

This agreement contains a limitation of liability and an arbitration clause.

Thank you for selecting Ministry Brands Holdings, LLC. These terms and conditions, along with the attached Addenda and your Sponsored Merchant Application (collectively, the “**Agreement**”), will govern the legal relationship under which the payment processing services described herein will be provided to you. This Agreement is in addition to, and does not supersede or replace, any other agreement(s) between you and Ministry Brands Holdings, LLC unrelated to the provision of payment processing services. Ministry Brands Holdings, LLC is entering into this Agreement on behalf of, and as an agent of, Processor (defined below).

1. Definitions

- a. “**Acquirer**” refers to Payment Facilitator, Processor, and/or Bank, any of which shall have the authority to exercise rights belonging to the Acquirer hereunder.
- b. “**Addendum**” (and the plural, “**Addenda**”) refers to each Addendum attached hereto, or any other Addendum otherwise executed or agreed to between the parties.
- c. “**Agreement**” refers to these terms and conditions, along with the attached Addenda and the Sponsored Merchant Application, as any of the same may be amended from time to time pursuant to these terms.
- d. “**American Express**” refers to American Express Travel Related Services Company, Inc. or its successors or assigns.
- e. “**Applicable Law**” refers to all applicable federal, state, and local laws, statutes, ordinances, case law, regulations, and regulatory guidance, including all laws in both the Cardholder and the Sponsored Merchant’s jurisdictions.
- f. “**Bank**” refers to the acquiring bank identified in the Sponsored Merchant Application, or such other acquiring bank(s) as Payment Facilitator or Processor may contract with to provide sponsorship with the Payment Networks, as well as any successors and assigns of such acquiring bank(s).
- g. “**Card**” refers to an account, or evidence of an account, authorized and established between a Cardholder and a Payment Network, or representatives or members of a Payment Network, that Sponsored Merchant accepts from Cardholders as payment for a good or service.
- h. “**Card Information**” refers to all information related to a Cardholder or Card obtained by Sponsored Merchant in connection with a Transaction, including, without limitation, customer names, addresses, zip codes, card numbers, expiration dates, security codes, PIN numbers, credit limits, or account balances.
- i. “**Cardholder**” refers to the person or entity to whom a Card is issued or who is authorized to use a Card.
- j. “**Chargeback**” refers to the reversal of any Transaction pursuant to the Operating Rules for whatever reason.
- k. “**Data Compromise Event**” refers to any event that results, or could result, directly or indirectly, in the unauthorized access or disclosure of Transaction Information, Cardholder information and/or Card Information.
- l. “**Discover**” refers to Discover Financial Services, LLC or its successors or assigns.

- m. **“Mastercard”** refers to Mastercard International Incorporated or its successors or assigns.
- n. **“Operating Rules”** refers to all rules, bylaws, programs, and regulations of the Payment Networks, as the same are amended from time to time, including, without limitation, the provisions thereof governing or otherwise applicable to “Merchants,” “Sponsored Merchants,” or “Submerchants.” Operating Rules for Visa and Mastercard are presently available online at usa.visa.com and www.mastercard.us, respectively. The Operating Rules are explicitly incorporated by reference into this Agreement.
- o. **“Payment Facilitator,” “Ministry Brands Holdings, LLC,”** or **“we”** refers to Ministry Brands Holdings, LLC.
- p. **“Payment Network”** refers to each of Visa, Mastercard, American Express, Discover, and any card network issuing credit or debit cards, and, for purposes of this Agreement, further includes the Payment Card Industry Security Standards Council.
- q. **“PCI DSS”** refers to the Payment Card Industry Data Security Standards.
- r. **“Processing Fees”** refers to the fees and charges set forth on the fee schedule that is part of the Sponsored Merchant Application and this Agreement or any Addenda thereto, as modified or amended from time to time, whether by the Payment Networks or by Acquirer pursuant to this Agreement, including, without limitation, by messages included on any processing statement.
- s. **“Processor”** refers to Worldpay LLC and its successors and assigns, or such other payment processor as Payment Facilitator may contract with to provide payment processing functionality.
- t. **“Reserve Funds”** refers to funds placed in one or more non-segregated and non-interest bearing accounts established by Acquirer in accordance with this Agreement to ensure payment of all obligations or anticipated obligations hereunder, including, without limitation, refunds, Chargebacks, Processing Fees, indemnified losses, and other amounts payable to Acquirer or the Payment Networks.
- u. **“Security Standards”** refers to all rules, regulations, or standards adopted or required by the Payment Networks relating to data security and the protection of Card Information, including, without limitation, PCI DSS, Visa’s Cardholder Information Security Program and Payment Application Best Practices, Mastercard’s Site Data Protection Program and POS Terminal Security Program, American Express’s Data Security Operating Policy, Discover’s Information Security & Compliance Program, and any successor rules, regulations or standards, in each case, as any of the same may be amended from time to time.
- v. **“Services”** refers to those services provided by Acquirer, necessary and required to facilitate the authorization, processing, and settling of Transactions.
- w. **“Settlement Account”** refers to the account maintained by Sponsored Merchant at a bank or depository institution acceptable to Acquirer for credits and debits related to Transactions, refunds, Chargebacks, Processing Fees, indemnified losses, and other amounts payable to Acquirer or the Payment Networks.
- x. **“Sponsored Merchant”** or **“you”** refers to the legal entity identified in the Sponsored Merchant Application.
- y. **“Sponsored Merchant Application”** refers to the application that Sponsored Merchant completed and signed (including by electronic signature or otherwise electronically indicating acceptance of the terms) and which is subsequently accepted by Acquirer, whether evidenced

by the execution of this Agreement or by the processing of presented Transactions.

- z. **“Transaction”** refers to any interaction between a Cardholder and a Sponsored Merchant in which a Cardholder uses a Card to purchase Sponsored Merchant’s goods or services or donate to Sponsored Merchant and which results in activity on the Cardholder’s account.
- aa. **“Transaction Information”** means any data or information resulting from a Transaction, including payment processing-related information collected or stored by Processor or Payment Facilitator, including the price paid for products or services, data, time, approval, unique transaction number, store identifier, and may include Card Information and Cardholder information.
- ab. **“Visa”** refers to Visa Inc. or its successors or assigns.

2. Services

- a. Subject to Applicable Law and the Operating Rules, Payment Facilitator (or its agents, contractors, or designated representatives) will provide the Services to Sponsored Merchant pursuant to the terms of this Agreement. Sponsored Merchant agrees to abide by, and to use the Services in strict compliance with, Applicable Law, the Security Standards, and the Operating Rules.
- b. Upon request, Payment Facilitator, Processor, and/or Bank may elect to provide certain Automated Clearing House (**“ACH”**) processing services to Sponsored Merchant at the rates specified in the Sponsored Merchant Application and under the terms set forth in this Agreement. To the extent Sponsored Merchant uses such ACH processing services, it agrees to abide by the National Automated Clearing House Association (**“NACHA”**) rules and regulations, as the same may be amended from time to time.

3. Sponsored Merchant Representations and Responsibilities

- a. At the time of signing the Sponsored Merchant Application, and each time Sponsored Merchant submits a Transaction, Sponsored Merchant agrees with, and represents and warrants to, Payment Facilitator, Processor, and Bank that:
 - i. The person signing the Sponsored Merchant Application has full legal power and authority to enter into this Agreement;
 - ii. Sponsored Merchant meets the definition of, and has satisfied the requirements applicable to, “Merchants” (taking into account the fact that Sponsored Merchant is authorized to accept cards pursuant to this Agreement rather than a merchant agreement), “Sponsored Merchants,” and/or “Submerchants” under the Operating Rules;
 - iii. Each statement made by Sponsored Merchant on the Sponsored Merchant Application is and, except as has been disclosed in writing to Payment Facilitator, remains true;
 - iv. Sponsored Merchant has its principal place of business in, is located in, and has been formed (if Sponsored Merchant is an entity or organization) under the laws of, the United States;
 - v. The Transaction is legal and genuine, was conducted in accordance with this Agreement, and arises from a bona fide sale of goods or services by, or donation to, Sponsored Merchant (and not by any other entity) in the United States for which, to the extent required by the Operating Rules, authorization was obtained; except as

otherwise permitted by the Operating Rules, and where applicable, the goods have been shipped or delivered and/or the services performed; and the Transaction represents a valid obligation for the amount submitted and does not involve the use of the Card for any other purpose;

- vi. The Transaction is not one that Sponsored Merchant knows or should have known to be fraudulent, unauthorized, the product of collusion between the Cardholder and the Sponsored Merchant, or that is otherwise unlawful, illegal, or impermissible under this Agreement, Applicable Law or the Operating Rules;
- vii. All information and data provided by Sponsored Merchant in connection with the Transaction is true, correct, and accurate; Sponsored Merchant grants Acquirer the right to provide the same to the Payment Networks; and Sponsor Bank warrants that the provision of such information to the Payment Networks complies with Applicable Law and the terms of any applicable privacy policy(ies) or agreements;
- viii. Sponsored Merchant has taken reasonable steps to ensure the validity of the Card and the identity of the Cardholder;
- ix. The Transaction is not subject to liens, encumbrances, disputes, set-off, or counterclaim (other than ordinary sales taxes);
- x. The Transaction has not been previously submitted for processing (except as the same may be permitted under the Operating Rules) and the Transaction has not been previously charged back to the Acquirer and subsequently returned to the Sponsored Merchant; *provided, however*, that Sponsored Merchant may pursue payment from the customer outside of the payment card ecosystem;
- xi. Sponsored Merchant has not disbursed or advanced any cash or quasi cash (including, without limitation, gaming chips or money orders) to the Cardholder in connection with the Transaction;
- xii. The Transaction is not a refinancing or transfer of an existing Cardholder obligation that is deemed to be uncollectible;
- xiii. The Transaction does not arise from the dishonor of a Cardholder's personal check;
- xiv. Sponsored Merchant has the legal right to sell the goods and services purchased by Cardholder or to accept the donation from the Cardholder via the Transaction and is providing, and will continue to provide, high-quality customer service to the Cardholder with respect to such goods and services, as applicable;
- xv. Sponsored Merchant has accurately provided and has not altered or manipulated its "doing business as" name, country location (which name and country is the same as that disclosed to Cardholders in connection with a Transaction), the description of its business for selection of an appropriate Sponsored Merchant category code/Card acceptor business code ("**MCC**"), and, as applicable, its unique merchant identification number ("**MID**") (defined below) in the authorization request/message and clearing record/message for such Transaction;
- xvi. Sponsored Merchant is not operating a business prohibited by the Operating Rules and has correctly identified for Payment Facilitator the MCC that most closely reflects the Sponsored Merchant's primary business in accordance with applicable MCC guidance from the Payment Networks;

