

## MERCHANT AGREEMENT

THIS AGREEMENT is made by and between WOODFOREST NATIONAL BANK ("BANK"), a National Banking Association, Paysafe Partners LP ("Paysafe") and the undersigned "MERCHANT" and is subject to the approval of SERVICE PROVIDERS. BANK and Paysafe are collectively referred to herein as "SERVICE PROVIDERS". The parties hereto agree as follows:

### 1.0 AGREEMENT:

1.1 This document, as well as other documents executed by MERCHANT, pursuant to the acceptance of SERVICE PROVIDERS, shall be incorporated herein and made a part hereof and shall constitute the entire agreement between SERVICE PROVIDERS and MERCHANT.

### 1.2 RESERVED

1.3 MERCHANT may designate a third party that does not have a direct agreement with SERVICE PROVIDERS as its agent for the direct delivery of data-captured Visa transactions to VisaNet for clearing and settlement. MERCHANT must:

- a) Advise SERVICE PROVIDERS that it will use a third-party agent.
- b) Agree that SERVICE PROVIDERS must reimburse MERCHANT only for the amount of Visa transactions delivered by SERVICE PROVIDERS of VisaNet, less monies due to SERVICE PROVIDERS.
- c) Assume responsibility for any failure by its agent to comply with the Visa International Operating Regulations, including but not limited to, any violation resulting in a chargeback.

1.4 MERCHANT acknowledges that SERVICE PROVIDERS may provide financial transaction processing hereunder through contracts or subcontracts with third parties engaged in the business of transaction processing and authorization. A transaction is defined as any transmission initiated from MERCHANT to SERVICE PROVIDERS and from SERVICE PROVIDER to MERCHANT.

1.5 SERVICE PROVIDERS hereby notify MERCHANT that the following options are available hereunder: (i) MERCHANT may elect to accept ONLY consumer credit and commercial cards; (ii) MERCHANT may elect to accept ONLY consumer debit cards; OR (iii) MERCHANT may elect to accept consumer credit and commercial cards and consumer debit cards.

### 2.0 Rights, Duties, and Responsibilities of Merchant:

#### 2.1 MERCHANT shall honor all cards provided:

(a) The card is valid and is presented to MERCHANT at the time of the sale by the authorized cardholder or an authorized user of the card account. A card is valid only if it is presented on or after the valid date, if any, and before the expiration date shown on its face.

(b) The card is used as payment for products which are sold or rendered by MERCHANT under this Agreement.

(c) The MERCHANT has followed procedures as established by SERVICE PROVIDERS for completion of sales drafts.

2.2 MERCHANT agrees to complete sales drafts in conformity with the terms of this Agreement, non-payment card's Rules and Regulations, the Card Association's Rules and Regulations, Discover Network Operating Regulations, and additionally must comply with the following:

(a) For transactions that are not mail, phone or internet orders, unless electronically swiped, the imprint of the card, including the name of the cardholder, the cardholder account number and the card's expiration date;

(b) MERCHANT is not authorized to accept mail or phone order transactions unless specifically authorized by SERVICE PROVIDERS and that acceptance of such transactions without written authorization from SERVICE PROVIDERS will constitute a breach of the Agreement. If MERCHANT is authorized to accept mail or phone order transactions, the name of the cardholder, the cardholder account number and the expiration date;

(c) The signature of the cardholder or authorized card user. In the case of mail or phone orders, the letters MO or TO, as the case may be, shall be clearly indicated on the sales draft;

(d) The date of the sale;

(e) A short description of the products sold or rendered;

(f) The total cash price of the sale or the words "deposit" or "balance" if full payment is to be made in this manner at different times on different sales drafts; and

(g) The city and state wherein such transaction occurred.

(h) Type of fuel sold and odometer reading (if permitted by POS device) in the case of fleet card transactions

(i) MERCHANT shall deliver a completed copy of the sales draft to the cardholder.

2.3 MERCHANT'S policy for the exchange or return of goods sold and the adjustment for services rendered shall be established and posted in accordance with operating regulations of the applicable Card Associations' or non-payment card's Rules and Regulations, and/or Discover Network Operating Regulations. MERCHANT agrees to disclose, if applicable, to a cardholder before a card sale is made, that if merchandise is returned:

(a) No refund, or less than full refund, will be given;

(b) Returned merchandise will only be exchanged for similar merchandise of comparable value;

(c) Only a credit toward purchases will be given; or

(d) Special conditions or circumstances apply to the sale (e.g. late delivery, delivery charges, or other noncredit terms). If MERCHANT does not make these disclosures, a full refund in the form of a credit to the cardholder's card account must be given. MERCHANT shall under no circumstances issue cash for returns of products where products were originally purchased in a card transaction. Disclosures must be made on all copies of sales drafts or invoices in letters approximately 1/4-inch-high in close proximity to the space provided for the cardholder's signature or on an invoice issued at the time of the sale or on an invoice being presented for the cardholder's signature.

2.4 MERCHANT may not process for payment any transaction(s) representing the refinancing of an existing obligation of a cardholder including, but not limited to, obligations (i) previously owed to MERCHANT, (ii) arising from the dishonor of a cardholder's personal check, and/or (iii) representing the collection of any other pre-existing indebtedness.

2.5 MERCHANT must not disclose a cardholder account number, personal information, or other transaction information to third parties other than to MERCHANT'S agent, SERVICE PROVIDERS, or SERVICE PROVIDERS'S agent for the sole purpose of assisting MERCHANT in completing the transaction or as required by law. MERCHANT must store all material containing cardholder account numbers or imprints in an area limited to selected personnel and render all data unreadable prior to discarding. MERCHANT must not retain or store magnetic-stripe data verification data subsequent to authorization of a transaction.

2.6 MERCHANT shall not require any cardholder to pay any part of any discount or charge imposed upon MERCHANT by this Agreement, whether through any increase in price or otherwise. MERCHANT shall not require a customer presenting a card for payment to pay any charge not also required from a person paying cash. These terms shall not, however, be construed as prohibiting discounts to customers for payments in cash.

2.7 MERCHANT agrees to obtain an authorization on all transactions. Any transaction which cannot be authorized electronically through a terminal is subject to a voice authorization charge. MERCHANT will obtain an authorization prior to completing a keyed transaction. Any transaction which is not properly authorized is made with full recourse and may be charged back to MERCHANT; furthermore, any keyed transaction will be subject to additional charges for a non-qualifying transaction. MERCHANT understands that an authorization does not constitute a guarantee of payment, only available credit and may be subject to dispute or chargeback. By signing this Agreement, Merchant agrees that the use of a "store & forward" terminal means that Merchant has the ability to store a swiped transaction at the terminal level when there is no phone line available. When a phone line becomes available, Merchant would then upload the transaction for a possible approval. Merchant understands and agrees that if Merchant uses this type of terminal, there is no guaranty whatsoever that once the transactions are uploaded Merchant will receive an approval. If Merchant allows the release of merchandise/service to the cardholder before receiving approval, Merchant agrees that this is to be done at Merchant's sole risk.

2.8 MERCHANT shall not complete any card sale for which an authorization has been declined. Any unauthorized card transaction is made with full recourse to MERCHANT, and SERVICE PROVIDERS may charge back the amount of such card sale to MERCHANT.

2.9 MERCHANT acknowledges that SERVICE PROVIDERS shall have full recourse to charge back the amount of a card sale for which (i) the imprint of the card is not obtained or (ii) the signature of the cardholder is not obtained and the cardholder disputes that he/she authorized the charge.

2.10 MERCHANT agrees to electronically deposit sales drafts and credit vouchers no later than the business day following the transaction date.

2.11 (a) MERCHANT shall, at all times, maintain an account at a bank that is a member of the Federal Reserve ACH System ("the Account"). All credits for collected funds and debits for fees, payments and chargebacks under the terms of this Agreement shall be made to the Account. MERCHANT may not close or change the Account without

written notice to SERVICE PROVIDERS. MERCHANT will be solely liable for all fees and costs associated with the Account and for all overdrafts. MERCHANT will maintain sufficient funds in the Account to accommodate all transactions, including fees and chargebacks, contemplated by this Agreement.

(b) MERCHANT shall promptly upon receipt, examine, balance, and reconcile all statements relating to the Account. Additionally, MERCHANT shall daily balance and reconcile all DAILY deposit and debit totals to confirm accuracy. MERCHANT is required to notify SERVICE PROVIDERS IN WRITING of any and all errors on MERCHANT'S statements and/or DAILY totals. Each such written notice shall contain the following information: (i) MERCHANT name and account number, (ii) the specific dollar amount of the asserted error, (iii) a detailed description of the asserted error, and (iv) a detailed explanation of why MERCHANT believes an error exists and the cause of the error, if known. The written notice MUST be RECEIVED by SERVICE PROVIDERS within ninety (90) days after MERCHANT receives the statement (regarding an asserted error on a statement) or within ninety (90) days from the date the alleged error on a DAILY total was made. Failure to timely send the notice referred to herein constitutes a waiver of any and all rights MERCHANT may have against SERVICE PROVIDERS related to the asserted error.

(c) MERCHANT agrees to fees of up to \$20 per occurrence for maintenance activities including but not limited to DDA changes and returned mail. MERCHANT will maintain sufficient funds in the Account to accommodate all transactions, including fees and chargebacks, contemplated by this Agreement.

2.12 MERCHANT assumes the responsibility for storage of all sales drafts and credit vouchers. Failure to provide SERVICE PROVIDERS with requested documentation within five (5) business days after receipt of such request may result in the transaction being charged back to MERCHANT, and SERVICE PROVIDERS shall have the right to debit the Account for full amount of the transaction in question.

2.13 MERCHANT shall pay any fees charged to MERCHANT by the telephone company for the preparation of the site(s) prior to installation of electronic data capture terminals and/or peripheral equipment.

2.14 MERCHANT shall not deposit any transaction for the purpose of obtaining or providing a cash advance. MERCHANT agrees that any such deposit shall be grounds for immediate termination.

2.15 MERCHANT must notify SERVICE PROVIDERS in writing of any changes to the information in this Application, including but not limited to:

(a) Transfer or sale of any substantial part of its total assets, or liquidate;

(b) Change the basic nature of its business, including selling any products or services not related to its current business;

(c) Change ownership or transfer control of its business; or

(d) Enter into any joint venture, partnership or similar business arrangement whereby any person or entity not a party to this Agreement assumes any interest in MERCHANT'S business. The notice must be received by SERVICE PROVIDERS within ten (10) business days of the change. MERCHANT will provide updated information to SERVICE PROVIDERS within a reasonable time upon request. Failure to provide notice as required above may be deemed as material breach and shall be sufficient grounds for immediate termination of MERCHANT. In the event, any of the changes listed above should occur, SERVICE PROVIDERS shall have the option to renegotiate the terms of this Agreement or terminate this Agreement upon thirty (30) days' notice. MERCHANT is liable to SERVICE PROVIDERS for all losses and expenses incurred by SERVICE PROVIDERS arising out of a failure to report changes to SERVICE PROVIDERS.

2.16 MERCHANT is liable for repayment to SERVICE PROVIDERS for all valid chargebacks. SERVICE PROVIDERS will comply with non-payment card's, or Card Associations' prevailing Rules and Regulations, and/or Discover Network Operating Regulations in processing any chargebacks which result from cardholder disputes. However, all disputes which are not or cannot be resolved through established chargeback procedures shall be settled between MERCHANT and the cardholder, and MERCHANT will indemnify SERVICE PROVIDERS and will provide reimbursement for all expenses, including reasonable attorney's fees and court costs, which it may incur as the result of any cardholder claim which is pursued outside the non-payment card's or Card Association's Rules and Regulations and/or Discover Network Operating Regulations. In the event of a chargeback loss to SERVICE PROVIDERS, MERCHANT hereby transfers and assigns to SERVICE PROVIDERS any lien rights that it has or may have on the merchandise sold to the cardholder.

