



New Account
 Additional Location

 MID # Existing Location
 710 Quail Ridge Drive
 Westmont, IL 60559

CARD PROCESSING APPLICATION

ISO # _____ ISO Name _____
 Rep. Name _____
 Rep. # _____ Rep. SS # _____

BUSINESS LOCATION

Business/Corporate Name		Statement Mailing Address (if different location address)	
DBA (Doing Business as) Name		City, State, Zip	
Location/Site Address		Federal Tax ID Number	
City, State, Zip	E-mail Address	Telephone Number	Hours of Operation

Sole Proprietorship
 Partnership
 Corporation
 LLC
 Not for Profit

Web Address (URL): _____	Equipment/Software Information
How long In present Business ___ yrs Do you currently accept credit cards? <input type="checkbox"/> Yes <input type="checkbox"/> No Has business or associate principal been previously terminated as a Visa/MC merchant? <input type="checkbox"/> Yes <input type="checkbox"/> No	Terminal/Software:
	Serial Number:
	Printer:
	Serial No:
	PIN Pad:
Dial Access Code: <input type="checkbox"/> 9 <input type="checkbox"/> 8 <input type="checkbox"/> Call Waiting <input type="checkbox"/> Other	

MERCHANDISE/SERVICE SOLD _____	MONTHLY BANKCARD LIMIT \$ _____	AVERAGE TICKET AMOUNT \$ _____	HIGHEST TICKET AMOUNT \$ _____
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PERCENT OF BUSINESS (MUST = 100%)			SALE METHOD		
CARD SWIPED	KEYED WITH IMPRINT CARD	KEYED WITHOUT IMPRINT CARD	STORE FRONT	OFF PREMISE	MAIL/PHONE ORDER
			TRADE SHOW	INTERNET	OTHER

OWNERS OFFICERS INFORMATION (MUST REFLECT 50% OR MORE OWNERSHIP)

Name (Print)		Title	Residence Address		City, State, Zip
Social Security Number	Date of Birth	Telephone Number	% Equity Ownership	Drivers License # State Issued	
Name (Print)		Title	Residence Address		City, State, Zip
Social Security Number	Date of Birth	Telephone Number	% Equity Ownership	Drivers License # State Issued	

TRADE REFERENCES (PLEASE COMPLETE SECTION IN FULL)

EXISTING ACCOUNT NUMBERS

Name	Name	1. Amex
Address	Address	2. Discover
City, State, Zip	City, State, Zip	3. Diners
Contact	Contact	4. Other
Phone	Phone	

MERCHANT SITE SURVEY (TO BE COMPLETED BY SALES REPRESENTATIVE)

Merchant Location Store Front
 Office Building
 Warehouse
 Residence
 Other _____

The Merchant <input type="checkbox"/> Owns <input type="checkbox"/> Leases the business premises	Landlord Name	Landlord Telephone #
Yes No <input type="checkbox"/> <input type="checkbox"/> Merchant appears to be conducting business as represented in this application <input type="checkbox"/> <input type="checkbox"/> Merchant is adequately staffed and stocked to do business	Yes No <input type="checkbox"/> <input type="checkbox"/> Have you taken pictures inside and outside of the premises? <input type="checkbox"/> <input type="checkbox"/> Have you confirmed the identify of the person who signed the contract?	
Comments:		
I hereby verify that I have physically inspected the business premises of the merchant at this address and the information stated above is correct to the best of my knowledge.		
Inspected by (Print Name)	Signature	Date

If a temporary/stated check is submitted, you must provide your bank's telephone number and the exact account title.

VOIDED CHECK FROM CHECKING ACCOUNT MUST BE ATTACHED*
 (DO NOT USE A DEPOSIT TICKET)
 (*IF FAXING OR SCANNING APPLICATION, ATTACH CHECK TO A SEPARATE SHEET)

Merchant hereby authorizes BPS/Bank in accordance with the Card Processing Agreement, and if applicable, the Debit Card Agreement, to initiate debit/credit entries to Merchant's checking account as indicated per the attached copy of the voided check from the same. The authority is to remain in full force and effect until (a) BPS/Bank has received written notification from Merchant of its termination in such a manner as afford BPS/Bank reasonable opportunity to act on it, and (b) all obligations of Merchant to BPS/Bank that have arisen under these Agreements have been paid in full.

COMPLETE THE FOLLOWING IF YOUR SALES ARE GENERATED THROUGH MAIL/TELEPHONE/INTERNET

- Description of product sold: _____
- How does the customer order the product? Mail Telephone Fax Internet
- Are consumers required to provide a deposit? Yes No
- Delivery Time Frame: 0-7 days 8-14 days 15-30 days More Than 30 days
- What is your refund policy? _____

PRICING SCHEDULE (COMPLETE SECTION III AND EITHER SECTION I OR II)

Retail	MOTO	Internet	Discount Rate	Transaction Fee	Periodic Service Fees
Qualified Credit Card			_____ %	\$0. _____	Annual Fee \$ 95.00
<input type="checkbox"/> Visa Credit					Monthly Statement Fee \$ 10.00 (\$1 surcharge for Buypass)
<input type="checkbox"/> MasterCard Credit					ACH Fee \$ 0.20
Qualified Check Card			N/A	\$0. _____	Chargeback Fee \$ 25.00 (per chargeback)
<input type="checkbox"/> Visa Off-Line Debit					ACH Return Fee \$ 25.00 (per ACH return)
<input type="checkbox"/> MasterCard Off-Line Debit					Retrieval request Fee \$ 5.00 (per request)
Mid Qualified Credit/Check Card			Qualified Rate+1.07 %	N/A	Monthly Minimum Discount \$ 25.00
Non Qualified Credit/Check Card			Qualified Rate+1.82 %	N/A	Other _____ \$ _____
<input type="checkbox"/> American Express/Discover/ <input type="checkbox"/> Diner's/Other T&E			N/A	\$0. _____	Voice Authorization \$ 0.95 (per voice authorization)
<input type="checkbox"/> Online Debit/EBT (N/A)			N/A	See Section 26 of Agreement	Merchant Club Fee \$ 5.95 (optional) <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other: _____			_____ %	_____ %	

Other non-reoccurring charges or additional special fees may be charged to your account as permitted within the attached Agreement. If this Agreement is terminated for any reason prior to the expiration of the then-current term, you may be subject to a \$250 Early Deconversion Fee as set forth in the Agreement.

NOTICE: DO NOT SIGN THIS DOCUMENT UNLESS ALL BLANK ITEMS ARE COMPLETELY FILLED OUT

MERCHANT ACCEPTANCE

By signing below, I represent that the information I have provided on the Application is complete and accurate and that I have the requisite authority to sign on behalf of the Merchant. The Merchant has read and agrees to be bound by the terms and conditions of the Card Processing Agreement, and if applicable, the Debit Card Agreement. The undersigned further unconditionally authorizes BPS/Bank or its duly appointed agents to investigate the references, statements, and other data contained herein and to obtain additional information from credit bureaus and other lawful sources, including persons and companies named in this Application. The undersigned further authorizes BPS/Bank to provide all such information, whether independently obtained by BPS/Bank or provided by Merchant, to any vendor or affiliate of BPS/Bank connected to the provision of services to Merchant or as deemed reasonably necessary by BPS/Bank, upon appropriate request from such Vendor or affiliate. The Merchant agrees that BPS/Bank may accept and act in reliance upon a copy or facsimile of this application bearing signatures and that any such copy or facsimile shall be deemed and treated for all purposes as an original of the Application as bearing their original signatures. The Merchant hereby authorizes BPS/Bank in accordance with the Card Processing Agreement, and if applicable, the Debit Card Agreement, to initiate debit/credit entries to Merchant's checking account as indicated per the attached copy of the voided check from the same. The authority is to remain in full force and effect until (a) BPS/Bank has received written notification from the Merchant of its termination in such a manner as affords BPS/Bank reasonable opportunity to act on it, and (b) all obligations of the Merchant to BPS/Bank that have arisen under this Agreement have been paid in full. The Merchant acknowledges and agrees that: (a) no handwritten changes have been made to the printed terms of the Application (including the incorporated Agreements) and (b) BPS/Bank may produce a copy of this Application (including the incorporated Agreements) in lieu of producing an original of the documents, and (c) such copies will constitute an original for all legal purposes of the applicable agreement. BPS/Bank shall have no liability for any negligent design or manufacture of any point-of-sale terminal, printer or other equipment used by Merchant for the acceptance of credit card transactions. BPS/BANK MAKES NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

Print Business Name: _____ Date: _____
 Signature: **X** _____ Printed Name: _____ Title: _____

AMERICAN EXPRESS ACCEPTANCE

I authorize American Express Travel Related Services Company, Inc (American Express) to verify the information on this Application and to receive and exchange information about me, including, requesting reports from consumer reporting agencies. If I ask American Express whether or not a consumer report was requested, American Express will tell me, and if American Express received a report, American Express will give me the name and address of the agency that furnished it. I understand that upon American Express' approval of the business entity indicated above to accept the American Express Card, the Terms and Conditions for American Express® Card Acceptance ("Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express card for the purchase of goods and/or services, you agree to be bound by the Terms and Conditions.