- xvii. Sponsored Merchant has made no representation or agreement for the issuance of refunds except as stated in Sponsored Merchant's refund policy;
 - xviii. Sponsored Merchant is responsible and financially liable for any dispute or customer service-related issue with a Cardholder, for each Transaction submitted to Payment Facilitator, and/or for any dispute Transaction or credit and has made clear to each Cardholder that the Sponsored Merchant is responsible for the Transaction (including the delivery of goods or provision of services that are the subject of the transaction, if applicable) and for customer service and dispute resolution;
 - xix. Sponsored Merchant has not had a contract to accept Transactions terminated at the direction of a Payment Network or governmental authority; and
 - xx. Any Transaction submitted to Payment Facilitator to credit a Cardholder's account represents a refund for a Transaction previously submitted to Payment Facilitator. We reserve the right to refuse to process any Transaction if there is reason to believe that it has been submitted in violation of this subsection.
- b. Subject to Applicable Law and the Operating Rules, Sponsored Merchant agrees to accept all categories of Visa and Mastercard Cards unless Sponsored Merchant has notified Payment Facilitator on the Sponsored Merchant Application of its election to limit such acceptance. Any limitations on acceptance must comply with Applicable Law and the Operating Rules. Furthermore, Sponsored Merchant shall not engage in, and shall maintain a policy against engaging in, any practice that discriminates against or discourages the use of any Card in favor of another Card.
 - c. Except to the extent permitted by both Applicable Law and the Operating Rules and as authorized in writing by Payment Facilitator, Sponsored Merchant shall not (i) apply an additional charge for accepting Cards as an alternative to other payment methods (referred to at times as a "surcharge"); (ii) add any tax to Transactions unless Applicable Law expressly requires such addition (in which case the tax must be included in the Transaction amount and not collected separately); or (iii) set minimum or maximum transaction amounts.
 - d. Sponsored Merchant must not require a Cardholder to complete a postcard or similar device that includes the Cardholder's account number, Card expiration date, signature, or any other Card account data in plain view when mailed.
 - e. Sponsored Merchant shall maintain a written refund policy and shall disclose such policy to Payment Facilitator and all its customers (including customers making purchases online by displaying such policy on the website) consistent with Applicable Law and the Operating Rules. The amount of any refund shall not exceed the original Transaction except to the extent a Sponsored Merchant agrees to reimburse a Cardholder for return shipping. The refund policy with respect to any Card must be at least as favorable as Sponsored Merchant's refund policy with respect to other payments products.
 - f. Subject to Applicable Law, the Operating Rules, and the Security Standards, Sponsored Merchant agrees to preserve receipts, credit vouchers, or other written evidence related to Transactions for not less than two (2) years following such Transaction and to provide such records to Acquirer upon request from time to time.
 - g. Sponsored Merchant may not bill or collect from any Cardholder for any purchase or payment on a Card unless a Chargeback has been exercised, the Sponsored Merchant has fully paid for such charge, and it otherwise has the right to do (including under Applicable Law).

4. Processing Agreements; Certain Payment Network Terms

a. Sponsored Merchant acknowledges and agrees:

- i. This Agreement is subject to the terms of each of Payment Facilitator's agreements with Processor and/or Bank (collectively, the "**Processing Agreements**"). This Agreement does not, and may not, restrict or interfere with the right of Processor or Bank to terminate this Agreement at any time or the right of Payment Facilitator to terminate this Agreement at any time as required by the Processing Agreements.
- ii. All obligations in or under any of the Processing Agreements that are intended to apply to Sponsored Merchant (including, without limitation, any obligations of a merchant or sponsored merchant thereunder) are hereby incorporated into this Agreement and shall apply to Sponsored Merchant. Notwithstanding anything herein to the contrary, Sponsored Merchant is not a third-party beneficiary of, has no rights under, and may not bring any claim against Processor or Bank relating to, any of the Processing Agreements.
- iii. This Agreement is also subject to the Operating Rules. Without limiting the preceding sentence:

- i. This Agreement does not limit the Operating Rules or any of Acquirer's respective rights thereunder.
- ii. Sponsored Merchant may not take any action that could interfere with, or prevent the exercise of, action by any of Payment Networks to (a) enforce any of the Operating Rules, (b) prohibit Payment Facilitator or Sponsored Merchant from engaging in any activity such Payment Network deems could injure or create a risk of injury to the Payment Networks or to Processor or its affiliates, including reputational injury, or that could adversely affect such Payment Network or the confidential information thereof.
- iii. Notwithstanding anything herein to the contrary, to the extent required by a Payment Network, the Operating Rules of such Payment Network shall govern to the extent of any irreconcilable conflict between this Agreement and such Operating Rules.
- iv. In the event that Sponsored Merchant submits for processing in any twelve-month period more than \$1,000,000 in Visa transactions and/or \$1,000,000 in MasterCard transactions (or such other amount provided by the Operating Rules as necessitating a tripartite processing agreement) (the "Threshold Amount"), Sponsored Merchant will automatically be deemed to have accepted, and will be bound by, the Merchant Agreement (set forth in Addendum 1, Merchant Services Agreement for Sub-Merchants), the terms of which will be independently enforceable by Processor and Bank.

b. In addition to the remaining provisions of this Agreement, the following terms and conditions shall govern Sponsored Merchant's acceptance of Cards issued by American Express:

- i. Sponsored Merchant expressly authorizes Payment Facilitator to submit Transactions to, and (if applicable) receive settlement from, American Express on behalf of the Sponsored Merchant.

- ii. Sponsored Merchant authorizes American Express to receive information regarding Sponsored Merchant and its Transactions and agrees that American Express shall be entitled to use such information (i) to perform its responsibilities in connection with the program; (ii) to promote the American Express network; (iii) to perform analytics and create reports; and (iv) for any other lawful business purposes, including commercial marketing communication purposes and important transactional or relationship communications from American Express. Furthermore, American Express shall be entitled to use information obtained in the Sponsored Merchant's application to screen, communicate, and/or monitor Sponsored Merchant in connection with marketing and administrative purposes.
- iii. Sponsored Merchant may opt out of receiving future commercial marketing communications from American Express. Sponsored Merchant agrees, however, that such an opt-out will not preclude American Express from sending important transactional or relationship communications. In addition, Sponsored Merchant may opt out of accepting Cards (including Cards issued by American Express) at any time without directly or indirectly affecting its rights to accept other payments products.
- iv. Sponsored Merchant acknowledges that it may be converted to a direct Card acceptance relationship with American Express if and when it becomes "High CV Merchant" in accordance with Operating Rules promulgated by American Express. Upon any such conversion, Sponsored Merchant will be bound by American Express's then-current card acceptance agreement, and American Express will set pricing and other fees payable by Sponsored Merchant for Card acceptance.
- v. Sponsored Merchant shall not assign to any third party any payments due to it under this Agreement; provided, however, that Sponsored Merchant may sell and assign future Transaction receivables to Payment Facilitator, its affiliated entities, and/or any other cash advance funding source that partners with Payment Facilitator or its affiliated entities without the consent of American Express.
- vi. Sponsored Merchant will comply with the American Express Technical Specifications as the same may be amended from time to time.
- vii. Sponsored Merchant will comply with applicable privacy and data protection laws and provide specific and adequate disclosures to Cardholders regarding the collection, use, and processing of personal data.

5. Term; Termination

- a. This Agreement shall commence on the date this Agreement is accepted by Acquirer, whether by signature or by the processing of presented Transactions. Unless earlier terminated as provided in this Agreement, or except as may be provided in a contemporaneously submitted order form, the Agreement shall continue until it is terminated by either party on not less than thirty (30) days' written notice. If Sponsored Merchant presents, and Payment Facilitator elects to process, Transactions beyond the conclusion of the Initial Term or any Renewal Term, then the terms of this Agreement will continue to govern such processing activity.
- b. Any Payment Network may terminate or limit this Agreement as permitted by the Operating Rules of such Payment Network.
- c. In addition to any other termination rights, Acquirer may terminate this Agreement (or, pursuant to clause (i) of this Section 5.2, may terminate this Agreement as to any Payment

Network) or any Addendum immediately, or may suspend Services or decline to process particular Transactions, with or without notice, if (a) Sponsored Merchant fails to strictly comply with any term of this Agreement; (b) Acquirer, in its sole discretion, determines that Sponsored Merchant or any affiliated entity or individual is violating the Operating Rules or Applicable Law or is engaging in suspicious, wrongful, fraudulent or deceptive conduct or other conduct creating a risk of harm or loss to Acquirer or the Payment Networks (and Payment Facilitator may also suspend Services or decline to process particular Transactions, with or without notice, during the investigation of any such alleged conduct); (c) Sponsored Merchant, any guarantor, or any affiliated entity or individual becomes involved in voluntary or involuntary bankruptcy or insolvency proceedings; (d) Acquirer deems Sponsored Merchant to be financially insecure; (e) Sponsored Merchant materially alters its business; (f) there is a material change in Sponsored Merchant's processing activity, either from historical processing activity or the activity projected in the Sponsored Merchant Application; (g) Acquirer receives direction from any Payment Network to terminate this Agreement; (h) Acquirer, in its reasonable discretion, determines that circumstances otherwise warrant immediate termination or suspension; (i) any Payment Network takes any of the Adverse Registration Actions or limits this Agreement pursuant to the Operating Rules thereof; (j) any of Processing Agreements are terminated; or (k) Payment Facilitator has determined it is required to terminate this Agreement by any of the Processing Agreements or Operating Rules. Furthermore, Payment Facilitator may terminate this Agreement at any time upon thirty (30) days' written notice.

