



## **MERCHANT APPLICATION AND AGREEMENT INSTRUCTIONS**

### **PLEASE FOLLOW THESE INSTRUCTIONS IN COMPLETING THE APPLICATION:**

- 1) Complete **ALL** sections of the three (3) page **Application for Merchant Processing** and enclose **ALL** required documentation. Any missing information will delay the approval of your account.
  - a. Ensure that the agreement section of the application is signed by an authorized individual.
  - b. Ensure that the guarantor section is signed by the **majority** owner(s) of the business. If the company is owned 50% by 2 owners have both owners sign the guarantor section. (Non-profit organizations are not required to sign the guarantor section.)
  - c. Include a copy of your company's advertising. **i.e.:** product brochures, direct mail piece, yellow page ad, advertising on the web, product sample, infomercial, etc.
  - d. Include a copy of the telemarketing script, if you are selling an ingestible or cosmetic product and/or you are taking continuity orders
  - e. Include a copy of your company's return policy. (If this is not stated in your advertising literature, please submit the return policy on company letterhead).
  - f. Include business financials (income statement and balance sheet and any accompanying notes) for the previous year's end and most recent YTD.
  - g. Include six months of your most recent merchant statements, if you have previously processed.
  - h. Include a voided check with business name and address commercially printed. No starter checks or copies of checks will be accepted. If you do not have your checks, please have your bank send or fax to us your account and routing numbers.
  - i. Include a photocopy of the majority owner(s) driver's license / gov't issue I.D. (for bank compliance with the Patriot Act)
- 2) Complete and sign the **Addendum for Merchant Services Account Application for Non-Swipe (MO/TO) Merchants**, if applicable
- 3) Complete and sign the **Disclosure Page**
- 4) Complete and sign the **Patriot Act Addendum to Merchant Processing Agreement** and provide copies of any applicable requested documentation

### **Mail the completed application to:**

TransFirst ePayment Services  
Attn: Sales Dept.  
12120 Shamrock Plaza  
Suite 100  
Omaha, NE 68154

**Account approval and set up generally takes 3-7 business days upon receipt of the completed application.**

**A Site Inspection and Report is required of the merchant premises. Also, if a merchant utilizes either an outside telemarketing agency or fulfillment center, a site inspection of these facilities may be required.**

**If you have any questions, please call 888-541-9800 or email us at [epaysales@transfirst.com](mailto:epaysales@transfirst.com)**



APPLICATION FOR MERCHANT PROCESSING

COLUMBUS BANK AND TRUST COMPANY (MERCHANT BANK)

SEND APPLICATION TO: TransFirst ePayment Services, Inc. 12120 Shamrock Plaza, Suite 100 Omaha, NE 68154 888-541-9800

1125 First Avenue Columbus, GA 31901 706-649-4900

Short Name: Assoc #: Sales Rep Name:

TransFirst (Processor)/Columbus Bank and Trust Company (Merchant Bank) 1125 First Avenue, Columbus, GA 31901 Patriot Act Free-Use Equipment Addendum Lease Documents Gift Card Check Processing Merchant Setup Options Merchant Agreement V.4 Term CNP Addendum Specialized Services Addendum

Form with multiple sections: Legal Business Name, Business Name / DBA, Legal or Mailing Address, Business Address (Physical, No PO Boxes), City, State, Zip, Legal Phone #, Legal Fax #, DBA Phone #, DBA Fax#, Federal Tax ID, Location Contact, New Business/Owner, Email Address, Website, Ownership Establish Date, Card Swiped, Currently Processing, Manual With Imprint, Dial Pay, Manual No Imprint, Business To Business, Average Ticket, High Ticket, Monthly Volume, Mailing Address, Any prior Bankruptcies, Refund Policy, Principal Name/Title, Social Security #, Home Address, City, State, Zip, Phone #, ABA Routing Number, DDA Account Number, Bank Name, Phone Number, ACH account type, AUTHORIZATION FOR AUTOMATIC FUNDS TRANSFER, Trade Name, Account #, Product Sold, Phone #'s, Do you bill your customer prior to goods being shipped?, How do you advertise?, Have you ever accepted credit cards before?, Number of locations?, Qualified Processing Method, EDC Retail, EDC Card Not Present (CNP), Dial Pay, Cash Advance, List the names of each your independent contractors or agents that will have access to cardholder data



**APPLICATION FOR MERCHANT PROCESSING**  
**SEND APPLICATION TO:**  
 TransFirst ePayment Services, Inc.  
 12120 Shamrock Plaza, Suite 100  
 Omaha, NE 68154  
 888-541-9800

**COLUMBUS BANK AND TRUST COMPANY**  
**(MERCHANT BANK)**  
 1125 First Avenue  
 Columbus, GA 31901  
 706-649-4900

**Schedule of Fees**

**Card Acceptance**

All Visa/MasterCard Cards Discover    Visa/MC Credit & Business Cards Only American Express    Visa/MasterCard Debit Cards Only Diners/Carte Blanche    Pin Based Debit/EBT Cards JCB

**Fee Schedule**

DISCOUNT METHOD: Daily Monthly						
MOTO PRICING? □YES □NO	Check Card Rebate (signature based)	Qualified Discount	Mid-Qualified Surcharge*	Non-Qualified Surcharge*	Visa/MC Transaction Fee	Visa/MC Item Fee
<b>Visa®/ MasterCard®</b> (Credit & Business Cards)		___ . ___ %	Qualified+ ___ . ___ %	Qualified+ ___ . ___ %	\$	\$
<b>Visa®/ MC® DEBIT</b> (Signature Based)	- ___ . ___ %	___ . ___ %	Qualified+ ___ . ___ %	Qualified+ ___ . ___ %	\$	\$
<b>Discover®</b>		___ . ___ %			\$	\$
<b>American Express®</b>		___ . ___ %			\$	\$

*\*All Mid/Non-qualified fees apply to all Visa/MC Card types*

Visa/MC Pin Based Debit Trans Fee	\$	Minimum Visa®/MC® Discount Fee	\$	Application Setup Fee	\$
EBT Transaction Fee	\$	Monthly Statement Fee	\$	Discover® Application Fee	\$
Diners Club	\$	Debit Monthly Fee	\$	Pin Based Debit/EBT Application Fee	\$
JCB	\$	Pin Based EBT Monthly Fee	\$	TransLink Monthly Fee	\$
Voice Auth/ARU	\$0.95	Annual Fee	\$	Wireless Terminal Setup Fee (one-time)	\$50.00 (per Terminal)
Non-AVS Adjustment	\$0.50%	ACH Return/Change Fee	\$15.00	Wireless Monthly Gateway Fee	\$15.00 (per Terminal)
Wireless per Transaction Fee (in addition to Visa/MC Transaction Fee)	\$ 0.05	Minimum Chargeback Fee	\$15.00	Network release Fee (Semi Annual)	\$11.50
		Retrieval Fee	\$15.00		
		Monthly Merchant Club Fee	\$12.50		

*\*All Batch closing & Batch inquiry fees are considered "transactions" and will be billed at the same rate as Visa® transaction fee*

**Check Services:**

Verification Standard Guaranty Premium Verification Premium Guaranty (Attach Check Service Addendum/fee Schedule)

**Merchant Gift Card and Loyalty Program:**

Gift only Giftcard Plus (Attach Gift Card Addendum/fee Schedule)

Item	Model	QTY	Code	Price	
Terminal					<b>Equipment Billing:</b> Agent Merchant  <b>Ship Equipment:</b> Legal DBA Agent Other <b>Send Welcome Kit:</b> Legal DBA Agent Other <b>Training By:</b> TransFirst Agent Other  <b>Other:</b> <b>Name:</b>  <b>Address:</b>  <b>City:</b> <b>State/Zip:</b>
Terminal					
Printer(s)					
Pin Pads					
Check Reader					
Other					
Other					
Other					

PN=Purchase New/PO=Purchase Other Source/ MO=Merchant Owned/RF=Refurbished/RT=Rental  
 (Shipping, handling and tax will be billed in addition to the equipment price listed above.)

Additional Shipping Information:



**APPLICATION FOR MERCHANT PROCESSING**  
**SEND APPLICATION TO:**  
**TransFirst ePayment Services, Inc.**  
**12120 Shamrock Plaza, Suite 100**  
**Omaha, NE 68154**  
**888-541-9800**

**COLUMBUS BANK AND TRUST COMPANY**  
**(MERCHANT BANK)**  
**1125 First Avenue**  
**Columbus, GA 31901**  
**706-649-4900**

**Agreement Signature:** By signing below, each of the Merchant and Guarantor(s) (1) certifies, under penalty of perjury, that all information and documents submitted with this Application are true and complete; (2) authorizes Merchant Bank, Processor and their respective agents to verify any of the information given, including credit references, and to obtain individual and/or business credit reports; (3) acknowledges receipt of the Merchant Card Processing Agreement ("Agreement") including the Continuing Guaranty ("Guaranty") contained within the Agreement, any applicable Addendum ("Addendum") to the Agreement and agrees to be bound by and perform in accordance with all provisions, terms and conditions of the Agreement, the Guaranty, the Guide and any applicable Addendum; (4) agrees to be bound by and perform in accordance with all terms, conditions and provisions of any Merchant Card Processing Agreement between any Merchant Affiliate of Merchant and Processor and its agents and Merchant Bank ("Merchant Affiliate Agreement"), regardless of whether such Merchant Affiliate Agreement currently exists or is executed, amended or supplemented at some future date; (5) agrees that Processor and its agents and Merchant Bank may rely upon copies or facsimiles of this Application bearing Merchant's and Guarantor(s)'s signatures, or on copies or facsimiles of other documents bearing Merchant's and Guarantor(s)'s signatures, and that any such copies or facsimiles shall be treated for all purposes as originals of the Application or other document.

If selected above, Merchant hereby requests Discover Card acceptance be added to this Application. Merchant understands that the Terms and Conditions for Discover Card Acceptance ("Discover Card Terms and Conditions") will be sent to Merchant upon approval by Discover Financial Services, Inc. for Merchant to accept the Discover Card by Discover Financial Services, Inc. By accepting the Discover Card for the purchase of goods and/or services, Merchant agrees to be bound by the Discover Card Terms and Conditions. If American Express is selected above, by signing below, Merchant represents that the information provided on the Application is complete and accurate and Merchant authorizes American Express Travel Related Services Company, Inc ("American Express") to verify the information on this Application and to receive and exchange information about Merchant, including, requesting reports from consumer reporting agencies. If Merchant asks American Express whether or not a consumer report was requested, American Express will tell Merchant, and if American Express received a report, American Express will give Merchant the name and address of the agency that furnished it. Merchant understands that upon American Express' approval of the business entity indicated above, to accept the American Express Card, the Terms and Conditions for American Express®Card Acceptance ("American Express Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express card for the purchase of goods and/or services, Merchant agrees to be bound by the American Express Terms and Conditions. If selected above, Merchant agrees to be bound by and perform in accordance with all the terms and conditions and provisions of the Check Services Agreement. Further, Merchant hereby requests Check Service acceptance be added to this Application. Merchant understands that the Terms and Conditions for Check Service will be sent to Merchant upon approval by CrossCheck. If selected above, Merchant hereby requests CrossCheck acceptance be added to this Application. Further, Merchant agrees to and accepts all terms and conditions as set forth by CrossCheck. If selected above, Merchant hereby requests Tender Card Gift and Loyalty card acceptance be added to this Application. Further, Merchant agrees to and accepts all terms and conditions as set forth by Tender Card. Early Termination Fees apply; See Terms and Agreements.

**MERCHANT(S) SIGNATURE**

X \_\_\_\_\_  
 (1) Principal/Owner for Merchant Date

\_\_\_\_\_  
 (1) Print Name Title

X \_\_\_\_\_  
 (2) Principal/Owner for Merchant Date

\_\_\_\_\_  
 (2) Print Name Title

**GUARANTOR(S) SIGNATURE**

X \_\_\_\_\_  
 (1) Guarantor Signature (no titles) Date

\_\_\_\_\_  
 (1) Print name

X \_\_\_\_\_  
 (2) Guarantor Signature (no titles) Date

\_\_\_\_\_  
 (2) Print name

**FOR INTERNAL USE ONLY**

X) \_\_\_\_\_  
 Accepted by Processor Date

\_\_\_\_\_  
 Print name Title

X) \_\_\_\_\_

X) \_\_\_\_\_  
 Accepted by Merchant Bank Date

\_\_\_\_\_  
 Print name Title



## Disclosure Page

### *Member Bank (Acquirer) Information*

Acquirer Name: Columbus Bank and Trust Company  
Acquirer Address: 1125 First Avenue  
Columbus, GA 31901  
Acquirer Phone: 706-649-4900

### *Important Member Bank (Acquirer) Responsibilities*

1. A Visa Member is the only entity approved to extend acceptance of Visa products directly to a Merchant.
2. A Visa Member must be a principal (signer) to the Merchant Agreement.
3. The Visa Member is responsible for educating Merchants on pertinent Visa Operating Regulations with which Merchants must comply.
4. The Visa Member is responsible for and must provide settlement funds to the Merchant.
5. The Visa Member is responsible for all funds held in reserve that are derived from settlement.

### *Merchant Information*

Merchant Name: \_\_\_\_\_  
Merchant Address: \_\_\_\_\_  
Merchant Phone: \_\_\_\_\_

### *Important Merchant Responsibilities*

1. Ensure compliance with cardholder data security and storage requirements.
2. Maintain fraud and chargebacks below thresholds.
3. Review and understand the terms of the Merchant Agreement.
4. Comply with Visa Operating Regulations.

The responsibilities listed above do not supercede terms of the Merchant Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the Visa Member (Acquirer) is the ultimate authority should the Merchant have any problems.

\_\_\_\_\_  
Merchant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Merchant's Printed Name & Title

**PATRIOT ACT ADDENDUM TO MERCHANT PROCESSING AGREEMENT**

TO HELP THE GOVERNMENT FIGHT THE FUNDING OF TERRORISM AND MONEY LAUNDERING ACTIVITIES, FEDERAL LAW REQUIRES ALL FINANCIAL INSTITUTIONS TO OBTAIN, VERIFY, AND RECORD INFORMATION THAT IDENTIFIES EACH INDIVIDUAL OR BUSINESS WHO OPENS AN ACCOUNT. WHAT THIS MEANS FOR YOU: WHEN YOU OPEN AN ACCOUNT, WE WILL ASK FOR YOUR NAME, ADDRESS, DATE OF BIRTH, AND OTHER INFORMATION THAT WILL ALLOW US TO IDENTIFY YOU. WE WILL ALSO ASK TO SEE YOUR DRIVER'S LICENSE AND/OR OTHER IDENTIFYING DOCUMENTS.

**GOV'T**

**SECTION I: IF MERCHANT IS A GOVERNMENT ENTITY, CHECK BOX FOR SUPPORTING DOCUMENTATION PROVIDED \*\* DO NOT COMPLETE SECTIONS II AND III**

- GOVERNMENT ENTITY ARTICLES OF INCORPORATION
- GOVERNMENT ENTITY TAX DETERMINATION LETTER
- GOVERNMENT ENTITY THIRD PARTY VERIFICATION (DESCRIBE) \_\_\_\_\_

BUSINESS NAME \_\_\_\_\_

**BUSINESS VERIFICATION**

**SECTION II: CHOOSE A FORM OF IDENTIFICATION (MINIMUM, ONE BOX MUST BE CHECKED AND COMPLETED, AND SUPPORTING DOCUMENTATION MUST BE PROVIDED) \*\*COMPLETE SECTION III BELOW FOR ADDITIONAL REQUIRED INFORMATION**

<input type="checkbox"/> <b>GOVERNMENT ISSUED BUSINESS LICENSE</b> IDENTIFICATION NUMBER _____ PLACE OF ISSUANCE _____ DATE OF ISSUANCE _____ EXPIRATION DATE _____	<input type="checkbox"/> <b>TAX RETURN</b> I.R.S. EMPLOYER IDENTIFICATION NUMBER _____ TYPE OF TAXES FILED _____ PLACE OF ISSUANCE _____ DATE FILED _____
<input type="checkbox"/> <b>CORPORATE RESOLUTION</b> PLACE OF ISSUANCE _____ DATE FILED _____	<input type="checkbox"/> <b>ARTICLES OF INCORPORATION</b> PLACE OF ISSUANCE _____ ARTICLES OF INCORPORATION FILE DATE _____
<input type="checkbox"/> <b>PARTNERSHIP AGREEMENT</b> NAME OF WHO EXECUTED PARTNERSHIP AGREEMENT _____ DATE OF PARTNERSHIP AGREEMENT _____ PLACE OF ISSUANCE _____	<input type="checkbox"/> <b>BUSINESS FINANCIAL STATEMENTS</b> DATE _____ TYPE: BALANCE SHEET _____ INCOME STATEMENT _____ STATEMENT OF CASH FLOWS _____ PLACE OF ISSUANCE _____
INDIVIDUAL NAME _____	ADDRESS OF RESIDENCE _____
MAILING ADDRESS (IF DIFFERENT FROM RESIDENCE) _____	DATE OF BIRTH _____

**INDIVIDUAL VERIFICATION**

**SECTION III: CHOOSE A FORM OF IDENTIFICATION (MINIMUM, ONE BOX MUST BE CHECKED AND COMPLETED)**

*A VALID DRIVER'S LICENSE IS REQUIRED. IF NO DRIVER'S LICENSE IS AVAILABLE THE INDIVIDUAL SIGNING ON BEHALF OF THE MERCHANT MUST INITIAL HERE TO INDICATE THE INDIVIDUAL DOES NOT HOLD A DRIVER'S LICENSE AND CHOOSE ANOTHER FORM OF IDENTIFICATION LISTED BELOW: MERCHANT INITIALS \_\_\_\_\_*

**DRIVER'S LICENSE IS:  MORE THAN 90 DAYS OLD  LESS THAN 90 DAYS OLD (CREDIT CARD INFORMATION REQUIRED)**

DRIVER'S LICENSE NUMBER \_\_\_\_\_ DATE OF ISSUANCE \_\_\_\_\_ STATE OF ISSUANCE \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

**STATE ID IS:  MORE THAN 90 DAYS OLD  LESS THAN 90 DAYS OLD (CREDIT CARD INFORMATION REQUIRED)  PASSPORT AND CREDIT CARD (CREDIT CARD INFORMATION REQUIRED)**

STATE ID NUMBER _____ PLACE OF ISSUANCE _____ EXPIRATION DATE _____ DATE OF ISSUANCE (IF AVAILABLE) _____	PASSPORT NUMBER _____ COUNTRY OF ISSUANCE _____ EXPIRATION DATE _____ DATE OF ISSUANCE (IF AVAILABLE) _____
<input type="checkbox"/> <b>MEXICAN CONSULATE ID AND CREDIT CARD (CREDIT CARD INFORMATION REQUIRED)</b> MATRICULA ID NUMBER _____ PLACE OF ISSUANCE _____ CITY OF ISSUANCE _____ EXPIRATION DATE _____ DATE OF ISSUANCE (IF AVAILABLE) _____	<input type="checkbox"/> <b>MILITARY ID AND CREDIT CARD (CREDIT CARD INFORMATION REQUIRED)</b> SOCIAL SECURITY NUMBER _____ PLACE OF ISSUANCE _____ EXPIRATION DATE _____ DATE OF ISSUANCE (IF AVAILABLE) _____
<input type="checkbox"/> <b>RESIDENT ALIEN ID AND CREDIT CARD (CREDIT CARD INFORMATION REQUIRED)</b> RESIDENT ALIEN ID NUMBER _____ EXPIRATION DATE _____ DATE OF ISSUANCE (IF AVAILABLE) _____ PLACE OF ISSUANCE _____	<b>CREDIT CARD INFORMATION</b> TYPE OF CARD _____ NAME OF CARD ISSUER _____ FIRST FOUR DIGITS OF CREDIT CARD NUMBER _____ EXPIRATION DATE _____ DATE OF ISSUANCE (IF AVAILABLE) _____

NAME AND TITLE (PLEASE PRINT)	SIGNATURE* _____ X _____	DATE _____
SALES REPRESENTATIVE NAME (PLEASE PRINT)	SIGNATURE* _____ X _____	DATE _____

\* BY SIGNING ABOVE, YOU HEREBY ACKNOWLEDGE AND AGREE THAT THE INFORMATION LISTED HEREIN IS TRUE AND CORRECT AND WAS PERSONALLY OBSERVED ON THE INDICATED DOCUMENT.