AGREED AND ACCEPTED
 By: _____ (Signature) _____ (Printed Name)

DISCOVER ACCEPTANCE

By signing below, I represent that the information I have provided on this application is complete and accurate. I hereby request that Discover Card acceptance be added to my Merchant Application. I understand that the Terms and Conditions for Discover Card Acceptance (Terms and Conditions) will be sent to the business indicated above upon approval by Discover Financial Services, Inc. for this business entity to accept the Discover Card. By accepting the Discover Card for the purchase of goods and/or services, I agree to be bound by the Terms and Conditions.

\$25 Membership Fee (Charged directly by Discover)
Discover will charge a Transaction Fee of \$10 on all Discover Transactions

Initial Box for Discover Acceptance

PERSONAL GUARANTY: FOR VALUE RECEIVED, and in consideration of the mutual undertaking contained in the CARD PROCESSING AGREEMENT and the DEBIT CARD AGREEMENT (collectively, the "Agreement") by and among the Merchant, BEST PAYMENT SOLUTIONS, INC. ("BPS") and BANK OF AMERICA, N.A. ("Bank") the undersigned jointly and severally if more than one, unconditionally guarantees to BPS/BANK and its successors and assigns the full prompt payment when due of all of the obligations of every kind and nature of MERCHANT arising directly or indirectly out of the Agreement or any document executed and delivered by the Merchant in accordance with the terms of the Agreement. The undersigned further agrees to pay BPS/BANK all expenses (including attorney fees and court costs) paid or incurred by BPS/Bank in collecting such obligations and enforcing this Guaranty.

By: **X** _____ (Signature) _____ Date _____ By: **X** _____ (Signature) _____ Date _____
 _____ (Printed Name) _____ (Printed Name)

FOR BPS/BANK USE ONLY

Application Approved by: _____
 Signature (BPS) _____ Title _____ Date _____
 Signature (Bank) _____ Title _____ Date _____

CARD PROCESSING AGREEMENT

This CARD PROCESSING AGREEMENT ("Agreement") is among the Merchant identified in the attached Application (which is incorporated herein and constitutes a part of this Agreement as if fully set forth herein), Bank of America, N.A., with its principal office located in Charlotte, North Carolina ("Bank") and Best Payment Solutions, Inc., an Illinois corporation and wholly owned subsidiary of BA Merchant Services, LLC. ("BPS"). BPS is engaged in the business of processing and transmitting electronic data of a financial, banking or economic nature, including but not limited to card transactions. Bank is a member of Visa U.S.A., Inc. ("Visa") and MasterCard International Inc. ("MasterCard"). In this Agreement, the words "you" and "your" mean the Merchant and the words "we," "our" and "us," unless the context clearly requires otherwise, refer collectively to Bank and BPS. We may allocate our rights and obligations hereunder as between ourselves as we deem appropriate. As used in this Agreement, "the Application" means both the Application as attached to this Agreement when first executed by you and us and any supplemental versions of the Application that we and you agree upon when you open additional locations or when you otherwise request additional or different services. During the term of this Agreement and unless we otherwise specifically agree in writing, this will be a "requirements contract" which means we and you agree that we (directly or through others providing services on our behalf) will be the sole providers of all services necessary to authorize, process and settle all of your Visa and MasterCard transactions and all services specified in the Application for any other Cards specified therein, except for any Card transactions beyond the authority of a U.S. member of Visa and MasterCard.

1. Acceptance of Cards.

a) You may elect to accept:

- All Debit MasterCard cards and Other MasterCard cards (you must maintain a policy that does not discriminate among customers seeking to make purchases with any MasterCard card),
- Debit MasterCard cards (you must maintain a policy that does not discriminate among customers seeking to make purchases with a Debit MasterCard card),
- All Other MasterCard cards (you must maintain a policy that does not discriminate among customers seeking to make purchases with another MasterCard card), or
- No MasterCard cards;

and

- All Visa cards, including consumer credit and business cards and offline debit cards,
- Visa consumer debit cards only (includes mandatory acceptance of all Visa consumer debit card products),
- Visa consumer credit and business cards only (includes mandatory acceptance of all Visa credit and commercial products including Visa business check cards), or
- No Visa cards.

The above-referenced acceptance options apply only to domestic transactions. The Association Rules require merchants accepting any Card product bearing a Card symbol to continue to accept both debit and credit card products issued by non-U.S. Members. You may selectively reject or decline authorization requests for account numbers that are within a product category not accepted by you. Should you submit a transaction outside of the product categories regularly accepted by you, there is no requirement for us to reject the transaction. If you elect limited acceptance as set forth above, any transaction submitted into interchange outside of the selected product category will be assessed the standard interchange reimbursement fee applicable to that product or any other applicable fee set forth on the application. Your initial election shall be made in your Application. If you wish to modify your election and we agree to said modification, then you shall provide us sixty (60) days advance notice of your intent to change said election in writing, and you shall be responsible for any Association charges assessed as a result of your limited acceptance and any and all costs incurred by us as a result of your election.

b) You must honor any valid and applicable Visa and MasterCard cards properly tendered for use, as well as any properly tendered Electron card, without imposing any special conditions not required by any rule or regulation adopted by an Association (collectively "Association Rules"). "Association" means Visa, MasterCard, any other Card Issuer of Cards you agree to accept as specified on the Application and, for Electron Cards, such term also includes Visa International. You may offer a "discount for cash" if you clearly disclose this as a discount from the standard price available for all other means of payment. In this Agreement, "Card" means a credit or off-line debit card bearing the service mark of Visa or MasterCard and a card issued by any of the other card issuers specified in the Application as being covered by this Agreement. Unless otherwise agreed in writing, "Card" does not include an "on-line" debit card, such as an Interlink or Maestro debit card that generally requires use of the holder's personal identification number. "Card" shall also mean all international point of sale payment cards bearing one of the Electron Program Marks and governed by the Visa International Operating Regulations. You must submit any Visa, MasterCard and other card transaction drafts and records to us no later than five (5) calendar days or three (3) banking days (whichever is earlier) and no later than two (2) business days for Electron Cards after you complete Card transactions (unless you are entitled to any special extension of these deadlines). **These are outside deadlines, and faster time frames are required to qualify for incentive programs.** Unless otherwise specifically provided in this Agreement or the applicable requirements of Visa or Visa International, all provisions of this Agreement applicable to Visa Cards also will apply to Electron Cards. Electron Card transactions are permitted only in face-to-face transactions when the Card and the Cardholder are present. You must process any Electron Card transactions through an electronic data capture terminal that obtains an electronic authorization response and prints a transaction receipt. You agree to check the valid date and expiration date of each Card presented. You have a zero "floor limit", which means no Card transaction, regardless of its dollar amount, may be processed without being authorized (except as otherwise provided on the applicable Schedules for EPS and QPS transactions or as otherwise authorized in writing by us). If you are approved to utilize batch authorization by us, you may obtain batch authorization for certain sales after such sales have occurred provided, however, that authorization for each transaction is obtained by end of the calendar day upon which such sale was initiated and that you do not preset the batch by account number or BIN. Further, you explicitly agree that you will be responsible for any fines, fees, chargebacks, assessments, and declined or disputed transactions that may result from using a batch authorization process.

