer Information. When we receive communications containing your Account Data or Customer Information, we assume you sent it to us, and when Clover Network receives communications containing your Account Data or Customer Information, Clover Network assumes you sent it to them. You must immediately notify us if you become aware of any loss, theft, or unauthorized use of any of your Account Data or Customer Information. You should not send Account Data, Customer Information, or other confidential information to us or Clover Network through unsecure channels outside of the Clover Go Service. We reserve the right to deny you access to the Clover Go Service, in whole or in part, if we believe that (a) any unauthorized access to Account Data or Customer Information has occurred; or (b) any loss, theft, or unauthorized use of any Account Data or Customer Information has occurred.

**15. Third Party Services.**

15.1 The Clover Go Service enables you and your Users to access Third Party Services via the App Market. "App Market" means the electronic marketplace made available to you and your Users via an agreement with Clover MarketPlace, LLC, through which you and your Users may choose to obtain Third Party Services. For the avoidance of doubt, the App Market is not part of the Clover Go Service. Use of the App Market means that you have accepted the App Market agreement with Clover MarketPlace, LLC and have agreed to be bound by that agreement (which is available on the Clover Go Website).

15.2 If Third Party Services are obtained via the App Market, you will be responsible for reviewing and understanding the terms and conditions that apply to each Third Party Service (including obtaining and maintaining any third party hardware and/or software that may be necessary for the Third Party Service to work with the Clover Go Service). You understand that access or use of Third Party Services is at your own risk. You also understand that if you or your Users elect to use Third Party Services, information you submit in your application to use Third Party Services will be given to the developer(s) of such Third Party Services and not to us.

15.3 You expressly acknowledge and agree that Third Party Services are not governed by the Clover Go Terms, this Addendum, or the Agreement. You will have no recourse against us or BANK for any Third Party Service. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE APP MARKET OR ANY THIRD PARTY SERVICE IS DOWNLOADED OR OBTAINED AT YOUR OWN RISK. NEITHER WE NOR BANK WILL BE RESPONSIBLE FOR ANY ACTIONS, OR ANY FAILURES TO ACT, OF ANY THIRD PARTY, AND WE AND BANK EXPRESSLY DISCLAIM ANY LIABILITY RELATED TO THE APP MARKET AND ALL THIRD PARTY SERVICES. NEITHER WE NOR BANK WARRANTS, ENDORSES, GUARANTEES, OR ASSUMES RESPONSIBILITY FOR (a) ANY DEVELOPER OF A THIRD PARTY SERVICE OR (b) ANY PRODUCT THAT IS ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE CLOVER GO SERVICE, THE CLOVER GO WEBSITE, OR THE APP MARKET (INCLUDING ANY WEBSITE, SERVICE, OR PRODUCT THAT IS HYPERLINKED OR FEATURED IN ANY BANNER OR OTHER ADVERTISING). NEITHER WE NOR BANK WILL BE A PARTY TO, OR IN ANY WAY MONITOR, ANY TRANSACTION BETWEEN YOU AND DEVELOPERS OF THIRD PARTY SERVICES OR ANY OTHER PRODUCT.

**16. Fees.** See Schedule C-7.

**17. Suspension of the Clover Go Service.** We may suspend the Clover Go Service: (a) to prevent damage to, or degradation of our network integrity that may be caused by a third party; (b) to comply with any law, regulation, court order, or other governmental request which requires immediate action; (c) if we determine that you are using Clover Go App or Clover Go Service for any fraudulent, illegal, or unauthorized purpose; (d) if you breach this Addendum or any User fails to comply with the Clover Go Terms; (e) if you breach the Agreement; (f) we terminate our agreement with any third parties that are involved in providing the Clover Go App or Clover Go Service; (g) if the Clover Go Service is discontinued; or (h) to protect us from potential legal liability. To the extent commercially practicable, we will give notice to you before suspending the Clover Go Service. If it is not commercially practicable to give you prior notice, we will give notice to you as soon as commercially practicable thereafter. In the event of a suspension of the Clover Go Service on our part, we will promptly restore the Clover Go Service after the event giving rise to the suspension has been resolved.

**18. Indemnification.** Without limiting your indemnification obligations in the 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: (a) any failure by you or your Users to comply with this Addendum or the Clover Go Terms; (b) any use, sharing, or disclosure by you or your Users of any Customer Information obtained in connection with the use of the Clover Go App or the Clover Go Service; (c) the content or delivery of any marketing messages that you or your Users send, or cause to be sent, to any Customer telephone number or e-mail address obtained through the use of the Clover Go App or otherwise in connection with the Clover Go Service; or (d) any other individual or entity's access and/or use of the Clover Go App or the Clover Go Service under authentication credentials associated with your merchant account number.

**19. Ideas.** You may choose, or we may invite you, to submit comments or ideas about the Clover Go App or Clover Go Service (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 Idea; (b) your submission will not be 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 Idea or portion of any Idea.

**20. Termination.** This Addendum and all Clover Go Terms agreed to by your Users will automatically terminate when this Addendum or the Agreement terminates. In addition to any other termination rights in the Agreement, we may terminate the Clover Go Service immediately if either we or our Affiliates are prevented from providing the Clover Go Service by any law, regulation, requirement, ruling, or notice issued in any form whatsoever by judicial or governmental authority (including, but not limited to, the FCC).

**21. Effect of Termination.** Upon termination of the Clover Go Service for any reason, you will immediately pay to us all fees due and owing to us hereunder.

**22. Third Party Beneficiaries.** Our Affiliates and any third parties we use in providing the Clover Go Service are intended third party beneficiaries of this Addendum and the Clover Go Terms, and each of them may enforce its provisions as if it were PROVIDER. Except as provided in the preceding sentence and except as otherwise expressly provided in these Clover Go Terms, nothing in these Clover Go Terms is intended to confer upon any individual or entity any rights or remedies with respect to the Clover Go Terms, and the parties do not intend for any individual or entity to be third party beneficiaries of this Addendum or the Clover Go Terms.

## Debit Services Addendum

### Background

This Addendum adds the debit services described below to the Bankcard Addendum to the Master Services Agreement (MSA) between Provider and Customer. The terms of the MSA, the Bankcard Addendum, and this Addendum apply to the debit services, but if anything in this Addendum conflicts with the MSA or Bankcard Addendum, this Addendum will control.

The debit services are **Services** under the MSA and Bankcard Addendum and are provided by Provider and the Debit Sponsor Bank. If the Debit Sponsor Bank is not the same as the "Bank" in your Bankcard Addendum, then Bank is not providing the debit services to you, is not a party to this Addendum, and is not liable to you in connection with the debit services or this Addendum. For the debit services provided under this Addendum, Provider and Debit Sponsor Bank are **Servicers**. With respect to Servicers' obligations relating to the debit services, any liability of Provider and Debit Sponsor Bank to you will be joint but not several.

### Definitions

Capitalized words or phrases that are not defined in this Addendum use the definitions given to them in the MSA or the Bankcard Addendum; however, if your Bankcard Addendum includes debit-related definitions, the definitions in *Section 2* replace them entirely.

In this Addendum, the words **we**, **us**, and **our** refer to Provider and, if applicable, to Debit Sponsor Bank, and the words **you** and **your** refer to Customer. The word **including** (in its various forms) means **including but not limited to**. If *n/a* is used when referring to a fee or a selection below, *n/a* means that the service relating to the fee or the selection is not being provided.

**Acquirer** means (1) Bank for Visa or MasterCard Credit Card and Signature Debit Card transactions, (2) Debit Sponsor Bank for PIN Debit Card transactions and for Signature Debit Card transactions involving a Card Organization other than Visa or MasterCard, or (3) Provider for Discover Network transactions that acquire Card transactions from Customer.

**Card Organization** means any entity that is (1) formed to administer and promote Credit Cards and/or Debit Cards, and (2) supported by Provider.

**Debit Cards** means PIN Debit Cards and Signature Debit Cards.

**Debit Sponsor Bank** means a bank that is a member of a debit network in which Customer participates and that sponsors Customer's acceptance of debit transactions.

**PIN** means a personal identification number entered by the Cardholder to authenticate a PIN debit transaction.

**PIN Debit Card** means a card or other payment form (including mobile devices, fobs, or tags) that (1) bears the Marks of PIN debit networks, (2) enables the Cardholder to buy goods or services by debiting the Cardholder's demand deposit account or stored value/prepaid account, and (3) is authenticated either with a PIN or, under applicable Card Organization Rules, without a PIN for qualifying transactions.

**Servicers:** (1) for Visa and MasterCard Credit Card transactions and for Visa and MasterCard Signature Debit Card transactions, "Servicers" means Bank and Provider collectively (with the words **we**, **us**, and **our** referring to Bank and Provider); (2) for Signature Debit Card transactions involving a Card Organization other than Visa or MasterCard and for PIN Debit Card transactions, "Servicers" means Debit Sponsor Bank and Provider collectively (with the words **we**, **us**, and **our** referring to Debit Sponsor Bank and Provider); and (3) for all other Card transactions, "Servicer" means Provider only (with the words **we**, **us**, and **our** referring to Provider only).

**Settlement Account** means an account at a financial institution designated by Customer as the account to be debited and credited by Provider, Bank, or Debit Sponsor Bank for Customer's Credit Card or Debit Card transactions, Servicers' fees, Third Party Fees, and other amounts due under or in connection with the Bankcard Addendum, including returns, refunds, adjustments, Chargebacks (including Servicers' related losses), other amounts payable to Third Parties under instructions given by Customer to Servicers, and any other obligations of Customer under Card Organization Rules, the MSA, or the Bankcard Addendum.

**Signature Debit Card** means a card or other payment form (including mobile devices, fobs, or tags) that (1) bears the Marks of signature debit networks, (2) enables the Cardholder to buy goods or services by debiting the Cardholder's demand deposit account or stored value/prepaid account, and (3) is authenticated without a PIN.

**Third Party** means any person, entity, or association other than Servicers or Customer, including Card Organizations, card-issuing organizations, telecommunications providers, delivery service providers/couriers, gateways, Customer's software



providers/integrators or other service providers, and federal, state, or local governmental authorities. Star Networks, Inc. is a Third Party.

**Third Party Fees** means fees, charges, liabilities, or obligations imposed at any time by a Third Party (1) in connection with Customer's Credit Card or Debit Card transactions, (2) as a result of Customer's acts or omissions, or (3) as a result of the acts or omissions of others that act on Customer's behalf or that provide services to Customer. Third Party Fees include: interchange; Card Organization assessments (including dues, issuer reimbursements, fines, penalties, and fraud recovery losses); fees established by the Card Organizations (including access fees, switch fees, and file fees); adjustments; and Chargebacks.

### **Services**

Debit Sponsor Bank's obligations relating to the debit services are limited to the sponsorship and settlement of your Debit Card transactions that are submitted in compliance with the Bankcard Addendum, this Addendum, and Card Organization Rules. Periodically, another debit network member bank may be substituted for an existing Debit Sponsor Bank, and Provider will give Customer notice of the substitution. Any new Debit Sponsor Bank will be responsible for all obligations required of the former sponsor bank (including all obligations under applicable Card Association Rules).

You acknowledge your understanding that all parties involved in processing adjustments and Chargebacks to Debit Card transactions are regulated by timeframes specified in the Card Organization Rules, the Electronic Funds Transfer Act, Regulation E, and other applicable laws. You must reconcile Debit Card transactions at each of your locations within one (1) business day of the original Debit Card transaction. If you discover an error involving any Debit Card transaction processed by Provider, you must promptly initiate the appropriate adjustment transaction to correct the error, or you may be subject to additional fees, fines, or other action.

Which debit network is used for a Debit Card transaction will depend on various factors, including whether a particular debit network is available at the time of the transaction, whether a particular Debit Card is enabled for a particular debit network, and other legal requirements relating to routing. We may use, at our sole discretion, any debit network available to us for a given Debit Card transaction.

Only equipment approved by Provider can be used with the debit services. Equipment for the debit services is provided under a separate equipment addendum.

### **Settlement, Fees, and Debit Card Transaction Types**

The Card Organizations impose certain fees and charges on your Debit Card transactions, some or all of which are charged to Provider as the processor for your Debit Card transactions. In addition to the fees and charges described above, you will pay Provider for all fees, charges, liabilities, and obligations imposed by the Card Organizations in connection with your Debit Card transactions, including (1) interchange, (2) assessments (including dues, issuer reimbursements, fines, penalties, and fraud recovery losses), (3) access fees, switch fees, and other fees established by the Card Organizations, (4) adjustments, and (5) Chargebacks.

Settlement of your Debit Card transactions will occur on a "net settlement" basis, as described in your Bankcard Addendum. As part of the settlement process for your Debit Card transactions, you will pay on a daily basis (via deduction from applicable settlement funds) all returns, refunds, adjustments, Chargebacks (including Servicers' related losses), Servicers' fees (based on this Addendum), Third Party Fees, other amounts payable to Third Parties under instructions given by Customer to Servicers, and any other obligations of Customer under Card Organization Rules, the MSA, or the Bankcard Addendum.

Each foreign Debit Card transaction you submit (where available) will be subject to a 0.2% international transaction handling fee, in addition to the fees below. You will pay the fees set forth in Schedule C-7.

### **Term and Termination**

This Addendum begins on the latest date that appears in the signature block and continues in effect until (1) the Bankcard Addendum expires or terminates, in which case, this Addendum will automatically terminate, or (2) Customer terminates this Addendum by giving Provider at least 30 days' advance written notice.

**AMERICAN EXPRESS CARD ACCEPTANCE ADDENDUM  
TO MASTER SERVICES AGREEMENT**

Bank is not a party to this Addendum and is not liable to CUSTOMER in any way with respect to such Addendum. For purposes of this Addendum, the words "we", "our" and "us" refers to PROVIDER and its successors and assigns and the words "you" and "your" refer to CUSTOMER and its permitted successors and assigns

In consideration of the mutual promises and covenants hereinafter contained in this Addendum, the parties hereby agree as follows:

1. **Definitions.** Capitalized terms used and defined herein shall have the meanings given to such terms as set forth in this Addendum. If not defined herein, capitalized terms shall have the meanings given to such terms in the Master Services Agreement. If there is a conflict between the terms of this Addendum and the terms of the Agreement, the terms of this Addendum will control.
  - 1.1 **AMEX Card:** Means, for purposes of this Addendum, a Card issued by and bearing the Mark of American Express.
  - 1.2 **AMEX Operations Guide:** means the American Express Merchant Operating Guide from American Express that may be downloaded from American Express' website at: [www.americanexpress.com/merchantopguide](http://www.americanexpress.com/merchantopguide)
  - 1.3 **Cardholder:** Means the Person whose name is embossed on an AMEX Card and any authorized user of such AMEX Card, including the Person that has entered into an agreement establishing an AMEX Card account with an Issuer. Some Card Organizations may refer to Cardholder(s) as Card Member(s).
  - 1.4 **Charge or Charges (or as the context requires, charge or charges):** The total price, including all applicable taxes and gratuities, for the purchase of goods or services of a merchant for which a Cardholder has signed a Sales Draft or otherwise indicated intent to pay with an AMEX Card.
  - 1.5 **Dispute:** any dispute, claim, or controversy related to or arising under any aspect of your relationship with us, whether directly with Processor and/or Bank, or indirectly with any other person or entity related to the relationship, and arising at any time during, before, or after that relationship.
  - 1.6 **Entity:** Means a corporation, partnership, sole proprietorship, trust, association, or any other legally recognized entity or organization.
2. **Service Description.** Notwithstanding anything to the contrary in the Agreement, including (if applicable to you) provisions in the Agreement that bind you to the American Express Agreement for American Express Card Acceptance – American Express One-Point Program ("Amex CAA"), you acknowledge and agree that you will accept American Express Cards under a direct agreement with us, and the additional terms and conditions set forth in this Addendum shall apply.
3. **Term; Termination.**
  - 3.1 **Term; Termination.** This Addendum shall (i) commence as of the Effective Date or (ii) if you currently accept American Express Cards under an Amex CAA, then the effective date of this Addendum will be the first business day of the first calendar month following the date that you execute this Addendum. This Addendum is coterminous with the Agreement. Either party may terminate this Addendum upon giving the other party at least thirty (30) days prior written notice of its intention to terminate this Addendum. We may terminate your access to the American Express Card acceptance services with prior notice (i) as of the date that any Card Organization or governmental authority having jurisdiction directs any party to terminate this Addendum or (ii) if PROVIDER discontinues the American Express Card acceptance service. Regardless of the reason for termination, you shall be responsible for the payment of all applicable fees. Should you fail to notify us in writing of your request to terminate you acknowledge and agree you will continue to be charged fees pursuant to the Agreement notwithstanding non-use of your account. If you have an equipment lease, termination of the Agreement does not terminate that equipment lease.
  - 3.2 **Amendment.** Notwithstanding any other provision of this Addendum, we reserve the right to amend, at our discretion, the terms and conditions herein, including, without limitation, any addenda, and/or pricing and fees, by providing you notice thereof. Such amendments shall be effective thirty (30) days from the date notice is sent to you. Either party may terminate this Addendum upon giving the other party at least thirty (30) days prior written notice of its intention to terminate this Addendum.
4. **Rates/Fees.** Your fees are set forth in Schedule C-7.
5. **Card Descriptions.** Card Descriptions under the Agreement (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions:

**AMEX Card Descriptions.** At the point of sale, the AMEX Card must be carefully examined to determine whether it is a legitimate and valid AMEX Card and not visibly altered or mutilated. The name of the AMEX Card (American Express) should appear in bold letters on the AMEX Card. The following is a description of the authorized American Express Card design:

American Express:

- All American Express Card Numbers start with "37" or "34." The AMEX Card number appears embossed on the front of the AMEX Card. Embossing must be clear, and uniform in sizing and spacing. Some AMEX Cards also have the AMEX Card Number printed on the back of the AMEX Card in the signature panel. These numbers, plus the last four digits printed on the Sales Draft, must match.

- Pre-printed AMEX Card Identification (CID) Numbers must always appear above the AMEX Card Number on either the right or left edge of the AMEX Card.
  - Only the person whose name appears on an American Express AMEX Card is entitled to use it. AMEX Cards are not transferable.
  - Some AMEX 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 AMEX Cards have a chip on which data is stored and used to conduct a transaction.
  - The signature on the back of the AMEX Card must match the Cardholder's signature on the Credit Draft, and must be the same name that appears on the front of the AMEX Card. The signature panel /must not be taped over, mutilated, erased or painted over. Some AMEX Cards also have a three-digit Card Security Code (CSC) number printed on the signature panel.
6. **Refunds/Exchanges.** Your obligations under the Agreement regarding limiting refunds or exchanges or imposing other specific conditions for AMEX Card sales (which are addressed in the Operating Procedures) are clarified by the terms set forth below:

If you limit refunds or exchanges or impose other specific conditions for AMEX Card sales, you must provide proper disclosure to the AMEX Cardholder at the time of transaction in accordance with applicable law. If applicable, the words "No Exchange, No Refund," etc. must be clearly printed (in 1/4" letters) on the Sales Draft near or above the AMEX Cardholder's signature. The Cardholder's copy of the Sales Draft, as well as your copy, must clearly display this information near or above the Cardholder's signature. Applicable disclosures may vary by transaction type.

7. **Delayed Delivery or Deposit Balance Transactions.** Your obligations under the Agreement regarding Delayed Delivery or Deposit Balance transactions (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions for American Express:

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 AMEX 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.

8. **Recurring Transaction/Preauthorized Order Regulations.** Your obligations under the Agreement with respect to Recurring Transaction and Preauthorized Order Regulations (which are addressed in the Operating Procedures) are clarified by the terms set forth below:

If we or you have terminated the Agreement, you may not submit authorization requests or sales data for recurring transactions that are due after the termination date of the Agreement, and you must inform Cardholders for which you have submitted the recurring transactions that you no longer accept the AMEX Card.

You must obtain an Authorization for each transaction and write "Recurring Transaction" (or, "P.O." for MasterCard transactions/"Signature on File" for American Express transactions) 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 American Express recurring transactions, you should periodically verify with Cardholders that their information (e.g., AMEX 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 AMEX Card account information from the Issuer. You must retain evidence of consent to receive updated AMEX 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.

9. **Customer Activated Terminals.** Your obligations under the Agreement with respect to Customer Activated Terminals and Self-Service Terminals (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions:

Prior to conducting Customer Activated Terminal ("CAT") transactions or Self-Service Terminal transactions 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 the Agreement.

Customer Activated Terminals for American Express Transactions

Sales Drafts for Charges for purchases at your Customer Activated Terminals (CATs) must include:

- Full Magnetic Stripe data stream or chip AMEX 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 (CATs) and will have the right to Chargeback for those Charges.

10. **Displays and Advertising.** Your obligations under the Agreement with respect to displays and advertising (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions:

American Express: If you elected to accept the American Express Card, 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 AMEX 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.

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 your 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](http://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.

11. **Suspect Transactions.** Additional factors to consider in connection with the Agreement with respect to Suspect Transactions (which are addressed in the Operating Procedures) are as follows:

Ask yourself, does the Customer:

- frequently make purchases and then return goods for cash?
- use a prepaid Card to purchase other prepaid Cards?
- use a large numbers of prepaid Cards to make purchases?

Ask yourself, does the Card:

- have an altered Magnetic Stripe?

12. **Sales/Credit Drafts.** Your obligations under the Agreement with respect to information required for completion of Sales Drafts and Credit Drafts (which may be addressed in the Operating Procedures) are supplemented by the following terms and conditions:

**Sales Drafts for American Express Transactions.** You must create a Sales Draft for every Charge. For each Charge submitted electronically, you must create an electronically reproducible Sales Draft. The Sales Draft (and a copy of the customer's receipt) must disclose your return and/or cancellation policies.

If the Cardholder wants to use different Cards for payment of a purchase, you may create a separate Sales Draft for each Card used. However, if the Cardholder is using a single AMEX Card for payment of a purchase, you shall not divide the purchase into more than one Charge, nor shall you create more than one Sales Draft.

- Submit the Charge to American Express directly, or through your processor, for payment.
- Retain the original Sales Draft (as applicable) and all documents evidencing the Charge, or reproducible records thereof, for the timeframe listed in our country-specific policies.
- Provide a copy of the Sales Draft to the Cardholder.

You may be able to create more than one Sales Draft if the purchase qualifies for a delayed delivery Charge. The retention time frame for Sales Drafts is twenty-four (24) months from the date you submitted the corresponding Charge to us. Pursuant to applicable law, truncate the AMEX Card number and do not print the AMEX Card's expiration date on the copies of Sales Drafts delivered to AMEX Cardholders. Truncated AMEX Card number digits must be masked with replacement characters such as "x," "\*" or "#," and not blank spaces or numbers.

If you submit Charges on paper, you must create a Sales Draft containing all of the following required data:

- Full AMEX Card number and expiration date (pursuant to applicable law), and if available, Cardholder name.
- The date the Charge was incurred.
- The amount of the Charge, which must be the total price for the purchase of goods and services (plus applicable taxes and gratuities) purchased on the AMEX Card.
- A clear description of the goods or services purchased by the Cardholder.
- An imprint or other descriptor of you name, address, Merchant Account Number and, if applicable, store number.
- The words "no refunds" if you have a no refund policy, and you return and/or cancellation policies.

**American Express No Signature Program.** You may participate in the American Express No Signature Program. The No Signature Program allows establishments not to request a signature from Cardholders on the Sales Draft. To qualify for the No Signature Program, both the establishment and each Charge must meet the following criteria:

**Establishment Criteria.** If your establishment is classified in an industry that accepts in-person Charges, then the establishment may participate in the No Signature Program with the exception of the following categories:

- Merchants who do not conduct in-person Charges (i.e., internet, mail order or telephone order).
- Prohibited transactions or illegal transactions or activity, as described elsewhere in the Agreement.
- High Risk Merchants (e.g., establishments whose business type has had historically high occurrences of fraud and disputed charges with American Express or as compared to other similarly situated merchants (or both); examples include internet electronic services or nightclubs/lounges) as determined by American Express in its sole discretion.
- Merchants placed in American Express' Fraud Full Recourse Program. (See AMEX Operations Guide regarding "chargeback programs".)

**Charge Criteria:**

- The amount or Charge must meet the threshold established in American Express' country specific policy.
- The Charge Submission must include the appropriate indicator to reflect that the AMEX Card and the Cardholder were present at the point of sale.
- The Charge Submission must include a valid approval.

Under the No Signature Program, Chargebacks will not be exercised for such Charges based solely on the establishment's failure to obtain the Cardholder's signature at the point of sale. If a disproportionate amount or a number of disputed Charges under the No Signature Program occur, you must cooperate to reduce the amount or number of disputed Charges. If such efforts fail, you may be placed in American Express Chargeback programs, or your establishment's participation in the No Signature Program may be modified or terminated. The established threshold for charges to qualify under the No Signature Program is \$50.00 or less.