## MERCHANT CARD PROCESSING AGREEMENT

This Merchant Card Processing Agreement is for merchant card payment processing services between the merchant ("Merchant") that signed the Application (the "Application") and the bank named in the Application (the "Merchant Bank") and the Processor named in the Application (the "Processor"). The Processor and the Merchant Bank are collectively hereinafter referred to as the "Bank". Processor and Merchant Bank reserve the right to allocate Bank's duties and obligations amongst themselves as they deem appropriate in their sole discretion, and Merchant Bank or Processor may jointly or individually assert or exercise any rights or remedies provided to Bank hereunder.

The appendices, addenda, schedules, Operating Guide and **FEE SCHEDULE** that accompany this Merchant Card Processing Agreement, as amended from time to time as provided herein, are part of the terms and conditions of this Agreement, as are the Application and the Operating Rules, and are individually and collectively hereinafter referred to as the "Agreement."

According to the processing services selected by Merchant on the Application and, in accordance with the terms of this Agreement and applicable Operating Rules, Merchant agrees:

- to participate in the Bank's Card processing program by honoring Valid Cards in accordance with this Agreement; and
- to submit sales drafts, Credit Vouchers and other electronic data to Bank for the Card Program services provided by Bank.

### Section 1. DEFINITIONS.

**1.01 "Acceptance"** is the process by which Merchant allows a Card or electronic debit or credit entry to be used by a Cardholder as a means of payment.

**1.02 "ACH"** means the Automated Clearing House Network.

**1.03 "ACH Rules"** means, collectively, the National Automated Clearing House Association ("NACHA") Operating Rules and NACHA Operating Guidelines, as the same are amended from time to time.

**1.04 "Address Verification Service" (AVS)** is a Card fraud prevention tool designed for mail order, telephone order and electronic commerce (internet) merchants and other electronic transactions. Use of AVS is not a guarantee that a Card Transaction is valid.

**1.05 "Adjustment"** is one or more transactions involving a Credit Voucher, a Chargeback, or a correction to the Settlement Account resulting from a Card Transaction

processing error, or from Merchant's failure to follow the Operating Rules.

**1.06 "Application"** is the Application for Merchant Agreement that Merchant completed and signed and which is subsequently individually accepted by both Processor and Merchant Bank by execution or as otherwise provided herein..

**1.07 "Authorization"** is the process whereby Merchant in compliance with the Operating Rules for each Card obtains approval of a Charge from the Card Issuer. An Authorization indicates only the availability of the Cardholder's credit limit at the time the Authorization is requested.

**1.08 "Authorization Code"** is a message obtained through the Card Associations' Authorization networks that informs Merchant that a Card transaction has been approved.

**1.09 "Batch"** is a term that collectively refers to Card transactions delivered for processing in a file and processed within a given period of time, usually daily.

**1.10 "Business Day"** is Monday through Friday excluding Merchant Bank holidays. Each Business Day ends at the cut-off time specified by Merchant Bank. Charges submitted for processing on a holiday, weekend, or after the cut-off time are treated as received the following Business Day.

**1.11 "Card"** is any Visa-branded or MasterCard-branded Credit and Business Cards or Debit Cards, private-label credit card, ATM/debit Card, or any other card issued by a member of a Card Association which Bank may at any time specify in writing as an additional Card payment option available to Merchant (See also "Valid Card").

**1.12 "Card Not Present" or "CNP"** is a Card Transaction wherein neither the Cardholder nor the Card is physically present at the Point of Sale. Mail order and telephone order (MO/TO), electronic commerce and Preauthorized Transactions are collectively referred to as "CNP Transactions".

**1.13 "Card Program"** is one or more programs of financial service Cards honored by Merchants and financial institutions for presentment and collection of Cardholder indebtedness.

**1.14 "Card Transaction"** is the honoring of a Card by Merchant to purchase Merchant's goods or services.

**1.15 "Cardholder"** is the person issued a Card and a corresponding account by a Card Issuer.

**1.16 "Cardholder Account"** is the account of a Cardholder as represented by a Card.

**1.17 "Card Association"** refers to any entity formed to administer and promote Cards, including, without limitation,

MasterCard International, Incorporated ("MasterCard") Visa U.S.A. Inc. and Visa International (collectively, "Visa"). In the case of On-line Debit Transactions, "Card Association" includes the Debit Networks.

**1.18 "Card Issuer"** is the institution authorized by a Card Association to issue Cards to Cardholders and that has issued a Card presented to Merchant for a Charge or Credit Voucher.

**1.19 "Card Verification Value (CVV)/Card Validation Code 2 (CVC2)"** is a unique value encoded on the Magnetic Stripe of a Card used to validate Card information during the Authorization process.

**1.20 "Card Verification Value 2 (CVV2)/Card Validation Code 2 (CVC2)"** is a code derived by the Card Issuer and printed on the reverse side of a Card. The CVV2/CVC2 is used to deter fraudulent use of an account number in a CNP Transaction.

**1.21 "Charge"** is the evidence of an obligation of a Cardholder arising from a Card Transaction with Merchant which is submitted by Merchant in paper or electronic form to Bank for processing through a Card Association's interchange system so that payment may be made to Merchant and the amount of the Charge posted to the Cardholder Account. A Charge also may be referred to as a "Charge Record," "sales draft" or "sales slip."

**1.22 "Chargeback"** is a return of a Charge to Merchant, typically initiated by a Cardholder through a Card Issuer, for transmittal to and payment by Merchant under Operating Rules established by the Card Associations.

**1.23 "Credit and Business Cards"** are any Visa-branded or MasterCard-branded Cards that are adopted by Visa or MasterCard for use in connection with their consumer credit and charge Card Programs, any Visa-branded or MasterCard-branded business, corporate or, commercial Card (includes business, corporate and public sector credit, charge or debit Cards), and any other Visa-branded or MasterCard-branded Card that is not defined as a Debit Card.

**1.24 "Credit Voucher"** is the evidence of a partial or total refund of a Charge submitted by Merchant to Bank in paper or electronic form for processing through a Card Association interchange system so that credit may be made to a Cardholder Account. A Credit Voucher may also be referred to as a "Credit Slip".

**1.25 "Debit Cards"** are Visa-branded or MasterCard-branded consumer Cards issued by U.S. Card Issuers that when presented for payment, access, debit, hold or settle funds from a consumer's demand deposit, investment or other asset account. Examples of Debit Cards include: Visa Classic, Gold and Platinum Check Cards; Visa Check Card II Check Cards; Visa Buxx Cards; Visa Payroll Cards; Visa Gift Cards; and

MasterCard Standard, Gold, and Platinum debit Cards.

**1.26 "Debit Network"** is an online data processing system used to support PIN based Card Transactions.

**1.27 "Installment Billing Transaction"** is a single purchase of goods that is divided into two or more installment payment transactions made in a Card Not Present environment.

**1.28 "Magnetic Stripe"** refers to a stripe of magnetic information affixed to the back of a plastic credit or debit Card. The magnetic stripe contains essential Cardholder and account information.

**1.29 "Merchant Affiliate"** is any entity or account designated as "Affiliated" on the Application and, in addition, any person or entity which is owned or controlled, in whole or in part, by Merchant or any of Merchant's principal business owners identified in the Application ("Principals").

**1.30 "Merchant Bank"** is the Bank so named in the Application.

**1.31 "Merchant Identification Number (MID)"** is the identification number assigned to Merchant by Bank for the purposes of participation in Bank's Card Program. Merchant may be assigned multiple MIDs.

**1.32 "On-line Debit Card Transaction"** is a Card Transaction between the Merchant and the Cardholder that is initiated with a Card that is processed through a Debit Network, and that requires entry of a Cardholder's personal identification number ("PIN") during the transaction process.

**1.33 "Operating Guide"** means the then-current manual prepared by Bank, containing operational procedures, instructions and other directives relating to Card Transactions. a copy of the current Operating Guide may be accessed at Processor's web site at *[insert URL]*.

**1.34 "Operating Rules"** are relevant portions of Operating Regulations, Operating Manuals, Official Rules, Bulletins, Notices, and similar documents issued by Card Associations, Debit Networks, Merchant Bank or Processor.

**1.35 "Point of Sale" or "POS"** is each location of Merchant where Merchant and Cardholder can jointly complete a Charge or Credit Voucher transaction in connection with the Cardholder's purchase of goods or services provided by Merchant.

**1.36 "Preauthorized Health Care Transaction"** is a Card Transaction for which a Cardholder has given a health care Merchant written permission to the Cardholder Account for services.

**1.37 "Preauthorized Transaction"** is a Card Transaction for which a Cardholder has given advance permission to

periodically charge the Cardholder Account. Preauthorized Transactions include Recurring Transactions, Installment Billing Transactions, and Preauthorized Health Care Transactions.

**1.38 "Processing Fees"** are the fees payable by Merchant to Bank for the Card Program services Bank provides to Merchant in connection with this Agreement, as specified in the **FEE SCHEDULE** to the Application.

**1.39 "Recurring Transaction"** is a Card Transaction where the Cardholder provides permission, in either written or electronic format, to a Merchant to periodically charge the Cardholder Account for recurring goods or services, including, but not limited to, insurance premiums, subscriptions, monthly internet access fees, membership fees, tuition, or utility charges.

**1.40 "Regulation E"** means the regulations, together with all staff interpretations issued thereunder, published by the Federal Reserve Board to implement The Electronic Funds Transfer Act. "Regulation E" includes specific rules for all parties involved governing the issuance and use of Debit Cards and the processing of On-line Debit Card Transactions.

**1.41 "Settlement Account"** is the checking account or other acceptable deposit account Merchant maintains at a depository institution acceptable to Bank for credit of Charges by Merchant Bank and debit of Credit Vouchers, Chargebacks, Processing Fees and any fines or fees assessed by Card Associations or other governmental agency or entity having authority.

**1.42 "Valid Card"** is a Card that is (1) properly issued under the authority of a Card Association (not counterfeit); (2) "current" according to any beginning and expiration dates on the Card; (3) signed by the Cardholder named on the front or other authorized signer, or in the case of CNP Transactions, in compliance with the applicable Operating Rules; (4) not listed at the time of a Charge in a warning bulletin or notice issued by a Card Association; and (5) not visibly altered or mutilated when physically present at the POS.

## **Section 2. MERCHANT'S APPLICATION AND INFORMATION.**

By completing and signing the Application, Merchant applies for the Card Program services covered by the Application and this Agreement. In its sole and absolute discretion, Processor and/or Merchant Bank may accept or reject Merchant's Application. Merchant may present Charges to Bank only for the activities and in the volumes described on the Application, including the percentage of mail/phone order and electronic commerce (internet) transactions.

## **Section 3. MERCHANT'S GENERAL DUTIES.**

**3.01** Merchant will comply with this Agreement for submitting and processing Charges and Credit Vouchers with Bank. Bank is responsible to Merchant for processing Card Transactions under the Operating Rules for the Card Program services to which Merchant subscribes, which may vary among Card types.

**3.02. Merchant may choose to accept (i) Debit Cards only, or (ii) Credit and Business Cards only or, (iii) both Debit Cards and Credit and Business Cards.** The applicable discount rates for Debit Cards and Credit and Business Cards are stated on the **FEE SCHEDULE**. Merchant shall designate which Card type(s) Merchant will accept upon the signing of the Application.

**3.03 General Requirements.** For Card Transactions, Merchant will:

- A. Honor all Valid Cards of the Card type(s) selected under **Section 3.02** of this Agreement.
- B. Honor all Valid Visa-branded or MasterCard-branded Cards issued by a non U.S. Card Issuer.
- C. Not accept Cardholder payments for previous Card charges incurred at the Merchant location.
- D. Not establish minimum or maximum amounts for Card Charges or Credit Vouchers unless otherwise required or allowed by the Operating Rules.
- E. Not impose any surcharge or convenience fee on Card Charges or transactions if the surcharge or convenience fee is prohibited by the Operating Rules.
- F. Not require a Cardholder to complete a postcard or similar device that includes the Cardholder Account number, Card expiration date, signature or any other Card account data in plain view when mailed.
- G. Include any tax on a purchase in the total Charge amount.
- H. Not request or use a Cardholder Account number for any purpose other than as payment for Merchant's goods or services.
- I. Not disburse funds in the form of travelers cheques or other non-cash media, if the sole purpose is to allow a Cardholder to make a cash purchase of goods or services from Merchant.
- J. Not use a Charge to make a cash advance to any person or to disburse funds in the form of cash, except for specialized transactions previously authorized by Bank in writing.

K. Not require a Cardholder to provide fingerprints or other personal information, such as address, license, telephone number or social security number as a condition for honoring a Card, unless required to do so by the Operating Rules.

L. Not make a photocopy of a Card or require the Cardholder to provide a photocopy or facsimile of a Card unless the photocopy or facsimile is needed for a Card recovery program of Bank or a Card Association.

M. Not submit Card Charges for processing without physical possession of a Card unless pre-approved in writing by Bank, either on the Application or in other written form.

N. Comply with all laws in completing Card Transactions, performing obligations under this Agreement, and otherwise conducting Merchant's business.

O. Not accept Cards for transactions that are classified as "Quasi-Cash Transactions" including, but not limited to, the sale of casino gaming chips, money orders, opening deposits on financial or other accounts, wire transfer money orders, or the issuance of scrip.

P. Not accept a Card to collect or refinance an existing debt that has been deemed uncollectible by Merchant.

Q. Not enter into interchange a Charge that represents collection of a dishonored check.

R. Not require a Cardholder, as a condition of honoring a Card, to sign a statement that waives the Cardholder's rights to dispute the transaction with the Card Issuer.

S. As applicable, accept CNP Transactions in accordance with the terms of the **CNP ADDENDUM**.

### **3.04 Merchant's Responsibility for Acts of Others.**

Merchant, and not Bank, is responsible for any advice from, acts of, as well as omissions, acts of fraud or acts of misconduct by Merchant's employees, processors, consultants, advisors, contractors, agents, officers and directors. Merchant, and not Bank, is responsible for the use, unauthorized use or misuse of Merchant's equipment, POS terminals, or software.

### **3.05 Electronic Notices and Disclosures.**

Merchant consents to receiving electronically rather than in paper form all written notices, disclosures and other documents ("Documents") which are to be provided by Bank to Merchant under this Agreement. Bank will notify Merchant that a Document is available at Processor's web site with a link to that specific page of the web site containing the Document. Merchant agrees that such notification will be sent to Merchant at the e-mail address provided as part of the Application. Processor will maintain on its web site any

Document sent to Merchant electronically for not less than six months from the date of its posting on the web site.

Merchant understands and acknowledges that access to the Internet, e-mail and the worldwide web are required for Merchant to access a Document electronically and Merchant confirms that Merchant has such access. Merchant understands that there are costs related to access Documents electronically and Merchant agrees that Merchant is responsible for these related access costs.

At any time and without giving Merchant advance notice, Merchant Bank and/or Processor may elect not to send a Document electronically, in which case a paper copy of the Document will be sent to Merchant or such Document shall otherwise be provided as provided for herein.

## **Section 4. PROCEDURES FOR CARD TRANSACTIONS.**

**4.01 Operating Procedures for Card Transactions.** In accepting Cards for the purchase of Merchant's goods and services, Merchant shall comply with the requirements of this Agreement, including but not limited to the Operating Rules and the Operating Guide, as the same are revised from time to time.

### A. Authorization

1. Unless specifically exempted by Operating Rules, Merchant agrees to obtain Authorization for the total amount of the transaction, including the tip and tax, if applicable, and shall record the positive Authorization Code on the sales draft prior to completing the transaction. Such Authorization must be obtained for every Card Transaction on the transaction date and prior to completing the transaction, unless otherwise specified in the Operating Rules. Procedures for obtaining Authorizations are set forth in the Operating Guide.

2. If a Merchant completes a Charge without Authorization, Merchant will be responsible for any Chargeback of the Charge and this Agreement shall be subject to immediate termination without notice. **Obtaining Authorization does not assure that the person using the Card is the Cardholder and will not prevent a Chargeback to Merchant for any of a variety of reasons under the Operating Rules, including use of the Card by an unauthorized user or a Cardholder claim or defense relating to the Charge.**

B. Recording a Charge. Merchant must record each Charge and Credit Voucher by following procedures in a format and manner specified by Bank and using records such as sales drafts, sales slips or electronic processing records and methods, as set forth in the Operating Guide. Merchant will complete each sale as a single Charge,

except as alternative methods are specifically approved by Bank in writing. Merchant will deliver to the Cardholder an accurate and complete copy of the Charge, no later than the time of delivery of the goods or performance of services, using a format approved by the Card Associations and supplied by Bank. Merchant must provide on the Cardholder's copy of the Charge the truncated Card account number of the Cardholder.

C. Refunds; Adjustments; Credit Vouchers.

1. Merchant Policy. Merchant may limit returned merchandise or limit price adjustments, to the same extent as for sales not involving a Card, provided Merchant properly discloses its policy to the Cardholder before the sale, the limits are properly disclosed on the Charge Record before the Cardholder signs it, and the purchased goods or services are delivered to the Cardholder at the time the Charge takes place. Proper disclosure means the words "NO REFUND," "EXCHANGE ONLY," or "IN STORE CREDIT ONLY" are printed in large letters near the signature line on all copies of the Charge Record prior to obtaining the Cardholder's signature on the Charge Record. Merchant will submit any changes to its return policy to Bank in writing at least thirty (30) days before the change and will not implement any change to which Bank reasonably objects. **Merchant's policies will not override the Operating Rules and will not prevent Chargebacks to Merchant under those rules.**

2. Credit Vouchers. Merchant will not make a refund or Adjustment for a Charge in cash (except when required by law), but will deliver to Bank a Credit Voucher for a refund or Adjustment to the Cardholder Account within three (3) days of the refund or Adjustment and deliver to the Cardholder a copy of the Credit Voucher at the time the refund or Adjustment is made. Merchant will include the refund date and amount and a brief description of the refund or Adjustment on the Credit Voucher in sufficient detail to identify the Card used and original Charge. The amount of the Credit Voucher must not exceed the amount of the original Charge except for any amount which Merchant agrees to reimburse the Cardholder for return postage. Merchant may not deliver a Credit Voucher to Bank for any refund or Adjustment of a purchase not originating as a Charge with the same Cardholder requesting the refund or Adjustment, a Charge not made with Merchant, or a Charge not originally processed by Bank. Merchant will not complete a Credit Voucher for a Card issued to it or its Principals or employees except for a valid refund of a Charge originating with Merchant. Merchant may not receive money from a Cardholder and subsequently deliver to Bank a Credit Voucher to make a deposit to the account of the Cardholder. Bank may delay processing Credit Vouchers on any

day to the extent they exceed the total of valid Charges presented on that day and the balance in the Settlement Account available to cover the Credit Vouchers, until the sum of valid Charges and the balance in the Settlement Account is sufficient to cover the Credit Vouchers

3. Credit Vouchers After Agreement Termination.

After this Agreement terminates, Bank is not obligated to process any Credit Vouchers that Merchant submits. All Chargebacks related to Credit Voucher disputes will be Merchant's responsibility. If Merchant enters into a new card processing service agreement with a new processor and provides Bank the name and address of Merchant's new processor, Bank will work with the new processor at Merchant's expense to reasonably resolve disputes.