- d. This Agreement shall automatically terminate to the extent required by the Operating Rules.
- e. In addition to any other termination rights, Sponsored Merchant may terminate this Agreement if we have failed to perform a material obligation in this Agreement and such failure has not been cured for thirty (30) days after Sponsored Merchant notifies Payment Facilitator in writing of such failure.
- f. All Sponsored Merchant obligations with respect to Transactions processed under this Agreement shall survive any termination, including, without limitation, the obligation to pay refunds, Chargebacks, Processing Fees, indemnified losses, and other amounts payable to Acquirer or the Payment Networks.

6. Non-Exclusivity

- a. This Agreement is non-exclusive. Sponsored Merchant may receive services, or enter into an agreement to receive services, with another merchant acquirer. Likewise, Sponsored Merchant acknowledges and agrees that Payment Facilitator may provide services to other sponsored merchants.

7. Procedures for Transactions

- a. Within forty-eight (48) hours (or any shorter period mandated by the Operating Rules) after the completion of a Transaction Sponsored Merchant believes to be authorized by a Cardholder, Sponsored Merchant shall submit all Transaction Information therefor to Payment Facilitator for processing. Sponsored Merchant shall submit such information to Payment Facilitator, along with any other information that may reasonably be requested in connection with a Transaction, in such form as Payment Facilitator may specify from time to time. Sponsored Merchant understands that failure to submit such Transactions on a timely basis may (a) result in increased fees associated with the Transaction(s) (such as higher interchange fees), and Sponsored Merchant agrees to pay any such fees if assessed; and/or (b) compromise Sponsored Merchant's ability to be paid for the Transaction(s).

- b. Sponsored Merchant shall not submit for processing: (a) any Transaction that does not involve Sponsored Merchant, or that does not originate from an interaction between Sponsored Merchant and a Cardholder intending to make a purchase from or donation to Sponsored Merchant; (b) any Transaction for which Sponsored Merchant does not receive an authorization code from us; or (c) any Transaction that results in a transaction outside of Sponsored Merchant's normal course of business as reflected on the Sponsored Merchant Application. We reserve the right to refuse to process any Transaction if there is reason for Acquirer to believe that it has been submitted in violation of this Agreement.
- c. Acquirer may impose a cap, either per transaction or on an aggregate basis, on the dollar amount of the Transactions it will process for Sponsored Merchant that aligns with the Sponsored Merchant's sales volume, as indicated on the Sponsored Merchant Application.

8. Settlement

- a. Except as elsewhere provided herein, after receiving funds for approved Transactions from any Payment Network, Payment Facilitator will direct Processor and/or Bank to provisionally fund Sponsored Merchant's Settlement Account, minus (a) refunds, Chargebacks, Processing Fees, indemnified losses, and other amounts payable to Acquirer; and (b) any amounts authorized to be retained under Sections 22 or 23 of this Agreement. Failure to subtract such amounts does not relieve Sponsored Merchant of liability or responsibility for the same, and Sponsored Merchant agrees that Payment Facilitator may Sponsored Merchant agrees to pay all such amounts to Acquirer immediately upon receipt of any invoice and without deduction or offset. Prior to such funding, Processor or Bank, as applicable, may maintain funds associated with Sponsored Merchants' transactions in a commingled account, and Sponsored Merchant shall have no right to such account, the funds therein, or interest, if any, obtained thereon. Sponsored Merchant acknowledges that Payment Facilitator is not a licensed money transmitter and shall not take receipt of any funds for purposes of transmission to Sponsored Merchant.
- b. For each approved Transaction for which Bank and/or Processor intends, or is required by the Processing Agreements, to fund the Settlement Account, Sponsored Merchant hereby irrevocably authorizes Payment Facilitator to deliver instructions to Bank and/or Processor with regard to the amount and timing of payments to be made to the Settlement Account, including, without limitation, instructions to (a) withhold from settlement funds any amount that Acquirer determines are entitled to be withheld hereunder (including amounts in respect of Payment Facilitator's fees) and (b) pay remaining settlement funds, if any, to the Settlement Account.
- c. Sponsored Merchant must maintain a Settlement Account at a bank or depository institution acceptable to Acquirer for credits and debits related to Transactions, refunds, Chargebacks, Processing Fees, indemnified losses, and other amounts payable to Acquirer or the Payment Networks. Sponsored Merchant authorizes Acquirer to initiate debit and credit entries to the Settlement Account, including through the ACH settlement process or via wire transfer, and agrees that Acquirer may debit the Settlement Account for any amounts owed hereunder to Acquirer to which Acquirer may otherwise be entitled for any reason. Sponsored Merchant agrees to execute any additional documentation necessary to debit the Settlement Account as described herein. Such authorization shall remain in place until the later of termination of this Agreement or Sponsored Merchant's satisfaction of all obligations to Acquirer hereunder, as reasonably determined by Acquirer. Sponsored Merchant may change the Settlement Account only as provided in Section 21 of this Agreement. Sponsored Merchant shall maintain sufficient funds in the Settlement Account to prevent the occurrence of insufficient funds, and shall be solely liable for all fees, costs, and overdrafts associated with the Settlement Account.

- d. Sponsored Merchant acknowledges and agrees that: (a) Payment Facilitator, Processor, and Bank shall have no liability or responsibility for delays in the transmission or deposit of funds or the failure of Sponsored Merchant to receive funds where that delay or failure is in any way attributable to Sponsored Merchant or any third party, including third-party banks, depository institutions, or the Payment Networks; (b) time periods set forth in Payment Facilitator's marketing material, brochures, collateral and/or similar materials are estimates only; (c) any fixed timelines with respect to the same are subject to the other terms hereof; and (d) Payment Facilitator shall not be liable or responsible for any delays in the transmission or deposit of funds due or the failure of Sponsored Merchant to receive funds where that delay or failure is in any way attributable to Processor or Bank.
- e. Acquirer reserves the right to refuse to process any Transaction if Acquirer, in its sole discretion, believes that the Transaction may be uncollectible from the Cardholder, is likely to result in a Chargeback, and/or was presented in violation of the terms of this Agreement, the Processing Agreements, Applicable Law, and/or the Operating Rules.
- f. Sponsored Merchant acknowledges that all payments and credits provided to Sponsored Merchant are provisional and subject to suspension, revocation, Chargebacks, and/or other adjustments in accordance with this Agreement and the Operating Rules.

9. Marks and Intellectual Property

- a. Sponsored Merchant shall display the Payment Networks' respective logos, marks, advertising and promotional materials only in accordance with the Operating Rules and cease displaying such logos, marks, advertising and promotional materials in accordance with the Operating Rules, including upon termination of this Agreement or at the direction of any Payment Network. Sponsored Merchant acknowledges that all such logos, marks, advertising and promotional materials used by any Payment Network are the sole and exclusive property of such Payment Network, which ownership Sponsored Merchant agrees not to challenge, and that such Payment Network may prohibit Sponsored Merchant's use thereof at any time and for any reason, with or without notice. Further, from time to time, Payment Facilitator may provide Sponsored Merchant with materials that include Payment Facilitator's name, logo, trademarks, and/or service marks. Sponsored Merchant shall only use such materials as expressly permitted by Payment Facilitator, and shall return to Payment Facilitator such materials upon the termination of this Agreement for any reason or upon Payment Facilitator's earlier request at any time. Sponsored Merchant shall not at any time represent, directly or by implication, that its goods or services are endorsed, sponsored, or guaranteed by Acquirer or any Payment Network. This Agreement shall not confer on Sponsored Merchant any license or proprietary rights regarding any patent, trademark, copyright, trade secret, and/or intellectual property of Acquirer or any Payment Network.
- b. Acquirer may require any changes to Sponsored Merchant's website or otherwise that Payment Facilitator deems necessary or appropriate to ensure that Sponsored Merchant remains in compliance with the Operating Rules governing the use of the intellectual property described in Section 9.1.
- c. All of Payment Facilitator's computer programs, trademarks, service marks, patents, copyrights, trade secrets, know-how, and other proprietary rights in or related to the Services are and will remain the sole and exclusive property of the Payment Facilitator. Payment Facilitator shall own all rights, title, and interest, including all intellectual property rights, in and to any refinements or improvements to the same, even when such refinements or improvements result from Sponsored Merchant's request.

10. Data Security

- a. Sponsored Merchant acknowledges that it is its responsibility to abide, and agrees to abide, by all Security Standards, including PCI DSS, and to provide proof of compliance to Acquirer or any Payment Networks as required or upon request, including, without limitation, by attestation or an examination of Sponsored Merchant's systems to validate such compliance. The costs of any such attestation or examination shall be Sponsored Merchant's sole responsibility.
- b. Without in any way limiting the obligations imposed by the preceding paragraph, Sponsored Merchant will (a) secure and keep confidential Cardholder information, Card Information and Transaction Information in strict compliance with the Security Standards and Applicable Law, and will not use, disclose, or distribute any such information except as permitted by the Security Standards or Applicable Law and, further, may not disclose or distribute such information to any third party other than a third-party service provider described in Section 10.3; and (b) maintain systems and media containing any Cardholder information, Card Information or Transaction Information in a secure manner that prevents unauthorized access to or disclosure of any such information.
- c. To the extent Sponsored Merchant uses any third party to process, store, receive, transmit, and/or otherwise have access to Cardholder information, Card Information, and/or Transaction Information, Sponsored Merchant assumes full responsibility and liability for such third-party's compliance with this Agreement, the Security Standards, and Applicable Law. Furthermore, neither Sponsored Merchant nor any such third party shall request Card Verification Value 2 ("CVV2") for card present transactions. Payment Facilitator, Processor, and Bank shall have no liability for the acts or omissions of such third parties, which shall be the sole responsibility and liability of Sponsored Merchant. Sponsored Merchant further agrees to notify Payment Facilitator of the identity of all such third parties and to ensure that such third parties are properly registered, if required to be so, with the Payment Networks and are compliant with all applicable Security Standards. Acquirer further reserves the right to require any such third parties to undergo testing, approval, and certification by Acquirer, and to terminate any such third parties' access to or ability to integrate with any of Acquirer's respective systems at any time.
- d. If Sponsored Merchant discovers or at any time has reason to suspect that a Data Compromise Event has occurred, Sponsored Merchant must immediately notify Payment Facilitator and fully cooperate, at its expense, with all forensic examinations and remediation and mitigation procedures requested by any Payment Network or Acquirer. Furthermore, if Sponsored Merchant is undergoing a forensic investigation at the time it signs the Sponsored Merchant Application, it must fully cooperate with the investigation until completed. The costs of such examinations, processes, and any notification of Cardholders pursuant to Applicable Law or the Operating Rules shall be the exclusive responsibility of Sponsored Merchant.
- e. Sponsored Merchant acknowledges that failure to comply with the Security Standards or the occurrence of any Data Compromise Event on its systems or those of any third party referenced in Section 10.3 may result in liability assessments (sometimes referred to as "penalties" or "fines") by the Payment Networks, legal liability, and expenses (including consultant, examiner, and/or attorney fees). Without limiting Sponsored Merchant's liabilities under any other provision hereof, Sponsored Merchant agrees to fully indemnify Payment Facilitator, Processor, and Bank and their respective officers, directors, employees, and agents, and to hold them harmless from any such costs, liability assessments, legal liabilities, and expenses, as well as the costs and fees associated with any claims or demands made by Cardholders, card issuers, Payment Networks, governmental agencies, or any third parties associated with Sponsored

