

INTERNAL USE ONLY

Merchant #

Reseller

BUSINESS INFORMATION

CORPORATE / LEGAL NAME:

FEDERAL TAX ID NUMBER:

LOCATION ADDRESS:

CITY:

STATE:

ZIP:

MERCHANT NAME (DBA OR TRADE NAME): ☐ Information same as above corporate / legal

LOCATION ADDRESS:

CITY:

STATE:

ZIP:

CONTACT INFORMATION

CUSTOMER SERVICE NUMBER:

CONTACT NUMBER:

FAX NUMBER:

CUSTOMER SERVICE EMAIL:

CONTACT EMAIL:

WEBSITE ADDRESS:

PROCESSING INFORMATION

OF MONTHLY ACH TRANSACTIONS:

AVERAGE MONTHLY ACH SALES VOLUME:

AVERAGE ACH TRANSACTION AMOUNT:

MAXIMUM ACH TRANSACTION AMOUNT:

OF MONTHLY ACH RETURNS:

WILL YOU NEED TO ISSUE ACH CREDITS? ☐ No ☐ Yes

IF YES, PROVIDE DETAILS:

DESCRIBE YOUR PRODUCT/SERVICE:

MCC/SIC CODE:

Standard Entry Class Code (SEC) - MUST EQUAL 100%

A SEC code is a three letter code that describes how a payment was authorized by the consumer or business receiving an ACH transaction. SEC stands for 'Standard Entry Class'. SEC codes are defined and maintained by NACHA, the governing body for the ACH network.

PPD _____ %

Prearranged Payment and Deposit

Authorization in writing and signed, or similarly authenticated (Consumer Debit); Authorization: Orally or other non-written means (Consumer Credit).

CCD _____ %

Corporate Credit or Debit

Authorization requires agreement to transfer between companies. A single or a recurring ACH credit or debit originated to a corporate account.

WEB _____ %

Internet-Initiated/Mobile

Authorization: Obtained via the internet or wireless network (e.g. mobile device).

TEL _____ %

Telephone Initiated

Authorization: For Single, recorded oral authorization or written notice provided to the consumer confirming the oral authorization. For Recurring, a copy of the authorization must be provided to the consumer.

ENTITY TYPE

☐ INDIVIDUAL / SOLE PROPRIETOR ☐ PARTNERSHIP ☐ CORPORATION ☐ GOVERNMENT ☐ LLC ☐ NON-PROFIT (MUST PROVIDE 501C LETTER) ☐ PUBLICLY TRADED PA/PC

YEARS IN BUSINESS:

LOCATION

BUILDING TYPE:

☐ SHOPPING CENTER☐ OFFICE BUILDING☐ INDUSTRIAL BUILDING☐ RESIDENCE

MERCHANT:

☐ OWNS☐ RENTS

AREA ZONED:

☐ COMMERCIAL☐ INDUSTRIAL☐ RESIDENTIAL

SQUARE FOOTAGE:

☐ 0-500☐ 501-2,500☐ 2,501-5,000☐ 5,000-10,000☐ 10,000+

PRINCIPALS (MUST HAVE AT LEAST 51% COMBINED OWNERSHIP)

PLEASE LIST ALL PRINCIPALS WHO, DIRECTLY OR INDIRECTLY, THROUGH ANY CONTRACT, ARRANGEMENT, UNDERSTANDING, RELATIONSHIP OR OTHERWISE, OWN 25 PERCENT OR MORE OF THE EQUITY INTERESTS OF THE LEGAL ENTITY LISTED IN THIS APPLICATION:

1. PRINCIPAL NAME:

FIRST:	LAST:	SSN:	% OWNERSHIP:	TITLE:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME ADDRESS:		CITY:	STATE:	ZIP:
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME PHONE:	EMAIL:	DRIVERS LICENSE NUMBER AND EXP DATE:		DATE OF BIRTH:
<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>

2. PRINCIPAL NAME:

FIRST:	LAST:	SSN:	% OWNERSHIP:	TITLE:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME ADDRESS:		CITY:	STATE:	ZIP:
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME PHONE:	EMAIL:	DRIVERS LICENSE NUMBER AND EXP DATE:		DATE OF BIRTH:
<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>

3. PRINCIPAL NAME:

FIRST:	LAST:	SSN:	% OWNERSHIP:	TITLE:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME ADDRESS:		CITY:	STATE:	ZIP:
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME PHONE:	EMAIL:	DRIVERS LICENSE NUMBER AND EXP DATE:		DATE OF BIRTH:
<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>

4. PRINCIPAL NAME:

FIRST:	LAST:	SSN:	% OWNERSHIP:	TITLE:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME ADDRESS:		CITY:	STATE:	ZIP:
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME PHONE:	EMAIL:	DRIVERS LICENSE NUMBER AND EXP DATE:		DATE OF BIRTH:
<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>

CONTROLLING PERSON

COMPLETE THE FOLLOWING INFORMATION FOR ONE INDIVIDUAL WITH SIGNIFICANT RESPONSIBILITY FOR MANAGING THE LEGAL ENTITY LISTED IN THIS APPLICATION, SUCH AS: • AN EXECUTIVE OFFICER OR SENIOR MANAGER (E.G., CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER, CHIEF OPERATING OFFICER, MANAGING MEMBER, GENERAL PARTNER, PRESIDENT, VICE PRESIDENT, TREASURER); OR • ANY OTHER INDIVIDUAL WHO REGULARLY PERFORMS SIMILAR FUNCTIONS. IF APPROPRIATE, AN INDIVIDUAL LISTED UNDER THE SECTION ABOVE MAY ALSO BE LISTED IN THIS SECTION.

IS THIS INDIVIDUAL ALREADY LISTED IN THE PRINCIPAL SECTION. (If No, please complete the next section)

☐ No ☐ Yes

FIRST:	LAST:	SSN:	% OWNERSHIP:	TITLE:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME ADDRESS:		CITY:	STATE:	ZIP:
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME PHONE:	EMAIL:	DRIVERS LICENSE NUMBER AND EXP DATE:		DATE OF BIRTH:
<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>

GENERAL INFORMATION

HAVE MERCHANT OR OWNERS / PRINCIPALS EVER FILED: ☐ BUSINESS BANKRUPTCY ☐ PERSONAL BANKRUPTCY ☐ NEVER FILED

IF YES, PLEASE EXPLAIN:

DO YOU CURRENTLY ACCEPT AND PROCESS E-CHECK / ACH TRANSACTIONS? ☐ No ☐ Yes

IF YES, CURRENT PROCESSOR

ACH PROCESSING APPLICATION

V1.7

HAS A BANK OR THIRD-PARTY PROCESSOR EVER TERMINATED ACH PROCESSING WITH YOU? ☐ No ☐ Yes

IF YES, PLEASE EXPLAIN TERMINATION REASON

CUSTOMER PROFILE (ESTIMATE THE PERCENTAGE OF SALES IN EACH CATEGORY – MUST ADD UP TO 100%)

INDIVIDUAL CONSUMER <input type="text"/> %	BUSINESS <input type="text"/> %	GOVERNMENT <input type="text"/> %
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HOW LONG AFTER CHARGING THE CUSTOMER IS THE PRODUCT FULFILLED OR DOES THE SERVICE BEGIN?