2.17 MERCHANT shall not accept or deposit any fraudulent transactions and may not under any circumstances present for processing or credit, directly or indirectly, a transaction which originated with any other merchant or any other source. MERCHANT shall be prohibited from making a deposit of a credit transaction without a preceding debit. MERCHANT shall not, under any circumstances, deposit telemarketing transactions under this Agreement unless authorized by SERVICE PROVIDERS in advance of processing any telemarketing transactions. If MERCHANT deposits any such transaction, MERCHANT may be immediately terminated and SERVICE PROVIDERS may hold funds and/or demand a reserve pursuant to Sections 4 and 8; further, MERCHANT may be subject to VISA, MasterCard, and Discover Network reporting requirements set forth in Section 8.8.

2.18 MERCHANT will not deposit duplicate transactions. MERCHANT shall be debited for any adjustments for duplicate transactions and shall be liable for any chargebacks which may result therefrom. Merchant will be liable for any fees assessed by the Card Associations' Rules and Regulations and/or Discover Network Operating Regulations to the SERVICE PROVIDERS.

2.19 MERCHANT shall not initiate a sales transaction in an attempt to collect a chargeback.

2.20 Discount/Fee Schedule:

(a) MERCHANT'S Account will be debited daily, through ACH for amounts set forth in the pricing schedule which is part of this Agreement, and for any other fees or charges incurred by MERCHANT and associated with processing services. MERCHANT is obligated to pay all taxes and other charges imposed by any governmental authority on the services provided under this Agreement. SERVICE PROVIDERS reserve the right, in its sole discretion, to change, amend, add, or adjust any discount rates or fees set forth herein, in accordance with Section 10.6 of this Agreement.

(b) The "Qualified Retail Discount Rate" will be charged on all swiped retail payment card transactions that are electronically authorized and closed in a daily batch. On VISA transactions only, all manually keyed transactions that are closed in a daily batch, have AVS (Address Verification Service), an Order Number and reply to the prompt with "Exact Match" will be charged the "Mid-Qualified Rate." Notwithstanding the foregoing, for any card type in which the interchange rates (charged by the Card Associations) are higher than the VISA CPS Retail Credit Rate, or the MasterCard Merit III Base Credit Rate, (or renamed versions of the same categories), SERVICE PROVIDERS, in their sole discretion, has the option of charging the "Mid-Qualified Rate" or "Non-Qualified Rate" for that type of transaction. Examples of cards and transactions that would fall into that type of category include but are not limited to VISA Rewards Cards, MasterCard World Cards, VISA Signature Cards, foreign cards, corporate cards, purchase cards, mail/telephone, e-commerce, and T&E.

(c) The Enhanced Recover Reduced ("ERR") pricing will be charged if selected in the Rates and Fees section of this Agreement. Under ERR pricing only, any transaction that does not meet the criteria for the Qualified Retail Discount Rate will be charged the sum of the following: (i) Qualified Retail Discount Rate.

(ii) the Non-Qualified Retail Discount Rate and fees, and (iii) the difference between the actual interchange cost as assessed by the Card Associations and the interchange cost assessed on a transaction that qualifies for a Qualified Retail Discount Rate

(d) Increase in long-distance communications costs and processing charges from third-party vendors may be reflected in increased discount rates.

(e) MERCHANT'S pricing is partially based upon the annual volume, average ticket and method of doing business stated in this MERCHANT Application. If the actual volume and average ticket are not as warranted or if MERCHANT significantly alters its method of doing business, SERVICE PROVIDERS may adjust MERCHANT'S discount and/or transaction fees without prior notice. Merchants using AVS (Address Verification System) will be charged for each address verification request. This is in addition to the transaction fee. In the event of multiple locations, each location shall be considered to have a separate MERCHANT PAYMENT CARD AGREEMENT for all fee purposes. For the purposes of charging Transaction Fees under this Agreement, "transaction" is defined as any action by a merchant that results in activity to a cardholder or merchant account, including authorizations, batch closings, sales, or returns.

2.21 MERCHANT understands that there shall be fees, chargebacks, assessments, and/or amounts which shall arise as a result of the Agreement, both during and after termination of the Agreement. MERCHANT authorizes BANK to debit via ACH from any account held by MERCHANT at any financial institution in the amount of any amount owed by MERCHANT under this Agreement, including but not limited to any amounts owed for fees, chargebacks and or assessments which shall arise after termination of this Agreement. This ACH authorization will remain in effect after termination of this Agreement or until BANK has received written notice terminating this authorization. MERCHANT will indemnify and hold BANK harmless for any action they take pursuant to this Section. MERCHANT will also indemnify and hold harmless any other financial institution for acting in accordance with any instructions from BANK pursuant to this Section.

2.22 MERCHANT will be assessed a fee of \$25.00 for each return ACH debit.

2.23 MERCHANT will be assessed a High Risk Monitoring Fee of \$200 per month for high risk merchants. Such fee will include the costs associated with enhanced merchant monitoring and due diligence.

(a) Merchant will be assessed a merchant investigation fee for suspicious activity and/or Agreement deviations up to a maximum of ten percent (10%) of the dollar amount investigated.

2.24 A divert fee of \$25.00 per month will be charged for a special account maintained at SERVICE PROVIDERS to house diverted funds for MERCHANT.

2.25 MERCHANT agrees that Excessive Activity during any monthly period will be a breach of this Agreement and cause for immediate termination. Excessive Activities include i) chargebacks in excess of one percent (1%) of the sales transactions processed, ii) sales activity that exceeds by 25% the dollar volume indicated on the Application, iii) the dollar amount of returns exceeds 20% of the average monthly dollar amount of MERCHANT's card transactions, iv) other ratios required by VISA, MasterCard, Discover Network, or SERVICE PROVIDERS. SERVICE PROVIDERS will provide MERCHANT with any information possessed by SERVICE PROVIDERS which may enable MERCHANT to recover from others the amount of any sale charged back to MERCHANT. MERCHANT understands that SERVICE PROVIDERS will assess a fee per chargeback per presentment and a fee for each retrieval and each representment request. MERCHANT may be charged a Fee of fifty dollars (\$50.00) for each retrieval, representment request, or any type of chargeback during a month that MERCHANT's Account experiences Excessive Activity.

2.26 Any transaction that has not received an authorization, or that is deposited (transmitted) more than two (2), but not greater than thirty (30), business days following the transaction date, or that is made with a foreign card will be subject to a non-qualified increase. NOTE: Days allowed for settlements are calculated by excluding the transaction date, Sundays and holidays; and including the processing (settlement) date.

2.27 MERCHANT will use its reasonable, best efforts to recover any card: (i) on VISA cards, if the printed four digits above the embossed account number do not match the first four digits of the embossed account number, (ii) if MERCHANT is advised by SERVICE PROVIDERS (or their designee), the issuer of the card or the designated voice authorization center to retain it, (iii) if MERCHANT has reasonable grounds to believe the card is counterfeit, fraudulent or stolen, or not authorized by the cardholder, (iv) on Discover Network cards, if the printed four digits on the signature panel do not match the last four digits of the embossed account number, or if the card does not have the Discover Network acceptance mark in the lower right corner on both sides of the card, or (v) for MasterCard, the embossed account number, indent printed account number and/or encoded account number do not agree, or the card does not have a MasterCard hologram on the lower right corner of the card face.

#### 2.28 ELECTRONIC COMMERCE

(a) MERCHANT may process electronic commerce ("EC") transactions only if it has so indicated in this Agreement and only if MERCHANT has obtained SERVICE PROVIDERS' consent, and only if the transactions have been encrypted by a third-party vendor acceptable to SERVICE PROVIDERS. If MERCHANT submits EC transaction(s) without SERVICE PROVIDERS'S consent, SERVICE PROVIDERS may immediately terminate this Agreement. All transactions must comply with data security requirements as described in the Data Security Section of the Merchant Payment Card Application. MERCHANT understands that transactions processed via EC are high risk and subject to a higher incidence of chargebacks. MERCHANT is liable for all chargebacks and losses related to EC transactions, whether or not: i) EC transactions have been encrypted; and ii) MERCHANT has obtained SERVICE PROVIDERS' consent to engage in such transactions. Encryption is not a guarantee of payment and will not waive any provision of this Agreement or otherwise validate a fraudulent transaction. All communication costs related to EC transactions are MERCHANT'S responsibility. MERCHANT understands that SERVICE PROVIDERS will not manage the EC telecommunications link and that it is MERCHANT'S responsibility to manage that link. MERCHANT shall comply with FTA Act Section V (Unfair Deceptive Acts and Practices). If MERCHANT fails to comply with SERVICE PROVIDERS' website guidelines, MERCHANT shall be liable for a website noncompliance fee of \$20.00, such fee shall not exceed \$40.00 per month. All EC transactions will be settled by SERVICE PROVIDERS into a depository institution in the United States in U.S. currency.

(b) Whereas, MERCHANT desires to honor at its business location(s) Card Numbers presented in connection with the Mail/Telephone/Internet sale of products/services to customers the parties hereto agree to the following: i) MERCHANT agrees to use and retain proof of a traceable delivery system as means of shipment of product to customer and ii) MERCHANT agrees that transactions will not be processed until products are shipped to the cardholder. For goods to be shipped on EC transactions, MERCHANT may obtain authorization up to seven (7) calendar days prior to shipment date. MERCHANT need not obtain a second authorization if the sales draft amount is within fifteen percent (15%) of the authorized amount, provided that the additional amount represents shipping costs. Further, MERCHANT'S website must contain all of the following information: i) complete description of the goods or services offered, ii) returned merchandise and refund policy, iii) customer service contact, including electronic mail address and/or telephone number, iv) transaction currency (such as U.S. or Canadian dollars), v) export or legal restrictions, if known, and vi) delivery policy.

(c) MERCHANTS engaging in EC agree to provide a detailed business description to SERVICE PROVIDERS.

2.29 MERCHANT warrants and agrees that MERCHANT shall fully comply with all federal, state, and local laws, rules and regulations, as amended from time to time, including the Federal Truth-in-Lending Act, Regulation E, and Regulation Z of the Board of Governors of the Federal Reserve System.

2.30 This Agreement shall be effective only upon acceptance by SERVICE PROVIDERS.

2.31 MERCHANT agrees to pay, in addition to any and all other fees referred to herein, a non-refundable annual customer service fee per year per location. This fee shall be generated and charged any time within one year from the date of this Agreement. The actual date of the initial charge (within said first year) shall be at the sole discretion of SERVICE PROVIDERS. The fee shall be debited from the Account for the initial year and on the anniversary date (of the initial charge) for each year thereafter that the Account is in force. In the event this Agreement is terminated, for any reason, no portion of a charged annual customer service fee shall be rebated to MERCHANT.

2.32 MERCHANT agrees that in the event MERCHANT fails to pay SERVICE PROVIDERS on a chargeback loss, MERCHANT hereby assigns any rights it may have against the cardholder (related to said chargeback loss) to SERVICE PROVIDERS.

2.33 MERCHANT must not deposit a transaction receipt until it does one of the following:

a) Completes the transaction,

b) Ships or provides the goods, except as specified in the Delayed Delivery Transactions section of the Visa International Operating Regulations, c) Performs the purchase service, or obtains the cardholder's consent for a recurring transaction.

2.34 MERCHANT will not present any sales draft or other memorandum to SERVICE PROVIDERS for processing (whether by electronic means or otherwise) which relate to the sale of goods or services for future delivery without SERVICE PROVIDERS'S prior written authorization. If SERVICE PROVIDERS have previously given such consent, MERCHANT represents and warrants to SERVICE PROVIDERS that MERCHANT will not rely on any proceeds or credit resulting from such transactions to purchase or furnish goods or services. MERCHANT will maintain sufficient working capital to provide for the delivery of goods or services at the agreed upon future date, independent of any credit or proceeds resulting from sales drafts or other memoranda taken in connection with future delivery transactions.