Merchant's actual or alleged failure, or the actual or alleged failure of any third party referenced in Section 10.3, to comply with the Security Standards or the occurrence of any Data Compromise Event.

- f. In the event Sponsored Merchant operates a website capable of accepting Cards, then, in addition to all other obligations specified herein, Sponsored Merchant agrees to maintain, display, and abide by a Cardholder data privacy policy.
- g. Sponsored Merchants acknowledge that Payment Facilitator shall have no obligation to migrate or export Cardholder information, Card Information, and/or Transaction Information, including to Sponsored Merchant, at any time, including at the termination of this Agreement.

11. Authorized Users

- a. To the extent Sponsored Merchant is granted electronic access to any of Acquirer's systems or portals, Sponsored Merchant shall be responsible for (a) ensuring that only authorized users of such systems or portals access the same; (b) keeping all logins, user names, and passwords confidential; and (c) promptly notifying Payment Facilitator of any unauthorized access of such logins, user names, or passwords; and (d) all actions taken by anyone using such access, logins, user names, or passwords, even if such actions were not authorized by Sponsored Merchant.
- b. Sponsored Merchant is responsible for the acts and omissions of its owners, employees, consultants, contractors, agents, officers, and directors, including any unauthorized access to or use of the Services. Without limiting the preceding sentence, such acts and omissions will be viewed as acts and omissions of Sponsored Merchant for purposes of determining if there has been a breach of this Agreement by Sponsored Merchant and the availability of any right or remedy related to such breach.

12. Pricing and Payment

- a. Sponsored Merchant agrees to pay Processing Fees in the amounts specified in the fee schedule provided to and/or selected by Sponsored Merchant contemporaneously with Sponsored Merchant's acceptance of this Agreement, as the same may be amended from time to time pursuant to this Agreement. The Processing Fees are qualified in all respects by the other terms of this Agreement, including the assumptions referenced herein.
- b. Except as otherwise set forth in a Sponsored Merchant Agreement, if a Transaction is revoked, Sponsored Merchant will incur a \$5 ACH return fee. If a Transaction is disputed (*e.g.*, a chargeback is initiated, including an ACH chargeback pursuant to reason code R05, R07, R08, R10, R29, R51, or R52), Sponsored Merchant will incur a \$25 dispute fee. Following a revocation or dispute of a Transaction, no subsequent sales Transactions or entries should be initiated by the Sponsored Merchant associated with such Transaction.
- c. Sponsored Merchant is responsible for payment of refunds, Chargebacks, Processing Fees, indemnified losses, assessments, fees and/or other amounts charged by or payable to Acquirer, the Payment Networks, and/or other parties related to or associated with Sponsored Merchant's use of the Services, its Transactions, and/or its processing activity (such fees and other amounts charged by or payable to any person other than Payment Facilitator, the "**Third-Party Charges**"). Acquirer may at any time, with or without notice, collect such amounts (a) pursuant to Section 8 of this Agreement; (b) by demanding immediate payment; (c) by debiting the Settlement Account or any Reserve Funds; or (d) by subtracting such amounts from future settlements.

- d. Processing Fees may be amended at any time by Acquirer, with or without notice, as a result of amendments or changes made by the Payment Networks or parties other than Payment Facilitator.
- e. In addition, Acquirer may amend, revise, change, or supplement the Processing Fees by giving Sponsored Merchant thirty (30) days' notice of any such amendment, revision, change, or supplementation; provided, however, that Sponsored Merchant may terminate this Agreement, without penalty, in response to such amendment, revision, change, or supplementation (not attributable to the Payment Networks or other third parties) by providing Payment Facilitator with written notice between the date of receiving notice of the amendment, revision, change, or supplementation and the effective date of such amendment, revision, change, or supplementation.
- f. Sponsored Merchant agrees with, and represents and warrants to, Acquirer that such fee schedule constitutes an adequate Fee Disclosure for purposes of the Operating Rules and Applicable Law.
- g. Sponsored Merchant acknowledges and agrees that it shall be solely responsible for, and the Processing Fees do not cover or include: (a) fines, loss allocations, liability assessments, penalties, and/or similar charges imposed on or assessed against Sponsored Merchant or Acquirer by third parties (including the Payment Networks) and/or (b) all communication expenses associated with its processing activity.
- h. If Sponsored Merchant does not pay any refunds, Chargebacks, Processing Fees, indemnified losses, or other amounts payable to Acquirer or the Payment Networks when due, such amounts will accrue interest at the lesser of 1.5% per month or the highest amount permitted by applicable law.

13. Taxes

- a. Sponsored Merchant shall be solely responsible for the calculation, collection, and remittance of any sales tax imposed by any government authority in connection with the provision of Sponsored Merchant's goods or services or receipt of donations. Unless Sponsored Merchant is otherwise exempt (and can prove such exemption to Acquirer's satisfaction), Sponsored Merchant agrees to pay all taxes imposed on the services, equipment, or other property provided to Sponsored Merchant pursuant to this Agreement.

14. Chargebacks

- a. Sponsored Merchant has full liability and responsibility for, and must immediately pay, all Chargebacks and any and all fees, charges, and liability assessments related to Chargeback(s) associated with its Transactions.
- b. If Sponsored Merchant has reason to dispute or respond to a Chargeback, then Sponsored Merchant must do so by the date provided on the applicable Chargeback notice. Payment Facilitator, Processor, and Bank shall have no independent obligation to investigate or attempt to obtain a reversal or adjustment of any Chargeback.
- c. If Acquirer, in its sole discretion, determines that Sponsored Merchant is experiencing excessive Chargebacks, then it may (i) with notice, increase the Processing Fees; (ii) without notice, establish or increase the Reserve Funds; (iii) without notice, suspend the Services; or (iv) without notice, terminate this Agreement.
- d. Sponsored Merchant shall not ask or require that a Cardholder waive a right to dispute a transaction.

15. Indemnification

- a. Sponsored Merchant shall indemnify and hold Payment Facilitator, Processor, and Bank, along with each of its or their respective agents, officers, directors, employees, and affiliates, harmless from and against any and all claims, demands, damages, judgments, liability assessments, fines, penalties, costs, and expenses (including reasonable attorneys' fees) suffered or incurred by any of them arising out of: (i) Sponsored Merchant's acts or omissions, or those of its owners, employees, consultants, contractors, agents, officers, and directors, whether or not those acts or omissions were authorized by Sponsored Merchant (including, without limitation, any obligation of Payment Facilitator to indemnify Processor or Bank with respect to any such acts or omissions, whether such obligation arises under the Processing Agreements or otherwise); (ii) Sponsored Merchant's Transactions or use of the Services (including, without limitation, for refunds, Chargebacks, or liability assessments imposed by the Payment Networks); (iii) Sponsored Merchant's breach of this Agreement or violation of Applicable Law or Operating Rules; (iv) the state or configuration of Sponsored Merchant's equipment, including, without limitation, Sponsored Merchant's failure to maintain all point of sale equipment, download equipment, and point of sale software updates or to use EMV enabled equipment supported by Acquirer; and/or (v) Sponsored Merchant's use of third-party services or service providers, including gateways, value added resellers, and independent software vendors.
- b. Without limiting the preceding subsection, in the event that Payment Facilitator, Processor, or Bank is named as a party to any claims, litigation, proceeding, arbitration, or other legal process commenced by a third party arising out of or relating to any act or omission by Sponsored Merchant, Sponsored Merchant shall indemnify, protect, and hold harmless Payment Facilitator, Processor, and Bank with respect to any and all liability associated with such claims, litigation, proceeding, arbitration, or other legal process, and shall pay all costs, expenses, and attorneys' fees incurred or paid in connection therewith.

16. Obligation to Report Statement Discrepancies

- a. You shall be solely responsible for reviewing your statements from Acquirer (including statements provided online) and for reporting to Payment Facilitator in writing, within thirty (30) days of your receipt of any statement, any problems or irregularities with your statements—including, without limitation, underpayments, overpayments, or other discrepancies of any items, fees, charges, or liability assessments reflected on such statements or related to the period covered by such statement, including, without limitation, discrepancies between the volume and/or value of transactions that you actually processed during the period indicated by the statement.
Statements provided online shall be deemed received the first day they are available online.
- b. YOU ACKNOWLEDGE AND AGREE THAT NEITHER PAYMENT FACILITATOR, PROCESSOR, NOR BANK SHALL BE LIABLE OR OTHERWISE RESPONSIBLE TO YOU, AND SHALL HAVE NO OBLIGATION TO REIMBURSE YOU, FOR ANY UNDERPAYMENT TO YOU OR OTHER DISCREPANCY THAT IS NOT REPORTED TO PAYMENT FACILITATOR IN WRITING WITHIN FORTY FIVE (45) DAYS OF YOUR RECEIPT OF THE APPLICABLE STATEMENT.
- c. You acknowledge and agree that you shall reimburse Acquirer upon demand for any misdirected deposits, duplicate deposits, or inadvertent overpayments into any of your bank accounts. In addition, Acquirer may deduct such amounts by ACH debit or other means from your Settlement Account or the Reserve Funds.