For all Card transactions submitted to us: (a) the transaction must represent obligations of the person to whom the Card has been issued and/or the authorized user (the "Cardholder") for the amounts in the transaction (including tax, but without any surcharge) and only for merchandise actually sold or rented or services actually rendered by you (except for any delayed delivery or advance deposit authorized by Association Rules and this Agreement) and must not involve any element of credit for any other purpose, (b) the transaction must represent a bona fide sale/rental of merchandise and/or services not previously submitted and may not represent a refinancing of any prior obligation, (c) the price charged for the transaction must not be subject to any dispute, setoff or counterclaim, (d) you must have no knowledge or notice of any fact, circumstances or defense which would indicate that the transaction was fraudulent or not authorized by the Cardholder or which would otherwise impair the validity or collectibility of the Cardholder's obligation or relieve the Cardholder from liability for the transaction, and (e) except as otherwise provided in the Rules, the transaction does not represent the refinancing of an existing obligation of the Cardholder (including any obligation otherwise owed to you by a Cardholder, or arising from the dishonor of a personal check). Unless we otherwise agree in writing, you may not accept Card transactions for services or products that will be delivered or provided more than thirty (30) days from the date you submit any portion of said transaction for settlement.

You may not accept MO/TO/IO transactions unless you have specifically informed us of the percent of MO/TO/IO transactions to be conducted and we have specifically authorized you to accept such transactions. Acceptance of such transactions without authorization from us will constitute a breach of this Agreement. If you are authorized to accept MO/TO/IO transactions, you must, in addition to the other provisions hereof, conduct such activity in accordance with the terms of this Agreement as well as all applicable Association Rules and requirements. You may

not process transactions against your own, personal or business Cards or those of your employees, officers, spouses, etc. Transactions of this type can be considered "cash advances" and are not permissible under this Agreement or Visa or MasterCard Rules and regulations. You acknowledge that we may use an independent sales organization/member service provider ("ISO/MSP") operating under applicable Visa and MasterCard Rules and Regulations. ISO/MSP is an independent contractor and not an agent of BPS/NCB. ISO/MSP has no authority to execute the Agreement on our behalf or to alter the terms hereof without our prior written approval. Any alteration of the terms of this Agreement must be initiated and approved by us.

We may, upon receipt of verbal or written instructions from any Association to which we are providing access hereunder, immediately cease to provide to you, including your clients, access to such Association. We shall use reasonable efforts to promptly notify you of such interruption in Association access

2. **Manuals/Instructions.** We will supply you with various manuals and instructions regarding chargebacks, terminal processing and other operational compliance matters (the "Manuals/Instructions"), and may from time to time otherwise advise you of requirements imposed by the Association Rules by providing you with relevant portions or summaries thereof of the rules, regulations, releases, interpretations and other requirements of Visa, MasterCard and any other issuers of Cards you intend to accept as specified in the Application. You agree to follow the procedures in the Manuals/Instructions in connection with each Card transaction and to comply with all requirements of the Association Rules. Unless the context clearly requires otherwise, references to this Agreement include the Manuals/Instructions and the Association Rule provisions. If there is any conflict between the terms of this Agreement and the Manuals/Instructions, the terms of this Agreement will govern, except to the extent the Manuals/Instructions specifically provides that a particular provision in it overrides any conflicting provision in this Agreement.

3. **Additional Cards.** Our sole responsibility for transactions involving Cards issued by American Express, Diners Club/Carte Blanche, Discover Financial Services, Inc. (the issuer of Discover Cards and certain other cards), and JCB (together with Visa and MasterCard "Card Issuer(s)") and any other Cards specified in the Application, will be to provide the services which we have agreed to provide, as specified in the Application.

Except to the extent the Application specifies that we will provide settlement services for any of these additional Card transactions, we will provide authorization and/or processing services only, and all settlement and chargeback obligations and similar financial responsibilities arising from your transactions involving Cards other than Visa and MasterCard will be governed exclusively by your agreement with the respective Card Issuer and you must not seek authorization for or submit for processing or settlement any transactions involving Cards other than Visa and MasterCard unless you have in effect a valid issuer agreement with the applicable Card Issuer, except to the extent we have agreed to provide settlement services with respect to your JCB, Diners Club/Carte Blanche or Discover Card transactions. You must notify us immediately upon termination of any issuer agreement. Upon such termination, we will have no further obligation to provide any services to you for transactions involving the Cards covered by the terminated issuer agreement (except to the extent we have agreed to provide settlement services with respect to your JCB, Diners Club/Carte Blanche or Discover Card transactions). We do not warrant or bear any responsibility for any Card Issuer or for its performance of any obligations to you. If any issuer agreement requires a Card Issuer's consent for us to perform the services contemplated by this Agreement, you are responsible for obtaining that consent.

If the Application indicates that we will provide settlement services with respect to your Diners Club/Carte Blanche Card transactions, you will not have a separate issuer agreement with such Card Issuer; instead, we will provide you with all specified services for such Card transactions solely pursuant to this Agreement (and any provisions from the Manuals/Instructions or any updates thereto). Unless we advise you otherwise, provisions that address special industries (other than the hospitality industry) and special incentive programs will not apply to JCB, Diners Club/Carte Blanche or Discover Card transactions. In addition, the following special provisions apply (notwithstanding any contrary provision in this Agreement) to your JCB or Diners Club/Carte Blanche Card transactions to be settled by us:

a) For Diners Club/Carte Blanche: (i) you must retain original sales records and credit records for at least ninety (90) days after the transaction and must retain microfilm or legible copies of sales records and credit records for at least seven (7) years after the transaction; (ii) the contractual floor limit for Diners Club/Carte Blanche transactions will be \$0; (iii) you must not accept a Card embossed "for local use only" outside the territory in which it was issued.

b) For JCB: (i) you must retain original sales drafts and credit vouchers for at least 120 days after the transaction and must retain microfilm or legible copies of sales drafts and credit vouchers for at least three (3) years after the transaction; (ii) the contractual floor limit for JCB Card transactions will be \$0; (iii) for purposes of your chargeback liability with respect to JCB Card transactions, an authorization obtained on a transaction does not override any chargeback reason which may apply to the item; (iv) if you process JCB Card transaction data electronically, your account number must be included in the JCB Card transaction data transmitted to us, in addition to the other information required to be included on each sales draft or credit voucher; (v) if you are a lodging merchant, JCB Cardholders must be allowed to cancel reservations at resort establishments until 4:00 p.m. on the scheduled arrival date; and (vi) by contracting for JCB settlement services, you authorize JCB to publish your name, address and telephone number in JCB solicitation materials.

4. **Age-Restricted Products.** If you are engaged in the sale of age restricted products such as alcoholic beverages, tobacco products, adult-content material or adult Web sites, gaming transactions, weapons and/or any other applicable age-restricted products or services, you must comply fully with all local, state and federal laws governing the distribution of age-related products. You certify herein that you will implement age verification procedures governing the sale of such products, including age verification of each customer against an official government records database before entering certain transactions into the credit card payment system. For face-to-face sales, you will require the signature of the cardholder. To verify legal age, you will also require the cardholder to present a valid, government-issued photo identification card in the same name and address as the cardholder. For sales made via mail, telephone and/or the Internet, you will (1) only deliver age-restricted products to the name and address listed as belonging to the cardholder, and (2) require, without exception, the signature of the cardholder, as well as presentation of a valid, government-issued photo identification card in the same name and address as the cardholder to verify legal age upon delivery of the merchandise. Failure to abide by all applicable age verification laws may result in fines and/or loss of credit card merchant charge privileges, as well as termination of your account with us.

5. **Settlement of Card Transactions.** All credits to the bank account(s) you designate for us to debit and credit for Card transactions and related amounts (the "Settlement Account"), as well as any other payments to you, are provisional and are subject to our final audit and checking. We may debit or credit your Settlement Account for any deficiencies and overages or may deduct such amounts from settlement funds due to you. We may, within our sole discretion, delay your settlement payments for up to seven (7) days, which period will begin after the settlement payments were received by us. In this event, you acknowledge that we will, and you expressly authorize us to, delay your settlement payments for up to seven (7) days. This delay of your settlement funds does not preclude us from exercising our right to establish an escrow/security account or to suspend payments pursuant to Section 11 of this Agreement. The settlement payments will begin to be credited to your Settlement Account, less any monies owed us, on the next business day following expiration of this rolling delay period. This rolling delay of the settlement payments will be ongoing and continue as long as we are providing your processing services.