13. **Card Not Present Sales.** Your obligations under the Agreement with respect to Mail/Telephone/Internet (Ecommerce) Orders and Other Card Not Present Sales, including e-wallet transactions, (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions:

**American Express Internet Charges.**

For internet orders, you must use separate Merchant Account Numbers provided to you for internet orders on all your requests for Authorization and submission of charges, provide at least one (1) month's prior written notice of any change in your internet address, and comply with any additional requirements that may be added from time to time. Additionally, if a disputed Charge arises involving a Card Not Present Charge that is an internet electronic delivery Charge, a Chargeback may be exercised for the full amount.

**Processing a Card Not Present Charge for American Express transactions you must:**

- Submit the Charge to American Express;

For Card Not Present Charges, you must create a Sales Draft and ask the Cardholder to provide:

- AMEX Card number;
- AMEX Card expiration date;

In addition, it is recommended that you ask for:

- Name as it appears on the AMEX Card,
- AMEX Cardholder's billing address, and
- Ship-to address, if different from the billing address.

American Express will not Chargeback for such charges based solely upon a Cardholder claim that he or she did not receive the disputed goods if you have:

- Verified the address to which the goods were shipped was the Cardholder's full billing address.
- Provided proof of delivery signed by the Cardholder or an authorized signer of the AMEX Card indicating the delivery of the goods or services to the Cardholder's full billing address.

American Express will not be liable for actual or alleged fraudulent transactions over the internet and will have the right to Chargeback for those charges. For Internet Orders, you must:

- Use any separate merchant numbers (seller ID) established for your internet orders in all of your requests for Authorization and Submission of charges.
- Provide us with at least one (1) month's prior written notice of any change in your internet address.
- Comply with any additional requirements that American Express provides from time to time.

When providing proof of delivery, a signature from the Cardholder or an authorized signer of the AMEX Card is not required. Additionally, if a disputed Charge arises involving a Card Not Present Charge that is an internet electronic delivery Charge, American Express may exercise Chargeback for the full amount of the Charge and place you in any of its Chargeback programs.

14. **Authorizations.** Your obligations under the Agreement with respect to Authorizations (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions:

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 AMEX Card is the rightful Cardholder, nor is it a promise or guarantee that you will not be subject to a Chargeback.

For American Express, you must obtain an Authorization Approval Code except for charges under a floor limit. The Authorization must be for the full amount of the Charge except for merchants that are classified in the restaurant industry.

A positive Authorization response for American Express Non T&E transactions are good for seven (7) days, and American Express T&E transactions are good for thirty (30) days.

Do not discuss reason for decline with a Cardholder rather refer them to the customer service number on the back of the AMEX Card.

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.

15. **Settlement.** The Agreement terms regarding Settlement (which are addressed in the Bankcard Addendum) are clarified as follows: For the avoidance of doubt, with respect to the payments you have elected to accept, you authorize us to submit AMEX Card transactions to, and receive settlement for such transactions from American Express on your behalf.

16. **Credits.** Your obligations under the Agreement with respect to Refunds/Exchanges (Credits) (which are addressed in the Operating Procedures) are supplemented by the following terms and conditions:

Processing a Credit for American Express Transactions. These are additional requirements for a Credit for purchases or payments made on an American Express Card. To issue a Credit, you must:

- Compare the last four digits on the Sales Draft against the AMEX Card presented (when applicable).
- Have the Cardholder sign the Credit Draft (when applicable).
- Provide a copy of the Credit Draft to the Cardholder.

You must not issue a Credit when there is no corresponding Charge, nor issue a Credit in exchange for cash or other consideration from a Cardholder. You must submit all Credits under the establishment where the Credit originated. A Credit must be issued in the currency in which the original Charge was submitted to us. You must issue Credits to the AMEX Card used to make the original purchase; however, if the Credit is for the return of a gift by someone other than the Cardholder who made the original purchase, apply your usual refund policy.

If the Cardholder indicates that the AMEX Card on which the purchase was originally made is no longer active or available, do the following:

- For all AMEX Cards except Prepaid AMEX Cards, advise the AMEX Cardholder that you must issue the Credit to that AMEX Card. If the AMEX Cardholder has questions, advise him or her to call the customer service number on the back of the AMEX Card in question.

- If the inactive or unavailable AMEX Card is a Prepaid AMEX Card, apply your usual refund policy for returns.

If you issue a Credit, American Express will not refund the discount or any other fees or assessments previously applied on the corresponding Charge. The discount on Chargebacks will not be refunded.

Your return and cancellation policies must be fair and clearly disclosed at the time of sale in compliance with applicable law. Your policies must be conveyed to the AMEX Cardholder prior to completion of the Charge and printed on a copy of a receipt or Sales Draft. Your refund policy for purchases on the American Express AMEX Card must be at least as favorable as your refund policy for purchases made with other payment products or other payment methods.

Return Policy recommendations.

Provide clear return instructions for your customers, including the following information:

- Customer service telephone number.
- Reference number for the return.
- Expected processing time for the Credit.
- Return address, preferably on a pre-formatted shipping label (if applicable).

You must submit all Credits to us within seven (7) days of determining that a Credit is due.

Cancellation Policy Recommendations.

- Provide document cancellation policy and terms and conditions on the contract the Cardholder signs, or on your website, as applicable.
- Provide Cardholder with a cancellation number that can be tracked in your records.

American Express Return Policy for Prepaid Products.

If your return policy for the purchase of prepaid products is different from your standard return policy, you must ensure that such prepaid product-specific return policy is clearly disclosed to the Cardholder at the time of purchase in accordance with applicable law and also coded to print on all receipts and copies of Sales Drafts you provide to Cardholders.

17. **Special Provisions for American Express.** The Operating Procedures are amended by the addition of the following Special Provisions for American Express, which apply to American Express Card acceptance and American Express Card transactions under the Agreement:

17.1 Card Acceptance. If you elect to accept American Express Cards under the Agreement, you must accept the American Express Card as payment for goods and services sold (other than those goods or services identified under "Prohibited Uses of the American Express Card" below), or (if applicable) for charitable contributions made, at all of your establishments, except as expressly permitted by applicable law. You are jointly and severally liable for the obligations of your establishments under the Agreement.

17.2 **Arbitration**

- i. This arbitration provision shall be broadly interpreted. If you have a Dispute with us that cannot be resolved informally, you or we may elect to arbitrate that Dispute in accordance with the terms of this arbitration provision rather than litigate the Dispute in court. In arbitration, there is no judge or jury, and there is less discovery and appellate review than in court.
- ii. Notwithstanding Section i, you and we agree that the following will not be subject to arbitration: (a) disputes relating to the scope, validity, or enforceability of this arbitration provision; (b) any claim filed by you or us in which the amount in controversy is properly within the jurisdiction of a small claims court; and (c) any dispute related to the validity of any party's intellectual property rights.
- iii. If you or we elect to resolve your Dispute through arbitration pursuant to this arbitration provision, the party initiating the arbitration proceeding shall open a case with the American Arbitration Association - Case Filing Services, 1101 Laurel Oak Road, Suite 100, Voorhees, NJ 08043, 877-495-4185, www.adr.org.
- iv. Because the Services provided to you under this Addendum concern interstate commerce, the Federal Arbitration Act (**FAA**) will govern this arbitration provision, including the issue of whether the Dispute is subject to arbitration. Any arbitration will be governed by the Commercial Arbitration Rules of the American Arbitration Association (**AAA**). If there is a conflict between this arbitration provision and the AAA Rules, this arbitration provision shall govern. If the AAA will not administer a proceeding under this arbitration provision as written, it cannot serve as the arbitration organization to resolve your Dispute. If this situation arises, the parties shall agree on a substitute arbitration organization. If the parties are unable to agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under this arbitration provision as written. If there is a conflict between this arbitration provision and the rest of this Agreement, this arbitration provision shall govern.
- v. A single arbitrator will resolve the Dispute. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect your information and other confidential or proprietary information. If the claim alleged in the Dispute is for \$10,000 or less, and the Dispute is not excluded based on section 17.2.ii. above, you may choose whether the arbitration will be conducted solely based on documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing under the rules of the selected arbitration organization. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties for purposes of enforcement.
- vi. If an award granted by the arbitrator exceeds \$50,000, either party can appeal that award to a three-arbitrator panel administered by the same arbitration organization by a written notice of appeal filed within thirty (30) days from the date of entry of the written arbitration award. The arbitration organization will then notify the other party that the award has been appealed. The members of the three-arbitrator panel will be selected according to the AAA's Commercial Arbitration Rules. The three-arbitrator panel will issue its decision within one hundred and twenty (120)

days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which exists under the FAA.

- vii. **All parties to an arbitration must be individually named. There shall be no right or authority for any claims to be arbitrated or litigated on a class action, joint, or consolidated basis or on a bases involving claims brought in a purported representative capacity on behalf of the general public (such as a private attorney general), other clients, or other persons.**
- viii. The arbitrator may award injunctive or similar relief only in favor of the individually named party and only to the extent necessary to provide relief warranted by that individual party's claim. The arbitrator may not award injunctive relief applicable to any class or similarly situated individual or groups.
- ix. The arbitration will take place in Suffolk County, NY.
- x. We will pay arbitration filing fees and arbitrator's costs and expenses notified to us prior to the commencement of the arbitration. You are responsible for all additional costs that you incur in the arbitration, including, but not limited to, fees for attorneys or expert witnesses. If the arbitration is resolved in our favour, you shall reimburse us for the filing fees and costs paid to you only up to the extent awardable in a judicial proceeding. If the arbitration is resolved in your favour, you will not be required to reimburse us for any of the fees and costs paid by us. Notwithstanding anything to the contrary in this arbitration provision, we will pay all fees and costs that we are required by law to pay.
- xi. **If you do not wish to arbitrate disputes, you must notify us in writing within 30 days of the date that you first receive this Addendum by writing your name, address and account number as well as a clear statement that you do not wish to resolve disputes through arbitration and sending that notice either (a) by e-mail to [arbitrationoptout@firstdata.com](mailto:arbitrationoptout@firstdata.com); (b) by fax at 402-916-2200; or (c) by mailing to "arbitration opt out notice, 3975 N.W. 120<sup>th</sup> Avenue, Coral Springs, FL 33065 (these fax numbers and addresses are only for submitting the notice described in this section). Your decision to opt out of arbitration will have no adverse effect on your relationship with us or the services provided by us.**
- xii. If any part of Section vii is found to be illegal or unenforceable, the entire arbitration provision will be unenforceable, and the Dispute will be decided by a court. If any other clause in this arbitration provision is found to be illegal or unenforceable, that clause will be severed from this arbitration provision, and the remainder of this arbitration provision will be given full force and effect.

**17.3 Treatment of the American Express Brand.** Except as expressly permitted by applicable law, you must not:

- indicate or imply that you prefer, directly or indirectly, any other payment products over the AMEX Card,
- try to dissuade Cardholders from using the AMEX Card,
- criticize or mischaracterize the AMEX Card or any of American Express' services or programs,
- try to persuade or prompt Cardholders to use any other payment products or any other method of payment (e.g., payment by check),
- impose any restrictions, conditions, disadvantages or fees when the AMEX Card is accepted that are not imposed equally on all other payment products, except for electronic funds transfer, or cash and check,
- suggest or require Cardholders to waive their right to dispute any transaction,
- engage in activities that harm the American Express business or the American Express Brand (or both),
- promote any other payment products (except your own private label card that you issue for use solely at your establishments) more actively than you promote the AMEX Card, or
- convert the currency of the original sale transaction to another currency when requesting Authorization or submitting transactions (or both).

You may offer discounts or in-kind incentives from your regular prices for payments in cash, ACH funds transfer, check, Debit Card or Credit Card, provided that (to the extent required by applicable law): (i) you clearly and conspicuously disclose the terms of the discount or in-kind incentive to your customers, (ii) the discount or in-kind incentive is offered to all of your prospective customers, and (iii) the discount or in-kind incentive does not differentiate on the basis of the issuer or, except as expressly permitted by applicable law and Card Organization (e.g., Visa, MasterCard, Discover, JCB, American Express). The offering of discounts or in-kind incentives in compliance with the terms of this section will not constitute a violation of the provisions set forth in the above section "Treatment of the American Express Brand."

**17.4 Prohibited Uses of the American Express Card.** You must not accept the AMEX Card for any of the following:

- adult digital content sold via internet electronic delivery,
- amounts that do not represent bona fide sales of goods or services (or, if applicable, amounts that do not represent bona fide charitable contributions made) at your establishments. For example, purchases at your establishments by your owners (or their family members) or employees contrived for cash flow purposes, or payments that you have accepted in order to advance cash to Cardholders in connection with the transaction,
- amounts that do not represent bona fide, direct sales by your establishment to Cardholders made in the ordinary course of your business,
- cash or cash equivalent (e.g., gold, silver, platinum, and palladium bullion and/or bars). Collectible coins and jewelry are not prohibited,
- charges that the Cardholder has not specifically approved,
- costs or fees over the normal price of the goods or services (plus applicable taxes) that the Cardholder has not specifically approved,
- damages, losses, penalties, or fines of any kind,
- gambling services (including online gambling), gambling chips, gambling credits, or lottery tickets,
- unlawful/illegal activities, fraudulent business transactions or when providing the goods or services is unlawful/illegal (e.g. unlawful/illegal online internet sales of prescription medications or controlled substances; sales of any goods that infringe the rights of a rights-holder under laws applicable to us, you, or the Cardholder; online child pornography),
- overdue amounts or amounts covering returned, previously dishonored or stop-payment checks (e.g., where the AMEX Card is used as a payment of last resort),
- sales made by third parties or entities conducting business in industries other than yours,
- You must not use the AMEX Card to verify a customer's age.



**17.5 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 Data Security Operating Policy (DSOP)) which can be found in the AMEX Operations Guide. 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 Merchant Processing Application, we may suspend AMEX Card acceptance privileges at your establishments, or terminate the 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.

**17.6 Treatment of American Express Cardholder Information.** You acknowledge that any and all American Express Cardholder information is confidential and the sole property of the Issuer, American Express or any of its Affiliates. Except as otherwise specified in the Agreement, you must not disclose Cardholder information, nor use nor store it, other than to facilitate transactions at your establishments in accordance with the Agreement.

**17.7 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 AMEX 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 Program Merchant information consistent with the sensitivity of the information.

**17.7.1 Consent for American Express to Contact You by Phone, eMail, Text or Facsimile.** American Express may use the information you provide in the Agreement (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 17.7.1 is not a condition of purchasing or receiving any product or service or entering into the Agreement.

**17.7.2 Opt-Out:** You may opt-out of receiving marketing related communications and materials from American Express by calling PROVIDER at the Customer Service Number stated the section of your Agreement that identifies addresses for notices. If you have opted-out, you may still receive messages or communications from American Express related to important information about your account.

**17.8 Conversion to a Direct Relationship with American Express.** 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 if and when the annual American Express Card charges that you submit under the Agreement are greater than \$1,000,000. You agree that, upon 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 submit American Express Card transactions under the Agreement, but the Agreement will continue in full force and effect with respect to other payments and services you elected to receive on your Agreement.

**17.9 No Assignment of Payments.** You acknowledge and agree that you shall not assign to any third party any payments due to you under the 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.

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

**17.11 Your Right to Opt Out of American Express Card Acceptance.** Upon written notice to us, 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.

**17.12 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 a Chargeback has been exercised, you have fully paid for such Charge, and you otherwise have the right to do so.

**17.13 Completing a transaction at the Point of Sale.** All valid transactions begin with a Cardholder's purchase at the point of sale. Whether the physical AMEX Card is used to facilitate a Card present Charge, or the Cardholder provides his or her Cardholder Information over the phone, via mail order, or the internet, the transaction must not be completed without the AMEX Card and/or information provided by the Cardholder. To accept the AMEX Card for charges at your establishments, at the point of sale, you must:

- Clearly and conspicuously, disclose all material terms of sale prior to obtaining an Authorization, and
- Clearly and conspicuously inform Cardholders at all points of interaction (e.g., sales conducted in person, over the internet, mobile or via mail or telephone order) what Entity is making the sales offer, so that the Cardholder can clearly distinguish you from any other party involved in the interaction (e.g., a vendor of goods or provider of services you may engage, or another merchant seeking to conduct business with the Cardholder).

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 Data Security Operating Policy (DSOP)). If you fail to comply with this requirement, you may be charged non-compliance or other fees as indicated on the Bankcard Addendum and/or have your AMEX Card acceptance privileges at required your establishments suspended or disintified.

**17.14 In Person Charges.**

In-person charges refer to charges in which the AMEX Card and Cardholder are present at the point of sale. An example of this is when a Cardholder presents an AMEX Card to the merchant at a retail store. For all in-person charges, the AMEX Card must be presented. There are several ways in which you can conduct the in-person Charge. The steps you take vary according to how you go about conducting both types of in-person charges:

**17.15 Electronic charges or key-entered charges.**

When providing proof of delivery, a signature from the Cardholder or an authorized signer of the AMEX Card is not required.

**17.16 Magnetic Stripe Card Charges**

When presented with an AMEX Card at the point of sale you must:

- Verify that the customer is the Cardholder (AMEX Cards are not transferable).
- Capture Magnetic Stripe data by swiping the AMEX Card (unless the Charge was already initiated by waving the contactless chip AMEX Card in close proximity to the point of sale system).
- Match the AMEX Card number and the expiration date on the AMEX Card to the same information on the Sales Draft.
- Ensure the name that prints on the Sales Draft matches the name on the front of the AMEX Card except when the Cardholder name is not captured on the Sales Draft or for prepaid AMEX Cards that do not show a name on their face.
- Validate the AMEX Card's presence by taking an imprint of the AMEX Card (the imprint is for your records). Failure to validate the AMEX Card's presence by taking an imprint of the AMEX Card can render merchant liable for Chargebacks if the Cardholder disputes the Charge, except when the Cardholder name is not captured on the Sales Draft or for prepaid AMEX Cards that do not show a name on their face.

**17.17 American Express Mobile Contactless Charges.**

When presented with a contactless-enabled mobile phone, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Capture Magnetic Stripe or chip Card data by waving the contactless-enabled mobile phone in close proximity to the contactless reader.
- Compare the signature (when obtained) on the Sales Draft with the signature on the companion physical AMEX Card or a valid form of formal identification (e.g. driver's license). You must not record or store the information from such formal identification in any way.

If a mobile contactless transaction cannot be processed for any reason, you should require that the Cardholder provide the companion physical AMEX Card to complete the transaction.

**17.18 American Express Contact Chip Charges.**

When presented with a chip Card to be inserted into a chip Card reader, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Capture chip Card data by inserting the Card into the chip Card reader, the point of sale system will advise Cardholders to enter their PIN (a chip and PIN Charge) or sign for the Charge (a chip and signature Charge).
- Chip and PIN Charges. Cardholders will enter their PIN into the point of sale system using the keypad. If the chip and PIN Charge are unable to be completed due to a technical problem, the point of sale system will show an error message.
- Chip and signature Charge. Failure to obtain a signature, when required, can render you liable for Chargebacks if the Cardholder disputes the Charge. Obtaining a signature may not be required if merchant's establishment and the Charge qualify for the No Signature Program.

**17.19 American Express Contactless Chip Charges.**

When presented with a chip Card to be read via a contactless reader and the Charge qualifies for the No Signature Program, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Capture Magnetic Stripe or chip Card data using the contactless reader.
- For charges that do not qualify under the No Signature Program, follow the relevant Card acceptance procedures outlined in either:
  - "Magnetic Stripe Card Charges," or
  - "Contact Chip Card Charges."

**17.20 American Express Key-Entered Charges.**

If an AMEX Card cannot be read electronically, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Key enter the data.
- Validate the AMEX Card's presence by taking an imprint of the AMEX Card (the imprint is for your records). Failure to validate the AMEX Card's presence by taking an imprint of the AMEX Card can render you liable for Chargebacks if the AMEX Cardholder disputes the Charge.

**17.21 Keyed No Imprint for American Express transactions.**

- Your establishments may be eligible to participate in the American Express "Keyed No Imprint Program." The "Keyed No Imprint Program" allows you to submit in-person charges without taking an imprint of the AMEX Card if you meet the following Charge criteria:
- All AMEX Cards qualify for the "Keyed No Imprint Program."
- The Charge must be key-entered.
- The Charge Submission must include the appropriate indicator to reflect that the AMEX Card and the Cardholder were present at the point of sale.
- The Charge Submission must include a valid approval, and;
- The CID Number must be confirmed as a positive match. Under the "Keyed No Imprint Program," Chargebacks will not be exercised for such Charges based solely on the establishment's failure to obtain an imprint of the AMEX Card. If a disproportionate amount or number of disputed Charges under the "Keyed No Imprint Program" occurs, you must cooperate to reduce the number of disputed Charges. If such efforts fail, you may be placed in any of American Express' Chargeback programs or your participation in the "Keyed No Imprint Program" may be modified or terminated.

**17.22 Merchant Website Information Display Guidelines.**

- An accurate description of the goods/services offered, including the currency type for the transaction (e.g., U.S. Dollars). transaction currency must be in U.S. Dollars.
- Your physical address in the U.S.
- An email address and a telephone number for customer service disputes.
- Return/refund policy.
- A description of your delivery policy (e.g., No COD, No overnight).
- A description of your security practices (e.g., information highlighting security practices you use to secure transactions conducted on the internet).
- A statement of known export restrictions, tariffs, and any other regulations.

**17.23 Aggregated Charges.**

If you are classified as an internet industry, you may process aggregated charges, provided the following criteria are met:

- Clearly disclose your intent and obtain written consent from the Cardholder that their purchases or refunds (or both) on the AMEX Card may be aggregated and combined with other purchases or refunds (or both) before you request an Authorization.
- Each individual purchase or refund (or both) that comprises the aggregated Charge must be incurred under the same merchant number and on the same AMEX Card.
- Obtain a pre-Authorization of no more than \$15.00
- Create a Sales Draft for the full amount of the aggregated Charge.
- The amount of the aggregated Charge must not exceed \$15 or the amount for which you obtained pre-Authorization.
- Submit each Sales Draft within our submission timeframe.
- Provide the Cardholder with an email containing the date, amount, and description of each individual purchase or refund (or both) that comprises the aggregated Charge, and the date and the amount of the aggregated Charge.

**17.24 American Express Prepaid AMEX Card Security Features.**

Although there are a number of unique prepaid AMEX Cards, all prepaid AMEX Cards share similar features, except that Prepaid AMEX Cards may or may not be embossed, and the following features may appear on the front or back of the AMEX Card (or a combination of both):

- The American Express logo generally appears in the bottom right corner.
- The words PREPAID or INCENTIVE will generally be shown above the American Express logo.
- AMEX Cards pre-loaded with funds may show the dollar amount or the total points (reloadable AMEX Cards generally will not show a number).
- The CID Number will appear usually above the AMEX Card number or above the logo.
- The AMEX Card number appears on the AMEX Card.
- The valid date or expiration date appears on the AMEX Card.
- The recipient's name or company name may appear on the AMEX Card.

**17.25 American Express Processing Prepaid Cards**

Prepaid AMEX Cards are available for a variety of uses: gifting, travel, incentive, etc. All American Express prepaid Cards show the American Express "Blue Box" logo either on the face or back of the prepaid AMEX Card. Prepaid AMEX Cards may or may not be embossed. Most prepaid AMEX Cards can be used for both in-store and online purchases. Prepaid AMEX Cards are valid through the date on the AMEX Card. Simply swipe the AMEX Card at the point of sale just like any other AMEX Card. A prepaid AMEX Card must be tendered for an amount that is no greater than the funds available on the AMEX Card.

- Instruct Cardholders that, before making a purchase, they must check their remaining funds by calling the twenty-four (24) hour, toll-free number on the back of the AMEX Card.
- Because prepaid AMEX Cards are pre-funded, if you receive a decline when seeking Authorization, ask the customer to call the toll-free number on the back of the AMEX Card to confirm that the purchase price does not exceed the available funds on the prepaid AMEX Card.

- If the prepaid AMEX Card does not have enough funds to cover the purchase price, process a split tender transaction or request an alternative form of payment.
- You must create a Sales Draft for a prepaid AMEX Card as you would any other AMEX Card.
- Be on the lookout for Suspect transactions.

**17.26 American Express Policies and Procedures for Specific Industries.** This Section 17.26 states additional American Express policies and procedures applicable to merchants classified in specific industries. All other provisions and requirements of the Agreement apply to these merchants as well. To the extent possible, the provisions of this Section 17.26 and the other provisions of the Agreement applicable to American Express transactions shall be interpreted to give each their full effect. However, if a conflict is deemed to exist between them, then the provisions of this Section 17.26 shall govern.

