



Fee and Regulatory Disclosure Page

This Fee and Regulatory Disclosure (“Disclosure”) sets forth a summary of certain information in your Sub-merchant Agreement between you (“Sub-merchant”) and us (“US EZPAY”), on behalf of and as an agent of Processor and/or Member Bank (as identified below), relating to the Services described in your Sub-merchant Agreement and Application. We recommend that you thoroughly review the Sub-merchant Agreement and Application and contact us with any questions. In the event of any conflict between the terms of the Sub-merchant Agreement or Application and the terms of this Disclosure, the terms of the Sub-merchant Agreement or Application will control. Capitalized terms not otherwise defined in this Disclosure have the meanings set forth in the Sub-merchant Agreement.

Payment Facilitator	Name: US EZPAY, Inc. Address: 62B Allen Street, Manhattan, NY 10002 Customer service: 888-859-6889
Member Bank	Fifth Third Bank, N. A. Address: 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 Customer service: 886-622-2390
Term & Termination	The Initial Term of this Agreement is three (3) years from the Effective Date, <i>and the Agreement will automatically renew for additional one (1) year successive terms unless terminated in accordance with the terms of Section 1.16 of the Agreement.</i> Either party may terminate the Agreement effective at the end of any Term by providing written notice to the other party at least ninety (90) days prior to the expiration of the then-current Term. In addition, US EZPAY, Bank, or any Card Network may immediately terminate the Agreement for those circumstances set forth in Section 1.16 of the Agreement. <i>If you terminate this Agreement early other than as permitted under the Agreement, you will be subject to an Early Termination Fee in the amount set forth in your Application.</i>
Summary of Fees & Rates	<p>The fees and rates charged to you that you are responsible for in connection with this Agreement are set forth in your Application. If you are unsure as to the calculation or applicability of any fee, please contact us and we will explain it in greater detail. <i>Pricing is subject to change from time to time as set forth in the Agreement.</i></p> <p>The way the most common fees are calculated is as follows:</p> <p><u>“Discount Rate”</u> is a percentage of the gross amount of each transaction processed by or submitted to US EZPAY. A portion of the Discount Rate is the Interchange Rate. The Discount Rate may be set by category (e.g., qualified, mid-qualified, and non-qualified) or set based on the Interchange Rate (e.g., the Interchange Rate plus a certain percentage). The category into which a transaction will fall depends on a number of factors, including but not limited to the Card type, transaction type, payment method, Authorization, and timeliness of submitting the transaction/batch. US EZPAY can provide information about the category applicable to a particular transaction upon Sub-merchant’s request.</p> <p><u>“Interchange Rate”</u> is a percentage of the gross amount of each transaction set by the applicable Card Network. The Interchange Rate varies based on the type of transaction, method of transaction, and transaction classification. “Interchange Plus” pricing is the Interchange Rate plus an additional processing cost that is set as a flat rate or percentage of the transaction amount.</p> <p><u>Transaction Fees:</u> Depending on the specific fee, such fees may be charged on all transactions or only specific types of transactions or may be a flat rate. For example, a PIN-Debit Fee is only charged on debit transactions requiring a PIN. Other fees will be charged as set forth for each fee, which may be upon</p>



	<p>the occurrence of an event (e.g., a Chargeback fee will be charged per each Chargeback) or based on the passage of time (e.g., a monthly fee will be charged each month or portion thereof without proration). Sometimes the fee will vary based on the types of transactions submitted for processing (e.g., Card present transactions vs. Card not present transactions).</p> <p><u>Equipment Fees:</u> The payment due for the purchase or lease of Equipment, and the calculation of such payment, will vary based on the type of Equipment, the applicable license(s) necessary for the Equipment, the term of any financing, and Sub-merchant’s creditworthiness. The payment amount(s), and the calculation for such amounts, will be set forth in a separate purchase or lease agreement.</p> <p><u>Card Network Charges and Assessments:</u> Each Card Network may surcharge one or more transactions based on the type of transaction, method of transaction, transaction classification, and other metrics set forth in the Rules. Merchant is responsible for reviewing the applicable Rules (available on each Card Network website or upon request from US EZPAY) regarding applicable surcharges. Card Networks may also impose assessments for non-compliance with the Rules. Sub-merchant is responsible for all Card Network charges and assessments.</p> <p><u>Third Party Fees:</u> Sub-merchant may be subject to additional fees from third parties in connection with services from such third parties.</p>
Background Checks	By signing the Application, you authorize US EZPAY to research the background of your business and its owners and principals, including but not limited to past banking relationships, financial history, and conducting background checks and credit checks. You authorize US EZPAY to share the information learned through this research with Member Bank, Processor, and Card Networks as may be required from time to time.
Statements	The standard delivery method for Monthly Statements is electronic. You must notify US EZPAY of any errors within a Monthly Statement within 30 days of the date of the Monthly Statement in accordance with Section 1.29 of the Agreement.

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Sub-merchant Agreement

ACCEPTANCE OF TERMS BY SUB-MERCHANT:

Sub-merchant has completed and submitted to US EZPAY an application for services that provides information about Sub-merchant's business and processing needs (the "Application"). As part of the Application, Sub-merchant has certified that it has read this Sub-merchant Agreement ("Agreement") and attached Fee and Regulatory Disclosure Page ("Disclosure"), and understands and agrees that the terms of this Agreement will be binding on it as of the date Sub-merchant executes or otherwise accepts (by signing the Application or electronically "clicking-to-accept") this Agreement. A SUB-MERCHANT'S SUBMISSION OF A TRANSACTION PURSUANT TO THIS AGREEMENT AFTER THE EFFECTIVE DATE IS A RATIFICATION OF EACH AND ALL OF SUB-MERCHANT'S OBLIGATIONS UNDER THIS AGREEMENT.

ARTICLE I. GENERAL PROVISIONS.

The terms set out in this Agreement govern the relationship between Sub-merchant and US EZPAY, the parties to this Agreement. Sub-merchant understands that US EZPAY has relationships with the processor and member bank identified in the Disclosure ("Processor" and "Member Bank," respectively) in connection with the services provided under this Agreement. US EZPAY, Processor and Member Bank are collectively, referred to herein as "Service Providers". Sub-merchant acknowledges and agrees that Processor and Member Bank are not parties to this Agreement but may enforce certain provisions of this Agreement as indicated herein. The subsequent sections of this Agreement define the terms of service for different service offerings of US EZPAY.

1.01 Compliance with Rules and Service Providers Guidelines. Sub-merchant agrees to comply with and be subject to all Rules of Mastercard International, Inc., ("Mastercard"), Visa U.S.A., Inc. ("VISA"), Discover Network ("Discover Network"), American Express ("AMEX") and the National Automated Clearing House Network ("Nacha") and other networks identified by US EZPAY, as such networks may exist from time to time and as applicable to Sub-merchant's activities under this Agreement (collectively, "Card Networks"). Sub-merchant also agrees to comply with all guidelines, policies and procedures for services provided to Sub-merchant by US EZPAY from time to time.

The Card Networks make excerpts of their Rules available online, as may be amended from time to time:

<https://www.mastercard.us/en-us/business/overview/support/rules.html>;

<https://usa.visa.com/support/consumer/visa-rules.html>;

<https://www.americanexpress.com/Merchantopguide>;

https://www.discoverglobalnetwork.com/content/dam/discover/en_us/dgn/pdfs/MIT-Implementation-Guide.pdf.

Each applicable Card Network's complete Rules are incorporated by reference into this Agreement and will control with respect to any conflict in terms between this Agreement and such Rules. Sub-merchant will not discriminate against Cards or issuers except in full compliance with the Rules, and will comply with all Rules, applicable laws, and regulations related to its business operations, PCI-DSS obligations, the use of a Card Network's Marks, and each transaction acquired hereunder. Sub-merchant expressly agrees that it will accept Cards and protect, utilize, or restrict transaction data, including the magnetic stripe and CVV2, in accordance with the terms of this Agreement, applicable law or regulation, and the Rules, and will cooperate with any audit requested by a Card Network, Member Bank, or other governmental authority until such audit is completed.



In addition to complying with each Card Network's Rules related to acceptance, disbursement, or resubmission of a transaction, Sub-merchant may not submit any illegal, fraudulent, or unauthorized transaction and shall only submit transactions for the sale of its own goods or services, and not any other person or company, and may not receive payment on behalf of or, unless authorized by law, redirect payments to any other party. Sub-merchant covenants that it is not a third-party beneficiary under any agreement with a Card Network, however, a Card Network may be a third-party beneficiary of this Agreement, and shall have the rights, but not any obligation, necessary to fully enforce the terms of this Agreement against the Sub-merchant.

Sub-merchant acknowledges and agrees that it is responsible for its employees' actions, it will notify US EZPAY of any third party that will have access to Cardholder data, and it will immediately report all instances of a data breach to US EZPAY immediately after it reasonably identifies an incident.

In the event that a Sub-merchant elects to implement a surcharge/cash discount program, Sub-merchant agrees a) it will provide written notice to US EZPAY of its intent to implement such a program; b) it will be responsible for its compliance with the Rules and all applicable state and federal law regarding such program; c) it will indemnify US EZPAY for any fine, assessment, or other loss or damage in connection with Sub-merchant's implementation of such program, and d) it will not implement such program until it receives US EZPAY's approval (however, such approval does not constitute US EZPAY's confirmation of the compliance of such program).

1.02 Enforcement of Rights. To the maximum degree permitted by law and by the Rules of the Card Networks, it is the intention of the parties that the rights of Service Providers set forth in this Agreement, or arising from this Agreement, may be exercised solely by US EZPAY or its authorized designee or as otherwise determined by Service Providers in their sole and absolute discretion.

1.03 Warranties of Sub-merchant. Sub-merchant hereby represents and warrants to US EZPAY at the time of submission of the Application and during the Term of this Agreement that:

- a) All information contained in the Application or any other documents delivered to or on behalf of US EZPAY in connection therewith is true and complete and accurately reflects Sub-merchant's business, financial condition and principal partners, owners or officers (including but not limited to the accuracy of Sub-merchant's legal name and tax ID number). Sub-merchant agrees that US EZPAY will not be liable for any penalty or other damages stemming from any 1099k form that is issued incorrectly if it comports with the information provided by Sub-merchant, and US EZPAY will have no obligation to verify the legal name or tax ID number for reporting purposes
- b) Sub-merchant is duly organized and in good standing under the laws of the jurisdiction of its organization, and is duly qualified to conduct business in each jurisdiction where failure to do so would have a material adverse effect on its business.
- c) Sub-merchant has the power to execute, deliver and perform this Agreement, and this Agreement is duly authorized, constitutes a valid and binding obligation of Sub-merchant and will not violate any provisions of law, or conflict with any other agreement to which Sub-merchant is subject.
- d) Sub-merchant has all licenses, if any, required to conduct its business and is qualified to do business in every jurisdiction where it is required to do so.
- e) There is no action, suit or proceeding at law or in equity now pending or to Sub-merchant's knowledge, threatened by or against or affecting Sub-merchant which would substantially impair



its right to carry on its business as now conducted or adversely affect its financial condition or operations.

- f) Unless Sub-merchant notifies US EZPAY in writing (either on the Application or otherwise) and obtains prior consent from US EZPAY, no other processing relationship for any of the services offered by US EZPAY under this Agreement may exist between Sub-merchant and another Card processing institution or for any business owned or operated by Sub-merchant.
- g) Sub-merchant understands it is granted the right to access and use the services of US EZPAY and its third-party providers (including but not limited to Processor and Member Bank) solely to process transactions on behalf of Sub-merchant's Customers. Sub-merchant will not reverse engineer, disassemble, or modify the Services of US EZPAY or its third-party providers (including but not limited to Processor and Member Bank) or use such Services in violation of any applicable law. **SUB-MERCHANT ACKNOWLEDGES AND AGREES THAT SUCH THIRD PARTIES WILL NOT HAVE LIABILITY FOR DAMAGES TO SUB-MERCHANT, WHETHER DIRECT OR INDIRECT, INCIDENTAL OR CONSEQUENTIAL, ARISING IN CONNECTION WITH THIS AGREEMENT OR THE SUB-MERCHANT'S USE OF THE SERVICES. SUB-MERCHANT ACKNOWLEDGES AND AGREES THAT US EZPAY'S THIRD PARTY PROVIDERS SPECIFICALLY DISCLAIM ANY WARRANTY OF ANY KIND DIRECTLY TO SUB-MERCHANT, INCLUDING ANY WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.**

1.04 Notifications Regarding Changes in Sub-merchant's Business or Application Information.

- a) Sub-merchant must provide US EZPAY with immediate notice of its intent to: (i) transfer or sell any substantial part of its total equity or assets or otherwise liquidate; (ii) change the basic nature of its business, including selling any products or services not related to its current business; (iii) change ownership or transfer control of its business; (iv) 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 Sub-merchant's business; or (v) alter in any way Sub-merchant's approved monthly volume and average ticket.
- b) Sub-merchant must immediately notify US EZPAY of any Bankruptcy, receivership, insolvency, levy or similar action initiated by or against Sub-merchant or any of its principals. Sub-merchant will include US EZPAY on the list of creditors filed with the applicable Bankruptcy Court in connection with any such Bankruptcy, whether or not a claim exists at the time of filing.
- c) Sub-merchant must notify US EZPAY in writing of any changes to the information in the Application, including but not limited to: (i) a material change to Sub-merchant's financial condition (such notice must be received by US EZPAY within three (3) days of such occurrence); (ii) any additional location or new business; (iii) a change in the business location or contact information; (iv) both physical and email addresses; (v) the identity of principals and/or owners; (vi) the form of business organization; (vii) type of goods and services provided; (viii) how sales are completed; and (ix) any change to Sub-merchant's legal name and/or tax ID number. Sub-merchant must also notify US EZPAY in writing if Sub-merchant sells or closes its business. Except for a change to the financial condition, all such notices must be received by US EZPAY seven (7) days before the change. Sub-merchant will also provide updated information to US EZPAY upon request.
- d) Sub-merchant must immediately notify US EZPAY in writing if Sub-merchant is threatened with or becomes party to any action, suit or proceeding at law or in equity that could substantially impair its right to carry on its business or adversely affect its financial condition or operations.



- e) Sub-merchant must provide separate notification regarding changes to third party providers used by Sub-merchant in connection with US EZPAY-provided services, including but not limited to gateways and equipment leasing companies.

1.05 Credit and Financial Inquiries; Additional Locations; Inspections.

- a) Sub-merchant authorizes US EZPAY to make, at the time of submission of the Application and at any later time during the Term of this Agreement, any credit inquiries which, in their discretion, may be necessary or prudent. Such inquiries shall include, but are not limited to, a credit or other background check (including prior banking information) of the business including its proprietor, principal owners or officers. If requested to do so by US EZPAY, Sub-merchant shall provide the written consent of any person for which an inquiry has been or is to be made if such person has not executed this Agreement and will provide any financial statements, income tax and business tax returns and other financial information as US EZPAY may consider necessary to perform initial or periodic reviews of Sub-merchant's financial stability and business practices.
- b) Sub-merchant agrees to permit Service Providers and the Card Networks at any time from time to time, to inspect locations to confirm that Sub-merchant has adhered or is adhering to the terms of this Agreement and is maintaining the proper facilities, equipment (including Equipment), inventory, records and licenses or permits (where necessary) to conduct its business. However, nothing in this paragraph shall be deemed to waive Sub-merchant's obligation to comply in all respects with the terms of this Agreement.
- c) Sub-merchant may process Card transactions only at locations and websites approved by US EZPAY. Additional locations may be added, subject to US EZPAY's prior written approval. Either Sub-merchant or US EZPAY may delete any location by providing notice as provided in this Agreement. For the avoidance of doubt, Sub-merchant agrees it is prohibited from using any Equipment provided under or in connection with this Agreement for purpose other than those anticipated under this Agreement and the Application, including but not limited to use at another Sub-merchant location (including affiliates of Sub-merchant), without the express prior written approval of US EZPAY.
- d) Representatives of Service Providers may, at any time during normal business hours, inspect, audit, direct an audit, and make copies of Sub-merchant's books, accounts, records and files pertaining to any Card transactions processed by or through Service Providers.