This Agreement is a contract whereby we are extending financial accommodations to you within the meaning of Section 365(c) of the Bankruptcy Code. We are not liable for any delays in receipt of funds or errors in debit and credit entries caused by unaffiliated third parties including but not limited to the Associations, a clearing house or your financial institution.

To the extent the Automated Clearing House (ACH) settlement process is used by us to effect debits or credits to your Settlement Account for the services elected by you on the Application, you hereby agree to be bound by the terms of the operating rules of the National Automated

Clearing House Association, as are in effect from time to time. You hereby authorize us to initiate credit and debit entries and adjustments to your Settlement Account through the ACH settlement process and/or through direct instruction to (or such other arrangements as we deem appropriate with) the financial institution where your Settlement Account is maintained for amounts due to us under this Agreement and under any agreements with us or our affiliates for any related equipment and related services, as well as for any credit entries in error. You hereby authorize and direct the financial institution maintaining your Settlement Account to effect all such debits and credits to your account initiated by us. This authority shall remain in effect until we provide written notice to the financial institution maintaining your Settlement Account that all monies due from you to us or our affiliates for any related equipment or services have been paid in full. For the duration of the Agreements, you shall be solely liable for all fees and charges assessed by your financial institution, including all overdraft and NSF charges, and you irrevocably release us and hold us harmless from the same fees and charges, regardless of cause.

6. Fees; Adjustments; Collection of Amounts Due From You. Our fees and other charges to you for the services and any supplies we provide will be calculated pursuant to this Section and the Application or any subsequent amendment to this Agreement. We will charge you a daily fee for the services to be provided by us to you under this Agreement as stated in this Section and the Application. The discount fees shown in the Application shall be calculated based on the gross amount of all Visa and MasterCard transactions submitted to us. The fees with respect to other Card transactions shall be a percentage of the gross amount of, or an inquiry fee for all such Card transactions. The inquiry fee will be assessed on every communication attempt from your point of sale device. Further, you shall pay, in accordance with this Agreement, all fees, cost escalations, assessments, tariffs, penalties, fines or other items that may be charged, assessed or imposed under this Agreement and/or the Association Rules. You acknowledge that the fees specified in the Application, as they may be updated or amended from time to time, are basic fees, the lowest discount fee you can achieve, and shall apply only to Card transactions which exactly meet certain processing criteria or "quality" for basic fees according to the Association Rules. Criteria for determining qualification shall include, but not be limited to, whether a Card transaction is: (1) hand entered (the required data is *not* electronically captured by a point-of-sale device reading the information encoded in or on a Card); (2) voice authorized; (3) not authorized; (4) transmitted for processing within twenty-four (24) hours of the Card transaction; or (5) deemed "Non-Qualifying" by the Association Rules, such as, but not limited to, Card transactions involving foreign Cards or Cards issued as business, commercial, purchasing or government Cards. **In the event that Card transactions submitted to us for processing only partially qualify or do not at all qualify for the qualified discount rate quoted in accordance with the Application and/or the Association Rules, you may be assessed and agree to pay an additional Non-Qualified or Mid-Qualified Surcharge as set forth on the Application.** Also, if your average ticket size and/or annualized Bankcard volume falls below the amount shown in the Application for any three (3) month period, we may adjust our fees as we deem appropriate, and you will pay us the corresponding adjustments. Pursuant to Section 18, we may amend the fees and charges for services and supplies provided under this Agreement. You agree to pay any taxes imposed on the Services furnished to you on the transactions under and subject to this Agreement and such taxes shall be added to the charges owed to us and shall be deducted from the settlement monies due to you in accordance with the Agreement terms. Any taxes so imposed shall be exclusive of the taxes based on our net income. We may require you to pay us any extra or special charges imposed by third parties plus our reasonable handling charge for any supplies that we provide, and, if applicable, an overnight shipping charge. We also may require you to pay us any extra or special charges imposed by third parties, plus our handling charge, if any transactions processed or initiated hereunder are charged back, reversed or rejected (including chargeback fees and fines and ACH reject fees). We may charge you interest at our then current rate for any amounts that are not timely paid by you.

We may require you to pay any applicable excessive chargeback handling fees or fines imposed by the applicable Association due to your excessive chargeback volume and any other fees or fines imposed by the applicable Association for your acts or omissions. **If your total Visa and MasterCard chargeback items in any line of business exceed 0.5% of your total Visa and MasterCard transactions in such line of business, you shall pay us, for all Visa and MasterCard chargebacks in excess of such 0.5% threshold during such month in your applicable line(s) of business, the excessive chargeback fee shown on the Application, in addition to the regular chargeback fees due to us and any applicable chargeback handling fees or fines imposed by the applicable Association.** At our option, we may deduct any chargebacks, adjustments, fees, charges, obligations and other amounts you owe us pursuant to any provisions of this Agreement from any settlements due to you, or we may debit your Settlement Account for any such amounts you owe us, or we may invoice you, in which case you must pay us for the invoiced amounts within thirty (30) days of the date of our invoice or such shorter time as may be specified. Except for amounts we elect to collect by invoice, if there are insufficient funds available to be withheld or debited to pay amounts you owe, you must immediately reimburse us upon demand. You authorize us to debit your Settlement Account, or any other account we are otherwise authorized to debit, for any amounts due pursuant to this Agreement, or due to us or any of our affiliates for any related services.

In addition, we will charge you the following fees, if applicable: \$10.00 audit fee for each diversion or suspension of funds by us pursuant to its monitoring of your account pursuant to Section 11 and a \$25.00 monthly statement fee for any diverted account established by us in your name pursuant to Section 11. If we shall hold or maintain funds pursuant to the terms of this Agreement, including but not limited to Section 11, we shall charge you the then-current Investigative Fee per month for every month we retain said funds. There shall be a 1.5% discount rate surcharge assessed to the total monthly volume of keyed transactions in any particular month in which your keyed transaction percentage is fifteen percent (15%) or more than that represented on the Application. This surcharge shall be in addition to any other applicable discount fee assessed to you.

If you believe that any adjustments should be made to your Settlement Account based on debits or credits we have made to your Settlement Account, you must notify us in writing within forty-five (45) days after the debit or credit in question was made. If you fail to notify us within such time period, we will not be responsible for investigating or effecting any required adjustments, absent our gross negligence or willful misconduct. If you notify us after such time period, we may, in our discretion, assist you in investigating whether any adjustments are appropriate and whether any amounts are due to or from other parties, but we will not have any liability to effect any such adjustments absent our gross negligence or willful misconduct. Any voluntary efforts by us to assist you in investigating such matters will not create any obligation to continue such investigation or assist with any investigation in response to any future notices of possible adjustments that are not timely submitted.

If you have opted for Merchant Club Services, Bank shall provide you with a terminal/printer replacement service, described below, and a maximum quantity of two (2) rolls of paper per quarter and one (1) printer ribbon per six (6) months. You hereby authorize Bank's agent to initiate debit/credit entries to your checking account for any additional supplies or services ordered from Bank or Bank's agent, or for any additional program fee assessed, as specifically described below. The right to purchase the above described quantity of supplies shall, with regard to rolls of paper, extinguish each quarter and, with regard to printer ribbons, extinguish each 6 month period. Any supplies shipped pursuant to the terms of this program shall be shipped at the Bank's cost. With regard to terminal/printer replacement, at your request, Bank shall replace broken or malfunctioning units ("failed units") with a limit of one (1) terminal and one (1) printer replacement per year. Units which have suffered abuse, physical breakage or electrical surge at the sole determination of Bank's agent shall not be covered by this program. All replacement requests received by Bank before 3:00 p.m. CST Monday through Friday, holidays exempted, shall be deployed on the same day. Shipping of the replacement shall be at your sole expense. Any replacement request canceled post shipment or a returned and refused order shall be assessed a \$20.00 administration fee plus a 15% restocking fee. Replacement units shall be warranted by Bank's agent for ten (10) calendar days, and units failing during this period shall be replaced at no cost to Merchant, provided the failure was not as a result of electrical surge, abuse or breakage by you, which determination shall be in Bank's agent's sole discretion. Bank makes no other warranties to you, either express or implied. You shall ship you're your sole expense, the failed unit(s) to Bank and failure to do so within ten (10) business days of the replacement request shall result in a debit to your checking account for the full replacement cost of the failed unit(s). In the event you return the failed unit(s) within thirty (30) days after the debit has been initiated, you shall receive a credit in the amount of the aforementioned debit less a \$25.00 processing fee. If you do not want to become a Merchant Club member, you must notify Bank in writing. Merchant

Club membership may be canceled at any time during the term of this Agreement upon receipt by Bank or ten (10) days prior written notice.