**17.26.1 Auto Dealers:** This section applies to merchants classified in an auto dealer industry.

The following requirements will apply to Charges for the down payment or the entire purchase price of new and used motor vehicles. You may accept the AMEX Card for down payment of a motor vehicle, subject to the following provisions:

- You must not submit a Charge for the down payment price of a used motor vehicle unless and until you have a written agreement/bill of sale signed by the Cardholder setting forth the terms of the sale, including down payment price, and your cancellation policy.
- In addition to its other Chargeback rights, American Express also has Chargeback rights for any portion of the Charge for the down payment price of a used motor vehicle which is disputed by the Cardholder, if such disputed charge cannot be resolved in your favor based upon unambiguous language contained in the written agreement/bill of sale.
- Should a Cardholder exercise his or her right to rescind the written agreement/bill of sale during any rescission period set forth in the Cardholder's agreement with you or at law, you shall submit a Credit to us promptly.
- If American Express has classified you as an auto dealer of used motor vehicles exclusively, the down payment must not exceed 50% of the full purchase price of the motor vehicle.
- If the Cardholder denies making or authorizing the Charge, American Express will have Chargeback rights for such Charge in addition to our other Chargeback rights

You may also accept the AMEX Card for the entire purchase price of a new or used motor vehicle, subject to the following provisions:

- You are classified as an auto dealer of new or new and used motor vehicles (i.e. Your dealership sells new motor vehicles exclusively or both new and used motor vehicles).
- The amount of the Charge does not exceed the total price of the motor vehicle after deduction of applicable discounts, taxes, rebates, cash down payments, and trade-in values.
- You must not submit a Charge for the entire purchase price of a new or used motor vehicle unless and until you have a written agreement/bill of sale signed by the Cardholder setting forth the terms of the sale, including purchase price, delivery date and your cancellation policy.
- In addition to other Chargeback rights, American Express also has Chargeback rights for any portion of the Charge for the entire purchase price of a new or used motor vehicle which is disputed by the Cardholder, if such disputed Charge cannot be resolved in your favor based upon unambiguous language contained in the written agreement/bill of sale.
- Should a Cardholder exercise his or her right to rescind the written agreement/bill of sale during any rescission period set forth in the Cardholder's agreement with you or at law, you shall submit a Credit to us promptly.
- If the Cardholder denies making or authorizing the Charge and you have not transferred title or physical possession of the motor vehicle to the Cardholder, American Express will have Chargeback rights for such Charge in addition to its other Chargeback rights.

**17.26.2 Business-to-Business (B2B)/ Wholesale Distribution.** If you are classified in the business-to-business (B2B) or wholesale distribution industries, and American Express determines that you are not in the telecommunications industry, then notwithstanding the prohibition in Section 17.4, "Prohibited Uses of the AMEX Card", you may accept the AMEX Card for overdue amounts to the extent that acceptance of overdue amounts is a common practice in your industry and does not constitute an attempt to obtain payment from the Cardholder whose prior methods of payment have, in American Express' reasonable judgment, been difficult to collect or uncollectible. An indicator of such difficulty, for example, may be the fact that you have sent a customer account to collections.

To minimize your risk of a Chargeback with B2B Charges, always:

- Obtain a signature for all in-person charges. For Card Not Present Charges, obtain Proof of Delivery, and
- Maintain clear and accurate records of orders and returns.
- Notwithstanding the restriction in Section 7, you must not submit any Charge until the goods have been shipped or services have been provided to the Cardholder. To the extent that you have clearly disclosed your intentions to the Cardholder and the Cardholder agrees, then you may submit the following types of Charges to us before you ship the goods to the Cardholder:
  - Charges representing deposits on custom and special orders (so long as you comply with applicable law) or goods not in inventory at the time the order is placed.
  - Charges representing advance, partial, or full payment for goods that the Cardholder requests you to ship at a later date.

**17.26.3 Insurance.** This section contains provisions specific to establishments that are classified in the insurance industry. If any of your goods or services are sold or billed by independent agencies, then you must provide to American Express a list of such independent agencies and notify us of any subsequent changes in the list. American Express may use this list to conduct mailings that encourage such independent agencies to accept the AMEX Card. American Express may mention your name in such mailings, and you must provide us with a letter of endorsement or

assistance as American Express may require. You must use your best efforts to encourage independent agencies to accept the AMEX Card. American Express acknowledges that you have no control over such independent agencies. From time to time, and subject to prohibited uses of the AMEX Card, American Express may establish joint marketing campaigns that promote AMEX Card acceptance specifically at your establishments or, generally, at insurance companies. A necessary purpose for which you submit Cardholder Information that is responsive to such joint marketing campaigns includes American Express' use of that information to perform back-end analyses to determine the success of such joint marketing campaigns. American Express undertakes no responsibility on your behalf for the collection or timely remittance of premiums. American Express will not be subject to any liability, under any circumstances, for any claim arising from, or related to, any insurance policy issued by you or your agencies. If the AMEX Card is accepted as payment for fixed rate cash value life insurance policies or fixed rate annuities under the Agreement, you represent and warrant to PROVIDER that the fixed rate cash value life insurance policies and fixed rate annuities for which the AMEX Card will be accepted for premium payments are not securities requiring registration under the Securities Act of 1933.

**17.26.4 Oil/Petroleum.** If you are classified in the oil and petroleum industry, American Express may place you in the Fraud Full Recourse Program if you accept charges originating at a Customer Activated Terminal (CAT) gas pump. American Express will not exercise Chargeback up to a certain dollar amount for charges that qualify under the Oil Fraud Protection Program described below.

**Oil/Petroleum Requirements.** If you are classified in the oil and petroleum industry, you must:

- Obtain a unique Merchant Account Number for your CAT gas pump sales. If you conduct any other business at your establishment (e.g., convenience store sales, car washing services), you must obtain a unique Merchant Account Number for those lines of business.
- Submit dealer location data along with each Authorization request and each Submission file. Dealer location data consists of your business':
  - dealer number (store number)
  - name
  - street address
  - city
  - postal code

**Oil/Petroleum Recommendations.** American Express has implemented several policies and fraud prevention tools to assist in combating fraud at the gasoline pump.

American Express recommends that you:

- Set a pre-Authorization request of \$100 at your CAT gas pumps.
- For higher charges such as diesel, adjust the pre-Authorization amount to accommodate the higher charges.
- Set your CAT gas pumps to shut off when they reach the pre-Authorization amount.
- Request a separate Authorization for purchases that exceed the original pre-Authorization amount.

**Oil Fraud Protection Program.** The Oil Fraud Protection Program addresses counterfeit fraud Chargebacks at fuel pump CATs. Under this program, American Express will not exercise Chargeback for the amount of the Charge up to \$100 provided that both the establishment and each Charge meet the following criteria:

- The Authorization request meets the data requirements listed under CATs.
- The Authorization request must include the correct merchant category code (MCC) for "automated fuel dispensers" (5542).
- The Issuer determines that the AMEX Card used to initiate the Charge was counterfeit, and,
- The establishment qualified for Chargeback protection under the program at the time of the Charge, as follows:

For an establishment to qualify under the Oil Fraud Protection Program, it (i) must authorize and submit transactions under the unique Merchant Account Number (Seller ID) assigned to the establishment, and (ii) must have, in a given month, a counterfeit fraud to Charge volume ratio below 1%. An establishment whose counterfeit fraud to Charge volume ratio rises to or exceeds 1% in a given month will not qualify under the Oil Fraud Protection Program until the ratio falls below 1% for three (3) consecutive months. Notwithstanding the foregoing, the Oil Fraud Protection Program does not apply to merchants that submit one Merchant Account Number (Seller ID) consolidated charges from multiple establishments (i.e., central submitters) or to the establishments that those merchants submit on behalf of. American Express offers a variety of fraud prevention tools which may enable merchants to reduce fraud in order to qualify and retain eligibility for the program.

**17.26.5 Restaurants.** If you are classified in the restaurant or bar industry, then the following Authorization procedures apply. If the final restaurant or bar Charge is no greater than the amount for which you obtained Authorization plus 20% of that amount, no further Authorization is necessary. If the final restaurant or bar Charge is greater than the amount for which you obtained Authorization by more than 20%, you must obtain Authorization for any additional amount of the Charge that is greater than the original Authorization. When submitting the Charge, only include the initial approval.

**17.26.6 Telecommunications.** If American Express classifies you in the Telecommunications industry, notwithstanding anything to the contrary in the Agreement, American Express may place you in one or more of the following Chargeback programs: Partial Immediate Chargeback Program for an amount of \$50 or less; or Fraud Full Recourse Program

American Express may establish audit procedures determined in American Express' discretion to ensure that no charges except for recurring billing charges are submitted under the Merchant Account Number designated for recurring billing charges. We may request that you provide us with a list of Affiliates and the list you provide must include any agency in the geographic area where you offer any telecommunications services.

**17.26.7 Government/Utilities/Education.** This section applies to merchants classified in the government, utilities, or certain education industries (i.e. higher education, private school - kindergarten to grade 12). Customers should feel free to use all forms of payment that you accept without being penalized for choosing a particular form of payment. To promote consumer choice, you are generally prohibited from imposing any restrictions, conditions, or disadvantages

when the AMEX Card is accepted that are not imposed equally on all other payment products. See "Treatment of the American Express Brand". Merchants in these specific industries may assess convenience fees on charges, provided that they comply with the other requirements of this section, as follows:

- Merchants must not impose a higher convenience fee on charges than it imposes on other payment products, except for Automated Clearing House funds transfers, cash, and checks.
- Merchants classified as government Entities, including government utilities, and privately owned utilities may assess convenience fees on all Charges.
- Merchants classified as educational institutions may assess convenience fees only on charges for tuition, room and board, school lunch payments or other mandatory fees.
- You must clearly disclose the amount of convenience fees to the customer and give the customer the opportunity to cancel the Charge if the customer does not want to pay the convenience fee.

Any explanation, verbal or written, describing why the convenience fee is being assessed, or how it is calculated, must characterize the convenience fee as an assessment to cover your administrative costs and not as an assessment to cover your cost of accepting the AMEX Card. You must obtain separate Authorizations and Approval Codes for each of the principal charges and the convenience fee. Furthermore, the descriptor on the convenience fee must clearly state that it is a convenience fee (e.g., Official Payments – City of X (principal payment) and Official Payments Convenience Fee (convenience fee)). Your third-party service provider can only assess a convenience fee when it accepts the AMEX Card for the foregoing charges in compliance with the requirements of this section.

#### **17.26.8 Internet/Online Pharmacies**

If it is determined that you are an internet/online pharmacy merchant that accepts the AMEX Card for sales of prescription medications (as defined by applicable law) in the Card Not Present environment:

- You must be certified by the Verified Internet Pharmacy Practice Sites program of the National Association of Boards of Pharmacy ([www.nabp.net](http://www.nabp.net)), or,
- You or your authorized representative must attest that you comply with the licensing and inspection requirements of (i) U.S. federal law and the state in which you are located and (ii) each state to which you dispense pharmaceuticals.

Upon request, you must promptly provide documentation that you fulfill the foregoing requirements. Failure to provide this documentation promptly may result in suspension or disqualification of AMEX Card acceptance privileges. Specific procedures exist for transaction processing by internet/online merchants.

**17.26.9 Online/mail order tobacco retail.** If you are classified or it is otherwise determined that you are an online or mail order (or both) tobacco or e-cigarette merchant, then you must provide the website address of the online store from which you sell your tobacco products. If your website facilitates tobacco sales, you will be required on request to provide an executed and notarized Affidavit of Compliance with Laws - Online/Mail Order Tobacco. If you fail to complete the Affidavit, AMEX Card acceptance privileges may be suspended. American Express may monitor your website.

**17.27 American Express-Excessive Disputes.** You may be subject to various fees and assessments as set forth on the Agreement 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.

**17.28 American Express Right to Modify or Terminate Agreement.** American Express has the right to modify the Agreement with respect to American Express Card transactions or to terminate your acceptance of American Express Card transactions and to require PROVIDER to investigate your activities with respect to American Express Card transactions.

**18. Fees; Adjustments; Collection of Amounts Due.** The following additional terms shall apply to the parties' rights and obligations under the Agreement with respect to Fees; Adjustments; Collection of Amounts Due (which are addressed in Section 13 of the Agreement):

Other Debits. We may also debit your Settlement Account or your settlement funds in the event we are required to pay Card Organization fees, charges, fines, penalties or other assessments as a consequence of your sales activities. Such debits shall not be subject to any limitations of time specified elsewhere in the Agreement, including, without limitation the following, which we may add to or delete from this list as changes occur in the Card Organization Rules or our Operating Procedures:

- 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 us.
- Currency conversion was incorrectly calculated.
- 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 Electronic Draft Capture 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 the 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, rental or lease.
- 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 account in an amount no less than \$150.00.

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. You agree that in addition to any rights we have under the Agreement, we can offset any amounts owed to us or our Affiliates related to activity in other accounts maintained in your name or accounts guaranteed by you, any of your principals, guarantors or authorized signors. 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.

- 19. Additional Limitation of Liability.** In addition to the limitation of liability set forth in the agreement, and notwithstanding anything in the agreement and any addenda to the contrary, provider and its affiliates' cumulative liability, in the aggregate (inclusive of any and all claims made by customer against provider and/or its affiliates, whether related or unrelated) for all losses, claims, suits, controversies, breaches, or damages for any cause whatsoever related to the American Express card acceptance, and regardless of the form of action or legal theory, shall not exceed the amount of fees received by provider pursuant to this addendum in the immediately preceding 12 months.
- 20. Indemnification.** You acknowledge and agree that your obligations under the Agreement to indemnify and hold us harmless from and against certain losses, liabilities, damages and expenses obligations identified in the Agreement (which maybe set forth in Section 4 (Indemnification) of the Agreement), hereby also apply to American Express.
- 21. Disclaimer of Warranties.** In addition to the disclaimers set forth in the agreement, provider makes no representations, warranties or covenants, express or implied with regard to the American Express card acceptance including the uninterrupted or error-free operation of the American Express card acceptance or non-infringement.
- 22. Your Warranties.** You warrant all of the following: (i) All representations and statements made in the Agreement, this Addendum, and any other related document, by you or on your behalf are true, accurate, and complete in all respects and you hereby authorize us to verify and confirm all information provided herein by any means at our disposal; (ii) you are engaged in a lawful business, which includes the sale of merchandise and/or services and are duly licensed to conduct such business under the laws of the state(s), county(s), city(s), and country(s) in which you operate; (iii) you shall not submit any payment transactions that violate any laws of any related state, county, city, or country or any Card Organization Rules and shall otherwise comply with all applicable laws, regulations, or rules in connection with your obligations under this Addendum; and (iv) that there are no outstanding or contemplated assignments, grants, licenses, encumbrances, security interests, liens, obligations or agreements (whether written, oral or implied) that are inconsistent with this Addendum and the rights and obligations herein.
- 23. Special Provisions Regarding Non-Bank Cards.** Terms applicable to American Express transactions (which are addressed in Schedule A to the Bankcard Addendum) are amended as follows:  
  
You understand and agree that if, based upon your anticipated AMEX Card transaction volume you do not qualify for our full service program (acceptance of American Express Card transactions pursuant to a direct agreement with us) but have otherwise been approved for accepting American Express transactions, your authorizations will be obtained from and funded by American Express. American Express will provide you with its own agreement that governs those 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 funding and settlement of American Express transactions, and that American Express will charge additional fees for the services they provide.
- 24. Compliance with Law.** For the avoidance of doubt, you acknowledge and agree that in connection with your obligation under the Agreement to comply with all laws and regulations applicable to you (which are addressed in Section 10 of the Agreement), you will not use your merchant account and/or the 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, or those involving any Person listed on the U.S. Department of Treasury, Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons List (available at [www.treas.gov/ofac](http://www.treas.gov/ofac)) or the U.S. Department of State's Terrorist Exclusion List (available at [www.state.gov](http://www.state.gov)), or for the processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control ("OFAC") or in connection with illegal activity of any kind.
- 25. Survival.** Upon termination or expiration of this Addendum, a party's obligations shall cease except for those remaining or required to be performed following such termination. For the avoidance of doubt, the Definitions and the provisions of Sections 3, 17.2, 18, 19 20, 24, and 25 shall survive the termination or expiration of this Addendum.

## Convenience Fee Addendum

### Background

This Addendum adds the First Data Managed Convenience service to your Merchant Services Agreement (**MSA**) between Provider and Customer dated ....., 2017. The terms of the MSA and this Addendum apply to the First Data Managed Convenience Fee service, but if anything in this Addendum conflicts with the MSA, this Addendum will control. The First Data Managed Convenience Fee service (including its components) is a **Service** under the MSA and is provided by Provider and not by Bank. Bank is not a party to this Addendum and is not liable to Customer in connection with the Service or this Addendum.

Capitalized words or phrases that are not defined in this Addendum shall use the definitions given to them in the MSA.

### Service Description

Provider will provide Customer with the Service as described in this Addendum.

**Service** means the creation and operation of a [ ] portal hosted by Provider and/or [ ] Interactive Voice Response (IVR) system and a gateway to allow you to submit internet payments from your customers with an appended convenience fee paid by your customers using credit, PIN debit, signature debit, and pre-paid debit cards and ACH. The Convenience Fee services includes the creation of a portal along with a gateway that allows you to connect a for the payments submitted through the Portal or IVR.

The Portal will integrate with your website through a hyperlink. You will be able to provide reasonable input into the basic configuration of client logo, colors and field labels for the Portal.

The Portal will include the following capabilities:

- Provide the option to pay with a debit or credit card or via ACH (ACH requires separate TeleCheck addendum). Payment pages redirect your consumers to a payment form hosted by Provider. To accomplish this a "Checkout" button is displayed within an HTML form on Customer's website.

- If the debit card can be authorized using internet PIN debit, Processor's proprietary and patented PIN Padtechnology will be used to capture the PIN and submit the transaction for authorization to the applicable debit network. If not, the debit transaction will be processed as a signature debit transaction.

- The Portal will inform the customer of the requirement and amount of the convenience fee and obtain consent to levy the convenience fee or allow termination of the transaction. If the customer accepts, Processor will submit the transaction consisting of the amount due to you and the convenience fee for authorization over the applicable debit or credit, network or via TeleCheck.

- Your customers will be provided the opportunity to provide an email address to receive notification of completion of the transaction.

- For convenience fee transactions pursuant to this Addendum, Customer will receive the principal amount owed to Customer and Provider will receive the convenience fee through settlement. Customer shall not be charged transaction authorization fees, gateway transaction fees, or related fees such as interchange or discount fees from the Card Brands or transaction fees related to ACH (eCheck) transactions, which shall be paid by Provider.

- Chargebacks and associated chargeback fees are charged to Customer and netted daily. Service does not include dispute management and is Customer's responsibility.

- Processor will daily batch the payments received and generate a payment file of amounts paid. Customer can receive an online report showing transactions processed on a range date using Processor's Business Track(SM) reporting portal.



Graphical depiction of the typical steps involved in transaction flow:

Step	Step Description
Account Look-Up	<p><b>STEP 1:</b></p> <ul style="list-style-type: none"> <li>Your customer enters Account number to find amount due and other Account details</li> </ul>
Choose to pay	<p><b>STEP 2:</b></p> <ul style="list-style-type: none"> <li>Your customer elects to make a payment against the amount due</li> </ul>
Collect card or eCheck details	<p><b>STEP 3:</b></p> <ul style="list-style-type: none"> <li>Your customer enters payment card or eCheck (ABA/DDA) details, if applicable</li> </ul>
Agree to convenience fee	<p><b>STEP 4:</b></p> <ul style="list-style-type: none"> <li>Your customer agrees to convenience fee in addition to amount due</li> </ul>
Payment processing	<p><b>STEP 5:</b></p> <ul style="list-style-type: none"> <li>If your customer agrees to convenience fee, Processor facilitates the payment processing</li> </ul>
Payment completion	<p><b>STEP 6:</b></p> <ul style="list-style-type: none"> <li>Processor will notify your customer of payment completion if email is provided.</li> <li>Processor updates you on payment status</li> </ul>

**Fees.** The fees are set forth in Schedule C-7.

**Term, Termination, and Amendment**

This Addendum begins on the latest date that appears in the signature block and continues in effect until the MSA expires or terminates, in which case, this Addendum will automatically terminate. Unless otherwise agreed, the Customer will go live on or before \_\_\_\_\_.

**License, Restrictions, and Requirements**

Subject to the terms and conditions of this Addendum (including additional rights and licenses granted in the Documentation or an exhibit to this Addendum), Provider grants to Customer a nonsublicensable, royalty free, non-exclusive, nontransferable, revocable, limited license to use the Service during the term of this Addendum only for (1) the purpose of submitting payment transactions to Provider for processing, and (2) the purposes described in this Addendum. All references to the Service or its components in this Addendum include the applicable Software.

Subject to the terms and conditions of this Addendum, Provider grants to Customer a non-sublicensable, royalty free, non-exclusive, non-transferable, revocable, limited license to use the Documentation during the term of this Addendum only for the purpose of supporting Customer's use of the Service. Documentation means all manuals and other written materials in any form provided for use with the Portal, as amended from time to time by Provider. Customer must strictly comply with all Documentation provided to Customer, and Provider may amend the Documentation in Provider's discretion. If there is any conflict between the Documentation and the terms of Addendum, the terms of this Addendum will control.

Customer acknowledges that the Service and Documentation are Provider's intellectual property, and Customer must not, and must not cause or permit any third party to:

Use the Service except as permitted by this Addendum or the Documentation or as permitted by Provider in writing;

Use the Service or Documentation, either directly or indirectly, for benchmarking purposes or to develop any product or service that competes with the Service;

Disassemble, decompile, decrypt, extract, reverse engineer, or modify the Service or otherwise apply any procedure or process to the Service in order to ascertain, derive, or use the source code or source listings for the Service or any algorithm, process, procedure or other information contained in the Service;

Provide the Service or Documentation to any third party, other than to Customer's authorized employees and contractors who are subject to a written confidentiality agreement, the terms of which are no less restrictive than the confidentiality provisions of the Agreement;

Use, modify, adapt, reformat, copy or reproduce the Service or Documentation or any portion thereof, except as is incidental to the purposes of this Addendum, or for archival purposes (any permitted copies must contain all appropriate proprietary notices);

Rent, lease, upload, assign, sublicense, transfer, distribute, allow access to, or time share the Service or Documentation;

Circumvent or attempt to circumvent any security measures of the Service;

Attempt to access or actually access portions of the Platform or Service not authorized for Customer's use; or Use the Service in any unlawful manner or for any unlawful purpose.

The licenses granted under this Addendum may be subject to other licenses currently held by Provider or its subcontractors. If any license held by Provider to certain technology or software is terminated or suspended, the corresponding license(s) granted to Customer under this Addendum may also be terminated or suspended in Provider's sole and absolute discretion. Customer acknowledges and agrees to the potential termination or suspension and waives all damages (whether actual, incidental, or consequential) resulting from termination or suspension.

Except for the limited licenses granted above, this Addendum does not grant Customer any rights or licenses (express or implied) in any patents, copyrights, trademarks, trade secrets, or other Intellectual Property Rights in or related to the Service, all of which are and will remain the sole and exclusive property of Provider, its vendors, or its licensors. Provider reserves and withholds all rights, title, and interests associated with the Service that are not expressly licensed to Customer in this Addendum. Provider may revoke this license if Customer (1) fails to comply with this Addendum, or (b) misuses the Service.

If Customer is acquiring the Software on behalf of any part of the United States Government (the Government), the following provisions apply: Any use, duplication, or disclosure by the Government is subject to the restrictions in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. Provider is the contractor/manufacturer, with the address set forth below. Any use, modification, reproduction, release, performance, display or disclosure of the Software and/or the accompanying documentation by the Government or any of its agencies will be governed by the terms of this Addendum and will be prohibited except to the extent expressly permitted by the terms of this Addendum.

The limited licenses provided above will automatically terminate when this Addendum terminates. Within five days after termination, Customer must either return or destroy the Software and the Documentation and must certify to Provider in writing that the return or destruction has occurred. **Data File Manager Service Addendum**

#### **Background**

This Addendum adds the Data File Manager service to the Bankcard Addendum to the Master Services Agreement (**MSA**) between Provider and Customer. The terms of the MSA, the Bankcard Addendum, and this Addendum apply to the Data File Manager service, but if anything in this Addendum conflicts with the MSA or Bankcard Addendum, this Addendum will control. The Data File

Manager service is a **Service** under the MSA and Bankcard Addendum and is provided by Provider and not by Bank. Bank is not a party to this Addendum and is not liable to Customer in connection with the Service or this Addendum.

Capitalized words or phrases that are not defined in this Addendum use the definitions given to them in the MSA or the Bankcard Addendum.

**Service Description and Fee**

Provider will provide Customer with access to the Service, which can help Customer manage accounts in its portfolio. Customer understands and agrees that: (1) the Service, and the features and functionality of individual modules in the Service, are subject to change without notice; (2) any information obtained from the Service may not accurately detect, predict, or forecast profitability, losses, or fraud; and (3) Customer is solely responsible for ensuring that its use of the Service complies with all applicable laws and Card Organization Rules, including data protection and privacy laws.