2.35 All disputes between MERCHANT and any cardholder relating to any card transaction will be settled between MERCHANT and the cardholder. SERVICE PROVIDERS bear no responsibility for such transactions.

2.36 As a primary inducement to SERVICE PROVIDERS to enter into this Agreement, the Guarantor(s) indicated on this Application, by signing this Application, jointly and severally, unconditionally and irrevocably, guarantee the continuing full and faithful performance and payment by MERCHANT of each of its duties and obligations to SERVICE PROVIDERS pursuant to this Agreement, as it now exists or as it may be amended from time to time, with or without notice. Guarantor(s) understands further that SERVICE PROVIDERS may proceed directly against Guarantor(s) without first exhausting its remedies against any other person or entity responsible therefore to it or any security held by SERVICE PROVIDERS or MERCHANT. Guarantor(s) authorizes SERVICE PROVIDERS to debit via ACH from any account singly or jointly held by Guarantor(s) at any financial institution in the amount of any amount owed by Guarantor(s) under this Agreement. This ACH authorization will remain in effect after termination of this Agreement, and until SERVICE PROVIDERS have received written notice terminating this authorization and all Guarantor(s) obligations to SERVICE PROVIDERS have been paid in full. Guarantor(s) will indemnify and hold SERVICE PROVIDERS harmless for any action they take pursuant to this Section. Guarantor(s) will also indemnify and hold harmless any other financial institution for acting in accordance with any instructions from SERVICE PROVIDERS pursuant to this Section. This guarantee will not be discharged or affected by the death of the Guarantors, will bind all heirs, administrators, representatives and assigns and may be enforced by or for the benefit of any successor of SERVICE PROVIDERS. Guarantor(s) understand that the inducement to SERVICE PROVIDERS to enter into this Agreement is consideration for the guaranty, and that this guaranty remains in full force and effect even if the Guarantor(s) receives no additional benefit from the guaranty. The Guarantor(s) agrees to submit to the jurisdiction of the state of California and agrees that California shall be the sole venue for any dispute arising out of this Agreement.

2.37 Except as allowed under any applicable laws, MERCHANT must not establish a minimum or maximum dollar amount as a condition of honoring a VISA, MasterCard, or Discover Network transaction.

2.38 Recent legislation ("Truncation Laws") now requires terminals to suppress all but the last few digits from the cardholder's account number, as well as the expiration date. MERCHANT is responsible for compliance. Although federal law is in place regarding this issue, specific state laws may have more strict deadlines and requirements. MERCHANT is required to check its specific state law to be sure that MERCHANT is in compliance.

2.39 In accordance with the requirements of the Unlawful Internet Gambling Enforcement Act of 2006 and Regulation GG, MERCHANT understands that restricted transactions are prohibited from being processed through the Merchant Account or relationship with SERVICE PROVIDERS. Restricted transactions are transactions in which a person accepts credits, funds, instruments, or other proceeds from another person in connection with unlawful Internet gambling. By signing this agreement, MERCHANT certifies that its business does not engage in Internet gambling. MERCHANT agrees that it will notify SERVICE PROVIDERS in the event of any change in circumstance.

2.40 MERCHANT agrees to identify all third-party agents involved in the payment process that may have access to cardholder data.

2.41 MERCHANT agrees to provide SERVICE PROVIDERS with previous processor statements as requested.

2.42 MERCHANT agrees not to deposit a transaction receipt that it knows or should have known to be either fraudulent or not authorized by the cardholder.

2.43 MERCHANT agrees that MERCHANT shall be solely responsible for its employees' actions while in MERCHANT'S employ.

2.44 MERCHANT agrees that it shall 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.

2.45 MERCHANT agrees that it shall not request or use an account number for any purpose other than as payment for its goods or services.

2.46 MERCHANT agrees that it shall not add any tax to transactions, unless applicable law expressly requires that a MERCHANT be permitted to impose a tax.

2.47 MERCHANT agrees that it shall not disburse funds in the form of travelers cheques if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from MERCHANT.

2.48 MERCHANT agrees that it shall not disburse funds in the form of cash, unless:

(a) MERCHANT is a Lodging or Cruise Line merchant disbursing cash to a Premium Visa Product cardholder, as specified in Visa International Operating Regulations

(b) MERCHANT is dispensing funds in the form of travelers cheques, Visa TravelMoneyCards, or foreign currency. In this case, the transaction amount is limited to the values of the travelers cheques, Visa Travel Money Card, or foreign currency, plus any commission or fee charged by the merchant, or (c) MERCHANT is participating in the Visa Cash Back Service, as specified in Visa International Operating Regulations

2.49 MERCHANT agrees that it shall not accept a range of Visa cards for various purposes (e.g., Scrip, Manual Cash Disbursement).

2.50 Any MERCHANT who relies on fulfillment houses must submit information to SERVICE PROVIDERS about the fulfillment house, and steps for the underwriter to contact the fulfillment house to determine its financial capacity to support the MERCHANT.

2.51 SERVICE PROVIDERS may immediately terminate MERCHANT for any significant circumstances that create harm or loss to the goodwill of the Visa system.

2.52 MERCHANT agrees, if undergoing a forensic investigation at the time the Merchant Agreement is signed, to fully cooperate with the investigation until completed.

2.53 MERCHANT agrees to abide by transaction deposit restrictions, as specified in the Visa International Operating Regulations.

2.54 MERCHANT agrees to abide by transaction processing prohibitions, as specified in the Merchant Prohibitions section of the Visa International Operating Regulations.

2.55 MERCHANT agrees that it shall not deposit a transaction receipt that does not result from an act between the cardholder and the merchant or the cardholder and its sponsored merchant (laundering).

2.56 MERCHANT agrees that it shall not violate disclosure of account and Visa transaction information prohibitions, as specified in the Visa International Operating Regulations.

2.57 MERCHANT agrees that it shall be liable for a PCI Compliance Non-Validation Fee in the amount of \$19.95 per month if it fails to complete the PCI Protection Plan Self-Assessment Questionnaire (SAQ) according to required timelines. E-commerce merchants or merchants that are PCI Level 2 or PCI Level 3 are considered high risk. As such, MERCHANT agrees that it shall be responsible for a PCI Non-Compliance Fee of \$60.00 per month. Notwithstanding any payments of the PCI Compliance Non-Validation Fee, Merchant agrees that it shall still be liable for any and all fees, fines, assessments or reimbursements related directly or indirectly to the MERCHANT suffering a data security breach.

3.0 Rights, Duties and Responsibilities of SERVICE PROVIDERS.

3.1 SERVICE PROVIDERS will accept for processing all sales drafts deposited by MERCHANT that comply with the terms of this Agreement. Unless otherwise informed by SERVICE PROVIDERS and provided MERCHANT completes batch operation prior to 5:59pm CST, SERVICE PROVIDERS will pay MERCHANT up to three (3) business days after the date the SERVICE PROVIDERS receive the transaction, the total face amount of each sales draft, less any credit vouchers, discounts, fees or adjustments determined daily or monthly. All payments, credits and charges are subject to audit and final checking by SERVICE PROVIDERS, and prompt adjustments shall be made for inaccuracies discovered. [Comment: Confirm it is next day funding]

3.2 Notwithstanding any other provisions of this Agreement, SERVICE PROVIDERS may refuse to accept any sales draft, or revoke its prior acceptance, in any of the following circumstances:

(a) the sale giving rise to such sales draft was not made in compliance with all the terms and conditions of this Agreement including Card Associations' Rules and Regulations, Discover Network Operating Regulations, as well as applicable laws and regulations of any governmental authority; or

(b) The cardholder disputes his/her liability on any of the following grounds: (i) that the products covered by such sales drafts were returned, rejected or defective in some respect or MERCHANT failed to perform any obligation on its part in connection with such products, and MERCHANT has refused to issue a credit voucher in the proper amount; (ii) MERCHANT has failed to obtain a signature on the sales draft and the cardholder claims he/she did not authorize the transaction. In the event of a revocation of a prior acceptance of a sales draft, SERVICE PROVIDERS may withdraw from the Account any amount previously paid to MERCHANT for such sales draft.

3.3 SERVICE PROVIDERS will provide electronic data capture, monthly activity statement, and will assign customer service phone numbers which will accept all customer service calls and other communications from MERCHANT relating to the services provided under this Agreement including, but not limited to, disbursement of funds, account charges, monthly statements and chargebacks.

3.4 SERVICE PROVIDERS will process all requests for drafts and chargebacks from card issuers and will provide MERCHANT with timely notice of requests and chargebacks for documentation.

3.5 SERVICE PROVIDERS will provide, at MERCHANT'S option, a toll-free help line for servicing of peripheral equipment which shall include repair and reprogramming of equipment leased, rented or purchased from other vendors

3.6 Use of Independent Sales Offices: MERCHANT acknowledges that SERVICE PROVIDERS may have been referred to MERCHANT through an independent sales office operating under applicable VISA, MasterCard, and Discover Network rules and regulations. The independent sales office is an independent contractor and has no authority to alter the terms of this Agreement without SERVICE PROVIDERS'S prior written approval.

3.7 MERCHANT authorizes SERVICE PROVIDERS to control and disburse all appropriate settlement funds to the MERCHANT.

4.0 Account Monitoring.

4.1 MERCHANT acknowledges that SERVICE PROVIDERS will monitor MERCHANT'S daily deposit activity. MERCHANT agrees that SERVICE PROVIDERS may, upon reasonable grounds, divert the disbursement of MERCHANT'S funds from any account MERCHANT has in ANY financial institution for any reasonable period of time required to investigate suspicious, excessive or unusual deposit activity. BANK will make good faith efforts to notify MERCHANT within a commercially reasonable time period. SERVICE PROVIDERS shall have no liability for any losses, either direct or indirect, which MERCHANT may attribute to any diversion of funds disbursement. Any funds diverted shall be deposited immediately into a non-interest bearing account at SERVICE PROVIDERS, and not be released until such time that questionable/suspect/fraudulent transactions have been resolved to the SERVICE PROVIDERS' satisfaction.

4.2 Agents of SERVICE PROVIDERS are not permitted to directly access or hold MERCHANT funds whether from settlement or reserves.

5.0 Warranties; Disclaimer of Warranties.

5.1 MERCHANT unconditionally represents and warrants to SERVICE PROVIDERS that all sales drafts submitted to SERVICE PROVIDERS hereunder will represent the indebtedness of cardholder with whom MERCHANT has completed a sales transaction in amounts set forth therein for products only, shall not involve any element of credit for any other purposes and shall not be subject to any defense, dispute, offset or counterclaim which may be raised by a cardholder under the Card Associations' Rules and Regulations, Discover Network Operating Regulations, or the Consumer Credit Protection Act (15 USC 1601) or other relevant state or federal statutes or regulations. Further, MERCHANT warrants that any credit voucher which it issues represents a bonafide refund or adjustment on a card sale by MERCHANT with respect to which a sales draft has been accepted by the SERVICE PROVIDERS.

6.0 Limitations of Liability; Indemnification; Due Care.

6.1 SERVICE PROVIDERS shall have no liability for any negligent design or manufacture of any point-of-sale terminal, printer, or other equipment used by MERCHANT for the acceptance of credit card transactions. SERVICE PROVIDERS MAKE NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, CONCERNING ANY EQUIPMENT, OR OTHER SERVICE PROVIDED BY OTHERS AND, IN PARTICULAR, MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURCHASE. Should MERCHANT fail to pay for any amounts due to their ISO/MSP, MERCHANT grants to SERVICE PROVIDERS the right to set-off against MERCHANT'S deposit account in order to allow SERVICE PROVIDERS to collect any and all equipment payments not made by MERCHANT.