7. Chargebacks, Etc. We may charge back to you any transaction amount (commonly referred to as "chargeback") (and you will reimburse us for any related losses we incur) for transactions settled by us when it appears that the transaction is subject to charge back by the Card issuer or Cardholder in accordance with the Association Rules or applicable law.

8. Confidentiality. Unless you obtain consents from the applicable Associations, card issuers and Cardholders, you must not use, disclose, sell or disseminate any Cardholder information obtained in connection with a Card transaction (including the names, addresses and Card account numbers of Cardholders) for any purpose other than authorizing, completing and settling Card transactions and resolving any chargebacks, retrieval requests or similar issues involving Card transactions, except pursuant to a court or governmental agency request or order. You must use proper controls for secure storage of, and limit access to, and must render unreadable prior to discarding, all records containing Cardholder account numbers, Card imprints and Cardholder signatures. You must not retain or store magnetic stripe data after a transaction has been authorized. If you store any electronically-captured Cardholder signature you may reproduce such signature only upon our request. Additionally, you must comply and must ensure that any and all of its third parties engaged by you ("Merchant Provider(s)") comply with all Association Rules regarding the security of Cardholder data and must have proper security measures in place for the protection of Cardholder data. Any fees, fines or penalties from non-compliance shall be passed through to you. During any term of this Agreement, you shall immediately notify us of any suspected or confirmed loss or theft of any transaction information, including any loss or theft from Merchant Provider. In addition, you must provide and must ensure that Merchant Provider provides reasonable access to their respective locations to an Association or independent third party to verify your ability and the Merchant Provider's ability to prevent future security breaches in a manner consistent with the requirements of any current or future Association Rules. You shall indemnify us against any and all costs, expenses, damages and/or losses resulting from such breach of security, or loss or theft of transaction information. During the term of this Agreement and for two (2) years thereafter, you shall treat this Agreement, all BPS Manuals/Instructions and any other information provided by us as confidential and shall not disclose to any third parties the terms of this Agreement, the provisions of the BPS Manuals/Instructions or any other such information; provided, however, that these restrictions shall not apply to information: (a) rightfully obtained by you on a non-confidential basis from an entity or person other than us and our agents and representatives, which entity or person was not subject to a duty of confidentiality, (b) rightfully and independently known by you on a non-confidential basis prior to its disclosure by us or (c) generally available to the public other than through any disclosure by or fault of you or your agents or representatives. In accordance with state and federal law, as well as our applicable policies, we may participate in sharing relevant information among other financial institutions, regulatory authorities, law enforcement agencies and an other entities authorized by such law/policies.

9. Advertising. You must display Visa, MasterCard and any other applicable Card Issuer decals and program marks on promotional materials we furnish, and if applicable the Electron symbol, in equal prominence and as otherwise required by Association Rules. You acknowledge that you will not acquire any right, title or interest in or to any Visa, MasterCard or other applicable Card Issuer marks by virtue of this Agreement. Further, you must not indicate that Visa, MasterCard or any other Association endorse your goods or services and must not continue using such materials after termination of this Agreement. Any use of a color reproduction, facsimile, replica or picture of an Association Card for advertising purposes other than media advertising is prohibited unless the reproduction, facsimile, replica or picture is proportionately larger or smaller in length and width by at least 10% of the standard dimensions for Association Cards.

10. Assignment. Subject to the following provisions, this Agreement is binding upon successors and assigns and inures to the benefit of the parties and their respective permitted successors and assigns. You may not assign or transfer this Agreement, by operation of law or otherwise, without our prior written consent. For purposes of this Agreement, any transfer of voting control of you or your parent shall be considered an assignment or transfer hereof. No assignee for the benefit of creditors, custodian, receiver, trustee in Bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of your assets or business, will have any right to continue, assume or assign this Agreement. We may assign or transfer this Agreement and our rights and obligations under this Agreement and we may delegate our duties under this Agreement, in whole or in part, to any third party, without obtaining your consent.

11. Terms; Default; Escrow/Security Account.

a) This Agreement is binding upon the earlier of (i) its execution by all parties as evidenced by signatures on the Application or (ii) the settlement by us of (A) any Card transaction submitted by you to us pursuant to this Agreement if you are a new customer that does not already have an agreement with us for Card transaction services or (B) any Card transaction submitted by you thirty (30) or more days after your receipt of this Agreement if you are one of our existing customers whose current agreement with us for Card transaction services is being replaced by this Agreement. Unless otherwise agreed by the parties, the initial term of the Agreement shall be three (3) years ("Initial Term"). The Agreement shall continue in full force thereafter for successive one-year periods until terminated in writing, by notice given to the other party or parties not less than one hundred-twenty (120) days prior to the then current expiration date, or until any earlier termination as provided below.

b) If any of the following events (each a "Default") occurs, we may terminate this Agreement immediately without notice and exercise all of our other rights and remedies under this Agreement and applicable law: (i) a material adverse change in your business, financial condition, business procedures, products or services, a sale of all or a substantial portion of your assets, or a change in control of your business (directly or indirectly); (ii) irregular Card sales, excessive chargebacks or any other circumstances which, in our discretion, may increase our potential exposure for your chargebacks or otherwise present a financial or security risk to us; or (iii) a default by you in any material respect in the performance or observance of any term, covenant, condition or agreement in this Agreement, or in any other agreement with us or any of our affiliates; (iv) any non-compliance by you with the terms of the Agreement or the Rules, or any reasonable belief by us, as applicable, that you may fail to comply with the terms of the Agreement, which failure would constitute a substantial risk to us or (v) you file a voluntary petition or complaint seeking relief under any federal or state Bankruptcy or other debt relief statute, an involuntary petition under any federal or state bankruptcy or other debt relief statute is filed against you, you generally become unable to pay your debts or trade obligations as they become due, or you make a general assignment for the benefit of creditors. If an order of relief is entered against you in a case commenced under Title 11 of the United States Code and you are given the right to assume or reject this Agreement, you must do so within sixty (60) days after the entry of such order of relief; if you fail to do so, we may terminate this Agreement immediately upon written notice to you.

c) If, during any six (6) month period (the "Measurement Period") the average size or the total amount of your bankcard transactions is more than 20% lower than the amount stated in the Application for (i) your average bankcard transaction size or (ii) one-half of your annual Bankcard volume, then we may terminate this Agreement by giving you at least ninety (90) days advance notice; any such notice must be sent to you within thirty (30) days after the end of the applicable Measurement Period.

d) The provisions of this Agreement that govern processing of Card sales and credits and settlement will continue to apply even after this Agreement is terminated, until all Card transactions are settled or resolved, and the provisions of Sections 5, 6, 7, 8, 10, 11, 12, 14, 15, 16 and 17 will survive any termination. Upon termination, all amounts payable to us will be due and payable in full without demand or other notice of any kind (all of which you agree to expressly waive) and you must immediately send us all the data relating to Card sales and credits made up to the date of termination. We will not be liable to you for any direct or consequential damages you may suffer as a result of the termination of this Agreement.

e) If this Agreement is terminated at any time other than upon expiration in accordance with Section 11 (a), we will be entitled to recover, and you will pay on demand, any and all losses (including consequential damages, loss of profits, costs,

expenses and liabilities) incurred by us in connection with termination. You will be responsible for all collection and legal fees and expenses we incur in the collection of any delinquent amounts you may owe us. You also acknowledge that we will incur costs and expenses to provide certain routine services following termination of the Agreement, similar to those provided during the term of this Agreement, including processing chargebacks relating to transactions that initially occurred prior to termination, providing monthly statements to you to report any such chargebacks or other adjustments and responding to telephone calls and other inquiries. **Therefore, notwithstanding any terms or conditions to the contrary contained elsewhere, if this Agreement is terminated prior to expiration of any term, you agree to pay us an Early Deconversion Fee as set forth on the Application to cover our routine post-termination services.** Whether or not we charge a deconversion fee for our services, you will remain liable for chargebacks and other adjustments as provided in Section 11(f) and for other costs, damages, losses, expenses and liabilities incurred by us in connection with an early termination of this Agreement. You authorize us to debit your Settlement Account for, or deduct from any settlement funds otherwise owed to you, the deconversion fee, plus any and all losses (including costs, expenses and liabilities) incurred by us in connection with termination. If your settlement funds or the balance in your Settlement Account is insufficient to cover the deconversion fee and all such losses, you agree to pay us such amounts immediately on receipt of invoice.