17. Limitation of Liability and Disclaimer of Warranties

- a. UNDER NO CIRCUMSTANCES SHALL ACQUIRER'S AGGREGATE FINANCIAL RESPONSIBILITY FOR ANY BREACH, FAILURE OF PERFORMANCE, ACT, OR OMISSION UNDER THIS AGREEMENT EXCEED THE FEES OR CHARGES PAID TO PAYMENT FACILITATOR BY SPONSORED MERCHANT FOR THE TRANSACTION OR ACTIVITY THAT IS OR WAS THE SUBJECT OF THE ALLEGED BREACH, FAILURE OF PERFORMANCE, ACT, OR OMISSION.
- b. IN NO EVENT SHALL PAYMENT FACILITATOR, PROCESSOR, AND/OR BANK BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE AMOUNT OF FEES AND CHARGES PAID TO PAYMENT FACILITATOR PURSUANT TO THIS AGREEMENT IN THE THREE (3) MONTH PERIOD PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM OF LIABILITY.
- c. FOR PURPOSES OF THIS SECTION 17, FEES OR CHARGES OF THE PAYMENT NETWORKS OR OTHER THIRD PARTIES PASSED THROUGH TO CUSTOMER PURSUANT TO THIS AGREEMENT SHALL NOT BE INCLUDED IN THE CALCULATION OF FEES AND CHARGES PAID TO PAYMENT FACILITATOR.
- d. IN NO EVENT SHALL PAYMENT FACILITATOR, PROCESSOR, OR BANK, OR ANY OF ITS OR THEIR RESPECTIVE AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, OR AFFILIATES, BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, LOST PROFITS, LOSS OF REVENUE, OR CLAIMS BY SPONSORED MERCHANT OR ANY THIRD PARTY RELATIVE TO THE TRANSACTIONS OR ACTIVITIES HEREUNDER, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE OR SUCH PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, PAYMENT FACILITATOR, PROCESSOR, AND BANK SHALL NOT BE LIABLE FOR (A) THE DECLINE OF A TRANSACTION, EVEN IF SUCH DECLINE WAS WRONGFUL; (B) ANY LOSS CAUSED BY A TRANSACTION DOWNGRADE, REGARDLESS OF THE CAUSE; OR (C) THE FAILURE TO PROCESS, AUTHORIZE, OR CAPTURE A TRANSACTION.
- e. PAYMENT FACILITATOR, PROCESSOR, AND BANK MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE PRODUCTS, EQUIPMENT AND/OR SERVICES PROVIDED HEREUNDER AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARE SPECIFICALLY EXCLUDED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF SPONSORED MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, PERFORMANCE, USAGE, AND/OR TRADE.
- f. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PAYMENT FACILITATOR, PROCESSOR, AND BANK DO NOT GUARANTEE OR WARRANT THAT (A) THE SERVICES, EQUIPMENT, SOFTWARE, AND/OR PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE; (B) THAT ANY SOFTWARE WILL BE VIRUS-, DEFECT-, OR ERROR-FREE; (C) THAT A PRODUCT WILL YIELD ANY PARTICULAR BUSINESS OR FINANCIAL RESULTS; (D) THAT DATA, REPORTS, OR ANALYSES WILL BE FREE FROM ALL BUGS AND ERRORS; OR (E) THAT A PRODUCT WILL OPERATE WITHOUT INTERRUPTION.

18. Underwriting, Monitoring, and Auditing Rights

- a. Sponsored Merchant, on behalf of itself and its principals and beneficial owners, acknowledges and agrees that Acquirer may request and obtain external reports, including background checks, credit checks, banking relationship reports, financial history, and credit reports from credit reporting agencies, in connection with the consideration of the Sponsored Merchant Application or at any time thereafter. Sponsored Merchant further acknowledges that its Sponsored Merchant Application may be rejected by Acquirer and that Acquirer shall not have any liability associated with such rejection.

- b. Sponsored Merchant agrees to promptly furnish Acquirer and any requesting Payment Network with information and documents reasonably necessary to evaluate Sponsored Merchant's financial condition and business practices upon request. Furthermore, with notice and during Sponsored Merchant's normal business hours, any of Acquirer's respective representatives or the representatives of any Payment Network may visit Sponsored Merchant's business premises to examine Sponsored Merchant's operations, activities, and/or books and records to the extent necessary to evaluate Sponsored Merchant's compliance with this Agreement or to the extent necessary for Payment Facilitator to meet its obligations under the Processing Agreements or for the Acquirer to meet its obligations under the Operating Rules.
- c. Sponsored Merchant agrees to provide Payment Facilitator advance written notice of any actual or anticipated (a) material change in Sponsored Merchant's products or services, business practices, or the manner in which Sponsored Merchant accepts Cards; (b) change to Sponsored Merchant's legal form, legal name, trade name, or mailing address; or (c) changes to anticipated Transaction amounts or volume.
- d. Sponsored Merchant agrees to provide Acquirer with all "know your customer" information that it reasonably requests from time to time, including, without limitation, any information (a) necessary to meet a person's obligations under, *inter alia*, United States anti-terrorism or anti-money laundering laws or (b) Payment Facilitator is required to diligence, obtain and/or verify under any of the Processing Agreements or under the Operating Rules (including the names and country of domicile of each of the Sponsored Merchant's principals and reports of all Transactions).
- e. Sponsored Merchant shall provide such information within twenty-four (24) hours of a request for the same. Without limiting the foregoing, Sponsored Merchant shall, on an ongoing basis (and at least quarterly), provide Payment Facilitator with each of its office addresses, uniform resource locators, "doing business as" names, as well as complete descriptions of all goods and services provided by such Sponsored Merchant.

19. Reporting

- a. Sponsored Merchant acknowledges that, under the Operating Rules of the Payment Networks, certain Sponsored Merchant activity and terminations of Sponsored Merchant processing agreements may result in Acquirer's reporting merchants and their principals to the Payment Networks for inclusion on a terminated merchant file (*e.g.*, the "MATCH" list). Sponsored Merchant, on behalf of itself and its principals (and with such principals' explicit authorization), hereby consents to such reporting and waives any claim related to the same, even in instances where Sponsored Merchant or its principals believe that reporting to have been improper or in error.

20. Relationship of the Parties

- a. Sponsored Merchant designates Acquirer as its agent to receive payments for Transactions processed pursuant to this Agreement. Payment Facilitator, Processor, and/or Bank, however, shall not be considered a partner or fiduciary to Sponsored Merchant, and nothing in this Agreement or the rendition of Services related to this Agreement shall be deemed to create a joint venture, partnership, and/or fiduciary relationship between or among the parties. Rather, the relationship among the parties to this Agreement is an arm's length commercial relationship.

21. Updates to Settlement Account

- a. If Sponsored Merchant intends to change its Settlement Account, it must give no fewer than

fifteen (15) days' prior written notice to Payment Facilitator and receive Payment Facilitator written approval of the change. Failure to provide the notice and obtain the approval required in this Section may result in Acquirer's inability to settle Transaction proceeds to Sponsored Merchant, and may result in the misdirection or loss of the same. Sponsored Merchant shall bear sole responsibility for any such loss and shall have no right of recovery against Payment Facilitator, Processor, and/or Bank associated with such misdirection or loss.

22. Reserve Account and Security Interest

- a. Payment Facilitator, Processor, and/or Bank may at any time, whether at the inception of this Agreement or thereafter (including at the time of termination of this Agreement), require the establishment of Reserve Funds to satisfy Sponsored Merchant's current or anticipated obligations hereunder, including, without limitation, its obligations with respect to refunds, Chargebacks, Processing Fees, indemnified losses, and/or other amounts payable to Acquirer and/or the Payment Networks. Further, at any time during the term of this Agreement or at its termination, Payment Facilitator, Processor, and/or Bank may increase the amount of Reserve Funds established as described herein. All decisions relating to whether to establish one or more Reserve Funds, set the amount of, or increase the Reserve Funds will be in Payment Facilitator, Processor, and/or Bank's discretion.
- b. Reserve Funds may be funded by (i) debiting the amount of Transactions that would otherwise be payable to Sponsored Merchant under this Agreement; (ii) demanding funds from Sponsored Merchant; or (iii) debiting the Settlement Account. If Payment Facilitator, Processor, and/or Bank makes a demand for funds pursuant to this Section 22.2, Sponsored Merchant shall promptly transfer the amount of funds demanded.
- c. Reserve Funds may be used at any time to satisfy Sponsored Merchant's obligations to Acquirer under this Agreement, including, without limitation, refunds, Chargebacks, Processing Fees, indemnified losses, and other amounts payable to Acquirer and/or the Payment Networks.
- d. Acquirer may continue to hold Reserve Funds until the one-year anniversary of the later of termination of this Agreement or the last processing activity that occurs on Sponsored Merchant's account (including any Transaction or Chargeback) or for such longer time as Acquirer reasonably determines is necessary to satisfy Sponsored Merchant's current or anticipated obligations under this Agreement, the Operating Rules, and/or Applicable Law.
- e. Until the expiration of the period referenced in the preceding subsection, Sponsored Merchant shall have no ownership interest in or right to the Reserve Fund. Rather, the Reserve Funds shall be the exclusive property of Payment Facilitator, Processor, and/or Bank. Furthermore, Sponsored Merchant shall have no right to receive interest on any funds maintained in any of the Reserve Funds, which shall be the exclusive property of Payment Facilitator, Processor, and/or Bank.
- f. Without in any way limiting the foregoing, and merely as an additional form of security, Sponsored Merchant hereby further grants Payment Facilitator a security interest in (a) the Reserve Funds; and (b) the proceeds associated with any Transaction. Payment Facilitator may enforce its security interest(s) without notice or demand. The security interest(s) granted under this Agreement will continue after termination of this Agreement until Sponsored Merchant satisfies all its obligations to Acquirer. Sponsored Merchant further agrees to execute and deliver such instruments and documents as may be reasonably requested to confirm and perfect the security interest(s) granted by this Agreement.