D. Submission of Valid Charges. Merchant will submit to Bank a Charge only if the Charge is made or approved by the Cardholder who is issued the Card used for the Charge. Except as otherwise permitted by the Operating Rules and as approved by Bank in advance, Merchant will not submit a Charge for processing by Bank until Merchant has delivered or shipped the goods and/or performed all its services. Merchant will not submit directly or indirectly: (1) any Card Transaction previously submitted to Bank; (2) any Card Transaction that Merchant knows or should have known to be fraudulent or not authorized by the Cardholder; (3) any Card Transaction that results from a transaction outside of Merchant's normal course of business, as described on the Application; (4) any Card Transaction that results from a transaction not involving Merchant or not originated as the result of an act between Merchant and a Cardholder; or (5) any Card Transaction containing the account of a Card issued to Merchant or any account numbers issued to Merchant's business owners, family members and Principals for transactions that do not represent a purchase of goods or services from Merchant or a related credit.

E. Prepayments. Merchant may deposit a Charge for a prepayment if Merchant advises the Cardholder of the immediate billing at the time of the Card Transaction, for (1) prepayment of services, excluding estimates for services to be provided, and (2) full payment of custom ordered merchandise, manufactured to the Cardholder's specifications.

F. Multiple Outlets. A Merchant with multiple outlets must ensure that Bank is able to: (1) identify the location of each Card Transaction on the Charge Record, and (2) include this identification in the clearing record submitted to Bank.

G. Payments to Merchant for Valid Charges.

1. Merchant Bank will provide provisional credit to Merchant for each valid Charge which Merchant submits to Bank by crediting Merchant's Settlement Account, provided Merchant Bank has received settlement for the valid Charge through the interchange procedures specified by the Card Association applicable to the Card used for the Charge (Bank does not provide payment for all Card types for which Authorization services are provided). Merchant Bank is not obligated to provide provisional credit to Merchant for Charges submitted that are not valid Charges, and may suspend or discontinue any provisional credit in Merchant Bank's and/or Processor's sole and absolute discretion, including for any reason that would justify termination of this Agreement. Each provisional credit from Merchant Bank to Merchant will be subject to Adjustment, including revocation, upon Bank's further review and verification. **Provisional credit to Merchant for a Charge disputed by a Cardholder for any reason is not final.**

2. Merchant Bank may deduct from any payment to Merchant the amount of any Credit Voucher processed for Merchant, any Chargeback to Merchant, any amount to be deposited in the Reserve Account and any Processing Fees and Card Association fines or charges due from Merchant. Merchant must immediately pay Bank the amount by which a Credit Voucher processed on any day exceeds valid Charges submitted on that day. Without limiting Bank's remedies, Merchant Bank may obtain the amount due by deducting it from the Settlement Account, Reserve Account or other accounts of or funds due Merchant.

3. Merchant acknowledges that all payments and credits provided to Merchant are provisional and subject to suspension, to Chargebacks and to Adjustments in accordance with this Agreement and the Operating Rules.

H. Retrieval Requests. If Merchant deposits Charge Records with Bank through magnetic tape, electronic transmission, or electronic data capture terminal, upon the request of a Card Association or Bank, Merchant shall respond to all transaction documentation (retrieval) requests within the time frames specified in the applicable Operating Regulations. If Merchant does not respond or responds late to a transaction documentation request, Merchant may be without recourse as Chargebacks for "non receipt of requested item" in most cases, cannot be reversed. .

**4.02. Procedures for On-Line Debit Card Transactions.** Merchant must obtain Authorization for each On-line Debit Card Transaction before Merchant can complete the transaction. Merchant will not complete an On-line Debit

Card Transaction unless it has been authorized by the Card Issuer by using the POS Equipment (defined in **Section 4.04**) and following the procedures of the Card Association. Merchant may not complete an On-line Debit Card Transaction without entry of the PIN by the Cardholder. Merchant will comply with Regulation E, all applicable law, and all applicable Operating Rules in connection with each On-line Debt Card Transaction.

**4.03 CNP Transactions.** The **CNP ADDENDUM** applies to all Card Transactions wherein neither the Cardholder nor the Card is physically present at the Point of Sale. CNP Transactions include mail order and telephone order, electronic commerce (internet), and Preauthorized Transactions. A Merchant may only accept CNP Transactions if the Merchant has completed the appropriate areas on the Application and has been authorized by Merchant Bank and Processor to accept such Card Transactions.

**4.04 Equipment; Supplies; Displays.**

A. At Merchant's request, Bank will supply Merchant with POS equipment and/or Software, including electronic terminals, other processing equipment and, for On-line Debit Card Transactions, PIN pads (collectively "POS Equipment") that comply with the Operating Rules. Bank will use good faith efforts to program the POS Equipment to operate at Merchant's location in compliance with the Operating Rules. However, Bank makes no representations or warranties that Bank's programming of the POS Equipment furnished by Bank will operate in compliance with the Operating Rules. Merchant acknowledges and agrees that it is Merchant's obligation to operate in compliance with the Operating Rules.

B. All third party software, equipment and services provided or procured by Bank under this Agreement are provided "AS-IS" but Bank will, at Merchant's expense, use reasonable commercial efforts to assist Merchant in enforcing any warranty offered by the third party supplier of such software, equipment or services.

C. Merchant will use only the forms for Charges and electronic processing formats provided or approved in advance by Bank. Bank may change the forms from time to time, and, upon notification, Merchant will comply with any changes. Merchant will use Charge forms or materials provided by Bank only for Charges which Merchant submits to Bank.

D. Merchant shall display Visa, MasterCard and, if applicable, other Card Association decals, program marks, and advertising and promotional materials in compliance with the Operating Rules. Merchant shall only display Visa and MasterCard approved decals, program marks and advertising and promotional materials

for the Card type(s) that Merchant selected under **Section 3.02** of this Agreement.

E. Merchant may not (a) indicate or imply that the Card Associations or Bank endorses any Merchant goods or services, (b) refer to a Card Association or Bank in stating eligibility for Merchant's products, services or membership, or (c) use any marks, symbols or logos owned by any Card Association or Bank for any purpose other than those permitted in the Operating Rules.

## **Section 5. CHARGEBACKS.**

**5.01** Bank will charge back to Merchant and Merchant will pay Bank, the amount of each Charge which Merchant or a Merchant Affiliate submits to Bank for processing that is subject to Chargeback to Bank **for any reason** under the Operating Rules, or to the extent Merchant Bank receives claims regarding the Charges from Cardholders under other provisions of law.

**5.02** A Chargeback may occur for any one or more of several reasons under the Operating Rules or through operation of consumer protection laws, such as the Truth in Lending Act and the Fair Credit Billing Act. Chargeback reasons include, without limitation:

A. The Charge Record or any material information it contains as provided by Merchant (such as the Card account number, expiration date of the Card, merchant description, purchase amount, Charge date and Authorization date) is illegible, incomplete, incorrect, or unsigned, or is not transmitted to Bank within the required time limits;

B. Merchant knew or, by following proper practices, should have known that the Card was not to be honored;

C. The Charge was completed with a counterfeit or altered Card or before the valid date or after the expiration date of the Card;

D. Merchant did not obtain Authorization, or did not provide a correct and legible Authorization Code on the Charge Record;

E. The Charge Record is a duplicate of another Charge Record, represents one of two or more Charges arising from a single purchase, or the Charge has been submitted to another merchant card processor;

F. The Cardholder disputes participating in or approving the Charge, signing the Charge Record, or the sale, delivery, quality or performance of the purchase; the Cardholder alleges that return of goods or a Credit Voucher was improperly refused; or the Cardholder alleges that a Credit Voucher issued by Merchant was not processed for the Cardholder Account;

G. The amount on the Charge Record submitted to Bank differs from the amount on the copy required to be delivered to the Cardholder;

H. The Charge was fraudulent or the related purchase was not a bona fide purchase in Merchant's ordinary course of business, was subject to any claim of illegality, cancellation, avoidance, or offset for any reason, including, without limitation, negligence, fraud or dishonesty on the part of Merchant or Merchant's agents or employees or was submitted in violation of **Section 6** of this Agreement;

I. The Cardholder has asserted what the Cardholder believes is a good faith claim or defense against the Charge;

J. The Charge is in violation of any law;

K. Any other Card Transactions that Bank is or would be required to pay, repurchase or Chargeback by virtue of Operating Rules or otherwise, processed under this Agreement or any agreement with any Merchant Affiliate.

**5.03** Merchant may not enter into interchange any Charge for a Card Transaction that was previously charged back to the Merchant Bank and returned to Merchant, irrespective of Cardholder approval.

**5.04** If Bank determines that Merchant has or is reasonably likely to have a monthly ratio of Chargebacks to Charges exceeding one percent (1%), Bank, may, but is not obligated to, notify Merchant of new procedures it should adopt and additional Processing Fees imposed for processing Chargebacks, and/or may terminate this Agreement, at Merchant Bank's discretion, without advance notice. Merchant must immediately pay any fines or fees imposed by a Card Association or Bank relating to Chargebacks to Merchant.

**5.05** The Card Associations have established guidelines, merchant monitoring programs and reports to track merchant activity such as, but not limited to excessive credits and Chargebacks, and increased deposit activity. In the event Merchant exceeds the guidelines or submits suspicious transactions as identified by a Card Association or any related program or reports, Merchant may be subject to: (a) operating procedure requirement modifications; (b) incremental Chargebacks and/or fees; (c) settlement delay or withholding; (d) termination of this Agreement; and/or (e) audit and imposition of fines. Merchant hereby releases Bank from any and all damages, liability, costs or expenses that Merchant may incur as a result of Bank's compliance with Card Association directives.

**5.06** Each Chargeback to Merchant is immediately due and payable by Merchant. Without limiting Bank's other remedies

or Bank's security interest described in **Section 16** below, Merchant Bank may deduct, debit and withhold the amount of a Chargeback or anticipated Chargeback from the Settlement Account, Reserve Account, or any Merchant account at the Merchant Bank, or other property of Merchant held by Bank, or any Settlement Account or Reserve Account of a Merchant Affiliate. Bank will send Chargeback reports to Merchant as debits occur. To the extent funds are not available from the previously described accounts of the Merchant or Merchant Affiliate, Merchant irrevocably authorizes Merchant Bank to attach and initiate withdrawals of funds from Merchant's accounts at other financial institutions, by ACH entry, sight draft, preauthorized checks, reverse wires or otherwise to cover the Chargebacks, and Merchant hereby irrevocably authorizes the other financial institutions to withdraw the funds from Merchant's accounts and pay Bank the amount of the Chargebacks. Merchant Bank will release to Merchant any of Merchant's deposits, funds or property after Bank determines in its sole and absolute discretion that the deposits, funds or property are not likely to be needed to cover any Chargebacks.

#### **Section 6. MERCHANT'S WARRANTIES.**

Upon signing the Application, and each time Merchant submits a Charge, Merchant represents and warrants that:

- A. Merchant has abided by this Agreement, and all applicable laws and Operating Rules for the Charge;
- B. Each statement made on the Application was true as of the date Merchant signed the Application agreeing to be bound by this Agreement;
- C. There have been no materially adverse changes in information provided in the Application or in Merchant's financial condition, or management;
- D. Merchant does not do business under a trade name or style not previously disclosed in writing, and there has been no change in the nature of Merchant's business or the product lines that Merchant sells not previously disclosed;
- E. The Charge is genuine and arises from a bona fide sale of merchandise or services by Merchant, represents a valid obligation for the amount shown on the Charge Record and does not involve the use of the Card for any other purpose;
- F. Merchant has title to the Charge, there are no liens or other encumbrances on it, and Merchant has the authority to convey the Charge for processing;
- G. The Charge is not subject to any dispute, set-off or counterclaim;

H. The Charge has not been previously presented for processing unless allowed by the Operating Rules;

I. Each statement on the Charge is true, and Merchant has no knowledge of facts that would impair the validity or collectability of the amount of the Charge;

J. Merchant has completed only one Charge per sale, or one Charge per shipment of merchandise where the Cardholder has agreed to partial shipments;

K. The person who executes the Application on behalf of the Merchant has the full power and authority to execute the Application and to enter into this Agreement;

L. This Agreement is the legal, valid, and binding obligation of the Merchant enforceable against the Merchant in accordance with its terms;

M. Merchant shall submit transactions and/or Charges only in accordance with the information contained in the Application and this Agreement;

N. Merchant has the power and authority to authorize the automatic funds transfer provided for in **Section 14.08** of this Agreement;

O. The Settlement Account described in **Section 14** of this Agreement is owned and controlled by the Merchant and is a valid account for processing debit and credit transactions under this Agreement.

P. That Merchant will immediately notify Merchant Bank and Processor of any material changes to any information provided herein including but not limited to a change in Merchant's legal entity, location, business type, or the types of goods and services offered for sale by Merchant.

#### **Section 7. CONFIDENTIALITY; DATA SECURITY.**

**7.01** Merchant will retain in a secure and confidential manner original or complete and legible copies of each Charge Record, and each Credit Voucher required to be provided to Cardholders, for at least two (2) years or longer if required by law or the Operating Rules. Merchant shall render all materials containing Cardholder Account numbers unreadable prior to discarding.

**7.02** Merchant will store Charge Records in an area limited to selected personnel, and when record-retention requirements have been met, Merchant will destroy the records so that Charge Records are rendered unreadable.

**7.03** Merchant will not:

- A. Provide Cardholder Account numbers, personal Cardholder information or Card Transaction information to anyone except Bank, Card Associations, or Merchant's

agents for the purpose of assisting Merchant in completing Card Transactions, or as specifically required by law.

B. Retain or store Card Magnetic Stripe, CVV, CVV2 or CVC2 data subsequent to Authorization for a Card Transaction.

C. Sell, purchase, provide or exchange Card account number information to any third party without the Cardholder's consent, or to any entity other than Merchant's authorized agents, the Bank, the Card Associations, or in response to valid legal process or subpoena.

D. Release any Cardholder information over the telephone under any circumstances.

**7.04** Merchant may not, in the event of its failure, including bankruptcy, insolvency, or other suspension of business operations, sell, transfer, or disclose any materials that contain Cardholder Account numbers, personal information or Card Transaction information to third parties. In the event that Merchant's business fails or ceases to exist, Merchant is required to return to Bank all such information or provide proof of destruction of this information to Bank.

**7.05** Merchant agrees to establish security procedures to protect Cardholder information and comply with the Visa Cardholder Information Security Program (CISP) and any other similar requirements contained in the Operating Regulations. Merchant may find the details of the CISP program at [www.visa.com/cisp](http://www.visa.com/cisp). The Card Associations or Bank, and their respective representatives, may inspect the premises of Merchant or any independent contractor or agent engaged by Merchant for compliance with security requirements. Merchant acknowledges that any failure to comply with security requirements may result in the imposition of restrictions on Merchant or the permanent prohibition of Merchant's participation in Card acceptance programs by the Card Associations.

**7.06** Merchant must notify Bank and receive Bank's approval prior to engaging any independent contractor or agent in connection with Merchant's acceptance of Cards or the submission of Charges or Credit Vouchers to Bank. Merchant may utilize a third party as Merchant's agent ("Agent") to perform some of Merchant's obligations under this Agreement. Agents include, but are not limited to, Merchant's software providers and/or equipment providers. Merchant shall provide Merchant Bank and Processor at least sixty (60) days advance written notice of Merchant's election to use an Agent. Merchant Bank and/or Processor may individually approve or deny the use of an Agent in their sole and absolute discretion and at any time. If an Agent is designated a service provider under any applicable Operating Regulation or is otherwise required to certify, register, or act in any fashion pursuant to the Operating Regulations, Merchant shall cause such Agent

to cooperate with Merchant Bank in completing any steps required for registration and/or certification and/or action. Merchant is solely responsible for any and all applicable fees, costs, expenses and liabilities associated with such registration and/or certification and/or action. Bank shall in no event be liable to Merchant or any third party for any actions or inactions of any Agent used by Merchant, and Merchant hereby expressly assumes all such liability.

Merchant will immediately notify Bank if Merchant decides to use electronic authorization or data capture terminals provided by any entity other than Bank or its authorized designee ("Third Party Terminals") to process transactions, including leasing a terminal from a third party. If Merchant elects to use Third Party Terminals, (i) the third party providing the terminals will be Merchant's agent in the delivery of Card transactions to Bank; and (ii) Merchant assumes full responsibility and liability for any failure of that third party to comply with the Bank Rules, the Operating Regulations, the Laws, or this Agreement. Bank will not be responsible for any losses or additional fees incurred by Merchant as a result of any error by a third party agent or a malfunction in a Third Party Terminal.

The use of an Agent or an Agent's software application that has connectivity to the Internet poses an increased risk, and Merchant assumes all liability for such increased risks. If Merchant utilizes software or hardware with a connection to the Internet such hardware or software interacts in any capacity with the provision of services contemplated pursuant to this Agreement, Merchant is solely liable without limitation for any and all consequences of such interaction.

**7.07** Merchant agrees and shall ensure that Merchant's Agents provide the same levels of security as those required of Merchant, and that such Agents transmit data in accordance with: (1) the required format(s) of the Card Associations; (2) the Operating Rules; and (3) the requirements of Bank.

**7.08** Merchant must immediately notify Merchant Bank and Processor of any suspected or confirmed loss or theft of materials or records that contain Cardholder Account numbers or Card Transaction information. In the event of a suspected or confirmed loss or theft Merchant shall provide immediate access to all facilities, systems, procedures, equipment, and documents as may be deemed appropriate by Bank or its designated representatives for inspection, audit, and copying as deemed appropriate by both Merchant Bank and Processor in their individual sole discretion. Merchant shall be responsible for all costs associated with such inspection, audit, and copying however such costs may occur.

**7.09** Merchant authorizes Bank to release its name and address to any third party whom the Bank determines needs to know such information in order for Bank to perform the Card Program services under this Agreement and who has requested such information.

**7.10** If requested in writing by Merchant, Bank may provide a list of Bank Identification Numbers (BIN) that apply to Debit Cards for the sole purpose of identifying Debit Cards presented at the Point of Sale. Merchant shall not use the BIN information for any reason other than to identify the Debit Cards presented at the Point of Sale. The BIN information is proprietary and confidential information belonging to Visa or MasterCard. A Merchant shall not disclose the BIN information to any third party without the prior written consent of Visa or MasterCard.

**7.11** Federal regulations enacted pursuant to the USA PATRIOT Act and other applicable laws require financial institutions with which the Processor has relationships to verify the identity of every person who seeks to open an account with a financial institution. As a result of Merchant's status as an account holder with Merchant Bank, Merchant shall provide documentary verification of Merchant's identity, such as a driver's license or passport for an individual and certified copy of organization documents for an entity in manner acceptable to Bank. Bank reserves the right to verify Merchant's identity through other non-documentary methods as Bank deems appropriate in its sole discretion. Bank may retain a copy of any document it obtains to verify Merchant's identity with the financial institution.

**7.12** Merchant is responsible for insuring its Merchant Identification Number ("MID") is kept confidential. When a change to a Merchant account is required, Merchant shall disclose its MID to the Bank representative as confirmation that the person requesting the change has authority. If the person requesting the change discloses the proper MID, Bank shall assume that person has the proper authority to make the change. Merchant shall be fully liable for any changes to its account after disclosure of the MID. Bank may request from Merchant additional information to further verify Merchant's identity.

**7.13** Merchant must not store in any system or in any manner, discretionary card-read data, CVC2 data, PIN data, Address Verification Service (AVS) data, or any other prohibited information as set forth in the MasterCard Merchant Rules Manual, except during the Authorization process for a Transaction, that is, from the time an Authorization request message is transmitted and up to the time the Authorization request response message is received. MasterCard permits storage of only the card account number, expiration date, cardholder name, and service code, in a secure environment to which access is limited, and then only to the extent that this data is required for bona fide purposes and only for the length of time that the data is required for such purposes. The MasterCard Merchant Rules Manual may be accessed at:

[http://www.mastercardmerchant.com/docs/accept\\_mastercard/merchant\\_rules.pdf](http://www.mastercardmerchant.com/docs/accept_mastercard/merchant_rules.pdf).