f) After any termination of this Agreement, you will continue to bear total responsibility for any and all chargebacks, credits and adjustments resulting from transactions processed under this Agreement and all other amounts then due, or which later become due, to us under this Agreement or to either of us or any of our affiliates for any related equipment or related services (including any check guarantee or verification services). In connection with termination, we may require that an escrow/security account be established and maintained by you or on your behalf with us (or otherwise for our benefit) in an amount equal to:

(i) our reasonable estimate of your dollar volume of incoming chargebacks for a nine (9) month period and your credits (for returns or otherwise) for a two (2) month period (which may be based on actual volume during the preceding 270 days for chargebacks and 60 days for credits or 9 times your average monthly dollar volume of incoming chargebacks and 2 times your average monthly dollar volume of credits, as determined during a recent 12-month period or any shorter term of this Agreement) or such higher amount that we deem necessary and sufficient to cover our potential liability for chargebacks and credits; plus

(ii) our reasonable estimate of all fees, charges, obligations and other amounts that may be owed to us under or in connection with this Agreement at or following termination (including all adjustments needed to reconcile any discrepancies, to reflect increased interchange fees because of failure to comply with intended rates or interchange fees, or otherwise), any and all fines assessed against you, any other fees and charges not collected by us prior to termination, and damages and other amounts due under Section 11(e) upon premature termination; plus

(iii) our reasonable estimate of all uncollected fees, charges, obligations and other amounts (including damages and other amounts due upon premature termination) payable to either of us or to any of our affiliates for related equipment or related services.

g) Without exercising (and without waiving) our right to terminate this Agreement immediately without notice and exercise our rights and remedies, if any of the events in Section 11(b) or 11(c) occur, we may, in our sole discretion, (i) require you to establish an escrow/security account with us during the term of this Agreement equal to the same amount as set forth in Section 11(f) and/or (ii) change processing or payment terms to suspend for any reasonable period of time required credits or other payments of any and all amounts now due or to become due to you pursuant to this Agreement. Should processing or payment terms be changed, we will notify you within a reasonable time after effecting a suspension of credits or other payments, stating our reason for such suspension. If you have accepted and processed fraudulent transactions, we will not be obligated to pay you for such transactions and will have full recourse against you for all such aforementioned transactions. We shall also have the right to assess fees and recover all costs associated with the investigation of any suspected fraudulent activity. We shall have no liability to you for any losses, either direct or indirect, which you may suffer as a result of any such suspension of funds disbursement or failure to pay for transactions.

h) In connection with the termination of this Agreement or any other event entitling us to require an escrow/security account from you (and continuing thereafter until the escrow is released pursuant to Section 11(i)), we may use any funds otherwise due to you, or we may debit your Settlement Account for funds, to establish and maintain on your behalf (or restore/supplement) the balance of your funds in an escrow/security account containing your funds equal to the amount set forth in Section 11(f). Your escrow/security funds required by Section 11 may be held in a commingled escrow/security account for the escrow/security funds of our customers, without involvement by an independent escrow agent.

i) The requirement to maintain an escrow/security account will not limit our right to debit or withhold ongoing settlement payments as recoupment for chargebacks, potential chargebacks, adjustments, fees, charges, obligations and other amounts due hereunder. Your funds in the escrow/security account may be used to settle chargebacks, adjustments, fees, charges, obligations and other amounts described in Section 11(f), whether arising before, on or after termination and whether such obligations or other amounts are liquidated, fixed, contingent, matured or unmatured, whenever there are not sufficient settlement funds due to you to cover such chargebacks, adjustments, fees or other charges or obligations. We will refund any of your unused funds remaining in such escrow/security account to you generally no later than 280 days after termination of this Agreement, and if we receive a written request from you within thirty (30) days thereafter, we will provide you with an accounting of any of your funds debited or credited from or to such account. If your funds in the escrow/security account are not sufficient to cover the chargebacks, adjustments, fees, charges, obligations and other amounts due from you, or if your funds in such account have been released, you agree to promptly pay us such sums upon request.

j) You acknowledge that we may monitor your daily credit card transaction activity. You agree that we may upon reasonable grounds divert into an escrow/security account the disbursement of your funds and/or temporarily suspend processing under this Agreement. Reasonable grounds shall include, but not be limited to, the following: suspicious or unusual transaction activity; material variance in the nature of your business, type of product and/or service sold, average ticket size, monthly volume or swiped/keyed percentages, from such disclosures made by you in this Agreement; you do not authorize transactions; we receive excessive retrieval requests against your prior activity; excessive chargebacks are debited against your prior activity; you do not deliver product or render full service on or before the transaction date; or you key a foreign card transaction. If your funds are diverted by us or we have temporarily suspended processing under this Agreement, such diversion or suspension shall be for any reasonable period of time required by us to fully investigate your account activity and resolve, to our sole satisfaction, your subject transaction or activity. We shall maintain any funds diverted in a non-interest bearing account, which may be a commingled account. We shall have no liability for any losses, either direct or indirect, which you may attribute to any diversion of funds, or suspension of processing.

k) In the event you fail to establish or maintain any required escrow/security account, we may immediately terminate this Agreement and may exercise any other rights we have under this Agreement.

l) If this Agreement is terminated for any of the reasons specified as cause by the Association Rules, including, but not limited to, fraud, counterfeit paper, prohibited Card transactions, excessive chargebacks, highly suspect activity or non-payment of fees, you acknowledge that we may be required or may elect to report your business name and the names of your principals together with other identifying information to the MATCH (Membership Alert To Control High Risk Merchants) System and other security/credit alert systems. You expressly agree and consent to such reporting in the event this Agreement is so

terminated and, furthermore, shall hold us harmless against any claims that arise as a result of such reporting.

12. Security Interest and Setoff Rights. To secure your obligations to us and our affiliates under this Agreement and any other related agreements described below, you irrevocably grant to us a lien against and security interest in any funds pertaining to the transactions contemplated by this Agreement now in our possession or that may come into our possession, whether due or to become due to you, together with the proceeds thereof. Any such funds may be commingled with other funds, and need not be maintained in a separate account. In addition to any rights granted under applicable law and not by way of limitation of such rights, you authorize us at any time and from time to time, without notice or demand (any such notice and demand being expressly waived) to set off, to appropriate and to apply any and all such funds against and on account of your obligations (including damages and other amounts due under Section 11(e) upon premature termination) under or in connection with this Agreement and any other agreement with us or any of our affiliates for any related equipment or related services, whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to execute and deliver to us such instruments and documents we may reasonably request to perfect and confirm the lien, security interest and right of setoff set forth in this Agreement.

13. Financial and Other Information. You and your undersigned official shall provide us upon request financial statements and other information about your business and principal owner(s) and officer(s) and your compliance with the terms of this Agreement. You and your undersigned official(s) and your Guarantor(s) authorize us to obtain from third parties financial and credit information about you, your undersigned official(s) and your Guarantor(s), respectively, in connection with our determination whether to accept this Agreement and our continuing evaluation of the financial and credit status of you, your undersigned official(s) and your Guarantor(s). Upon request, you will provide to us or our representatives reasonable access to your facilities and records for the purpose of performing any inspection and/or copying of your books and/or records we deem appropriate.

You will provide us with written notice of your intent to liquidate, substantially change the basic nature of your business, transfer or sell any substantial part (25% or more) of your total assets, or change the control or ownership of your business or of any other entity that controls your business, thirty (30) days prior to such liquidation, change, transfer or sale taking place. You will also notify us of any judgment, writ, warrant of attachment, execution or levy against any substantial part (valued at 25% or more) of your total assets not later than three (3) days after you obtain knowledge of any such judgment, writ, warrant of attachment, execution or levy.