WITHIN: ☐ 24 HOURS ☐ 2 DAYS ☐ 3-10 DAYS ☐ 11-30 DAYS ☐ 31-90 DAYS ☐ 90+ DAYS

IS THE CUSTOMER CHARGED AT:

☐ TIME OF ORDER ☐ UPON SHIPMENT

PLEASE DESCRIBE YOUR REFUND/RETURN POLICY

DO YOU CHARGE ANY SORT OF RECURRING FEES FOR ONGOING SERVICES? ☐ No ☐ Yes

IF YES, PLEASE PROVIDE DETAILS

BANK ACCOUNT INFORMATION (ATTACH VOIDED CHECK)

ROUTING NUMBER:

ACCOUNT NUMBER

BANK ACCOUNT FOR: ☐ Debits (receive funds) ☐ Credits (send funds) ☐ Billing (fees)

ROUTING NUMBER:

ACCOUNT NUMBER

BANK ACCOUNT FOR: ☐ Debits (receive funds) ☐ Credits (send funds) ☐ Billing (fees)

ROUTING NUMBER:

ACCOUNT NUMBER

BANK ACCOUNT FOR: ☐ Debits (receive funds) ☐ Credits (send funds) ☐ Billing (fees)

FEE SCHEDULE (SCHEDULE A)

Initial Setup Fee	Per Transaction Fee (debit and credit)	Rate (debit transactions only)	Monthly Maintenance Fee
\$ <input type="text"/>	\$ <input type="text"/>	<input type="text"/> %	\$ <input type="text"/>
Return Item Processing	Notification of Change	FED Unauthorized Return Fee	Exception/Corrections Processing
\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Special Pricing or Exception Notes			
<input type="text"/>			

Note: Fees noted in this schedule may be set by compensating balances and earnings credits. Fees are subject to change at any time.

CUT OFF TIMES

Same-day cutoff is 9:00 AM Pacific Time (if approved for same day). The cutoff time for standard ACH processing is 5:00 PM Pacific Time.

Any Entries submitted thereafter will be picked up and submitted the next Business Day.

Transactions are sent to Third Party Sender's back-end processor approximately every 15 minutes. Thus, transactions submitted within 15 minutes of a cutoff time may not be submitted on such Business Day.

Credit Entries

File Transmission: until 4:00 p.m. two (2) business days prior to the effective date, which must be a business day.

Debit Entries

File Transmission: until 4:00 p.m. one (1) business day prior to the effective date.

"Business Day" is a day on which a financial institution is open to the public for carrying on substantially all of its business other than a Saturday, Sunday or Federal Reserve or bank holiday.

TRANSMISSION LOCATION AND FORMATTING INSTRUCTIONS

All files presented to Third Party Sender will be formatted in the NACHA format.

Transmission specifications will be established by Third Party Sender.

PC/Internet Transmissions through Business Online Banking.

Personal computer transmissions will require Merchant to have access to the Internet with an approved browser and enrollment in Third Party Sender's Banking program.

Merchant will transmit files through Third Party Sender's electronic dashboard system, or as otherwise provided or instructed by Third Party Sender.

SECURITY PROCEDURES

Third Party Sender shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by the Authorized Representative, and any such communication shall be deemed to have been signed by such person.

It is the responsibility of Merchant to notify Third Party Sender in writing of any changes to those individuals designated as the Authorized Representatives for Merchant.

PC/Internet File Transmission through the Third Party Sender's electronic dashboard system.

Merchant's Authorized Representative or its Third Party Processor ("Sender") will access the electronic dashboard system by utilizing a user ID and password.

Merchant or the Sender is solely responsible for the accurate creation, modification, and deletion of the account information maintained and used for ACH file transfer.

Merchant is responsible for compliance with all Security Procedures.

MERCHANT ACCEPTANCE AND AGREEMENT

By executing this ACH Processing Application (this "Application") on behalf of the merchant described above (the "Merchant"), the undersigned individual(s): (i) represent(s) and warrant(s) that all information contained in this Application is true, correct and complete as of the date this Application is signed, and that such individual(s) have the requisite corporate power and authority to complete and submit this Application. Further, the signor(s) hereof acknowledge(s) and agree(s) that the information provided herein is for the purpose of obtaining or maintaining a merchant ACH processing account with Financial Institution, as defined in the ACH Origination Agreement on behalf of Merchant; and authorize Financial Institution and/or Third Party Sender (as defined in the ACH Origination Agreement) to investigate the Merchant and each person listed on this Application, including, without limitation, by obtaining credit information from credit bureaus and reporting agencies, and other information at Financial Institution's and/or Third Party Sender's discretion, for which Merchant grant explicit and continuing permission including through third parties. Merchant further acknowledge receipt of the ACH Origination Agreement, incorporated herein by reference and available at the link below (the Application together with the ACH Origination Agreement and any attachments, schedules, addenda or amendments thereto, shall be referred to as the "Agreement"), and agree, on behalf of the Merchant, to be bound by the terms and conditions of the Agreement, and that the Agreement shall not take effect until the Application is approved and the services described hereunder are enabled. Further, Merchant understands that Merchant's information may be used to ensure continuity of services provided to you hereunder and explicitly consents to same, including, without limitation, by moving your services to a different sponsoring financial institution.

MERCHANT (Legal Name of Business):

PRINCIPAL 1 (Signature of Principal/Owner):

DATE:

PRINCIPAL 3 (Signature of Principal/Owner):

DATE:

PRINCIPAL 2 (Signature of Principal/Owner):

DATE:

PRINCIPAL 4 (Signature of Principal/Owner):

DATE:

THIRD PARTY SENDER (Maverick BankCard, Inc.) (Signature):

NAME AND TITLE:

FINANCIAL INSTITUTION (Signature):

NAME AND TITLE:

PERSONAL GUARANTEE

In consideration of Financial Institution's and Third Party Sender's acceptance of this Agreement, the undersigned Principal ("Guarantor") (jointly and severally if more than one) unconditionally guarantees the performance of all obligations of Merchant to Financial Institution and Third Party Sender under the Agreement, and payment of all sums due there under, and in the event of default, hereby waives notice of default and agrees to indemnify Financial Institution and Third Party Sender for all funds due from Merchant pursuant to the terms of the Agreement. Guarantor waives any and all rights of subrogation, reimbursement or indemnity derived from Merchant, and further waives any and all rights or defenses arising by reason of any modification or change in the terms of the Agreement whatsoever, including, without limitation, the renewal, extension, acceleration, or other change in the time any payment or other performance there under is due, and/ or any change in any interest or discount rate or fee there under. Guarantor confirms that Guarantor, collectively or individually, is a party to the Agreement, and unconditionally and specifically authorizes Financial Institution and Third Party Sender or their authorized agents, to debit any overdue fees, costs, chargebacks, fines, fees, penalties, expenses or obligations under the Agreement and/ or any contractual relationship with Financial Institution and Third Party Sender from any personal checking account or other account owned or controlled by Guarantor, and further to report any default hereunder on Guarantor's personal Credit Bureau Report. Guarantor agrees to pay all costs and expenses of whatever nature, including attorneys' fees and other legal expenses, incurred by or on behalf of Financial Institution and/or Third Party Sender in connection with the enforcement of this Guarantee.