## **Section 8. OPERATING RULES.**

**8.01** Merchant must comply with the Operating Rules, as the same may be amended from time to time. The Operating Rules may change with little or no advance notice to Merchant and Merchant will be bound by all such changes. If Merchant objects to any change in the Operating Rules, it must immediately stop accepting new Charges for Cards governed by the change. The Operating Rules will govern in the event that there is any inconsistency between this Agreement and the Operating Rules.

**8.02** Operating Rules of the Debit Networks may differ among them with respect to the transactions they allow. Bank, at its discretion, may require that the most restrictive requirements of one Debit Network apply to all of Merchant's On-line Debit Card Transactions, regardless of Card type.

**8.03** If Merchant selects, and Bank provides Card Program services for, any one or more of American Express, Discover Card/NOVUS Card Brands, JCB Card or Diners Club as payment options and Merchant's selection is approved by Bank, Merchant understands that Merchant's acceptance of any of those payment options may require execution of a separate merchant card acceptance agreement with those individual Card Issuers, as applicable, and that agreement will govern the completion, processing, settlement and other procedures relating to transactions with those Card Issuers. If Merchant experiences problems with transmission or delivery of those Card Issuers' transactions, Merchant will be obligated to contact the appropriate service provider(s) for service.

## **Section 9. MERCHANT'S BUSINESS; OTHER PROCESSORS.**

**9.01** Merchant will comply with all laws, rules and regulations, including but not limited to laws and regulations regarding anti-money laundering compliance, in completing Charges, submitting them to Bank, performing its obligations under this Agreement, and otherwise conducting its business.

**9.02** Merchant will give Merchant Bank and Processor at least thirty (30) days' prior written notice before any change in Merchant's name or location, any change in ownership or management of Merchant's business, any sale, assignment, rental, lease or transfer of ownership of any location that accepts Cards, or any material change in information concerning Merchant in the Application, and material change in the type or nature of the business carried out by Merchant or otherwise required to be provided to Bank.

**9.03** Merchant agrees that it will not participate in a Card Program with another financial institution or processor without Bank's written approval.

**Section 10. CREDIT REPORTS AND OTHER INFORMATION.**

**10.01 Reports about Merchant.** From time to time, Bank may obtain credit and other information on Merchant, owners of Merchant and officers of Merchant, from others (such as customers and suppliers of Merchant, lenders and credit reporting agencies), and furnish information on Merchant's relationship with Bank and Bank's experience with Merchant to others seeking the information.

**10.02 Reports from Merchant.** Merchant will provide Bank with updated business and financial information concerning Merchant, including financial statements, tax returns, evidence of required licenses and other information and documents Bank may reasonably request from time to time. All material marked "confidential" which Bank receives from Merchant will be used only by Bank or Card Association in performing the Card Program services under this Agreement or related services and reporting. At any reasonable time, Bank, any Card Association or any other entity having authority has the right to audit Merchant's records relating to this Agreement.

**Section 11. ASSIGNMENT; BANKRUPTCY.**

**11.01 Assignment.** This Agreement is binding upon the successors and assigns of Bank and Merchant. Merchant will not assign this Agreement to another entity without Bank's prior written consent and any purported assignment made without Bank's consent will be void.

**11.02 Bankruptcy.**

A. Merchant will notify Bank immediately if any bankruptcy, insolvency or similar petition is filed by or against Merchant. Merchant acknowledges that this Agreement constitutes an executory contract to extend credit or financial accommodations as defined in 11 U.S.C. §365(c)(2) and that the Agreement cannot be assumed or assigned in the event of bankruptcy. Merchant and Bank agree that in the event of Merchant's bankruptcy, Bank shall be entitled to suspend further performance under this Agreement.

B. Merchant acknowledges and agrees that in the event of a bankruptcy proceeding, Merchant must establish a Reserve Account or maintain a previously established and then current Reserve Account in amounts required by Bank and in accordance with any Reserve Account provision specified in this Agreement. Merchant Bank will have the right to setoff against the Reserve Account for any and all obligations which Merchant may owe Bank, without regard as to whether the obligations relate to Charges initiated or created before or after the filing of the bankruptcy petition.

**Section 12. AMENDMENTS; WAIVERS.**

**12.01 Amendments.** Unless otherwise provided for in this Agreement, Bank may amend this Agreement at any time by providing Merchant with fifteen (15) days' prior notice by: (a) sending Merchant written notice of such amendment, or (b) posting such amendment to the Processor web site and providing Merchant with electronic notice as provided in **Section 3.05**. The amendment will become effective unless Bank receives Merchant's notice terminating this Agreement before the effective date. Bank may amend this Agreement upon less than fifteen (15) days' prior notice if Bank reasonably determines immediate modification is required by laws, Operating Rules or any adverse change in Merchant's financial condition. Amendments submitted by Merchant will bind Bank only if in writing and approved and signed by Bank's authorized officer.

**12.02 Waivers.** Bank's failure to enforce this Agreement will not waive Bank's rights under this Agreement. Waivers of any provision of this Agreement must be in writing and signed by the Bank. A waiver in one instance will not apply to other occasions unless that intent is clear from the signed waiver.

**Section 13. TERM; TERMINATION.**

**13.01 Term/Renewal.** The initial term of this Agreement shall be for the term of three (3) years (the "Initial Term") commencing on the date this Agreement is executed by authorized officers of Merchant Bank and Processor. At the expiration of the Initial Term. This Agreement will automatically renew for successive one (1) year periods (each a "Renewal Term") unless a party provides the other parties with notice of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the then current term..

**13.02 Termination.**

A. Termination without Cause. Merchant Bank or Merchant Bank's designated representative may terminate this Agreement as to all Card types or individually specified Card types, without cause, upon thirty (30) days advance written notice.

B. Termination for Cause by Bank. Merchant Bank or Merchant Bank's designated representative may terminate this Agreement in its sole and absolute discretion, effective immediately, upon written, electronic or oral notice to Merchant if Bank reasonably determines that any of the following conditions exists:

1. Merchant has violated any provision of this Agreement.
2. There is a material adverse change in Merchant's financial condition.

3. A petition in bankruptcy has been filed by or against Merchant, the Merchant is generally unable to pay its debts as they become due, a receiver, custodian, trustee, liquidator or similar official is appointed for a substantial portion of Merchant's business, there is a general assignment for the benefit creditors, or the business terminates.
4. Any information which Merchant provided to Bank, including Application information, was false, incomplete or misleading when received.
5. At any time during the term of this Agreement, Merchant has had a monthly ratio of Chargebacks to Charges exceeding one percent (1%), or Chargebacks are in excess of three percent (3%) of any monthly dollar amount of Charges.
6. There is an overdraft for three (3) days or more in the Settlement Account, or overdrafts in the Settlement Account are otherwise excessive.
7. Merchant or any of Merchant's officers or employees has been involved in processing Charges with Bank or other parties arising from fraudulent or otherwise unauthorized transactions.
8. Merchant is or will be unable or unwilling to perform its obligations under this Agreement or any applicable laws.
9. Merchant has failed to pay Bank any amount when due.
10. Merchant has failed to promptly perform or discharge any obligation under this Agreement, the Settlement Account or the Reserve Account.
11. Any of Merchant's representations or warranties made in connection with this Agreement was not true or accurate when given.
12. Merchant has defaulted on any agreement it has with Bank.
13. Bank is served with legal process seeking to attach or garnish any of Merchant's funds or property in Bank's possession, and Merchant does not satisfy or appeal the legal process within fifteen (15) days of the Bank being served.
14. The Operating Rules are amended in any way so that the continued existence of this Agreement would cause Bank to be in breach of such Rules.
15. Any Guaranty supporting Merchant's obligations is revoked, withdrawn or terminated or altered in any way.
16. If any circumstances arise regarding Merchant or its business that create harm or loss of goodwill to any Card Association.

C. Termination for Cause by Merchant. Merchant may terminate this Agreement in the event of a material breach of the terms of this Agreement by Bank, provided Merchant gives Bank written notice of any alleged breach and such breach remains uncured for a period of thirty (30) days following receipt of written notice by the Bank.

D. Damages for Termination by Merchant.

1. Bank and Merchant acknowledge and agree that in addition to all other remedies available to Bank under this Agreement or as otherwise available in law or equity, if this Agreement is terminated by Merchant prior to the expiration of the applicable Term of the Agreement or for any reason other than for a material, uncured breach by Bank, Merchant agrees to pay Bank damages (the "Damages") determined by:

- a. computing the number of months remaining from the date of termination to the end of the then current Initial or Renewal Term; and
- b. multiplying that number by the average monthly Processing Fees; and then
- c. adding costs and attorneys' fees of Bank.

2. Merchant agrees that such Damages shall also be due to Bank if Merchant discontinues submitting Card Transactions for processing during the Term for a period of ninety (90) consecutive days, and is not designated on the Application, or by notice to Bank, as a seasonal merchant or as otherwise agreed to by Bank.

3. Merchant acknowledges and agrees that the Damages are not a penalty but rather are a reasonable computation of the financial harm caused by the termination of this Agreement by the Merchant.

E. Merchant Bank's rights of termination under this Agreement are cumulative. A specific right of termination shall not limit any other right of Bank to terminate this Agreement expressed elsewhere in this Agreement. Notice of termination may be given orally or in writing, and if given orally, shall be confirmed in writing.

F. Upon termination, Merchant's rights to complete Charges and Credit Vouchers and submit them to Bank, and to use Charge form or formats, promotional material and any other items provided by Bank, will cease. Termination of this Agreement will not terminate the rights and obligations of Merchant and Bank relating to acts or omissions occurring before termination, including for example, any Processing Fees or other service fees owed to Bank, any Charges processed for Merchant by Bank (whether before or after termination), Merchant's Chargeback and indemnity obligations, and the Security Interest granted to Bank in this Agreement.

G. It is understood that a file for terminated merchants referred to as "MATCH" is maintained by Card Associations containing the names of any business (and its principals) which have been terminated for certain reasons, including fraud, depositing excessive counterfeit

paper, excessive unauthorized transactions, depositing paper for others (laundering), bankruptcy or breach of Merchant Agreement. Merchant acknowledges that Merchant Bank is required to report Merchant to the **MATCH** if this Agreement is terminated for any of the foregoing reasons or other reasons as may be modified by the Card Associations. Merchant agrees and consents to such reporting in the event of the termination of this Agreement for any of the foregoing reasons.

H. Sections 5, 7, 13, 14, 15, 16, 19, 20, 21, 22 and 25 will survive termination of this Agreement.

#### **Section 14. SETTLEMENT ACCOUNT.**

**14.01 Settlement Account Required.** Merchant must maintain a Settlement Account in Merchant's name in satisfactory condition at a depository institution under arrangements acceptable to Bank. The Settlement Account will be subject to the provisions of **Section 16** of this Agreement. Merchant Bank is responsible for providing settlement funds directly to Merchant, and Processor shall not have access to or hold settlement funds.

**14.02** Merchant agrees to maintain a minimum balance of funds in the Settlement Account as Bank may specify to Merchant in writing from time to time.

**14.03** Subject to the terms and conditions of this Agreement, Bank agrees to provisionally credit Merchant for each Charge that Bank accepts from Merchant. Merchant agrees that the Merchant Bank may charge the Settlement Account for the amount of any sales draft processed under this Agreement, or any agreement Bank may have with any Merchant Affiliate that results in a Chargeback, or for any Credit Voucher or other reimbursement or Processing Fees to which Bank may be entitled.

**14.04** Merchant agrees that Bank may audit all Charge calculations and that Merchant Bank shall have the right, without notice, to make withdrawals, deposits, or other Adjustments to or from the Settlement Account for any deficiencies or overages.

**14.05** Bank shall presume that any amounts the Bank pays to or debits from Merchant are correct unless Merchant disputes these by sending Bank written notice within thirty (30) days of the date of the applicable statement containing any disputed payments or debits.

**14.06** If Merchant chooses to rent or lease processing equipment from Processor or utilizes software provided by Processor for use in processing transactions, Merchant agrees to pay Bank: (1) a pre-determined monthly rental fee; (2) any initial upfront costs as required; and (3) all applicable taxes for such Card processing equipment or software utilization.

**14.07 Settlement Account Closure.** If the Settlement Account is closed, Merchant Bank or its designated representative may terminate this Agreement, effective immediately, upon written or oral notice (with written confirmation in the event of oral notice) unless Merchant opens another Settlement Account acceptable to Bank. Merchant may change the Settlement Account upon prior written approval by Bank, which approval will not be unreasonably withheld.

**14.08 ACH Authorization.** Merchant authorizes Merchant Bank or its agents or designated representatives to initiate debit and credit entries and Adjustments to the Settlement Account or the Reserve Account (described in **Section 15** of this Agreement) through the ACH settlement process for amounts due under this Agreement. This authorization will remain in full force and effect until termination of the Agreement and the full and final payment of all obligations of Merchant due under this Agreement. Merchant agrees to be bound by all applicable terms and provisions of the ACH Rules or other applicable association or network, in effect from time to time. Merchant acknowledges and agrees that Bank will not be liable for any delays in receipt of funds, any failure by Merchant to receive funds, or errors in debit or credit entries caused by Merchant, or third parties, including but not limited to any Card Association or any financial institution.

#### **Section 15. RESERVE ACCOUNT.**

##### **15.01 Reserve During Term of Agreement.**

A. At Bank's request, and as condition for providing Card Program services, Merchant may be required to deposit, or Merchant Bank may deposit by deducting from any payment due to Merchant or from any funds in the Settlement Account or any other deposit account of Merchant, into an account maintained by Merchant Bank (or at another approved depository institution) (the "Reserve Account"), initially or at any time in the future as requested by Bank, sums sufficient to satisfy Merchant's current and/or future obligations as determined by Bank in its sole and absolute discretion.

B. The Reserve Account will be separate from the Settlement Account. Merchant shall have no right of withdrawal from the Reserve Account. The Reserve Account shall be under the sole control of Merchant Bank, and Processor shall not have access to or hold funds in the Reserve Account. Any and all earnings from deposits of the Merchant to the Reserve Account shall be the sole property of the Bank.

##### **15.02 Reserve Account Deposits.**

A. At any time in Bank's sole and absolute discretion, Bank may (i) designate the minimum balance required to be deposited in the Reserve Account, (ii) require that the

amount on deposit in the Reserve Account be increased, (iii) require that the Merchant deposit, or Merchant Bank may deposit for Merchant into the Reserve Account a percentage of, or a fixed amount from each Charge processed, or (iv) otherwise determine the amount to be deposited in the Reserve Account. Bank at its sole and absolute discretion may require that each month Merchant deposit, or Merchant Bank may deposit by deducting from any payment due to Merchant or from any funds in the Settlement Account or any other deposit account of Merchant sums into the Reserve Account no later than the twenty (20) day of the month. Bank shall notify the Merchant as to the amount of the funds to be deposited each month.

B. Merchant acknowledges and agrees that the Reserve Account may contain both funds deposited by the Merchant and funds of other merchants of the Bank.

**15.03 Deductions from Reserve Account.** If funds are not available in the Settlement Account, Bank without prior notice to Merchant may deduct from the Reserve Account any obligation of Merchant to Bank under this Agreement, including all Processing Fees, Chargebacks, Credit Vouchers, Damages, and any and all additional fees, fines, penalty amounts and charges due the Card Associations.

**15.04 Replenishment of Reserve Account Deficiencies.** Whenever the balance in the Reserve Account is less than the minimum balance required, or is otherwise deficient, Merchant Bank may, without prior notice, deposit the deficiency into the Reserve Account by reducing any payment to Merchant required by this Agreement or deduct the deficiency from the Settlement Account or any other deposit account of Merchant with another depository institution (including accounts of general partners if Merchant is a partnership) and deposit it into the Reserve Account. Merchant authorizes deductions from its accounts by ACH entry, sight draft, preauthorized check, reverse wire, or otherwise as Bank deems appropriate under the circumstances. In addition, Merchant will deposit any deficiency into the Reserve Account within one (1) Business Day after receiving Bank's oral or written request. Without limiting Bank's remedies, Merchant's failure to deposit any deficiency on time will permit Bank, without advance notice, to suspend or cease processing additional Charges and Credit Vouchers. Bank will give Merchant written notice of any suspension or cessation of processing.

**15.05 Additions to Reserve Account.** If Bank has reason to believe that Merchant may be liable to customers or to Bank for Chargebacks exceeding the balance in the Reserve Account, Merchant Bank may: (A) immediately place in the Reserve Account payments due to Merchant and/or stop processing transactions for Merchant until such time as the extent of Merchant's obligations to Bank, or Merchant's liability for Chargebacks, or Merchant's liability to customers

are known, and Bank no longer deems itself insecure, and/or (B) demand from Merchant an amount that in Bank's judgment is needed to ensure payment of Merchant's obligations and liabilities. Merchant's failure to pay any amount will permit Merchant Bank or its designated representative to terminate this Agreement immediately without advance notice.

**15.06 Reserve Account After Agreement Terminates.** Merchant Bank may continue to hold or deposit funds in the Reserve Account after termination of this Agreement, regardless of whether termination is by Merchant or Bank. Upon termination of the Agreement by Merchant or Bank, Bank may retain sufficient funds to satisfy any and all Processing Fees, Chargebacks, Credit Vouchers, Damages, and any and all additional fees, fines, penalty amounts and charges due the Card Associations. If no funds have been deposited into the Reserve Account before termination, Bank, at Bank's option, may notify Merchant to deposit funds into the Reserve Account upon termination of this Agreement. All provisions which apply to a pre-termination Reserve Account will apply after termination, including replenishment of deficiencies. The funds will be held by Bank or its designated agent for a period of not less than one hundred eighty (180) days from the date of the last Card Transaction processed under the Agreement, plus the period of any warranty, guarantee, and/or return policy on goods and/or services sold. Bank will return the balance in the Reserve Account to Merchant after Bank reasonably determines that the risk of Chargebacks and other Processing Fees has ended and after deducting all amounts that Merchant owes to Bank under this Agreement or any other agreement.

## **Section 16. SECURITY INTEREST.**

### **16.01 Merchant's Grant of Security Interest.**

A. To secure Merchant's performance of its obligations under this Agreement, and any other agreement with Bank, Merchant grants Bank a security interest in each Charge and its proceeds, the Settlement Account, the Reserve Account and any other deposit account of Merchant with a financial institution, whether now existing or established in the future, and in the proceeds of all those accounts, any funds due Merchant from Bank and any of Merchant's property held by Bank. Bank may enforce these security interests without notice or demand. The security interests granted under this Agreement will continue after this Agreement terminates, until Merchant satisfies all its obligations to Bank.

B. Furthermore, and with respect to any security interests granted herein, Bank will have all rights afforded under the Uniform Commercial Code, as the same may, from time to time, be in effect in the State of Colorado; provided, however, in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the security interests granted

herein is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Colorado, then Bank will have all rights afforded under the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions relating to such attachment, perfection or priority of the security interests, as well as any other applicable law.

**16.02 Perfection of Security Interest.** Upon request of Bank, Merchant will execute one or more financing statements or other documents to evidence the security interests granted to Bank under this **Section 16**. Merchant shall cooperate with Bank in obtaining any control agreement or similar agreement with a depository bank necessary to perfect the security interests granted herein. In addition, Merchant agrees that its signature on the Application will be considered Merchant's signature agreeing to any control agreement as defined in Article 9 of the Uniform Commercial Code among Merchant, Bank and any other financial institution under which Bank, Merchant and any other financial institution agree to the disposition of funds in the Settlement Account, the Reserve Account or any other deposit account without further consent by Merchant.

#### **Section 17. CUSTOMER CLAIMS.**

To the extent that Bank has paid or may pay a Chargeback or Credit Voucher, Merchant will be obligated to reimburse Bank for any sums Bank pays. If Merchant does not reimburse Bank, Bank will have all of the rights and remedies of Cardholders, including the Cardholders' rights under 11 U.S.C. §507(a)(6). Bank may assert any claim on behalf of a Cardholder individually or on behalf of all Cardholders as a class.