1.06 Guarantor Notifications and Authorizations. The decision of US EZPAY to enter into and continue processing Card transactions for Sub-merchant is based on the financial condition of Guarantor and the ability of Guarantor to guarantee Sub-merchant's obligations under this Agreement. Accordingly, Guarantor must provide US EZPAY with information regarding changes in his or her contact information and financial circumstances. Guarantor agrees to take the actions required under Section 1.04(b) through (e). Guarantor also authorizes Service Providers to make ongoing inquiries about Guarantor as detailed in Section 1.05. For purposes of understanding Guarantors obligations and authorizations under this Section, Guarantor will apply the provisions of Section 1.04 and 1.05 to Guarantor by substituting the term Guarantor in place of Sub-merchant where it appears in such sections.

1.07 Account.

- a) Sub-merchant will establish and maintain a depository account at the financial institution listed on the Application ("Account") for use in connection with this Agreement, as approved by US EZPAY. The Account must match Sub-merchant's legal entity name or registered DBA name. Sub-merchant



must provide US EZPAY with complete and accurate information regarding the Account in the Application including the name and address of the financial institution, routing number and account number. Sub-merchant is responsible to ensure that all such information provided on its Application with respect to the Account is accurate and correct. Sub-Merchant authorizes US EZPAY to share the Account information with Member Bank and Processor. Subject to this Agreement, Sub-merchant expressly authorizes Member Bank and US EZPAY to debit or credit the Account or any payment card or other payment method on file with US EZPAY. Sub-merchant also expressly authorizes US EZPAY and Member Bank to initiate electronic ACH debit and credit entries to the Account and to initiate adjustments for any transactions credited or debited in error. Sub-merchant's authorization will remain in full force and effect for the duration of this Agreement and for two hundred seventy (270) days after the termination of this Agreement ("Trailing Period") for trailing liabilities unless such authorization has been cancelled in writing by Sub-Merchant in accordance with US EZPAY's cancellation procedures. In the event such authorization is revoked, US EZPAY may elect to terminate this Agreement and Sub-Merchant will be liable for Liquidated Damages (defined below). Sub-merchant must always maintain the Account with sufficient cleared funds to meet its obligations including without limitation the fees, Chargebacks and returns contemplated under this Agreement throughout the Term of this Agreement and the Trailing Period. In the event Sub-merchant desires to change the Account or change the financial institution where the Account is held, Sub-merchant must give US EZPAY thirty (30) days' prior written notice of any such change, and US EZPAY will use reasonable commercial efforts to affect such change with Member Bank; however, such change will not be effective until the date on which US EZPAY and Member Bank make such change on their systems. In no event will US EZPAY or Member Bank have any liability for any amounts directed to an Account that has been designated by any purported representative of Sub-merchant at any time during the Term of this Agreement, regardless of any change of account. "Liquidated Damages" means an amount equal to the average amount of Fees paid by Sub-Merchant to US EZPAY under this Agreement in the six calendar months immediately preceding the termination, multiplied by the number of months remaining in the then-current Term. The parties intend that the Liquidated Damages constitute compensatory damages and not a penalty. The parties acknowledge and agree that US EZPAY's harm resulting from the termination of the Agreement pursuant to this Section would be impossible or very difficult to accurately estimate and that the Liquidated Damages are a reasonable estimate of the anticipated or actual harm that might arise from such early termination. If required by US EZPAY, Member Bank or any financial institution where the Settlement Account is maintained, Sub-merchant agrees to sign any additional documents required to authorize the deposits and withdrawals, including without limitation, ACH transactions. In the event the Account lacks sufficient funds, Sub-merchant shall immediately make payment to US EZPAY for all amounts due.

- b) Service Providers will settle all Card transactions to the Account subject to the terms of this Agreement. Sub-merchant authorizes Service Providers to initiate reversal or adjustment entries and initiate or suspend such entries.
- c) Service Providers, in their sole discretion, shall grant Sub-merchant provisional credit for Card transaction amounts, subject to receipt of final payment by Service Providers and subject to all Chargebacks and other amounts owed to Service Providers under this Agreement.
- d) Sub-merchant authorizes Service Providers to initiate debit/credit entries to the Account, as the Account may be changed in accordance with the terms of this Agreement from time to time and to any other account maintained by Sub-merchant at any institution that is a member of Nacha, all in accordance with this Agreement. In the event Sub-merchant changes the Account, this authorization will apply to the new Account. This authorization will be effective until both: (i)



Service Providers have received written notification from Sub-merchant terminating this authorization, and (ii) all obligations of Sub-merchant to Service Providers have been paid in full. Sub-merchant will provide to US EZPAY a voided Account check and/or will fill in the required Account numbers on Application.

- e) If the Account is closed or is otherwise unavailable to Service Providers for ACH debit, Sub-merchant consents to Service Providers locating additional deposit accounts or assets by using any means legally available. In this event, Sub-merchant waives all rights to their privacy in favor of Service Providers until such time as all unpaid Chargebacks and fees owed to Service Providers have been paid in full.

1.08 Reserve Account. In addition to any other rights granted to Service Providers under this Agreement, Sub-merchant hereby authorizes Service Providers to establish a Reserve Account, with or without prior notice to Sub-merchant, at any time prior to or after termination of this Agreement, to ensure the recovery of any liabilities owed them or reasonably anticipated to be incurred in their sole discretion in connection with Sub-merchant pursuant to this Agreement. US EZPAY may also require as a condition of providing continued services, that Sub-merchant fund and maintain a Reserve Account with US EZPAY as security against any costs, losses or expenses incurred by US EZPAY in connection with the provision of services to Sub-merchant. Sub-merchant's obligation to maintain any Reserve Account shall survive the termination of this Agreement by a period of two hundred seventy (270) days (or longer depending on Sub-merchant's product and business practices) during which time US EZPAY's right, title and interest therein shall continue. In addition, Sub-merchant further agrees:

- a) Liabilities to be paid from the Reserve Account include, but are not limited to, those arising out of actual or potential Chargebacks (including those incurred post-termination), as well as any and all post-termination fees, charges and expenses due or anticipated to be due to US EZPAY from Sub-merchant.
- b) The Reserve Account shall be in such amount US EZPAY deems reasonable under the circumstances. The Reserve Account may be funded and/or replenished by US EZPAY by withholding from Sub-merchant's Card transaction proceeds, and/or withholding or withdrawing from, or freezing all or any part of, the Account and/or any other deposit accounts maintained by Sub-merchant wherever found by any means legally available. Unless US EZPAY agrees otherwise in writing with Sub-merchant, the Reserve Account shall not bear interest.
- c) US EZPAY may enforce their right, title and interest in the Reserve Account without notice or demand being first made to Sub-merchant. US EZPAY's right to sums owed them by Sub-merchant pursuant to this Agreement shall in no way be limited by the balance or existence of the Reserve Account. US EZPAY's right, title and interest with respect to the Reserve Account shall survive the termination of this Agreement.
- d) US EZPAY may exercise their rights under this Agreement to collect any amounts due to US EZPAY including, without limitation, rights of set-off and recoupment. Sub-merchant shall have no right to withdraw funds or debit the Reserve Account.
- e) It is stipulated and agreed that the funds placed in the Reserve Account are trust fund monies legally and exclusively held for the benefit of US EZPAY. In the event of Bankruptcy proceedings, US EZPAY may exercise their rights under this Agreement to debit the Reserve Account for amounts due US EZPAY regardless of the pre-petition or post-petition nature of the amount due US EZPAY. In the event of a Bankruptcy proceeding, Sub-merchant also agrees that it will not contest any motion for relief from the automatic stay which US EZPAY may file to debit the Reserve Account.



- f) US EZPAY may retain funds in the Reserve Account for as long as Sub-merchant may be liable to make payments under this Agreement. Funds are typically retained in the Reserve Account for a minimum of two hundred seventy (270) days from the date of the oldest Card transaction in question or the date of termination, whichever is longer, and may be retained longer depending on the nature of Sub-merchant's Card transaction activity. US EZPAY will have sole control of the Reserve Account. In the event of a Bankruptcy proceeding, US EZPAY does not consent to the assumption of this Agreement. Nevertheless, if this Agreement is assumed, Sub-merchant agrees that in order to establish assurance of future performance within the meaning of 11 U.S.C. Sec 365, as amended from time to time, Sub-merchant must establish a Reserve Account in an amount satisfactory to US EZPAY.

1.08 Reserve Account.

1.09 Recoupment. Sub-merchant acknowledges and agrees, notwithstanding anything set forth in this Agreement to the contrary, that any and all credits provided to Sub-merchant by US EZPAY for collected Sales Drafts under this Agreement are provisional and cannot be equitably finalized until the respective periods permitted for Chargebacks, returns, fees, fines, penalties and other adjustments to be assessed or implemented have all expired under this Agreement. These Chargebacks, returns, fees, fines, penalties and other adjustments are an integral part of the credit to be given to Sub-merchant in respect of such Sales Draft. To the extent that any Chargeback, return, fee, penalty, fine or other adjustment is assessed or implemented, US EZPAY may exercise their right of recoupment with regard to the credit provisionally paid for the respective Sales Draft. In the absence of this remedy, Sub-merchant acknowledges that it would be overpaid for the respective Sales Draft, and such overpayment shall be held in trust by Sub-merchant as the legal and equitable property of the US EZPAY. Sub-merchant also acknowledges that, in order for rights and obligations of the parties to be fairly and equitable administered, the various Sales Drafts presented by Sub-merchant to US EZPAY shall constitute a single, integrated transaction, and not a series of separate or discrete transactions.

1.10 Security Interest. To secure Sub-merchant's and Guarantor's respective performance under this Agreement, including without limitation Sub-merchant's obligations arising out of Chargebacks or returns, Sub-merchant and Guarantor each hereby grants to Service Providers, pursuant to the Uniform Commercial Code of the State of New York, as amended from time to time, a security interest in all of Sub-merchant's and Guarantor's personal assets and property, including but not limited to the following assets and property: (a) the electronic terminal, printer, imprinter and imprinter plate; (b) all Sales Drafts, ACH deposits, credit drafts, and in all Accounts and Reserve Accounts, regardless of source, wherever found, standing in the name of Sub-merchant and/or Guarantor, whether established or designated and maintained pursuant to this Agreement or not; and (c) the proceeds and products of such assets and property. In the event of Sub-merchant's default under this Agreement, Sub-merchant and Guarantor(s) stipulate: (i) that all personal accounts standing in their names shall be subject to this Agreement and ACH debit; and (ii) all ACH debits, whether made against the Account or Guarantor's personal account, shall bear a commercial account code designation (CCD) for purposes of electronic collection via the ACH system, and (iii) Sub-merchant and/or Guarantor irrevocably consent to Service Providers using any means available to locate such deposit accounts until such time as all amounts due have been paid. Service Providers may enforce this security interest as applicable by:

- a) Making an immediate debit/charge via the ACH system to any deposit account standing in the name or names of Sub-merchant and/or Guarantor, without notice or demand of any kind; and/or interrupting the electronic transmission of funds to any account through the Automated Clearing House (ACH) system;



- b) Freezing the entire Account and/or Reserve Account, without notice or demand of any kind, upon Service Providers determination that Sub-merchant has breached any term of this Agreement;
- c) Taking possession of any or all of Sub-merchant's or Guarantor's personal assets or property;
- d) Placing a receiver within Sub-merchant's place of business without notice or bond to intercept and collect all income derived from Sub-merchant's operations until such time as any indebtedness owed to Service Providers arising under this Agreement has been satisfied in full;
- e) By obtaining either a writ of attachment or a writ of possession without bond pertaining to Sub-merchant's and/or Guarantor's personal assets or property.

Sub-merchant and Guarantor hereby irrevocably authorize the Service Providers at any time and from time to time to file any financing statements and amendments thereto, in any jurisdiction required for the proper perfection of the Service Providers' security interest, and shall provide any statement or notice that Service Providers determine to be necessary to preserve and protect this security interest. Sub-merchant's and/or Guarantor's granting of this security interest in no way limits Sub-merchant's and Guarantor's liabilities to Service Providers under this Agreement.

1.11 Fiduciary Relationship. Whenever Sub-merchant or Guarantor has a deposit held with Service Providers that arose from or is subject to this Agreement, to which, pursuant to this Agreement, Sub-merchant or Guarantor is not entitled, Sub-merchant's and Guarantor's entitlement to such deposit shall be as a fiduciary of Service Providers until any claim by Service Providers against Sub-merchant and Guarantor has been resolved. Sub-merchant and Guarantor each agrees that its failure to repay, within five (5) calendar days of notification by Service Providers, funds to which Sub-merchant or Guarantor is not entitled to, shall result in a presumption that Sub-merchant or Guarantor intends to misappropriate such funds. Sub-merchant and Guarantor each further agrees that in the event Service Providers seek to enforce their rights herein in a court of competent jurisdiction, that any receivership, temporary restraining order, preliminary injunction, writ of attachment or writ of possession may be issued against Sub-merchant and/or Guarantor without bond.

1.12 Guarantors. Guarantor, whether by signing the Application or by acknowledging consent by electronic means, jointly and severally (where more than one Guarantor), and unconditionally and irrevocably, guarantee the continuing full and faithful performance and payment by Sub-merchant of each of its duties and obligations to US EZPAY pursuant to this Agreement, as it now exists or is amended from time to time, with or without notice. Guarantor understands further that US EZPAY may proceed directly against Guarantor without first exhausting its remedies against any other person or entity responsible therefore to it or any security held by US EZPAY. This guaranty will not be discharged or affected by the death of the Guarantor, will bind all heirs, administrators, representatives and assigns and may be enforced by or for the benefit of any successor of US EZPAY. This guaranty remains in full force and effect even if the Guarantor receives no additional benefit from the guaranty.

1.13 Payment of Fees and Other Amounts Owed. Sub-merchant shall timely pay to US EZPAY the fees and charges set forth on the Application or any separate schedule of fees agreed to by Sub-merchant, as may be modified from time to time. Sub-merchant agrees that US EZPAY may collect their fees and other amounts owed under this Agreement by netting against the proceeds of Sub-merchant's processing activity. Additionally, the Account will be debited through ACH for such amounts and for any other fees, charges or adjustments incurred by Sub-merchant and associated with the services provided under this Agreement. Sub-merchant is obligated to pay all taxes and other charges imposed by any governmental authority on the services provided under this Agreement. US EZPAY has the right to change fees as set forth in this Agreement.



1.14 General Fees. Different discount rates and other fees may apply to different types of Card transactions. Additional charges that may occur from time to time include Chargeback fees, representment fees and retrieval fees. A Sub-merchant is billed a transaction fee each time communication is made with the host. This fee is indicated in the Application. US EZPAY may modify all fees payable by Sub-merchant under this Agreement, including those detailed in the Application and any separate schedule of fees, at any time by providing thirty (30) days' written notice to Sub-merchant of changes to such fees. Sub-merchant's continued use of processing services will constitute its acknowledgement and acceptance of such fee modifications. On a monthly basis, US EZPAY will provide a monthly report to Sub-merchant indicating the fees and other amounts incurred by Sub-merchant in the prior month ("Monthly Statements"). The standard delivery method for Monthly Statements will be done electronically through US EZPAY's standard electronic communication channels. Sub-merchant must notify US EZPAY of any errors in a Monthly Statement in accordance with Section 1.29 of this Agreement.

1.15 Card Industry Pass Through Fees. Fees that are passed-through to Sub-merchant, which include without limitation interchange dues or assessments imposed by the Card Networks, will not constitute fee increases and will be immediately payable upon notice to Sub-merchant.