6.2 MERCHANT shall indemnify and hold SERVICE PROVIDERS harmless from all liability, loss and damage, including reasonable attorney's fee and costs which may arise as a result, whether direct or indirect, of any act or failure to act or the breach of any warranty by MERCHANT pursuant to the terms of this Agreement, the Card Associations' Rules and Regulations, and Discover Network Operating Regulations. In the event any Card Association, Discover Network, or other entity assesses a fine to SERVICE PROVIDERS due to the direct or indirect actions of MERCHANT, MERCHANT shall reimburse SERVICE PROVIDERS the amount of the fine. 6.3 SERVICE PROVIDERS WILL USE DUE CARE IN PROVIDING SERVICES COVERED BY THIS AGREEMENT AND THE PERFORMANCE OF ALL SERVICES CALLED FOR IN THIS AGREEMENT SHALL BE CONSISTENT WITH INDUSTRY STANDARDS. THE LIABILITY, IF ANY, OF SERVICE PROVIDERS UNDER THIS AGREEMENT FOR ANY CLAIMS, COSTS, DAMAGES, LOSSES AND EXPENSES FOR WHICH IT IS OR MAY BE LEGALLY LIABLE, WHETHER ARISING IN NEGLIGENCE OR OTHER TORT, CONTRACT, OR OTHERWISE, WILL NOT EXCEED IN THE AGGREGATE THE LESSER OF (I) THE AMOUNT OF FEES PAID BY MERCHANT, LESS INTERCHANGE AND ASSESSMENTS, OVER THE PREVIOUS SIX (6) MONTH PERIOD, CALCULATED FROM THE DATE THE LIABILITY ACCRUED AND (II) \$25,000. IN NO EVENT WILL SERVICE PROVIDERS OR ITS AGENTS, OFFICERS, DIRECTORS OR EMPLOYEES BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL OR PUNITIVE DAMAGES.

7.0 Display of Materials; Trademarks.

7.1 MERCHANT agrees to prominently display the promotional materials provided by SERVICE PROVIDERS in its place(s) of business. Use of promotional materials and use of any trade name, trademark, service mark or logo type ("Mark") associated with Card(s) shall be limited to informing the public that card(s) will be accepted at MERCHANT'S place(s) of business. MERCHANT'S use of promotional materials and marks is subject to the direction of SERVICE PROVIDERS.

7.2 MERCHANT may use promotional materials and marks during the term of the Agreement and shall immediately cease use and return any inventory to SERVICE PROVIDERS upon any termination thereof.

7.3 MERCHANT shall not use any promotional material or marks associated with VISA, MasterCard or Discover Network in any way which suggests or implies that either endorses any goods or services other than payment card services. Further, MERCHANT may be subject to immediate termination if deemed to be creating harm or loss to the goodwill of VISA, MasterCard, Discover Network, or SERVICE PROVIDERS.

7.4 Discover Network Program Marks. MERCHANT is prohibited from using the Program Marks, as defined below, other than as expressly authorized in writing by SERVICE PROVIDERS. Program Marks mean the brands, emblems, trademarks, and/or logos that identify the Discover Network Cards. Additionally, MERCHANT shall not use the Program Marks other than to display decals, signage, advertising, and other forms depicting the Program Marks that are provided to MERCHANT by SERVICE PROVIDERS or otherwise approved in advance in writing by SERVICE PROVIDERS. MERCHANT may use the Program Marks only to promote the services covered by the Program Marks by using them on decals, indoor and outdoor signs, websites, advertising materials and marketing materials; provided that all such uses by MERCHANT are approved in advance by SERVICE PROVIDERS in writing. MERCHANT shall not use the Program Marks in such a way that customers could believe that the products or services offered by MERCHANT are sponsored or guaranteed by the owners of the Program Marks. MERCHANT recognizes that it has no ownership rights in the Program Marks. MERCHANT shall not assign to any third party any of the rights to use the Program Marks.

8.0 Term; Termination and Early Termination Fees.

8.1 This Agreement shall become effective upon acceptance by SERVICE PROVIDERS and shall continue in full force and effect for a term of three (3) years therefrom. At the end of the initial three (3) year term and at the end of every renewal term thereafter, the Agreement will automatically renew for additional three (3) year periods, unless terminated by any party upon written notice at least thirty (30) days prior to the end of the then existing term or twenty (20) days as per the Voyager Merchant Agreement. In the event MERCHANT terminates this Agreement prior to the maturity date of the then existing term or substantially reduces its monthly processing by more than fifty percent, MERCHANT SHALL be liable to SERVICE PROVIDERS for an early termination fee described in the Merchant Payment Card Application/Agreement ("Early Termination Fee"). Notwithstanding the foregoing, no Early Termination Fee shall be applicable if: (a) MERCHANT terminates this Agreement within ninety (90) days of a change or increase to a Non-Pass-Through Fee, or (b) MERCHANT receives a valid "Bid" (hereinafter defined) for processing services from another merchant services provider during the Term of this Agreement and presents said Bid to BANK and BANK chooses not to match said Bid. For purpose of this Section 8.1, (x) "Non-Pass-Through Fee" means any fees or portions of fees that are assessed by BANK for payment card processing services pursuant to this Agreement that are retained by BANK and are not amounts assessed by the Card Associations or other third parties that are simply "passed through" to merchants; and (y) "Bid" means a written proposal from a third party processor for the processing of payment card transactions.

8.2 This Agreement may be immediately terminated by SERVICE PROVIDERS for the following reasons:

- (a) Reasonable belief that MERCHANT is employed in practices that involve elements of fraud or conduct deemed to be injurious to cardholders;
- (b) Reasonable belief that MERCHANT will constitute a risk to SERVICE PROVIDERS by failing to meet the terms of this Agreement; (c) Issuing cash advances as set forth in Section 2.14; or
- (d) MERCHANT appears on any Card Association's and/or Discover Network's security reporting.
- (e) MERCHANT fails to comply with Payment Card Industry Security Standards as outlined in the Data Security Section of Merchant Payment Card Application.

8.3 In the event this Agreement is (i) terminated for any reason as set forth in this Agreement by SERVICE PROVIDERS, (ii) MERCHANT breaches any of the terms of this Agreement (iii) terminated prior to the expiration date for any of the reasons set forth in Section 8.2 and when permitted by state

law, MERCHANT SHALL be liable to SERVICE PROVIDERS for an early termination fee equal to the greater of (i) \$495.00 per location; or (ii) an amount equal to the average monthly charges as determined by the SERVICE PROVIDERS sole discretion for only those recent months wherein MERCHANT was processing with SERVICE PROVIDERS, including but not limited to all card and miscellaneous fees, on MERCHANT statements multiplied by the number of months remaining on the term thereof.

8.4 SERVICE PROVIDERS may terminate this Agreement immediately and without cause upon providing MERCHANT with written notice of such termination.

8.5 In the event of termination whether with or without cause, MERCHANT expressly authorizes SERVICE PROVIDERS to withhold and discontinue the disbursement of all cards and other payment transactions of MERCHANT in process of being collected and deposited. Collected funds may be placed in a reserve account at SERVICE PROVIDERS until MERCHANT pays any outstanding charges or losses. Further, SERVICE PROVIDERS reserve the right to require MERCHANT to deposit additional amounts, based upon MERCHANT'S processing history and /or anticipated risk of loss to SERVICE PROVIDERS, into a reserve account. SERVICE PROVIDERS shall be granted a continuing security interest in funds held pursuant to this Section. Said reserve account shall be maintained for a minimum of one hundred eighty (180) days after the termination date and for any reasonable period thereafter, during which cardholder disputes may remain valid under the card plans. Any balance remaining after chargeback rights have expired will be disbursed to MERCHANT. This account shall be deemed a Reserve Account as defined pursuant to

## Section 8.7

8.6 Security Interests. This Agreement will constitute a Security Agreement under the Uniform Commercial Code. MERCHANT grants to SERVICE PROVIDERS a security interest in and lien upon: (i) all funds at any time in the Account (ii) all funds in diverted account (see Section 4.0), (iii) the Reserve Account (as defined below), (iv) future sales drafts, (v) all rights relating to this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement and (vi) any other account MERCHANT has in any financial institution, (collectively, the "Secured Assets") or any of its principals, guarantors, or authorized signors. Upon request by SERVICE PROVIDERS, MERCHANT will execute one or more financing statements or other documents to evidence and perfect this security interest. MERCHANT represents and warrants that no other party has a security interest in the Secured Assets. These security interest and liens will secure all of MERCHANT'S obligations under this Agreement and any other agreements between MERCHANT and SERVICE PROVIDERS including, but not limited to, MERCHANT'S obligation to pay any amounts due and owing to SERVICE PROVIDERS. With respect to such security interests and liens, SERVICE PROVIDERS will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. MERCHANT will obtain from SERVICE PROVIDERS written consent prior to granting a security interest of any kind in the Secured Assets to a third party. Merchant represents and warrants that no other person or entity has a security interest in any property in which you have granted SERVICE PROVIDERS a security interest hereunder. MERCHANT agrees that this is a contract of recoupment and SERVICE PROVIDERS are not required to file a motion for relief from a bankruptcy action automatic stay to realize on any of the Secured Assets. Nevertheless, MERCHANT agrees not to contest or object to any motion for relief from the automatic stay filed by SERVICE PROVIDERS. MERCHANT hereby grants SERVICE PROVIDERS the right to offset by ACH any account MERCHANT has in ANY financial institution in order to collect any amount due from MERCHANT to SERVICE PROVIDERS pursuant to this Agreement. In the event that MERCHANT has other agreements with SERVICE PROVIDERS or their affiliates for any related services (e.g., multiple merchant accounts or a combination of ACH accounts, and/or merchant accounts), and thereby has more than one Account, Reserve Account or any other account, MERCHANT grants SERVICE PROVIDERS the right to collect their fees and/or recoverable losses and expenses from any of MERCHANT'S Accounts, Reserve Accounts, Escrow Accounts, or any other accounts held by SERVICE PROVIDERS or any of their affiliates, at any financial institution vested in the name of MERCHANT, or any of its principals, guarantors, or authorized signors on such account, including, but not limited to as set forth in sections 8.7 and 8.8.

8.7 Reserve Account. (i) Establishment: Upon termination of this Agreement or upon SERVICE PROVIDERS' request and within SERVICE PROVIDERS' sole discretion, MERCHANT will establish and maintain a deposit ("Reserve Account") at SERVICE PROVIDERS in an amount reasonably determined by SERVICE PROVIDERS necessary to protect SERVICE PROVIDERS' interests under this Agreement. (ii) Funding: SERVICE PROVIDERS have the right to debit the Account to establish or maintain funds in the Reserve Account. SERVICE PROVIDERS may deposit into the Reserve Account funds it would otherwise be obligated to pay MERCHANT, for the purpose of establishing or maintaining the Reserve Account in accordance with this Section, if it determines such action is reasonably necessary to protect its interests. (iii) Funds: in no event will MERCHANT be entitled to return of Reserve Account funds before ten (10) months following the effective date of termination of this Agreement, provided however, that MERCHANT will remain liable to SERVICE PROVIDERS for all liabilities occurring beyond such ten (10) month period. SERVICE PROVIDERS will have sole control of the Reserve Account. In the event of a bankruptcy proceeding and the determination by the court that this Agreement is assumable under Bankruptcy Code Section 365, as amended from time to time, MERCHANT must establish or maintain a Reserve Account in an amount satisfactory to SERVICE PROVIDERS.