Customer will pay the fees set forth in Schedule C-7.

**Term and Termination**

This Addendum begins on the latest date that appears in the signature block and continues in effect until (1) the Bankcard Addendum expires or terminates, in which case, this Addendum will automatically terminate, or (2) Customer terminates this Addendum by giving Provider at least 30 days' advance written notice.

## TELECHECK WARRANTY SERVICES AGREEMENT

### TELECHECK AND SUBSCRIBER AGREE:

1. **Definitions.** The following definitions apply within this Agreement: **"ACH Network"** means the Automated Clearing House Network, a processing and delivery system that distributes and settles electronic fund transfers. **"Authorization"** means the acknowledgement provided (electronically or in writing) by a Consumer for each Warranty Transaction that authorizes processing the Warranty Transaction as an electronic fund transfer and is required by the NACHA Rules or other applicable Legal Requirements (both as defined in Section 14.1). **"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 or presents an Item as payment for a transaction. **"ECA Authorization Receipt"** is an Authorization specific to an ECA Warranty Transaction that consists of a receipt signed (electronically or in writing) by the Consumer permitting the conversion of their check into an electronic fund transfer or remotely created check. **"ECA Warranty Transaction"** is a type of Warranty Transaction in which a payment initiated using a standard check is processed under this Agreement as an electronic fund transfer or remotely created check. **"ICA Authorization Receipt"** is an Authorization specific to an ICA Warranty Transaction that consists of an electronic authorization provided by a Consumer via the Internet that permits processing an electronic fund transfer against the Consumer's demand deposit account. **"ICA Warranty Transaction"** is a type of Warranty Transaction in which a payment initiated and authorized by a Consumer via the Internet is processed under this Agreement as an electronic fund transfer or remotely created check. **"Item"** means an outstanding financial obligation arising pursuant to a check or electronic fund transfer processed using the Services provided by TeleCheck under this Agreement. **"Merchant ID"** means the identification number assigned to Subscriber by TeleCheck that identifies the Subscriber and the Subscriber's location from which a transaction is initiated for processing by TeleCheck. **"Return Item"** means any Item that is dishonored, returned, reversed, charged back or otherwise unpaid by a Consumer's financial institution upon presentment for payment, regardless of the reason or timing. **"Return Item Fee"** means the fee or exemplary damages assessed on a Return Item in the maximum amount allowed by applicable Legal Requirements. **"Subscriber's Account"** means a demand deposit account maintained by Subscriber at a US financial institution that Subscriber opens in connection with the Services. **"Subscriber Parties"** means Subscriber and its officers, directors, employees, shareholders, agents and attorneys. **"Subscriber Returned Payment"** means any financial obligation owed by Subscriber pursuant to this Agreement which is not paid by Subscriber's financial institution. **"TeleCheck Approval Code"** means the indicator transmitted by TeleCheck to Subscriber notifying Subscriber that TeleCheck has authorized an Item for warranty coverage in connection with a Warranty Transaction. **"TeleCheck Parties"** means TeleCheck and its officers, directors, employees, shareholders, agents and attorneys. **"Warranty Maximum"** means the total dollar amount permitted per Warranty Transaction (which may be designated by specific product/service) as set forth on the Fee Schedule. **"Warranty Transaction"** means a contemporaneous payment transaction initiated by a Consumer between Subscriber and the Consumer that is processed and subject to warranty services under this Agreement.
  
2. **Services.** TeleCheck will provide Subscriber with (i) coded information to assist it in determining whether to accept an Item; (ii) processing services; and (iii) certain warranty services for Items that comply with the applicable warranty requirements below (collectively, the "Services"); all as specifically set forth in this Agreement. TeleCheck warrants the accuracy of the information it provides to Subscriber in connection with an Item processed using the warranty services when TeleCheck issues a TeleCheck Approval Code and so long as the Item meets all applicable warranty requirements. TeleCheck has sole discretion to determine whether or not to issue a TeleCheck Approval Code. TeleCheck's obligation to purchase each Warranty Transaction Item that received a TeleCheck Approval Code, met the warranty requirements and became a Return Item (a) will not exceed an amount equal to the Warranty Maximum and (b) will not exceed (in any event) the amount of the Return Item. **SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THE INFORMATION WARRANTY CONTAINED IN THIS PARAGRAPH WILL BE THE RIGHT TO REQUIRE TELECHECK TO PURCHASE RETURN ITEMS THAT MEET THE WARRANTY REQUIREMENTS AND FOR WHICH SUBSCRIBER RECEIVED A TELECHECK APPROVAL CODE.** Subscriber is not authorized to use the Services in connection with any transaction conducted, in whole or in part, over the Internet or in any non face-to-face transaction except as specifically provided for in this Agreement. Subscriber will not resell the Services to any third party. This Agreement is solely between Subscriber and TeleCheck; and, during the Term (defined below), Subscriber will process all of the Items it receives from Consumers as payment for Subscriber's goods or services using TeleCheck's Services prior to accepting such Items.
  
- 2.1 **ECA Services.** TeleCheck will provide Subscriber with its Electronic Check Acceptance<sup>®</sup> (ECA<sup>®</sup>) check based payment processing services that convert eligible paper checks to electronic fund transfers and accompanying warranty services ("ECA Services", which term is incorporated within the term Services).
  - 2.1.1 Each ECA Warranty Transaction Subscriber submits to TeleCheck for processing under this Agreement will comply with the following requirements:
    - (i) The check is a first party check drawn on the Consumer's account at a US financial institution, payable to Subscriber. The name of the Consumer is imprinted on the check by the check manufacturer;
    - (ii) The Consumer signed an ECA Authorization Receipt that authorized debiting its account and the amount to be debited for each Item submitted to TeleCheck for processing as an ECA Warranty Transaction;
    - (iii) Subscriber (a) submitted the Item to TeleCheck in accordance with TeleCheck's operating procedures, (b) submitted the check's MICR (magnetic ink character recognition) line information, and Consumer's identification type and number, (c) obtained a single TeleCheck Approval Code for each Item, and (d) did not

perform the ECA Warranty Transaction in manner that attempted to avoid the warranty requirements or Warranty Maximum (as more fully described in Section 3(vi)), including through split sales;

- (iv) The ECA Warranty Transaction represents an obligation of the Consumer at the point of sale (no phone, mail or Internet transactions) for goods or services sold, rented or rendered for the price of such goods or services. The ECA Warranty Transaction is not a transaction for credit, cash or payment on an existing debt, credit account or check already due to Subscriber that is not reasonably tied to Subscriber's services (i.e., a payment due at the end of a billing cycle for services rendered since the end of the immediately preceding billing cycle is not a prohibited transaction for a debt, credit account or check already due);
- (v) The amount of the ECA Warranty Transaction entered into the TeleCheck system and the amount on the ECA Authorization Receipt match exactly and do not exceed the Warranty Maximum;
- (vi) The check to which the ECA Warranty Transaction relates: (a) has not been used in any other transaction, (b) is voided on the front by the Consumer or Subscriber during processing, and (c) is returned to the Consumer at the point of sale during processing of the ECA Warranty Transaction;
- (vii) The date of the check and the ECA Warranty Transaction are within one (1) calendar day of: (a) the date the Item was submitted to TeleCheck for processing, and (b) the date the transaction actually occurred (Items may not pre-date or post-date the date they are submitted to TeleCheck for processing and the transaction date by more than one day);
- (viii) The ECA Warranty Transaction is not subject to any stop payment, dispute or set-off (unless do to fraud that is not subject to a chargeback under Section 3(vi));
- (ix) Subscriber has no reason to question or notice of any fact, circumstance or defense that would impair the validity or collectability of the Consumer's Item or relieve the Consumer from liability for it;
- (x) Subscriber agrees to cooperate in good faith with TeleCheck to promptly identify Consumers that have filed bankruptcy and notified Subscriber of such bankruptcy; and
- (xi) Subscriber complied with all applicable NACHA Rules and Legal Requirements including posting notice to authorize the ECA Warranty Transaction and the Return Check Fee in a prominent and conspicuous location, and providing a copy of the notice to the Consumer, all in accordance with Regulation E.

2.1.2 ECA Authorization Receipt. Subscriber will (i) maintain a copy (electronic or physical) of each signed ECA Authorization Receipt for a minimum period of two (2) years from the date of the ECA Warranty Transaction, or for the period specified by the NACHA Rules, whichever is longer; (ii) deliver a legible copy (physical or electronic) of the ECA Authorization Receipt to TeleCheck within seven (7) days of TeleCheck's request; and (iii) permit TeleCheck to audit Subscriber (upon ten (10) days written notice, during normal business hours and at TeleCheck's expense) for compliance with this requirement.

2.1.3 ECA Initiated Paper Warranty Transaction Requirements. In some instances, ECA Warranty Transactions that are initiated for processing as an electronic fund transfer may be approved and processed as a paper check or remotely created check. Each ECA Warranty Transaction Subscriber submits to TeleCheck for processing under this Agreement that is processed as an ECA initiated Paper Warranty Transaction will comply with the following requirements:

- (i) The check is a first party check drawn on the Consumer's account at a US financial institution, completely and properly filled out, and payable to Subscriber. The name and address of the Consumer is imprinted 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 (which may be a rural route or highway location number) is written on the check according to TeleCheck's operating procedures;
- (ii) The Consumer's signature in the signature block on the check is not substantially different from the name imprinted on the check (or the signature on the Consumer's identification when provided for verification);
- (iii) Subscriber (a) submitted the Item to TeleCheck in accordance with TeleCheck's operating procedures, (b) submitted the check's MICR (magnetic ink character recognition) line information, and Consumer's identification type and number, (c) obtained a single TeleCheck Approval Code for each Item, and (d) did not perform the ECA initiated Paper Warranty Transaction in an attempt to avoid the warranty requirements or Warranty Maximum (as more fully described in Section 3(vi)), including through split sales;
- (iv) Subscriber's Merchant ID, the Consumer's telephone number (including area code), identification type and number, and TeleCheck Approval Code are all printed or written on the check according to TeleCheck's operating procedures;
- (v) The ECA initiated Paper Warranty Transaction represents an obligation of the Consumer at the point of sale (no phone, mail or Internet transactions) for goods or services sold, rented or rendered for the price of such goods or services. The ECA initiated Paper Warranty Transaction is not a transaction for credit, cash or

payment on an existing debt, credit account or check already due to Subscriber that is not reasonably tied to Subscriber's services (i.e., a payment due at the end of a billing cycle for services rendered since the end of the immediately preceding billing cycle is not a prohibited transaction for a debt, credit account or check already due);

- (vi) The amount shown in words and figures on the check is (a) less than or equal to the amount entered into the TeleCheck system, or (b) no more than \$1.00 over the amount entered into the TeleCheck system, and does not exceed the Warranty Maximum;
- (vii) The date of the check accurately coincides within one (1) calendar day of: (a) the date the Item was submitted to TeleCheck for processing, and (b) the date the ECA initiated Paper Warranty Transaction actually occurred (Items may not pre-date or post-date the date they are submitted to TeleCheck for processing and the transaction date by more than one day);
- (viii) Subscriber deposited the check in Subscriber's Account and, upon the check becoming a Return Item, TeleCheck received the Return Item for purchase within thirty (30) days of the date that Subscriber originally received the check. Further, Subscriber's financial institution must send the Return Item to TeleCheck for purchase after presenting the Item for payment only once (i.e., Items may not be sent to TeleCheck for purchase in connection with warranty services after re-presentation, whether paper or electronic);
- (ix) The ECA initiated Paper Warranty Transaction is not subject to any stop payment, dispute or set-off (unless due to fraud that is not subject to a chargeback under Section 3(vi));
- (x) Subscriber has no reason to question or notice of any fact, circumstance or defense that would impair the validity or collectability of the Consumer's Item or relieve the Consumer from liability for it; and
- (xi) Subscriber agrees to cooperate in good faith with TeleCheck to promptly identify Consumers that have filed bankruptcy and notified Subscriber of such bankruptcy.

2.2 ICA Services. TeleCheck will provide Subscriber with its Internet Check Acceptance<sup>®</sup> (ICA<sup>®</sup>) electronic check based payment processing services that allow Consumers to initiate a payment via the Internet as an electronic fund transfer and accompanying warranty services ("ICA Services", which term is incorporated within the term Services).

2.2.1 Each ICA Warranty Transaction Subscriber submits to TeleCheck for processing under this Agreement will comply with the following requirements:

- (i) The electronic check is a first party Item drawn on the Consumer's account at a US financial institution, payable to Subscriber;
- (ii) The Consumer provided an ICA Authorization Receipt that authorized debiting its account and the amount to be debited for each Item submitted to TeleCheck for processing as an ICA Warranty Transaction;
- (iii) Subscriber (a) submitted the Item to TeleCheck in accordance with TeleCheck's operating procedures, (b) obtained a single TeleCheck Approval Code for each Item, and (c) did not perform the ICA Warranty Transaction in manner that attempted to avoid the warranty requirements or Warranty Maximum (as more fully described in Section 3(vi)), including through split sales;
- (iv) The Consumer provided its name, physical address (no P.O. Box), telephone number (including area code), date of electronic check authorization, check number, check type (personal or business), MICR (magnetic ink character recognition) line information (i.e., bank routing and account number), and identification type and number as required by the website;
- (v) The ICA Warranty Transaction represents an obligation of the Consumer for goods or services sold, rented or rendered for the price of such goods or services. The ICA Warranty Transaction is not a transaction for credit, cash or payment on an existing debt, credit account or check already due to Subscriber that is not reasonably tied to Subscriber's services (i.e., a payment due at the end of a billing cycle for services rendered since the end of the immediately preceding billing cycle is not a prohibited transaction for a debt, credit account or check already due);
- (vi) The amount of the ICA Warranty Transaction entered into the TeleCheck system and the amount on the ICA Authorization Receipt match exactly and do not exceed the Warranty Maximum;
- (vii) The date of the Item and the ICA Warranty Transaction are within one (1) calendar day of: (a) the date the Item was submitted to TeleCheck for processing, and (b) the date the transaction actually occurred (Items may not pre-date or post-date the date they are submitted to TeleCheck for processing and the transaction date by more than one day);
- (viii) The ICA Warranty Transaction is not subject to any stop payment, dispute or set-off (unless due to fraud that is not subject to a chargeback under Section 3(vi));

- (ix) Subscriber has no reason to question or notice of any fact, circumstance or defense that would impair the validity or collectability of the Consumer's Item or relieve the Consumer from liability for it;
  - (x) Subscriber agrees to cooperate in good faith with TeleCheck to promptly identify Consumers that have filed bankruptcy and notified Subscriber of such bankruptcy;
  - (xi) Subscriber authenticated the Consumer's identity, employed website security and Internet session security standards, performed Internet security audits and posted notices required to process the ICA Warranty Transaction and any Return Check Fee(s) as required by applicable NACHA Rules, Regulation E and Legal Requirements. From time to time upon TeleCheck's request, Subscriber shall provide TeleCheck with copies of Subscriber's internet security audits; and
  - (xii) Subscriber has provided the notices required to authorize the ICA Warranty Transaction and any Return Check Fee(s) as required by applicable NACHA Rules, Regulation E and Legal Requirements
- 2.2.2 ICA Authorization Receipt. Subscriber will (i) maintain a copy (electronic or physical) of each ICA Authorization Receipt for a minimum period of two (2) years from the date of the ICA Warranty Transaction, or for the period specified by the NACHA Rules, whichever is longer; (ii) deliver a legible copy (physical or electronic) of the ICA Authorization Receipt to TeleCheck within seven (7) days of TeleCheck's request; and (iii) permit TeleCheck to audit Subscriber (upon reasonable notice and during normal business hours for compliance with this requirement).
- 2.2.3 ICA Website Notation. Subscriber will note the availability of the ICA Services on its website (including the TeleCheck logo on the point of sale and/or the checkout pages); provided, the location, size and duration of such notation will be at Subscriber's sole discretion.
- 2.3 Assignment of Warranty Transactions. By execution of this Agreement, Subscriber ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Subscriber's rights, title and interest in any Warranty Transaction that TeleCheck processed under this Agreement that (i) complied with the applicable warranty requirements; (ii) received a TeleCheck Approval Code; and (iii) became a Return Item. Subscriber agrees, at TeleCheck's request, to take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of such rights.
- 2.4 Processing Notices; Return Item Fees. Subscriber will post and provide such notices (including any updates) to Consumers, that TeleCheck indicates are required pursuant to the NACHA Rules, Regulation E or other applicable Legal Requirements in order for TeleCheck to process Subscriber's Items and collect any applicable Return Item Fees as electronic fund transfers, paper drafts or otherwise. Further, Subscriber will assess a Return Item Fee on all Return Items, which TeleCheck will be entitled to collect and retain from Consumers.
- 2.5 "Goodwill" of a Non-Compliance Item. TeleCheck, in its sole discretion, may elect not to chargeback or reassign a specific Item that becomes a Return Item and that is not subject to warranty services because it fails to comply with the applicable warranty requirements set forth in this Agreement. Such discretionary election by TeleCheck will not (i) constitute a course of dealing or a waiver of TeleCheck's right to chargeback or reassign any other non-compliant Return Item, or (ii) prevent TeleCheck from charging back or reassigning any other past or subsequent Return Item (related or unrelated).
- 2.6 Updating Information. Subscriber agrees to promptly notify TeleCheck if any Consumers make a payment to Subscriber in connection with any Return Item that is subject to warranty services under this Agreement, return any goods associated therewith or otherwise cancel any services represented thereby (in such manner that the Return Item is fully or partially satisfied), and to identify such Consumers.
3. **Chargeback.** TeleCheck may chargeback any Warranty Transaction it processed as a check, electronic fund transfer or remotely created check, or reassign any paper check or Item to Subscriber that it purchased in any of the following circumstances:
- (i) The goods or services (in whole or in part) for which the Item was issued have been returned to Subscriber, have not been delivered by Subscriber, or are subject to any stop payment, dispute or setoff;
  - (ii) Subscriber 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 were initially delivered on credit or under a lease;
  - (iii) The Warranty Transaction is for any reason void or invalid, applicable Legal Requirements prevent the purchase by or transfer of the Item to TeleCheck, 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 a bankruptcy proceeding);
  - (iv) Any of the applicable warranty requirements for Warranty Transactions set forth in this Agreement are breached;
  - (v) Subscriber failed to comply with this Agreement;
  - (vi) Subscriber, or any of its owners, agents or employees (a) materially altered the Item or Authorization, (b) processed the Warranty Transaction with reason to know (or should have reasonably known) that it was likely to be dishonored (including failure to receive a TeleCheck Approval Code), or that the identification used or signature provided (to the extent an identification or signature is required under the applicable warranty

requirements) was forged or did not belong to the Consumer; or (c) processed the Warranty Transaction in a manner which was an attempt to avoid the warranty requirements or Warranty Maximum. "Knowledge" will 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 an Item. "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;

- (vii) A duplicate Item related to the same transaction was received and processed; or, in the case of a Warranty Transaction processed as an electronic fund transfer, the check giving rise to the Item was deposited, thereby creating a duplicate entry against Consumer's financial institution account;
- (viii) The closeout of any batches (if applicable) or transmission of Warranty Transactions to TeleCheck for settlement processing did not occur within seven (7) business days (or such timeline that is specifically set forth in the warranty requirements) from the date the TeleCheck Approval Code was issued for the corresponding Warranty Transactions;
- (ix) The Consumer disputes authorizing the Item, or the validity or accuracy of a debit made to the Consumer's financial institution account in connection with a Warranty Transaction (except in the case of a fraud committed by a third party using a Consumer's check); or
- (x) Any Authorization required by the NACHA Rules, Regulation E or applicable Legal Requirements was incomplete, unsigned or Subscriber failed to provide TeleCheck with a legible copy of the Authorization within seven (7) days of a request for it.

Subscriber will immediately notify TeleCheck if Subscriber has Knowledge that any of the above circumstances has occurred in connection with a Warranty Transaction. TeleCheck may debit Subscriber's Account, or offset amounts due Subscriber, in the amount paid by TeleCheck for any Warranty Transaction that is reassigned or charged back under this Section; or, promptly upon request, Subscriber will remit the amount of the Item to TeleCheck. TeleCheck may also charge back to Subscriber any amount over the Warranty Maximum on any Warranty Transaction for which TeleCheck has not received payment from a Consumer or a Consumer's financial institution within sixty (60) days of the date of the Warranty Transaction. Upon reassigning, charging back or charging back any amount in connection with an Item, TeleCheck will have no further liability to Subscriber for the Item. Subscriber will continue to bear full responsibility for any chargebacks and adjustments made under this Section following expiration or termination of this Agreement.

#### **4. Electronic Funds Transfer Processing.**

- 4.1 Funding. TeleCheck will credit each Warranty Transaction processed under this Agreement via electronic fund transfer as part of a batch credit to Subscriber's account. TeleCheck will typically credit Subscriber's account within two (2) banking days following: (a) for host-based processing, TeleCheck's receipt and acceptance of Subscriber's completed Warranty Transactions before 9:00 p.m. Central Time (3:00 p.m. Central Time for ICA Warranty Transactions or CBP Warranty Transactions) each processing day; or (b), for batch processing after Subscriber's regular close-out of its point-of-sale terminal(s), TeleCheck's receipt and acceptance of Subscriber's saved, completed Warranty Transactions before 9:00 p.m. Central Time (batch processing is not applicable to ICA Warranty Transactions or CBP Warranty Transactions). Subscriber authorizes TeleCheck on its behalf to initiate debits to the Consumers' accounts for each such Warranty Transaction. Subscriber acknowledges that it as an Originator under the NACHA Rules and agrees to comply with its obligations as an Originator. TELECHECK RESERVES THE RIGHT TO DECLINE PROCESSING ANY TRANSACTION AS A WARRANTY TRANSACTION. TeleCheck may initiate any necessary adjustments to Subscriber's Account for Items processed as Warranty Transactions; including, without limitation, chargebacks or partial adjustments. TeleCheck may recover the amount of any adjustments made to Subscriber's Account in connection with an Item in the event the adjustment was made at Subscriber's request or as a result of a Subscriber error, and the Item becomes a Return Item. TeleCheck may also recover the amount of any fees from Subscriber that a Consumer paid to its financial institution as a result of adjustments made to an Item due to a Subscriber error.

Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled to suspend or terminate processing hereunder if required by NACHA or any part of the ACH system (including the Originating Depository Financial Institution) due to breach of the NACHA Rules or as may otherwise required by such parties or as otherwise required by law. As required by the NACHA Rules, the Originating Depository Financial Institution shall have the right to audit Subscriber's compliance with this Agreement and the NACHA Rules.

TeleCheck shall also 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 Item 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 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.



4.2 Account Reconciliation. In the event any Warranty Transaction is not funded or otherwise paid by TeleCheck in accordance with this Agreement, Subscriber must notify TeleCheck in writing of such failure within thirty (30) days from the date of the Warranty Transaction. TeleCheck will have no liability to Subscriber, and it is precluded from asserting any claims, damages or losses against TeleCheck, if Subscriber does not notify TeleCheck of a failure to fund or otherwise pay a Warranty Transaction within such thirty (30) day period.

## 5. Equipment.

5.1 General. Subscriber may purchase point-of-sale equipment and/or associated peripherals (collectively, "Equipment"), or TeleCheck may lease Equipment to Subscriber under a separate lease agreement, for use in connection with the Services provided under this Agreement. TeleCheck will retain title to Equipment it leases to Subscriber; provided, Subscriber bears the entire risk of loss for owned or leased Equipment. Subscriber will return leased Equipment to TeleCheck, ordinary wear and tear excepted, upon termination or expiration of this Agreement. TeleCheck will replace or repair Equipment at Subscriber's request, subject to the Fees (defined below) set forth on Schedule A to this Agreement. If TeleCheck provides replacement Equipment to Subscriber via mail, or other delivery service, Subscriber must return its defective leased Equipment to TeleCheck within twenty (20) days or Subscriber will be deemed to have purchased the defective leased Equipment and will be billed for it. Subscriber will not permit anyone other than authorized representatives of TeleCheck to adjust, maintain, program or repair leased Equipment. Any telecommunications equipment (e.g., routers) that TeleCheck provides to Subscriber in connection with the Services will remain TeleCheck's property and will be returned promptly upon termination or expiration of this Agreement. Subscriber will install all product updates to the Equipment, its software or firmware, within thirty (30) days of receiving the updates from TeleCheck.

5.2 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; (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.

## 6. Term; Termination; Suspension.

6.1 Term. This Agreement commences on its Effective Date and will extend for an initial term of three (3) years ("*Initial Term*"). This Agreement will automatically renew for successive one (1) year terms (each a "*Renewal Term*") following expiration of the Initial Term unless terminated by either party by giving written notice to the other at least ninety (90) days before the end of the then current Term. The Initial Term and Renewal Term are referred to as the "*Term*" of this Agreement; and each year of the Term is a "*Service Year*."