1.16 Term: Termination.

- a) This Agreement will be binding on Sub-merchant on the date executed or otherwise accepted (by signing the Application or electronically "clicking-to-accept") by Sub-merchant. This Agreement will be binding on US EZPAY on the date US EZPAY accepts this Agreement by issuing Sub-merchant a merchant identification number ("Effective Date"). This Agreement will be in effect for three (3) years commencing on the Effective Date ("Initial Term") and will automatically renew for additional one (1) year successive terms until terminated (each a "Renewal Term").
- b) Either party may terminate the Agreement effective at the end of any Term by providing written notice to the other party at least ninety (90) days prior to the expiration of the then-current Term. All rights and obligations of the parties existing hereunder as of the effective time of termination shall survive the termination of this Agreement. If Sub-merchant terminates this Agreement prior to the end of the then-current Term other than as expressly permitted under this Agreement, Sub-merchant will pay to US EZPAY an Early Termination Fee in the amount set forth in the Application.
- c) US EZPAY may terminate this Agreement immediately without prior notice if (i) it has reason to believe that fraudulent Card transactions or other activities prohibited by this Agreement are occurring at any Sub-merchant location, (ii) such action is taken to prevent loss to US EZPAY or Card Issuers, (iii) Sub-merchant appears on any Card Network's security reporting, (iv) US EZPAY's Sub-merchant acceptance criteria changes, (v) Sub-merchant engages in conduct that creates harm to or loss of goodwill to any Card Network, or (vi) Sub-merchant breaches this Agreement. All rights and obligations of the parties existing hereunder as of the effective time of termination shall survive the termination of this Agreement. The Early Termination Fee may be charged to Sub-merchant if this Agreement is terminated for any of the reasons set forth in subparts (i) through (iii), (v) or (vi) of this section.
- d) If any case or proceeding is commenced by or against Sub-merchant under any federal or state law dealing with insolvency, Bankruptcy, receivership or other debt relief, this Agreement shall simultaneously therewith automatically terminate, and any amounts due to US EZPAY under this Agreement shall become immediately due and payable, without the necessity of any notice, declaration or other act by US EZPAY. Notwithstanding such termination, US EZPAY, in their sole discretion, may determine that consent to Sub-merchant's subsequent assumption of this



Agreement is in US EZPAY's best interests. In such event, the assumption will be made under terms and conditions that are acceptable to US EZPAY and comply with the applicable federal or state laws governing such assumption.

- e) Sub-merchant acknowledges and agrees that a Card Network may limit or terminate this Agreement in its sole discretion and at any time.

1.17 Effect of Termination. Without limiting the provisions of Section 1.53 below and in addition to effects of termination set forth in Section 2.27, all of Sub-merchant's obligations under this Agreement which arise or are incurred prior to the effective date of termination shall survive the expiration or termination of this Agreement.

1.18 Third Parties.

- a) Sub-merchant may be using special products, services or software provided by a third party to assist Sub-merchant in processing Card transactions, including Authorizations and settlements, or accounting functions. Sub-merchant is responsible for ensuring compliance with the requirements of any third party in using its products, services or software. This includes ensuring Sub-merchant has and complies with any software updates and ensuring that such software satisfies all security standards required under the Rules (including PA DSS and PCI DSS), as set forth more fully below. US EZPAY has no responsibility for any Card transaction until that point in time US EZPAY receives data about the Card transaction.
- b) Sub-merchant will notify US EZPAY prior to the use of any electronic Authorization or data capture terminal or software provided by any entity other than US EZPAY or its authorized designee ("third party terminals") to process Card transactions. If Sub-merchant elects to use such third party terminals, Sub-merchant agrees that the third party provider of the third party terminal is Sub-merchant's agent and Sub-merchant is liable for the acts and omission of its agent and the third party terminals for failing to comply with the Rules, this Agreement and any applicable federal and state law.
- c) US EZPAY may provide Sub-merchant with links to websites operated by third parties ("Third Party Websites" and "Referred Providers," respectively), including but not limited to EZ Capital for MCA Services as further described in Section 1.18(d). These links are provided as a convenience only. Such Third Party Websites are not under the control of US EZPAY, and US EZPAY is not responsible for the content of any Third Party Website, any link contained in a Third Party Website, or any products or services provided by Referred Providers ("Referred Provider Services"). US EZPAY does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third Party Websites, Referred Providers, or Referred Provider Services, and the inclusion of any link is not and does not imply its sponsorship, endorsement, approval, investigation, verification, or monitoring by US EZPAY of any information contained in any Third Party Website. Access to any Third Party Website is at Sub-merchant's own risk, and Sub-merchant acknowledges and understands that linked Third Party Websites and Sub-merchant's use of Referred Provider Services may be subject to additional agreements, terms, and privacy policies that are different from those of US EZPAY ("Referred Provider Terms"). When Referred Provider Terms apply to Sub-merchant's use of a Third Party Website or Third Party Services (e.g. for optional Referred Provider Services elected by Sub-merchant): (i) US EZPAY will have no obligation with regard to, and makes no representation or warranty related to, the Referred Provider Services provided in connection with such Referred Provider Terms; and (ii) Sub-merchant will look solely to the applicable Referred Provider with regard to any warranty, maintenance, or other support in connection with such Third Party Websites and Referred Provider Services. For the avoidance of doubt, (1) US EZPAY is not



responsible for the provisions of any Referred Provider Terms and expressly disclaims any liability for such Referred Provider Terms, Referred Provider Services, and Third Party Websites; and (2) in addition to its other indemnification obligations under this Agreement, Sub-merchant will indemnify, hold harmless and defend US EZPAY and their affiliates, employees, agents, representatives, members, and stockholders, from and against any and all claims, actions, proceedings, and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys' fees and other litigation expenses) arising out of Sub-merchant's use of any Third Party Website, Referred Provider, Referred Provider Terms, and Referred Provider Services.

- d) Subject to availability and qualification, if Sub-merchant elects to enter into an agreement with US EZPAY's affiliate, EZ Capital Management ("EZ Capital"), for the provision of merchant cash advance services ("MCA Agreement" and "MCA Services," respectively) this Section 1.18(d) will apply. EZ Capital may designate one or more of its affiliates, including US EZPAY, to enforce its rights and to perform its obligations under any such MCA Agreement in EZ Capital's and the relevant affiliates' sole discretion. As a condition to receive the MCA Services from EZ Capital, Sub-merchant must enter into the MCA Agreement and other required EZ Capital Referred Provider Terms. In the event of any conflict between the MCA Agreement and this Agreement, the terms of this Agreement will prevail as between Sub-Merchant and US EZPAY. Sub-merchant explicitly acknowledges and agrees that any amounts owing to EZ Capital pursuant to the MCA Agreement, including but not limited to any repayment of a merchant cash advance, will be collected in accordance with the terms and conditions of the MCA Agreement and in EZ Capital's sole discretion by (a) an automatic transfer initiated by EZ Capital, US EZPAY, or any of their affiliates from a bank account designated by Sub-merchant; or (b) a direct remittal by the Acquirer of any proceeds owing to Sub-merchant pursuant to this Agreement pursuant to Section 2.20(e) of this Agreement or otherwise, in which case such remittal to EZ Capital will constitute and satisfy the settlement obligations under this Agreement.

1.19 Limitation of Liability.

- a) SUB-MERCHANT AGREES AND ACKNOWLEDGES THAT SERVICE PROVIDERS SHALL HAVE NO LIABILITY, EITHER IN TORT, CONTRACT OR IN COMBINATION THEREOF, FOR CLAIMS ARISING FROM TRANSACTIONS PROCESSED UNDER THIS AGREEMENT EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON THE PART OF SERVICE PROVIDERS. ANY SUCH CLAIMS ARE SUBJECT TO LIMITATIONS SET FORTH BELOW AND IN NO EVENT SHALL SERVICE PROVIDERS BE LIABLE FOR SPECIAL, CONSEQUENTIAL, INDIRECT OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS, REVENUES OR BUSINESS OPPORTUNITIES.
- b) THE LIABILITY, IF ANY, OF SERVICE PROVIDERS, UNDER THIS AGREEMENT WHETHER TO SUB-MERCHANT OR TO ANY OTHER PARTY, WHATEVER THE BASIS OF LIABILITY, SHALL NOT EXCEED IN THE AGGREGATE THE DIFFERENCE BETWEEN (I) THE AMOUNT OF FEES PAID BY SUB-MERCHANT TO SERVICE PROVIDERS DURING THE MONTH IN WHICH THE TRANSACTION OUT OF WHICH THE LIABILITY AROSE OCCURRED, AND (II) ASSESSMENTS, CHARGEBACKS, RETURNS AND ANY OFFSETS AUTHORIZED UNDER THIS AGREEMENT AGAINST SUCH FEES WHICH AROSE DURING SUCH MONTH. IN THE EVENT MORE THAN ONE MONTH WAS INVOLVED, THE AGGREGATE AMOUNT OF SERVICE PROVIDERS LIABILITY SHALL NOT EXCEED THE LOWEST AMOUNT DETERMINED IN ACCORD WITH THE FOREGOING CALCULATION FOR ANY ONE MONTH INVOLVED. IN NO EVENT WILL THE LIABILITY OF SERVICE PROVIDERS UNDER THIS AGREEMENT EXCEED \$1,000.



- c) EXCEPT AS EXPRESSLY PROVIDED HEREIN, SERVICE PROVIDERS MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SOFTWARE AND SERVICES, AND NOTHING CONTAINED IN THIS AGREEMENT WILL CONSTITUTE SUCH A WARRANTY. SERVICE PROVIDERS DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE. SERVICE PROVIDERS FURTHER DO NOT REPRESENT OR WARRANT THAT THE SERVICES WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ENTIRELY ERROR-FREE. SERVICE PROVIDERS FURTHER EXPRESSLY DISCLAIM ANY LIABILITY FOR UNAUTHORIZED ACCESS OF FACILITIES OR TO SUB-MERCHANT'S DATA OR PROGRAMS DUE TO ACCIDENT, ILLEGAL OR FRAUDULENT MEANS OR DEVICES USED BY ANY THIRD PARTY, OR OTHER CAUSES BEYOND SERVICE PROVIDERS' REASONABLE CONTROL.

1.20 Indemnification by Sub-merchant. Sub-merchant agrees to indemnify, hold harmless and defend Service Providers, and their affiliates, employees, agents, representatives, members, or stockholders, from and against any and all claims, actions, proceedings, and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys' fees and other litigation expenses) arising out of or relating to:

- a) any dispute between Sub-merchant and a Cardholder, Customer, or third party provider;
- b) any actual or alleged action or omission by Sub-merchant that would constitute a breach of any representation, warranty, or obligation of Sub-merchant set forth in this Agreement;
- c) any damage or loss caused by negligence, fraud, dishonesty or willful misconduct by Sub-merchant or any of its employees, agents or Customers;
- d) the reliability, accuracy, or legitimacy of payment data submitted by Sub-merchant;
- e) any alleged infringement of another party's intellectual property rights by Sub-merchant;
- f) a failure of Sub-merchant to maintain the confidentiality of Cardholder or Customer information;
- g) any action Service Providers take against the Account under this Agreement. Sub-merchant will also indemnify and hold harmless the institution at which Sub-merchant maintains the Account for acting in accordance with any instruction from Service Providers regarding the Account;
- h) any violation by Sub-merchant of the Rules (including but not limited to violation related to Sub-merchant's participation in any surcharge/ cash discount program) and any associated fees/ assessments from the Card Networks;
- i) any data breach of Sub-merchant's systems or records including the unauthorized access to or compromise of Card data, Cardholder data, or personal information of any Customer;
- j) any liability assessment, penalty, or fee imposed by a Payment Network related to Sub-merchant's conduct or any transaction submitted by Sub-merchant or on a Sub-merchant operated terminal or equipment (including Equipment).

If Sub-merchant is an agency or instrumentality of a state of the United States and is precluded by the law of Sub-merchant's state from entering into indemnification obligations, then the obligations under this Section shall apply only to the extent permitted by such state law. This section will survive termination of this Agreement.



1.21 Confidential Information.

- a) US EZPAY shall comply with the Rules in how they treat Sub-merchant transaction information. US EZPAY may disclose information relating to Sub-merchant and Sub-merchant's sales to financial institutions, Card Networks, Card Networks, and third parties that need the information for a purpose relating to this Agreement, and may also disclose such Sub-merchant information to US EZPAY's agent or referral source, if any, that played a role in establishing Sub-merchant's relationship with US EZPAY solely for the purpose of computing payment due to such persons. US EZPAY may also disclose information regarding Sub-merchant as part of an investigation by Service Providers into Sub-merchant's compliance with its obligations under this Agreement if Service Providers determine there is cause to make such an inquiry, or to the extent required or requested by a court or governmental authority, or otherwise as required by law.
- b) Except to the extent specifically permitted by the Rules, this Agreement, or under applicable law, Sub-merchant shall not disclose any information relating to any Card transaction, Cardholder account information, or any other Cardholder or check writer information, to any person or entity other than Service Providers, Service Providers' employees, agents and independent contractors, and those of Sub-merchant's employees who have a specific need to know such information except to complete the Card transaction or as otherwise required or authorized under this Agreement, the Rules, or by law. Sub-merchant shall treat all documents provided by Service Providers relating to this Agreement as confidential and proprietary and protect them with the same degree of care as Sub-merchant would protect its own confidential and proprietary information, and not less than reasonable care.
- c) Sub-merchant agrees that this Agreement, and all other user information provided by Service Providers, the process utilized by Service Providers for providing services, and all written communications concerning services hereunder are confidential and proprietary information of Service Providers. Sub-merchant agrees that neither it nor any of its employees, agents, representatives, or independent contractors will disclose any such confidential, proprietary information to any person or entity that is not a party to this Agreement without the express written consent of Service Providers.

1.22 Safeguarding of Information.

- a) Sub-merchant shall be in full compliance with Rules adopted by any Card Network relating to the privacy and security of Cardholder and Card transaction data, including without limitation the Payment Application Data Security Standard ("PA DSS") and the Payment Card Industry Data Security Standard ("PCI DSS"), as they may be amended from time to time. Information pertaining to such requirements may be found at <https://www.pcisecuritystandards.org>. PCI DSS and other industry aligned validation requirements collectively form the basis for each of the following Card Network compliance programs, with which Sub-merchant must also comply: (i) the Cardholder Information Security Program ("CISP") - VISA's data security program; (ii) the Site Data Protection ("SDP") - Mastercard's data security program; and (iii) the Discover Network Information Security and Compliance ("DISC") - Discover Network's data security program.
- b) Sub-merchant shall be liable for all fines, charges, assessments, and penalties that may be assessed by any Card Network as a result of transactions made by Sub-merchant or Sub-merchant's noncompliance with the preceding requirements. Sub-merchant also acknowledges that it may be prohibited from participating in Card Network programs if it is determined that Sub-merchant is non-compliant. Sub-merchant acknowledges that it may be subject to, and Service Providers retain



the right, to conduct or cause to be conducted an audit to verify Sub-merchant's compliance with the foregoing security requirements. Sub-merchant must notify US EZPAY within twenty-four (24) hours after becoming aware of (i) any suspected or actual data security breach or (ii) any noncompliance by Sub-merchant with the security requirements set forth herein. Sub-merchant shall, at its own expense, (a) perform or cause to be performed an independent investigation of any data security breach of Card or Card transaction data by an authorized assessor acceptable to US EZPAY, (b) take all such remedial actions recommended by such investigation, by US EZPAY or by VISA or Mastercard, and (c) cooperate with US EZPAY in the investigation and resolution of any security breach.