8.8 Recoupment and Set-Off. SERVICE PROVIDERS have the right of recoupment and set-off from the Reserve Account or the Account. This means that it may offset any outstanding/uncollected amounts owed from: (i) any amounts it would otherwise be obligated to deposit into the MERCHANT Account, and (ii) any other amounts MERCHANT may owe SERVICE PROVIDERS under this Agreement or any other agreement. MERCHANT acknowledges that in the event of a bankruptcy proceeding, in order for MERCHANT to provide adequate protection under Bankruptcy Code Section 362 to SERVICE PROVIDERS, MERCHANT must create or maintain the Reserve Account as required by SERVICE PROVIDERS, and SERVICE PROVIDERS will have the right of offset against the Reserve Account for any and all obligations which MERCHANT may owe to SERVICE PROVIDERS, without regard to whether the obligations relate to sales drafts initiated or created before or after the filing of the bankruptcy petition.

8.9 If MERCHANT is terminated for cause, MERCHANT acknowledges that SERVICE PROVIDERS may be required to report MERCHANT'S business name and the names and other identification of its principals to the Member Alert to Control High-Risk (MATCH) maintained by MasterCard. MERCHANT expressly agrees and consents to such reporting in the event MERCHANT is terminated for any of the reasons specified as cause by VISA, MasterCard, and Discover Network. Furthermore, MERCHANT shall hold harmless SERVICE PROVIDERS for claims which MERCHANT may raise as a result of such reporting.

8.10 Bankruptcy. MERCHANT will immediately notify SERVICE PROVIDERS of any bankruptcy, receivership, insolvency or similar action or proceeding initiated by or against MERCHANT or any of its principals. MERCHANT will include SERVICE PROVIDERS on the list and matrix of creditors as filed with the Bankruptcy Court, whether or not a claim may exist at the time of filing, and failure to do so will be cause for immediate termination or any other action available to SERVICE PROVIDERS under applicable rules or law. MERCHANT acknowledges that this Agreement constitutes an executory contract to make a loan, or extend other debt financing or financial accommodations to or for the benefit of MERCHANT, and, as such, cannot be assumed or assigned in the event of MERCHANT'S bankruptcy. In the case of any voluntary or involuntary bankruptcy or insolvency petition or proceeding, MERCHANT acknowledges and agrees that notwithstanding anything contained in this Agreement, the Reserve Account is separate and apart from the Merchant's insolvency estate and SERVICE PROVIDERS have a first priority thereon.

8.11 In the event MERCHANT receives and accepts a rate reduction or a fee reduction on any rate or fee set forth herein and SERVICE PROVIDERS agrees to said reduction the Term of this Agreement shall automatically be extended for an additional three (3) years from the date said rate or fee reduction takes effect.

## 9.0 Notices.

9.1 All written notices and other written communications required or permitted under this Agreement may be personally delivered, sent by prepaid, registered mail, charges (if any) prepaid, or sent by email, addressed as follows:

- (a) Woodforest National Bank, P.O. Box 8339, The Woodlands, TX 77387-8339;
- (b) Paysafe, 2600 Michelson Drive, Suite 1600, Irvine, CA 92612 with a copy to the Legal Department;

Attn: Legal Department  
email: [legal.departmentna@paysafe.com](mailto:legal.departmentna@paysafe.com)

(c) If to MERCHANT, to any owner or officer stated in this Agreement at the MERCHANT'S place of business as also stated on this Merchant Application, or by email.

Any written notice transmitted by email will be deemed to have been given and received on the day on which it was transmitted (but if the written notice is transmitted on a day which is not a business day (or after 5:00 p.m.), the written notice will be deemed to have been received on the next business day).

## 10.0 Additional Terms.

10.1 Card Plans. This Agreement is subject to the bylaws and rules promulgated by VISA, MasterCard, Discover Network, or any other card plan. The parties hereto are bound by and shall fully comply with these bylaws and rules and by such amendments or additions as may be made hereto. The parties hereto shall further comply with all Debit/ATM Network rules and regulations.

10.2 Inspection of Books, Records and Facilities. Representatives of SERVICE PROVIDERS may, during normal business hours, inspect, audit and make records of MERCHANT'S books, accounts, records and files pertaining to any card transactions. During the term hereof, at the request of SERVICE PROVIDERS, MERCHANT shall provide up to two (2) years of current financial statements and other related information that is requested by SERVICE PROVIDERS. MERCHANT will preserve its records of any card sale and any refund or credit adjustment thereon for at least seven (7) years from the date of such sale, credit, refund or adjustment. In such event, MERCHANT shall pay the costs incurred by us for such inspection, including, but not limited to, costs incurred for airfare and hotel accommodations. MERCHANT authorizes SERVICE PROVIDERS to obtain, from time to time, credit, financial, and other information regarding MERCHANT, its principal, officers and personal guarantors from others, such as credit reporting agencies.

10.3 Confidentiality. MERCHANT will not use for its own purposes, will not disclose to any third party, and will retain in strictest confidence all information and data belonging to or relating to the business of SERVICE PROVIDERS (including without limitation the terms of this Agreement), and will safeguard such information and data by using the same degree of care that MERCHANT uses to protect its own confidential information.

10.4 Privacy. SERVICE PROVIDERS comply with the Bank Secrecy Act and the USA Patriot Act to help the government fight the funding of terrorism and money laundering activities. Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account or becomes a new customer of the financial institution. Our Customer Identification Program is designed to comply with all federal mandates. When MERCHANT opens an account, or

obtains a service from the bank, SERVICE PROVIDERS will ask for owner/officer name, address, date of birth, and other information that will allow SERVICE PROVIDERS to identify MERCHANT. SERVICE PROVIDERS will also be asking MERCHANT to provide identifying documentation, such as driver's license or other forms of identification. SERVICE PROVIDERS can and will refuse to open an account or provide services if adequate identification is not provided, or SERVICE PROVIDERS is dissatisfied with the identification provided. SERVICE PROVIDERS collect non-public personal information about MERCHANT from the following sources: Information received from on applications or other forms; Information about transactions with SERVICE PROVIDERS, our affiliates, or others; and Information received from consumer reporting agencies. As required by the USA PATRIOT Act, SERVICE PROVIDERS also collect information and takes actions necessary to verify MERCHANT identity. SERVICE PROVIDERS may disclose all the information collected, as described above, to companies that perform marketing services on SERVICE PROVIDERS' behalf or to other financial institutions with which SERVICE PROVIDERS have joint marketing agreements. SERVICE PROVIDERS do not disclose any non-public personal information about our MERCHANTS to anyone, including our affiliates, except as permitted by law. Internally, SERVICE PROVIDERS restrict access to non-public personal information about MERCHANTS to associates who need to know that information to provide customer support and or to maintain records. SERVICE PROVIDERS' internal conduct clearly defines the manner in which an associate may access, use, or disseminate non-public information. SERVICE PROVIDERS maintain physical, electronic, and procedural safeguards that comply with federal standards to guard MERCHANT's non-public personal information. If MERCHANT decides to close account(s) or become an inactive merchant, SERVICE PROVIDERS will adhere to the policies and practices as described in this notice.

10.4.1 PRIVACY POLICY: MERCHANT represents, warrants and covenants that it has obtained all required consents from cardholders in respect of their personal information to be accessed, collected, used or transferred by SERVICE PROVIDERS in providing the services under this Agreement; and it has read, understood and hereby accepts Paysafe's privacy policy on behalf of itself and the Cardholders at: <https://www.paysafe.com/privacy-policy/>.

10.4.2 REFERRAL PARTNER CLAUSE: In addition, to the extent that MERCHANT has been introduced to Paysafe and entered into this Agreement through a referral partner of Paysafe (the "Referral Partner"), Merchant acknowledges and agrees that Paysafe may share Merchant's transaction information with the Referral Partner, for the sole purpose of calculating commissions payable to the Referral Partner.

10.5 Force Majeure. SERVICE PROVIDERS shall not be liable for any damages resulting from any delay in performance or non-performance caused by circumstances beyond SERVICE PROVIDERS' control including, but not limited to acts of God, fire, flood, war, governmental action, accident, labor trouble or shortage, or other events of similar effect in connection with SERVICE PROVIDERS' obligation herein.

10.6 Amendment. MERCHANT acknowledges that the terms set forth herein including but not limited to fees, rates, and charges may be changed by SERVICE PROVIDERS. MERCHANT agrees that any such changes shall be considered accurate and final unless MERCHANT disputes them in writing within 30 days of receipt of documentation showing said changes.

10.7 Section Headings. All section headings contained herein are for descriptive purposes only, and the language of such section shall control.

10.8 Assignability. This Agreement may not be assigned, directly or by operation of law, without the prior written consent of SERVICE PROVIDERS.

10.9 Attorney's Fees and Costs. MERCHANT shall be liable for and indemnify SERVICE PROVIDERS for any and all attorney's fees and other costs and expenses paid or incurred by the SERVICE PROVIDERS in the enforcement hereof, or in collecting any amounts due from MERCHANT to SERVICE PROVIDERS hereunder or resulting from any breach by MERCHANT of any of the terms or conditions of this Agreement.

10.10 Binding Effect: Governing Law; jurisdiction and Venue. This Agreement shall be construed and governed by the laws of the State of California and the Federal Arbitration Act. Any action or proceeding on this Agreement by or against SERVICE PROVIDERS shall be initiated and maintained under the jurisdiction of the State of California with venue in the courts of Orange County, in which case this Agreement shall be construed and governed by the laws of the State of California. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in effect. In the event Section 10.12 is deemed void or unenforceable, all claims or controversies between the parties arising out or relating to this Agreement or the breach thereof, shall be brought in a federal or state court located in California, and the parties hereby expressly consent to the exclusive jurisdiction of such courts for such purpose.

10.11 The rights conferred upon SERVICE PROVIDERS in this Agreement are not intended to be exclusive of each other or of any other rights and remedies. Rather, each and every right of SERVICE PROVIDERS at law or in equity will be cumulative and concurrent and in addition to every other right.

Additionally, the following sections shall survive the termination of this Agreement and shall remain enforceable after such termination: 2.11, 2.12, 2.16, 2.20, 2.21, 2.22, 2.25, 2.28, 2.32, 2.35, 2.36, 2.43, 2.52, 3.2, 3.4, 4.1, 6.1, 6.2, 6.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 9.1, 10.3, 10.4, 10.5, 10.9, 10.10, 10.11 - 10.13.

10.12 Dispute Resolution; Arbitration and Class Action Waiver. Any claims or controversies between the parties arising out of or relating to this Agreement or the breach thereof, including disputes over the enforceability, validity or scope of this Section 10.12, shall be resolved through arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as then may be in effect (which rules are available at [www.adr.org](http://www.adr.org)), except that (i) temporary equitable judicial relief may be sought in a federal or state court located in California, until an arbitrator can be empaneled and has determined whether that relief should be continued, modified or ended, and the parties hereby expressly consent to the exclusive jurisdiction of such courts for such purpose, and (ii) judicial relief may be sought in such court or any other court of competent jurisdiction to compel arbitration or to enforce an award issued pursuant to this section. THE PARTIES ALSO AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both Parties agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. In the event the foregoing prohibition on representative or class proceedings is invalidated or otherwise held unenforceable, the Parties agree that the remainder of this Section 10.12 similarly shall be deemed void and unenforceable.

10.13 MERCHANT is liable for repayment to SERVICE PROVIDERS for all valid chargebacks related to Debit and/or ATM Transactions. SERVICE PROVIDERS will comply with Debit/ATM Networks' prevailing Rules and Regulations in processing any chargebacks which result from cardholder disputes. However, all disputes which are not or cannot be resolved through established chargeback procedures shall be settled between MERCHANT and the cardholder, and MERCHANT will indemnify SERVICE PROVIDERS and will provide reimbursement for all expenses, including reasonable attorney's costs, which it may incur as the result of any cardholder claim which is pursued outside the Debit/ATM Network Rules and Regulations.