PRINCIPAL/GUARANTOR 1:

DATE:

PRINCIPAL/GUARANTOR 2:

DATE:

PRINCIPAL/GUARANTOR 3:

DATE:

PRINCIPAL/GUARANTOR 4:

DATE:

Link to ACH Origination Agreement: <https://dashboard.maverickpayments.com/legal/ach-agreement?version=1.7>

ACH ORIGATION AGREEMENT

This ACH Origination Agreement (together with the Application and any schedules, exhibits, attachments, addendums and/or amendments hereto, the "Agreement") is by and between the merchant listed on the Application (hereinafter, the "Merchant"), and Maverick BankCard, Inc. ("Third Party Sender") and shall become effective upon the date the Application is approved and the services described hereunder are enabled.

Merchant has requested the Third Party Sender and the Originating Depository Financial Institution used by Third Party Sender to effect this Agreement (the "Financial Institution"), to permit it to initiate electronic files for paperless entries through the Third Party Sender and Financial Institution, to accounts maintained at the Financial Institution and in other financial institutions by means of the Automated Clearing House Network (the "ACH Network"), pursuant to the terms of this Agreement and the rules of the National Automated Clearing House Association ("NACHA"), the Electronic Payments Network ("EPN") and the Financial Institution's operating rules and procedures for electronic entries, including any schedules, exhibits or appendices thereto now in effect, or as may be amended from time to time (collectively, the "Rules"). Unless otherwise provided herein, all capitalized terms shall have the meanings provided in the Rules. Financial Institution is willing to act as an Originating Depository Financial Institution for Third Party Sender pursuant to the terms of this Agreement.

Now, therefore, in consideration of the mutual promises and covenants contained herein, Merchant agrees as follows:

1. Rules

Merchant acknowledges it has a copy or has access to a copy of the NACHA rules and regulations, as same may be amended from time to time (the "**NACHA Rules**"), which are available online through www.nacha.org under the publications tab. Merchant agrees to comply with and be subject to the Rules, including the NACHA Rules. It shall be the responsibility of Merchant to ensure the origination of ACH transactions hereunder complies with U.S. law, including but not limited to those enforced by the Office of Foreign Assets Control ("**OFAC**"). It shall further be the responsibility of Merchant to obtain information regarding such OFAC enforced sanctions. (This information may be obtained directly from the OFAC Compliance Hotline at 800-540-OFAC or from the OFAC's home page site at www.ustreas.gov/ofac.) Merchant agrees that the performance of any action by Third Party Sender and Financial Institution to debit or credit an account or transfer funds otherwise required by the Rules is excused from the performance of such action to the extent that the action is inconsistent with United States law, including the obligations of the Financial Institution under OFAC or any program administered by the United States Department of the Treasury's Financial Crimes Enforcement Network ("**FinCEN**"). Merchant agrees generally and warrants to Third Party Sender that all actions taken by Merchant pursuant to this Agreement, including the preparation, transmittal, and settlement of Entries and payment orders, shall be in compliance in all material respects with all applicable laws, regulations, regulatory guidelines and guidance, and official commentaries, including without limitation all such regulations, guidelines, and commentaries issued by the Board of Governors of the Federal Reserve and the Federal Financial Institutions Examination Council ("**FFIEC**") (collectively, "**Applicable Law**"). Merchant agrees to be responsible for any fines, assessments, fees, charges and/or penalties imposed by OFAC, NACHA or any organization of competent jurisdiction incurred in connection with or as a result of Merchant's use of the services provided hereunder, including without limitation, Merchant's non-compliance with the Rules or with Applicable Law. Merchant agrees to fully reimburse and/or indemnify Third Party Sender and Financial Institution with respect to any liabilities assessed based on Merchant's receipt of the services and/or non-compliance with Rules, NACHA Rules, and/or Applicable Law. The specific duties of Merchant described in this Agreement are in no way intended to limit Merchant's responsibility for compliance with Applicable Law or the Rules, or limit Merchant's obligation to be responsible for all assessments, fees, charges, liabilities and/or other amounts incurred by Third Party Sender, Financial Institution or their affiliates in connection with Merchant's receipt of the services described in this Agreement.

2. Transmittal of Entries by Merchant.

Merchant shall transmit all debit and credit Entries to the Third Party Sender to the location(s) and in compliance with the formatting, content and other requirements set forth in the Transmission Location and Formatting Instructions set forth above, and in compliance with any other requirements of the Third Party Sender. Merchant authorizes the Third Party Sender and Financial Institution to transmit all Entries received by the Third Party Sender and Financial Institution from Merchant in accordance with the terms of this Agreement, and to credit or debit such Entries to the specified accounts. The total dollar amount of Entries transmitted by Merchant to Third Party Sender on any one day shall not exceed the amounts specified in the "Processing Information" section of the Application. Merchant understands and acknowledges that receipt of the services described hereunder is conditioned upon use of Third Party Sender's electronic dashboard portal system. Merchant understands and agrees that there may be separate terms and conditions related to use thereof, and Merchant agrees to be bound by same. Merchant is solely responsible for establishing and maintaining internal procedures in compliance with the Security Procedures (as described in the Application and the Agreement), to safeguard against unauthorized transmissions. Merchant represents and warrants that no individual will be allowed to initiate transfers in absence of proper supervision and safeguards, and agrees to maintain the confidentiality of the Security Procedure and any Security Devices provided by the Third Party Sender in connection with the Security Procedure. Merchant authorizes Third Party Sender to follow any and all instructions entered and transactions initiated using applicable Security Procedures unless and until Merchant has notified Third Party Sender, according to notification procedures prescribed by Third Party Sender, that the Security Procedures or any Security Device has been stolen, compromised or otherwise become known to persons other than authorized users and Third Party Sender, and shall discontinue use of the Security Device and/or services until Financial Institution and/or Third Party Sender have had a reasonable opportunity to act upon such notice.

3. Security Procedure; Compliance.

(a) Merchant shall comply with the Security Procedure set forth in the Security Procedures section of the Application, which may be amended from time to time (the "Security Procedure"). Merchant acknowledges and agrees that the Security Procedure, including (without limitation) any code, password, personal identification number, user identification technology, token, certificate, or other element, means, or method of authentication or identification used in connection with a Security Procedure ("Security Devices"), constitutes commercially reasonable security procedures under the Rules and applicable law for the initiation of ACH Entries. As a result of and based upon the foregoing, Merchant expressly and unconditionally agrees to be bound by any payment order, whether or not authorized, issued in its name or accepted by the Third Party Sender in good faith and in compliance with the Security Procedure.

(b) Merchant is solely responsible for establishing and maintaining internal procedures in compliance with the Security Procedure, to safeguard against unauthorized transmissions. Merchant represents and warrants that no individual will be allowed to initiate transfers in absence of proper supervision and safeguards, and agrees to maintain the confidentiality of the Security Procedure and any Security Devices provided by the Third Party Sender in connection with the Security Procedure. Merchant authorizes Third Party Sender to follow any and all instructions entered and transactions initiated using applicable Security Procedures unless and until Customer has notified Third Party Sender, according to notification procedures prescribed by Third Party Sender, that the Security Procedures or any Security Device has been stolen, compromised or

otherwise become known to persons other than authorized users and Third Party Sender, and shall discontinue use of the Security Device and/or services until Financial Institution and/or Third Party Sender have had a reasonable opportunity to act upon such notice.