- c) Sub-merchant will not, under any circumstances, disclose any Cardholder's account number nor any information relating to any Cardholder's account number or any Sales Drafts or credit vouchers which may have been imprinted with any Card to any person other than US EZPAY, or as required by law. Sub-merchant agrees not to store, distribute, copy or otherwise manipulate Card account numbers or PINs that appear, are encoded or are otherwise associated with Cards. All electronic commerce Sub-merchants must provide Cardholders with a secure transaction method, such as Secure Sockets Layer (SSL) or 3-D Secure. Further, Sub-merchant agrees to store (to the extent such storage is permitted) any material containing Cardholder account information in a secure manner or destroy such information at the proper time in a fashion that renders the data unreadable and unrecoverable. Neither Sub-merchant nor any of its agents shall retain or store the full contents of any track on the Magnetic-Stripe, or equivalent data on the Contactless Payment chip, subsequent to Authorization of a Card transaction.
- d) Sub-merchant must notify US EZPAY of any third party that will have any access to Cardholder data.
- e) Sub-merchant understands and agrees that due to requirements of law, Card receipts may not contain (i) more than the last four digits of the Card account number; and (ii) that the Card receipt may not contain the expiration date.
- f) If Sub-merchant sells goods or services on the Internet, Sub-merchant's web site must contain Sub-merchant's consumer privacy policy and a description of Sub-merchant's method of safeguarding consumer transaction data.

1.23 Account Access Password.

- a) If Sub-merchant receives a user identification name or password from US EZPAY to access US EZPAY's database or use services offered by US EZPAY, Sub-merchant will: (i) keep the user identification name and password confidential; (ii) not allow any other entity or person to use the user identification name or password or gain access to US EZPAY's database; (iii) be liable for all action taken by any user of the user identification name or password; and (iv) promptly notify US EZPAY if Sub-merchant believes the user identification name or password have been used inappropriately or the confidentiality of the information made available through their use has been compromised.
- b) Sub-merchant agrees that any loss incurred as a result of any party gaining access to Account or US EZPAY's website using information which that party was not authorized to obtain or using such information in a manner not permitted by this Agreement (including but not limited to improper or unauthorized use of Sub-merchant's ID number and password) shall be the responsibility of Sub-merchant.



1.24 Privacy. US EZPAY will have access to the data associated with Sub-merchant's use of the service, including transaction data. Sub-merchant agrees US EZPAY can use all transaction and Sub-merchant data obtained in connection with the Card processing services (including the information provided by Sub-merchant in the Application) for any business purposes in accordance with applicable law. Sub-merchant authorizes US EZPAY to share Sub-merchant data with Member Bank, Processor, the Card Networks, and any third party necessary to carry out the services and obligations set forth in this Agreement. US EZPAY will handle this information in accordance with their privacy policies.

1.25 Feedback. US EZPAY may provide Sub-merchant with a mechanism to provide feedback, suggestions and ideas about US EZPAY products and services ("Feedback"). Sub-merchant agrees that US EZPAY may, in their sole discretion, use the Feedback in any way, including in future modifications of the products and services and any related advertising and promotional materials. Sub-merchant grants US EZPAY a perpetual, worldwide, fully transferable, non-revocable, royalty free license to use, reproduce, modify, create derivative works from, perform, distribute and display for any purpose any information Sub-merchant provides to US EZPAY in the Feedback.

1.26 Modifications to Agreement. US EZPAY may from time-to-time amend any provision of this Agreement, including those relating discount rates or other fees and charges payable by Sub-merchant, whether such amounts are set forth in the Application or any separate schedule of fees agreed to by Sub-merchant. US EZPAY will provide 30 day's prior notice to Sub-merchant of the amendment, and unless specified otherwise, the amended Agreement shall become effective at the date indicated in the notice. Sub-merchant's continued processing under this Agreement constitutes its acceptance of such amendment. Amendments due to changes in a Card Network's interchange, assessments, Rules, gift card systems or any law or judicial decision will become effective at such time that US EZPAY may specify, which may be sooner than the beginning of the next billing cycle following the date of notice.

1.27 Additional Services Offered by US EZPAY. From time to time, US EZPAY may offer to Sub-merchant additional products and services which may or may not be related to the processing of Card transactions.

1.28 Compliance with Law. Sub-merchant shall comply with all laws applicable to Sub-merchant, Sub-merchant's business and any Card transactions, including without limitation to all Rules, state and federal consumer credit and consumer protection laws, as well as laws for any special services used by Sub-merchant, such as gift card and other services.

1.29 Sub-merchant Dispute Notification. Sub-merchant is responsible for the timely reconciliation of all issues related to services provided under this Agreement. Sub-merchant will promptly examine all Monthly Statements and immediately notify US EZPAY in writing of any errors. Sub-merchant's written notice must include: (i) Sub-merchant name and Account number, (ii) the dollar amount of the asserted error, (iii) a description of the asserted error, and an explanation of why Sub-merchant believes an error exists and the cause of it, if known. That written notice must be received by US EZPAY within thirty (30) days from the date of the Monthly Statement containing the asserted error. Sub-merchant may not make any claim against US EZPAY for any loss or expense relating to any asserted error for sixty (60) days immediately following the date US EZPAY received Sub-merchant's written notice of the asserted error. During that sixty (60) day period, US EZPAY will be entitled to investigate the asserted error and Sub-merchant will not incur any cost or expense in connection with the asserted error without notifying US EZPAY.

1.30. Notices; Consent to Electronic Communications. By submitting the Application and confirming that it has read this Agreement, Sub-merchant is confirming to US EZPAY that it has the means to access the Internet through its own service provider and download or print electronic communications.



Sub-merchant agrees to the receipt of electronic communications by email or by the posting of such information by US EZPAY at one or more of US EZPAY's sponsored websites. Such communications may pertain to the services delivered by US EZPAY, the use of information Sub-merchant may submit to US EZPAY, or changes in laws or Rules impacting the service or other reasons, such as amendment of this Agreement. Notices to Sub-merchant may be delivered to the physical address or e-mail address listed on the Application or through US EZPAY's standard electronic communication channels. In addition, all notices and other communications required or permitted under this Agreement by US EZPAY to Sub-merchant may also be delivered by US EZPAY to Sub-merchant by overnight carrier or first-class mail. All notices and other communications required or permitted under this Agreement by Sub-merchant to US EZPAY shall be delivered by Sub-merchant to US EZPAY to the addresses indicated in the Disclosure by overnight carrier or certified mail, postage or other charges prepaid. Notice by e-mail shall be deemed delivered when transmitted. Notice by mail or overnight carrier shall be deemed delivered on the first (1st) business day after mailing or delivery to the carrier.

1.31 Further Assurances. At any time or from time to time upon the request of US EZPAY, Sub-merchant will execute and deliver such further documents and do such other acts as US EZPAY may reasonably request in order to effectuate fully the purposes of this Agreement.

1.32 Force Majeure. Any delay in or failure of performance by US EZPAY under this Agreement will not be considered a breach of this Agreement and will be excused to the extent caused by any occurrence beyond their reasonable control, including, but not limited to, acts of God, acts of government, power outages, failures of the Internet, failures of banking institutions, or Card Networks.

1.33 Choice of Law, Jurisdiction, Venue. The parties agree that all performances and transactions under this Agreement will be deemed to have occurred in Delaware and that Sub-merchant's entry into and performance of this Agreement will be deemed to be the transaction of business within the State of Delaware. This Agreement will be governed by Delaware law, without regard to its conflicts-of-law principles, and applicable federal law. The parties hereby knowingly, intelligently and voluntarily consent to the exclusive jurisdiction and venue for any action relating to the subject matter of this Agreement in either the state or federal courts of California. The parties consent to the jurisdiction of such courts. The parties hereby knowingly, voluntarily and intelligently waive any claim or defense in any such legal action, suit or proceeding commenced in any of the above-referenced courts asserting that it is not subject personally to the jurisdiction of such court, that service upon it as hereinabove set forth is invalid, that its property is immune or exempt from attachment or execution, that the legal action, suit or proceeding is brought in an inconvenient forum, that the venue of the legal action, suit or proceeding is improper or that this Agreement, or the subject matter hereof, may not be enforced in or by such court.

1.34 Jury Waiver. In the event any controversy or claim between or among the parties, their agents, employees, representatives, or affiliates shall arise in any judicial or legal proceeding, EACH PARTY HEREBY KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY WAIVES ITS RESPECTIVE RIGHT TO TRIAL BY JURY OF SUCH CONTROVERSY OR CLAIM.

1.35 Costs. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, or any part thereof, the prevailing party shall be entitled to recover its reasonable attorneys' and experts' fees and costs in addition to any other legal and/or equitable remedies to which it is entitled.

1.36 Publicity. Sub-merchant agrees that US EZPAY may issue a press release or similar public announcement referencing Sub-merchant as a customer of US EZPAY. Sub-merchant also grants to US EZPAY a limited license to use Sub-merchant's and its affiliates' names, logos, trademarks, service marks or copyrights in any advertising, promotional or instructional materials for US EZPAY or their affiliates' services.



1.37 Intellectual Property. US EZPAY retains all right, title and interest in and to the services and any related technology utilized by it under or in connection with this Agreement, including but not limited to all associated intellectual property rights. No title to or ownership of any of the foregoing is granted to Sub-merchant or any other entity or person under this Agreement. Sub-merchant will not reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or trade secrets for any of the US EZPAY services or related technology.

1.38 Taxes. Sub-merchant shall promptly pay when due any and all liability or expense relating to the payment of federal, state, and local taxes (other than taxes based in whole or in part upon income attributable to US EZPAY). Sub-merchant represents and warrants that the taxpayer identification and/or social security number provided to US EZPAY is true, correct and complete. Upon request, Sub-merchant will complete, sign and deliver to US EZPAY a Form W-9 to verify Sub-merchant's taxpayer identification and/or social security number. Sub-merchant shall also take all other actions as may be required by US EZPAY in order to comply with Internal Revenue Section 6050W, and any amendments or supplements thereto. Service Providers may have tax reporting responsibilities in connection with the Services such as an Internal Revenue Service report on Form 1099-K. Sub-merchant acknowledges that Service Providers may report the total amount of payments received by Sub-merchant in connection with the Services each calendar year as required by the taxing authorities.

1.39 Rights Cumulative. All rights and remedies existing in this Agreement are cumulative to, and not exclusive of, any other rights or remedies available under contract or applicable law.

1.40 Headings. The headings listed after each section number in this Agreement are inserted for convenience only and do not constitute a part of this Agreement and are not to be considered in connection with the interpretation or enforcement of this Agreement.

1.41 Waiver. Failure by US EZPAY to enforce one or more of the provisions of this Agreement shall not constitute a waiver of the right to enforce the same or other provision in the future. All waivers must be signed by the waiving party.

1.42 Entire Agreement. This Agreement, including the Application, any separate schedule of fees, the Rules, information contained in websites or electronic links referenced in this Agreement, and Exhibits to this Agreement, expresses the entire understanding of the parties with respect to its subject matter and except as provided herein. Reference to "this Agreement" also includes all documents, websites and electronic links incorporated into this Agreement by reference.

1.43 Severability. If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

1.44 Assignment. This Agreement may be assigned by US EZPAY, but may not be assigned by Sub-merchant, directly or by operation of law, without the prior written consent of US EZPAY, which may be withheld in its sole discretion. If Sub-merchant nevertheless assigns this Agreement without such consent, this Agreement will be binding upon the assignee at the option of US EZPAY, but otherwise such assignment shall be null and void, and of no force and effect. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs and personal representatives for an individual, and otherwise its permitted successors and assigns. If Sub-merchant sells its business and the new owners incur Chargebacks or returns, absent notification and consent by US EZPAY, both the new owner and the original owner and all Guarantors will be held liable for all liabilities of Sub-merchant before and after the sale of the business.



1.45 Authorization of Agreement. Sub-merchant represents and warrants that the person signing or electronically authorizing this Agreement is duly authorized to bind Sub-merchant to all provisions of this Agreement and that such person is authorized to execute any documents and to take any action on behalf of Sub-merchant which may be required by US EZPAY now or in the future. Sub-merchant will execute a separate Entity Certification if requested to do so by US EZPAY. Sub-merchant, by its signature, upon its first transmission of Card transactions, or first payment of fees acknowledges that it agrees to be bound by this Sub-merchant Agreement as it may be modified from time to time.

1.46 Relationship of the Parties. The parties are independent contractors and nothing in this Agreement shall make them joint ventures, partners, employees, agents or other representatives of the other party.

1.47 Export Restrictions. Sub-merchant acknowledges that any software provided to it by US EZPAY in connection with delivering services is subject to the U.S. Export Administration Regulations (15 CFR, Chapter VII). These laws include restrictions on destinations, end users and end use.

1.48 Counterparts. If copies of this Agreement or any amendments are to be physically signed, this Agreement may be executed and delivered in several counterparts and transmitted by facsimile, a copy of which will constitute an original and all of which taken together will constitute a single agreement.

1.49 Electronic Signature. Sub-merchant may become a party to, and become bound by, this Agreement by completing the Application and accepting it electronically over the Internet. This is done by clicking or entering "I Agree", by providing an electronic form of signature or otherwise by affirmatively indicating acceptance or consent where requested on an electronic version of the Application (any such method constituting an "Electronic Consent"). By providing such Electronic Consent, Sub-merchant acknowledges that it has received and reviewed all applicable pages, terms and conditions of this Agreement, and it represents, warrants, consents and agrees as follows:

- a) the electronic application process allows Sub-merchant to sign and agree to legally binding agreements online by providing its Electronic Consent.
- b) Sub-merchant intends to use the electronic application process to provide its Electronic Consent.
- c) Sub-merchant's Electronic Consent is legally binding, and is governed by the Electronic Signatures in Global and National Commerce Act of 2000, and/or the Uniform Electronic Transactions Act governances (or an amended version thereof) in its state of residence, and Sub-merchant agrees to be bound by these governances.
- d) the individual providing Electronic Consent on behalf of Sub-merchant is authorized by Sub-merchant to do so.
- e) the Electronic Consent will be binding upon Sub-merchant, and will not be construed by a court of law to have any less effect than a standard ink or paper signature.
- f) the information provided on the electronic version of the Application is complete and accurate, and US EZPAY is authorized to verify the information on such Application and to receive and exchange information about Sub-merchant, including the credit and financial inquiries identified in Section 1.05 of this Agreement.
- g) the complete and legible Application and this Agreement has been provided to Sub-merchant, and Sub-merchant (a) was technically capable of opening, reading, printing, downloading and/or saving all sections of the Application and this Agreement, and (b) had a reasonable opportunity to open each section of the Application and this Agreement, read it, and sign and agree to it by providing its Electronic Consent.
- h) no strikeouts, interlineations, additions or modifications to the electronic version of the Application and this Agreement may be made.



- i) the electronic version of the Application and this Agreement, as accepted by the Electronic Consent of Sub-merchant, may be transmitted to or from US EZPAY or their designees and/or retained electronically by US EZPAY or their designees, which will constitute an original.
- j) The electronic version of the Application and this Agreement is subject to approval by US EZPAY.