6.2 Termination for Breach; Insolvency. Either party may terminate this Agreement if the other: (i) materially breaches a representation, warranty, term, condition or obligation under this Agreement, and fails to cure the breach within thirty (30) days after receiving written notice of it; or (ii)(a) is dissolved, becomes insolvent, generally fails to pay or admits in writing its general inability to pay its debts as they become due; (b) makes a general assignment, arrangement, or composition agreement with or for the benefit of its creditors; (c) files a petition in bankruptcy or institutes any action under federal or state law for the relief of debtors; (d) seeks or consents to the appointment of an administrator, receiver, custodian, or similar official for the wind up of its business; or (e) becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding related to insolvency, receivership, liquidation or composition for the benefit of creditors, and such proceeding is not dismissed or stayed within thirty (30) days.

6.3 Termination for Non-Performance. TeleCheck may terminate this Agreement immediately if (i) either party's performance of its obligations or Subscriber's use of the Services violates any Legal Requirements; (ii) Subscriber fails to pay any amount due and payable within five (5) days of written notice of such failure; or (iii) Subscriber fails to fund, or maintain, its Reserve Account (defined below) upon its implementation.

6.4 Suspension. TeleCheck may, with as much notice as is commercially practicable, suspend all or a portion of its Services immediately if (i) Subscriber materially breaches this Agreement; (ii) TeleCheck reasonably determines, or its ODFI (as defined in the NACHA Rules) determines, that an excessive amount of Return Items are occurring in connection with processing Subscriber's Warranty Transactions; (iii) TeleCheck reasonably determines that other questionable activity related to fraud or risk analysis is occurring in connection with Subscriber's Warranty Transactions; or (iv) as required by applicable Legal Requirements.

6.5 Effect of Termination, Suspension. Continuing the Services and funding Warranty Transactions during any period of Subscriber's delinquency will not constitute a waiver by TeleCheck of its rights to suspend or terminate this Agreement, or any other rights under this Agreement. Termination or suspension of Services will not affect TeleCheck's right to recover any amounts for which Subscriber is liable or obligated under this Agreement.

## 7. Fees.

7.1 Fees; Fee Amendments. Subscriber will pay TeleCheck the fees and charges (collectively, "*Fees*") for the Services set forth in Schedule A to this Agreement, including applicable sales, use, excise or other taxes (whether federal, state or local), however designated, which are levied or imposed with respect to the Services. Subscriber will not pay or reimburse

TeleCheck for income or employment taxes imposed upon or separately payable by TeleCheck for its employees, agents, subcontractors or affiliates. TeleCheck reserves the right to amend its Fees at any time during the Term by providing written notice (a "Fee Notice") to Subscriber. Amendments to the Fees will be effective thirty (30) days following the date of any Fee Notice. If TeleCheck amends the Fees under this Agreement, Subscriber will have the right to terminate this Agreement by providing written notice of termination to TeleCheck prior to the expiration of the thirty (30) day period provided for in the Fee Notice.

- 7.2 Fee Definitions. The following definitions apply to the Fees: "**Correction Fee**" is the amount charged for each Item that TeleCheck must correct due to Subscriber error or at Subscriber's request. "**Inquiry Rate**" is the percentage rate which will be applied to the face amount of each Item submitted to TeleCheck for processing. "**Inquiry Rate Fee**" is the amount equal to the product of (i) the Inquiry Rate multiplied by, (ii) the face amount of each Item for which an authorization inquiry is made to TeleCheck; and is the amount charged by TeleCheck to Subscriber for each Item submitted to TeleCheck for processing under this Agreement, whether or not TeleCheck authorizes the Item. "**Monthly Connectivity Fee**" is the amount charged per month in order to maintain a virtual private network or other connection between Subscriber's and TeleCheck's information technology systems to enable processing in connection with the Services. "**Monthly Minimum Fee**" is the minimum amount charged to Subscriber each month for processing the Items it submits to TeleCheck in connection with the Services. If the total amount of Inquiry Rate Fees and Transaction Fees for any month is less than the Monthly Minimum Fee, then the Monthly Minimum Fee will apply for the month; and Subscriber will be billed for the difference between the Monthly Minimum Fee and the total amount of Inquiry Rate Fees and Transaction Fees that TeleCheck billed during that month. "**Set-Up Fee**" is the charge for initial setup and initiation of the Services. "**Statement/Processing Fee**" is a monthly fee for handling Subscriber's account. "**Subscriber Requested Operator Call Fee**" is an additional charge per operator-assisted call initiated by Subscriber that TeleCheck does not request or prompt Subscriber to make in connection with processing Warranty Transactions. "**Terminal Application Update Fee**" is the charge per terminal for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. "**Transaction Fee**" is the amount charged for each Item submitted to TeleCheck for processing under this Agreement, whether or not TeleCheck authorizes the Item. Subscriber will also be responsible for paying for any point-of-sale supplies (e.g., paper and ink for Equipment, rubber stamps, etc.) related to the Services that it obtains from TeleCheck.
8. **Payment of Fees.** TeleCheck will invoice its Fees to Subscriber monthly. All Fees are due upon receipt and payable within thirty (30) days of invoice. Subscriber authorizes TeleCheck to debit all amounts due under this Agreement (including, without limitation, all Return Items, delinquency charges, Subscriber returned payments and any other amounts owed by Subscriber) and to credit all amounts owed to Subscriber under this Agreement via electronic fund transfer. If there are insufficient funds in Subscriber's Account to pay amounts owed under this Agreement, Subscriber will immediately reimburse TeleCheck upon demand for these amounts; or, at TeleCheck's option, TeleCheck may offset or recoup these amounts against any amounts TeleCheck or its affiliates owe to Subscriber under this Agreement or any other agreement between Subscriber and TeleCheck or its affiliates. A delinquency charge of 1½% per month or the highest amount permitted by law, whichever is lower, will be added to the outstanding balance of any delinquent account. Continuing Services and funding Warranty Transactions during any period of delinquency will not constitute a waiver of TeleCheck's rights of suspension or termination.
9. **Financial and Other Information.** Subscriber is a publicly traded entity (currently traded on the \_\_\_\_\_ [New York Stock Exchange] under the ticker symbol: \_\_\_\_\_). Audited and unaudited financial information and ownership information for Subscriber is currently available through access to Subscriber's website: www.\_\_\_\_\_.com. TeleCheck may also access all routine and non-routine filings made by Subscriber with the US Securities and Exchange Commission ("SEC") using the SEC's website. In addition to access to the financial information that is available through the Internet and SEC, Subscriber will provide TeleCheck with the financial information that may be required by applicable Legal Requirements in connection with creditworthiness or security qualification requirements applicable to Subscriber's use of the Services. In the event Subscriber is no longer publicly traded and upon written request, Subscriber will provide TeleCheck with (i) quarterly financial statements within forty-five (45) days after the end of each fiscal quarter, and (ii) annual audited financial statements within ninety (90) days after the end of each fiscal year; both prepared in accordance with generally accepted accounting principles.
10. **Reserve Account.** Subscriber expressly authorizes TeleCheck to establish a reserve account ("Reserve Account") for Warranty Transactions. TeleCheck will determine and set the amount of the Reserve Account in its sole discretion based on Subscriber's processing history and TeleCheck's anticipated risk of loss. Subscriber will fund the Reserve Account within three (3) days of receiving a notice to Subscriber or in instances of fraud or breach of this Agreement, the Reserve Account may be funded immediately at TeleCheck's election; and may fund the Reserve Account via one or any combination of the following: (a) one or more debits to Subscriber's Account; (b) one or more deductions or offsets to any payments otherwise due to Subscriber from TeleCheck or any of its affiliates; (c) delivering a letter of credit to TeleCheck in a form and issued or established by a financial institution that is acceptable to TeleCheck; or (d) by providing cash. If the funds in Subscriber's Reserve Account are not sufficient to cover Subscriber's unfulfilled obligations (including, without limitation, settlement obligations, any adjustments to Items, amounts due for Items subject to chargeback or reassignment, or Fees) due under this Agreement, or if the funds in the Reserve Account have been released, Subscriber will immediately pay TeleCheck such amounts upon demand therefor. In the event Subscriber fails to fund a Reserve Account when required, TeleCheck may fund the Reserve Account in any manner set forth in this Section. If TeleCheck or Subscriber terminates this Agreement, a Reserve Account may be established in the manner set forth in this Section in order to cover Subscriber's potential unfulfilled obligations (including, without limitation, settlement obligations, any adjustments to Items, amounts due for Items subject to chargeback or reassignment, or Fees) under this Agreement. TeleCheck may hold Subscriber's Reserve Account for ten (10) months after it is established or following termination of this Agreement. Subscriber's Reserve Account funds may be held in a commingled reserve account maintained by TeleCheck for the reserve funds of its subscribers, without involving an independent escrow agent. TeleCheck will not pay interest to Subscriber on any of its funds held in a Reserve Account.

## **11. Confidential Information; Information Security.**

- 11.1 Confidential Information. "*Confidential Information*" means all of TeleCheck's or Subscriber's data or information that is competitively sensitive material or not generally known to the public; including, without limitation, a party's data or information whether or not marked confidential or proprietary, customer lists, technology, inventions, systems, operations, facilities, products, services, discoveries, ideas, concepts, research, development, processes, operating procedures, marketing, business and development plans, pricing, policies and financial information. Confidential Information does not include information which: (i) is or becomes part of the public domain; (ii) was already known to the receiving party prior to its disclosure; (iii) is lawfully obtained from a third party without obligations of confidentiality; (iv) is independently developed by the receiving party; or (v) is otherwise excluded under the terms of this Agreement.
- 11.2 Disclosure and Use Restrictions. Neither party will disclose, reproduce, transfer nor use the other party's Confidential Information except (i) as necessary in connection with providing or using the Services; (ii) as specifically allowed under this Agreement; or (iii) to the extent necessary to comply with Legal Requirements or a valid court order, provided the disclosing party must use reasonable efforts to notify the other party prior to disclosure (unless such notification is prohibited by Legal Requirements or a valid court order) so the other party may seek a protective order or otherwise prevent or limit disclosure of its Confidential Information. Each party's employees, affiliates, agents, advisors or subcontractors with access to the other's Confidential Information will comply with the confidentiality provisions of this Agreement; and each party will be responsible for the performance of its employees, affiliates, agents, advisors or subcontractors with respect to the foregoing requirement. Each party will take such steps to prevent disclosure of the other party's Confidential Information as it would take to prevent disclosure of its own; including, at a minimum, commercially reasonable steps.
- 11.3 Information Security. Each party will maintain commercially reasonable information security practices designed to prevent unauthorized or unlawful access to, use, disclosure or alteration (a "Security Incident") of non public or personally identifiable information ("Personal Information") on the systems under its control or that it has obtained through its respective provision or use of the Services. In the event of a Security Incident involving the other party's Personal Information, the affected party will promptly (a) assess the nature and scope of the Security Incident; (b) identify the Personal Information involved, if any; (c) take appropriate steps to contain, control and stop the Security Incident; and (d), in the event Personal Information was compromised and it is reasonably suspected that misuse will result, promptly notify the other party of the Security Incident, subject to any request by law enforcement or other government agency to withhold such notice pending the completion of an investigation. TeleCheck is not responsible for and does not control third party telecommunication lines used to provide the Services; and will not be responsible for the security of any transmissions using these lines.
- 11.4 Ownership. This Agreement does not provide either party with any right, title or interest in or to the Confidential Information of the other party. Each party will return or destroy (and certify the destruction of) the other party's Confidential Information at the request of the other party.
- 11.5 Equitable Relief. TeleCheck and Subscriber agree there may be no adequate remedy at law for a breach of the confidentiality, disclosure, use, safeguarding and ownership requirements (collectively, the "*Confidentiality Requirements*") related to Confidential Information or Personal Information under this Agreement. A breach of the Confidentiality Requirements may cause irreparable harm such that the non-breaching party may not have an adequate remedy at law; and, therefore, the non-breaching party may seek injunctive relief (without posting a bond or other security) against the breaching party in addition to any other rights or remedies available at law or in equity.

## **12. Indemnification.**

- 12.1 Subscriber Indemnity. Subscriber agrees to indemnify and hold TeleCheck, its employees, directors and officers, harmless against any third party Claims resulting from Subscriber's (its affiliates, employees, agents or representatives) (i) breach of any of its obligations, covenants or representations under this Agreement; (ii) gross negligence; or (iii) willful misconduct.
- 12.2 TeleCheck Indemnity. TeleCheck agrees to indemnify and hold Subscriber, its employees, directors and officers, harmless against any third party Claims resulting from TeleCheck's (its affiliates, employees, agents or representatives) (i) breach of any of its obligations, covenants or representations under this Agreement; (ii) gross negligence; or (iii) willful misconduct.
- 12.3 In the event of a Claim for which indemnification may be sought under this Agreement, the party to be indemnified (the "*indemnified party*") will: (i) promptly notify the party responsible for indemnification (the "*indemnifying party*") of the Claim; (ii) reasonably cooperate with the indemnifying party in the making of claims or defenses; and (iii) provide information, assist in the resolution of the Claim and make available at least one (1) employee or agent who can testify regarding the Claim or defenses. The indemnifying party will, upon written notice from the indemnified party, immediately undertake the defense of any such Claim with counsel reasonably satisfactory to the indemnified party. In any event, the indemnifying party will be entitled to direct the defense and settlement of a Claim subject to indemnification with counsel reasonably satisfactory to the indemnified party; provided, the indemnifying party will not settle any Claim affecting the indemnified party to the extent settlement involves more than the payment of money by the indemnifying party without the indemnified party's written consent.

## **13. Representations, Warranties; Disclaimer of Warranties; Exclusion of Consequential Damages; Limitation on Liability.**

- 13.1 Representations, Warranties. Subscriber and TeleCheck each represent and warrant: (i) they have corporate authority to execute this Agreement; (ii) executing this Agreement does not constitute a material conflict with, breach or default under any applicable Legal Requirements, their respective charter or bylaws, or any documents, agreements or other instruments

which are binding upon the parties; and (iii) this Agreement creates valid, legal and binding obligations that are enforceable against the parties.

- 13.2 Disclaimer of Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, TELECHECK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED; INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT RELATE TO THE SERVICES PROVIDED UNDER THIS AGREEMENT. FURTHER, TELECHECK DOES NOT WARRANT THAT SUBSCRIBER'S USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. THIS AGREEMENT IS A SERVICE AGREEMENT; ANY EQUIPMENT PROVIDED IN CONNECTION WITH THIS AGREEMENT IS INCIDENTAL TO THE SERVICES PROVIDED. THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE DO NOT APPLY TO THIS AGREEMENT.
- 13.3 Exclusion of Consequential Damages. TELECHECK AND SUBSCRIBER, AND THEIR RESPECTIVE AFFILIATES, WILL NOT BE LIABLE TO EACH OTHER UNDER ANY THEORY AT LAW OR IN EQUITY IN CONNECTION WITH THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), EXEMPLARY OR PUNITIVE DAMAGES; REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, OR EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 13.4 Limitation of Liability. TELECHECK'S AND SUBSCRIBER'S CUMULATIVE LIABILITY TO EACH OTHER FOR ANY LOSSES OR DAMAGES (IN THE AGGREGATE) FROM ANY CAUSE WHATSOEVER (RELATED OR UNRELATED) IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE LESSER OF (I) ONE MILLION DOLLARS (\$1,000,000); OR (II) THE AMOUNT OF FEES PAID TO TELECHECK FOR SERVICES PERFORMED IN THE PRECEDING SERVICE YEAR; PROVIDED, SUCH LIMITATION WILL NOT INCLUDE FEES ALREADY DUE FROM SUBSCRIBER TO TELECHECK UNDER THIS AGREEMENT, WHICH WILL BE DUE IN ADDITION TO ANY SUCH LOSSES OR DAMAGES.
- 13.5 Mitigation of Damages. Each party will reasonably act to mitigate its damages.

#### 14. Compliance with Law.

- 14.1 General. Subscriber is responsible to and shall monitor, interpret and comply with all federal, state or local laws, rules, regulations, judicial or administrative decisions, export laws, Office of Foreign Assets Control of the US Department of the Treasury ("OFAC") requirements, the Fair Credit Reporting Act ("FCRA"), Electronic Fund Transfer Act and its Regulation E ("Regulation E"), and the NACHA Rules (collectively, "Legal Requirements") that are applicable to its business and use of the Services under this Agreement. Subscriber will not use any merchant account created in connection with the Services for illegal transactions, including, without limitation, those prohibited by the Unlawful Internet Gambling Enforcement Act. TeleCheck is responsible for and shall monitor, interpret and comply with Legal Requirements applicable to its business, its provision of the Services and its use of Transaction Data residing on its information technology systems.
- 14.2 FCRA Compliance. Subscriber certifies that it has a legitimate business need, in connection with business transactions involving Consumers, for the information provided by TeleCheck. Subscriber certifies that the information provided by TeleCheck will only be used for permissible purposes under the FCRA, will not be used for employment purposes, and will not be used by Subscriber for any purpose other than one (1) transaction between Subscriber and a Consumer. Neither Subscriber nor its agents or employees will disclose the results of any inquiry made to TeleCheck except to the Consumer about whom such inquiry is made; and, in no event, to any other person outside Subscriber's organization (other than its attorneys if necessary). IF SUBSCRIBER REJECTS ANY ITEM (IN WHOLE OR IN PART) BECAUSE OF THE INFORMATION OBTAINED FROM TELECHECK, SUBSCRIBER WILL ADVISE THE CONSUMER OF THAT FACT AND PROVIDE THE CONSUMER WITH TELECHECK'S NAME AND ADDRESS, AND ANY OTHER INFORMATION REQUIRED BY APPLICABLE LEGAL REQUIREMENTS.
- 14.3 Changes in Legal Requirements. If TeleCheck reasonably determines that its performance under this Agreement is impossible or illegal due to changes in applicable Legal Requirements, TeleCheck may modify or discontinue performing the impacted obligations or Services to the extent necessary to avoid violating the Legal Requirements upon thirty (30) days written notice to Subscriber. TeleCheck may increase its Fees to cover any additional costs incurred in connection with complying with changes in applicable Legal Requirements; and, further, TeleCheck may increase its Fees if any fees or charges to TeleCheck increase for processing transactions through the ACH Network. If TeleCheck makes such requests and the parties are unable to agree upon corresponding changes to the terms and conditions of this Agreement within thirty (30) days of such request, either party may terminate this Agreement upon thirty (30) days written notice.

#### 15. Use of TeleCheck Materials.

- 15.1 Acknowledgement of Ownership; License. TeleCheck International, Inc. ("TCI"), an affiliate of TeleCheck, owns the trademarks referenced in this Section. Pursuant to authorization granted to TeleCheck by TCI, TeleCheck grants to Subscriber a nonexclusive, nonassignable and nontransferable limited license to use the TELECHECK®, TELECHECK logo and other TeleCheck trademarks and service marks (collectively, the "TeleCheck Marks") within the US and its territories, subject to the following: Subscriber (i) may use and display decals, identification data and other materials provided by TeleCheck at Subscriber's locations solely during the Term and solely in connection with the Services; (ii) will not permit any persons other than its own officers, employees or agents at Subscriber's locations to use its Merchant ID; (iii) will promptly cease use of the TeleCheck Marks and remove any decals, electronic files, logos or other materials (including those affixed to entry doors or windows at Subscriber locations) upon termination or expiration of this Agreement, and, at its own expense, either return or destroy all such materials to TeleCheck; and (iv) will not create any print, electronic or Internet-based

materials (including, without limitation, any marketing materials) using any TeleCheck Marks without TeleCheck's prior written consent, which may be withheld in TeleCheck's sole discretion.

- 15.2 **Use of TeleCheck Marks.** Subscriber acknowledges TCI's ownership of the TeleCheck Marks and will not contest the validity of the TeleCheck Marks or the ownership thereof. Subscriber will refrain from performing any acts that might discredit, disparage, dilute, infringe or negatively affect the value of the TeleCheck Marks or constitute unfair competition with TeleCheck or TCI. Subscriber will use the TeleCheck Marks pursuant to any guidelines provided by TeleCheck, as may be amended from time to time. The following will appear at least once on every piece of advertising or promotional material created by Subscriber that uses the TeleCheck Marks: "The ['Applicable Mark'] trademark is owned by TeleCheck International, Inc. and is licensed for use by ['Subscriber Name']".
- 15.3 **Intellectual Property Ownership.** This Agreement does not grant Subscriber with any right, title, interest, express or implied license (except as otherwise specifically granted under this Agreement) to any patent, TeleCheck Marks, copyright, trade secret or proprietary right associated with the Services, TeleCheck system, applications or business methods (or those of TeleCheck's affiliates or subsidiaries) required or provided in connection with the Services; or arising from TeleCheck's, its affiliates' or subsidiaries' research and development activities.
16. **Data Use; Analytics.** TeleCheck will own all right, title and interest to the data or other information relating to an Item or a Consumer (such data or information, "*Transaction Data*") that it obtains in connection with providing its Services under this Agreement. TeleCheck may use any credit information provided by Subscriber to a TeleCheck affiliate in connection with TeleCheck's credit review of Subscriber; and TeleCheck may share any experiential information it has regarding Subscriber with TeleCheck's affiliates. TeleCheck's rights and obligations under this Section are all subject to compliance with applicable Legal Requirements.
17. **General.**
  - 17.1 **Independent Contractor; Third Party Beneficiaries; Subcontractors.** The parties are independent contractors. Neither party will have any authority to bind the other. This Agreement is entered into solely for the benefit of TeleCheck and Subscriber, and will not confer any rights upon any person not expressly a party to this Agreement, including Consumers. TeleCheck may subcontract with others to provide Services.
  - 17.2 **Publicity.** TeleCheck may use Subscriber's name in publicity indicating that TeleCheck and Subscriber have entered into a contractual relationship.
  - 17.3 **Exclusivity.** TeleCheck will be the sole and exclusive provider of the Services to Subscriber during the Term.
  - 17.4 **Assignment.** Neither party may assign this Agreement without the other's prior written consent, which will not be unreasonably withheld; provided, consent is not needed for TeleCheck to assign this Agreement to an affiliate or subsidiary, or in connection with a merger, acquisition or sale of all or substantially all of its assets. Any assignment in violation of this Section will be deemed null and void. This Agreement will extend to and be binding upon any permitted successors and assigns.
  - 17.5 **Operating Procedures.** Subscriber agrees to use the Services in accordance with the requirements, and written policies and operating procedures that are provided from time to time by TeleCheck, which may be provided by written or other electronic delivery means.
  - 17.6 **Choice of Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas (without regard to its choice of law provisions).
  - 17.7 **Waiver of Jury Trial.** TELECHECK AND SUBSCRIBER IRREVOCABLY WAIVE THEIR RIGHT TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.
  - 17.8 **Force Majeure.** Neither Subscriber nor TeleCheck will be held responsible for any delays in or failure or suspension of Services caused, directly or indirectly, by (i) power failure; (ii) delay or error in clearing or processing a transaction through the ACH Network or Federal Reserve system, if applicable; (iii) the nonperformance, delay or error by a third party or in any other third party system, including, without limitation, failures or fluctuations in telecommunications equipment, transmission links or other equipment; (iv) any outbreak or escalation of hostilities, war, riots, terrorism or civil disorders in any country, strikes, labor difficulties, fire, inability to operate or obtain service for its equipment, unusual delays in transportation, earthquake, fire, flood, elements of nature or other acts of God; (v) any act or omission of the other party or any government authority; or (vi) other causes; **all reasonably beyond the control of the impacted party.**
  - 17.9 **Attorney Fees Related to Contract Obligations.** The prevailing party in any legal action related to a dispute under this Agreement will be entitled to recover its reasonable attorneys' and other fees and expenses, unless specifically barred by applicable Legal Requirements.
  - 17.10 **Notices.** Except as specifically provided otherwise, all formal notices required or permitted under this Agreement (other than those involving normal operational matters relating to the Services) will be (i) in writing; (ii) sent by registered mail (return receipt requested) or nationally recognized courier (with tracking and delivery confirmation requested); and (iii) will be deemed to have been given on the date shown on the return receipt if sent by registered mail or the date shown on the delivery confirmation if sent by nationally recognized courier. Notice given in any other manner will be effective when actually received.

Notices to Subscriber will be sent to the following address: \_\_\_\_\_  
\_\_\_\_\_.

Notices to TeleCheck will be sent to the following address: TeleCheck Services, Inc., Attn: General Manager, 5251 Westheimer, Houston, Texas 77056; with an additional copy to: TeleCheck Services, Inc., Attn: Legal Counsel, 5251 Westheimer, Houston, Texas 77056.