4. Processing, Transmittal and Settlement by Financial Institution.

(a) Except as otherwise provided in this Agreement, including, but not limited to Section 5, On-Us Entries and Section 6, Rejection of Entries, Third Party Sender shall (i) process entries received from Merchant in conformance with the file specifications set forth in the Rules, (ii) transmit such Entries received as an Originating Depository Financial Institution to the ACH Network acting as an Automated Clearing House Operator, and (iii) to provide instructions for the settlement of such Entries as provided in the Rules. (b) Third Party Sender should transmit such Entries by the deadline of the ACH Network set forth in the Application ("Cut Off Times"), provided: (x) such Entries are received by Third Party Sender in accordance with the cut-off times on a Business Day, (y) the Effective Entry Date is at least two (2) days after such Business Day, and (z) the ACH Network is open for business on such Business Day. Entries shall be deemed received by Third Party Sender: (1) in the case of transmittal by tape, when received by Third Party Sender; or (2) in the case of transmittal by electronic transmission, when the transmission (and compliance with the Security Procedure) is completed as provided in this Agreement, if applicable. (c) If any of the requirements of clause (x), (y), or (z) of Section 4(b) are not met, Third Party Sender's sole obligation shall be to use reasonable efforts to transmit, or to request Financial Institution to transmit, such Entries to the ACH Network by the next deposit deadline of the ACH Network in accordance with the Cut Off Times, which is a Business Day and a day on which the ACH Network is open for business. Third Party Sender and Financial Institution shall have no liability for Merchant's failure to meet requirements specified in Section 4 (b) clauses (x), (y) or (z). Furthermore, Merchant acknowledges that Financial Institution and Third Party Sender provide the services described hereunder via the use of third party providers and affiliates, and Merchant understands and agrees neither Third Party Sender nor any Financial Institution shall have any liability for delays or errors caused by such third parties.

5. On-Us Entries.

Except as provided in Section 6, Rejection of Entries, in the case of an Entry received for credit to an account maintained with Third Party Sender and Financial Institution (an "On-Us Entry"), Third Party Sender and Financial Institution shall credit the Receiver's account of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in clauses (x) (y) or (z) of Section 4(b) are met. If any of the foregoing requirements are not met, Third Party Sender shall use reasonable efforts to credit the Receiver's account in the amount of such Entry no later than the next business day following such Effective Entry Date, or as soon as is practicable thereafter.

6. Rejection of Entries.

Third Party Sender may reject any Entry which does not comply with the requirements of this Agreement, or which contains an Effective Entry Date more than five (5) days after the Business Day such Entry is received by Third Party Sender. Third Party Sender may reject an On-Us Entry for any reason which an Entry may be returned under the Rules or this Agreement. Third Party Sender may reject any Entry if Merchant failed to comply with its account balance obligations under Section 10, The Account. Third Party Sender may reject any Entry if Merchant does not adhere to the Security Procedure. Third Party Sender shall notify Merchant by (i) telephone; (ii) electronic transmission; and/or (iii) electronic dashboard portal maintained by Third Party Sender, of such rejection as soon as is reasonable, and no later than the business day such Entry would otherwise have been transmitted by Financial Institution to the ACH Network or, in the case of an On-Us Entry, its Effective Entry Date. Notices of rejection shall be effective when given. Notwithstanding, Merchant understands that Third Party Sender and Financial Institution shall have no liability to Merchant by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time that provided for herein.

7. Cancellation or Amendment by Merchant.

Merchant shall have no right to cancel or amend an Entry/file after its receipt by Third Party Sender. However, if such request complies with the Security Procedure for the cancellation of data, Third Party Sender shall use reasonable efforts to act on a request by Merchant for cancellation of an Entry/file prior to transmitting it to the ACH Network or, in the case of an On-Us Entry, prior to crediting a Receiver's account, but shall have no liability if such cancellation is not affected. Merchant shall reimburse Third Party Sender for any and all expenses, losses, claims, liabilities, or damages, including without limitation development work and attorney's fees, which Third Party Sender may incur in effecting or attempting to effect Merchant's request for the reversal of an Entry.

8. Notice of Returned Entries.

Third Party Sender shall notify Merchant by (i) telephone, (ii) electronic transmission; or (iii) via electronic dashboard portal maintained by Third Party Sender, of the receipt of a returned Entry from the ACH Network as soon as is reasonably practicable under the circumstances, or no later than one business day after the business day of such receipt. Except for an Entry retransmitted by Merchant in accordance with the requirements of this Agreement, Third Party Sender shall have no obligation to retransmit a returned Entry to the ACH Network if Third Party Sender complied in all material respects with the terms of this Agreement in connection with the original Entry.

9. Payment by Merchant for Entries.

Merchant shall pay Third Party Sender the amount of each Entry transmitted by Third Party Sender and Financial Institution pursuant to this Agreement, and any fees or costs associated with same as set forth herein including, without limitation, Section 15, at such time on the settlement date of such Entry, as Third Party Sender, in its discretion, may determine and in the amount of each On-Us Entry, on the Effective Entry Date of such Entry, at such time Third Party Sender, in its discretion, may determine.