1.50 Dispute Resolution. US EZPAY and Sub-merchant each acknowledge and agree that any controversy, disagreement, dispute or claim arising out of or relating to this Agreement (other than those disputes that require or permit US EZPAY to terminate this Agreement automatically or without notice, which may be subject to this Section at US EZPAY's sole election), or any breach thereof (each, a "Dispute"), shall be settled by following the procedures set forth below:

- a) US EZPAY, on the one hand, and Sub-merchant, on the other hand, agree first to contact the other to advise of any such Dispute. The party alleging, asserting and/or initiating the Dispute shall contact the other party or parties who is or are alleged to be liable or responsible for such Dispute, and provide a written description of the Dispute, all relevant documents/information and the proposed resolution (the "Claim Notice") in any manner approved in Section 1.30 above. In addition, Sub-merchant agrees to contact US EZPAY by calling or writing to: Claims Administrator, Claims@usezpay.com or 888-859-6889 (will be the US EZPAY's customer service contact).
- b) The Claims Administrator for US EZPAY and Sub-merchant shall then seek in good faith to resolve the Dispute. As part of this process, each party to the Dispute shall provide a monetary amount that, if paid to the party alleging, asserting and/or initiating the Dispute, would settle the Dispute (the "Settlement Amount"). If the parties do not agree to a Settlement Amount, or the parties are otherwise unable to settle the Dispute within thirty (30) days of the date of delivery of the Claim Notice, then the parties shall proceed to arbitration, as set forth below.
- c) **IN THE ABSENCE OF RESOLVING THE DISPUTE UNDER THIS SECTION 1.50, AND INSTEAD OF SUING IN COURT, US EZPAY AND SUB-MERCHANT EACH AGREE TO SETTLE AND RESOLVE FULLY AND FINALLY ALL DISPUTES EXCLUSIVELY BY ARBITRATION, EXCEPT IN THE FOLLOWING LIMITED CIRCUMSTANCES: (I) US EZPAY OR SUB-MERCHANT MAY COMMENCE AN INDIVIDUAL ACTION IN SMALL CLAIMS COURT WHERE THE AMOUNT OF THE DISPUTE DOES NOT EXCEED THE JURISDICTIONAL LIMIT OF SUCH COURT; AND (II) SUB-MERCHANT MAY FILE A DISPUTE WITH ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY THAT CAN, IF THE LAW SO AUTHORIZES, SEEK RELIEF AGAINST US EZPAY ON BEHALF OF SUB-MERCHANT. THE AGREEMENT TO HAVE DISPUTES RESOLVED BY ARBITRATION IS MADE WITH THE UNDERSTANDING THAT EACH PARTY IS IRREVOCABLY, KNOWINGLY AND INTELLIGENTLY WAIVING AND RELEASING ITS RIGHT TO LITIGATE DISPUTES THROUGH A COURT AND TO HAVE A JUDGE OR JURY DECIDE DISPUTES.** Without limitation, US EZPAY and Sub-merchant agree that Disputes, as defined above, shall include the following matters: (a) any Dispute by any party against any agent, employee, successor, or assign of the other party or parties, including to the full extent permitted by applicable law, third parties who are not signatories to this Agreement, whether related to this Agreement or otherwise; (b) any past, present, and future Dispute; and (c) any Dispute as to the scope, validity or applicability of this Section 1.50, and/or the arbitrability of any Dispute; and (d) any Dispute against US EZPAY, or any other party as stated above, related in any way to the services, including, but not limited to, the characterization of the transactions referenced in this Agreement, privacy, solicitation, or advertising, even if it arises after the Agreement has terminated.
- d) The foregoing arbitration shall be administered by the American Arbitration Network (the "AAA") in accordance with its Commercial Arbitration Rules in effect when a Claim Notice is duly provided under this Section 1.50. If any AAA procedure or rule conflicts with the terms of this Agreement,



the terms of this Agreement apply.

- e) US EZPAY and Sub-merchant are entering into this Agreement in connection with a transaction involving interstate commerce. Accordingly, the arbitration set forth in this Agreement and any proceedings thereunder shall be governed by the Federal Arbitration Act (the "FAA"), 9 U.S.C. Sections 1-16. Any award by the arbitrator may be entered as a judgment in any court having jurisdiction. Any arbitrator's decision and award is final and binding, subject only to those exceptions under the FAA. US EZPAY and Sub-merchant agree the FAA's provisions, not state law, govern all questions of whether a Dispute is subject to arbitration.
- f) Unless US EZPAY and Sub-merchant agree otherwise, the foregoing arbitration will be conducted by a single neutral arbitrator selected by utilizing the process provided in the AAA's Commercial Arbitration Rules in effect when Claim Notice is duly filed. The arbitrator shall be a licensed attorney and/or retired judge. Except as otherwise provided below, the arbitration shall be conducted in the county where the principal address of the party against whom the Dispute is initially commenced is located – and for any claim against US EZPAY, that address shall be the address listed on the Disclosure page. The federal or state law that applies to this Agreement will apply during the arbitration. The arbitrator shall have no authority to award punitive, consequential or other monetary damages not measured by the prevailing party's actual damages, except as may be required by statute or as otherwise provided below.
- g) The award of the arbitrator shall be accompanied by a reasoned opinion.
- h) For Disputes of \$10,000.00 or less that are initiated by Sub-merchant, the following rules shall apply notwithstanding anything to the contrary in the procedures or rules of the AAA and/or in this Agreement:
 - 1) The arbitration shall be conducted in accordance with the AAA's Expedited Procedures.
 - 2) The arbitrator shall include a finding as to whether the initiation of such Dispute was frivolous. If it is determined by the arbitrator not to be frivolous, then US EZPAY shall pay the fees and costs assessed by the AAA in administering the arbitration.
 - 3) If the arbitrator finds that US EZPAY is liable to Sub-merchant for an amount greater than the Settlement Amount presented by US EZPAY prior to the commencement of arbitration (after all offsets and counterclaims are applied), then US EZPAY shall be required to pay in addition to any award of the arbitrator an amount equal to the lesser of (x) \$1,000.00, or (y) the amount of Sub-merchant's reasonable attorneys' fees.
 - 4) Sub-merchant may choose to conduct the arbitration in the state of its principal address.

(i) US EZPAY AND SUB-MERCHANT EACH AGREE NOT TO PURSUE ARBITRATION ON A CLASS-WIDE BASIS. ARBITRATION WILL BE CONDUCTED SOLELY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

1.51 Non-Disparagement. Sub-merchant and Guarantor(s) each agree not to disparage Service Providers or their respective vendors, and promise to refrain from engaging, directly or indirectly, in any



action, communication or conduct negligently, recklessly or intentionally undertaken to damage the name or reputation of Service Providers or their respective vendors.

1.52 General. Sub-merchant is responsible for its employee's actions while in its employ. Except as otherwise expressly provided in this Agreement, the parties do not intend to confer any benefits on any person or entity other than Sub-merchant and US EZPAY. Sub-merchant is also responsible for procuring, maintaining and servicing all equipment (including Equipment) and software necessary to allow it to engage with US EZPAY systems to process Card transactions through US EZPAY, as well as for all related Internet, telecommunication, mobile phone (including SMS charges and mobile data plan fees) and other similar fees.

1.53 Survival. All Sections of this Agreement that by their nature should survive termination or expiration will survive, including, without limitation, accrued rights to payment, indemnification obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

ARTICLE II. CARD TRANSACTION SERVICES/RESTRICTIONS.

The following terms and conditions govern Card services provided by US EZPAY to Sub-merchant.

2.01 Advertising.

- a) Sub-merchant will prominently display the promotional materials provided by US EZPAY in its place(s) of business. Use of promotional materials and use of any trade name, trademark, service mark or logo type ("Marks") associated with Card(s) shall be limited to informing the public that Card(s) will be accepted at Sub-merchant's place(s) of business. Sub-merchant's use of promotional materials and Marks is subject to the direction of US EZPAY.
- b) Sub-merchant may use promotional materials and Marks during the Term of this Agreement and shall immediately cease their use and return any inventory to US EZPAY upon termination of this Agreement.
- c) Sub-merchant shall not use any promotional materials or Marks associated with any Card Network in any way which implies that the Card Network endorses any goods or services other than Card services, or otherwise in violation of the Rules.

2.02 Warranties of Sub-merchant Regarding Card Transactions. Sub-merchant hereby represents and warrants to US EZPAY at the time of execution and during the Term of this Agreement that:

- a) Each Sales Draft presented to US EZPAY for collection is genuine and is not the result of any fraudulent or illegal transaction and is not being deposited on behalf of any business or entity other than Sub-merchant. Further, Sub-merchant warrants that each Sales Draft is the result of a Card transaction for the bona fide purchase of goods or services by the Cardholder in the total amount stated on the Sales Draft.
- b) Sub-merchant has performed or will perform all of its obligations to the Cardholder in connection with the Card transaction evidenced thereby.
- c) Sub-merchant has complied with US EZPAY's procedures accepting Cards, and the Card transaction itself shall not involve any element of credit for any other purposes other than as set forth in this Agreement and shall not be subject to any defense, dispute, offset or counter claim which may be raised by any Cardholder under the Rules, the Consumer Credit Protection Act (15 USC 1601), or other relevant state or federal statutes or regulations.



- d) Any credit voucher which it issues represents a bona fide refund or adjustment on a Card transaction by Sub-merchant with respect to which a Sales Draft has been accepted.
- e) Sub-merchant understands that US EZPAY provides an offline payment processing feature ("Offline Mode") for use only when network connectivity is unavailable. Sub-merchant acknowledges that enabling offline payment processing feature ("Offline Mode") means that POS approves payments before the money is actually received, which carries inherent risks, including potential failed or declined transactions upon network reconnection. Sub-merchant agrees to assume full responsibility for any failed payments, fraud, or technical issues arising from Offline Mode use. Sub-merchant further agrees to adhere to any transaction limits imposed by US EZPAY (either on the number and/or total amount of transaction, which may be adjusted by US EZPAY at its discretion), reconnect to the network as soon as possible after offline processing, and handle all chargebacks, disputes or customer complaints arising from transactions processed in Offline Mode.

2.03 Honoring Cards.

- a) Sub-merchant will accept without discrimination, all valid Cards properly presented by Cardholders for payment for goods or services.
- b) Sub-merchant may offer discounts or in-kind incentives for payment by the use of cash, checks, Debit Cards, or Credit Cards, provided that the terms of the discount or in-kind incentives do not differentiate on the basis of the Card Issuer or the Card or Card Network. Sub-merchant is responsible for the compliance of any such program offered.
- c) Sub-merchant shall not accept a Card as payment (other than for a mail order, telephone order, Internet order, or preauthorized sale to the extent permitted under this Agreement), if the person seeking to use the Card does not present the Card to permit Sub-merchant to examine it or otherwise use the physical Card to complete the Card transaction.

2.04 Card Acceptance. When accepting a Card, Sub-merchant will follow the steps provided by US EZPAY for accepting Cards and will:

- a) Determine in good faith and to the best of its ability that the Card is valid on its face, and that the back of the Card is not disfigured or tampered with.
- b) Obtain Authorization before completing any Card transaction. Where Authorization is obtained, Sub-merchant will be deemed to warrant the true identity of the Customer as the Cardholder.
- c) Obtain an imprint of the Card unless the Sales Draft is electronically generated from a EMV or swiped Card transaction or is the result of an Internet, mail, phone or preauthorized order.
- d) If Sub-merchant's terminal is unable to read the magnetic stripe or EMV chip on the Card, Sub-merchant will obtain an imprint of the Card and the Cardholder's signature on the imprinted draft before processing the Sales Draft.
- e) Enter a description of the goods or services sold and the price thereof (including any applicable taxes) on the Sales Draft.
- f) Refrain from writing any personal information of the Cardholder on the Sales Draft.



- g) Obtain the Cardholder's signature on the completed Sales Draft and match that signature to the signature on the Card.
- h) Deliver a true and completed copy of the Sales Draft to the Cardholder at the time of delivery of the goods or performance of the services, or if the Sales Draft is prepared by a point-of-sale terminal, at the time of the sale.
- i) Offer the Sales Draft to US EZPAY for purchase according to the US EZPAY procedures and the terms of this Agreement.
- j) Legibly reproduce without alteration of the original Card transaction receipt, the Cardholder's name, last four digits of the account number, expiration date and Sub-merchant's name and place of business if that information is not legibly imprinted on the Sales Draft. Also, for Mastercard transactions, Sub-merchant will legibly reproduce the name of the Card Issuer as it appears on the face of the Card.

2.05 Authorization.

- a) Sub-merchant will obtain an Authorization for all Card transactions from the Cardholder. If Sub-merchant cannot, for any reason, obtain an electronic Authorization, Sub-merchant will request a voice Authorization from the designated authorization center, and will legibly print the Authorization number on the Sales Draft. Fees for voice Authorizations are as set forth in Section 1.14 above.
- b) Sub-merchant shall not request Authorization for a Card transaction unless Sub-merchant intends to submit a Card transaction for the authorized amount.
- c) Sub-merchant acknowledges that an Authorization provides only that the Cardholder account has sufficient credit available to cover the amount of the current sale, and that an Authorization is not a guarantee of payment.
- d) Sub-merchant will not attempt to obtain Authorization on an expired Card. Card transactions will be deemed invalid on Cards that are expired, whether or not Authorization has been obtained.

2.06 Unusual and Suspicious Transactions; Account Monitoring.

- a) Sub-merchant acknowledges that US EZPAY will monitor Sub-merchant's daily deposit activity for purposes of monitoring compliance with this Agreement. Sub-merchant agrees that Sub-merchant's deposit activity will remain consistent with the "approved" monthly volume and average ticket amount approved on the Application or otherwise approved by US EZPAY. US EZPAY may require additional documentation if Sub-merchant should exceed "approved" monthly volume or average ticket, and Sub-merchant agrees promptly to provide such documentation upon request. Sub-merchant agrees that US EZPAY may, in their sole discretion, elect not to process volumes over the approved monthly volume or overlimit transactions, and/or to terminate processing of Card transactions for cause in the event of overlimit or excessive activity. Sub-merchant further agrees that US EZPAY may, in their sole discretion, suspend the disbursement of Sub-merchant's funds for any reasonable period of time required to investigate suspicious or unusual deposit activity and that such suspension may subject Sub-merchant to additional suspension fees as set forth herein. US EZPAY reserves the right to direct Member Bank to withhold settlement of Card transactions in its sole discretion based upon Sub-merchant's processing history and/or anticipated risk of loss (including but not limited to change of amount or volume of



transactions). US EZPAY will make good faith efforts to notify Sub-merchant of such suspension as promptly as is commercially reasonable, but no liability shall accrue against US EZPAY if such notice is not so provided. US EZPAY shall have no liability for any losses, either direct or indirect, which Sub-merchant may attribute to any suspension of funds disbursement.

- b) In the event of suspension arising from a suspicious or unusual Card transaction, Sub-merchant agrees that the Account may be charged a Security Processing Fee as set forth in the Application per suspended Card transaction and, if the suspended Card transaction or unusual or suspicious activity exceeds \$500.00, an additional Investigative Fee as set forth in the Application may be assessed for each such event, without limiting any other rights or remedies of US EZPAY under this Agreement.
- c) If a batch is suspended by US EZPAY, Sub-merchant acknowledges that the consumer's product or service must be delivered just as if Sub-merchant has been paid. Further, if a batch or a Card transaction is suspended, Sub-merchant acknowledges that fees associated with the Card transactions will be charged including security fees.
- d) Sub-merchant's presentation to US EZPAY of Excessive Activity will be a breach of this Agreement and a cause for immediate termination of this Agreement. "Excessive Activity" means, during any monthly period and for any one of Sub-merchant's terminal identification numbers or Sub-merchant identification numbers, (i) Chargebacks and/or retrieval requests in excess of 1% of the average monthly dollar amount of Card transactions, (ii) returns in excess of 3% of the average monthly dollar amount of Card transactions, or (iii) processing an average ticket above the amount approved by US EZPAY. Sub-merchant authorizes, upon the occurrence of Excessive Activity, US EZPAY to take additional actions as they may deem necessary, including, but not limited to, suspension of processing privileges or creation or maintenance of a Reserve Account in accordance with this Agreement.

2.07 Forms. Sub-merchant shall use only such forms or modes of transmission of Sales Drafts and credit vouchers as are provided or approved in advance by Service Providers.

2.08 Retention and Retrieval of Cards. Sub-merchant shall use its best efforts, by reasonable and peaceful means, to retain or recover a Card when receiving such instructions upon making a request for Authorization. In carrying out such obligation Sub-merchant will not breach the peace or cause any injury to any person or property.

2.09 Personal Information. Sub-merchant may not require Cardholders to provide any personal information as a condition of honoring a Card unless such information is required for delivery of the goods or services or Sub-merchant has reason to believe that the person presenting the Card may not be the actual Cardholder.