- 17.11 **Headings.** The headings contained in this Agreement are for reference only.
- 17.12 **Severability.** Any provision of this Agreement that is determined to be illegal, invalid or unenforceable will be void; and the remainder of this Agreement will continue in full force and effect. The parties will substitute a valid provision approximating the intent and economic effect of any invalidated provision.
- 17.13 **Entire Agreement; Amendment; Waiver; Counterparts.** This Agreement constitutes the entire agreement between TeleCheck and Subscriber, and supersedes all prior agreements, written or oral, between the parties related to the Services. This Agreement includes and incorporates all attached addenda, schedules or exhibits. Except as specifically provided otherwise in this Agreement, any amendment to this Agreement must be in writing and signed by TeleCheck and Subscriber. The words "*including*", "*include*" and "*includes*" will each be deemed to be followed by the term "*without limitation*". No delay or single, partial, failure, abandonment or discontinuance of either party to exercise any right, power or privilege under this Agreement will affect such right, power or privilege. The parties' rights and remedies under this Agreement are cumulative and not exclusive. This Agreement may be executed in any number of counterparts, each of which is deemed an original, and all of which together constitute one and the same instrument. Facsimile, electronic or other copies of the executed Agreement are valid and effective.
- 17.14 **Survival of Obligations.** The rights and obligations of the parties that would be intended to survive by their nature or context will survive expiration or termination of this Agreement.

## TELECHECK VERIFICATION SERVICES AGREEMENT

TELECHECK AND SUBSCRIBER AGREE:

1. **Definitions.** The following definitions apply within this Agreement: **"ACH Network"** means the Automated Clearing House Network, a processing and delivery system that distributes and settles electronic fund transfers. **"Authorization"** means the acknowledgement provided (electronically or in writing) by a Consumer for each Verification Transaction that authorizes processing the Verification Transaction as an electronic fund transfer and is required by the NACHA Rules or other applicable Legal Requirements (both as defined in Section 13.1). **"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. **"COD Verification Transaction"** is a type of Verification Transaction in which Subscriber obtains a pre-approval for an Item that will be provided as a payment for a Consumer's purchase of goods or services that are delivered remotely by Subscriber to the Consumer (e.g., a transaction in which a check is provided for payment upon delivery of goods to a location other than Subscriber's retail location) and that is processed under this Agreement as a standard paper check. **"Consumer"** means a person or entity that authorizes or presents an Item as payment for a transaction. **"ECA Authorization Receipt"** is an Authorization specific to an ECA Verification Transaction that consists of a receipt signed (electronically or in writing) by the Consumer permitting the conversion of their check into an electronic fund transfer or remotely created check. **"ECA Verification Transaction"** is a type of Verification Transaction in which a payment initiated using a standard check is processed under this Agreement as an electronic fund transfer or remotely created check. **"ICA Authorization Receipt"** is an Authorization specific to an ICA Verification Transaction that consists of an electronic authorization provided by a Consumer via the Internet that permits processing an electronic fund transfer against the Consumer's demand deposit account. **"ICA Verification Transaction"** is a type of Verification Transaction in which a payment initiated and authorized by a Consumer via the Internet is processed under this Agreement as an electronic fund transfer or remotely created check. **"Item"** means an outstanding financial obligation arising pursuant to a check or electronic fund transfer processed using the Services provided by TeleCheck under this Agreement. **"Return Item"** means any Item that is dishonored, returned, reversed, charged back or otherwise unpaid by a Consumer's financial institution, regardless of the reason or timing. **"Return Item Fee"** means the fee or exemplary damages assessed on a Return Item in the maximum amount allowed by applicable Legal Requirements. **"Subscriber's Account"** means a demand deposit account maintained by Subscriber at a US financial institution that Subscriber opens in connection with the Services. **"Subscriber Parties"** means Subscriber and its officers, directors, employees, shareholders, agents and attorneys. **"Subscriber Returned Payment"** means any financial obligation owed by Subscriber pursuant to this Agreement which is not paid by Subscriber's financial institution. **"TeleCheck Approval Code"** means the indicator transmitted by TeleCheck to Subscriber notifying Subscriber that TeleCheck has performed risk analysis on the Item and that there is reasonably low risk that the Item will become a Return Item. **"TeleCheck Parties"** means TeleCheck and its officers, directors, employees, shareholders, agents and attorneys. **"Verification Maximum"** means the total dollar amount permitted per Verification Transaction (which may be designated by specific product/service) as set forth on the Fee Schedule. **"Verification Transaction"** means a contemporaneous payment transaction initiated by a Consumer between Subscriber and the Consumer that is processed using the risk analysis and settlement services provided under this Agreement.
2. **Services.** TeleCheck will provide Subscriber with (i) coded information to assist it in determining whether to accept an Item; and (ii) processing services (collectively, the "Services"); all as specifically set forth in this Agreement. THE SERVICES ARE NOT CHECK WARRANTY SERVICES. TELECHECK'S ISSUANCE OF A TELECHECK APPROVAL CODE OR ACCEPTANCE OF AN ITEM FOR PROCESSING IS NOT A REPRESENTATION OR WARRANTY BY TELECHECK THAT THE ITEM WILL NOT BECOME A RETURN ITEM. TELECHECK HAS SOLE DISCRETION TO DETERMINE WHETHER OR NOT TO ISSUE A TELECHECK APPROVAL CODE; AND MAY REFUSE TO PROCESS ANY VERIFICATION TRANSACTION SUBMITTED BY SUBSCRIBER UNDER THIS AGREEMENT. SUBSCRIBER WILL BE SOLELY RESPONSIBLE FOR THE DECISION WHETHER TO ACCEPT OR REJECT ANY ITEM AS PAYMENT FOR ITS PRODUCTS OR SERVICES. SUBSCRIBER ASSUMES ALL RISKS THAT ANY OR ALL ITEMS IT ACCEPTS AS PAYMENT AND THAT WERE PROCESSED USING THE SERVICES MAY BECOME RETURN ITEMS, WHETHER OR NOT TELECHECK PROVIDED SUBSCRIBER WITH A TELECHECK APPROVAL CODE. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, TELECHECK WILL HAVE NO LIABILITY TO SUBSCRIBER FOR RETURN ITEMS OR IN CONNECTION WITH CONSUMERS; AND SUBSCRIBER WILL BE SOLELY LIABLE FOR ANY LOSSES RELATED TO RETURN ITEMS. Subscriber is not authorized to use the Services in connection with any transaction conducted, in whole or in part, over the Internet or in any non face-to-face transaction except as specifically provided for in this Agreement. Subscriber will not resell the Services to any third party. This Agreement is solely between Subscriber and TeleCheck; and, during the Term (defined below), Subscriber will process all of the Items it receives from Consumers as payment for Subscriber's goods or services using TeleCheck's Services prior to accepting such payments.
- 2.1 **ECA Verification Services.** TeleCheck will provide Subscriber with its Electronic Check Acceptance<sup>®</sup> (ECA<sup>®</sup>) check based payment processing services that convert eligible paper checks to electronic fund transfers ("ECA Verification Services", which term is incorporated within the term Services).
  - 2.1.1 Each ECA Verification Transaction Subscriber submits to TeleCheck for processing under this Agreement will comply with the following requirements:
    - (i) The Item (a) is a first party check, properly filled out and payable to Subscriber, (b) is drawn on the Consumer's account at a US financial institution, and (c) represents an obligation of the Consumer at the point of sale (no phone, mail or Internet transactions) for goods or services sold, rented or rendered for the price of such goods or services;

- (ii) The Consumer signed an ECA Authorization Receipt that authorized debiting its account and the amount to be debited for each Item submitted to TeleCheck for processing as an ECA Verification Transaction;
  - (iii) Subscriber (a) submitted the Item to TeleCheck in accordance with TeleCheck's operating procedures, (b) submitted the check's MICR (magnetic ink character recognition) line information, and Consumer's identification type and number, and (c) obtained a single TeleCheck Approval Code for each Item; and
  - (iv) Subscriber complied with all NACHA Rules, Regulation E and other Legal Requirements including its obligations as Originator (as defined in the NACHA Rules), posting the notices required to authorize the ECA Verification Transaction and any Return Check Fee in a prominent and conspicuous location, and providing a copy of such notices to the Consumer.
- 2.1.2 ECA Authorization Receipt. Subscriber will (i) maintain a copy (electronic or physical) of each signed ECA Authorization Receipt for a minimum period of two (2) years from the date of the ECA Verification Transaction, or for the period specified by the NACHA Rules, whichever is longer; (ii) deliver a legible copy (physical or electronic) of the ECA Authorization Receipt to TeleCheck within seven (7) days of TeleCheck's request; and (iii) permit TeleCheck to audit Subscriber (upon ten (10) days written notice, during normal business hours and at TeleCheck's expense) for compliance with this requirement.
- 2.1.3 ECA Initiated Paper Verification Transaction Requirements. In some instances, ECA Verification Transactions that are initiated for processing as an electronic fund transfer may be approved and processed as a paper check or remotely created check. Each ECA Verification Transaction Subscriber submits to TeleCheck for processing under this Agreement that is processed as an ECA initiated Paper Verification Transaction will comply with the following requirements:
- (i) The Item (a) is a first party check, properly filled out and payable to Subscriber, (b) is drawn on the Consumer's account at a US financial institution, and (c) represents an obligation of the Consumer at the point of sale (no phone, mail or Internet transactions) for goods or services sold, rented or rendered for the price of such goods or services; and
  - (ii) Subscriber (a) submitted the Item to TeleCheck in accordance with TeleCheck's operating procedures, (b) submitted the check's MICR (magnetic ink character recognition) line information, and Consumer's identification type and number, and (c) obtained a single TeleCheck Approval Code for each Item.
- 2.2 ICA Verification Services. TeleCheck will provide Subscriber with its Internet Check Acceptance<sup>®</sup> (ICA<sup>®</sup>) electronic check based payment processing services that allow Consumers to initiate a payment via the Internet as an electronic fund transfer ("ICA Verification Services", which term is incorporated within the term Services).
- 2.2.1 Each ICA Verification Transaction Subscriber submits to TeleCheck for processing under this Agreement will comply with the following requirements:
- (i) The Item (a) is a first party check that is payable to Subscriber, (b) is drawn on the Consumer's account at a US financial institution, and (c) represents an obligation of the Consumer for goods or services sold, rented or rendered for the price of such goods or services;
  - (ii) The Consumer provided an ICA Authorization Receipt that authorized debiting its account and the amount to be debited for each Item submitted to TeleCheck for processing as an ICA Verification Transaction;
  - (iii) Subscriber (a) submitted the Item to TeleCheck in accordance with TeleCheck's operating procedures, (b) submitted the check's MICR (magnetic ink character recognition) line information, and (c) obtained a single TeleCheck Approval Code for each Item; and
  - (iv) Subscriber complied with all NACHA Rules, Regulation E and other Legal Requirements including its obligations as Originator (as defined in the NACHA Rules), authenticating the Consumer's identity, utilizing appropriate fraudulent detection systems, employing website security and Internet session security standards, performing Internet security audits and obtaining the authorization required to process the ICA Verification Transaction and any Return Check Fee(s).
- 2.2.2 ICA Authorization Receipts. Subscriber will (i) maintain a copy (electronic or physical) of each ICA Authorization Receipt for a minimum period of two (2) years from the date of the ICA Verification Transaction, or for the period specified by the NACHA Rules, whichever is longer; (ii) deliver a legible copy (physical or electronic) of the ICA Authorization Receipt to TeleCheck within seven (7) days of TeleCheck's request; and (iii) permit TeleCheck to audit Subscriber (upon ten (10) days written notice, during normal business hours and at TeleCheck's expense) for compliance with this requirement.
- 2.3 Processing Notices. Subscriber will post and provide such notices (including any updates) to Consumers, that TeleCheck indicates are required pursuant to the NACHA Rules, Regulation E or other applicable Legal Requirements in order for TeleCheck to process Subscriber's Items.

### 3. Electronic Funds Transfer Processing.



- 3.1 **Funding.** TeleCheck will credit each Verification Transaction processed under this Agreement via electronic fund transfer as part of a batch credit to Subscriber's account. TeleCheck will typically credit Subscriber's account within two (2) banking days following: (a), for host-based processing, TeleCheck's receipt and acceptance of Subscriber's completed Verification Transactions before 9:00 p.m. Central Time (3:00 p.m. Central Time for ICA Verification Transactions or CBP Verification Transactions) each processing day; or (b), for batch processing after Subscriber's regular close-out of its point-of-sale terminal(s), TeleCheck's receipt and acceptance of Subscriber's saved, completed Verification Transactions before 9:00 p.m. Central Time (batch processing is not applicable to ICA Verification Transactions or CBP Verification Transactions). Subscriber authorizes TeleCheck on its behalf to initiate debits to the Consumers' accounts for each such Verification Transaction. TELECHECK RESERVES THE RIGHT TO DECLINE PROCESSING ANY VERIFICATION TRANSACTION AS AN ELECTRONIC FUND TRANSFER. TeleCheck may initiate any necessary adjustments to Subscriber's Account for Items processed as Verification Transactions; including, without limitation, chargebacks or partial adjustments. TeleCheck may recover the amount of any adjustments made to Subscriber's Account in connection with an Item in the event the adjustment was made at Subscriber's request or as a result of a Subscriber error, and the Item becomes a Return Item. TeleCheck may also recover the amount of any fees from Subscriber that a Consumer paid to its financial institution as a result of adjustments made to an Item due to a Subscriber error.

Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled to suspend or terminate processing hereunder if required by NACHA or any part of the ACH system (including the Originating Depository Financial Institution) due to breach of the NACHA Rules or as may otherwise required by such parties or as otherwise required by law. As required by the NACHA Rules, the Originating Depository Financial Institution shall have the right to audit Subscriber's compliance with this Agreement and the NACHA Rules.

TeleCheck shall also 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 Item 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 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.

- 3.2 **Account Reconciliation.** In the event any Verification Transaction is not funded by TeleCheck in accordance with this Agreement, Subscriber must notify TeleCheck in writing of such failure within thirty (30) days from the date of the Verification Transaction. TeleCheck will have no liability to Subscriber, and it is precluded from asserting any claims, damages or losses against TeleCheck, if Subscriber does not notify TeleCheck of a failure to fund a Verification Transaction within such thirty (30) day period.

#### **4. Equipment.**

- 4.1 **General.** Subscriber may purchase point-of-sale equipment and/or associated peripherals (collectively, "Equipment"), or TeleCheck may lease Equipment to Subscriber under a separate lease agreement, for use in connection with the Services provided under this Agreement. TeleCheck will retain title to Equipment it leases to Subscriber; provided, Subscriber bears the entire risk of loss for owned or leased Equipment. Subscriber will return leased Equipment to TeleCheck, ordinary wear and tear excepted, upon termination or expiration of this Agreement. TeleCheck will replace or repair Equipment at Subscriber's request, subject to the Fees (defined below) set forth on Schedule A to this Agreement. If TeleCheck provides replacement Equipment to Subscriber via mail, or other delivery service, Subscriber must return its defective leased Equipment to TeleCheck within twenty (20) days or Subscriber will be deemed to have purchased the defective leased Equipment and will be billed for it. Subscriber will not permit anyone other than authorized representatives of TeleCheck to adjust, maintain, program or repair leased Equipment. Any telecommunications equipment (e.g., routers) that TeleCheck provides to Subscriber in connection with the Services will remain TeleCheck's property and will be returned promptly upon termination or expiration of this Agreement. Subscriber will install all product updates to the Equipment, its software or firmware, within thirty (30) days of receiving the updates from TeleCheck.
- 4.2 **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; (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.

#### **5. Term; Termination; Suspension.**

- 5.1 **Term.** This Agreement commences on its Effective Date and will extend for an initial term of three (3) years ("Initial Term"). This Agreement will automatically renew for successive one (1) year terms (each a "Renewal Term") following expiration of the Initial Term unless terminated by either party by giving written notice to the other at least ninety (90) days before the end of the then current Term. The Initial Term and Renewal Term are referred to as the "Term" of this Agreement; and each year of the Term is a "Service Year."

- 5.2 Termination for Breach; Insolvency. Either party may terminate this Agreement if the other: (i) materially breaches a representation, warranty, term, condition or obligation under this Agreement, and fails to cure the breach within thirty (30) days after receiving written notice of it; or (ii)(a) is dissolved, becomes insolvent, generally fails to pay or admits in writing its general inability to pay its debts as they become due; (b) makes a general assignment, arrangement, or composition agreement with or for the benefit of its creditors; (c) files a petition in bankruptcy or institutes any action under federal or state law for the relief of debtors; (d) seeks or consents to the appointment of an administrator, receiver, custodian, or similar official for the wind up of its business; or (e) becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding related to insolvency, receivership, liquidation or composition for the benefit of creditors, and such proceeding is not dismissed or stayed within thirty (30) days.
- 5.3 Termination for Non-Performance. TeleCheck may terminate this Agreement immediately if (i) either party's performance of its obligations or Subscriber's use of the Services violates any Legal Requirements; (ii) Subscriber fails to pay any amount due and payable within five (5) days of written notice of such failure; or (iii) Subscriber fails to fund, or maintain, its Reserve Account (defined below) upon its implementation.
- 5.4 Suspension. TeleCheck may, with as much notice as is commercially practicable, suspend all or a portion of its Services immediately if (i) Subscriber materially breaches this Agreement; (ii) TeleCheck reasonably determines, or its ODFI (as defined in the NACHA Rules) determines, that an excessive amount of Return Items are occurring in connection with processing Subscriber's Verification Transactions; (iii) TeleCheck reasonably determines that other questionable activity related to fraud or risk analysis is occurring in connection with Subscriber's Verification Transactions; or (iv) as required by applicable Legal Requirements.
- 5.5 Effect of Termination, Suspension. Continuing the Services and funding Verification Transactions during any period of Subscriber's delinquency will not constitute a waiver by TeleCheck of its rights to suspend or terminate this Agreement, or any other rights under this Agreement. Termination or suspension of Services will not affect TeleCheck's right to recover any amounts for which Subscriber is liable or obligated under this Agreement.
6. **Fees.**
- 6.1 Fees; Fee Amendments. Subscriber will pay TeleCheck the fees and charges (collectively, "*Fees*") for the Services set forth in Schedule C-7, including applicable sales, use, excise or other taxes (whether federal, state or local), however designated, which are levied or imposed with respect to the Services. Subscriber will not pay or reimburse TeleCheck for income or employment taxes imposed upon or separately payable by TeleCheck for its employees, agents, subcontractors or affiliates. TeleCheck reserves the right to amend its Fees at any time during the Term by providing written notice (a "*Fee Notice*") to Subscriber. Amendments to the Fees will be effective thirty (30) days following the date of any Fee Notice. If TeleCheck amends the Fees under this Agreement, Subscriber will have the right to terminate this Agreement by providing written notice of termination to TeleCheck prior to the expiration of the thirty (30) day period provided for in the Fee Notice.
- 6.2 Fee Definitions. The following definitions apply to the Fees: "**Correction Fee**" is the amount charged for each Item that TeleCheck must correct due to Subscriber error or at Subscriber's request. "**Inquiry Rate**" is the percentage rate which will be applied to the face amount of each Item submitted to TeleCheck for processing. "**Inquiry Rate Fee**" is the amount equal to the product of (i) the Inquiry Rate multiplied by, (ii) the face amount of each Item for which an authorization inquiry is made to TeleCheck; and is the amount charged by TeleCheck to Subscriber for each Item submitted to TeleCheck for processing under this Agreement, whether or not TeleCheck authorizes the Item. "**Monthly Connectivity Fee**" is the amount charged per month in order to maintain a virtual private network or other connection between Subscriber's and TeleCheck's information technology systems to enable processing in connection with the Services. "**Monthly Minimum Fee**" is the minimum amount charged to Subscriber each month for processing the Items it submits to TeleCheck in connection with the Services. If the total amount of Inquiry Rate Fees and Transaction Fees for any month is less than the Monthly Minimum Fee, then the Monthly Minimum Fee will apply for the month; and Subscriber will be billed for the difference between the Monthly Minimum Fee and the total amount of Inquiry Rate Fees and Transaction Fees that TeleCheck billed during that month. "**Monthly Risk Management Fee**" is a monthly fee charged per Subscriber location receiving the Services for the development, use, monitoring and periodic review with Subscriber of a computer model used as an aid to assess the risk of checks presented to Subscriber by Consumers. "**Set-Up Fee**" is the charge for initial setup and initiation of the Services. "**Statement/Processing Fee**" is a monthly fee for handling Subscriber's account. "**Subscriber Requested Operator Call Fee**" is an additional charge per operator-assisted call initiated by Subscriber that TeleCheck does not request or prompt Subscriber to make in connection with processing Verification Transactions. "**Terminal Application Update Fee**" is the charge per terminal for each occasion that a terminal application update is made available for additional features, different information or regulatory compliance. "**Transaction Fee**" is the amount charged for each Item submitted to TeleCheck for processing under this Agreement, whether or not TeleCheck authorizes the Item. Subscriber will also be responsible for paying for any point-of-sale supplies (e.g., paper and ink for Equipment, rubber stamps, etc.) related to the Services that it obtains from TeleCheck.
7. **Payment of Fees.** TeleCheck will invoice its Fees to Subscriber monthly. All Fees are due upon receipt and payable within thirty (30) days of invoice. Subscriber authorizes TeleCheck to debit all amounts due under this Agreement (including, without limitation, all Return Items, delinquency charges, Subscriber returned payments and any other amounts owed by Subscriber) and to credit all amounts owed to Subscriber under this Agreement via electronic fund transfer. If there are insufficient funds in Subscriber's Account to pay amounts owed under this Agreement, Subscriber will immediately reimburse TeleCheck upon demand for these amounts; or, at TeleCheck's option, TeleCheck may offset or recoup these amounts against any amounts TeleCheck or its affiliates owe to Subscriber under this Agreement or any other agreement between Subscriber and TeleCheck or its affiliates. A delinquency charge of 1½% per month or the highest amount permitted by law, whichever is lower, will be added to the outstanding balance of any delinquent account. Continuing

Services and funding Verification Transactions during any period of delinquency will not constitute a waiver of TeleCheck's rights of suspension or termination.

8. **Financial and Other Information.** Subscriber is a publicly traded entity (currently traded on the \_\_\_\_\_ [New York Stock Exchange] under the ticker symbol: \_\_\_\_\_). Audited and unaudited financial information and ownership information for Subscriber is currently available through access to Subscriber's website: www.\_\_\_\_\_.com. TeleCheck may also access all routine and non-routine filings made by Subscriber with the US Securities and Exchange Commission ("SEC") using the SEC's website. In addition to access to the financial information that is available through the Internet and SEC, Subscriber will provide TeleCheck with the financial information that may be required by applicable Legal Requirements in connection with creditworthiness or security qualification requirements applicable to Subscriber's use of the Services. In the event Subscriber is no longer publicly traded and upon written request, Subscriber will provide TeleCheck with (i) quarterly financial statements within forty-five (45) days after the end of each fiscal quarter, and (ii) annual audited financial statements within ninety (90) days after the end of each fiscal year; both prepared in accordance with generally accepted accounting principles.
9. **Reserve Account.** Customer expressly authorizes TeleCheck to establish a reserve account for Verification Transactions. The amount of the reserve account shall be set by TeleCheck, in its sole discretion, based upon Customer's processing history and the anticipated risk of loss to TeleCheck. If any such reserve account is established, the reserve account shall be fully funded upon 3 days' notice to Customer, or in instances of fraud or breach of this TeleCheck Addendum, the reserve account shall 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 Customer's Account (and TeleCheck is hereby authorized to make such debits); (ii) one or more deductions or offsets to any payments otherwise due to Customer from TeleCheck or any of its affiliates; or (iii) Customer'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. If Customer's funds in the reserve account are not sufficient to cover the delinquency charges, chargebacks or rejected and reassigned warranty items, or any other fees and charges due from Customer to TeleCheck or its affiliates, or if the funds in the reserve account have been released, Customer shall immediately pay TeleCheck such sums upon request. In the event of a failure by Customer to fund the reserve account, TeleCheck may fund such reserve account in the manner set forth above. In the event of termination of this TeleCheck Addendum by either Customer or TeleCheck, an immediate reserve account may be established without notice in the manner provided above. Any reserve account may be held by TeleCheck for 10 months after termination of this TeleCheck Addendum. Customer'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.
10. **Confidential Information; Information Security.**
- 10.1 **Confidential Information.** "*Confidential Information*" means all of TeleCheck's or Subscriber's data or information that is competitively sensitive material or not generally known to the public; including, without limitation, a party's data or information whether or not marked confidential or proprietary, customer lists, technology, inventions, systems, operations, facilities, products, services, discoveries, ideas, concepts, research, development, processes, operating procedures, marketing, business and development plans, pricing, policies and financial information. Confidential Information does not include information which: (i) is or becomes part of the public domain; (ii) was already known to the receiving party prior to its disclosure; (iii) is lawfully obtained from a third party without obligations of confidentiality; (iv) is independently developed by the receiving party; or (v) is otherwise excluded under the terms of this Agreement.
- 10.2 **Disclosure and Use Restrictions.** Neither party will disclose, reproduce, transfer nor use the other party's Confidential Information except (i) as necessary in connection with providing or using the Services; (ii) as specifically allowed under this Agreement; or (iii) to the extent necessary to comply with Legal Requirements or a valid court order, provided the disclosing party must use reasonable efforts to notify the other party prior to disclosure (unless such notification is prohibited by Legal Requirements or a valid court order) so the other party may seek a protective order or otherwise prevent or limit disclosure of its Confidential Information. Each party's employees, affiliates, agents, advisors or subcontractors with access to the other's Confidential Information will comply with the confidentiality provisions of this Agreement; and each party will be responsible for the performance of its employees, affiliates, agents, advisors or subcontractors with respect to the foregoing requirement. Each party will take such steps to prevent disclosure of the other party's Confidential Information as it would take to prevent disclosure of its own; including, at a minimum, commercially reasonable steps.
- 10.3 **Information Security.** Each party is responsible for: (i) the security of non-public or personally identifiable information ("*Personal Information*") on the systems under its control or that is obtained through its respective provision or use of the Services; and (ii) data security issues arising from its systems, or directly resulting from its use of third party vendors or subcontractors, if any, in connection with the Services. Each party will maintain commercially reasonable information security practices designed to prevent unauthorized or unlawful access to, use, disclosure or alteration of Personal Information (collectively, a "*Security Incident*"). In the event of a Security Incident involving the other party's Personal Information, the affected party will promptly (a) assess the nature and scope of the Security Incident; (b) identify the Personal Information involved, if any; (c) take appropriate steps to contain, control and stop the Security Incident; and (d), in the event Personal Information was compromised and it is reasonably suspected that misuse will result, promptly notify the other party of the Security Incident, subject to any request by law enforcement or other government agency to withhold such notice pending the completion of an investigation. TeleCheck is not responsible for and does not control third party telecommunication lines used to provide the Services; and will not be responsible for the security of any transmissions using these lines.
- 10.4 **Ownership.** This Agreement does not provide either party with any right, title or interest in or to the Confidential Information of the other party. Each party will return or destroy (and certify the destruction of) the other party's Confidential Information at the request of the other party.