#### **Section 18. PROCESSING FEES.**

**18.01** Merchant will pay Processing Fees in the amount specified in the **FEE SCHEDULE** attached to the Application or as otherwise provided for in this Agreement or an Addendum thereto. Merchant Bank may increase the Processing Fees by giving Merchant thirty (30) days advance written notice effective for Charges and Credit Vouchers submitted on and after the effective date of the change.

**18.02** Bank will not be required to provide the Merchant with thirty (30) days notice of an increase in Processing Fees in the event that any Card Association, or any other entity having such authority increases the Processing Fees and the effective date for implementation of the increase in the Processing Fees is less than thirty (30) days. In such cases, the Bank shall make reasonable efforts including, but not limited to, written correspondence, notification on statements, website notification, email, fax and direct contact via the telephone or otherwise, to provide reasonable notification to Merchant. However, failure to provide advance notice of the increase in Processing Fees will not affect Merchant's obligation to pay

the increased Processing Fees. The increase(s) in Processing Fees shall be effective on the date specified by Bank.

**18.03** Processing Fees and other service charges owed by Merchant to Bank may be deducted by Merchant Bank from amounts due Merchant, or from the Settlement Account or from the Reserve Account. Merchant will pay the amounts due by the next Business Day if sufficient funds are not available in the Settlement Account.

#### **Section 19. INDEMNIFICATION; LIMITATION OF LIABILITY; WARRANTY.**

**19.01 Indemnification.** Merchant agrees to indemnify Bank, including their officers, directors, employees, and agents against and to hold them harmless from any and all claims and demands of any party arising from or based upon any act or omission of Merchant, Merchant's employees, Merchant's designated representatives or agents, or Merchant's Agent(s) in connection with or arising out of this Agreement, the duties to be performed by Merchant pursuant to this Agreement, any Charges which Merchant submits to Bank, or Merchant's violation of the Operating Rules or any applicable law. In the event that Bank shall be made a party to any litigation, proceeding, arbitration, bankruptcy proceeding, or other legal process (collectively "Actions") commenced by any third party, Merchant shall protect and hold Bank harmless from and with respect to the Actions and shall pay all costs, expenses, and attorney's fees incurred or paid in connection with the Action, together with any judgments rendered. Merchant shall indemnify, defend, and hold harmless Bank for any hacking, infiltration, or compromise of Merchant's systems or the systems of Merchant's Agent(s), designated representatives, or other agents.

**19.02 Limitation of Liability.** Bank will not accept responsibility for errors, acts, or failure to act by others, including but not limited to, Agents, third party suppliers of software, equipment or services; or, banks, communication common carriers, data processors or clearinghouses through which transactions may be passed, originated and/or authorized. Bank will not be responsible for any loss, liability or delay caused by fires, earthquakes, war, civil disturbances, power surges or failures, acts of governments, acts of terrorism, labor disputes, failures in communication networks, legal constraints or other events beyond the control of Bank. Bank undertakes no duties to Merchant other than the duties expressly provided for in this Agreement, and any and all other or additional duties that may be imposed upon Bank in law or equity are hereby irrevocably waived and released to the maximum extent permitted by law. In any event, Bank's cumulative liability to Merchant, whether arising in contract, tort (including, without limitation, negligence and strict liability) or otherwise, shall not exceed the lesser of \$10,000 or, an amount equal to the aggregate of monthly net Processing Fees paid by Merchant in the three (3) month period prior to the month that the incident giving rise to liability occurred.

IN NO EVENT SHALL BANK BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES OR FOR ANY INTERRUPTION OR LOSS OF USE, DATA, BUSINESS OR PROFITS, WHETHER OR NOT SUCH LOSS OR DAMAGES WERE FORESEEABLE OR BANK WAS ADVISED OF THE POSSIBILITY THEREOF AND REGARDLESS OF WHETHER ANY LIMITED REMEDY HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

BANK SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BANK DOES NOT GUARANTEE OR WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

#### Section 20. NOTICES.

Except to the extent oral or electronic notice is explicitly authorized herein, each notice required by this Agreement will be in writing and will be effective when delivered, addressed to Merchant Bank at the address designated on the Application, and the return address on the Merchant's Card processing statements and to Merchant at Merchant's address to which Bank mails Merchant's statements, or at such other address as either party may provide by written notice to the other party. Any address Merchant designates will also be the address to which Bank mails Merchant's statements. Delivery by facsimile transmission will be considered effective when the sender receives electronic confirmation of the transmission.

#### Section 21. COLORADO LAW; JURISDICTION; VENUE.

Merchant's offer to enter into this Agreement is made in Boulder Colorado and accepted by Bank in Columbus, Georgia; this Agreement shall be performed by Merchant in Boulder, Colorado and governed by Colorado law, excluding its conflict of laws rules. Merchant and Guarantor agree to bring any claim or other litigation arising from or relating to this Agreement that it or they may have in the county and district courts in and for Boulder County, Colorado, and Merchant and any Guarantor irrevocably and unconditionally submit to the jurisdiction of such courts with respect to any such litigation.

#### Section 22. ATTORNEY FEES; ARBITRATION.

**22.01 Attorney Fees.** Merchant and/or Guarantor will be liable for and will indemnify and reimburse Bank for all

attorneys' fees and other costs and expenses paid or incurred by Bank in the enforcement of this Agreement or in matters relating to this Agreement, in collecting any amounts due from Merchant to Bank, or arising from any breach by Merchant of this Agreement, or any other wrongdoing by Merchant or Guarantor.

**22.02 Arbitration.** Merchant, Bank and any Guarantor will settle any dispute or controversy concerning or relating to this Agreement through binding arbitration before a single arbitrator, held at Denver or Boulder, Colorado in accordance with the provisions of the Colorado Uniform Arbitration Act or any successor statute. If Merchant and/or any Guarantor does not unconditionally proceed with arbitration in accordance with this **Section 22.02** within ten (10) days after Bank sends a written demand for arbitration, Bank shall be entitled (but not obligated) to initiate litigation concerning the dispute or controversy.

#### Section 23. ADDENDUM.

Provided that the applicable box(es) is checked on the Application, the following Addenda are made a part of this Agreement. The applicability of these Addenda depends upon the Merchant's business, and the Card Program services requested by Merchant. In its sole and absolute discretion, Bank may accept or reject Merchant's request for services provided in the Addenda.

1. **CARD NOT PRESENT (CNP) ADDENDUM**
2. **SPECIAL SERVICES ADDENDUM**

##### —Travel and Entertainment Services:

- Advance Payment Service
- Reservation Service
- T&E Advance Deposit Service
- Priority Check-Out Service
- T&E Cash Disbursement Service

##### —Other Special Services:

- Account Funding Transaction
- CPS/Small Ticket
- Dynamic Currency Conversion Transactions
- Express Payment Service (EPS)
- Preauthorized Health Care
- Supermarket Incentive Program
- Telephone Service Transactions
- Visa Cash Back Service
- VisaNet Copy Request and Fulfillment Service

Merchant understands and agrees that any attached Addendum is considered a part of the Agreement and Merchant will comply with the terms therein. In the event of conflict between the provisions of this Agreement and the provisions of an Addendum, the provisions of the Addendum will control.

**Section 24. FINAL AGREEMENT; EFFECTIVE DATE.**

This Agreement is the complete and final agreement between Merchant and Bank for the Card Program services covered by this Agreement and supersedes all prior or contemporaneous negotiations, stipulations or agreements. If any provision of this Agreement is invalid or unenforceable, the other provisions remain effective. This Agreement becomes effective when the Application is signed and approved by Bank.

**Section 25. CONTINUING GUARANTY.**

**25.01** As a primary inducement to Bank to enter into this Agreement, and to approve the Application of Merchant, the Guarantor(s), individually and severally, who signed on the Guarantor signature line(s) on the Application, agree to be bound by all terms and provisions of this Agreement to the same extent and in the same manner as Merchant, and unconditionally and irrevocably, personally guarantee the continuing full and faithful performance and payment by Merchant of each and all of Merchant's duties and obligations to Bank under this Agreement or any other agreement currently in effect or in the future entered into between Merchant or its Principals and Bank, as such agreements now exist or are amended from time to time, with or without notice to Guarantor(s).

**25.02** Merchant and Guarantor(s) further agree to be bound by the terms and provisions of any Merchant Card Processing Agreement between Bank and any Merchant Affiliate (as that term is defined in this Agreement), regardless of whether such agreement currently exists or is executed, amended or supplement at some future date. Merchant and Guarantor(s) unconditionally and irrevocably guarantee the full payment and performance of each and all duties and obligations owed to Bank by Merchant Affiliate pursuant to any Merchant Card Processing Agreement. The provisions of **Section 25.03** apply to the guarantee by Merchant and Guarantor(s) of the Merchant Affiliate's obligations to Bank under any Merchant Card Processing Agreement.

**25.03** Guarantor(s) understands that Bank, without notice to Guarantor(s), may from time to time renew or extend the Agreement, modify rates, limits, charges and fees, or modify the amount or type of services provided to Merchant all of which may increase the Guarantor's obligations under this Guaranty. Guarantor(s) further understands that Bank may proceed directly against Guarantor(s) without first exhausting Bank's remedies against the Merchant, any other person or entity responsible to Bank or any security held by Bank. This Guaranty is a continuing guaranty and will not be discharged or affected by the release or discharge of Merchant or the death of the Guarantor(s). This Guaranty will bind all heirs, administrators, and representatives of the Guarantor(s) and may be enforced by or for the benefit of any successor of Bank. To the fullest extent permissible under applicable law, Guarantor(s) waives any and all rights of subrogation, reimbursement or indemnity derived from Merchant, all other

rights and defenses available to Merchant, and all other rights and defenses available to Guarantor(s).

DOCS/661066.3  
4/18/05 9:16 AM

## CARD NOT PRESENT ADDENDUM TO MERCHANT CARD PROCESSING AGREEMENT

This CARD NOT PRESENT ADDENDUM (the "Addendum") is made a part of the terms and conditions of the Merchant Card Processing Agreement (the "Agreement") and the Application for processing services signed by Merchant (the "Application"). Under **Section 23** of the Agreement, Merchant has agreed to comply with all terms and conditions of the Addendum. As provided for in **Section 3.03.S.** of the Agreement, the following terms and conditions describe the procedures for CNP transactions. All capitalized terms used in this Addendum and not otherwise defined herein shall have the meanings assigned to them in the Agreement or Application.

### 1. Additional Definitions.

**1.01** 3-D Secure - A Visa-approved authentication method that is the global authentication standard for Electronic Commerce Transactions.

**1.02** Authentication Request - A request for Cardholder authentication from a Merchant utilizing 3-D Secure to a Card Issuer.

**1.03** Deferred Payment Transaction - A CNP Transaction for which the Cardholder is billed once no more than 90 days after the first shipment of merchandise.

**1.04** Electronic Commerce Transaction - A Card Transaction conducted over the Internet or other network.

**1.05** Order Form - A document bearing the Cardholder's signature, either written or electronic, authorizing goods or services to be charged to his or her account. An Order Form may be: (a) a mail order form, (b) a Recurring Transaction form, (c) a Preauthorized Health Care Transaction form, or (d) an e-mail or other electronic record that meets the requirements of applicable law.

**1.06** Permanent Establishment - A fixed place of business through which an Electronic Commerce or Mail Order/Phone Order Merchant conducts its business, regardless of its Web site or server locations.

### 2. Acceptance of Card Not Present (CNP) Charge Transactions.

A. Merchant may accept Card Not Present (CNP) transactions and related Charges ("CNP Transactions") based upon the description of Merchant's business ("Business") on the Application and as authorized by the Bank. Bank reserves the right to terminate CNP Transactions in the event that there is any material change in the Business, including any material change in the customers, products, management or employees of the Business.

B. Merchant agrees that, except as expressly permitted by the Operating Rules, no CNP Transactions shall be submitted for processing prior to shipping of the product purchased and/or the implementation of the service offered.

C. Merchant understands and agrees that CNP Transactions:

1. do not require the Cardholder's signature on the Charge, sales draft or sales slip (with the exception of Order Forms authorizing a Recurring Transaction);
2. require the Merchant to obtain the valid Expiration Date for each Card used for a CNP Transaction; and
3. require the Expiration Date of the Card be submitted as part of the Authorization process.

D. *It is understood that Authorizations for CNP Transactions are subject to Chargeback and such Authorizations do not guarantee the validity or collectability of the Card Transaction.* Merchant agrees to take reasonable additional steps to verify the identity of the authorized Cardholder on these types of transactions, especially when merchandise is shipped to a third party. Merchant acknowledges and agrees that the receipt of an Authorization Code indicating approval does not guarantee Merchant against Chargebacks. Merchant is encouraged to use fraud reduction systems offered by the Card Associations, such as AVS and CVV2/CVC2 in CNP Transactions.

E. Generally, in order to satisfy a retrieval request for CNP Transactions, the following transaction receipt information must be provided by Merchant: (1) the Cardholder Account number, (2) the Card expiration date, (3) the Cardholder name, (4) the transaction date, (5) the Transaction amount, (6) the Authorization Code, (7) Merchant's Name, (8) Merchant's location, (9) a description of the goods or services, (10) the "ship to" address, and (11) the AVS response code (if AVS was used).

**3. Processing Restrictions.** If at any time the volume of CNP Transactions, substantially exceeds the projected annual volume stated on the Application, or if at any time Bank suspects fraud, money laundering or violations of the Operating Rules, Bank may, in its sole and absolute discretion and in addition to other remedies that the Bank may have:

1. refuse to process the excessive or suspect CNP Transactions;
2. process the CNP Transactions and retain the funds received from processing until such time as the excess or suspect Charges are found to be valid or invalid and processed in accordance with the Operating Rules;
3. suspend the CNP Transactions and/or terminate the Agreement; or
4. amend the Agreement to protect the interests of Bank.

#### 4. Electronic Commerce Transactions.

A. If Bank authorizes Merchant to accept Electronic Commerce Transactions, Merchant agrees to comply with all the provisions of the Operating Rules pertaining to Electronic Commerce Transactions.

B. Merchant shall at all times maintain a secure site for the transmission of data relating to the processing of Electronic Commerce Transactions. Merchant shall be responsible for ensuring, obtaining and maintaining site security, for the encryption of all data, and for any and all storage of data both in electronic and physical form.

C. Each Electronic Commerce Transaction must be identified as such when submitted by Merchant by using the appropriate Electronic Commerce Transaction indicator values specified by the Card Associations.

D. Merchant may not submit a request for Authorization for an Electronic Commerce Transaction that has failed a 3-D Secure authentication request.

E. Merchant shall display on Merchant's web site in a prominent manner: (1) the address of the Merchant's Permanent Establishment, including Merchant's country of domicile, located on the same screen view as the checkout screen used to present the total purchase amount, or within the sequence of web pages the Cardholder accesses during the checkout process; (2) a complete and accurate description of the goods or services offered; (3) Merchant's merchandise return and refund policy clearly displayed on either the checkout screen, or on a separate screen that allows the purchaser to click an acceptance button; (4) Merchant's consumer data privacy policy and the method of transaction security used to secure cardholder account data during the ordering and payment process; (5) a customer service contact, including electronic mail address or telephone number; (6) transaction currency; (7) export restrictions (if known); (8) Merchant's delivery/fulfillment policy.

F. Merchant shall provide Cardholders a secure transaction method, such as Secure Socket Layer or 3-D Secure.

G. Each web site operated by Merchant must display the marks of the Card Associations for the Card types which are accepted by the Merchant, as specified in the Operating Rules.

H. Merchant cannot refuse to complete an Electronic Commerce Transaction using a MasterCard-branded Card solely because the Cardholder does not have a digital certificate or other secured protocol.

I. Merchant agrees to include, in addition to the other data required under the Operating Rules, the following data on a transaction receipt completed for an Electronic Commerce Transaction:

1. Merchant's name most recognizable to the cardholder, such as: Merchant "doing business as" name or Merchant's "universal resource locator" (URL).

2. Customer service contact information including telephone country code and area code. If Merchant delivers goods or services internationally, Merchant must list both local and internationally accessible telephone numbers.

3. Terms and conditions of sale, if restricted.

4. The exact date any free trial period ends, if offered.

5. Cancellation policies.

J. Merchant will provide a completed copy of the transaction record to the Cardholder at the time the purchased goods are delivered or services performed. Merchant may deliver the transaction receipt in either of the following formats: (1) electronic (e.g., e-mail or fax), or (2) paper (e.g., hand-written or terminal-generated). Merchant may not transmit the Cardholder Account number to the Cardholder over the Internet or on the transaction receipt.

#### 5. Installment Billing Transactions.

A. If Merchant is so permitted by Bank, Merchant may offer Cardholders involved in Electronic Commerce Transactions or mail order/telephone order transactions an Installment Billing Transaction option. If Merchant offers an Installment Billing Option, Merchant must: (1) disclose in writing the terms, including but not limited to, whether the installment terms are limited to certain goods that a Cardholder may purchase, (2) disclose in writing any shipping and handling charges and any applicable tax, (3) inform a Cardholder not billed in the transaction currency of the Merchant that each Installment Billing Transaction amount may vary due to currency conversion rate fluctuations, (4) ensure that the sum of the Installment Billing Transactions does not include any finance charge or exceed the total price for the goods, and (5) Authorize all Card Transactions (zero floor limit).

B. Merchant may not add finance charges to an Installment Billing Transaction.

C. Merchant may not deposit the first Installment Billing Transaction until the shipment date of the goods. Thereafter, Merchant must deposit subsequent Installment Billing Transaction receipts at either of the following interval: (1) 30 calendar days or more, or (2) the monthly anniversary of the shipment date.

**6. Deferred Payment Transaction.** Merchant may use the status check procedure for a Deferred Payment Transaction to serve only as account verification at the time the Cardholder places the order. Merchant must (1) request Authorization for a Deferred Payment Transaction on the date the Cardholder is billed, which must be no later than 90 days from the initial shipment date, and (2) include disclosure of the deferred payment process, including the exact date of billing, with the initial shipment to the Cardholder. The billing date is considered to be the Transaction Date.

**7. Delegation Of Duties.** Card Program duties may, from time to time, be delegated to and among the Processor's business units without giving notice to Merchant, provided, however, Bank will remain responsible for any obligation owed by Bank under the Agreement.

**8. Suspension and Termination.** Should Merchant, at any time, fail to agree or comply with this Addendum, Bank shall have the right to immediately and without prior notice suspend and/or terminate CNP Transactions and/or the Agreement.

DOCS/661081.2  
4/18/05 9:27 AM

## **SPECIAL SERVICES ADDENDUM TO MERCHANT CARD PROCESSING AGREEMENT**

This SPECIAL SERVICES ADDENDUM (the "Addendum") is made a part of the terms and conditions of the Merchant Card Processing Agreement (the "Agreement") and the Application for processing services that Merchant signed (the "Application"). Under **Section 23** of the Agreement, Merchant has agreed to comply with all terms and conditions of the Addendum. This Addendum describes additional requirements that Merchant is to follow for the following special card processing services:

### **Travel and Entertainment Services**

- A. Advance Payment Service
- B. Reservation Service
- C. T&E Advance Deposit Service
- D. Priority Check-Out Service
- E. T&E Cash Disbursement Service

### **Other Special Services.**

- A. Account Funding Transaction
- B. CPS/Small Ticket
- C. Dynamic Currency Conversion Transactions
- D. Express Payment Service (EPS)
- E. Preauthorized Health Care
- F. Supermarket Incentive Program
- G. Telephone Service Transactions
- H. Visa Cash Back Service
- I. VisaNet Copy Request and Fulfillment Service

All capitalized terms used in this Addendum and not otherwise defined herein shall have the meanings assigned to them in the Agreement or Application.

### **1. Definitions.**

**1.01** Account Funding Transaction - Use of a Card to fund another account, such as a prepaid Card account.

**1.02** Advance Payment Service - A Visa service that allows a Cardholder to use his or her Card for a partial or complete advance payment for recreational services or activities provided by an Advance Payment Service Merchant.

**1.03** Advance Payment Service Merchant - A non-T&E Merchant participating in the Advance Payment Service, whose primary function is to provide recreational services to tourism and travel.