2.10 Records; Requests for Copies. Sub-merchant shall retain a paper or electronic copy of all Sales Drafts and credit vouchers and if a mail, phone order, Internet order or preauthorized order is involved, the Cardholder's signed authorization for the Card transaction for at least three (3) years after the date of the Card transaction. Within three (3) business days of receipt of any written or verbal request by US EZPAY, Sub-merchant shall provide either the actual paper Sales Draft or a legible copy thereof and any other documentary evidence reasonably requested by US EZPAY. A failure of Sub-merchant to deliver the requested documentation in the required time frame may result in the transaction in question being charged back to the Account and Sub-merchant losing further rights.



2.11 Multiple Transaction Records; Partial Payments. Sub-merchant shall include all goods and services purchased in a single Card transaction at one time on a single Sales Draft, except: (i) for purchases in separate departments of a multiple department store; (ii) for installment payment; or (iii) for delayed or amended charges governed by Rules for travel and entertainment Sub-merchants and Card transactions.

2.12 Telephone Orders "TO", Mail Orders "MO", Internet Orders, Preauthorized Orders "PO" and Installment Orders "IO".

- a) Unless Sub-merchant has been approved by US EZPAY to accept Internet, mail and phone orders, Sub-merchant warrants that it is a walk-in trade business, located in a retail business place. If Sub-merchant is found to be accepting mail orders, telephone orders, or Internet Card transactions without such consent, Sub-merchant will be in breach of this Agreement and is subject to the Non-Compliance Fee outlined in the Application. When allowed, telephone and Internet orders are permitted only to the extent that the contact is initiated by the Cardholder.
- b) If authorized to accept payment by Internet, mail, phone or pre-authorized order, the Sales Draft may be completed without the Cardholder's signature or an imprint, but in such case Sub-merchant shall create a Sales Draft containing Cardholder account number, expiration date, transaction date, an Authorization number, and the sale amount. In addition, Sub-merchant's business name, city and state must be included. For Internet orders, Sub-merchant shall attempt to obtain the Card expiration date and security code and forward it as part of the Authorization request for non-secure Card transactions and non-authenticated security transactions. Receiving an Authorization shall not relieve Sub-merchant of liability for Chargeback on any Card transaction for which Sub-merchant did not obtain an imprint and the Cardholders signature.
- c) For approved transactions, Sub-merchant must use reasonable procedures to verify that each Card sale is made to a purchaser who actually is the Cardholder or the authorized user of the Card. The Address Verification System ("AVS") is recommended and in some cases required. AVS is not a guarantee for payment, and the use of AVS will not waive any provision of this Agreement or otherwise validate a fraudulent Card transaction.
- d) Unless approved in writing by US EZPAY, Sub-merchant shall not process sales prior to delivery of product or service. If the product is being shipped, the Customer must be given the shipping date of the product once the sale is processed.
- e) Sub-merchant may limit acceptance of returned merchandise or establish a policy to make price adjustments for any Card transactions. If a Sub-merchant refund policy prohibits returns under certain circumstances, Sub-merchant may still receive a Chargeback relating to such sales pursuant to Card Network Rules.
- f) Sub-merchant must not accept Card sales via electronic mail (email) over the Internet.
- g) Sub-merchant must be approved by US EZPAY to charge Customers via an automatic or recurring payment plan. Any Card transactions in violation of this provision are subject to Chargeback to Sub-merchant. For any such automatic or recurring Card transactions, Sub-merchant must comply with all state and federal law and regulations as well as the Rule. Additionally, Sub-merchant must obtain a written or electronic form of request from Cardholder for such goods and services to be charged to the Cardholder's account, which request must comply with the Rules and at a minimum, specify (i) the Cardholder's name, address and Card number and expiration date, (ii) the Card transaction amounts (including the total of all transaction amounts authorized) to be charged to the Cardholder's account, (iii) the frequency of the recurring charge and the duration of time



during which such charges may be made, (iv) a general description of the Card transaction, and (v) Sub-merchant's business name and customer service telephone number that the Cardholder may call to obtain customer assistance from Sub-merchant or to revoke approval of the automatic payment plan. Sub-merchant shall not complete any recurring Card transaction after receiving a cancellation notice from the Cardholder, US EZPAY, or a response to an Authorization request which indicates that the Card is not to be honored. Sub-merchant shall type or legibly print the words "Recurring Transaction" on the signature line of the Sales Draft. Sub-merchant shall provide a copy of Cardholder's written request to US EZPAY upon request, and shall retain a copy of such written request for one year after this Agreement between Sub-merchant and Cardholder is terminated. For multi-year agreements, Sub-merchant shall renew written request with Cardholder annually during the 12th month of the current agreement. The first automatic or recurring payment plan Card transaction must contain a positive response from the AVS. If the first payment does not contain this information, all subsequent payments are subject to Chargeback to Sub-merchant.

2.13 Returns and Adjustments: Credit Vouchers.

- a) Sub-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 the Rules. If applicable, Sub-merchant must disclose to a Cardholder before a Card sale is made, that if merchandise is returned: (i) no refund, or less than a full refund, will be given; (ii) returned merchandise will only be exchanged for similar merchandise of comparable value; (iii) only a credit toward purchases will be given; or (iv) special conditions or circumstances apply to the sale (e.g., late delivery, charges, or other noncredit terms).
- b) Disclosures must be made on all copies of Sales Drafts in letters approximately 1/4" high in close proximity to the space provided for the Cardholder's signature on the Sales Draft and issued at the time of sale.
- c) If Sub-merchant does not make these disclosures, a full refund in the form of a credit to the Cardholder's Card account must be given. Sub-merchant will not refund cash to a Cardholder who paid for the item by Card.
- d) Credits must be made to the same Card account number on which the original sale transaction was processed.
- e) If Sub-merchant accepts any goods for return or terminates or cancels any services, in conjunction with each such Card transaction, Sub-merchant shall have sufficient funds in its Account available to US EZPAY to cover the amount of the Card transaction and any related fees.

2.14 Cash Payments. Sub-merchant shall not receive any payments from a Cardholder for charges included in any Card transaction resulting from the use of a Card, nor receive any payment from a Cardholder to prepare and present a Card transaction for the purpose of affecting a deposit to the Cardholder's Card account.

2.15 Cash Advances.

- a) Sub-merchant shall not deposit any Card transaction for the purpose of obtaining or providing a cash advance either on Sub-merchant's Card or the Card of any other party. Sub-merchant agrees that any such deposit shall be grounds for immediate termination.



- b) Sub-merchant, shall not under any circumstances obtain Authorization for, nor process a sale on any Card that Sub-merchant is not authorized to use. Processing Sub-merchant's own Card is grounds for immediate termination.

2.16 Duplicate Transactions. Sub-merchant shall not deposit duplicate Card transactions. Sub-merchant shall be debited for any duplicate Card transactions and shall be liable for any Chargebacks which may result therefrom.

2.17 Deposit of Fraudulent Transactions. Sub-merchant shall not accept or deposit any fraudulent Card transaction and may not present for processing or credit, directly or indirectly, a Card transaction which originated with any other Sub-merchant or any other source. Sub-merchant shall not deposit Card transactions evidencing sales that were solicited by outbound telemarketing activities. If Sub-merchant deposits any such transactions, US EZPAY may hold funds and/or demand a Reserve Account. Perpetrators of fraudulent Card transactions will be referred to law enforcement officials and may be subject to Card Network penalties.

2.18 Collection of Pre-Existing Debt. Sub-merchant shall not present any Card transaction representing the refinancing of an existing obligation of a Cardholder including, but not limited to obligations (i) previously owed to Sub-merchant, (ii) arising from the dishonor of a Cardholder's personal check, and/or (iii) representing the collection of any other pre-existing indebtedness, including collection of delinquent accounts on behalf of third parties.

2.19 E-Commerce Address Notification. Sub-merchant must display the address of its permanent establishment on its website. This address should include the country of domicile and should be located either on the checkout screen used to present the total purchase amount to the Cardholder, or within the sequence of web pages the Cardholder accesses during the checkout process.

2.20 Settlement of Transactions.

- a) Service Providers shall accept from Sub-merchant all valid Sales Drafts deposited by Sub-merchant under the terms of this Agreement and shall present the same to the appropriate Card Issuers for collection against Cardholder accounts. Settlement of all Sales Drafts is subject to this Agreement and the Rules. Settlement funds in connection with transactions are not insured by Service Providers, the Card Networks or any third party. The Account will be used in connection with this Agreement for deposits made by Member Bank from Card transactions. Service Providers shall provisionally credit the value of collected Sales Drafts to Sub-merchant's Account and reserve the right to adjust amounts so credited to reflect the value of Chargebacks, fees, penalties, late submission charges, the difference in currency exchange if the Chargeback amount is greater than the original sale, issuer claims, and items for which Service Providers did not receive final payment for any reason. Service Providers may refuse to accept any Sales Draft or revoke its prior acceptance of a Sales Draft in the following circumstances: (i) the transaction giving rise to the Sales Draft was not made in compliance with all the terms and conditions of this Agreement; (ii) the Cardholder disputes his liability to Service Providers for any reason, including but not limited to those Chargeback rights enumerated in the Rules; (iii) the transaction giving rise to the Sales Draft was not directly between Sub-merchant and Cardholder, or (iv) the transaction is outside the parameters indicated on the Application. Sub-merchant will pay Service Providers for any amount previously credited to Sub-merchant for a Sales Draft not accepted or later revoked by them.
- b) Unless otherwise indicated, US EZPAY's role is limited to issuing payment instructions to Member Bank, and all settlement activity and other handling of processed transaction funds into the Account will be performed by Member Bank or Processor, not US EZPAY. If Bank or Processor cannot transfer the funds to the Account due to inaccurate or obsolete bank account information entered by the Sub-merchant, or for any other reason, US EZPAY may refund the funds to the



Customer or escheat them as provided by law. Neither Member Bank, US EZPAY nor the Customer will have any liability to Sub-merchant for funds so refunded. Deposits to the Account will be limited or delayed based on Sub-merchant's perceived risk and history with US EZPAY as determined by the sole and absolute discretion of US EZPAY or Member Bank and US EZPAY may debit the Account or any Sub-merchant bank account(s) for any reason permitted in this Agreement. Neither Member Bank nor US EZPAY is liable for any amounts directed to an account that has been designated as the Account by any purported representative of Sub-merchant. Sub-merchant authorizes US EZPAY to instruct Member Bank to deposit the settlement amounts due to Sub-merchant (namely, the transaction amounts minus Fees and any other amounts due under this Agreement or the Direct Agreement, if applicable) to the Account.

- c) Sub-merchant acknowledges and agrees that its settlement funds may be held in a depository account (including a pooled account) held at Member Bank for the benefit of Sub-merchant (or US EZPAY's sub-merchants generally) before such funds are settled to the Account. If US EZPAY and Sub-merchant mutually agree for US EZPAY to receive and disburse settlement funds from Member Bank on behalf of Sub-merchant or US EZPAY is otherwise deemed to be involved in the settlement flow, Sub-merchant agrees that it has irrevocably authorized US EZPAY as its agent for the limited purpose of receiving and disbursing settlement funds on its behalf, and US EZPAY's receipt of such settlement funds satisfies the applicable Cardholders' underlying payment obligations to Sub-merchant.
- d) Unless otherwise agreed in writing by US EZPAY, transaction settlement will be made by Acquirer via ACH to the Account. US EZPAY will not take possession of Sub-merchant's funds at any time. Subject to the terms of this Agreement, any such payments received by US EZPAY will be deemed payment to the Sub-merchant at the time received by US EZPAY. Sub-merchant may not seek recourse against the Customer (including Cardholders) or the Customer's financial source in the event US EZPAY does not settle the funds to Sub-merchant in accordance with this Agreement with respect to any Transaction; Sub-merchant's recourse for such event is solely against US EZPAY. Sub-Merchant will not withhold any products or services from the Customer for US EZPAY's failure to settle the Customer's funds to Sub-merchant in connection with any transaction.
- e) Notwithstanding anything else in this Section 2.20, US EZPAY may, in its sole discretion, agree to provide Sub-merchant with the ability to send funds owed to Sub-merchant to a third party per Sub-merchant's instruction instead of settling funds to a Sub-merchant Account ("Outside Recipients"). Sub-merchant agrees that if Acquirer sends any funds to Outside Recipients instead of the Account pursuant to any such instructions from Sub-merchant, then US EZPAY's and Acquirer's obligations to settle those funds to Sub-merchant will be satisfied upon payment to the Outside Recipient in accordance with Sub-Merchant's instructions. For the purpose of payments to Outside Recipients, Sub-merchant acknowledges and agrees that US EZPAY does not provide any service directly to the Outside Recipients, and the Outside Recipients do not have a contractual or business relationship with US EZPAY. To the extent US EZPAY directs Acquirer and Acquirer sends Sub-merchant funds to Outside Recipients, they do so only on behalf of Sub-merchant.

2.21 Processing Limits. US EZPAY may limit the dollar amount of Sales Drafts that it will process for Sub-merchant. This limit may be changed by US EZPAY from time to time with or without notice to Sub-merchant. If Sub-merchant exceeds the limit established by this Agreement, US EZPAY may suspend processing, charge overlimit fees, hold the funds over the cap and/or return to Sub-merchant all Sales Drafts evidencing funds over the cap.

2.22 Endorsement. The presentment of Sales Drafts to US EZPAY for collection and payment is Sub-merchant's agreement to sell and assign its right, title and interest in each Sales Draft completed in conformity with US EZPAY's acceptance procedures and shall constitute an endorsement by Sub-merchant to US EZPAY of such Sales Drafts. Sub-merchant hereby authorizes US EZPAY to supply such endorsement



on Sub-merchant's behalf. Sub-merchant agrees that this Agreement is a contract of financial accommodation within the meaning of Bankruptcy Code 11 U.S.C. Section 365, as amended from time to time. Sub-merchant acknowledges, in accordance with Section 1.09 above, that its obligation to US EZPAY for all amounts owed under this Agreement arise out of the same transaction as US EZPAY's obligation to deposit funds to the Account.

2.23 Transmission Method. Sub-merchant will provide Card transactions in a daily batch to US EZPAY by entering transaction data into a computer terminal or Card reading terminal no later than the close of business on the date the Card transaction is completed. If Sub-merchant provides its own electronic terminal or similar device, such terminals must meet US EZPAY's requirements for processing Card transactions. Information regarding a Card transaction transmitted with a computer or Card reader, terminal will be transmitted by Sub-merchant to US EZPAY in the form US EZPAY from time to time specify or as required under the Rules. The means of transmission indicated in the Application shall be the exclusive means utilized by Sub-merchant until Sub-merchant has provided US EZPAY with at least thirty (30) days prior written notice of Sub-merchant's intention to change the means of such delivery or otherwise to alter in any material respect Sub-merchant's medium of transmission of data to US EZPAY. US EZPAY will have no liability for delayed or lost transactions (or any associated fees) as a result of Sub-merchant's failure to properly batch and submit transactions for processing in accordance with this Section 2.23.