10.5 **Equitable Relief.** TeleCheck and Subscriber agree there may be no adequate remedy at law for a breach of the confidentiality, disclosure, use, safeguarding and ownership requirements (collectively, the "*Confidentiality Requirements*") related to Confidential Information or Personal Information under this Agreement. A breach of the Confidentiality Requirements may cause irreparable harm such that the non-breaching party may not have an adequate remedy at law; and, therefore, the non-breaching party may seek injunctive relief (without posting a bond or other security) against the breaching party in addition to any other rights or remedies available at law or in equity.

#### **11. Indemnification.**

11.1 **Subscriber Indemnity.** Subscriber agrees to indemnify and hold TeleCheck, its employees, directors and officers, harmless against any third party Claims resulting from Subscriber's (its affiliates, employees, agents or representatives) (i) breach of any of its obligations, covenants or representations under this Agreement; (ii) gross negligence; or (iii) willful misconduct.

11.2 **TeleCheck Indemnity.** TeleCheck agrees to indemnify and hold Subscriber, its employees, directors and officers, harmless against any third party Claims resulting from TeleCheck's (its affiliates, employees, agents or representatives) (i) breach of any of its obligations, covenants or representations under this Agreement; (ii) gross negligence; or (iii) willful misconduct.

11.3 In the event of a Claim for which indemnification may be sought under this Agreement, the party to be indemnified (the "*indemnified party*") will: (i) promptly notify the party responsible for indemnification (the "*indemnifying party*") of the Claim; (ii) reasonably cooperate with the indemnifying party in the making of claims or defenses; and (iii) provide information, assist in the resolution of the Claim and make available at least one (1) employee or agent who can testify regarding the Claim or defenses. The indemnifying party will, upon written notice from the indemnified party, immediately undertake the defense of any such Claim with counsel reasonably satisfactory to the indemnified party. In any event, the indemnifying party will be entitled to direct the defense and settlement of a Claim subject to indemnification with counsel reasonably satisfactory to the indemnified party; provided, the indemnifying party will not settle any Claim affecting the indemnified party to the extent settlement involves more than the payment of money by the indemnifying party without the indemnified party's written consent.

#### **12. Representations, Warranties; Disclaimer of Warranties; Exclusion of Consequential Damages; Limitation on Liability.**

12.1 **Representations, Warranties.** Subscriber and TeleCheck each represent and warrant: (i) they have corporate authority to execute this Agreement; (ii) executing this Agreement does not constitute a material conflict with, breach or default under any applicable Legal Requirements, their respective charter or bylaws, or any documents, agreements or other instruments which are binding upon the parties; and (iii) this Agreement creates valid, legal and binding obligations that are enforceable against the parties.

12.2 **Disclaimer of Warranties.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, TELECHECK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED; INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT RELATE TO THE SERVICES PROVIDED UNDER THIS AGREEMENT. FURTHER, TELECHECK DOES NOT WARRANT THAT SUBSCRIBER'S USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. THIS AGREEMENT IS A SERVICE AGREEMENT; ANY EQUIPMENT PROVIDED IN CONNECTION WITH THIS AGREEMENT IS INCIDENTAL TO THE SERVICES PROVIDED. THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE DO NOT APPLY TO THIS AGREEMENT.

12.3 **Exclusion of Consequential Damages.** TELECHECK AND SUBSCRIBER, AND THEIR RESPECTIVE AFFILIATES, WILL NOT BE LIABLE TO EACH OTHER UNDER ANY THEORY AT LAW OR IN EQUITY IN CONNECTION WITH THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), EXEMPLARY OR PUNITIVE DAMAGES; REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, OR EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.4 **Limitation of Liability.** TELECHECK'S AND SUBSCRIBER'S CUMULATIVE LIABILITY TO EACH OTHER FOR ANY LOSSES OR DAMAGES (IN THE AGGREGATE) FROM ANY CAUSE WHATSOEVER (RELATED OR UNRELATED) IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE LESSER OF (I) ONE MILLION DOLLARS (\$1,000,000); OR (II) THE AMOUNT OF FEES PAID TO TELECHECK FOR SERVICES PERFORMED IN THE PRECEDING SERVICE YEAR; PROVIDED, SUCH LIMITATION WILL NOT INCLUDE FEES ALREADY DUE FROM SUBSCRIBER TO TELECHECK UNDER THIS AGREEMENT, WHICH WILL BE DUE IN ADDITION TO ANY SUCH LOSSES OR DAMAGES.

12.5 **Mitigation of Damages.** Each party will reasonably act to mitigate its damages.

#### **13. Compliance with Law.**

13.1 **General.** Subscriber is responsible for monitoring, interpreting and complying with all federal, state or local laws, rules, regulations, judicial or administrative decisions, export laws, Office of Foreign Assets Control of the US Department of the Treasury ("*OFAC*") requirements, the Fair Credit Reporting Act ("*FCRA*"), Electronic Fund Transfer Act and its Regulation E ("*Regulation E*"), and the NACHA Rules (collectively, "*Legal Requirements*") that are applicable to its business and use of the Services under this Agreement. Subscriber will not use any merchant account created in connection with the Services for illegal transactions, including, without limitation, those prohibited by the Unlawful Internet Gambling Enforcement Act. TeleCheck is responsible for monitoring, interpreting and complying with Legal Requirements applicable to its business, its provision of the Services and its use of Transaction Data residing on its information technology systems.

- 13.2 FCRA Compliance. Subscriber certifies that it has a legitimate business need, in connection with business transactions involving Consumers, for the information provided by TeleCheck. Subscriber certifies that the information provided by TeleCheck will only be used for permissible purposes under the FCRA, will not be used for employment purposes, and will not be used by Subscriber for any purpose other than one (1) transaction between Subscriber and a Consumer. Neither Subscriber nor its agents or employees will disclose the results of any inquiry made to TeleCheck except to the Consumer about whom such inquiry is made; and, in no event, to any other person outside Subscriber's organization (other than its attorneys if necessary). IF SUBSCRIBER REJECTS ANY ITEM (IN WHOLE OR IN PART) BECAUSE OF THE INFORMATION OBTAINED FROM TELECHECK, SUBSCRIBER WILL ADVISE THE CONSUMER OF THAT FACT AND PROVIDE THE CONSUMER WITH TELECHECK'S NAME AND ADDRESS, AND ANY OTHER INFORMATION REQUIRED BY APPLICABLE LEGAL REQUIREMENTS.
- 13.3 Changes in Legal Requirements. If TeleCheck reasonably determines that its performance under this Agreement is impossible or illegal due to changes in applicable Legal Requirements, TeleCheck may modify or discontinue performing the impacted obligations or Services to the extent necessary to avoid violating the Legal Requirements upon thirty (30) days written notice to Subscriber. TeleCheck may increase its Fees to cover any additional costs incurred in connection with complying with changes in applicable Legal Requirements; and, further, TeleCheck may increase its Fees if any fees or charges to TeleCheck increase for processing transactions through the ACH Network. If TeleCheck makes such requests and the parties are unable to agree upon corresponding changes to the terms and conditions of this Agreement within thirty (30) days of such request, either party may terminate this Agreement upon thirty (30) days written notice.
- 14. Use of TeleCheck Materials.**
- 14.1 Acknowledgement of Ownership; License. TeleCheck International, Inc. ("TCI"), an affiliate of TeleCheck, owns the trademarks referenced in this Section. Pursuant to authorization granted to TeleCheck by TCI, TeleCheck grants to Subscriber a nonexclusive, nonassignable and nontransferable limited license to use the TELECHECK<sup>®</sup>, TELECHECK logo and other TeleCheck trademarks and service marks (collectively, the "TeleCheck Marks") within the US and its territories, subject to the following: Subscriber (i) may use and display decals, identification data and other materials provided by TeleCheck at Subscriber's locations solely during the Term and solely in connection with the Services; (ii) will not permit any persons other than its own officers, employees or agents at Subscriber's locations to use its Merchant ID; (iii) will promptly cease use of the TeleCheck Marks and remove any decals, electronic files, logos or other materials (including those affixed to entry doors or windows at Subscriber locations) upon termination or expiration of this Agreement, and, at its own expense, either return or destroy all such materials to TeleCheck; and (iv) will not create any print, electronic or Internet-based materials (including, without limitation, any marketing materials) using any TeleCheck Marks without TeleCheck's prior written consent, which may be withheld in TeleCheck's sole discretion.
- 14.2 Use of TeleCheck Marks. Subscriber acknowledges TCI's ownership of the TeleCheck Marks and will not contest the validity of the TeleCheck Marks or the ownership thereof. Subscriber will refrain from performing any acts that might discredit, disparage, dilute, infringe or negatively affect the value of the TeleCheck Marks or constitute unfair competition with TeleCheck or TCI. Subscriber will use the TeleCheck Marks pursuant to any guidelines provided by TeleCheck, as may be amended from time to time. The following will appear at least once on every piece of advertising or promotional material created by Subscriber that uses the TeleCheck Marks: "The ['Applicable Mark'] trademark is owned by TeleCheck International, Inc. and is licensed for use by ['Subscriber Name']".
- 14.3 Intellectual Property Ownership. This Agreement does not grant Subscriber with any right, title, interest, express or implied license (except as otherwise specifically granted under this Agreement) to any patent, TeleCheck Marks, copyright, trade secret or proprietary right associated with the Services, TeleCheck system, applications or business methods (or those of TeleCheck's affiliates or subsidiaries) required or provided in connection with the Services; or arising from TeleCheck's, its affiliates' or subsidiaries' research and development activities.
- 15. Data Use; Analytics.** TeleCheck will own all right, title and interest to the data or other information relating to an Item or a Consumer (such data or information, "Transaction Data") that it obtains in connection with providing its Services under this Agreement. TeleCheck may use any credit information provided by Subscriber to a TeleCheck affiliate in connection with TeleCheck's credit review of Subscriber; and TeleCheck may share any experiential information it has regarding Subscriber with TeleCheck's affiliates. TeleCheck's rights and obligations under this Section are all subject to compliance with applicable Legal Requirements.
- 16. General.**
- 16.1 Independent Contractor; Third Party Beneficiaries; Subcontractors. The parties are independent contractors. Neither party will have any authority to bind the other. This Agreement is entered into solely for the benefit of TeleCheck and Subscriber, and will not confer any rights upon any person not expressly a party to this Agreement, including Consumers. TeleCheck may subcontract with others to provide Services.
- 16.2 Publicity. TeleCheck may use Subscriber's name in publicity indicating that TeleCheck and Subscriber have entered into a contractual relationship.
- 16.3 Exclusivity. TeleCheck will be the sole and exclusive provider of the Services to Subscriber during the Term.
- 16.4 Assignment. Neither party may assign this Agreement without the other's prior written consent, which will not be unreasonably withheld; provided, consent is not needed for TeleCheck to assign this Agreement to an affiliate or subsidiary, or in connection with a merger, acquisition or sale of all or substantially all of its assets. Any assignment in violation of this

Section will be deemed null and void. This Agreement will extend to and be binding upon any permitted successors and assigns.

- 16.5 Operating Procedures. Subscriber agrees to use the Services in accordance with the requirements, and written policies and operating procedures that are provided from time to time by TeleCheck, which may be provided by written or other electronic delivery means.
- 16.6 Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas (without regard to its choice of law provisions).
- 16.7 Waiver of Jury Trial. TELECHECK AND SUBSCRIBER IRREVOCABLY WAIVE THEIR RIGHT TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.
- 16.8 Force Majeure. Neither Subscriber nor TeleCheck will be held responsible for any delays in or failure or suspension of Services caused, directly or indirectly, by (i) power failure; (ii) delay or error in clearing or processing a transaction through the ACH Network or Federal Reserve system, if applicable; (iii) the nonperformance, delay or error by a third party or in any other third party system, including, without limitation, failures or fluctuations in telecommunications equipment, transmission links or other equipment; (iv) any outbreak or escalation of hostilities, war, riots, terrorism or civil disorders in any country, strikes, labor difficulties, fire, inability to operate or obtain service for its equipment, unusual delays in transportation, earthquake, fire, flood, elements of nature or other acts of God; (v) any act or omission of the other party or any government authority; or (vi) other causes; **all reasonably beyond the control of the impacted party.**
- 16.9 Attorney Fees Related to Contract Obligations. The prevailing party in any legal action related to a dispute under this Agreement will be entitled to recover its reasonable attorneys' and other fees and expenses, unless specifically barred by applicable Legal Requirements.
- 16.10 Notices. Except as specifically provided otherwise, all formal notices required or permitted under this Agreement (other than those involving normal operational matters relating to the Services) will be (i) in writing; (ii) sent by registered mail (return receipt requested) or nationally recognized courier (with tracking and delivery confirmation requested); and (iii) will be deemed to have been given on the date shown on the return receipt if sent by registered mail or the date shown on the delivery confirmation if sent by nationally recognized courier.

Notice given in any other manner will be effective when actually received. Notices to Subscriber will be sent to the following address: \_\_\_\_\_

Notices to TeleCheck will be sent to the following address: TeleCheck Services, Inc., Attn: General Manager, 5251 Westheimer, Houston, Texas 77056; with an additional copy to: TeleCheck Services, Inc., Attn: Legal Counsel, 5251 Westheimer, Houston, Texas 77056.

- 16.11 Headings. The headings contained in this Agreement are for reference only.
- 16.12 Severability. Any provision of this Agreement that is determined to be illegal, invalid or unenforceable will be void; and the remainder of this Agreement will continue in full force and effect. The parties will substitute a valid provision approximating the intent and economic effect of any invalidated provision.
- 16.13 Entire Agreement; Amendment; Waiver; Counterparts. This Agreement constitutes the entire agreement between TeleCheck and Subscriber, and supersedes all prior agreements, written or oral, between the parties related to the Services. This Agreement includes and incorporates all attached addenda, schedules or exhibits. Except as specifically provided otherwise in this Agreement, any amendment to this Agreement must be in writing and signed by TeleCheck and Subscriber. The words "including", "include" and "includes" will each be deemed to be followed by the term "without limitation". No delay or single, partial, failure, abandonment or discontinuance of either party to exercise any right, power or privilege under this Agreement will affect such right, power or privilege. The parties' rights and remedies under this Agreement are cumulative and not exclusive. This Agreement may be executed in any number of counterparts, each of which is deemed an original, and all of which together constitute one and the same instrument. Facsimile, electronic or other copies of the executed Agreement are valid and effective.
- 16.14 Survival of Obligations. The rights and obligations of the parties that would be intended to survive by their nature or context will survive expiration or termination of this Agreement.
- 16.15 Audit. Both parties agree to cooperate and provide each other with information concerning their respective compliance with the terms of this Agreement as reasonably requested by the other party. Audit requests related to the foregoing will be made in writing, upon reasonable notice, and will be conducted during normal business hours and at the expense of the party requesting the audit.

**TELECHECK CHECKS BY PHONE<sup>SM</sup>**  
**WARRANTY SERVICES ADDENDUM**

This TeleCheck Checks By Phone Warranty Services Addendum (*Addendum*) dated \_\_\_\_\_, 2017 (*Effective Date*) is between TeleCheck Services, Inc. (*TeleCheck*); and \_\_\_\_\_ (*Company*).

The parties agree:

18. **MSA Acknowledgement; Background.** This Addendum is an Addendum to the Master Services Agreement dated \_\_\_\_\_ ("MSA") between FIRST DATA MERCHANT SERVICES LLC and/or its Affiliates ("FDMS") and Company, the terms of which are incorporated within this Addendum and the parties agree to be bound by such terms. Capitalized terms used, but not defined, in this Addendum have the meanings given in the MSA. TeleCheck, an affiliate of FDMS, will provide the services (**Services**) described in this Addendum directly to Company. In the event of any conflict between the terms of this Addendum and the MSA, this Addendum will control.
19. **TeleCheck Services.** TeleCheck will provide Company with the Services according to the terms of this Addendum. The Services include: (a) coded information to assist Company in deciding whether or not to accept an ACH payment item (**Item**) initiated and authorized by a Consumer to Company over the phone; (b) settlement processing services; and (c) warranty services, all as provided in this Addendum. Company agrees that it will not resell the services to any third party.
20. **Information Warranty.** TeleCheck warrants the accuracy of the information given in its approval code (**TeleCheck Approval Code**) for transactions (each a **Transaction**, and together, **Transactions**) processed under this Agreement (the **Information Warranty**) when an Item meets the warranty requirements described below. Items that satisfy TeleCheck's Information Warranty and meet the corresponding warranty requirements are **Eligible Items**. TeleCheck will purchase Eligible Items that are subsequently dishonored, returned, reversed, or otherwise not paid by a consumer's financial institution (these Items are **Return Items**). Company's sole remedy for a breach of TeleCheck's Information Warranty is the right to require TeleCheck to purchase an Eligible Item that became a Return Item. TeleCheck's liability to Company for breach of its Information Warranty will not exceed the lesser of: (a) the amount of the Eligible Item, or (b) the Warranty Maximum. **Warranty Maximum** is the total dollar amount permitted per Warranty Transaction as set forth on the Fee Schedule. Company may accept Items that do not receive a **TeleCheck Approval Code** or that do not meet the warranty requirements (these Items are **Ineligible Items**); however, Ineligible Items are not covered under TeleCheck's Information Warranty and TeleCheck will not purchase them. Company must process all of its Items through the Services.
  - 20.1 **Warranty Requirements.** Company represents and warrants that each Item it submits to TeleCheck for processing and coverage under the Information Warranty meets the following requirements and the other applicable requirements set forth in this **Section 3**:
    - 20.1.1 The Item is drawn on the consumer's deposit account at a United States or Canadian financial institution (for example, and without limitation);
    - 20.1.2 The consumer provided a telephonic authorization to debit its account by electronic funds transfer or remotely created check for the amount of the Item (an **Authorization**) in accordance with Laws (defined in Section 16.1 below) and TeleCheck guidelines and specification;
    - 20.1.3 The Item represents the consumer's payment obligation to Company for its goods or services, and has not been used in another transaction;
    - 20.1.4 the payment is not the result of Company initiating an unsolicited telephone call to consumer with which Company had no prior relationship;
    - 20.1.5 Company directly tape recorded the verbal telephonic authorization from consumer or, alternatively, Company sent the required written confirmation notice of the oral authorization to the consumer;
    - 20.1.6 The amount of the Item (a) is for the price of Company's goods or services, (b) matches the amount submitted to TeleCheck for processing, and (c) does not exceed the Warranty Maximum;
    - 20.1.7 The Item was not submitted as a split sale or in other ways to avoid these warranty requirements or the Warranty Maximum;
    - 20.1.8 The Item is not for credit, cash, or payment on an account, debt, or Item already due to Company;
    - 20.1.9 The Item does not pre-date or post-date the date of the transaction and corresponding inquiry to TeleCheck by more than 1 calendar day;
    - 20.1.10 The transaction and corresponding Item are not subject to any stop payment, dispute or setoff right;
    - 20.1.11 Company is not aware of anything that invalidates the Item, prevents its collection, or relieves the consumer from liability for it; and
    - 20.1.12 Company provided the notices and obtained consents required by applicable Law (defined in **Section 16.1** below), authorizing TeleCheck to process the Item as an electronic funds transfer or remotely created check and imposing (and authorizing such processing of) a fee for Return Items.
  - 20.2 **Authorization.** Company will maintain a copy of each consumer's Authorization for the longer of: (a) 2 years, or (b) the period of time required by the NACHA Rules. Company will provide TeleCheck with legible copies of the Authorization within 7 days of TeleCheck's request.
  - 20.3 **Assignment of Items.** Company assigns all of its right, title, and interest in each Eligible Item that it submits to TeleCheck for warranty coverage when the Item becomes a Return Item. Company will reasonably aid TeleCheck in its enforcement of the rights associated with an assigned Eligible Item.
  - 20.4 **Processing Notices; Return Item Fees.** Company will provide consumers with notices and obtain authorizations that are required to process Items using the Services and to collect fees on Return Items. Company will assess the

highest fee amount allowed by applicable Laws on all Return Items, which TeleCheck may collect and retain from consumers.

- 20.5 "Goodwill" of an Ineligible Item. TeleCheck may elect to provide warranty coverage for an Ineligible Item that Company submits for processing. Providing warranty coverage for an Ineligible Item will not constitute a course of dealing, waiver of rights, or prevent TeleCheck from rejecting warranty coverage for any other Ineligible Items.
- 20.6 Chargeback. TeleCheck may chargeback any Eligible Item that it purchased from Company for coverage under the Information Warranty if:
- 20.6.1 The consumer returned the goods or services (in whole or in part) that were paid for with the Item;
  - 20.6.2 Company has not delivered the goods or services that were paid for using the Item
  - 20.6.3 The Item is subject to any stop payment, dispute, or setoff;
  - 20.6.4 The consumer makes full or partial payment to Company for the Item, or provides any form of security to ensure its payment;
- 20.6.5 The goods or services were initially delivered on credit or under a lease;
- 20.6.6 The purchase transaction, the payment represented by the Item, or transferring the Item to TeleCheck (by assignment or otherwise) is void or invalid for any reason other than the consumer's bankruptcy;
  - 20.6.7 The applicable warranty requirements for Eligible Items are breached;
  - 20.6.8 Multiple Items or duplicate Items are submitted to TeleCheck related to the same transaction for processing;
  - 20.6.9 Items are not submitted to TeleCheck for processing within 1 calendar day of the transaction date;
  - 20.6.10 The consumer disputes authorizing the Item, its validity, or the amount debited for it (except in the case of third party fraud committed with a consumer's check);
  - 20.6.11 The consumer's Authorization is incomplete or invalid;
  - 20.6.12 TeleCheck is not provided with a legible copy of an Authorization within 7 days of a request for it; or
  - 20.6.13 Company breaches this Agreement, alters an Item or approval code, or submits an Item with Knowledge it is likely to become a Return Item. **Knowledge** means facts or circumstances which, if known, would cause a merchant, using commercially reasonable judgment, to independently refuse to accept an Item (including, without limitation, splitting single transactions into smaller components or resubmitting Items that were previously denied).

Company will immediately notify TeleCheck if it has Knowledge that any of the above circumstances occur. Company will continue to be responsible for its chargebacks after termination of this Agreement. TeleCheck may chargeback any amounts that exceed the Warranty Maximum for an Eligible Item.