23. Holdback Rights

- a. In addition to any of the other rights granted to Acquirer hereunder, in the event that Acquirer, at any time during the term of this Agreement, determines in its commercially reasonable discretion that it may be prudent or necessary to do so (a) as a result of any unusual, suspicious, or risk-exposing activity (including, without limitation, money laundering, invalid sales transactions, counterfeit transactions, altered or duplicate transactions, activity related to a suspected Data Compromise Event or other breach of Security Standards, or excessive Chargebacks) or (b) to enable Payment Facilitator or Processor to exercise its rights under, and in accordance with, any of the Processing Agreements, then Acquirer may, without notice, hold funds otherwise payable to you for such period as Acquirer, in its commercially reasonable discretion, deems necessary, to provide security against liability for such activity, plus other costs or liabilities reasonably anticipated to be due to Acquirer related to the same. To the extent (i) the investigation conducted by Acquirer with respect to the unusual, suspicious, or risk-exposing activity determines that such activity is reasonably likely to result in amounts being due from you to Acquirer, and (ii) Acquirer requires the establishment, replenishment, or increase of one or more Reserve Funds in connection therewith, then the funds held pursuant to this Section 23 may be used to fund such Reserve Funds.

24. Equipment

- a. Payment Facilitator, Processor, and Bank make no representations or warranties regarding the compatibility of third-party products and services with Acquirer's systems. To the extent that you use any third-party gateway or similar software, services, and/or hardware to connect to Acquirer's respective systems, you understand that a separate agreement may be required with the third-party provider in order to obtain such software, services, or hardware, and additional fees may be charged by the third-party provider in addition to the fees charged by Acquirer.
- b. Sponsored Merchant shall be responsible for any fines, penalties, claims, demands, or new or increased fees (including interchange) that result from Sponsored Merchant's (a) use of value added reseller, independent software vendor, gateway, point of sale systems, or any other software, hardware, or service not provided by us; (b) failure to maintain the most current version of software that has been certified by Payment Facilitator, Processor, and Bank as being compatible with the their respective systems; or (c) misuse of software that has been certified as compatible with Acquirer's respective systems. Notwithstanding anything in this Section 24.2, Sponsored Merchant shall not use any third-party point of sale systems, or any other device or method used for the purpose of obtaining credit or debiting a designated account (including any Card), without the prior written consent of Payment Facilitator.
- c. To the extent that Sponsored Merchant elects to purchase, lease, or use processing equipment from Acquirer, Sponsored Merchant agrees to pay the stated purchase price or lease amounts, along with all applicable taxes and shipping costs, and agrees that Acquirer may, without limitation, deduct such sums from the Transaction proceeds settled to Sponsored Merchant's Settlement Account.
- d. Equipment provided by Acquirer may only be used for purposes of this Agreement and the receipt of Services pursuant to this Agreement. Sponsored Merchant shall keep any such equipment in a good state of repair, normal wear and tear excepted, and shall follow all instructions regarding the use and maintenance thereof. Sponsored Merchant shall not, and shall not permit others to, alter, modify, and/or deface any such equipment or inscribe or etch anything thereon or attach or affix anything thereto. With respect to leased equipment, title to such equipment remains with the provider at all times, and Sponsored Merchant acquires no right, title, or interest in any such other than the right to use equipment to receive the Services

for the period during which the provided thereof permits Sponsored Merchant to use the same. Sponsored Merchant must give Acquirer access to any such equipment at all times, and Acquirer may repair or replace any such equipment at any time. With regard to any equipment provided to Sponsored Merchant, Sponsored Merchant shall bear all risk of loss, damage, destruction, theft, and/or similar to such equipment from any cause whatsoever (each a “**Loss Event**”) during the term hereof and until such equipment has been returned to the provider thereof. Sponsored Merchant shall return such equipment, at its risk and expense, upon the earlier of the expiration or termination hereof. Sponsored Merchant shall immediately notify Payment Facilitator upon the occurrence of any Loss Event. Sponsored Merchant shall not distribute, sell, transfer, share, sublease, rent and/or give away any such equipment or any interest therein or use, or permit the use of, such equipment by or on any third party’s behalf, except that Sponsored Merchant may allow its customers to use equipment in the course of completing a Transaction.

25. Confidentiality and Use of Data

- a. Sponsored Merchant shall use Card Information solely to receive Services under this Agreement. Under no circumstances shall Sponsored Merchant sell Card Information or use it for any purpose other than as expressly contemplated by this Agreement.
- b. Except in response to a validly served subpoena, Sponsored Merchant will not provide Card Information to anyone except to Acquirer, the Payment Networks, or Sponsored Merchant’s agents that have been approved by Processor and are properly registered with Payment Networks for purposes of assisting Sponsored Merchant in completing Transactions. Should Sponsored Merchant receive a subpoena that encompasses Card Information, Sponsored Merchant will notify Payment Facilitator in writing of its receipt of such a subpoena as soon as practicable.
- c. Sponsored Merchant agrees to keep confidential and not to disclose: (a) the terms and conditions of this Agreement; (b) the Processing Fees; (c) Card Information, Transaction Information, and Cardholder information; (d) any other non-public information regarding any aspect of Acquirer’s respective businesses made available to, or encountered by, Sponsored Merchant under the auspices of this Agreement (“**Acquirer Confidential Information**”); or (e) other information Payment Facilitator is required to keep confidential. Acquirer Confidential Information shall include, but shall not be limited to, information regarding pricing techniques, fees, equipment, services, processes, procedures, marketing or business development plans, technical information, personnel information, and trade secrets.
- d. Should Sponsored Merchant receive any Acquirer Confidential Information belonging to Acquirer, Sponsored Merchant agrees to protect such confidential information equally to its own confidential information and to take no less than reasonable care to prevent its misuse or disclosure. Sponsored Merchant agrees to return Acquirer’s respective confidential information either upon the termination of this Agreement for any reason, or upon earlier request from Acquirer.
- e. To the extent permitted by Applicable Law and the Operating Rules, Sponsored Merchant authorizes Acquirer to disclose information regarding Sponsored Merchant to any third party who has asked for such information, and whom Acquirer determines has a legitimate business need to know such information to facilitate the purpose of this Agreement. Sponsored Merchant authorizes Acquirer to disclose Card Information to the Payment Networks as necessary to facilitate the provisions of Services under this Agreement. Sponsored Merchant further authorizes Acquirer to provide information about Sponsored Merchant in response to requests

for such information from any government body or regulatory authority.

- f. Notwithstanding anything else in this Agreement, and without otherwise limiting Acquirer's use of such information, all Card Information, information related to Transactions or Cardholders, and information related to Sponsored Merchant, may be used by Payment Facilitator, Processor, and/or Bank and its or their respective affiliates and designees: (a) to provide Services; (b) for administrative and monitoring purposes; (c) to enhance or improve any of Acquirer's products or services; (d) in the course of any sale or reorganization of any of Acquirer's respective business; (e) to comply with Applicable Laws; (f) for disclosure to credit reporting agencies and other financial institutions; and (g) as otherwise permitted by Applicable Laws.

26. Amendments and Waiver

- a. Payment Facilitator may amend, revise, change, or supplement this Agreement by giving Sponsored Merchant thirty (30) days' notice of any such amendment, revision, change, or supplementation; provided, however, that Sponsored Merchant may terminate this Agreement, without penalty, in response to such amendment, revision, change, or supplementation (not attributable to changes to the Operating Rules or Applicable Law) by providing Payment Facilitator with written notice between the date of receiving notice of the amendment, revision, change, or supplementation and the effective date of such amendment, revision, change, or supplementation. Any amendment, revision, change, or supplementation attributable to changes to the Operating Rules or Applicable Law may be made on less than thirty (30) days' notice and shall not be grounds for termination of this Agreement.
- b. Payment Facilitator will not be deemed to have waived any provision of this Agreement by failing to promptly enforce the same, and no waiver of any provision of this Agreement on one occasion shall constitute a waiver of any other provision of this Agreement or the same provision on any other occasion.

27. Notices; Electronic Notice

- a. All notices under this Agreement to Payment Facilitator, Processor, and/or Bank must be in writing and delivered via hand delivery or via a carrier that provides a tracking number and/or other proof of delivery. Notices to Payment Facilitator, Processor, and/or Bank must be sent to the addresses respectively designated on the Sponsored Merchant Application for those entities, and will be deemed effective upon receipt. Acquirer may provide Sponsored Merchant with effective notice under this Agreement, including, without limitation, of any amendment to this Agreement or to Processing Fees, by any of the following means: (a) via mail at the address designated in the Sponsored Merchant Application (or such other address as Sponsored Merchant may provide); (b) electronically, through the Sponsored Merchant portal or through any other means of electronic communication maintained by Acquirer which Sponsored Merchant may access; or (c) electronically, via any email address designated by Sponsored Merchant. Sponsored Merchant expressly consents to receive documents and notices electronically and agrees to maintain access to the Internet for so long as this Agreement is in effect and until all of its obligations hereunder have been satisfied in full. Notices delivered through any of the foregoing means shall include notice provided on statement messages appearing on periodic processing statements.

28. Choice of Law and Venue; Time and Procedure for Assertion of Claims

- a. All disputes or controversies of any nature whatsoever (whether in contract, tort, or otherwise) arising out of, relating to, or in connection with (a) this Agreement, (b) the relationships which result from this Agreement, or (c) the validity, scope, interpretation, or enforceability of the

choice of law and venue provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York.