14. Indemnification. You agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' and collection fees and expenses) resulting from any breach of any covenant or agreement or any misrepresentation by you under this Agreement, or arising out of your or your employees' negligence or willful misconduct in connection with your Card transactions, or otherwise arising from your provision of goods and services to Cardholders. Further, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' and collection fees and expenses) we may incur pursuant to any Association Rule resulting from your action or inaction, including but not limited to, all losses and expenses we may incur as a result of any action you institute against any Association or Card issuer following a chargeback. Further, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' and collection fees and expenses) resulting from our compliance with the verbal or written instructions of any Association. You agree to hold us harmless for any activity arising out of the negligence or willful misconduct, acts and/or omissions of any third party engaged by you including the employees and/or agents of said third party.

We agree to indemnify and hold you harmless from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees and expenses) resulting from any breach of any covenant or agreement or any misrepresentation by us under this Agreement or arising out of our or our employees' gross negligence or willful misconduct in connection with this Agreement.

IN NO EVENT WILL WE BE RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH YOU MAY INCUR AS A RESULT OF ENTERING INTO OR RELYING UPON THIS AGREEMENT OR TERMINATION OF THIS AGREEMENT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING.

15. Performance of Duties. Each party will be excused from performance under this Agreement, except for any payment obligations, for any period and to the extent that it is prevented from performing, in whole or in part, as a result of delays caused by the other party or any act of God, war, civil disturbance, court order, labor dispute, third party nonperformance or other cause beyond its reasonable control, including failures, fluctuations, or nonavailability of electrical power, heat light air conditioning, or telecommunications equipment. Such nonperformance will not be a default or a ground for termination as long as reasonable means are taken to expeditiously remedy the problem causing such nonperformance. Notwithstanding the foregoing, during any period when our performance is hindered or precluded by reason of any of the aforesaid causes, your obligations to make payments hereunder shall be reduced on an equitable basis. If you elect not to implement the redundant configuration recommended by us for connectivity to us, we shall have no liability if the connectivity fails and you agree to indemnify and hold us harmless from any and all resulting losses, liabilities, damages and expenses resulting therefrom.

16. Governing Law; Miscellaneous.

a) This Agreement is governed by and will be construed in accordance with the laws of the Commonwealth of Kentucky without regard to conflicts of law provisions, except that Section 17 shall be governed by the Federal Arbitration Act. If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable. In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it.

b) WE MAKE NO WARRANTIES TO YOU, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

17. Dispute Resolution and Arbitration. If the parties disagree as to any matter governed by this Agreement, the parties shall promptly consult with one another in an effort to resolve the disagreement. If such effort is unsuccessful, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator(s) shall have the right to render equitable, as well as other, awards and relief. The parties agree that the underlying agreement between the parties involves interstate commerce, and that, notwithstanding any choice of law provision in Section 16 of this Agreement, any arbitration hereunder shall be governed by the Federal Arbitration Act.

18. Amendments. We may change this Agreement, the Manuals/Instructions, or other operating procedures by giving you at least fifteen (15) days advance notice. However, in the event of changes in the Association Rules or due to security or risk control reasons, certain changes may become effective on shorter notice. In addition, we may from time to time notify you in writing or through other means of requirements that must be satisfied to qualify for various incentive programs. Any Card sales made by you after the effective date of such change will constitute consent to the new terms.

19. Notices. All notices hereunder (unless involving normal operational matters, including requirements for various incentive programs) must be in writing and shall be deemed given (a) if sent by mail, on the third business day after being mailed first-class mail to the specified address; (b) if sent by courier, when delivered; or (c) if sent by facsimile, when transmission is confirmed; in any case, if to you at the address appearing in the Application, and if to us to Best Payment Solutions, Inc., 710 Quail Ridge Drive, Westmont, IL 60559, Fax (813) 853-0472, with a copy to BA Merchant Services, LLC., 1231 Durrett Lane, Louisville, Kentucky, 40213, Attention: Bankcard Contract Management, 75-CRDT, or to such other address as we or you may have specified in a written notice to the other.

20. Certain Rights of Visa, MasterCard and Issuers of Other Cards. The parties acknowledge that the Visa and MasterCard Association Rules give Visa and MasterCard certain rights to investigate you and to require termination or modification of this Agreement with

respect to transactions involving Visa and MasterCard Cards and the Visa and MasterCard systems. The parties also acknowledge that issuers of other Cards specified in the Application may have similar rights under their applicable Association Rules with respect to this Agreement's applicability to transactions involving such other Cards.

21. Systems Enhancements. If after the effective date of this Agreement, you request us to perform or provide any system enhancements, custom reports, special files, terminal applications or related service enhancements that are different from or in addition to the system, services and reports we agreed to provide to you as of the effective date of this Agreement (collectively "System Enhancements") and we subsequently agree to provide you such System Enhancements, we will use reasonable efforts to provide such System Enhancements if you pay us the additional fees charged by us for such System Enhancements. Any subsequent changes that we must make in your Systems Enhancements to accommodate changes in applicable law or Card Association Rules will be at your expense.

22. Signature; Electronic Contracting; General Provisions. Your signature, a facsimile copy of your signature, a digitally stored image of your signature, or a unique digital signature on or captured within (as applicable) the Application attached to this Agreement, and, if applicable, a Debit Card Agreement and/or Equipment Agreement serves as the signature for this Agreement. The parties to this Agreement expressly acknowledge and agree that the parties to this Agreement may choose to contract via electronic means and that such contracts shall have the same force and effect as if conducted via conventional form. Notwithstanding anything to the contrary elsewhere in this Agreement or in other agreements you may have with us, it is expressly acknowledged and understood that all such electronic contracting is and shall be conducted pursuant to the provisions of Kentucky Revised Statutes §369.101 et seq. The parties to this Agreement also expressly acknowledge and agree that any duplicate original (whether digital, photographic, or

otherwise) or electronic record of this Agreement shall have the same force and effect as the original form of this Agreement. You indicate, by signing the Application or by submitting sales data, your acceptance of and agreement to the terms and conditions of this Agreement. This Agreement will become effective only if and when we note our acceptance of it or process sales data that you submit. In addition, if, after the effective date of this Agreement, you elect to accept other card types, by submitting sales data for said card type (after approval by us and the card issuer, if applicable) you indicate your acceptance to the pricing and conditions associated with accepting said card types.

23. Telephone and Mail Orders; Electronic Commerce; Recurring Sales or Other Preauthorized Orders or Sales. If you accept and we authorize you to accept telephone or mail orders or electronic commerce transactions or recurring sales or other preauthorized orders or sales, you must comply with all requirements of the Association Rules regarding mail order, telephone order, electronic commerce, recurring sales and other preauthorized orders or sales, including but not limited to the rules contained in the Manuals and Instructions.

You acknowledge and agree that you will only submit Electronic Commerce Card transactions in U.S. Dollars that arise from a Cardholder's purchase over the Internet. You shall be responsible for obtaining any operational consents required of the Card Issuer to comply with procedures or practices contemplated by both you and us under this Agreement. If software is to be purchased by you, you shall be responsible for sublicensing fees and all other fees for software and the software program utilized by you that enables you to connect to and maintain communication between us, you and the Internet. You will, at all times, maintain in effect a Sublicense Agreement for any such software. You agree to use any such software and the software program properly and for the purposes for which it was intended.

DEBIT CARD AGREEMENT

This Agreement for the processing of Debit Card transactions is being entered into by and between Best Payment Solutions, Inc. ("BPS") and the Merchant identified in the attached Application ("You").

You wish to purchase from us and we wish to sell to you certain services (the "Services") necessary for the processing and settlement of your on-line debit card transactions submitted to the Debit Networks as specified by us which are hereinafter referred to individually as a "Debit Network" and collectively as the "Debit Networks."

In entering into this Agreement and performing services for you with respect to on-line point of sale debit transactions, we will provide you with access and sponsorship or will cause you to be provided with access and sponsorship to the point of sale Debit Networks specified by us.