## 21. Electronic Funds Transfer Processing.

- 21.1 Company will cause Company to identify one or more bank accounts held in its name (each, a **Settlement Account**) that TeleCheck will use in connection with the Services. TeleCheck reserves the right to decline processing any Item. TeleCheck will initiate a funds transfer to the Settlement Account for Items that were processed under this Addendum; less any amounts due for fees, refunds, adjustments or its other obligations. Company authorizes TeleCheck on its behalf to initiate electronic debits or remotely created checks to the consumers' accounts for each such Item.
- 21.2 TeleCheck will typically credit Company's settlement funds to its Settlement Account within 2 banking days once the Item is finally submitted to TeleCheck for settlement processing.
- 21.3 TeleCheck may recover amounts associated with any adjustments for an Item that are made to the Settlement Account at Company's request or due to its error. TeleCheck may also recover amounts associated with any fees that a consumer paid to its financial institution because of these adjustments.
- 21.4 Company must promptly notify TeleCheck if Company fails to receive any settlement funds or if there are any changes to the Settlement Account. Transfer of settlement funds may be delayed or misdirected if Company provides inaccurate information about, or fails to notify TeleCheck of changes to, the Settlement Account. TeleCheck is not responsible for settlement errors that arise if Company provides inaccurate information about, or fails to notify TeleCheck of changes to, the Settlement Account.
- 21.5 All funds that TeleCheck owes to Company under this Addendum are subject to Company's payment obligations under this Addendum. TeleCheck may setoff or recoup amounts Company owes to TeleCheck against any funds that TeleCheck owes to Company.
- 21.6 TeleCheck will provide the Company with statements or electronic reporting (either, **Statements**) reflecting the fees, settlement amounts, and other information related to the Services. The Company must review the Statements and inform TeleCheck of any errors within 60 days following the date that the error was, or should have been, reported. The reporting of any errors will enable TeleCheck to recover amounts or prevent the errors from continuing. TeleCheck will have no obligation to provide refunds for errors that the Company reports more than 60 days after they were, or should have been, reported. The Company and TeleCheck will work together to resolve issues or disputes that arise in connection with the Statements, or the funds credited or debited to the Settlement Account.
22. **Reserve.** TeleCheck may require Company to fund a cash reserve (**Reserve**) in an amount that reflects TeleCheck's assessment of risk, as it may determine in its discretion from time-to-time. The Reserve is a payment obligation of TeleCheck, established by holding back transaction proceeds or debiting the Settlement Account in order to potentially offset any obligations that Company may have to TeleCheck. The Reserve is not a segregated fund that Company may claim to



own. TeleCheck is obligated to pay to Company any amounts remaining from the Reserve after all other then-current and contingent liabilities or obligations related to Company's payment transactions have expired. The obligations due to Company from the Reserve will not accrue interest unless required by applicable Laws. TeleCheck will notify Company if a Reserve is established (including its amount) or if the amount of the Reserve is modified. TeleCheck may set off any obligations that Company owes to TeleCheck from the Reserve. Although Company acknowledges that the Reserve is a general obligation of TeleCheck, and not a specifically identifiable fund, if any person claims that the Reserve is an asset of Company that is held by TeleCheck, Company grants and acknowledges that TeleCheck have a security interest in the Reserve and, at TeleCheck request, will provide documentation to reflect this security interest.

23. **Term.** This Addendum commences on its Effective Date and will extend for the initial term (in this Addendum, the **Initial Term**) and any renewal terms (in this Addendum, the **Renewal Term**) of the MSA. The Initial Term and any Renewal Term(s) are referred to in this Addendum as the **Term** and each year of the Term is a **Service Year**.
24. **Termination; Modification; Suspension.**
- 24.1 **General Termination.** Either Company or TeleCheck may terminate this Addendum by giving 30 days' advance notice if the other materially breaches this Addendum and fails to remedy the breach within 30 days of receiving notice of it.
- 24.2 **Modification.** TeleCheck may modify this Addendum's terms (including, without limitation, its fees) upon 30 days' notice to Company, during which notice period Company may terminate this Addendum by providing written notice of termination to TeleCheck. Company's continued use of the Services after the 30 day period contained in a notice of modification from TeleCheck will constitute Company's acceptance of the new terms.
- 24.3 **Suspension.** TeleCheck may suspend its Services or settlement of any funds under this Addendum if it determines that questionable activity occurs with respect to Company's payment transactions (including, without limitation, if there are excessive Return Items associated with Items, Company breaches the NACHA Rules, or if required by applicable laws. TeleCheck may also suspend or terminate its Services if requested by its Originating Financial Depository Institution. As required by the NACHA Rules, the Originating Depository Financial Institution shall have the right to audit Company's compliance with this Addendum and the NACHA Rules.
25. **Fees.**
- 25.1 **Fees; Fee Amendments.** Company will pay TeleCheck the fees and charges (collectively, "**Fees**") for the Services set forth in Schedule C-7, including applicable sales, use, excise or other taxes (whether federal, state or local), however designated, which are levied or imposed with respect to the Services. Company will not pay or reimburse TeleCheck for income or employment taxes imposed upon or separately payable by TeleCheck for its employees, agents, subcontractors or affiliates.
- 25.2 **Fee Definitions.** The following definitions apply to the Fees: **Correction Fee** is the amount charged for each Item that TeleCheck must correct due to Company error or at Company's request. **Transaction Fee** is the amount charged for each Item submitted to TeleCheck for processing under this Addendum, whether or not TeleCheck authorizes the Item. **Inquiry Rate** is the percentage rate which will be applied to the face amount of each Item submitted to TeleCheck for processing under this Agreement, whether or not TeleCheck authorizes the Item. **Unauthorized Return Fee** is a fee applicable to any Item that is dishonored, returned, reversed, or otherwise not paid by the Consumer's financial institution for the reason that such Item is unauthorized by the Consumer.
26. **Payment of Fees.** TeleCheck will invoice its Fees to Company monthly. Company authorizes TeleCheck to debit all amounts due under this Addendum (including, without limitation, all Return Items, delinquency charges, Company returned payments and any other amounts owed by Company) and to credit all amounts owed to Company under this Addendum via electronic fund transfer to Company's bank account (**Company Account**) provided to TeleCheck for initiating debits under this Addendum. If there are insufficient funds in Company's Account to pay amounts owed under this Addendum, Company will immediately reimburse TeleCheck upon demand for these amounts; or, at TeleCheck's option, TeleCheck may offset or recoup these amounts against any amounts TeleCheck owe to Company under this Addendum or any other Addendum between Company and TeleCheck. A delinquency charge of 1½% per month or the highest amount permitted by law, whichever is lower, will be added to the outstanding balance of any delinquent account.
27. **Updating Information.** Company will promptly notify TeleCheck if (a) a consumer makes any payment to Company or returns any goods in connection with a Return Item, or (b) Company cancels any services paid for by an Item; both representing a full or partial satisfaction of the Return Item.
28. **FCRA Compliance.** Company, certifies that it has a legitimate business need, in connection with business transactions involving consumers, for the information provided by TeleCheck. Company certifies that the information provided by TeleCheck will only be used for permissible purposes under the FCRA, will not be used for employment purposes, and will not be used for any purpose other than one transaction between and a consumer. Company and their agents or employees shall not disclose the results of any inquiry made to TeleCheck except to the consumer about whom such inquiry is made. If Company rejects any item (in whole or in part) because of the information obtained from TeleCheck, Company shall provide the consumer all information required by applicable legal requirements.
29. **Exclusion of Damages.** Neither party will be liable to the other for lost profits, revenues, or business opportunities, nor any exemplary, punitive, special, indirect, incidental, or consequential damages (whether direct or indirect); regardless of whether these damages were foreseeable or either party was advised they were possible.
30. **Limitation of Liability.** TeleCheck's and the Company's aggregate liability to the other for losses arising from any cause (regardless of the form of action or legal theory) in connection with this Agreement will be limited to the lesser of (i)

\$1,000,000.00 ; or (ii) the amount of fees paid to TeleCheck for Services performed in the preceding Service Year (**Liability Cap**). The Liability Cap will not apply to: (1) TeleCheck's obligation to remit the proceeds of the Company's transactions that are processed under this Agreement (after accounting for all offsetting obligations); or (2) the Company's payment obligations related to the Services.

31. **Data Use; Analytics.** Company agrees that TeleCheck and Company will each own all right, title and interest to the data or other information residing on such party's systems relating to an Item or a Consumer in connection with the Services under this Addendum. TeleCheck's rights and obligations under this Section are all subject to compliance with applicable Legal Requirements.
32. **Exclusivity.** TeleCheck will be the sole and exclusive provider of the Services to Company during the Term.
33. **Compliance with Law; Changes in Law.**
- 33.1 **Compliance with Law.** The parties will comply with all laws, regulations, and rules (including ACH's network rules, requirements, and standards; the **NACHA Rules**) (together **Laws**) that are applicable to their respective performance obligations under this Addendum. Company acknowledges that it is the Originator under the NACHA Rules with respect to its transactions and agrees to comply with its obligations as an Originator.
- 33.2 **Changes in Legal Requirements.** If TeleCheck reasonably determines that its performance under this Addendum is impossible or illegal due to changes in applicable Legal Requirements, TeleCheck may modify or discontinue performing the impacted obligations or Services to the extent necessary to avoid violating the Legal Requirements upon thirty (30) days written notice to Company. TeleCheck may increase its Fees to cover any additional costs incurred in connection with complying with changes in applicable Legal Requirements; and, further, TeleCheck may increase its Fees if any fees or charges to TeleCheck increase for processing transactions through the Automated Clearing House Network, a processing and delivery system that distributes and settles electronic fund transfers (**ACH Network**). If TeleCheck makes such requests and the parties are unable to agree upon corresponding changes to the terms and conditions of this Addendum within thirty (30) days of such request, either party may terminate this Addendum upon thirty (30) days written notice.
34. **Notices.** Written notices (other than normal operations) required under this Addendum will be sent by email, certified mail or courier (all with tracking and delivery confirmation). Notices will be effective upon receipt.  
Notices to the Company will be sent to:

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Notices to TeleCheck will be sent to:  
TeleCheck Services, Inc., Attn: General Manager, \_\_\_\_\_; with an additional copy to:  
TeleCheck Services, Inc., Attn: Legal Counsel, \_\_\_\_\_. Emailed notices to TeleCheck will  
be sent to: [legalpapers@firstdata.com](mailto:legalpapers@firstdata.com)

**TELECHECK CHECKS BY PHONE<sup>SM</sup>  
VERIFICATION SERVICES ADDENDUM**

This TeleCheck Checks By Phone Verification Services Addendum (*Addendum*) dated \_\_\_\_\_, 2017 (*Effective Date*) is between TeleCheck Services, Inc. (*TeleCheck*); and \_\_\_\_\_ (*Company*).

The parties agree:

35. **MSA Acknowledgement; Background.** This Addendum is an Addendum to the Master Services Agreement dated \_\_\_\_\_ ("MSA") between FIRST DATA MERCHANT SERVICES LLC and/or its Affiliates ("FDMS") and Company, the terms of which are incorporated within this Addendum and the parties agree to be bound by such terms. Capitalized terms used, but not defined, in this Addendum have the meanings given in the MSA. TeleCheck, an affiliate of FDMS, will provide the services (*Services*) described in this Addendum directly to Company. In the event of any conflict between the terms of this Addendum and the MSA, this Addendum will control.
36. **TeleCheck Services.** TeleCheck will provide Company with the Services according to the terms of this Addendum. The Services include: (a) coded information to assist Company in deciding whether or not to accept an ACH payment item (*Item*) submitted by a customer of Company on the Company's website; and (b) settlement processing services; all as provided in this Addendum. Company agrees that it will not resell the services to any third party.
- 36.1 **Return Items.** TeleCheck does not warrant and will have no liability for any transaction processed under the Services (*Transaction*) that is returned, dishonored, reversed or otherwise unpaid by a consumer's financial institution regardless of the reason or timing (each a *Return Item*). Company assumes all risks that Transactions may result in Return Items, and Company will be fully responsible and liable to TeleCheck for all such Return Items, regardless of the reason or timing. Company authorizes TeleCheck to deduct or offset all such Return Items against any amounts to be paid to Company for Transactions; alternatively, TeleCheck may initiate debits to the applicable Settlement Account for all such Return Items.
- 36.2 Company represents and warrants with respect to each Item submitted to TeleCheck for processing under this Addendum that: (a) the Item is payment for the purchase of goods or services from Company and was submitted to TeleCheck in accordance with the TeleCheck's operating guidelines and specifications, (b) the consumer provided a telephonic authorization to debit its account by electronic funds transfer or remotely created check for the amount of the Item in accordance with the TeleCheck's operating guidelines and specifications and Laws, (c) the payment is not the result of Company initiating an unsolicited telephone call to consumer with which Company had no prior relationship; and (d) Company directly tape recorded the verbal telephonic authorization from consumer or, alternatively, Company sent the required written confirmation notice of the oral authorization to the consumer.
- 36.3 **Authorization.** Company will maintain a copy of each consumer's Authorization for the longer of: (a) 2 years, or (b) the period of time required by the NACHA Rules. Company will provide TeleCheck with legible copies of the Authorization within 7 days of TeleCheck's request.
37. **Electronic Funds Transfer Processing.**
- 37.1 Company will cause Company to identify one or more bank accounts held in its name (each, a **Settlement Account**) that TeleCheck will use in connection with the Services. TeleCheck reserves the right to decline processing any Item. TeleCheck will initiate a funds transfer to the Settlement Account for Items that were processed under this Addendum; less any amounts due for fees, refunds, adjustments or its other obligations. Company authorizes TeleCheck on its behalf to initiate electronic debits or remotely created checks to the consumers' accounts for each such Item.
- 37.2 TeleCheck will typically credit Company's settlement funds to its Settlement Account within 2 banking days once the Items is finally submitted to TeleCheck for settlement processing.
- 37.3 TeleCheck may recover amounts associated with any adjustments for an Item that are made to the Settlement Account at Company's request or due to its error. TeleCheck may also recover amounts associated with any fees that a consumer paid to its financial institution because of these adjustments.
- 37.4 Company must promptly notify TeleCheck if Company fails to receive any settlement funds or if there are any changes to the Settlement Account. Transfer of settlement funds may be delayed or misdirected if Company provides inaccurate information about, or fails to notify TeleCheck of changes to, the Settlement Account. TeleCheck is not responsible for settlement errors that arise if Company provides inaccurate information about, or fails to notify TeleCheck of changes to, the Settlement Account.
- 37.5 All funds that TeleCheck owes to Company under this Addendum are subject to Company's payment obligations under this Addendum. TeleCheck may setoff or recoup amounts Company owes to TeleCheck against any funds that TeleCheck owes to Company.
- 37.6 TeleCheck will provide the Company with statements or electronic reporting (either, **Statements**) reflecting the fees, settlement amounts, and other information related to the Services. The Company must review the Statements and inform TeleCheck of any errors within 60 days following the date that the error was, or should have been, reported. The reporting of any errors will enable TeleCheck to recover amounts or prevent the errors from continuing. TeleCheck will have no obligation to provide refunds for errors that the Company reports more than 60 days after they were, or should have been, reported. The Company and TeleCheck will work together to resolve issues or disputes that arise in connection with the Statements, or the funds credited or debited to the Settlement Account.

38. **Reserve.** TeleCheck may require Company to fund a cash reserve (**Reserve**) in an amount that reflects TeleCheck's assessment of risk, as it may determine in its discretion from time-to-time. The Reserve is a payment obligation of TeleCheck, established by holding back transaction proceeds or debiting the Settlement Account in order to potentially offset any obligations that Company may have to TeleCheck. The Reserve is not a segregated fund that Company may claim to own. TeleCheck is obligated to pay to Company any amounts remaining from the Reserve after all other then-current and contingent liabilities or obligations related to Company's payment transactions have expired. The obligations due to Company from the Reserve will not accrue interest unless required by applicable Laws. TeleCheck will notify Company if a Reserve is established (including its amount) or if the amount of the Reserve is modified. TeleCheck may set off any obligations that Company owes to TeleCheck from the Reserve. Although Company acknowledges that the Reserve is a general obligation of TeleCheck, and not a specifically identifiable fund, if any person claims that the Reserve is an asset of Company that is held by TeleCheck, Company grants and acknowledges that TeleCheck have a security interest in the Reserve and, at TeleCheck request, will provide documentation to reflect this security interest.
39. **Term.** This Addendum commences on its Effective Date and will extend for the initial term (in this Addendum, the **Initial Term**) and any renewal terms (in this Addendum, the **Renewal Term**) of the MSA. The Initial Term and any Renewal Term(s) are referred to in this Addendum as the **Term** and each year of the Term is a **Service Year**.
40. **Termination; Modification; Suspension.**
- 40.1 **General Termination.** Either Company or TeleCheck may terminate this Addendum by giving 30 days' advance notice if the other materially breaches this Addendum and fails to remedy the breach within 30 days of receiving notice of it.
- 40.2 **Modification.** TeleCheck may modify this Addendum's terms (including, without limitation, its fees) upon 30 days' notice to Company, during which notice period Company may terminate this Addendum by providing written notice of termination to TeleCheck. Company's continued use of the Services after the 30 day period contained in a notice of modification from TeleCheck will constitute Company's acceptance of the new terms.
- 40.3 **Suspension.** TeleCheck may suspend its Services or settlement of any funds under this Addendum if it determines that questionable activity occurs with respect to Company's payment transactions (including, without limitation, if there are excessive Return Items associated with Items, Company breaches the NACHA Rules, or if required by applicable laws. TeleCheck may also suspend or terminate its Services if requested by its Originating Financial Depository Institution. As required by the NACHA Rules, the Originating Depository Financial Institution shall have the right to audit Company's compliance with this Addendum and the NACHA Rules.
41. **Fees.**
- 41.1 **Fees; Fee Amendments.** Company will pay TeleCheck the fees and charges (collectively, "**Fees**") for the Services set forth in Schedule C-7, including applicable sales, use, excise or other taxes (whether federal, state or local), however designated, which are levied or imposed with respect to the Services. Company will not pay or reimburse TeleCheck for income or employment taxes imposed upon or separately payable by TeleCheck for its employees, agents, subcontractors or affiliates.
- 41.2 **Fee Definitions.** The following definitions apply to the Fees: **Correction Fee** is the amount charged for each Item that TeleCheck must correct due to Company error or at Company's request. **Transaction Fee** is the amount charged for each Item submitted to TeleCheck for processing under this Addendum, whether or not **Unauthorized Return Fee** is a fee applicable to any Item that is dishonored, returned, reversed, or otherwise not paid by the Consumer's financial institution for the reason that such Item is unauthorized by the Consumer. TeleCheck authorizes the Item. Company will also be responsible for paying for any point-of-sale supplies (e.g., paper and ink for Equipment, rubber stamps, etc.) related to the Services obtained from TeleCheck.
42. **Payment of Fees.** TeleCheck will invoice its Fees to Company monthly. Company authorizes TeleCheck to debit all amounts due under this Addendum (including, without limitation, all Return Items, delinquency charges, Company returned payments and any other amounts owed by Company) and to credit all amounts owed to Company under this Addendum via electronic fund transfer to Company's bank account (**Company Account**) provided to TeleCheck for initiating debits under this Addendum. If there are insufficient funds in Company's Account to pay amounts owed under this Addendum, Company will immediately reimburse TeleCheck upon demand for these amounts; or, at TeleCheck's option, TeleCheck may offset or recoup these amounts against any amounts TeleCheck owe to Company under this Addendum or any other Addendum between Company and TeleCheck. A delinquency charge of 1½% per month or the highest amount permitted by law, whichever is lower, will be added to the outstanding balance of any delinquent account.
43. **Updating Information.** Company will promptly notify TeleCheck if (a) a consumer makes any payment to Company or returns any goods in connection with a Return Item, or (b) Company cancels any services paid for by an Item; both representing a full or partial satisfaction of the Return Item.
44. **FCRA Compliance.** Company, certifies that it has a legitimate business need, in connection with business transactions involving consumers, for the information provided by TeleCheck. Company certifies that the information provided by TeleCheck will only be used for permissible purposes under the FCRA, will not be used for employment purposes, and will not be used for any purpose other than one transaction between and a consumer. Company and their agents or employees shall not disclose the results of any inquiry made to TeleCheck except to the consumer about whom such inquiry is made. If Company rejects any item (in whole or in part) because of the information obtained from TeleCheck, Company shall provide the consumer all information required by applicable legal requirements.

45. **Exclusion of Damages.** Neither party will be liable to the other for lost profits, revenues, or business opportunities, nor any exemplary, punitive, special, indirect, incidental, or consequential damages (whether direct or indirect); regardless of whether these damages were foreseeable or either party was advised they were possible.
46. **Limitation of Liability.** TeleCheck's and the Company's aggregate liability to the other for losses arising from any cause (regardless of the form of action or legal theory) in connection with this Agreement will be limited to the lesser of (i) \$1,000,000.00 ; or (ii) the amount of fees paid to TeleCheck for Services performed in the preceding Service Year (**Liability Cap**). The Liability Cap will not apply to: (1) TeleCheck's obligation to remit the proceeds of the Company's transactions that are processed under this Agreement (after accounting for all offsetting obligations); or (2) the Company's payment obligations related to the Services.
47. **Data Use; Analytics.** Company agrees that TeleCheck and Company will each own all right, title and interest to the data or other information residing on such party's systems relating to an Item or a Consumer in connection with the Services under this Addendum. TeleCheck's rights and obligations under this Section are all subject to compliance with applicable Legal Requirements.
48. **Exclusivity.** TeleCheck will be the sole and exclusive provider of the Services to Company during the Term.
49. **Compliance with Law; Changes in Law.**
- 49.1 **Compliance with Law.** The parties will comply with all laws, regulations, and rules (including ACH's network rules, requirements, and standards; the **NACHA Rules**) (together **Laws**) that are applicable to their respective performance obligations under this Addendum. Company acknowledges that it is the Originator under the NACHA Rules with respect to its transactions and agrees to comply with its obligations as an Originator.
- 49.2 **Changes in Legal Requirements.** If TeleCheck reasonably determines that its performance under this Addendum is impossible or illegal due to changes in applicable Legal Requirements, TeleCheck may modify or discontinue performing the impacted obligations or Services to the extent necessary to avoid violating the Legal Requirements upon thirty (30) days written notice to Company. TeleCheck may increase its Fees to cover any additional costs incurred in connection with complying with changes in applicable Legal Requirements; and, further, TeleCheck may increase its Fees if any fees or charges to TeleCheck increase for processing transactions through the Automated Clearing House Network, a processing and delivery system that distributes and settles electronic fund transfers (**ACH Network**). If TeleCheck makes such requests and the parties are unable to agree upon corresponding changes to the terms and conditions of this Addendum within thirty (30) days of such request, either party may terminate this Addendum upon thirty (30) days written notice.
50. **Notices.** Written notices (other than normal operations) required under this Addendum will be sent by email, certified mail or courier (all with tracking and delivery confirmation). Notices will be effective upon receipt.  
Notices to the Company will be sent to:

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Notices to TeleCheck will be sent to:

TeleCheck Services, Inc., Attn: General Manager, 14141 Southwest Freeway, Suite 300, Sugar Land, Texas 77478; with an additional copy to: TeleCheck Services, Inc., Attn: Legal Counsel, 14141 Southwest Freeway, Suite 300, Sugar Land, Texas 77478. Emailed notices to TeleCheck will be sent to: [legalpapers@firstdata.com](mailto:legalpapers@firstdata.com)

**SCHEDULE E**

**PARTICIPATION AGREEMENT FOR MERCHANT PROCESSING SERVICES**

This Participation Agreement for Merchant Processing Services ("Agreement") is entered into between ("Customer") Enter Customer Name, SunTrust Merchant Services, L.L.C. ("STMS"), and SunTrust Bank ("Bank") as of (date) \_\_\_\_\_, STMS and Bank are collectively referred to as "Servicers".

WHEREAS, on \_\_\_\_\_ [date] Servicers entered into a Master Services Agreement with the Office of the State Treasurer for the provision of bankcard, charge card and debit card acceptance, processing, settlement and support services ("Services"); and

WHEREAS, the terms of the Master Services Agreement require Servicers to provide Services pursuant to the Master Services Agreement *and any subsequent revisions*, to certain authorized State of Georgia government agencies, commissions, departments, boards, authorities, bureaus, institutions, and local government entities ("Customer"); and

WHEREAS, the Enter Customer Name is an Authorized State of Georgia Customer and desires to receive Services pursuant to the Merchant Card Services Agreement;

NOW THEREFORE, The parties to this Agreement hereby agree as follows:

1. Customer is an Authorized State of Georgia Participant, as defined above, and has received the approval of the Georgia Office of the State Treasurer to participate under the Master Services Agreement.
2. Servicers hereby agree to provide Services to the Customer pursuant to the terms and conditions of the Master Services Agreement which are incorporated herein by reference. The specific optional Services selected by Customer ("Product Addenda") and to be performed by Servicers include: \_\_\_\_\_.
3. Customer acknowledges receipt of a copy of the Master Services Agreement (including the Operating Guide attachment) and agrees to be bound by the terms and conditions therein.
4. Customer agrees that by executing this Agreement it shall be responsible for all CUSTOMER obligations set forth in the Master Services Agreement, including payment of all fees and assumption of all financial obligations related to the Services received by Customer.
5. Upon termination of the Master Service Agreement, Customer must negotiate a separate contract with Servicers in order to continue to receive Services.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as the date set forth above.

\_\_\_\_\_  
(Customer Name)

**SunTrust Merchant Services, L.L.C. and  
SunTrust Bank**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_