- b. Without in any way limiting Section 30 (Arbitration), with respect to any action arising out of, relating to, or in connection with this Agreement, Sponsored Merchant and all individuals executing this Agreement in any capacity hereby consent to the exclusive jurisdiction of, and venue in, the federal and state courts located in the State of New York.
- c. Each party agrees to provide the other prompt notice of any claim, controversy, or dispute arising under or related to this Agreement, and both parties agree to engage in good faith discussions to resolve the matter. If that fails to resolve the matter promptly, upon either party's election, the parties will participate in non-binding mediation before a mutually agreed mediator. Any controversy, claim, or dispute that is not resolved through the procedures set forth above within sixty (60) days following the initial notice (or such longer period as the parties may agree) will be resolved pursuant to arbitration pursuant to Section 30 of this Agreement.
- d. Neither party may bring a claim more than two (2) years after the underlying cause of action first accrues.

29. Attorneys' Fees

- a. Sponsored Merchant agrees to reimburse Payment Facilitator for all attorneys' fees or other costs incurred by it in enforcing any provision of this Agreement against Sponsored Merchant, or in obtaining any sums due under this Agreement from Sponsored Merchant, regardless of whether those fees are incurred in connection with a court proceeding, private dispute resolution, or outside a formal dispute resolution proceeding.

30. Arbitration

- a. ANY DISPUTE OR CLAIM ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT OR THE RELATIONSHIPS WHICH RESULT FROM THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION, RATHER THAN IN COURT. ARBITRATION DOES NOT PROCEED BEFORE A JURY AND MAY INVOLVE MORE LIMITED DISCOVERY THAN A COURT PROCEEDING. ANY ARBITRATION UNDER THIS AGREEMENT WILL ONLY BE ON AN INDIVIDUAL BASIS. CLASS ARBITRATIONS, CLASS ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS ARE NOT PERMITTED. Notwithstanding the foregoing, nothing in this Section prohibits a party from applying to a court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other equitable relief.
- b. The Federal Arbitration Act (9 U.S.C. § 1 et seq.) governs the interpretation and enforcement of the arbitration provisions of this Section. Arbitration will be administered by JAMS (www.jamsadr.com). For claims greater than \$250,000, the JAMS Comprehensive Arbitration Rules and Procedures in effect at the time the arbitration is commenced will apply. For claims equal to or less than \$250,000, the JAMS Streamlined Arbitration Rules and Procedures in effect at the time the arbitration is commenced will apply. Unless the arbitrator(s) determine that justice or fairness require otherwise: (i) any arbitration will proceed in State of New York (although, for the convenience of the Sponsored Merchant or guarantor (as applicable), any party or its counsel may participate telephonically); (ii) the arbitrator(s) will oversee limited discovery, taking into account the amount in controversy and the parties' desire to keep proceedings cost-effective and efficient; and (iii) the claimant(s) and respondent(s) will bear the

cost of arbitration, including the cost of any filing fee, equally, subject to the discretion of the arbitrator(s) to alternatively allocate costs pursuant to the applicable rules in any final award; provided, however, that for claims equal to or less than \$25,000, Sponsored Merchant and guarantor (if applicable) shall not be responsible to pay any case initiation or similar fee greater than that of the filing fee in the New York Supreme Court at the time arbitration is filed unless the arbitrator(s) determine that such claims are frivolous. The arbitrator(s) shall have no authority to award damages that are inconsistent with the limitations and exclusions set forth in this Agreement, nor will he, she, or they have authority to award sanctions of any type. Any decision rendered in such arbitration proceedings shall be final and binding on each of the parties to the arbitration and judgment may be entered thereon in any court of competent jurisdiction. The parties will maintain the confidential nature of the arbitration proceeding except as may be necessary to enforce any award or to comply with applicable law. If any part of this Section 30 is found invalid or unenforceable, the other parts of this Section 30 shall still apply.

- c. SPONSORED MERCHANT AND GUARANTOR (IF APPLICABLE) ACKNOWLEDGE AND AGREE THAT ALL DISPUTES ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE RESOLVED ON AN INDIVIDUAL BASIS WITHOUT RESORT TO ANY FORM OF CLASS ACTION AND SHALL NOT BE CONSOLIDATED WITH THE CLAIMS OF ANY OTHER PARTIES. SPONSORED MERCHANT AND GUARANTOR (IF APPLICABLE) FURTHER AGREE TO WAIVE, AND HEREBY WAIVE, THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR TO LITIGATE OR ARBITRATE ON A CLASS-WIDE BASIS.

31. Remedies Cumulative

- a. The rights and remedies conferred upon Acquirer under this Agreement are not intended to be exclusive of each other or of any other rights or remedies belonging to Acquirer under this Agreement, at law, or in equity. Rather, all such rights and remedies are cumulative.

32. Assignment; Successor Responsibility

- a. The Bank may assign this Agreement without Sponsored Merchant's consent. Processor may assign this Agreement to another transaction processor approved by Bank. Payment Facilitator may assign this Agreement to another payment facilitator, to Processor, to one of its affiliates, by operation of law, or in connection with the sale of all or substantially all of its assets. Sponsored Merchant may not assign this Agreement without the express written consent of Payment Facilitator, except as otherwise provided in the Processing Agreements. For purposes of this Agreement, it shall be deemed an assignment by Sponsored Merchant of this Agreement to effectuate any sale or transfer of the equity interests of Sponsored Merchant's business such that the equity holders listed in the Sponsored Merchant Application collectively hold less than 50% of the equity interests after such sale or transfer. This Agreement will be binding on each party's successor(s) and/or permitted assigns.

33. Third Party Beneficiaries

- a. Processor and Bank are third-party beneficiaries to this Agreement and may enforce the terms hereof, including those rights and privileges belonging to "Acquirer." In addition, the Payment Networks are third-party beneficiaries of this Agreement with respect to those provisions giving Payment Networks (including American Express) specific rights. There are no other third party beneficiaries to this Agreement.

34. Force Majeure

- a. Payment Facilitator, Processor, and/or Bank shall not be liable for any delay or inability to perform caused by acts of God, natural disasters, wars, acts of terrorism, civil disturbances,

governmental actions, strikes, telecommunications failures, equipment failures, network failures, or other causes beyond such person's reasonable control.

35. Entire Agreement; Severability

- a. This Agreement constitutes the complete and final agreement between the parties and supersedes all prior oral or written agreements related to its subject matter. Except as elsewhere provided herein, this Agreement may be modified only in a writing signed by all parties hereto. If any provision of this Agreement is deemed unlawful or unenforceable, then it shall be reformed only insofar as necessary to make it lawful and enforceable, or if it cannot be so reformed, it will be severed from this Agreement without any effect on the remaining terms of the Agreement, which shall continue in full force and effect.

36. Survival

- a. Termination of this Agreement shall not terminate the obligations and rights of the parties that, by their nature or their terms, are intended to survive or be perpetual or irrevocable. Such provisions, including, without limitation, Sections 1, 3.6, 5.6, 8.3, 8.6, 9 through 17, 19 through 25, 26.2, and 27 through 35 shall survive the expiration or termination of this Agreement.

37. Press Release

- a. Payment Facilitator may issue press releases regarding the parties' relationship hereunder, after this Agreement becomes effective. Sponsored Merchant shall not make any such public disclosure without Payment Facilitator's prior written consent.

38. Electronic Signature

- a. This Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which together constitute one and the same Agreement. A signature or other indication of acceptance received electronically or via facsimile (including by checking a box or clicking a link stating, "I Agree," or words to similar effect) shall be legally binding for all purposes and equally effective as a wet ink signature.

39. Consent to Receipt of Electronic Communications

- a. From time to time we may need to provide you with certain communications, notices, agreements, billing statements, or disclosures in writing ("**Communications**") regarding our Services. Your agreement to this Agreement confirms your ability and consent to receive Communications electronically from us, our affiliates, and our third-party service providers, rather than in paper form, and to the use of electronic signatures in our relationship with you ("**Consent**"). If you choose not to agree to this Consent or you withdraw your consent, you may be restricted from using the Services.
- b. Under this Consent, we may provide all Communications electronically by email or by making them accessible via our websites or applications. Communications include, but are not limited to, (1) agreements and policies required to use the Services (e.g. this Agreement, our Privacy Policy, and our Software as a Service Agreement) (2) payment authorizations and transaction receipts or confirmations, (3) account statements and history, and (4) all federal and state tax statements and documents. We may also use electronic signatures and obtain them from you.
- c. To access and retain the electronic Communications, you will need the following:
 - A computer or mobile device with Internet or mobile connectivity.
 - For desktop website-based Communications:

- o Recent web browser that includes 256-bit encryption;
 - o The browser must have cookies enabled. Use of browser extensions may impair full website functionality; and
 - o Minimum recommended browser standards are the most recent versions of Mozilla Firefox (see <http://www.mozilla.com> for latest version), Apple Safari (see <http://www.apple.com/safari> for latest version), or Google Chrome (see <http://www.google.com/chrome> for latest version).
- d. For application-based Communications:
- A recent device operating system that supports text messaging, downloading, and applications from the Apple App Store or Google Play store; and
 - The most recent versions of Apple Safari or Google Chrome on iOS or Google Chrome for Android OS.
 - Access to the email address used to create an account for the Services.
 - Sufficient storage space to save Communications and/or a printer to print them.
 - If you use a spam filter that blocks or re-routes emails from senders not listed in your email address book, you must add [support@paymentbrands.com] to your email address book.
- e. You have the right to receive Communications in paper form. To request a paper copy of any Communication at no charge, please write to 14488 Old Stage Road, Lenoir City, Tennessee 37772 (“**Company Address**”) within 180 days of the date of the original Communication, specifying in detail the Communication you would like to receive in paper form. For the avoidance of doubt, requesting a paper copy of any Communication, in and of itself, will not be treated as withdrawal of consent to receive electronic Communications.
- f. You may withdraw your consent to receive electronic Communications at any time, by writing to the Company Address. Any withdrawal of your consent will be effective after a reasonable period of time for processing your request, and Company will confirm your withdrawal of consent and its effective date in writing (either electronically or in paper form).
- g. You can change your email address by writing to the COMPANY Address. You may also be able to change your email address yourself through the Services.