10. The Account and Reserve Account.

Third Party Sender may, without prior notice or demand, obtain payment of any amount due to it under this Agreement or any other agreement between Third Party Sender and Merchant, by debiting the account(s) of Merchant, as identified in the Application, or such other account as may be designated thereafter (the "Account"), and shall credit the Account for any amount received by reason of the return of an Entry transmitted by Third Party Sender for which Third Party Sender has previously received payment from Merchant, and which Merchant is otherwise entitled to, subject to all rights of Third Party Sender in this Agreement including, without limitation, Sections 10, 11, 13, and 15, and subject to Third Party Sender's right to direct funds to the Reserve Account as described herein. Such credit shall be made as of the day of such receipt by Third Party Sender, subject to the terms hereof. Merchant shall maintain the Account in good standing at all times during the term of this Agreement, and shall ensure sufficient funds are available to cover Merchant's obligations hereunder, including, without limitation, amounts necessary to cover all credit Entries initiated pursuant to this Agreement and fees associated therewith. In the event there are not sufficient available funds in the Account to cover Merchant's obligations under this Agreement, Merchant agrees to immediately pay all amounts due forthwith. Further, Merchant understands and agrees that Third Party Sender may debit any account maintained by Merchant with Third Party Sender or any affiliate of Third Party Sender, and that Third Party Sender may set off any amounts owed hereunder or likely to become owed against any amount it owes to Merchant, in order to obtain payment of Merchant's obligations under this Agreement. Merchant agrees to notify Third Party Sender forthwith if the Account at any time does not have sufficient funds to cover Merchant's obligations hereunder, or if the Account is closed, and to provide another account substantially in accordance with the requirements of this Section 10. Third Party Sender may direct any funds payable to Merchant hereunder to establish a non-interest bearing reserve account at Financial Institution (the "Reserve Account") in such amounts as Third Party Sender deems, in its sole discretion, is sufficient to satisfy Merchant's current or future obligations related to this Agreement, including, without limitation, amounts owed to cover any returned Entries, fees, actual or potential losses, indemnified losses and any other amounts due to Third Party Sender or Financial Institution, its/their affiliates, (collectively, the "Liabilities"). Third Party Sender may also fund the Reserve Account by effecting a charge against Merchant's Account or any other account authorized by Merchant via ACH payment as authorized herein, or by demanding payment from Merchant (which payment Merchant shall make within ten (10) days after receipt of any such demand). The Reserve Account will be maintained for a minimum of (9) nine months after later of the date on which this Agreement terminates, or the last ACH processing activity that occurs on Merchant's account, or for such longer time as Third Party Sender or Financial Institution reasonably determine is necessary to satisfy Merchant's current or anticipated obligations under this Agreement, the Rules, or Applicable Law. Third Party Sender may withdraw funds from the Reserve Account at any time to offset any indebtedness of Merchant to Third Party Sender that may arise out of or relate to the obligations of Merchant under this Agreement. Upon expiration of the foregoing period, any balance remaining in the Reserve Account will be paid to Merchant or as may be required under Applicable Law. Additionally, Third Party Sender, may, without notice to Merchant, apply deposits in the Reserve Account against any outstanding amounts Merchant owes under this Agreement or any other agreement between Merchant and Third Party Sender and/or Financial Institution. Until the expiration of the period referenced in the preceding subsection, Merchant shall have no ownership interest in or right to the Reserve Account. Rather, the Reserve Account shall be the exclusive property of Third Party Sender and/or Financial Institution. Furthermore, Merchant shall have no right to receive interest on any funds maintained in the Reserve Account. In the event that a court for any reason determines at any time that Third Party Sender and/or Financial Institution is not the sole and exclusive owner of the funds in the Reserve Account, then Merchant also grants to Third Party Sender a security interest in and lien to all funds held in the Reserve Account, regardless of source, as part of a security agreement within the meaning of the Uniform Commercial Code. Merchant also grants to Bank and ISO a security interest in and lien upon: (i) the Account and all funds at any time in the Account, whatever the source of such funds; (ii) future Entries; and (iii) all Merchant's rights relating to this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement (collectively, the "Secured Assets"). Upon request of Third Party Sender, Merchant will execute one or more financing statements or other documents to evidence this security interest, as may be required. Merchant authorizes and appoints Third Party Sender its attorney in fact to sign its name to any financing statement used for the perfection of any security interest or lien granted in this Agreement. Merchant represents and warrants that no other party has a security interest in the Secured Assets. These security interests and liens will secure all of Merchant's obligations under this Agreement and any other agreements between Merchant, Third Party Sender, and Financial Institution as may be applicable. With respect to such security interests and liens, Third Party Sender will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. Merchant will obtain from Third Party Sender written consent prior to granting a security interest of any kind in the Secured Assets to a third-party. In the event of a bankruptcy proceeding, Third Party Sender may exercise their rights under this Agreement to debit the Reserve Account for amounts due Third Party Sender regardless of the pre-petition or post-petition nature of the amount due Third Party Sender, and Merchant promises not to contest any Motion for Relief from Automatic Stay that Third Party Sender may decide to file to debit the Reserve Account. Further, Third Party Sender does not consent to the assumption of this Agreement in the event of a bankruptcy proceeding. Nevertheless if this Agreement is assumed Merchant agrees that, in order to establish adequate assurance of future performance within the meaning of 11 U.S.C. Sec. 365, as amended from time to time, Merchant must establish or maintain a Reserve Account in an amount satisfactory to Third Party Sender; (iv) Third Party Sender has the right of recoupment and set-off, meaning that Third Party Sender may offset any outstanding/uncollected amounts owed to them from: (a) any amounts they would otherwise be obligated to deposit into the Account; and (b) any other amounts Third Party Sender may owe Merchant under this Agreement or any other agreement; (v) The rights conferred upon Third Party Sender in this Section are not intended to be exclusive of each other or of any other rights and remedies of Third Party Sender under this Agreement, at law or in equity. Rather, each and every right of Third Party Sender at law or in equity will be cumulative and concurrent and in addition to every other right. Merchant acknowledges and agrees that Third Party Sender may, in its sole discretion, delegate or assign any of its rights, roles, security interests, exercises of discretion or business judgment, responsibilities or obligations concerning any Reserve Account, including, without limitation, the right to establish, fund, maintain, hold in a bank account, debit, collect or release funds from or take any other actions or impose any other requirements with respect to any Reserve Account as are granted to Bank in this Section or elsewhere in this Agreement, to any third-party entity that may provide back-end processing services to Merchant and/or otherwise bear the ultimate risk of losses associated with Merchant's Liabilities hereunder.

11. Account Reconciliation.

Third Party Sender will issue periodic statements reflecting activity hereunder, including, without limitation, Entries credited and debited to Merchant's Account. Merchant agrees to notify the Third Party Sender

promptly in writing of any discrepancy between Merchant's records and the information in the periodic statement. Merchant shall be solely responsible for reviewing the periodic statement provided or made available by Third Party Sender (including statements provided online) and for reporting to Third Party Sender in writing, within thirty (30) days of receipt of any statement from Third Party Sender, any issues, problems, or irregularities appearing on such statements—including, without limitation, underpayments, overpayments, or other discrepancies of any items, fees, charges, or liability assessments reflected on such statements or related to the period covered by such statement, including, without limitation, discrepancies between the volume and/or value of transactions that Merchant actually processed during the period indicated by the statement. Statements provided online shall be deemed received the first day they are available online. MERCHANT ACKNOWLEDGES AND AGREES THAT THIRD PARTY SENDER AND FINANCIAL INSTITUTION SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE TO MERCHANT, AND SHALL HAVE NO OBLIGATION TO REIMBURSE MERCHANT, FOR ANY UNDERPAYMENT TO MERCHANT OR OTHER DISCREPANCY THAT IS NOT REPORTED TO THIRD PARTY SENDER IN WRITING WITHIN THIRTY (30) DAYS OF MERCHANT'S RECEIPT OF THE APPLICABLE STATEMENT.

12. Merchant Representations and Agreements; Indemnity.

Without limiting the foregoing, Merchant represents and warrants to Third Party Sender, and agrees, that: Merchant represents and warrants to the Third Party Sender all warranties the Third Party Sender is deemed by the Rules, or Applicable Law, to be required to make with respect to Entries originated by Merchant. Without limiting the foregoing, Merchant represents and warrants to Third Party Sender, and agrees, that:

- (a) each Entry is accurate, is timely, and has been duly authorized by the party whose account will be credited or debited, and otherwise complies with the Rules or applicable law or regulation;
- (b) Entries transmitted to Third Party Sender by Merchant are limited to those types of credit and debit Entries herein;
- (c) each debit Entry is for a sum which, on the settlement date with respect to it, will be owing to Merchant from the party whose account will be debited, is for a sum specified by such party to be paid to Merchant, or is a correction of a previously transmitted erroneous credit Entry submitted in compliance with the requirements of this Agreement and the Rules;
- (d) Merchant shall at all times be in compliance with all prenotification requirements of the Rules;
- (e) Merchant shall at all times act in compliance with the terms of the following, as applicable: Electronic Funds Transfer Act, Uniform Commercial Code Article 4A, as well as Federal Reserve Board Regulation J, and shall otherwise perform its obligations under this Agreement in accordance with all Applicable Laws and regulations including the laws and regulations administered by the OFAC;
- (f) Merchant shall be bound by and comply with the Rules as in effect from time to time, including without limitation, the provision making payment of an Entry by the Receiving Depository Financial Institution to the Receiver provisional until receipt by the Receiving Depository Financial Institution of final settlement for such Entry. Merchant specifically acknowledges that it has received notice of the Rules with regard to provisional payment and of the fact that, if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from the Receiver of the amount credited, and Merchant shall not be deemed to have paid the Receiver the amount of the Entry. Merchant agrees to periodically provide financial information or authorization to verify the Merchant's creditworthiness by an alternative means as may be requested by the Third Party Sender, in its sole discretion;
- (g) Merchant agrees to promptly notify Third Party Sender in the event of any change in Merchant's business type, condition, or upon the occurrence of any event which may increase the risk associated with processing Merchant's Entries;
- (h) Merchant understands that the financial terms of this Agreement are based in part on information provided by Merchant in connection with this Agreement, and agrees to maintain activity at or near the monthly sales volume set forth herein;
- (i) Merchant understands that Third Party Sender and/or Financial Institution may request information and documentation regarding Merchant's business and/or processing activity, at any time, for any reason, in their sole discretion, and Merchant agrees to immediately provide any information, documentation and/or data requested. Merchant hereby agrees to indemnify, hold harmless and defend, without limitation, the Third Party Sender and Financial Institution, along with their respective agents, officers, directors, employees, and affiliates, from and against any and all demands, claims, judgments, losses, liability, fees, assessments, damages and/or expenses (including attorneys' fee and costs) relating to, arising out of or involving:
- (I) the Merchant's use of the services described hereunder; (II) any failure to comply with the terms of, or breach of the representations and warranties or set forth in this Section and/or any Section of this Agreement (III) Merchant's failure to comply with Applicable Law or the Rules; (IV) Merchant's use of third-party services or service providers; (V) any proceeding, litigation or arbitration commenced by a third party arising out of or relating to any actual or alleged act or omission by Merchant; and/or (VI) any demands, investigations, or subpoenas (or similar process) received related to Merchant, whether initiated by regulators, law enforcement, civil litigants, or lienholders under the Uniform Commercial Code. Third Party Sender and Financial Institution shall have the right to select and retain counsel of their choosing to represent them in connection with any of the foregoing events, and nothing in this Section shall entitle Merchant to select counsel or control the defense of any such matter. The provisions of this Section 12 shall survive termination of this Agreement.

13. Third Party Sender's Responsibilities; Liability, Limitations Liability; Indemnity.

- (a) In the performance of the services required by this Agreement, Third Party Sender shall be entitled to rely solely on the information, representations, and warranties provided by Merchant pursuant to this Agreement, and shall not be responsible for the accuracy or completeness thereof. THIRD PARTY SENDER SHALL NOT BE RESPONSIBLE FOR MERCHANT'S ACTS OR OMISSIONS (INCLUDING WITHOUT LIMITATION THE AMOUNT, ACCURACY, TIMELINESS OF TRANSMITTAL OR AUTHORIZATION OF ANY ENTRY RECEIVED FROM MERCHANT) OR THOSE OF ANY OTHER PERSON, INCLUDING WITHOUT LIMITATION ANY FEDERAL RESERVE FINANCIAL INSTITUTION, AUTOMATED CLEARING HOUSE OR TRANSMISSION OR COMMUNICATIONS FACILITY, AND RECEIVER OR RECEIVING DEPOSITORY FINANCIAL INSTITUTION (INCLUDING WITHOUT LIMITATION THE RETURN OF AN ENTRY BY SUCH RECEIVER OR RECEIVING DEPOSITORY FINANCIAL INSTITUTION), AND NO SUCH PERSON SHALL BE DEEMED THIRD PARTY SENDER'S AGENT.
- (b) UNDER NO CIRCUMSTANCES SHALL THE AGGREGATE FINANCIAL RESPONSIBILITY OF THIRD PARTY SENDER, FINANCIAL INSTITUTION, AND ITS AND/OR THEIR AFFILIATES FOR ANY BREACH, FAILURE OF PERFORMANCE, ACT, OR OMISSION UNDER THIS AGREEMENT EXCEED THE FEES OR CHARGES PAID TO THIRD PARTY SENDER BY MERCHANT FOR THE TRANSACTION OR ACTIVITY THAT IS OR WAS THE SUBJECT OF THE ALLEGED BREACH, FAILURE OF PERFORMANCE, ACT, OR OMISSION. IN ANY EVENT, THIRD PARTY SENDER'S, FINANCIAL INSTITUTION'S, AND ITS AND/OR THEIR AFFILIATES' COLLECTIVE LIABILITY TO MERCHANT SHALL NOT EXCEED THE AGGREGATE AMOUNT OF FEES AND CHARGES PAID TO THIRD PARTY SENDER PURSUANT

TO THIS AGREEMENT IN THE THREE (3) MONTH PERIOD PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM OF LIABILITY. FOR PURPOSES OF THIS SECTION, FEES OR CHARGES OF ANY THIRD PARTIES PASSED THROUGH TO MERCHANT PURSUANT TO THIS AGREEMENT SHALL NOT BE INCLUDED IN THE CALCULATION OF FEES AND CHARGES PAID TO THIRD PARTY SENDER. IN NO EVENT SHALL THIRD PARTY SENDER, FINANCIAL INSTITUTION, OR THEIR RESPECTIVE AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, OR AFFILIATES, BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, LOST PROFITS, LOSS OF REVENUE, OR CLAIMS BY MERCHANT OR ANY THIRD PARTY RELATIVE TO THE TRANSACTIONS OR ACTIVITIES HEREUNDER, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE OR SUCH PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, NEITHER THIRD PARTY SENDER NOR FINANCIAL INSTITUTION SHALL BE LIABLE FOR (A) THE DECLINE OF A TRANSACTION, EVEN IF SUCH DECLINE WAS WRONGFUL; OR (B) THE FAILURE TO PROCESS, AUTHORIZE, OR CAPTURE A TRANSACTION. THIRD PARTY SENDER AND FINANCIAL INSTITUTION MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE SERVICES, TECHNOLOGY, EQUIPMENT, OR PROPRIETARY INFORMATION AND MATERIALS, OR THE IDENTIFIERS OR ASSOCIATED RIGHTS, PROVIDED HEREUNDER AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARE SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, PERFORMANCE, USAGE, OR TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THIRD PARTY SENDER AND FINANCIAL INSTITUTION DO NOT GUARANTEE OR WARRANT THAT (C) THE SERVICES, EQUIPMENT, OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE; (D) THAT ANY SOFTWARE WILL BE VIRUS-, DEFECT-, OR ERROR-FREE; OR (E) THAT DATA, REPORTS, OR ANALYSES WILL BE FREE FROM ALL BUGS AND ERRORS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING PROVISIONS, THIRD PARTY SENDER SHALL BE EXCUSED FROM FAILING TO ACT OR FROM DELAY IN ACTING IF SUCH FAILURE OR DELAY IS CAUSED BY LEGAL CONSTRAINT, INTERRUPTION OF TRANSMISSION OR COMMUNICATION FACILITIES, EQUIPMENT FAILURE, WAR, EMERGENCY CONDITIONS OR OTHER CIRCUMSTANCES BEYOND THIRD PARTY SENDER'S CONTROL. IN ADDITION, THIRD PARTY SENDER SHALL BE EXCUSED FROM FAILING TO TRANSMIT OR DELAY IN TRANSMITTING AN ENTRY IF SUCH TRANSMITTAL WOULD RESULT IN THIRD PARTY SENDER EXCEEDING ANY LIMITATION UPON ITS INTRA-DAY NET FUNDS POSITION ESTABLISHED PURSUANT TO PRESENT OR FUTURE FEDERAL RESERVE GUIDELINES OR IN THIRD PARTY SENDER'S AND REASONABLE JUDGMENT OTHERWISE VIOLATING ANY PROVISIONS OF ANY PRESENT OR FUTURE RISK CONTROL PROGRAM OF THE FEDERAL RESERVE OR ANY LAW OR RULE OR REGULATION OF ANY OTHER US GOVERNMENTAL REGULATOR AUTHORITY.