10.14 MERCHANT agrees to \$25 per hour, with one (1) hour minimum, research fee to be charged by SERVICE PROVIDERS for research it performs at MERCHANT's request.

10.15 For purposes of compliance with Payment Card Industry Security Standards, MERCHANT is required to notify SERVICE PROVIDERS in writing of any changes to the software type and version number from that originally stated within this Agreement. MERCHANT is liable to SERVICE PROVIDERS for all losses and expenses incurred by SERVICE PROVIDERS arising out of a failure to report changes to SERVICE PROVIDERS.

10.16 MERCHANT must report to SERVICE PROVIDERS its participation in any cash advance program outside of that offered by SERVICE PROVIDERS. Failure to report participation in such a program shall result in immediate termination of the MERCHANT account.

11.0 Fleet Card Acceptance.

11.1 If MERCHANT executes a Wright Express ("WEX") Merchant Agreement, MERCHANT understands that SERVICE PROVIDERS will provide such agreement to WEX, but that neither SERVICE PROVIDERS nor WEX shall have any obligation whatsoever to MERCHANT with respect to processing WEX Cards unless and until WEX executes WEX Merchant Agreement. If WEX executes WEX Merchant Agreement and MERCHANT accepts WEX cards, MERCHANT understands that WEX transactions are processed, authorized, and funded by WEX. MERCHANT understands that WEX is solely responsible for all agreements that govern WEX transactions and that SERVICE PROVIDERS are not responsible and assumes absolutely no liability with regard to any such agreement or WEX transactions, including, but not limited to, the funding and settlement of WEX transactions. MERCHANT understands that WEX will charge additional fees for the services that it provides.

11.2 If MERCHANT accepts Voyager Cards, MERCHANT should adhere to the following Voyager Regulations:

(a) MERCHANT should check Fleet Cards for any printer restrictions at the point of sale,

(b) If an increase in the number of Voyager transaction authorization calls from MERCHANT, not due to Voyager system outages, are in excess of 15% for a given month as compared to the previous month, Voyager may, in their sole discretion, deduct telephone charges not to exceed \$.25 per call for the increased calls from MERCHANT settlement of MERCHANT'S Voyager transactions, (c) Settlement of Voyager transactions will generally occur by the fourth banking day after the applicable card transaction is processed. Voyager shall

reimburse MERCHANT for the dollar amount of sales submitted for a given day by MERCHANT, reduced by the amount of chargebacks, tax exemptions, discounts, credits, and other fees,

(d) For daily transmission of data, MERCHANT shall maintain true and complete records for not less than thirty-six (36) months from the date of generation of the data, and MERCHANT is responsible for the expense of retaining such sales data records and sales drafts,

(e) In addition to the information provided in Section 6.3, in no event shall SERVICE PROVIDERS' cumulative liability to MERCHANT for losses, claims, suits, controversies, breaches or damages for any cause whatsoever in connection with Voyager transactions, exceed the lesser of \$10,000.00 or the Voyager transaction fees paid by MERCHANT for the two months prior to the action giving rise to the claim.

#### 12.0 Data Security.

12.1 MERCHANT hereby warrants and represents that it is PCI compliant including all POS software that it uses. If MERCHANT conducts any business over the Internet or over a VOIP terminal, MERCHANT must: install and maintain a working network firewall to protect data accessible via the Internet; keep security patches up-to-date; encrypt stored data sent over open networks; use and update anti-virus software; restrict access to data by business "need-to-know"; assign a unique ID to each person with computer access to data by unique ID; regularly test security systems and processes; maintain a policy that addresses information security for employees and contractors; and restrict physical access to cardholder information. When outsourcing administration of information assets, networks, or data, MERCHANT must retain legal control of proprietary information and use limited "need-to-know" access to such assets, network, or data. Further, MERCHANT must reference the protection of cardholder information and compliance with the PCI Security Standards Council in contract with other service providers. If MERCHANT stores cardholder account numbers, expiration dates, and other personal cardholder data in a database, MERCHANT must follow VISA, MasterCard, and Discover Network guidelines on securing such data as outlined by the Visa Cardholder Information Security Procedures (CISP), MasterCard Site Data Protection (SDP), and Discover Information Security and Compliance Program (DISC). MERCHANT understands that failure to comply with this Section may result in fines by VISA, MasterCard, and/or Discover Network, and MERCHANT agrees to indemnify and reimburse SERVICE PROVIDERS immediately for any fine imposed due to MERCHANT'S breach of this Section. For more information on the Payment Card Industry Security Standards, including each of the specific security programs, see [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org).

#### 13.0 American Express Card Acceptance

##### 13.1 American Express Definitions.

(ii) "Establishment" means any or all of a MERCHANT'S locations, outlets, websites, online networks, and all other methods for selling goods and services, including methods that the MERCHANT adopts in the future.

(iv) "Participant" means BANK'S merchant services provider Merchants' Choice Payment Solutions.

13.2 Card Acceptance. MERCHANT agrees to accept American Express Cards in accordance with the terms of this Agreement and agrees to adhere to the American Express Operating Regulations and the American Express OptBlue Program Merchant Requirements, which are both incorporated herein by reference and made a part hereof for all purposes, and are also available at [www.americanexpress.com/merchantguide](http://www.americanexpress.com/merchantguide). MERCHANT ACKNOWLEDGES THAT IT MAY CHOOSE NOT TO ACCEPT AMERICAN EXPRESS CARDS AT ANY TIME DURING THE TERM OF THIS AGREEMENT AND SUCH ACTION DOES NOT DIRECTLY NOR INDIRECTLY AFFECT MERCHANT'S RIGHTS TO ACCEPT ANY OTHER PAYMENT CARD. MERCHANT acknowledges that it is the MERCHANT'S sole obligation to ensure that it possesses the most current version of the American Express Operating Regulations and the American Express OptBlue Program Merchant Requirements as they are amended from time to time.

13.3 Prohibited Goods and Services. MERCHANT must accept the Card as payment for goods and services sold (other than those goods and services prohibited under the subsection below), or (if applicable) for charitable contributions made, at all of its Establishments, except as expressly permitted by state statute. MERCHANT is jointly and severally liable for the obligations of MERCHANT'S Establishments under the Agreement. MERCHANT must not accept the Card to verify a cardholder's age or for any of the following:

(i) adult digital content sold via Internet Electronic Delivery;

(ii) amounts that do not represent bona fide sales of goods or services (or, if applicable, amounts that do not represent bona fide charitable contributions made) at MERCHANT'S Establishments; for example, purchases at MERCHANT'S Establishments by MERCHANT'S owners (or their family members) or employees contrived for cash flow purposes, or payments that MERCHANT have accepted in order to advance cash to cardholders in connection with the transaction;

(iii) amounts that do not represent bona fide, direct sales by MERCHANT'S Establishment to Card Members made in the ordinary course of MERCHANT'S business;

(iv) cash or cash equivalent (e.g., gold, silver, platinum, and palladium bullion and/or bars), but collectible coins and jewelry are not prohibited; (v) charges that the cardholder has not specifically approved;

(vi) costs or fees over the normal price of the goods or services (plus applicable taxes) that the cardholder has not specifically approved; (vii) damages, losses, penalties, or fines of any kind;

(viii) gambling services (including online gambling), gambling chips, gambling credits, or lottery tickets;

(ix) unlawful/illegal activities, fraudulent business transactions or when providing the goods or services is unlawful/illegal (e.g. unlawful/illegal online internet sales of prescription medications or controlled substances; sales of any goods that infringe the rights of a rights-holder under laws applicable to us, MERCHANT, or the cardholder; online child pornography);

(x) overdue amounts or amounts covering returned, previously dishonored or stop-payment checks (e.g., where the Card is used as a payment of last resort); or

(xi) sales made by third parties or Entities conducting business in industries other than Merchant's.

13.4 High Volume. MERCHANT agrees that in the event its annual charge volume for American Express Cards is greater than \$1,000,000, then American Express may initiate the process of converting MERCHANT to an AXP Direct Merchant. Upon conversion MERCHANT shall be bound by American Express' then-current Card Acceptance agreement and American Express will set pricing and other fees payable by the MERCHANT for American Express card acceptance.

13.5 ARBITRATION AGREEMENT (as to Claims involving American Express). In the event that MERCHANT or Participant is not able to resolve a Claim against American Express, or a claim against Participant or any other entity that American Express has a right to join, this section explains how Claims may be resolved through arbitration. Merchant or American Express may elect to resolve any Claim by binding individual arbitration. Claims will be decided by a neutral arbitrator. If arbitration is elected by any party, MERCHANT nor Participant nor American Express will have the right to litigate or have a jury trial on that Claim in court. Further, MERCHANT, Participant, and American Express will not have the right to participate in a class action or in a representative capacity or in a group of persons alleged to be similarly situated pertaining to any Claim subject to arbitration under this Agreement. Arbitration procedures are generally simpler than the rules in court. An arbitrator's decisions are final and binding, and the arbitrator's final decision on a Claim generally is enforceable as a court order with very limited review by a court. Other rights MERCHANT, Participant, or American Express would have in court may also not be available in arbitration.

Initiation of Arbitration. Claims may be referred to either JAMS or AAA, as selected by the party electing arbitration. Claims will be resolved pursuant to this (i) Arbitration Agreement and the selected organization's rules in effect when the Claim is filed, except where those rules conflict with this Agreement. Contact JAMS or AAA to begin an arbitration or for other information. Claims may be referred to another arbitration organization if all parties agree in writing, if American Express selects the organization and MERCHANT selects the other within 30 days thereafter or if an arbitrator is appointed pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (FAA). Any arbitration hearing will take place in the federal judicial district where MERCHANT'S headquarters is located or New York, NY, at MERCHANT'S election.

(ii) Limitations on Arbitration. If any party elects to resolve a Claim by arbitration, that Claim will be arbitrated on an individual basis. No Claim is to be arbitrated on a class or purported representative basis or on behalf of the general public or other persons allegedly similarly situated. The arbitrator's authority is limited to Claims between MERCHANT, Participant, and American Express. An arbitration award and any judgment confirming it will apply only

(iii) to the specific case brought by MERCHANT, Participant or American Express and cannot be used in any other case except to enforce the award as between MERCHANT, Participant and American Express. This prohibition is intended to, and does, preclude MERCHANT from participating in any action by any trade association or other organization against American Express. Notwithstanding any other provision in this Agreement, if any portion of these Limitations on Arbitration is found invalid or unenforceable, then the entire Arbitration Agreement (other than this sentence) will not apply, except that MERCHANT, Participant, and American Express do not waive the right to appeal that decision.

(iv) Previously Filed Claims/No Waiver. MERCHANT, Participant, or American Express may elect to arbitrate any Claim that has been filed in court

(v) at any time before trial has begun or final judgment has been entered on the Claim. MERCHANT, Participant, or American Express may choose to delay enforcing or to not exercise rights under this Arbitration Agreement, including the right to elect to arbitrate a claim, without waiving the right to exercise or enforce those rights on any other occasion. For the avoidance of any confusion, and not to limit its scope, this section applies to any class- action lawsuit relating to the “Honor All Cards,” “non-discrimination,” or “no steering” provisions of the American Express Merchant Regulations, or any similar provisions of any prior American Express Card acceptance agreement, that was filed against American Express prior to the Effective Date of the Agreement to the extent that such claims are not already subject to arbitration pursuant to a prior agreement between MERCHANT and American Express.

(vi) Arbitrator’s Authority. The arbitrator will have the power and authority to award any relief that would have been available in court and that is authorized under this Agreement. The arbitrator has no power or authority to alter the Agreement or any of its separate provisions, including this arbitration agreement. (vii) Split Proceedings for Equitable Relief. MERCHANT, Participant, or American Express may seek equitable relief in aid of arbitration prior to arbitration on the merits if necessary to preserve the status quo pending completion of the arbitration. This section shall be enforced by any court of competent jurisdiction, and the party seeking enforcement is entitled to seek an award of reasonable attorneys’ fees and costs to be paid by the party against whom enforcement is ordered.