Addendum 1: MERCHANT SERVICES AGREEMENT FOR SUB- MERCHANTS

This MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS (“Agreement”) is made among WORLDPAY, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249- 1384 and its designated Member Bank (collectively “Acquirer”) and (“Sub-merchant”) in connection with the agreement between Sub-merchant and

(“Provider”). Acquirer will provide Sub-merchant with certain payment processing services (“Services”) in accordance with the terms of this Agreement. In consideration of Sub-merchant’s receipt of credit or debit card funded payments, and participation in programs affiliated with Mastercard International Inc. (“Mastercard”), VISA U.S.A. Inc. (“VISA”), Discover (“Discover”), and certain similar entities (collectively, “Associations), Sub-merchant is required to comply with

the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments. In addition, if Sub-merchant meets certain requirements under the Operating Regulations or an Association or the Operating Regulations otherwise require, Sub-merchant may be required to enter into a direct relationship with an entity that is a member of the Associations. By executing this Agreement, Sub-merchant has fulfilled such requirement. However, Acquirer understands that Sub-merchant may have contracted with Provider to obtain certain processing services and that Provider may have agreed to be responsible to Sub-merchant for all or part of Sub-merchant's obligations contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises contained herein, the parties agree as follows:

1. **Certain Sub-merchant Responsibilities.** Sub-merchant agrees to comply, and to cause third parties acting as Sub-merchant's agent ("Agents") to comply, with each Association's and other payment network's by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the Mastercard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations or payment networks (collectively "Operating Regulations"). Sub-merchant may review the VISA, Mastercard, and Discover websites for a copy of the Visa, Mastercard and Discover regulations. The websites are: <https://usa.visa.com/support/small-business/regulations-fees.html> and <http://www.mastercard.com/us/merchant/> and <http://www.discovernetwork.com/merchants/>. Sub-merchant also agrees to comply with all applicable state, federal, and local laws, rules, and regulations ("Laws"). Sub-merchant hereby authorizes Acquirer to conduct background checks on Sub-merchant, including but not limited to credit checks and banking and financial history investigations. Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the USA PATRIOT Act, the Bank Secrecy Act, the Federal Trade Commission and obligations imposed by the US Treasury's Office of Foreign Assets Control (OFAC), and provide all necessary documentation to Acquirer promptly upon request. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers.

If appropriately indicated in Sub-merchant's agreement with Provider, Sub-merchant may be a limited-acceptance merchant, which means that Sub-merchant has elected to accept only certain Visa and Mastercard card types (i.e., consumer credit, consumer debit, and commercial cards) and Sub-merchant must display appropriate signage to indicate the same. Acquirer has no obligation other than those expressly provided under the Operating Regulations and applicable law as they may relate to limited acceptance. Sub-merchant, and not Acquirer, will be solely responsible for the implementation of its decision for limited acceptance, including but not limited to policing the card type(s) accepted at the point of sale.

Sub-merchant shall only complete sales transactions produced as the direct result of bona fide sale made by Sub-merchant to cardholders, and is expressly prohibited from presenting sales transactions which are produced as a result of sales made by any person or entity other than Sub-merchant, or for any purposes related to any fraudulent, unauthorized, illegal or prohibited activity, including but not limited to money-laundering or financing of terrorist activities. All fees associated with each Associations' transactions must be separate and distinguishable from fees associated with other Card transactions.

Sub-merchant may set a minimum transaction amount to accept a card that provides access to a credit account, under the following conditions: i) the minimum transaction amount does not differentiate between card issuers; ii) the minimum transaction amount does not differentiate between Mastercard, Visa, or any other acceptance brand; and iii) the minimum transaction amount does not exceed ten dollars (or any higher amount established by the Federal Reserve). Sub-merchant may set a maximum transaction

amount to accept a card that provides access to a credit account, under the following conditions: Sub-merchant is a i) department, agency or instrumentality of the U.S. government; ii) corporation owned or controlled by the U.S. government; or iii) Sub-merchant whose primary business is reflected by one of the following MCCs: 8220, 8244, 8249 – Schools, Trade or Vocational; and the maximum transaction amount does not differentiate between Mastercard, Visa, or any other acceptance brand.

2. **Sub-merchant Prohibitions.** Sub-merchant must not i) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed; ii) add any tax to transactions, unless applicable law expressly requires that a Sub-merchant impose a tax (Any tax amount, if allowed, must be included in the transaction amount and not collected separately); iii) request or use an account number for any purpose other than as payment for its goods or services; iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Sub-merchant; v) disburse funds in the form of cash unless Sub-merchant is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant), or Sub-merchant is participating in a cash back service; vi) submit any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to Sub-merchant, irrespective of cardholder approval; vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt; viii) accept a card to collect or refinance an existing debt that has been deemed uncollectable; or ix) submit a transaction that represents collection of a dishonored check. Sub-merchant further agrees that, under no circumstance, will Sub-merchant store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Sub-merchant nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.
3. **Settlement.** Upon receipt of Sub-merchant's sales data for card transactions, Acquirer will process Sub-merchant's sales data to facilitate the funds transfer between the various Associations and Sub-merchant. After Acquirer receives credit for such sales data, subject to the terms set forth herein, Acquirer will fund Sub-merchant, either directly to the Sub-merchant-Owned Designated Account or through Provider to an account designated by Provider ("Provider Designated Account"), at Acquirer's discretion, for such card transactions. Sub-merchant agrees that the deposit of funds to the Provider Designated Account shall discharge Acquirer of its settlement obligation to Sub-merchant, and that any dispute regarding the receipt or amount of settlement shall be between Provider and Sub-merchant. Acquirer will debit the Provider Designated Account for funds owed to Acquirer as a result of the Services provided hereunder, provided that Acquirer may also debit Sub-merchant's designated demand deposit account ("Sub-merchant-Owned Designated Account") upon receipt of such account information from Sub-merchant or Provider, or if Acquirer deposits settlement funds into the Sub-merchant-Owned Designated Account. Further, if a cardholder disputes a transaction, if a transaction is charged back for any reason, or if Acquirer reasonably believes a transaction is unauthorized or otherwise unacceptable, the amount of such transaction may be charged back and debited from Sub-merchant or Provider.
4. **Term and Termination.** This Agreement shall be binding upon Sub-merchant upon Sub-merchant's execution. The term of this Agreement shall begin, and the terms of the Agreement shall be deemed accepted and binding upon Acquirer, on the date Acquirer accepts this Agreement by issuing a merchant identification number, and shall be coterminous with Provider's agreement with Sub-merchant.

Notwithstanding the foregoing, Acquirer may immediately cease providing Services and/or terminate this Agreement without notice if (i) Sub-merchant or Provider fails to pay any amount to Acquirer when due, (ii) in Acquirer's opinion, provision of a service to Sub-merchant or Provider may be a violation of the Operating Regulations or any Laws, (iii) Acquirer believes that Sub-merchant has violated or is likely to

violate the Operating Regulations or the Laws, (iv) Acquirer determines Sub-merchant poses a financial or regulatory risk to Acquirer, Member Bank, or an Association, (v) Acquirer's agreement with Provider terminates, (vi) any Association de-registers Provider, (vii) Acquirer ceases to be a member of the Associations or fails to have the required licenses, or (viii) Acquirer is required to do so by Member Bank or any of the Associations.

5. **Limits of Liability.** Sub-merchant agrees to provide Acquirer, via a communication with Provider, with written notice of any alleged breach by Acquirer of this Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on which the alleged breach first occurred. Failure to so provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such breach.

EXCEPT FOR THOSE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, ACQUIRER DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Sub-merchant's sole and exclusive remedy for any and all claims against Acquirer arising out of or in any way related to the transactions contemplated herein shall be termination of this Agreement. In the event that Sub-merchant has any claim arising in connection with the Services, rights, or obligations defined in this Agreement, Sub-merchant shall proceed against Provider and not against Acquirer, unless otherwise specifically set forth in the Operating Regulations. In no event shall Acquirer have any liability to Sub-merchant with respect to this Agreement or the Services. Sub-merchant acknowledges Acquirer is only providing this Agreement to assist in Provider's processing relationship with Sub-merchant, that Acquirer is not liable for any action or failure to act by Provider, and that Acquirer shall have no liability whatsoever in connection with any products or services provided to Sub-merchant by Provider. If Provider is unable to provide its services to Sub-merchant in connection with this Agreement and Acquirer elects to provide those services directly, Sub-merchant acknowledges and agrees that the provisions of this Agreement will no longer apply and the terms of Acquirer's then-current Bank Card Merchant Agreement, which would be provided to Sub-merchant upon request, will govern Acquirer's relationship with Sub-merchant. If Provider subsequently provides its services to

Sub-merchant in connection with this Agreement, Acquirer will cease to provide such services after receipt of notice from Provider and this Agreement will govern Acquirer's relationship with Sub-merchant.

6. **Miscellaneous.** This Agreement is entered into, governed by, and construed pursuant to the laws of the State of Ohio without regard to conflicts of law provisions. This Agreement may not be assigned by Sub-merchant without the prior written consent of Acquirer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. This Agreement is for the benefit of, and may be enforced only by, Acquirer and Sub-merchant and is not for the benefit of, and may not be enforced by, any other party. Sub-merchant shall not disclose any Acquirer confidential information to any person or entity (other than to those employees or agents of Sub-merchant who participate directly in the performance of this Agreement and need access to such information, or, only to the extent strictly necessary, in response to a valid subpoena, court order, or Association requirement.) Acquirer may amend this Agreement upon notice to Sub-merchant in accordance with Acquirer's standard operating procedure. An Association may audit or direct the audit of Sub-merchant at any time, and nothing herein shall limit an Association from limiting or terminating an agreement with Sub-merchant. If any provision of this Agreement is determined to be illegal or invalid, such illegality or invalidity of that provision will not affect any of the remaining provisions and this Agreement will be construed as if such provision is not contained in the Agreement. "Member Bank" as used in this Agreement shall mean a member of VISA, Mastercard and/or Discover, as applicable, that provides sponsorship services in connection with this Agreement. As of the commencement of this Agreement, Member Bank shall be Fifth Third Bank, N. A., located in Cincinnati, OH, 45263. The Member Bank is a party

to this Agreement. The Member Bank may be changed, and its rights and obligations assigned to another similarly situated bank by Acquirer at any time without notice to Sub-merchant.