2.24 Transaction Processing; Operating Regulations and Compliance; American Express. Sub-merchant will not submit transactions hereunder unless they are submitted in the correct manner, including the Sub-merchant being in possession of transaction receipts and not submitting transactions until they are complete, (i.e., the goods or services are shipped/provided) and the transaction is authorized by the Cardholder and is in the correct currency and within the correct time limit, as applicable. Sub-merchant may set a minimum Card transaction amount to accept that provides access to a credit account, under the following conditions: (i) the minimum Card transaction amount does not differentiate between Card issuers, (ii) the minimum Card transaction amount does not differentiate between Card Networks, and (iii) the minimum Card transaction amount does not exceed \$10.00 (or any higher amount established by the Federal Reserve by regulation). Sub-merchant may only set a maximum Card transaction amount under the following conditions: (a) the Customer is (i) a department, agency, or instrumentality of the U.S. Government, or (ii) a corporation owned or controlled by the U.S. Government, or (iii) a Customer whose primary business is reflected by one of the following MCCs: (x) MCC 8220 – Colleges, Universities, Professional Schools, Junior Colleges, (y) MCC8244 – Schools, Business and Secretarial, or (z) MCC 8249 – Schools, Trade and Vocational, and (b) the maximum Card transaction amount does not differentiate between Card issuers, and (c) the maximum Card transaction amount does not differentiate between Card Networks. For U.S. transactions, Sub-merchant will be permitted to use any terminal processing services of any Card Network to deliver Visa transactions captured at the point of transaction directly to Visa for clearing and settlement. Sub-merchant agrees to be bound by and must comply with the Rules and all applicable law. In the event of any inconsistency or conflict between any provision of this Agreement and the Rules, the Rules will govern. The Rules are incorporated by reference herein and are deemed to have the same force and effect as if set forth in full. Should any of the Rules not be publicly available or otherwise made available to Sub-merchant, such unavailability will not alter or limit Sub-merchant's obligation to comply with the Rules. Notwithstanding US EZPAY's assistance in understanding the Rules, Sub-merchant expressly acknowledges and agrees that it is assuming the risk of Sub-merchant's compliance with all provisions of the Rules, regardless of whether Sub-merchant has possession of those provisions. If Sub-merchant has been accepted to participate in the American Express OptBlue Program to accept American Express Cards, Sub-merchant is also bound by the terms in Schedule 1 – Amex Acceptance and Brand Requirements.

2.25 Prohibited Payments; Sub-merchant Transaction Disclosure and Privacy Policy. Unless specifically authorized in writing by US EZPAY, Sub-merchant shall not collect or attempt to collect from a Cardholder amounts owed for any Card transaction and shall promptly deliver to US EZPAY any payment Sub-merchant



receives, in whole or in part from a Cardholder for any Card transaction, together with the Cardholder's name and account number and any correspondence accompanying the payment. Sub-merchant must not:

- (i) Require a Customer to complete a postcard or similar device that includes the Cardholder's account number, Card expiration date, signature, or any other Card account data in plain view when mailed,
- (ii) Add any tax to transactions, unless applicable law expressly requires that Sub-merchant be permitted to impose a tax. Any tax amount, if allowed, must be included in the transaction amount and not collected separately,
- (iii) Assess a surcharge to transactions, except as expressly permitted by, and in full compliance with the Rules,
- (iv) Request or use a Card account number for any purpose other than as payment for goods or services,
- (v) Disburse funds in the form of travelers cheques, if the sole purpose is to allow the Customer to make a cash purchase from Sub-merchant,
- (vi) Disburse funds in the form of cash, unless the Sub-merchant is dispensing funds in the form of travelers cheque, TravelMoney cards, or foreign currency. In this case, the transaction amount is limited to the value of the travelers cheques, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant,
- (vii) disburse funds of cash unless Sub-merchant is participating in full compliance with a program supported by an Card Network for such cash disbursement,
- (viii) Enter into interchange or otherwise originate any transaction for a transaction that was previously charged back to the Bank and subsequently returned to the Sub-merchant, irrespective of Customer approval. Sub-merchant may pursue payment from the Customer outside the Services,
- (ix) Accept a Card issued by a U.S. issuer to collect or refinance an existing debt, unless expressly authorized by, and in compliance with, the Rules,
- (x) Accept a Card to collect or refinance an existing debt that has been deemed uncollectable by the Sub-merchant providing the associated goods or services,
- (xi) Enter into interchange a transaction that represents collection of a dishonored check, or that represents the collection of a previous Card charge,
- (xii) Request or use a Card account number or process transactions for any reason other than for the services and goods set forth on the Application and sold directly by Sub-merchant, in accordance with all Rules, or change any aspect of what goods or services it sells or how they are sold without prior written consent of US EZPAY and Bank,
- (xiii) Request a Card Verification Value2 ("CVV2") for a Card present transaction nor retain or store any portion of the magnetic stripe data subsequent to the Authorization of a sales transaction, nor any other data prohibited by the Rules,
- (xiv) Submit a transaction that does not result from a bona fide transaction between the Customer and the Sub-merchant,
- (xv) submit, process, or deposit transactions on behalf of any other person or entity. Sub-merchant will post a privacy policy that complies with the Rules and applicable law to its website and will comply with its terms,
- (xvi) knowingly submit, and US EZPAY must not knowingly accept from a Sub-merchant for submission into the payment system, any transaction that is illegal or that the Sub-merchant should have known was illegal. Such transaction must be legal in both Cardholder's and Sub-merchant's jurisdiction,
- (xvii) submit a transaction that it knows, or should have known is either fraudulent or not authorized by the Cardholder.

2.26 Chargebacks. All Chargebacks are due upon presentation to Sub-merchant. In the case of a failure to pay a Chargeback upon such presentment, in addition to any other remedies which may be exercised by US EZPAY, Sub-merchant agrees to pay a late charge of one and one half percent (1.5%) per month or portion thereof, or the highest amount allowable by law, whichever is less, on all unpaid Chargebacks. US EZPAY is authorized to deduct the amount of any Chargebacks and fees from any settlement amounts due to Sub-merchant or from the Reserve Account, if any, or collect by any other means. Sub-merchant understands and agrees that Card transactions are subject to Chargeback for a variety of reasons under the Rules, or if Sub-merchant has breached this Agreement, including without limitation, for the following reasons:

- a) The Sales Draft is illegible, not signed by the Cardholder or has not been presented to US EZPAY within the required time-frames.
- b) The Sales Draft does not contain the imprint of a valid unexpired Card.
- c) A valid Authorization number has not been correctly and legibly recorded on the Sales Draft.



- d) The Sales Draft is a duplicate of a prior Card transaction or is the result of two or more Card transactions generated for a single sale.
- e) The Cardholder alleges that he or she did not participate in the sale, authorize the use of the Card, receive goods or services purchased, or receive a required credit adjustment, or disputes the quality of the goods or services purchased.
- f) The price of goods or services on the Sales Draft differs from the amount which Sub-merchant presents for payment.
- g) The Card transaction results from an Internet, mail, phone or preauthorized order and the Cardholder disputes entering into or authorizing the Card transaction or the Card transaction has been made on an expired or non-existing account number.
- h) US EZPAY reasonably believe in its discretion that Sub-merchant has violated any provision of this Agreement.
- i) US EZPAY reasonably determines that the Card transaction is not bona fide or is subject to any claim of illegality, cancellation, rescission, or offset for any reason whatsoever, including without limitation, negligence, fraud or dishonesty on the part of Sub-merchant or Sub-merchant's agents or employees.
- j) Sub-merchant fails to provide a Sales Draft or legible copy thereof to US EZPAY in accordance with this Agreement.
- k) Sub-merchant shall not initiate a Card transaction in an attempt to collect a Chargeback.

2.27 Effect of Termination.

- a) In the event of termination for any reason, Sub-merchant expressly authorizes US EZPAY to direct Member Bank to withhold settlement of Card transactions and other payment transactions of Sub-merchant in the process of being settled.
- b) At the discretion of US EZPAY, collected funds may be placed in a Reserve Account held at Member Bank until Sub-merchant pays any outstanding fees, charges, losses or amounts for which Sub-merchant is liable under this Agreement. Further, US EZPAY reserves the right to require Sub-merchant to deposit additional amounts in the Reserve Account based upon Sub-merchant's processing history and/or anticipated risk of loss to US EZPAY into the Reserve Account. The Reserve Account shall be maintained for a minimum of two hundred seventy (270) days after the termination date or the date of the oldest Card transaction (or longer depending on Sub-merchant's product and business practices), and for a reasonable time thereafter during which Cardholder disputes may remain valid under the Rules. Any balance which remains in the Reserve Account after such period will be returned to Sub-merchant. US EZPAY may debit the Reserve Account for all amounts owed by Sub-merchant under this Agreement.
- c) Sub-merchant expressly acknowledges that MATCH (formerly known as the Combined Terminated Sub-merchant Files or "CTMF") is a file maintained by Mastercard and accessed by VISA, and the Consortium Sub-merchant Negative File, maintained by Discover Network, containing the business names and the identification of principals of Sub-merchants which have been terminated for one or more reasons specified in the Rules. Such reasons include, but are not limited to: fraud,



counterfeit paper, unauthorized Card transactions, excessive Chargebacks, retrievals or highly suspect activity. Sub-merchant acknowledges and agrees that US EZPAY is required to report Sub-merchant and the names and identification of its principals to MATCH and the Consortium Sub-merchant Negative File if Sub-merchant is terminated for any such reason. Sub-merchant consents to such reporting to the Card Networks by US EZPAY and waives any claims which Sub-merchant may raise against US EZPAY as a result of such reporting. Sub-merchant also consents to US EZPAY reporting incidents of fraud, counterfeit paper, unauthorized Card transactions, excessive Chargebacks, retrievals or highly suspect activity to any governmental authorities.

- d) Upon termination for any reason, Sub-merchant will immediately cease requesting Authorizations and will cease transmitting Sales Drafts to US EZPAY which are made after the termination date.
- e) Following termination, Sub-merchant shall upon request provide US EZPAY with all original and electronic copies of Sales Drafts and credit vouchers to be retained as of the date of termination.
- f) Effective immediately upon termination whether by Sub-merchant or by US EZPAY, Sub-merchant must cease the use of all Card Network signage which indicates the acceptance of those Cards under this Agreement.

2.28 Direct Merchant Status. Certain Card Networks may require that Sub-merchant enter into a direct contractual relationship with the Member Bank if certain criteria is met. Such criteria may be modified the Card Networks from time-to-time. Sub-merchant must immediately notify US EZPAY if it has, or in Sub-merchant's reasonable opinion will have greater than \$1,000,000 in annual Card sales volume processed with any one Card Network. If required by the Card Networks, the Rules, or Member Bank, Sub-merchant will automatically become party to the direct processing agreement with Processor and Member Bank (together, "Acquirer"), attached as Exhibit A to this Agreement ("Direct Agreement"). The Direct Agreement, if applicable, is incorporated herein by reference. Sub-merchant understands and agrees that the Direct Agreement reflects Sub-merchant's additional, direct obligations to Member Bank and will not affect any obligations of Sub-merchant to US EZPAY pursuant to this Agreement. The Direct Agreement will be independently enforceable by Acquirer. If any provisions in this Agreement conflicts with the Direct Agreement, the Direct Agreement will control as between Acquirer and Sub-merchant, and this Agreement will control as between Sub-merchant and US EZPAY. Sub-merchant is solely responsible for monitoring its processing volume and upon meeting such Card Network criteria or threshold, Sub-merchant's continued use of the Services will be deemed Sub-merchant's consent to be bound by the terms of the Direct Agreement upon meeting such criteria or threshold. In the event of any inconsistency or conflict between any provision of this Agreement or the Direct Agreement and the Rules, the Rules will govern.

ARTICLE III. CARD SERVICES

The following terms and conditions govern Card processing services provided by US EZPAY to Sub-merchant, regardless of whether Sub-merchant applies to receive such services at the time of its initial Application for electronic payment services, or subsequently elects to receive such services from Services.

3.01 Services. US EZPAY is sponsored by Member Bank to participate in a program affiliated with the Card Networks which enables holders of Cards to purchase goods and services from US EZPAY's business customers, including Sub-merchant. US EZPAY will facilitate the processing of Sub-Merchant's Card transactions and any other transactions as decided by US EZPAY that are originated in accordance with the Rules, as provided herein and otherwise as US EZPAY, in its sole discretion, deems appropriate. Services relate solely to the facilitation of transactions between Customers and the Sub-Merchant pursuant to this Agreement. Sub-Merchant agrees that Sub-Merchant, and not US EZPAY, will be responsible for resolving



any issues, problems, or disputes with Customers and Cardholders. Sub-Merchant further agrees that US EZPAY may refuse to process any or all of Sub-Merchant's transactions in US EZPAY's reasonable discretion. US EZPAY reserves the right to monitor Sub-Merchant's use of the Services and its Customers to determine compliance with this Agreement and the Rules. US EZPAY reserves the right, at its sole discretion, without prior consent of Sub-Merchant, to make reasonable changes to the Services or implement risk management controls deemed necessary by US EZPAY or its suppliers to manage risk. Sub-Merchant will comply with all such changes. As a condition to receive the Services, Sub-Merchant agrees to fully comply with all of the terms and obligations in US EZPAY's written guidelines, policies, rules, regulations and procedures that may be published by US EZPAY from time to time related to the use of the Services.

3.02 Reserved.

3.03 Sub-merchant Obligations.

- a) Unless otherwise authorized by US EZPAY, Sub-merchant shall utilize US EZPAY's compatible terminals, PIN pads or systems capable of processing all Card transactions.
- b) In connection with Card transactions, Sub-merchant shall comply with all Rules of the applicable Payment Network.
- c) Sub-merchant shall be responsible for all paper copies of Card transactions, in accordance with the applicable Rules. Within one (1) business day of the day of the Card transaction, Sub-merchant shall balance each location to the system for each business day that such location is open.
- d) Sub-merchant shall be responsible for all communications message unit costs, if any, which may be incurred by Sub-merchant for the Card services as well as expenses related to installation of and training in the use of terminals.
- e) Sub-merchant shall be responsible for entering data correctly. If an entry is made incorrectly, US EZPAY shall use its reasonable efforts to assist Sub-merchant in correcting the entry, but cannot guarantee that the effort will be successful.

3.04 PIN Security.

- a) Sub-merchant is expressly prohibited from requesting PIN numbers verbally or in writing as a condition of a sale. Sub-merchant may not document or retain PIN numbers in any fashion at any time.
- b) Point of sale ("POS") terminals must be positioned so as to be reasonably secure from observation by third parties. Sub-merchant's security cameras must not be able to view the PIN pad. Pin Entry Device (PED) shielding will be considered as one of the possible prevention methods.
- c) The operational placement and use of the Tamper Resistant Security Module (TRSM) must be within its intended physical and logical environment. POS terminals designed for indoor use are not suitable for outside use. The modification of TRSMs from their original manufactured specifications must be restrained.

3.05 Limited Acceptance. Sub-merchant will elect on the Application whether to accept all Cards ("Full Acceptance") or not accept all Cards ("Limited Acceptance") from Customers for payment. For all Cards issued by U.S. issuers, Sub-Merchant must honor all Cards without discrimination within the Card types accepted in accordance with this Agreement. Sub-merchant must maintain a policy that does not



discriminate among Customers seeking to make purchase with a Card. If Sub-merchant elects Limited Acceptance on the Application, Sub-merchants acknowledges and agrees that it elects to accept only certain Card Network Card types as indicated on the Application or via later notification to US EZPAY in writing pursuant to the procedure described below. Sub-merchant further acknowledges and agrees that US EZPAY has no obligation other than those expressly provided under the Rules and applicable law as they may relate to Limited Acceptance and that US EZPAY's obligations do not include policing Card types at the point of sale. As a Limited Acceptance Sub-merchant, Sub-merchant will be solely responsible for the implementation of its decision for Limited Acceptance. Sub-merchant will be solely responsible for policing, at the point of sale, the Card type(s) of transactions it submits for processing. Should Sub-merchant submit a transaction for processing for a Card type it has indicated it does not wish to accept, US EZPAY may process that transaction and Sub-merchant will pay the applicable fees, charges, and assessments associated with that transaction. The Application distinguishes any Card acceptance-related fees and pricing methodology associated with each limited acceptance category. A Full Acceptance Sub-merchant will accept all valid Cards unless Sub-merchant provides thirty (30) days written notice to US EZPAY requesting limited acceptance and stating Sub-merchant's election of Card types. Limited acceptance is not applicable to non-US issued Cards and is in all instances subject to Rules. Sub-merchant will prominently display Card signage provided by US EZPAY in its place(s) of business and the type of signage displayed will be in accordance with the Cards accepted by Sub-merchant.