In consideration of the mutual covenants and agreements set forth herein and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, you and we agree as follows:

The text of the attached Application, and Card Processing Agreement, including any related Schedules, Amendments, Addenda, or Exhibits thereto attached, is hereby incorporated herein as if fully set forth at this point, but with the following modifications thereto:

1. Sections 1(a), 3, 4, and 23 thereof are deleted in their entirety.
2. For the purposes of this Debit Agreement, any and all references to "NCB," "we," "our" and "us," unless the context clearly requires otherwise, refer only to BPS.
3. Any and all references in the Card Processing Agreement to "Visa," "MasterCard," or "Associations" shall be changed to "Debit Networks", defined as debit networks specified by us, hereinafter referred to individually as a "Debit Network" and collectively as the "Debit Networks".
4. Any and all references to "chargebacks" in the Card Processing Agreement shall also be construed as "chargebacks/adjustments" for the purposes of this Debit Agreement.
5. Any and all references to "Card" or "Cards" in the Card Processing Agreement shall be changed to mean an "on-line" debit card, such as an Interlink or Maestro debit card that generally requires use of the holder's personal identification number.
6. The first paragraph of Section 6 is hereby deleted and replaced with the following: "We shall charge the BPS per transaction fees set forth in Section 26 for each debit transaction submitted to each Debit Network regardless of whether such transaction is approved, declined, or determined invalid. You acknowledge that the current Debit Network fees set forth in Section 26 are based upon Debit Network fees currently in effect and upon certain sponsorship arrangements made by us with a Debit Network Sponsor (Sponsor) for your sponsorship needed to participate in each applicable Debit Network. You agree that should any Debit Network or Sponsor raise or lower its interchange fees or other charges, we shall have the right to adjust your fees to reflect the increase or decrease in such fees or charges. You agree to pay for all Debit Network or Sponsor setup fees, chargeback fees and adjustment fees including but not limited to late fees which may be imposed by Debit Networks and Sponsors. You agree to pay any taxes imposed on the Services furnished to you on the transactions under and subject to this Agreement and such taxes shall be added to the charges owed to us and shall be deducted from the settlement monies due to you in accordance with the Agreement terms. Any taxes so imposed shall be exclusive of the taxes based on our net income. We shall charge you the fees as set forth in Section 26 for the Services to be provided pursuant to this Agreement and such other fees as set forth thereon and such amounts will be payable as provided for in Section 5. Said fees may be collected hereunder in accordance with the terms and provisions of this Section and Section 5. We may require you to pay us any extra or special charges imposed by third parties plus our reasonable handling charge for any supplies that we provide, and, if applicable, an overnight shipping charge. We also may require you to pay us any extra or special charges imposed by third parties, plus our handling charge, if any transactions processed or initiated hereunder are charged back, reversed or rejected (including chargeback fees and fines and ACH reject fees). We may charge you interest at our then current rate for any amounts that are not timely paid by you."

7. The following shall be added at the end of Section 8: "All BPS Systems are and will remain the exclusive property of BPS or licensors of such BPS Systems, as applicable (except as may expressly provided to the contrary in this Agreement). BPS System(s) shall be defined for the purposes of this Agreement as software and related documentation; software technical formats and specifications; hardware and related documentation, formats and specifications; technical and business information relating to inventions and present and future products and product lines; intellectual property; know-how; and any other information that is identified by BPS as a BPS System. You acknowledge that BPS System(s) and the electronic funds transfer systems operated by the Debit Network or its provider and all technical and operational data, specifications, marketing materials and manuals, including the Debit Network Rules and any other information regarding such systems, are proprietary and unique and subject to the confidentiality provisions of this Agreement. You shall have no ownership interest or other rights in any BPS System. Upon the expiration or termination of this Agreement you will return all copies of all manuals or other items relating to the BPS System(s) which are in your possession and certify to BPS in writing that you have retained no material relating to the BPS System(s)."

8. Section 9 of the Card Processing Agreement is hereby deleted and replaced with the following: "You shall display the applicable Debit Network program marks on signs or decals at or near the point-of-sale devices to inform the public that certain debit cards will be honored by you and shall not indicate, directly or indirectly, that any Debit Network endorses any goods or services other than its own services. No right, title or interest in or to the program marks has been transferred or is being transferred in this Agreement, except the non-exclusive right to use the program marks as provided in this Agreement. You shall promptly cease all use of a program's marks upon termination of its participation in the applicable Debit Network."

9. The following shall be added at the end of Section 14: "Notwithstanding any other provisions in this Agreement, the following shall apply: you shall indemnify and save harmless BPS and

any third party providing services hereunder (Providers and Sponsors) and each Debit Network and said Debit Network's participants from any and all claims, liabilities or losses, including reasonable costs and attorney's fees, arising or resulting from you, or your employees, agents, or representatives (1) failure to abide by a requirement of this Agreement, (2) violation of any applicable law or regulation or order, (3) misuse of any protected mark of a Debit Network, (4) willful misconduct fraud or gross negligence in the use of the Services, (5) effecting transactions with the use of a lost stolen, counterfeit, or misused debit card in the use of the Services, or (6) conduct of your business.

If providing any of the Services to you hereunder violates, or in our reasonable opinion is likely to violate, any applicable laws or governmental regulations, or should we receive instructions from a governmental agency having authority over your business instructing us to cease providing any or all of the Services, or should you cease operations, then we may, upon oral notice to you, immediately cease providing the affected Services to you."

10. The following shall be added as Section 24: "Access to Debit Networks. You shall sign appropriate agreements with each applicable Debit Network and/or sponsoring institution and agree to comply with the rules, regulations, procedures and other membership duties and obligations of the Debit Networks (the "Debit Network Rules") as from time to time in effect, which are applicable to you. Any penalties incurred by you for failure to comply with Debit Network Rules will be your responsibility."

11. The following shall be added as Section 25: "Access and Use of Services.

a. **Access to the Service.** We shall make the Services selected by you operational and available to you upon a mutually agreed upon implementation plan. You agree to cooperate with us and provide us with all necessary information and assistance required for us to successfully make the Services operational and available to you.

b. **Availability of Terminals.** You shall take all reasonable steps necessary to ensure that all point-of-sale devices and PIN pads shall be available for use by the cardholders of each Debit Network to which you are being provided access as set forth on the Application hereto for the cardholders on-line debit card transactions and such devices and PIN pads shall function in a reliable manner.

c. **Use of Services.** You assume exclusive responsibility for the consequences of any oral or written instructions you may give to us, for your failure to properly access the Services in the manner prescribed by us, and for your failure to supply accurate input information. You shall be responsible for auditing, balancing, verifying and reconciling any out-of-balance condition, and for notifying us of any errors in the foregoing after receipt of the applicable report from us. You will reject all incorrect reports or output within two (2) Business Days after receipt of the reports or output.

You will be responsible for the quality and accuracy of all data provided to us. We may, at our option, return to you for correction before processing any data submitted by you which is incorrect, illegible or otherwise not in proper form. If you do not provide your data to us in accordance with our specified format and schedule, we will use reasonable efforts to reschedule and process the data as promptly as possible, but related expenses incurred by us will be charged to you.

Except as otherwise provided in this Agreement, you will be responsible for the supervision, management and control of your use of our Systems, including without limitation (1) implementing sufficient procedures to satisfy its requirements for the security and accuracy of the input you provide, and (2) implementing reasonable procedures to verify reports and other output from us within the time frames specified here in above. You agree that you will use the Services in accordance with such reasonable rules as may be established by us from time to time as set forth in any materials furnished by us to you.

You agree that, except as otherwise contemplated herein or otherwise permitted by us, you will use the Services only for your own internal and proper business purposes and will not resell, directly or indirectly, any of the Services or any portion thereof to any third party."

12. The following shall be added as Section 26: "Debit Fees. The following is a list of networks and their fees. In addition to the network fees, you agree to pay a \$0.25 fee per transaction for all on-line point-of-sale debit Card transactions processed by BPS.

PER TRANSACTION FEES	
NETWORK	NETWORK FEES
ACCEL	\$0.34
AFPN	\$0.14
ALASKA OPTION	\$0.14
CASH STATION	\$0.10
CREDIT UNION 24	\$0.13
INTERLINK	\$0.48
JEANIE	\$0.17
MAESTRO	\$0.31
NETS	\$0.10
NYCE	\$0.44
PULSE & MONEY STATION	\$0.22
SHAZAM	\$0.13
STAR WEST/MAC	\$0.39