(viii) Small Claims. American Express will not elect arbitration for any Claim MERCHANT properly files in a small claims court so long as the Claim seeks individual relief only and is pending only in that court. (ix) Governing Law/Arbitration Procedures/Entry of Judgment. This Arbitration Agreement is made pursuant to a transaction involving interstate commerce and is governed by the FAA. The arbitrator shall apply New York law and applicable statutes of limitations and honor claims of privilege recognized by law. The arbitrator shall apply the rules of the arbitration organization selected, as applicable to matters relating to evidence and discovery, not federal or any state rules of procedure or evidence, provided that any party may ask the arbitrator to expand discovery by making a written request, to which the other parties will have 15 days to respond before the arbitrator rules on the request. If MERCHANT’S Claim is for \$10,000 or less, MERCHANT may choose whether the arbitration will be conducted solely based on documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing under the rules of the selected arbitration organization. At the timely request of a party, the arbitrator will provide a written opinion explaining his/her award. The arbitrator’s decision will be final and binding, except for any rights of appeal provided by the FAA. Judgment on an award rendered by the arbitrator may be entered in any state or federal court in the federal judicial district where MERCHANT’S headquarters or MERCHANT’S assets are located.

(x) Confidentiality. The arbitration proceeding and all information submitted, relating to or presented in connection with or during the proceeding, shall be deemed confidential information not to be disclosed to any person not a party to the arbitration. All communications, whether written or oral, made in the course of or in connection with the Claim and its resolution, by or on behalf of any party or by the arbitrator or a mediator, including any arbitration award or judgment related thereto, are confidential and inadmissible for any purpose, including impeachment or estoppel, in any other litigation or proceeding; provided, however, that evidence shall not be rendered inadmissible or non-discoverable solely as a result of its use in the arbitration.

(xi) Costs of Arbitration Proceedings. Merchant will be responsible for paying MERCHANT’S share of any arbitration fees (including filing, administrative, hearing or other fees), but only up to the amount of the filing fees MERCHANT would have incurred if MERCHANT had brought a claim in court. American Express will be responsible for any additional arbitration fees. At MERCHANT’S written request, American Express will consider in good faith making a temporary advance of MERCHANT’S share of any arbitration fees, or paying for the reasonable fees of an expert appointed by the arbitrator for good cause. (xii) Additional Arbitration Awards. If the arbitrator rules in MERCHANT’S favor against American Express for an amount greater than any final settlement offer American Express made before arbitration, the arbitrator’s award will include: (1) any money to which MERCHANT is entitled as determined by the arbitrator, but in no case less than \$5,000; and (2) any reasonable attorneys’ fees, costs and expert and other witness fees incurred by MERCHANT.

(xiii) Definitions. For purposes of this section 13.4 only, (i) “American Express” includes its Affiliates, licensees, predecessors, successors, or assigns, any purchasers of any receivables, and all agents, directors, and representatives of any of the foregoing, (ii) “MERCHANT” includes Merchant’s Affiliates, licensees, predecessors, successors, or assigns, any purchasers of any receivables and all agents, directors, and representatives of any of the foregoing, and (iii) “Claim” means any allegation of an entitlement to relief, whether damages, injunctive or any other form of relief, against American Express or against Participant or any other entity that American Express has the right to join, including, a transaction using an American Express product or network or regarding an American Express policy or procedure.

13.6 Treatment of the American Express Brand. Except as expressly permitted by Applicable Law, Merchant must not: (i) indicate

or imply that it prefers, directly or indirectly, any Other Payment Products over the Card,

(ii) try to dissuade Card Members from using the Card, (iii) criticize or mischaracterize the Card or any of American Express’ services or programs,

(iv) try to persuade or prompt Card Members to use any Other Payment Products or any other method of payment (e.g., payment by check),

(v) impose any restrictions, conditions, disadvantages or fees when the Card is accepted that are not imposed equally on all Other Payment Products, except for electronic funds transfer, or cash and check,

(vi) suggest or require Card Members to waive their right to dispute any Transaction,

(vii) engage in activities that harm the American Express business or the American Express Brand (or both),

(viii) promote any Other Payment Products (except Merchant’s own private label card that Merchant issues for use solely at Merchant’s Establishments) more actively than Merchant promote the Card, or

(ix) convert the currency of the original sale Transaction to another currency when requesting Authorization or submitting Transactions (or both). MERCHANT may offer discounts or in-kind incentives from MERCHANT’S regular prices for payments in cash, ACH funds transfer, check, debit card or credit/charge card, provided that (to the extent required by Applicable Law): (i) MERCHANT clearly and conspicuously disclose the terms of the discount or in-kind incentive to MERCHANT’S customers, (ii) the discount or in-kind incentive is offered to all of MERCHANT’S prospective customers, and (iii) the discount or in-kind incentive does not differentiate on the basis of the issuer or, except as expressly permitted by applicable state statute, payment card network (e.g., Visa, MasterCard, Discover, JCB, American Express). The offering of discounts or in-kind incentives in compliance with the terms of this paragraph will not constitute a violation of the provisions set forth above in this Section 13.5, “Treatment of the American Express Brand”.

13.7 Treatment of the American Express Marks. Whenever payment methods are communicated to customers, or when customers ask what payments are accepted, MERCHANT must indicate MERCHANT’S acceptance of the Card and display our Marks (including any Card application forms provided to MERCHANT) as prominently and in the same manner as any Other Payment Products. MERCHANT must not use the American Express Marks in any way that injures or diminishes the goodwill associated with the Mark, nor (without prior written consent from Participant) indicate that American Express endorse MERCHANT’S goods or services. MERCHANT shall only use the American Express Marks as permitted by the Agreement and shall cease using our Marks upon termination of the Agreement. For additional guidelines on the use of the American Express Marks, contact Merchant’s payment processing company.

13.8 Treatment of American Express Card Member Information. Any and all Card Member Information is confidential and the sole property of the Issuer, American Express or its Affiliates. Except as otherwise specified, MERCHANT must not disclose Card Member Information, nor use nor store it, other than to facilitate Transactions at MERCHANT’S Establishments in accordance with the Agreement.

13.9 Disclosure to American Express. MERCHANT agrees that Bank and its merchant service providers may disclose Transactions Data, Merchant Data, and other information about the MERCHANT to American Express. MERCHANT agrees that American Express may use such information to perform its responsibilities in connection with the Program, promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including marketing purposes within the parameters of the Agreement. Additionally, any information obtained in the Merchant Payment Card Application may be used by American Express to screen and/or monitor MERCHANT in connection with American Express Card marketing and administrative purposes.

13.10 Marketing Opt-Out. In order to opt-out of American Express newsletters or messages about products, services and resources for different forms of communications, MERCHANT must inform Bank of its request to opt-out via the Merchant Payment Card Application, via telephone or by providing written notice as provided for in this Agreement.

13.11 Third Party Beneficiary. MERCHANT agrees that American Express is a third-party beneficiary to this Agreement, but American Express does not have obligations to the Merchant, and American Express may enforce the terms of this Agreement against the MERCHANT.

#### MERCHANT ACH AGREEMENT

This Merchant ACH Agreement (this "Agreement") is made effective ("Effective Date") as of the date set forth below and between Paysafe Partners LP d/b/a Paysafe ("Paysafe"), a California limited partnership with its principal place of business at 2600 Michelson Drive, Suite 1600, Irvine, CA 92612 and the entity and/or individual whose name and address are set forth below on the signature page for this Agreement ("Client"). Paysafe is an item processor and provides automated clearing house, electronic fund transfer, and draft services (collectively, "Transactions"). Client wishes to initiate Transactions and desires to engage Paysafe to process those Transactions initiated by Client. Therefore, the parties agree as follows:

#### I. Definitions

The following terms when used in this Agreement will have the meanings set forth in this Section:

**"Account"** means a deposit account at a Federal Reserve member bank that has the ability to receive ACH items from the Federal Reserve for debit and credit to the account.

**"ACH"** means automated clearing house. **"Banking Day"** means any business day, during which Paysafe is open for business, but does not include any Saturday or Sunday, or any holiday observed by the Federal Reserve. **"Collected Funds"** means funds collected from the Federal Reserve as a result of processing EFT Data entries.

**"Customer"** means those consumers or businesses who have given authorization to Client for Client to initiate credit or debit entries to the accounts of those Customers. **"EFT Data"** means data collected by Client indicating funds to be distributed by credit or debit to Customers' accounts.

**"Rules"** means the rules and regulations of the National Automated Clearing House Association ("NACHA"). **"Settlement Date"** means a date specified by Client, on which date EFT Data entries will be available to Customers' banks that receive EFT Data from the Federal Reserve. **"Specifications"** means the processes, procedures and requirements set forth on Exhibit A.

**"Sponsor Bank"** means the bank designated by Paysafe, which is a Federal Reserve depository with agreements between itself, Paysafe and the Federal Reserve to electronically transfer funds between member banks of the Federal Reserve banking system.

#### II. Fees

**2.1 Fees.** For the services performed by Paysafe, Client agrees to pay the fees as detailed in Section 8 of the merchant application and Paysafe may change the fees at any time upon 30 days' prior written notice to Client.

**2.2 Pass Through Fees.** Client understands that some fees may be subject to tax and agrees to pay all applicable taxes. Increases in fees charged by Sponsor Bank will be passed through to Client, without notice. Client may be assessed an investigation fee equal to \$25.00 for each item investigated and/or 10% of the amount investigated each month for all sums that Paysafe is required to investigate as a result of Client's conduct.

#### III. Client Responsibilities

**3.1 Exclusivity.** Client will exclusively market Paysafe's data processing and collection services for processing Transactions originated by Client for credit and debit to accounts of Customers, who have agreed to such Transactions, in accordance with this Agreement. Client agrees that Paysafe shall be its sole provider of ACH services during the term of this Agreement.

**3.2 Settlement Account.** Client shall at all times, maintain an account ("Settlement Account") at a bank that is a member of the Federal Reserve ACH system. All credits for Collected Funds and debits for fees, payments and Returned Items (defined below) shall be made to the Settlement Account. For the services to be performed by Paysafe as set forth in the Specifications, Client authorizes Paysafe to credit and debit the Settlement Account electronically or via draft, and Client warrants that it shall, at all times, maintain a sufficient balance in the Settlement Account to cover overdraft of the Escrow Account (defined below) from Returned Items and service fees, and other charges plus such additional fees charged by Paysafe for the performance of services beyond the terms of this Agreement or from increased expenses incurred by the failure of Client to furnish data in accordance with the Specifications. Client may not close or change the Settlement Account without the consent of Paysafe. Client will be solely liable for all fees and costs associated with the Settlement Account and for all overdrafts. Client grants to Paysafe a security interest in the Settlement Account as well as any other account owned by Client and Client shall execute any document and obtain any consents or waivers from the bank at which the Settlement Account is maintained to protect Paysafe's security interest in such accounts. In the event that Client has more than one electronic payment services contract with Paysafe and has more than one settlement account, Client grants Paysafe the right to collect its fees and/or losses from any of Client's settlement accounts. Paysafe will first attempt to collect such fees/losses from the settlement account associated with the electronic payment contract from which the fee derived or the loss was incurred. If that settlement account has insufficient funds, Paysafe has the right to collect such fees/losses from any other of Client's settlement accounts.

**3.3 Notice of Intent.** Client shall provide Paysafe with immediate written notice of intent to: (A) transfer or sell any substantial part of its total assets, or liquidate; (B) change the basic nature of its business, including selling any products or services not related to its current business; (C) change ownership or transfer control of its business; or (D) enter into any joint venture, partnership or similar business arrangement whereby any person or entity not a party to this Agreement assumes any interest in Client's business.