(c) The provisions of this Section 13 shall survive termination of this Agreement.

14. Notifications of Change.

Third Party Sender shall notify Merchant of all notifications of change received by Third Party Sender relating to Entries transmitted by Merchant by any means permitted herein.

15. Payment for Services.

Merchant shall pay Third Party Sender all amounts due in connection with the services provided in connection with and under this Agreement, as set forth in the Fee Schedule to the Application. MERCHANT SHALL BE RESPONSIBLE TO PAY ALL FEES DUE FOR THE TERM OF THIS AGREEMENT AND MERCHANT SHALL REMAIN RESPONSIBLE FOR ANY ACTIVITY RELATED THERETO NOTWITHSTANDING SUCH TERMINATION. FOR AVOIDANCE OF DOUBT, MERCHANT IS RESPONSIBLE FOR ALL ENTRIES AND RETURNS, INCLUDING, WITHOUT LIMITATION, DISPUTES INCLUDING THOSE RELATED TO UNAUTHORIZED ENTRIES. All fees and services are subject to change, with notice from Third Party Sender to Merchant, which may be made by electronic notice, via Third Party Senders electronic dashboard system, and/or message on periodic statements of activity provided in connection with this Agreement. Changes in fees (other than pass through fees from third parties) shall be given on 30 days' written notice. Upon any such fee change, Merchant may elect to terminate this Agreement without penalty in response to such change by providing written notice to Third Party Sender no later than thirty (30) days after Merchant's receipt of notice of such change. Merchant's continued use of ACH origination services pursuant to this Agreement after notice of a fee change by the Third Party Sender shall be deemed as Merchant's acceptance of any changes to fees or any new fee schedule, and Merchant shall be bound by same. The foregoing does not include, and Merchant shall be solely responsible for payment of, any sales, use, excise, value added, utility or other similar taxes relating to such services, and any fees or charges provided for in the agreement between Third Party Sender, Financial Institution, and Company with respect to the Account.

16. Amendments.

From time to time, Third Party Sender may amend any of the terms and conditions contained in this Agreement, including without limitation, any cutoff time, the definition of Business Day, and any schedules, attachments, addendums or amendments hereto by providing written notice of same to Merchant, via portal, via periodic statement message, or any other means permitted hereunder. Alternatively, the Third Party Sender may terminate this Agreement if it deems such action necessary or appropriate under the circumstances. The Third Party Sender and Financial Institution shall have no liability to Merchant as a result of such amendment or termination. Any amendments described herein shall become effective upon issuance of notice of such change by Third Party Sender, or such later date as may be stated in Third Party Sender's notice to Merchant.

17. Notices, Instructions, Etc.

(a) Except as otherwise expressly provided herein, Third Party Sender and Financial Institution shall not be required to act upon any notice or instruction received from Merchant or any other person, or to provide any notice or advice to Merchant or any other person with respect to any matter.

(b) Third Party Sender shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by an authorized representative of Merchant.

(c) Third Party Sender and Financial Institution may provide Merchant with effective notice under this Agreement, including, without limitation, of any amendment to this Agreement or to the fees, by any of the following means: (i) via mail at the address designated in the Application (or such other address as Merchant may provide), including by statement messages appearing on any statement; (ii) electronically, through the Merchant portal, through electronically available processing statement(s), or through any other means of electronic communication maintained by Third Party Sender and Financial Institution which Merchant may access; or (iii) electronically, via any email address designated by Merchant. Merchant expressly consents to receive documents and notices electronically and agrees to maintain access to the Internet for so long as this Agreement is in effect. Except as otherwise expressly provided herein, any written notice or other written communication required or permitted to be given to Third Party Sender or Financial Institution by Merchant under this Agreement shall be delivered to Third Party Sender and/or Financial Institution, or sent by United States registered or certified mail, postage prepaid, or by express carrier. If to Third Party Sender, addressed as follows:

Maverick Bankcard, Inc.

Attn: Legal Department, 5230 Las Virgenes Road, Suite 300, Calabasas, California, 91302

Any notice to Merchant not otherwise provided for herein shall be directed to the address reflected on the Application, unless another address is substitute by written notice delivered or sent as provided herein.

Except as otherwise expressly provided herein, any such notice shall be deemed given when received.

18. Data Retention.

Merchant shall retain data on file adequate to permit remaking of entries for five (5) business days following the date of their transmittal by financial institution as provided herein, and shall provide such data to Third Party Sender upon request.

19. Records.

All data media, Entries, Security Procedures and related records used by Third Party Sender for transactions contemplated by this Agreement shall be and remain Third Party Sender's property. Third Party Sender may, at its sole discretion, make available such information upon Merchant's request. Any expenses incurred by Third Party Sender in making such information available to Merchant shall be paid by Merchant.

20. Evidence of Authorization.

Merchant shall obtain at the time of each Entry, and retain the original or a copy, of each written authorization related to an Entry, or a readily and accurately reproducible record evidencing any other form of authorization, for a minimum of two years from the termination or revocation of the authorization. Third Party Sender may request evidence and documentation of such and authorizations at any time and Merchant agrees to promptly provide the same upon request.

21. Cooperation in Loss Recovery Efforts.

In the event of any damages for which Third Party Sender or Merchant may be liable to each other or to a third party pursuant to the services provided under this Agreement, Third Party Sender and Merchant will undertake reasonable efforts to cooperate with each other, as permitted by Applicable Law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party.

22. Term & Termination.

The Term of this Agreement is for a period of three (3) years from the date that this Agreement is accepted, and an ACH processing account created, and shall renew for successive one (1) year terms unless either party notifies the other in writing that it desires to terminate this Agreement at least sixty (60) days prior to the expiration of the then-current term. Third Party Sender reserves the right to terminate this Agreement or suspend the processing services at any time, and immediately, following Merchant's breach of any obligations set forth herein or an event that Third Party Sender deems, in its discretion, to be an event of default reasonably likely to cause financial harm to Third Party Sender or where Third Party Sender and Financial Institution, in their discretion, determine that the circumstances otherwise warrant immediate termination or suspension; such termination shall become effective upon providing written notice of such termination to Merchant by any means permitted herein. Any termination of this Agreement shall not affect any of Third Party Sender's rights and Merchant's obligations with respect to Entries initiated by Merchant prior to such termination, of the payment obligations of Merchant with respect to services performed by Third Party Sender prior to termination, or any other obligations that survive termination of this Agreement. This Section shall survive termination of this Agreement. Should this Agreement terminate prior to the expiration of the then-current term, for any reason, Merchant shall be required to pay Third Party Sender an early termination fee in an amount equal to the greater of (a) \$295; or (b) the average monthly fees due to Third Party Sender under the Agreement times the number of months remaining in the then-current term, which shall be determined based on the average monthly fees assessed during the term of the Agreement prior to termination. Merchant expressly understands that the foregoing fee is not a penalty but rather a reasonable estimate of Third Party Sender losses due to early termination. Merchant expressly agrees that such fees are cumulative of Third Party Sender's rights and remedies, and that Third Party Sender reserves the right to seek all legal recourse permitted hereunder.