**1.04** Advance Payment Service Transaction - A Transaction completed by an Advance Payment Service Merchant.

**1.05** Car Rental Company - A merchant whose primary business is the rental of passenger vehicles.

**1.06** Central reservations Service - An entity that acts as a reservations resource for lodging establishments located in close proximity to each other.

**1.07** CPS/Small Ticket - A Visa-offered service designed to meet the special Card acceptance and operating procedures of certain Merchants involving small dollar transactions.

**1.08** Dynamic Currency Conversion - A conversion of currency in which goods or services are normally priced into a different currency, as agreed upon by the Cardholder and Merchant.

**1.09** Express Payment Service (EPS) - A Visa Point of Sale service that permits certain Express Service Payment Merchants (e.g., restaurants, fast food restaurants, motion picture theatres and automobile parking lots and garages) to process Card Transactions using special procedures as outlined in the Visa Operating Rules.

**1.10** Lodging Merchant - A merchant that sells overnight accommodations intended for a limited period of time.

**1.11** Peak Time - The period of time designated by a car rental company which may include: (1) legal holidays, including three day weekends, (2) resort rentals during seasons best suited for the resort's activities, and (3) special events which draw attendees from outside the local area.

**1.12** Priority Check-Out Service - A Visa service provided that allows a Cardholder to authorize the use of the Cardholder's Card for payment of the total obligation to the Lodging Merchant with or without prior knowledge of the total amount, by signing a completed Priority Check-Out Agreement.

**1.13** Priority Check-Out Agreement - A written agreement that, when bearing the Cardholder's signature, authorizes a Lodging Merchant participating in Visa's Priority Check-Out Service to deposit a Charge without the Cardholder's signature for the total amount of the Cardholder's obligation.

**1.14** Supermarket Incentive Program - A Visa program that permits certain supermarket merchants to qualify for reduced interchange reimbursement fees.

**1.15** T&E Advance Deposit Service - A Visa service that a Lodging Merchant or Car Rental Company provides to a Cardholder, allowing use of a Visa Card to pay in advance deposit required to reserve accommodations or a vehicle.

**1.16** T&E Cash Disbursement Service - A Visa service which permits a T&E Merchant to make cash disbursements to Cardholders producing certain Visa Cards.

**1.17 T&E Merchant** - A merchant whose primary function is the provision of travel related services.

**1.18 Telephone Service Transaction** - A Card Transaction in which a Cardholder uses a Visa Card to purchase a telephone call.

**1.19 Visa Cash Back Service** - A Visa service whereby cash is obtained from a qualified Merchant through the use of a Visa Check Card II in conjunction with, and processed as a PIN-based transaction.

**2. Advance Payment Service.** A Merchant participating in the Advance Payment Service must:

A. Accept all Cards for advance payment when the Cardholder agrees to the Advance Payment Service;

B. Determine the amount of the Advance Payment Service transaction. The transaction amount must not exceed the total price of the reserved services or activity.

C. Inform the Cardholder of the following: (1) total price of the services or activity, (2) advance payment amount, (3) advance payment confirmation code, and (4) cancellation terms. If a cancellation request is not received within the cancellation time specified by the Merchant, the Cardholder must forfeit the advance payment amount.

D. Obtain all of the following Cardholder information: (1) Cardholder's Account number, telephone number, and mailing address, (2) Card expiration date, and (3) the name embossed on the Card

E. Merchant must complete a Charge Record for the amount of the advance payment, including all of the following: (1) words "Advance Payment" on the signature line, (2) Cardholder Account number, telephone number, and mailing address, (3) Card expiration date, and (4) the name embossed on the Card

F. Merchant must follow normal Authorization procedures. Merchant must mail a written confirmation to the Cardholder, with: (1) a copy of the Charge Record and (2) Merchant's cancellation policy, including any applicable limitations relating to "bad weather" cancellations. For an advance payment made less than 72 hours prior to the scheduled commencement of services, a written confirmation is required only upon Cardholder request.

G. Merchant must: (1) accept all cancellation requests, provided that the request is made prior to the specified cancellation date and time, (2) provide a cancellation number and advise the Cardholder to retain it in case of a dispute, (3) complete a Credit Voucher for the amount of the advance payment with all of the following information: (a) words "Advance Payment" on the signature line, (b) Cardholder

Account number and mailing address, (c) Card expiration date, (d) the name embossed on the Card, and (e) the cancellation number. Merchant must mail the Credit Voucher to the address indicated by the Cardholder within 3 business days from the transaction date

**3. Reservation Service.** If Merchant provides lodging (hotel, motel, resort or inn) or car rentals only for "Specialized Vehicles" (e.g., a unique class of vehicle not in the Merchant's main rental fleet and not constituting more than five percent (5%) of Merchant's rental fleet), Merchant may use certain Card types specified by Bank to guarantee a reservation by obtaining the name of Cardholder, the Card account number and expiration date and by completing the following procedures:

A. Verbal Confirmation. Verbally confirm to the Cardholder the reservation by stating the following information:

1. Cardholder's name, the Card account number and expiration date as provided by the Cardholder;

2. name and exact address, including street, city and state of the location of the lodging check-in or Specialized Vehicle pick up;

3. reservation confirmation code (advising the Cardholder to retain it);

4. rate and any other details relating to the reservation; and,

5. provisions of the guaranteed reservation relating to the Cardholder's obligations and any other cancellation details related to the reservation as specified below.

B. For Lodging Merchants:

1. Inform the Cardholder that lodging accommodations will be held until check-out time on the day after the scheduled arrival date unless cancelled by 6:00 p.m. (local establishment time) on the scheduled arrival date.

2. For establishments requiring cancellation before 6:00 p.m. (local establishment time) on the scheduled arrival date, the cancellation time must not exceed 72 hours before the scheduled arrival date. If the cancellation is required before 6:00 p.m. on the guaranteed arrival date, the Cardholder must be provided with the specific written cancellation policy, including the date and time the cancellation privileges expire. If a reservation is made less than 72 hours before the scheduled arrival, the cancellation procedure of 6:00 p.m. (local establishment time) on the scheduled arrival date will apply.

C. For Car Rental Merchants:

1. Inform the Cardholder that the Specialized Vehicle will be held until the scheduled pick-up time, unless the reservation is cancelled by the specified cancellation time, which must not exceed 72 hours before the scheduled pick-up time.

2. If the reservation is made less than 72 hours before the scheduled rental, the cancellation period must be no earlier than 8 hours before the scheduled pick-up time.

3. If a Cardholder reserves a vehicle during Peak Time, the car rental company must inform the Cardholder that the reservation: (1) is within a Peak Time and explain the meaning of Peak Time, and (2) may be cancelled without penalty anytime up to 8 hours before the scheduled rental time.

D. Written Confirmation. Provide the Cardholder with the written confirmation specified below.

1. For Lodging Merchants. If requested, provide a written confirmation to the Cardholder, including the information specified in subsection (A) above.

2. For Car Rental Merchants. Provide a written confirmation to the Cardholder, including the information specified in subsection (A) above. For reservations made less than 72 hours before the scheduled pick-up time, written confirmation is required only upon the Cardholder request.

E. No Show Charges. Advise the Cardholder of the billing for a No Show Charge as specified below. (a “No Show Charge” is a charge by Merchant resulting from the Cardholder’s failure to use the reservation). The No Show Charge must have an Authorization Code and must bear the words “No Show” on the signature line of the Charge Record or as otherwise specified by Bank.

1. For Lodging Merchants. If the Cardholder has not checked in by check-out time the day following the scheduled arrival date, and if the reservation was not properly cancelled, the Cardholder may be charged for one night’s lodging (including tax).

2. For Car Rental Merchants.

(a) If the Merchant held the Specialized Vehicle and the vehicle has not been rented by the scheduled pickup time and the reservation was not properly cancelled, Merchant may bill the Cardholder a No Show Charge. The amount of the No Show Charge may vary, but may not exceed the value of 2 days’ rental (including tax). If the Cardholder Account is charged a No Show

Charge for a reserved Specialized Vehicle, Merchant must hold the Specialized Vehicle available for the Cardholder for the period of time represented by the No Show Charge.

(b) For a car rental during Peak Time, if the Cardholder has not rented the vehicle by the end of the guarantee period and the reservation was not properly cancelled, the Merchant may bill the Cardholder a No Show Charge in an amount not to exceed one day’s rental, plus the applicable tax.

F. Cancellation Procedures.

1. Accept a cancellation request from a Cardholder provided the cancellation request is made before the specified cancellation time. Provide the Cardholder with a cancellation code and advise the Cardholder to retain it in case of dispute. If requested, provide the Cardholder with written confirmation of the cancellation including the Card’s embossed name, account number, Card expiration date, the cancellation code and the details related to the cancelled reservation.

2. If a Cardholder is traveling to a car rental location by airline and the flight is cancelled or the airport is closed, the Cardholder may cancel a Peak Time reservation without penalty up to one hour before the scheduled rental time.

G. Scheduled Reservation Date Procedures.

1. If the reserved lodging accommodations or Specialized Vehicle has not been rented or cancelled by the specified cancellation time, the lodging accommodations or Specialized Vehicle must be held available in accordance with the reservation.

2. If the Cardholder does not cancel or claim the reservation within the prescribed time, Merchant may submit a No Show Charge (including tax) with the Cardholder’s name, Card account number and expiration date and the words “No Show” on the signature line of the Charge Record, or as otherwise specified by Bank.

3. Merchant must obtain an Authorization Code for the No Show Charge in accordance with the Authorization provisions in this Agreement.

H. Alternate Lodging or Specialized Vehicle. If the guaranteed lodging or Specialized Vehicle is not available, Merchant must provide alternate accommodations or an alternate Specialized Vehicle as specified below at no charge to the Cardholder.

1. For Lodging Merchants:

- (a) Provide the Cardholder with at least comparable lodging for one night at another establishment.
- (b) Provide transportation for the Cardholder to the other establishment.
- (c) If requested, provide the Cardholder with a 3-minute telephone call.
- (d) If requested, forward all messages and calls for the Cardholder to the alternate establishment.

2. For Car Rental Merchants:

- (a) Provide the Cardholder with at least a comparable Specialized Vehicle from another car rental merchant for the period of time guaranteed.
- (b) Provide transportation for the Cardholder to the location of the other car rental merchant.

**4. T&E Advance Deposit Service.**

A. Reservations.

1. Determine the amount of the T&E Advance Deposit (the "Deposit") by the Cardholder's intended length of stay. The amount must not exceed:

- (a) For Lodging Merchants, the cost for 14 nights' accommodation;
- (b) For a Car Rental Merchant, the cost of the intended term of rental, not to exceed 14 days' rental.

2. Apply the amount of the Deposit to the total obligation. Merchant may not process a "No Show" charge under the Reservation Service, in addition to the Deposit.

3. Inform the Cardholder of (a) the total obligation; (b) the reserved accommodation or car rental rate and the transaction amount; (c) for Lodging Merchants and Car Rental Merchants, the exact name and location of the Merchant; (d) the advance deposit requirements; (e) the cancellation requirements; (f) for Lodging the accommodations will be held for the number of nights used to determine the amount of the Deposit; and (g) for Car Rental Merchants, the vehicle will be held for the number of days used to determine the amount of the Deposit.

4. Obtain the Cardholder's name, Card Account number and expiration date, as well as the Cardholder's telephone number, mailing address, scheduled date of arrival,

embarkation or rental and, for Lodging Merchants, the intended length of stay and for Car Rental Merchants, the term of the rental.

5. Inform the Cardholder that if changes in the reservation are requested, written confirmation will be provided at the Cardholder's request.

6. Advise the Cardholder of the conditions for forfeiture of the amount of the Deposit as follows:

(a) For Lodging Merchants: If the Cardholder has not checked in by check-out time the day following the last night of accommodation used to determine the amount of the Deposit or if the reservation was not cancelled by the specified date and time, the Cardholder will forfeit the entire amount of the Deposit or the portion that is in accordance with Merchant's stated cancellation policy.

(b) For Car Rental Company: If the Cardholder has not rented the vehicle by the end of the last day of the rental period used to determine the amount of the transaction or if the reservation was not cancelled by the specified date and time, the Cardholder will forfeit the entire amount of the Deposit or the portion that is in accordance with Merchant's stated cancellation policy.

7. Quote the rate of the reserved accommodations, the amount of the Deposit and the exact Merchant's name and location. Provide the Cardholder with a confirmation number (advising that it must be retained) and with the date and time the cancellation privileges expire.

8. Complete a Charge for the amount of the Deposit using a form specified by Bank. The Charge must include:

- (a) the words "Advance Deposit" on the signature line or as otherwise specified by Bank;
- (b) the Cardholder's name, Card Account number and expiration date;
- (c) the Cardholder's telephone number and mailing address;
- (d) the confirmation code;
- (e) the scheduled check-in, vehicle rental, or embarkation date; and
- (f) the date and time the cancellation privileges expire without forfeiture of the Deposit.

9. Follow normal Authorization procedures for Charges. If the Authorization request is approved, mail the Cardholder a copy of the Charge and the cancellation

policy to the address provided by the Cardholder within 3 business days following the Charge date; and submit the Charge to Bank in accordance with this Agreement.

10. If the Authorization request results in a decline, advise the Cardholder and do not process the Charge.

#### B. Cancellations.

1. Accept a cancellation request from a Cardholder provided the cancellation request is made before the specified cancellation date and time.

2. Provide a cancellation number and advise the Cardholder to retain in case of a dispute.

3. For cancellation of a lodging or car rental reservation, complete a Credit Voucher for the entire amount of the Deposit. Include on the Credit Voucher:

(a) the words "Advance Deposit" on the signature line of the Charge Record or as otherwise specified by Bank;

(b) the Cardholder's name, Card Account number and expiration date;

(c) the Cardholder's mailing address; and,

(d) the cancellation code.

4. Mail the Cardholder a copy of the Credit Voucher to the address provided by the Cardholder within 3 business days following the Credit Voucher's transaction date.

#### C. Alternate Accommodations.

##### 1. For Lodging Merchants:

(a) If lodging guaranteed with Deposit is unavailable, complete and deliver to the Cardholder a Credit Voucher for the entire amount of the Deposit.

(b) Provide the following services at no charge to the Cardholder:

(i) At least comparable lodging at an alternate establishment for the number of nights used to determine the amount of the Deposit not to exceed 14 nights, or until the reserved accommodations are available for the Cardholder at the original location reserved with Merchant, whichever occurs first.

(ii) Transportation to the alternate establishment and return transportation to the original establishment. If requested, transportation to and

from the alternate establishment must be provided on a daily basis.

(iii) If requested, two 3-minute telephone calls.

(iv) If requested, forwarding of all messages and calls to the location of the alternate establishment.

##### 2. For Car Rentals:

(a) If the reserved vehicle is unavailable, complete and deliver to the Cardholder a Credit Voucher for the entire amount of the Deposit.

(b) Provide at least a comparable vehicle for the number of days specified in the reservation, not to exceed 14 days, or until the reserved vehicle becomes available, whichever occurs first.

D. Liabilities and Indemnification. Merchant indemnifies and holds harmless Bank and any Card Organization from any loss, damage, claim or suit (including reasonable attorney fees) arising from use of a Card for a Deposit.

E. Central Reservation Service. After application to and approval by Merchant Bank (which shall be in Merchant Bank's absolute discretion), and performance of a site inspection, Merchant may participate in the Central Reservation Service.

1. Any contract between Merchant and a lodging establishment for the Central Reservation Service must be executed by an officer or manager of the lodging establishment.

2. Only a Central Reservation Service that has registered with the Card Association for the particular Card type used and has a properly executed, written contract with a lodging establishment may perform services on behalf of the establishment. The Central Reservation Service may not use an agent to perform the services.

3. The Central Reservation Service must follow the procedures for reservations, cancellations, alternate accommodations and Chargebacks in the Agreement and in the Operating Rules and accept full responsibility for resolving any Cardholder problems related to the T&E Advance Deposit Service.

#### 5. Priority Check-Out Service

A. Any lodging merchant participating in the Central Reservation Service or T&E Advance Deposit Service may participate in the Priority Check-Out Service as follows:

1. Provide the Cardholder with a Priority Check-Out Agreement which must be on a form specified by Bank or

a form supplied by Merchant which provides for at least the following:

- (a) The Card account number;
- (b) Merchant name, location and telephone number,
- (c) The departure date of the Cardholder;
- (d) The Cardholder name and room number;
- (e) A statement authorizing Merchant to charge the Cardholder Account for the amount of the bill without the Cardholder's signature on the Charge;
- (f) The Cardholder's signature on the Priority Check-Out Agreement; and
- (g) A provision allowing the Cardholder to request from Merchant specific billing receipts, including the name and address where Merchant should mail the receipts.

2. Inform the Cardholder that the Priority Check-Out Agreement must be completed and signed, and the mailing address must be included to receive a copy of the hotel bill supporting the final Charge amount.

3. Obtain the completed Priority Check-Out Agreement and ensure the Card account number identified is identical to the account number used for the Charge.

4. Complete the Charge and record the total amount of the Cardholder's obligation and the words "Priority Check-Out" on the signature line of the Charge Record or as elsewhere designated by Bank.

5. Follow normal Authorization procedures for lodging Merchant transactions.

6. If requested by the Cardholder, mail the Cardholder a copy of the Charge, the itemized hotel bill, and signed Priority Check-Out Agreement to the address provided by the Cardholder on the Priority Check-Out within 3 business days following the Cardholder's departure.

B. Merchant must retain a copy of the itemized hotel bill and the signed Priority Check-Out Agreement supporting a Priority Check-Out Charge for a minimum of 6 months following the Charge date.

#### **6. T&E Cash Disbursement Service.**

A. A Lodging Merchant may make T&E Cash Disbursements to a registered Visa Signature or Visa Infinite Cardholder under the following conditions: (1) the Cardholder indicates at registration the intent to pay for the Merchant's services with a Visa Card, (2) before disbursement, the Lodging Merchant

reviews positive identification, as required by the Operating Rules and, if permitted under applicable law, records type and number on the Charge Record required under the Operating Rules.

B. A Lodging Merchant may not disburse more than \$250 during the Cardholder's stay.

C. A Lodging Merchant must not include any additional fees or charges, except taxes or charges imposed by law to the transaction amount.

#### **7. CPS/Small Ticket.**

A. Merchant may participate in the CPS/Small Ticket program if Merchant has registered for this services as required by the Operating Rules and Merchant is involved in the following businesses: (1) local commuter passenger transportation, (b) taxicabs and limousines, (3) restaurants, (4) fast food restaurants, (5) parking lots and garages, (6) motion picture theaters, or (7) video tape rental stores.

B. If the Charge is \$15 or under, the Merchant is not required to: (1) obtain the Cardholder signature or, (2) provide a Charge Record, unless the Cardholder requests one.

C. Merchant must obtain Authorization for a CPS/Small Ticket Transaction.

D. Merchant's POS terminal must read and transmit track 1 or 2 of the Magnetic Stripe or unaltered chip data, as specified in the Operating Regulations.

E. CPS/Small Ticket transactions are not permitted in a Card Not Present transaction.

#### **8. Dynamic Currency Conversion Transactions.**

A. Before Merchant may offer Cardholders a Dynamic Currency Conversion Transaction, Merchant must fully inform the Cardholder that (1) a Dynamic Currency Conversion Transaction is optional, and (2) the Cardholder need not do anything additional to have the transaction processed in the local currency. A Cardholder must expressly agree to a Dynamic Currency Conversion Transaction. Merchant is prohibited from using any customer service procedure that results in a Cardholder choosing a Dynamic Currency Conversion Transaction by default.

#### **B. CNP Transactions.**

1. Before initiating a Dynamic Currency Conversion Transaction in a CNP Transaction, Merchant must disclose the following information to the Cardholder: (1) the price of the goods or services in the Merchant's local currency, (2) the exchange rate, including any commission; (3) that the Cardholder has a choice of currencies, including the

Merchant's local currency; and (4) that the choice of currency is final. For an Electronic Commerce Transaction, the Cardholder must confirm receipt of the above information by clicking on an "accept" or other affirmative button to ensure proper disclosure.