Failure to provide notice as required above may be deemed a material breach and shall be sufficient grounds for immediate termination of the Agreement. In the event any of the changes listed above should occur, Paysafe shall have the option to renegotiate the terms of this Agreement or may immediately terminate this Agreement.

**3.6 Delivery of Payroll Funds.** Client shall cause payroll funds to be delivered by wire transfer at least 3 Banking Days ("Lead Time") prior to the Settlement Date designated by Client in an amount sufficient to cover payroll deposits, fees and other charges to Paysafe ("Payroll Amount Requirement") in accordance with the Specifications. Client understands and agrees that in the event payroll funds are not delivered in accordance with the above Lead Time, or that the Payroll Amount Requirement is insufficient, the Settlement Date will be delayed to allow for sufficient Lead Time and sufficient Payroll Amount Requirement.

**3.7 Compliance.** Client warrants and agrees that Client shall fully comply with all federal, state, and local laws, Rules and regulations, as amended from time to time, including the Federal Truth-in-Lending Act and Regulations E and C.

**3.8 Security Procedure.** Client shall comply with the security procedures requirements consistent with the Rules with respect to EFT Data.

**3.9 Cancellation or Amendment of Transactions.** Client shall have no right to cancel or amend any Transaction after its receipt by Paysafe. However, Paysafe shall use commercially reasonable efforts to act on a request by Client, but shall have no liability if such cancellation or amendment is not affected.

#### IV Paysafe Responsibilities

**4.1 Document Preparation.** Paysafe shall assist Client on the form and content of documents to be filed with Sponsor Bank, Paysafe and Customers.

**4.2 Format of EFT Data.** Paysafe shall provide Client with the format and specifications of EFT data.

**4.3 Escrow Account.** Client will establish and maintain an account ("Escrow Account") in Paysafe's name for deposit of Collected Funds and payment of Returned Items and service fees, and other charges ("Other Fees") incurred by Paysafe, Sponsor Bank and the Federal Reserve. Client understands and agrees that: (A) Paysafe shall deposit all Collected Funds to the Escrow Account, (B) Paysafe shall hold 100% of Collected Funds ("Hold Amount") in the Escrow Account for a period of 3 Banking Days, or such other time period that may be established by Paysafe pursuant to its underwriting of Client ("Hold Period"), (C) Paysafe shall, at the expiration of the Hold Period, transfer the Collected Funds, less a reserve amount ("Reserve Amount") established for Client pursuant to Paysafe's underwriting of Client, by EFT to the Settlement Account. Such transfer shall be in accordance with the Specifications. Client further understands and agrees that Paysafe shall hold any Reserve Amount for a period of 30 days from the date of collection ("Reserve Period"). Paysafe shall release the Reserve Amount to the credit of the Escrow Account at the expiration of the Reserve Period. Client understands and agrees that the Hold Amount, Hold Period, Reserve Amount and Reserve Period may be adjusted by Paysafe, at the sole discretion of Paysafe, to insure availability and sufficiency of funds to cover Other Fees.

**4.4 Electronic Bulletin Board.** Paysafe shall provide an electronic bulletin board service or other like service for the purpose of receiving EFT Data from Client, posting Returned Items, correction notices and account statements for Client. Client understands and agrees that it is Client's responsibility to pick up, by electronic means, the statements and return notifications from the electronic bulletin board service.

**4.5 Rejection of Transactions.** Paysafe shall reject any Transaction which does not comply with the Specifications. Paysafe shall have no obligation to retransmit a returned Transaction. V.

#### Term Termination

**5.1 Term.** The term of this Agreement shall be the same as the term for the Merchant Application and Agreement – Terms and Conditions

**5.2 Certain Post-Termination Rights.** Upon termination of this Agreement, all rights and obligations shall cease except Client's obligations: (A) to pay the applicable fees for any services performed by Paysafe prior to the effective date of termination, (B) to pay for any items returned unpaid ("Returned Items") subsequent to the effective date of termination for which Paysafe shall hold from the final deposit to the Settlement Account for 60 days a balance sufficient to cover Returned Items and

any unpaid fees payable to Paysafe, and (C) within 90 days of termination of this Agreement Client shall return to Paysafe all materials that are the property of Paysafe and provided by Paysafe to Client, including, but not limited to software, hardware, manuals and instructions.

#### VI. Events of Default

Either party shall have the right to terminate this Agreement, effective immediately, if either party is in default of any obligation under this Agreement and default continues for 30 days following written notice from the other party, or if either party is declared bankrupt, files a petition under any bankruptcy laws, has a receiver appointed for all or substantially all of its property, or makes an assignment of all or substantially all of its assets for its creditors.

#### VII. Indemnification

Client agrees to indemnify, defend, and hold harmless Paysafe, its employees, Sponsor Bank, directors, managers, officers or agents from and against any loss, liability, damage, penalty or expense (including attorneys' fees, expert witness fees and cost of defense) they may suffer or incur as a result of: (A) any failure by Client or any employee, agent, sales representative, or affiliate of Client to comply with the terms of this Agreement, (B) any warranty or representation made by Client being false or misleading, (C) any representation or warranty made by Client or any employee or sales representative or agent of Client to any third person other than as specifically authorized by this Agreement, (D) negligence of Client or its subcontractors, sales representatives, agents or employees, or (E) any alleged or actual violations by Client or its subcontractors, employees, sales representatives or agents of any governmental laws, regulations, or Rules.

#### VIII. Confidentiality

**8.1 Information.** Client agrees that it will not use for any purpose other than as necessary to carry out its obligations under this Agreement, will not disclose to any third-party, and will retain in strictest confidence all information and data belonging to or relating to the business of Paysafe, and that Client will safeguard such information and data by using the same degree of care and discretion that it uses to protect its own confidential information.

Client will not be obligated to maintain the confidentiality of information: (A) it is required to reveal in performing its obligations under this Agreement, (B) that is or becomes within the public domain through no act of Client in breach of this Agreement, (C) was in the possession of the Client prior to its disclosure under this Agreement, and Client can prove that, (D) received from another source that has no restriction on use or disclosure, or (E) is required to be disclosed by state or federal law, provided, however, that Client shall promptly inform Paysafe of the operation of this Section 8.1.E to enable Paysafe to defend nondisclosure of its confidential information. Paysafe shall have the right to inspect Client's premises to ensure that confidential information is properly protected from disclosure, damage or theft.

**8.2 Remedy.** In the event of a breach of this Section, the parties agree that Paysafe will suffer irreparable harm, and that the amount of monetary damages would be impossible to calculate. Thus, Paysafe will be entitled to injunctive relief in addition to any other rights to which Paysafe may be entitled as decided by a court of competent jurisdiction.

#### IX. Warranty of Application

Client represents and warrants to Paysafe that all information and all statements contained in each Customer application are true, correct and complete as if set forth in this Agreement. Client further agrees to notify Paysafe in writing within 10 days of any changes which may occur from time to time regarding any information contained in Customer application, including but not limited to the identity of principals and/or owners, the form of business organization, type of goods and services provided, and how sales are completed. Paysafe may from time to time request updated credit information on Client's business and Client agrees to provide updated financial statements and other information within 10 days of Paysafe's request. Client shall be liable for any and all losses, costs, claims, and expenses suffered or incurred by Paysafe, arising out of or resulting from Client's failure to report all such changes to Paysafe.

#### X. Limitation of Liability

The liability, if any, of Paysafe under this Agreement for any claims, costs, damages, losses and expenses for which it is or may be legally liable, whether arising in negligence or other tort, contract, or otherwise, will not exceed in the aggregate the amount of any fees paid by Client for the preceding 3 month period, measured from the date the liability accrues. Any legal action undertaken by Client pursuant to any of the terms or conditions or the interpretation of this Agreement shall be commenced within 6 months of termination of this Agreement. Client agrees that after 6 months has expired, no legal action against Paysafe may be brought in any court regarding any term or condition of this Agreement. In no event will either party to this Agreement be liable for indirect, special, or consequential damages even if advised of that possibility.

#### XI. General

**11.1 Assignability.** Client may not assign this Agreement, either directly or by operation of law, without the prior written consent of Paysafe and any unauthorized attempted assignment will be null and void.

**11.2 Notice.** All written notices and other written communications required or permitted under this Agreement may be personally delivered, sent by prepaid, registered mail, charges (if any) prepaid, or sent by email, addressed as follows:

(a) *Intentionally left blank*

(b) Paysafe, 2600 Michelson Drive, Suite 1600, Irvine, CA 92612 with a copy to the Legal Department;

Attn: Legal Department

email: [legal.departmentna@paysafe.com](mailto:legal.departmentna@paysafe.com)

(c) If to MERCHANT, to any owner or officer stated in this Agreement at the MERCHANT'S place of business as also stated on this Merchant Application, or by email.

Any written notice transmitted by email will be deemed to have been given and received on the day on which it was transmitted (but if the written notice is transmitted on a day which is not a business day (or after 5:00 p.m.), the written notice will be deemed to have been received on the next business day).

The parties may, from time to time, designate different persons or addresses to which subsequent communications will be sent by sending a notice of such designations in accordance with this Section.

**11.3 Entire Understanding, Amendment.** This Agreement, including the attached Exhibits which are incorporated by reference, sets forth the entire understanding of the parties relating to its subject matter. Except as otherwise provided in this Agreement, this Agreement may not be amended; except in writing executed by both parties.

**11.4 Severability.** If any provision of this Agreement is illegal, the invalidity of such provision will not affect any of the remaining provisions, and this Agreement will be construed as if the illegal provision is not contained in the Agreement. This Agreement will be deemed modified to the extent necessary to render enforceable the provisions hereunder.

**11.5 No Waiver of Rights.** No failure or delay on the part of any party in exercising any right under this Agreement will operate as a waiver of that right, nor will any single or partial exercise of any right preclude any further exercise of that right.

**11.6 Successors and Assigns.** This Agreement will inure to the benefit of and will be binding upon the parties and their respective permitted successors and assigns. This Agreement will not be deemed to be for the benefit of any third party.

**11.7 Applicable Law.** The Agreement will be deemed to be a contract made under the laws of the State of California and will be construed in accordance with the laws of California without regard to principles of conflicts of law. The exclusive forum and venue for the adjudication of any rights, claims or disputes arising out of or in connection with this Agreement shall be the federal or state courts of California. The parties specifically waive the right to a jury trial in connection with any dispute arising out of this Agreement, or between the parties for any reason.

**11.8 Independent Contractors.** Paysafe and Client will be deemed to be independent contractors and will not be considered to be agent, servant, joint venturer or partner of the other.

**11.9 Construction.** The headings used in this Agreement are inserted for convenience only and will not affect the interpretation of any provision. All Sections mentioned in the Agreement reference Section numbers of this Agreement. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party.

**11.10 Force Majeure.** Neither party will be liable to the other for any failure or delay in its performance of this Agreement in accordance with its terms if such failure or delay arises out of causes beyond the control and without the fault or negligence of such party.

**11.11 Survival.** All agreements that by their context are intended to survive the termination of this Agreement, including but not limited to Article II, Article V, Article VII, Article VIII, Article X and Article XI, will survive termination of this Agreement.

**11.12 Attorney's Fees.** If any court holds that a party has breached this Agreement, then the non-defaulting parties will be entitled to recover expenses incurred in enforcing the provisions of this Agreement, including reasonable attorneys' fees and costs.

**11.13 Counterparts/Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterpart shall

together constitute one and the same instrument. The signatures to this Agreement may be evidenced by facsimile copies or PDF copies reflecting the party's signature, and any such facsimile copy or PDF copy shall be sufficient to evidence the signature of such party as if it were an original signature.