ARTICLE IV. EQUIPMENT PLACEMENT AGREEMENT

4.01 By checking the box(es) in the "Processing Equipment" section of the Application, Sub-merchant has accepted the described point of sale terminal equipment (the "Equipment") under the following terms and conditions:

- a) Sub-merchant agrees that the Equipment is the property of US EZPAY, is being licensed to Sub-merchant, and must be returned in good and working condition within thirty (30) days of the termination or expiration of this Agreement. If the Equipment is not returned within thirty (30) days, Sub-merchant agrees to pay US EZPAY the "Non-Returned Equipment Fee" in the amount set forth in the Application for each terminal or other device not returned to US EZPAY in accordance with the return instructions provided by US EZPAY.
- b) If the box referencing leasing of the Equipment is checked in the Application, Sub-merchant shall pay the stated license fee on the Equipment on a monthly basis, plus the applicable sales use taxes, beginning the month the Equipment is received by Sub-merchant and continuing until the Equipment is returned by Sub-merchant or this Agreement is terminated or expires.
- c) Sub-merchant agrees to be responsible for any damage to the Equipment as a result of misuse or negligence.
- d) Sub-merchant agrees to indemnify and hold Service Providers harmless from and against any and all liabilities, losses, claims, damages, disputes, offsets, claims or counterclaims of any kind in any way related to the use (or misuse) of the Equipment. This includes any damage to the Equipment resulting from an act of nature, fire, or theft, or from misuse or negligence by Sub-merchant or its agents. Sub-merchant also agrees to pay US EZPAY a shipping/handling charge for each delivery of replacement Equipment, regardless of the reason. Notwithstanding the prior sentence, if Sub-merchant subscribes to US EZPAY's Sub-merchant Leasing Program, it will not be responsible for failure of Equipment for any reason other than Sub-merchants misuse or negligence, so long as such Equipment is returned to US EZPAY. Under this program, US EZPAY will also replacement of the Equipment free of shipping/handling charges, after remote troubleshooting efforts are



unsuccessful. Comparable replacement Equipment may be new or refurbished, or a different brand or model. Replacements are limited to four (4) in any consecutive twelve (12) month period.

ARTICLE V. GLOSSARY

5.01 As used in this Agreement, the following terms shall have the following meanings:

- a) "Authorization": Approval by, or on behalf of, the Card Issuer to validate a Card transaction for a Sub-merchant or another affiliate bank. An authorization only indicates the availability of the Cardholder's credit limit at the time the Authorization is requested.
- b) "Bankruptcy": A case under Title 11 of the United States Code, as amended from time to time.
- c) "Card": See either Credit Card or Debit Card.
- d) "Card Issuer": The Card Network or bank institution that issues a Card to an individual.
- e) "Cardholder": The individual whose name is embossed on a Card and any authorized user of such Card.
- f) "Chargeback": The procedure by which a Sales Draft or other indicia of a Card transaction (or disputed portion) is returned to the Service Providers.
- g) "Credit Card": A valid Card authorizing the Cardholder to buy goods or services on credit and bearing the service mark of a Card Network.
- h) "Customer": Means the customers of Sub-merchant to whom Sub-merchant sells its goods or services.
- i) "Debit Card": A PIN Debit or Non-PIN Debit Card.
- j) "Non-PIN Debit Card": A Debit Card with a Card Network mark that is tied to a Cardholder's bank account or a prepaid account and which is processed without the use of a PIN.
- k) "Payment Network": A Debit Card network such as, but not limited to, Accel, AFFN, Interlink, MAC, Maestro, NYCE, Pulse, Star, or any other network identified by US EZPAY.
- l) "PIN": A personal identification number entered by a Cardholder to submit a PIN Debit Card transaction.
- m) "PIN Debit Card": A Debit Card used at a Sub-merchant location by means of a Cardholder-entered PIN in the Sub-merchant PIN Pad. PIN Debit Cards bear the marks of Payment networks.
- n) "Reserve Account": An account established using Sub-merchant funds and managed by Service Providers to protect against actual or contingent liability arising from Chargebacks, adjustments, fees and other charges due to or incurred by Service Providers.
- o) "Rules": The rules, regulations, releases, interpretations, bulletins, guidelines and other requirements (whether contractual or otherwise) imposed or adopted by any Card Network. Without limitation, the Rules include the Card Network rules identified in Section 1.01 and the Nacha Operating Rules.



- p) "Sales Draft": Evidence of a purchase of goods or services by a Cardholder from Sub-merchant using a Card, regardless of whether such evidence is in paper or electronic form or otherwise, all of which must conform to the Rules.
- q) "Term": the Initial Term of this Agreement or any Renewal Term, as applicable.



Exhibit A – Direct Agreement

MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS

This MERCHANT SERVICE AGREEMENT FOR SUB-MERCHANTS (“Agreement”) is made among WORLDPAY, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 and its designated Member Bank (collectively “Acquirer”) and the Sub-merchant identified in the Application (“Sub-merchant”) in connection with the agreement between Sub-merchant and US EZPAY, Inc. (“Provider”). Acquirer will provide Sub-merchant with certain payment processing services (“Services”) in accordance with the terms of this Agreement. In consideration of Sub-merchant’s receipt of credit or debit card funded payments, and participation in programs affiliated with Mastercard International Inc. (“Mastercard”), VISA U.S.A. Inc. (“VISA”), Discover (“Discover”), and certain similar entities (collectively, “Associations), Sub-merchant is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments. In addition, if Sub-merchant meets certain requirements under the Operating Regulations or an Association or the Operating Regulations otherwise require, Sub-merchant may be required to enter into a direct relationship with an entity that is a member of the Associations. By executing this Agreement, Sub-merchant has fulfilled such requirement. However, Acquirer understands that Sub-merchant may have contracted with Provider to obtain certain processing services and that Provider may have agreed to be responsible to Sub-merchant for all or part of Sub-merchant’s obligations contained herein.

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

1. **Certain Sub-merchant Responsibilities.** Sub-merchant agrees to comply, and to cause employees and third parties acting as Sub- merchant’s agent (“Agents”) to comply, with each Association’s and other payment network’s by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the Mastercard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations or payment networks, including with respect to the use of an Association’s mark(s) (collectively "Operating Regulations"). Such Operating Regulations are incorporated by reference, and will control with respect to any conflict in terms between this Agreement and such Operating Regulation. Sub-merchant acknowledges and agrees that it is not a third-party beneficiary of any Operating Regulation, however, an Association may be a third-party beneficiary of this Agreement. The Associations make excerpts of their Operating Regulations available online, including via: <https://www.mastercard.us/en-us/business/overview/support/rules.html>; <https://usa.visa.com/support/consumer/visa-rules.html>; https://www.discoverglobalnetwork.com/content/dam/discover/en_us/dgn/pdfs/MIT-Implementation-Guide.pdf; <https://www.americanexpress.com/merchantopguide>. Sub-merchant also agrees to comply with all applicable state, federal, and local laws, rules, and regulations (“Laws”). Sub-merchant hereby authorizes Acquirer to conduct background checks on Sub-merchant, including but not limited to credit checks and banking and financial history investigations, and share any information required by an Association. Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the USA PATRIOT Act, the Bank Secrecy Act, the Federal Trade Commission and obligations imposed by the US Treasury’s Office of Foreign Assets Control (OFAC), and provide all necessary documentation to Acquirer promptly upon request. For purposes of this section, Agents include, but are not limited to, Sub-merchant’s software providers and/or equipment providers.

If appropriately indicated in Sub-merchant’s agreement with Provider, Sub-merchant may be a limited-acceptance merchant, which means that Sub-merchant has elected to accept only certain



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

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

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

2. **Sub-merchant Prohibitions.** Sub-merchant must not i) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data, including CVV2, in plain view when mailed; ii) add any tax or surcharge to transactions, except in compliance with Operating Regulations and applicable law; iii) request or use an account number for any purpose other than as payment for its goods or services; iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Sub-merchant; v) disburse funds in the form of cash unless Sub-merchant is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant), or Sub-merchant is participating in a cash back service; vi) submit any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to Sub-merchant, irrespective of cardholder approval; vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt; viii) accept a card to collect or refinance an existing debt that has been deemed uncollectable; or ix) submit a transaction that represents collection of a dishonored check. Sub-merchant further agrees that, under no circumstance, will Sub-merchant store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Sub-merchant nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.
3. **Settlement.** Upon receipt of Sub-merchant's sales data for card transactions, Acquirer will process Sub-merchant's sales data to facilitate the funds transfer between the various Associations and Sub-merchant. After Acquirer receives credit for such sales data, subject to the terms set forth herein, Acquirer will fund Sub-merchant, either directly to the Sub-merchant-Owned Designated Account or through Provider to an account designated by Provider ("Provider



Designated Account”), at Acquirer’s discretion, for such card transactions. Sub-merchant agrees that the deposit of funds to the Provider Designated Account shall discharge Acquirer of its settlement obligation to Sub-merchant, and that any dispute regarding the receipt or amount of settlement shall be between Provider and Sub-merchant. Acquirer will debit the Provider Designated Account for funds owed to Acquirer as a result of the Services provided hereunder, provided that Acquirer may also debit Sub-merchant’s designated demand deposit account (“Sub-merchant-Owned Designated Account”) upon receipt of such account information from Sub-merchant or Provider, or if Acquirer deposits settlement funds into the Sub-merchant-Owned Designated Account. Further, if a cardholder disputes a transaction, if a transaction is charged back for any reason, or if Acquirer reasonably believes a transaction is unauthorized or otherwise unacceptable, the amount of such transaction may be charged back and debited from Sub-merchant or Provider.

4. **Term and Termination.** This Agreement shall be binding upon Sub-merchant upon Sub-merchant’s execution. The term of this Agreement shall begin, and the terms of the Agreement shall be deemed accepted and binding upon Acquirer, on the date Acquirer accepts this Agreement by issuing a merchant identification number, and shall be coterminous with Provider’s agreement with Sub-merchant.

Notwithstanding the foregoing, Acquirer may immediately cease providing Services and/or terminate this Agreement without notice if (i) Sub-merchant or Provider fails to pay any amount to Acquirer when due, (ii) in Acquirer’s opinion, provision of a service to Sub-merchant or Provider may be a violation of the Operating Regulations or any Laws, (iii) Acquirer believes that Sub-merchant has violated or is likely to violate the Operating Regulations or the Laws, (iv) Acquirer determines Sub-merchant poses a financial or regulatory risk to Acquirer, Member Bank, or an Association, (v) Acquirer’s agreement with Provider terminates, (vi) any Association de-registers Provider, (vii) Acquirer ceases to be a member of the Associations or fails to have the required licenses, or (viii) Acquirer is required to do so by Member Bank or any of the Associations.

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

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



Bank Card Merchant Agreement, which would be provided to Sub-merchant upon request, will govern Acquirer's relationship with Sub-merchant. If Provider subsequently provides its services to Sub-merchant in connection with this Agreement, Acquirer will cease to provide such services after receipt of notice from Provider and this Agreement will govern Acquirer's relationship with Sub-merchant.

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

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| <p><input type="checkbox"/> By checking this box, Sub-merchant agrees that this Agreement has been executed by Sub merchant's authorized officer and it will go into effect immediately upon Sub-merchant meeting the requirements under the Operating Regulations (or as otherwise required by an Association) that require Sub-merchant to enter into a direct relationship with an entity that is a member of the Associations.</p> |
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SCHEDULE 1 - AMEX ACCEPTANCE AND BRAND REQUIREMENTS

In the event Sub-merchant elects to participate in the American Express OptBlue Program (“Program”) to accept American Express Cards, the following terms and conditions will apply. Capitalized terms in that are not otherwise defined in this Agreement will have the meaning ascribed to them in the American Express Operating Guide or the American Express OptBlue Program Operating Regulations.

- 1) Sub-merchant must comply with, and accept American Express Cards in accordance with, the terms of this Agreement and the American Express Merchant Operating Guide, as such terms may be amended from time to time. The American Express Merchant Operating Guide (available at https://icm.aexp-static.com/content/dam/gms/en_us/optblue/us-mog.pdf) is incorporated by reference into this Agreement.
- 2) Sub-merchant expressly authorizes US EZPAY to submit transactions to, and receive settlement from, American Express on behalf of the Sub-merchant. Sub-merchant agrees that US EZPAY may collect and disclose transaction data, Sub-merchant data, and other information regarding Sub-merchant and transactions to American Express, and that American Express may use such information: (a) to perform its responsibilities in connection with the Program; (b) to promote American Express; (c) to perform analytics and create reports; and (d) for any other lawful business purposes, including commercial marketing communications purposes within the parameters of the Program, and important transactional or relationship communications from American Express.
- 3) American Express may use the information about Sub-merchant obtained in this Agreement and the Application at the time of setup to screen, communicate, and/or monitor Sub-merchant in connection with American Express marketing and administrative purposes.
- 4) Sub-merchant agrees it may receive messages from American Express, including important information about American Express products, services, and resources available to its business. Sub-merchant may opt-out of receiving future commercial marketing communications from American Express by checking the box below however, Sub-merchant may continue to receive marketing communications while American Express updates its records to reflect this choice. Opting out of commercial marketing messages will not preclude Sub-merchant from receiving important transactional or relationship messages from American Express.

By checking this box, Sub-merchant opts out of receiving future commercial marketing communications from American Express.

- 5) Sub-merchant acknowledges that it may be converted from the Program to a direct American Express Card acceptance relationship with American Express if and when it becomes a High CV Merchant in accordance with the American Express OptBlue Program Operating Regulations (Section 10.5, “High CV Merchant Conversions”). Sub-merchant expressly agrees that upon conversion, (i) the Sub-merchant will be bound by American Express’ then-current Card Acceptance Agreement; and (ii) American Express will set pricing and other fees payable by Sub-merchant for Card acceptance.
- 6) Sub-merchant will not assign to any third party any payments due to it under this Agreement, and all indebtedness arising from Charges will be for bona fide sales of goods and services (or both) at



Sub-merchant's Establishments and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that Sub-merchant may sell and assign future transaction receivables to payment facilitator, its affiliated entities and/ or any other cash advance funding source that partners with payment facilitator or its affiliated entities, without consent of American Express.

- 7) Notwithstanding anything in this Agreement to the contrary, American Express will have third-party beneficiary rights, but not obligations, to this Agreement that will fully provide American Express with the ability to enforce the terms of this Agreement against Sub-merchant.
- 8) Sub-merchant may opt out of accepting American Express Cards at any time without directly or indirectly affecting its rights to accept other Card Networks' Cards or payment products.
- 9) Sub-merchant agrees that US EZPAY will have a right to terminate Sub-merchant's right to accept American Express Cards if Sub-merchant breaches any of the provisions in this Schedule 1, the Sub-merchant Agreement, or the American Express Sub-merchant Operating Guide. US EZPAY will further have the right to immediately terminate Sub-merchant for cause or fraudulent or other activity, or upon American Express' request.
- 10) Sub-merchant's refund policies for purchases on American Express Cards must be at least as favorable as its refund policy for purchases on any other Card Networks' Cards, and the refund policy must be disclosed to Cardmembers at the time of purchase and in compliance with Applicable Law. Sub-merchant may not bill or attempt to collect from any Cardmember for any American Express purchase or payment on the Card unless a Chargeback has been exercised, Sub-merchant has fully paid for such Charge, and it otherwise has the right to do so.
- 11) Sub-merchant must: (1) comply with all applicable laws and regulations and the Rules relating to the conduct of Sub-merchant's business; (2) comply with the DSR and PCI DSS, each as described in Chapter 15 of the American Express OptBlue Program Operating Regulations, "Data Security"; (3) report all instances of a Data Incident immediately to the payment facilitator after discovery of the incident; (4) cease all use of, and remove American Express licensed marks from Sub-merchant's website and wherever else they are displayed upon termination of this Agreement or a Sub-merchant's participation in the Program.
- 12) Sub-merchant agrees to ensure data quality and that transaction data and customer information is processed promptly, accurately, and completely, and complies with the American Express Technical Specifications. Sub-merchant is responsible for being aware of and adhering to privacy and data protection laws and provide specific and adequate disclosures to Cardmembers of collection, use, and processing of personal data.