2. In addition to the Charge Record requirements specified for CNP Transactions, a Charge Record for a Dynamic Currency Conversion Transaction must include the following information: (a) the price of the goods or services in the Merchant's local currency accompanied by the currency symbol next to the amount, (b) the total price in the Transaction Currency accompanied by the words "Transaction Currency" and the currency symbol next to the amount, (c) a statement in an area easily seen by the Cardholder that: (i) the Cardholder was offered a choice of payment in the Merchant's local currency, and (ii) the choice of currency is final.

C. T&E Express Services. A Car Rental Merchant or Lodging Merchant that offers T&E Express Services may establish an agreement with a Cardholder, in advance of hotel check-out or car rental return, that the currency conversion rate will be determined by the Merchant at a later time, without further consulting the Cardholder.

1. For a T&E Express Service Transaction, the Merchant must document the terms of the Dynamic Currency Conversion in a written agreement. The agreement must be signed by the Cardholder in advance of a hotel check-out or car rental return. The written agreement must document: (a) the specific currency in which the conversion will take place, (b) that the Cardholder has been offered a choice of currencies, including the Merchant's local currency, (c) that the Cardholder understands that a Dynamic Currency Conversion Transaction will take place, (d) that the currency choice is final, and (e) that the currency conversion rate will be determined at a later time without further Cardholder consultation

2. In addition to the otherwise applicable Charge Record requirements, a Charge Record for a Dynamic Currency Conversion Transaction must include the following information: (a) the price of the goods or services in the Merchant's local currency accompanied by the currency symbol next to the amount, (b) the total price in the Transaction Currency accompanied by the words "Transaction Currency" and the currency symbol next to the amount, (c) the exchange rate, including any commission, (d) a statement in an area easily seen by the Cardholder that: (i) the Cardholder was offered a choice of currencies, including payment in the Merchant's local currency, and (ii) the choice of currency is final.

3. For a T&E Express Service Transaction, a Merchant must: (a) send the Cardholder a copy of the Charge Record through the postal service within three business days of completing the Transaction and (b) process any delayed or

amended charges at the same currency conversion rate as the original Dynamic Currency Conversion Transaction.

D. Face-to-Face Transactions.

1. Before initiating a Dynamic Currency Conversion Transaction in a face-to-face transaction (other than a T&E Express Service Transaction), Merchant must post a statement in an area easily seen by the Cardholder that: (a) the Cardholder was offered a choice of payment in the Merchant's local currency, and (b) the choice of currency is final.

2. In addition to the otherwise applicable Charge Record requirements, a Charge Record for a Face-to-Face Dynamic Currency Conversion Transaction must include the following information: (a) the price of the goods or services in the Merchant's local currency accompanied by the currency symbol next to the amount, (b) the total price in the Transaction Currency accompanied by the words "Transaction Currency" and the currency symbol next to the amount, and (c) the exchange rate, including any commission.

**9. Express Payment Service (EPS).**

A. If Merchant's business is a fast-food restaurant, movie theater or parking lot business and has a location that submits EPS Charges that are at least fifty percent (50%) of Merchant's total monthly Charges, that Merchant location may participate in the Express Payment Service (EPS) subject to the following requirements:

1. Merchant must process all Charges using a Magnetic-Stripe-Reading Terminal capable of reading track 1 or track 2 of the magnetic stripe on a Card, or the chip data on a chip-based card, and at which an attempt to read the magnetic stripe or chip of the Card was made. The terminal must meet the following requirements and any other requirements specified by Bank:

(a) Perform data capture of the Card Account number, Charge date and Charge amount; and

(b) Validate the service code (a 3-digit number encoded on the magnetic stripe which identifies how the encoded bank identification number is valid for use), the Card Account number and expiration date.

2. The limit for each EPS Charge is \$25, except for an airport parking lot business, which limit for each EPS Charge is \$75.

3. For each EPS Charge that is \$25 or less, Merchant is not required to obtain the Cardholder signature on a Charge Record, nor is Merchant required to provide a Charge Record to the Cardholder, unless the Cardholder requests one. For an airport parking lot business, Merchant is not required to obtain the Cardholder

signature on a Charge Record if the Charge does not exceed \$150, and Merchant is required to provide a Charge Record to the Cardholder if the Charge exceeds \$25.

4. Unless specified below, each Charge which exceeds \$25, or in the case of airport parking lots exceeds \$75, does not meet the EPS time limit, or does not satisfy the EPS data requirements will not be considered an EPS Charge and will be subject to all requirements specified for normal Card Transactions described elsewhere in the Agreement.

5. Each EPS Charge must be identified and processed in accordance with all requirements specified in the Operating Rules.

6. Each Charge exceeding \$25, or in the case of airport parking lots exceeding \$75 which meets the additional custom payment services requirements specified in the Operating Rules may qualify for a fee discount provided it is processed in accordance with the requirements specified in the Operating Rules.

7. Merchant must display at least one sign at each of Merchant's EPS locations advising Cardholder that a Charge Record is available upon request. Each sign must be placed in a prominent location and must be clearly visible to Cardholders as they affect a Charge.

8. Merchant must allow locations to be monitored for excessive levels of risk or suspect risk patterns and must take corrective action as directed. This may include installation of special systems, special identification of all Charges processed or discontinuation of EPS.

9. Merchant must submit EPS Charges to Bank within three (3) days of the date the transaction is completed..

B. A Charge cannot qualify for the EPS rates if it is captured by an electronic point-of-sale terminal owned or controlled by an entity that directly or indirectly discriminates against certain Card types in favor of others in availability of pricing or services, or if a Card Association determines that the entity is engaged in conduct which unfairly prevents or impedes a Card Association or its members from competing with the entity.

#### **10. Preauthorized Health Care Transactions.**

A. If Merchant is primarily engaged in providing health services other than a pharmacy and agrees to accept a Preauthorized Health Care Charge from a Cardholder for the purchase of services, Merchant may complete a Preauthorized Health Care transaction if the Cardholder delivers to Merchant an order form containing a written request signed by the

Cardholder for services to be charged to the Cardholder Account. The order form must specify:

1. The assignment of insurance benefits by the Cardholder to Merchant;
2. The Cardholder's authorization for Merchant to charge the Cardholder Account for only that portion of the bill due subsequent to receipt of any applicable insurance payment by Merchant; and
3. The duration of time for which the Cardholder's permission is granted, which may not exceed one year. If a Preauthorized Health Care transaction is renewed, the Cardholder must deliver to Merchant a subsequent order form for continuation of services to be charge to the Cardholder Account.

B. Merchant must retain a microfilm copy of the order form for the duration of the period for which it is in effect and must be provided in response to a Card Issuer's request.

C. Merchant must not complete a Preauthorized Health Care transaction after receiving a cancellation notice from the Cardholder or Bank or a notice not to honor the Card.

D. Merchant must type or print legibly "Preauthorized Health Care" on the signature line of the Charge Record or as otherwise specified by Bank.

E. When Merchant receives notice of determination of health insurance benefits from the Cardholder's insurance company, Merchant must, within 90 days of the service date, complete a Charge and request Authorization for the amount of the Cardholder's portion of the bill and submit the Charge to Bank.

#### **11. Supermarket Incentive Program.**

A. A Merchant location may participate in the Supermarket Incentive Program, provided Merchant meets the following criteria:

1. Merchant is a retail store primarily engaged in selling food for home preparation and consumption.
2. Merchant offers a complete line of food, including self-service groceries, meat, produce and dairy products.
3. Merchant's monthly sales of perishables represent at least forty-five percent (45%) of Merchant's total monthly sales. Perishables are packaged, in-store bakery goods, dairy products, delicatessen products, floral items, frozen foods, meat and produce.

4. Merchant must accept Cards at all check-out lanes that accept checks and for the purchase of all goods and services sold within the stores.

B. To qualify for the Supermarket Incentive Program, each Charge must be processed in accordance with the special requirements specified below and in the Operating Rules.

1. Each Charge must be authorized through the special requirements in the Operating Rules.

2. An Authorization request for a Supermarket Incentive Program Charge must originate at a point-of-transaction terminal capable of reading and transmitting either track 1 or track 2 of the magnetic stripe of the Card used and at which an attempt to read the magnetic stripe of the Card was made. Data fields on the track selected must be read and transmitted in accordance with the Operating Rules.

3. Each Authorization request must include the special POS entry codes specified in the Operating Rules.

4. In addition, an Authorization request for a Supermarket Incentive Program Charge must meet each of the following Authorization requirements:

(a) Authorization must originate at an attended point-of-transaction terminal capable of reading either track 1 or track 2 of the magnetic stripe of a Card. Where the Card must be present, the Cardholder's signature must be obtained, and the full unaltered contents of either track 1 or track 2 of the magnetic stripe must be read and transmitted.

(b) At least one, but not more than one, Authorization Code must be obtained for each Charge on the Charge date.

(c) Authorization must not be obtained through: V.I.P. System emergency authorization procedures; "Code 10" authorization procedures; or "Referral" authorization procedures.

(d) The Charge amount transmitted in the Authorization request and in the Charge must be in U.S. Dollars.

(e) The Authorization request and Charge must provide any special information specified by Bank or the Operating Rules.

5. Special Processing Requirements

(a) Chargebacks, subsequent Charges, Credit Vouchers and reversals of Supermarket Incentive Program Charges must be submitted at the Supermarket Incentive Program Interchange Reimbursement Fee and in accordance with the Operating Rules.

(b) Merchant must submit a Supermarket Incentive Program Charge to Bank on the Charge date.

C. Performance Criteria. A Charge cannot qualify for the Supermarket Incentive Program fee if it is captured by an electronic point-of-sale terminal owned or controlled by an entity that directly or indirectly discriminates against certain Card types in favor of others in availability, or if a Card Organization determines that the entity is engaged in a course of conduct which unfairly prevents or impedes its members from competing with the entity.

**12. Telephone Service Transactions.** A telephone service Merchant must not accept payment for a telephone call when the Card number is: (1) entered via touchtone key pad, or (2) provided to an operator. This prohibition excludes the following: (a) Magnetic Stripe telephone transactions as defined in the Operating Rules; (b) transactions for which the Card Issuer has a contract with the carrier; (c) transactions involving telephone services that have been explicitly approved by Visa and provide appropriate risk controls; and (d) telephone orders for goods and services.

**13. Visa Cash Back Services.**

A. A qualified Merchant under the Operating Rules may offer Visa Check Card II Cardholders the Visa Cash Back Services option under the following conditions: (1) the service is offered as a part of a purchase transaction, (2) the transaction is processed using a POS terminal with a PIN pad, (3) the PIN is used for Cardholder identification purposes, and (4) the transaction is processed in accordance with the Operating Rules.

B. A qualified Merchant may establish its own maximum cash back amount up to and including \$200. The cash back amount must not exceed \$200. The amount of cash back must be less than the total transaction amount.

**14. Account Funding Transaction.**

An Account Funding Transaction must be processed as a purchase transaction and include the appropriate electronic commerce and account funding transaction indicators as required by the Operating Rules.

**15. VisaNet Copy Request and Fulfillment Services.**

A. Prior to participating in this service, Merchant must execute and deliver to Visa a VisaNet Letter of Agreement. Merchant will not have any property or other right, claim, or interest, including any patent right, trade secret right, or copyright interest, in the V.I.P. System, BASE II, or in any systems, processes, equipment, software, data, or materials that Visa U.S.A. or its subsidiaries use with the V.I.P. System,

BASE II, or in connection with a Visa program, except for Merchant-supplied data or equipment.

B. The V.I.P. System and Base II consist of confidential and proprietary information belonging to Visa. Merchant must take appropriate action, by agreement or otherwise, to ensure that its employees or agents with access to the V.I.P. System or BASE II or related documentation: (1) are advised of the confidential and proprietary nature of these systems and documentation; (2) are prohibited from: (a) providing access to or disclosing these systems and documentation to any third party and (b) using these systems and documentation for any purpose not authorized in the Operating Regulations; and (c) use their best efforts to protect the VisaNet Access Points. Merchant must not disclose any confidential information of Visa International, Visa U.S.A., or their subsidiaries to a nonmember.

C. Merchant's right to use the V.I.P. System or BASE II is not assignable and its duties are non-delegable without prior written consent from Visa.

D. Merchant must restrict its use of the V.I.P. System or BASE II to purposes specifically approved by Visa.

E. Merchant must not make or attempt to make any repair, adjustment, alteration, or modification to a VisaNet Access Point, except as expressly authorized by Visa.

F. Merchant must provide the same level of security for its VisaNet Access Points that it provides to its other proprietary systems.

G. Merchant must not modify or enhance Visa-owned software without the prior written consent of Visa U.S.A.

H. Merchant must provide, without cost to Visa, reasonable support requested by Visa for installing the V.I.P. System or BASE II, including: (1) providing a location that meets the requirements of Visa for installing one or more VisaNet Access Point on Merchant's premises; (2) providing a sufficient number of qualified personnel that the Merchant will train to meet Visa specifications; (3) maintaining V.I.P. System and Base II records, documents, and logs required by Visa and providing them at the request of Visa; (4) providing access to its premises and cooperating with Visa and its authorized agents in conjunction with the installation, service, repair, or inspection of the VisaNet Access Points; (5) notifying Visa promptly of any failure of a VisaNet Access Point to operate properly on its premises or the premises of its Agent or independent contractor; and (6) providing computer time and a sufficient number of qualified personnel required to ensure prompt and efficient installation and use of the V.I.P. System or BASE II Edit Package software supplied by Visa.

## CARD ACCEPTANCE GUIDE

Welcome to the card processing program of TransFirst. This Card Acceptance Guide (the “Guide”) is intended to assist you in the processing of bankcard transactions. The Guide contains procedures under which we will accept credit and debit card transactions.

The Guide is part of the Merchant Card Processing Agreement (the “Agreement”) between you as the Merchant (the “Merchant”) and the Processor and Merchant Bank identified on the Application for processing services that you signed (the “Application”). You must follow the procedures in the Guide to comply with the Agreement. These procedures are designed to assist you in submitting Card transactions for payment and to help you decrease your chargeback liability.

The procedures contained in the Guide primarily focus on the MasterCard and Visa Card Associations’ Operating Rules. In the event that we provide authorization and settlement of transactions with other Cards, such as American Express, Discover, etc, you should consult those Card Associations Operating Rules.

All capitalized terms used in the Guide and not otherwise defined herein shall have the meanings assigned to them in the Agreement or Application.

### BANKCARDS

The term “*bankcard*” refers to a MasterCard or Visa Card. Visa U.S.A., Inc. and MasterCard International Incorporated are associations of banks that electronically exchange Charges and Chargebacks for credits and debits. The Charges are electronically transferred from banks that acquire them from the merchant through the applicable Card Association to the bank that issued the card to the Cardholder (the “Card Issuer”). Bankcards received their name since they are generally issued by banks.

Bankcards include both credit cards and debit Cards. In general, a credit card accesses a credit account, while a debit card accesses funds in a deposit or asset account.

### CARD ACCEPTANCE

#### *Which Cards can Merchant accept*

Under the terms of the Agreement and at the time you sign the Application, you can choose to accept:

- Debit Cards, only

Debit Cards are Cards issued by U.S. Card Issuers that when presented for payment, access, debit, hold or settle funds from a consumer’s demand deposit or asset account. Debit Cards include consumer signature debit programs, stored value programs, prepaid Cards, payroll Cards, electronic benefit transfer Cards and deferred debit Cards that access, debit, hold or settle funds from the user’s demand deposit or asset account less than fourteen (14) days after the date of purchase. Examples of these Cards are Visa Check Card and MasterMoney debit Card.

- Credit and Business Cards, only

Credit and Business Cards that are adopted by Visa or MasterCard for use in connection with their consumer credit and charge Card Programs, any Visa-branded or MasterCard-branded business, corporate or commercial Card (includes business, corporate and public sector credit, charge or debit Cards), and any other Visa-branded or MasterCard-branded Card that is not defined as Debit Cards. Examples of these Cards include the Classic/Standard, Gold and Platinum Visa or MasterCard credit Cards, and MasterCard/Visa Business Debit, Credit and Charge Cards

- Debit Cards and Credit and Business Cards

You may choose to accept all credit and debit Cards issued by Visa and MasterCard.

Once you select the Card type(s), you must honor all Valid Cards of the Card type(s) presented to you for payment. For example, if you accepted Debit Cards, you must accept all Debit Card products.

Regardless of which category of Cards you select, you must accept any Valid MasterCard or Visa Card issued by non-USA financial institutions.

### GENERAL CARD ACCEPTANCE GUIDELINES

#### *Verification of Validity of Card*

The first step in safely accepting a Card is to verify that the Card is valid. You should examine every Card presented to verify that it has valid MasterCard or Visa card features.

## VISA

- Card Account Number – Starts with the number 4. The first four digits match the BIN. Embossing extends into the hologram.
- Bank Identification Number (BIN) is printed under the embossed account number. Matches the first four digits of the account number.
- Signature Panel – “Visa” is repeated on the back of the Card. Account number and three-digit Card Verification Value (CVV2) are indent-printed on panel in reverse italic type.
- Hologram – Depicts a dove in flight. Should reflect light and change as Merchant rotates the card.
- Visa Logo – Features taller letters and brighter gold and blue colors. Microprinting borders the logo.
- Security Character – Is embossed to the right of the valid dates. Product Symbol (“B” “C” or “P”) is embossed to the left of security character on some Cards.

## MASTERCARD

- Card Account Number – Starts with the number 5. Embossing extends into the hologram.
- Signature Panel – “MasterCard” is repeated on the back of the Card. Account number and three-digit Card Validation Code 2 (CVC2) are indent-printed on panel in reverse italic type.
- Hologram – Depicts three-dimensional globes. “MasterCard” is printed repeatedly in background. Should reflect light and change as Merchant rotates the card.
- MasterCard Logo – Now features larger letters, black outlines behind white letters, and fewer lines joining circles.
- Security Character – Is embossed to the right of the valid dates.

## *Expiration date*

You must verify the effective date (valid from) and expiration date (valid to). Do not accept a Card before the effective date and after the expiration date. Otherwise, you may be subject to Chargebacks

## *Signature on Card*

Compare the signature on the Card to the signature on the sales slip. The signature on the sales slip must compare favorably to the signature on the back of the Card. If the signature panel on the Card is blank, in addition to requesting an Authorization, you must do all of the following:

- Review positive identification to determine that the customer is the Cardholder. The identification must consist of a current, official government identification document (such as a passport or driver license) that bears the Cardholder’s signature;
- Write the positive identification (including any serial number and expiration date) on the Charge Record; and
- Ask the Cardholder to sign the Card before completing the transaction, and compare with the signature(s) on the Charge Record and/or ID. If the Cardholder refuses to sign the Card, do not accept the Card; refer the Cardholder to the Card Issuer if he or she has questions.

## SUSPECT TRANSACTIONS

### *How to Identify a Fraudulent Card*

In addition to checking for above described Valid Card features, always inspect the Card for the following:

- Overall Appearance- Check for discoloration or uneven card surfaces.
- Embossing - Card account number, valid dates, Cardholder name and security character should appear consistent in size and spacing and should not look “ghosted” (new characters re-embossed over originals).

- Valid Dates or Expiration Dates – Make sure the Card is not expired or being used before it's valid.
- Signature Panel – Should not show evidence of tampering. The panel should be signed and the signature should match Cardholder's signature on the Charge Record.

#### *Other Signs of Fraud*

One of the most common types of Card fraud is unauthorized use of a lost or stolen card. Even if the Cardholder has not yet reported the Card missing, you can often prevent a fraudulent sale if you are alert to unusual Cardholder behavior. Consider calling your telephone authorization number for a Code 10 (see procedure below) if Cardholder:

- Makes a purchase without regard to size, color, style, or price.
- Makes several individual purchases that approach, but do not exceed your floor limit on Card transactions.
- Rushes, stalls, or attempts to distract you as customer completes the transaction.
- States that the Card's magnetic stripe is damaged or worn and/or claims the Card information must be manually entered on your electronic terminal.
- Purchases a large item (e.g., a refrigerator) and insists on taking it immediately rather than have it delivered – even when delivery is included in the price.
- Pulls the Card from a pocket rather than a wallet.
- Signs the Charge Record in a deliberate or unnatural manner.
- Appears too young to be making purchases with a Card.
- Buys clothing without trying it on – or declines alterations even if they are included in the price.
- Charges expensive items on a newly Valid Card.