23. Entire Agreement.

This Agreement, and any other applicable agreements, is the complete and exclusive statement of the agreement between Third Party Sender and Merchant with respect to the subject matter hereof and supersedes and prior agreement(s) between Third Party Sender and Merchant with respect to such subject matter. In the event of any inconsistency between the terms of the foregoing and this Agreement, the terms of this Agreement shall govern.

In the event performance of the services provided herein in accordance with the terms of the Agreement would result in a violation of any statute, regulation of government policy to which Third Party Sender is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Third Party Sender shall incur no liability to Merchant as a result of such violations or amendments. No course of dealing between Third Party Sender, and Merchant will constitute a modification of the Agreement, the Rules, of the Security Procedure or constitute an agreement between the Third Party Sender and Merchant, regardless of whatever practices and procedures Third Party Sender, and Merchant may use.

24. Non-Assignment.

Merchant may not assign this Agreement or any of the rights or duties hereunder to any person without Third Party Sender's prior written consent.

25. Waiver.

Financial Institution may waive enforcement of any provisions of this Agreement. Any such waiver shall not affect Third Party Sender's rights with respect to any future right to such provision, any other transactions, or modifications of the terms of this Agreement. Third Party Sender shall be deemed to be the authorized agent of Financial Institution in connection with collection of any amounts due and unpaid arising from or related to this Agreement or any agreement between Merchant and Third Party Sender.

26. Binding Agreement; Benefit.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. This Agreement is not for the benefit of any other person, and no other person shall have any right against Third Party Sender, Financial Institution, or Merchant hereunder.

27. Headings.

Headings are used for reference purposes only and shall not be deemed a part of this Agreement.

28. Severability.

In the event that any provisions of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

29. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of California.

30. Use of Third Parties.

Merchant acknowledges and agrees that Third Party Sender may use one or more third parties to fulfill all or some of Third Party Sender's duties, responsibilities or obligations under the Agreement. The determination to use a third party shall be in Third Party Sender's sole discretion, and Third Party Sender shall have no liability with respect to the performance, or nonperformance, of any aspect of this Agreement caused by such third party. Third Party Sender shall advise Merchant of any new or revised procedures under the Agreement in connection with the use of a third party.

31. Confidentiality.

Merchant shall treat all information received in connection with this Agreement as confidential, as well as any information and/or documentation it may receive or have access to in connection with receiving the services described herein. Merchant shall prevent the disclosure of this information except for necessary disclosures in accordance with the Rules. Merchant agrees Third Party Sender may retain information regarding Merchant and/or its Entries in accordance with Applicable Law, and may provide information to third parties as necessary to render the services described hereunder, and/or to comply with the Rules or Applicable Law.

32. Binding Arbitration.

ANY DISPUTE OR CLAIM BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE FULLY AND FINALLY RESOLVED BY BINDING ARBITRATION IN LOS ANGELES COUNTY CALIFORNIA IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES AND PRACTICES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") FROM TIME TO TIME IN FORCE AND EFFECT. THIS AGREEMENT TO ARBITRATE SHALL BE SPECIFICALLY ENFORCEABLE AND IS THE EXCLUSIVE REMEDY FOR THE RESOLUTION OF SUCH DISPUTES UNDER THIS AGREEMENT. THERE SHALL BE A SINGLE ARBITRATOR, WHO MUST BE (I) A LAWYER ENGAGED FULL-TIME IN THE PRACTICE OF LAW AND A MEMBER IN GOOD STANDING OF THE STATE BAR OF CALIFORNIA AND (II) ON THE AAA REGISTER OF ARBITRATORS. THE ARBITRATOR SHALL HAVE JURISDICTION TO DECIDE ALL MATTERS THAT A COURT COULD DECIDE, INCLUDING THE ARBITRABILITY OF A GIVEN DISPUTE. WITHIN THIRTY (30) DAYS OF THE CONCLUSION OF THE ARBITRATION HEARING, THE ARBITRATOR SHALL PREPARE WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW. JUDGMENT ON THE WRITTEN AWARD MAY BE ENTERED AND ENFORCED IN ANY STATE OR FEDERAL COURT LOCATED IN LOS ANGELES COUNTY CALIFORNIA. THE PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE TRIBUNAL SO SELECTED, TO THE EXCLUSION OF ANY OTHER COURT WHICH MIGHT HAVE HAD JURISDICTION APART FROM THIS SECTION, WAIVE ANY DEFENSE OF LACK OF IN PERSONAM JURISDICTION OF SUCH COURTS AND AGREE THAT SERVICE OF PROCESS IN ANY ACTION BEFORE SUCH COURTS MAY BE MADE BY MAILING IT TO THE PARTY TO BE SERVED AT THE ADDRESS PROVIDED HEREIN. IT IS MUTUALLY AGREED THAT THE WRITTEN DECISION OF THE ARBITRATOR SHALL BE VALID, BINDING, FINAL AND NON-APPEALABLE; PROVIDED HOWEVER, THAT THE PARTIES HERETO AGREE THAT THE ARBITRATOR SHALL NOT HAVE THE AUTHORITY TO AWARD PUNITIVE DAMAGES AGAINST ANY PARTY TO SUCH ARBITRATION. THE ARBITRATOR SHALL REQUIRE THE NON-PREVAILING PARTY TO PAY THE ARBITRATOR'S FULL FEES AND EXPENSES OR, IF IN THE ARBITRATOR'S OPINION THERE IS NO PREVAILING PARTY, THE ARBITRATOR'S FEES AND EXPENSES WILL BE BORNE EQUALLY BY THE PARTIES THERETO. MERCHANT FURTHER AGREES THAT IT WILL NOT BECOME A MEMBER OF ANY CLASS-WIDE LITIGATION OR ARBITRATION AGAINST FINANCIAL INSTITUTION AND/OR THIRD PARTY SENDER AND WILL NOT INITIATE ANY CLASS ACTION LITIGATION AGAINST THIRD PARTY SENDER AND/OR FINANCIAL INSTITUTION. SIMILARLY, THIRD PARTY SENDER AND FINANCIAL INSTITUTION AGREE THAT THEY WILL PURSUE A CLASS OR COLLECTIVE CLAIM AGAINST MERCHANT. FURTHER, THE PARTIES AGREE THAT THEY WILL NOT ASSERT ANY CLAIMS AGAINST THE OTHER PARTY AS A REPRESENTATIVE OF ANY GROUP, CLASS, OR OTHERWISE SIMILARLY SITUATED INDIVIDUAL OR ENTITY. IN TWO LIMITED EXCEPTIONS TO THE OTHERWISE EXCLUSIVE JURISDICTION OF THE ARBITRATOR, EITHER PARTY MAY (1) INITIATE AN ACTION IN SMALL CLAIMS COURT, OR THE LOCAL EQUIVALENT, WHEN THE AMOUNT IN DISPUTE IS LESS THAN \$10,000 ; AND (2) INITIATE SUIT IN A COURT OF COMPETENT JURISDICTION FOR THE SOLE PURPOSE OF SEEKING EMERGENCY INJUNCTIVE RELIEF, AND WITHOUT THE ABILITY TO SEEK ANY MONETARY RELIEF.