- Cannot or will not present a photo ID – or provides a temporary ID with no photo.

Any of these circumstances can occur in a legitimate transaction. Use your best judgment and call for a Code 10 if you are unsure.

#### *Code 10 Procedures*

If you believe a Card presented to it is a counterfeit or altered Card, or you suspect fraud, call your \* number for a Code 10 operator. An Authorization procedure called "Code 10" is available if you are suspicious of a transaction or have reasonable grounds to believe that the Card is fraudulent, counterfeit or stolen or the Cardholder is not authorized. If any of the foregoing circumstances exist:

- Call the voice Authorization center and identify your request as "Code 10" Authorization while you continue to hold the Card in your hand.
- An operator will lead you through a series of questions with "yes" or "no" answers that are specifically designed to help avoid any discomfort for you or for the Cardholder.
- If Authorization is not granted, refer the Cardholder to the Card Issuer.
- If you are told to retain the Card, follow the operator's instructions, or the procedures outlined in the Operating Rules. Avoid any embarrassing confrontation with the Cardholder. You agree that Bank is not liable for the results of any confrontation with the Cardholder.

### **PROCESSING CARD TRANSACTIONS**

#### *Authorization.*

Once you have checked to verify that the Card is valid, the next stage is processing the transaction. The first step in processing is receiving Authorization. To reduce your risk of Chargeback, you must obtain an Authorization for every transaction. If you use an electronic authorization terminal, you will complete Authorization and processing in one step. **An authorization only indicates that credit is available on an account of the Cardholder at the time the authorization is requested. It does not warrant that the person presenting the Card is the rightful Cardholder, nor is it an unconditional promise or**

**guarantee that you will not be subject to a chargeback or debit.**

#### Electronic Processing

This is the fastest, safest and most accurate way to process Card transactions. Merchant shall retain the Card throughout the Authorization process. Follow these general procedures:

- Hold the Card in your hand until all steps are completed.
- Swipe the Card's magnetic stripe through the terminal. Some terminals may require you to key-enter the last four digits of the Card account number or place an electronic Card draft in the terminal's printer. If the terminal cannot read the magnetic stripe, key in the information embossed on the Card and, if the Card is present, make a Card imprint on a separate manual Card Record.
- If the Card account number displays on the terminal screen, verify that it matches the account number embossed on the Card. If it doesn't match, retain the Card (see below for Recovering Card)
- "Decline" means the transaction cannot be authorized. Do not accept the Card. Return the Card to the Cardholder and discretely advise that the Card has been declined. If the Cardholder has questions, refer him or her to the Card Issuer.
- "Unknown Card" and similar messages usually mean the Card is of a type that there is a problem with the Card or Card account. Do not accept the Card without a telephone Authorization.
- Verify that all information is correct and legible on all copies of the Charge Record. Do not circle the expiration date or obscure the Card or transaction information in any way.
- Watch the Cardholder sign the Charge Record; compare the signature with the one on the back of the Card. If Merchant can't tell whether the signatures match, ask for a photo ID.
- Return the Card and Cardholder copy of the Charge Record to the Cardholder.

- If you believe the transaction may be fraudulent (even though you received Authorization) call for a Code 10.

#### Telephone Authorization and Manual Processing

If Merchant does not have an electronic authorization terminal, call your telephone authorization number as part of the manual processing procedure. Follow the steps outlined below, holding the Card in Merchant's hand until all steps are completed.

- Make a card imprint on a manual Charge Record using a Card imprinter.
- Fill in the transaction information (item description, amount, etc.). Each transaction must be processed on a single Charge Record.
- Call for Authorization. When the operator answers, you may be asked to provide:
  1. The card account number, expiration date, Bank Identification Number and CVV2 or CVC2.
  2. Your ID number.
  3. The amount of the transaction
- The operator will give you a response code or provide other instructions (if the Card is not Authorize). If the transaction is approved, write the Authorization code in the space provided on the Charge Record.
- Verify all information is correct and legible on all copies of the Charge Record. Do not circle the expiration date or obscure the Card or transaction information in any way.
- Watch the Cardholder sign the Charge Record; compare the signature with the one on the back of the Card. If you can't tell whether the signatures match, ask for a photo ID.
- Return the Card and Cardholder copy of the draft to the Cardholder.
- If you believe the transaction may be fraudulent (even though you received Authorization) call for a Code 10.

### Recovering a Card

When seeking Authorization on a Card Transaction, you may be instructed not to return the Card to the Cardholder. This may mean that the Card has been reported lost or stolen, or that fraud has been detected. If you are told to retain the Card or receive a "Pickup Card" message on its electronic terminal, hold the Card in your hand and discretely advise the Cardholder of the situation. Use your best judgment to avoid any confrontation. Call Bank or ask your telephone authorization center for instructions on how to turn in the Card in accordance with MasterCard/Visa requirements. Do the following:

- Keep a record of the Card account number
- List the following information and turn it into Bank with the Card:
  1. The account number
  2. Your business name and address
  3. The person who recovered the Card
  4. The reason for recovery (Code 10 or Authorization inquiry)

You may receive a cash reward for properly recovering a Card. Rewards are offered by Card Associations, Card Issuers, and some Merchants. Please call Bank for instructions on how to turn in the Card.

### Turning in Lost Cards

If you find a lost Card, or a customer turns one in, or leaves one behind, call Bank for instructions on how to turn in the Card.

### *Completing Sales Slips*

You must record each Charge and Credit Voucher by following procedures specified by Bank and using records such as sales drafts, sales slips or electronic processing records and methods, as applicable. The sales slip must be signed by the Cardholder, but not until the final transaction amount is entered into the "Total" column of the sales slip. You are to deliver to the Cardholder an accurate and complete copy of the Charge, no later than the time of delivery of the goods or performance of services, using a format approved by the Card Associations and supplied by Bank. The copy of

the sales slip given to the Cardholder must contain the following information:

1. truncated Card Account number;
2. Merchant name;
3. Merchant location code or city and state;
4. Charge date; and
5. Brief description of merchandise or services sold.

### *Recurring Transaction*

You may complete a Recurring Charge (a repeated Charge for goods or services that are delivered or performed periodically) by meeting the following requirements:

- Obtain from the Cardholder a completed Order Form containing a written request for the goods or services to be charged to the Cardholder's account. The Order Form must include, but is not limited to, the following: (1) Transaction amount, unless the Recurring Transactions are for varying amounts; (2) frequency of the recurring charges, and (3) duration of time for which Cardholder permission is granted
- Retain a copy of the Order Form for the duration of the recurring services and provide it to the Issuer upon request.
- Write the words "Recurring Transaction" on the signature line of the Transaction Receipt (or "P.O." for MasterCard transactions).
- Provide a subsequent Order Form when a Recurring Transaction is renewed.
- Obtain the Cardholder signature, or an electronic signature or other similar authentication, that is effective under applicable law.
- For an Electronic Commerce Transaction, include the frequency and duration of the Recurring Transaction, as agreed to by the Cardholder, on the Transaction Receipt.

- For an Electronic Commerce Transaction, provide a simple and easily accessible online cancellation procedure, if the Cardholder request for goods or services was initially accepted online.

A Recurring Service Merchant must not:

- Include partial payment for goods or services purchased in a single Transaction.
- Include additional finance charges on a Recurring Transaction.
- Complete a Recurring Transaction if it receives a negative response or a cancellation notice from the Cardholder or Acquirer.

For Recurring Transactions of varying amounts, all of the following apply:

- The Order Form must allow the Cardholder to specify a minimum and maximum Transaction amount to be charged, unless the Cardholder will be notified of the amount and date of each charge, as specified in the remainder of this section.
- The Merchant must inform the Cardholder of his/her right to receive, at least 10 calendar days prior to each scheduled Transaction Date, written notification of the amount and date of the next charge.
- A Cardholder may choose to receive the notification in any of the following ways: (1) for every charge, (2) when the Transaction amount does not fall within the range of amounts specified on the Order Form, or (3) when the Transaction amount will differ from the most recent charge by more than an agreed-upon amount.
- 

*Returns and Exchanges*

- You must complete a Credit Voucher or credit slip for the total amount of the refund.
- The date of the credit must be included on the Credit Voucher

- Full refunds must be for the exact dollar amount of the original transaction, including tax, and other charges
- The Credit Voucher must contain a description of the goods or services.
- Imprint the Credit Voucher with the same Card used by the Cardholder for the original purchase.
- Never give cash, check or in-store credit refunds for Card sales.
- Authorization is required.
- The Cardholder must sign the Credit Voucher. The Credit Voucher must be delivered to the Bank within 3 days.
- You cannot complete a Credit Voucher for a Card issued to you or your employees except for a valid refund of a Charge.
- You may not receive money from a Cardholder and subsequently deliver to Bank a Credit Voucher to make a deposit to the Cardholder Account.
- It is your responsibility to insure that all refunds reflect bona fide returns or reimbursements of prior Card Transactions

**CNP TRANSACTIONS**

Card Not Present Transactions include the following Transactions:

1. Mail Transactions (also referred to as mail order or MO).
2. Telephone Transactions ( also referred to as telephone order or TO)
3. Internet or Ecommerce Transactions.

You may only accept CNP Transactions, if you have been authorized in the Application or in writing by us to accept such transactions. Since you will not have an imprinted or magnetically swiped transaction, or visual identification or Cardholder signature, these transactions have substantially higher risk of chargeback and fraud. You assume all risks associated with accepting CNP Transactions.

You must prepare a Charge containing the following information: the Cardholder's name appearing on the Card, billing and shipping addresses; effective and expiration dates; Cardholder's account number; description of the goods or services; amount of the transaction (including any shipping, handling, insurance, etc.); date of transaction; authorization code; and Merchant name and location. On the signature line of the Charge, include the letters "TO", "MO", "IO", "PO", "RT", or phrases, "telephone order", "mail order", "internet order" "pr-authorized order" or "recurring order."

You may not submit a transaction for processing until after the merchandise has been shipped or the service has been provided to the customer.

If you process recurring transactions and charge a Cardholder's account periodically for recurring goods or services (e.g. monthly insurance premiums) the Cardholder must complete and deliver to you a written request for such goods or services to be charged to the Cardholder's account. The written request must specify the transaction amount, the frequency of recurring charges and the duration of time for which the Cardholder has granted permission.

When requesting Authorization, you must inform us that the Card Transaction is a mail order, telephone order, pre-authorized order, internet order or a recurring transaction. Failure to comply may result in fines or penalties.

If you accept orders via the internet, your web site must include the following in a prominent manner:

1. the address of the Merchant's Permanent Establishment, including Merchant's country of domicile, located on the same screen view as the checkout screen used to present the total purchase amount, or within the sequence of web pages the Cardholder accesses during the checkout process;
2. A complete and accurate description of the goods or services offered;
3. Merchant's merchandise return and refund policy clearly displayed on either the checkout screen, or on a separate screen that allows the purchaser to click an acceptance button;
4. Merchant's consumer data privacy policy and the method of transaction security used to secure cardholder account data during the ordering and payment process;
5. A customer service contact, including electronic mail address or telephone number;

6. Transaction currency (e.g. US dollars, Canadian dollars);
7. Export restrictions (if known); and
8. Merchant's delivery/fulfillment policy.
9. Complete description of the goods or services offered

To assist you in reducing the risk of fraud and/or Chargebacks on mail/telephone orders or Internet orders, Merchant must use Address Verification Service (AVS). This is a card-fraud prevention tool that compares the billing address provided by the Cardholder with the Cardholder address listed in the Card Issuer's files. Please call us for details on setting up AVS.

Visa has implemented a program to protect Cardholder data. The Cardholder Information Security Program ("CISP") applies to you if you process or store Cardholder data as a result of internet or mail/telephone acceptance of VISA Card Account information. You may find the details of this program at [www.visa.com/cisp](http://www.visa.com/cisp).

## **AFTER THE SALE**

### *Closing Out Merchant's Electronic Terminal*

For each Card Transaction that you process electronically, you will complete a procedure called closing the batch to reconcile those transactions and prevent balancing and deposit errors. A batch represents all Card Transactions processed during a given period of time. You should close your batch daily. Follow the general guidelines below to close a batch.

- Use a calculator to manually total the sales drafts and Credit Vouchers for the batch.
- Display terminal totals by using the Display/Totals Batch Inquiry function.
- Compare terminal totals with the calculator totals. If out of balance, print list of terminal entries and compare the entries to the sales drafts and make any necessary adjustments in the terminal.
- For each batch transmitted, ensure that you Merchant identification number and all other information is included (i.e. date, amount, number of items, etc.).
- The batch/deposit total must match to the settled/reconciled amount.

- If you use an Electronic Data Capture (EDC) terminal, transmit the batch information. If your terminal does not have the EDC capability, include your electronic bank drafts in your manual deposit. Each time you close a batch, your terminal begins a new batch with the next transaction processed.

#### *Adjustments to Merchant's Account*

We will make transaction adjustments (debits or credits) to your account if we note a discrepancy between your batch header and the corresponding sales drafts. Common reasons for adjustments include:

- Total amounts shown on sales drafts do not match total on batch header.
- Your account was credited in error and has been debited to correct the error.
- Duplicated sales slip submitted
- Card number is incorrect/incomplete
- Dollar amount is unreadable/illegible
- Cardholder' account number is unreadable/illegible.

We will notify you of any adjustments we make to your account.

#### *Retrieval Requests*

You are responsible for retaining and providing copies of transaction receipts, substitutes, recurring transaction for two years or longer if required by the Card Associations. From time to time we will ask you to submit a copy of a sales draft or Credit Voucher. These Retrieval Requests assist us in responding on your behalf to Cardholder and Card Issuer questions about transactions you have processed.

It is important that you fulfill retrieval requests within the time specified on the request from us. If you fail to do so, a Chargeback may result. You are responsible for any deficiencies in Card Transaction data submitted to us. To ensure proper retrieval fulfillments and/or Chargeback processing, records of sale drafts must contain the full 16 digit account number and expiration date. Failure to retain the sales drafts and Credit Vouchers could result in future Chargebacks to your account.

#### *Chargebacks*

A Cardholder or a Card Issuer has the right to question or dispute a transaction. A Chargeback is the reversal of a Card Transaction. When a Chargeback occurs, the amount of the transaction is debited (subtracted) from your account.

Reasons for Chargebacks, include:

- No Card imprint or magnetic stripe reading was obtained.
- Card was expired or not yet valid on the date of the transaction.
- Card Account number is invalid.
- Sales draft is altered, incomplete, inaccurate, unsigned or illegible.
- Authorization was not obtained.
- Signature on sales draft is not a reasonable facsimile of signature on Card.
- Transaction amount is split between two or more sales drafts.
- MasterCard/Visa sales draft was used to record transaction for another card type.
- Description of goods/services is not listed.
- Transaction was processed more than once.
- Manual draft was not deposited within time allowed.
- Retrieval Request was not fulfilled within time allowed.
- A Cardholder dispute was filed regarding the transaction.

Although we are unable to notify you before a Chargeback is initiated, in most cases you may challenge the Chargeback by filing a rebuttal within the time specified in our Chargeback notice. Your failure to act within that time may not provide us with a reasonable number of days to evaluate your dispute of the

Chargeback. We are not obligated to represent Chargebacks except to the extent allowed by the Operating Rules and your timely dispute of the Chargebacks. We do not engage in direct collection efforts against Cardholders on your behalf. In your rebuttal, you should supply documentation substantiating that the Card and the transaction were valid and that correct processing procedures were followed. We recommend that you include a detailed rebuttal letter along with all pertinent documents. The more information we have at the time of the Chargeback, the better we can dispute the item on your behalf. If you have any questions, call us for assistance.

### **ONLINE DEBIT CARD TRANSACTIONS**

Online Debit Card Transactions require customers to enter a PIN at the point of sale terminal and the amount of the transaction is debited from the customer's checking account. Most but not all ATM/debit Cards can be accepted at the point of sale at participating locations. Examine the back of the Card to determine if the Card participates in a network that you are authorized to accept. The Debit Network mark(s) will be printed on the back of the Debit Network Cards. If the Card is valid and issued by a Debit Network, and you offer Online Debit Transactions, you must follow the following procedures:

- You must honor all Valid Debt Network Cards
- You must treat transactions by Cardholder from all Debit Card Issuers in the same manner.
- You may not establish a minimum or maximum amount for the transaction.
- You may not require additional information, other than the PIN, for the completion of the transaction unless specifically required by the Operating Rules for a particular type of transaction, which typically will be for an exception procedure. You may not require or request a Cardholder signature.
- You may not complete a transaction without entry of the PIN by the Cardholder. The Pin must be entered into the PIN pad only by the Cardholder. You cannot accept the PIN from the Cardholder verbally or in written form.

You must obtain Authorization for each online Debit Card Transaction before you complete the transaction. There is no voice authorization or imprinter procedure for Online Debit Card Transactions. You may not complete a transaction that has not been authorized.

If you cannot obtain an authorization, you should request another form of payment from the customer. You may not manually enter the account number. The account number must be read electronically from the magnetic stripe. If the magnetic strip is unreadable, you should request another form of payment from the customer. You must issue a receipt to the Cardholder upon the successful completion of a transaction. Only the last four digits of the Cardholder account number will appear on the receipt.

At your option, you may offer cash back to Cardholders ("Cashback"), provided you transmit the Cardholder's requested Cashback amount request to the Card Issuer as part of the Authorization procedures and receives an Authorization for the transaction. If Authorization is denied with a denial code that indicates the Cashback transaction has been denied solely because the Cashback portion would cause the Cardholder to exceed a limit on cash withdrawals imposed by the Card Issuer, you should inform the Cardholder that the transaction was denied solely because of the cash withdrawal limit, but that a new transaction in the amount of the purchase alone may be approved.

You may void a transaction electronically, but only if the voiding transaction is entered in accordance with the Operating Rules which typically require the voiding transaction to occur before midnight of the calendar day on which the original transaction was initiated, as well as Cardholder re-entry of the PIN used for the original transaction, and your transmission of the trace number and exact dollar amount of the transaction to be cancelled. Cancellations must be initiated at the same location as the original transaction, but do not have to be at the same terminal.

You will fully cooperate with the Debit Networks, their members and us in the resolution of Cardholder disputes. The Debit Networks and we may investigate your practices relating to Online Debit Card Transactions as permitted by the Operating Rules.

Card Issuers may charge Online Debit Card Transactions back to you through the Debit Networks and us when permitted by the Operating Rules and under the time limits imposed by the Operating Rules. We are not obligated to make representations of Chargebacks, but at our option, may assist you in making representations under the Operating Rules.

## **EBT TRANSACTIONS**

Electronic Benefit Transfer (EBT) transactions are similar to other electronic payment transactions. EBT transactions are PIN based, just like the Online Debit Card Transactions. An EBT Card is a magnetic striped Card that electronically delivers Federal and State funded Food Stamps and Cash Benefits to qualified EBT recipients.

We must approve you to issue EBT benefits to qualified recipients.

## **DISPLAYS AND ADVERTISING**

If you deal with the general public, you must display advertising and promotional materials provided by us to inform the public which Cards will be honored by you. You must display the proprietary names and symbols associated with the Cards you accept only in compliance with Operating Rules and while the Agreement is in effect, or until we or an applicable Card Organization notifies you to stop using them. You will not indicate or suggest in any way that we or Card Organizations endorse your products or services.

You may only display Visa and MasterCard approved decals, program marks and other advertising and promotional materials for the Card types you selected on the Application. If you have any questions, concerning what materials you may display, please contact us.

DOCS/661118.2  
4/18/05 9:28 AM