



Merchant Agreement Terms & Conditions

1. Applicability. This document sets forth the terms and conditions under which SecureNet, LLC, a Delaware limited liability company (“Servicer”), will provide one or more of the Services set forth below for each business customer that has completed and delivered a Merchant Application and Agreement (each, an “Application,” and each such business customer a “Merchant”), which Application has been approved by Servicer. Merchant agrees that its execution and delivery of an Application constitutes its intent to be bound by the terms of this Agreement and its acceptance of all provisions hereof. This Agreement constitutes a binding contract between Merchant on the one hand, and Servicer and its Sponsor Bank (as defined below and identified in the Application) on the other hand.

2. Services. Subject to and in accordance with this Agreement, Servicer will be the exclusive provider of the following services for Merchant (together, the “Services”):

- (a) Authorization of payments made by credit, debit, prepaid, and Electronic Benefits Transfer (“EBT”) cards bearing the mark of an Association (as defined below) or of an Issuer (as set forth in the Quest® Operating Rules found at <https://www.nacha.org/s/quest/-operatingrules.html>) (each a “Card”), presented by Merchant’s customers (each a “Cardholder”) and accepted by Merchant in exchange for goods or services;
- (b) Processing and clearing of each such Card payment initiated by a Cardholder in exchange for Merchant’s goods or services for settlement through one or more financial institutions (each a “Transaction”);
- (c) Processing of reversals of Transactions resulting from returns of goods; and
- (d) Where agreed by the parties and set forth in the Application, Servicer also will provide to Merchant a
 - (i) license to use the Servicer Gateway™ Services;
 - (ii) a license to use the Servicer Vault™ Services;
 - and/or (iii) a license to use Servicer Mobile PayOS™ Services, along with the services associated with each such license.

For purposes of this Agreement, the term “Card Association” or “Association” means the network of approved customers or members of Visa, MasterCard, Discover, Diner’s Club, or any similar entity; “Sponsor Bank” or “Bank” means a Card Association member financial institution that has authorized and registered Servicer as an agent to provide payment-processing services; and “Rules” means all of the rules promulgated by the Associations and Issuers that govern, among other things, Merchant qualifications and requirements and procedures for acceptance of Cards, as well as all

aspects of authorization, processing, and settlement of Transactions. The Rules include but are not limited to all operating rules, regulations, and security rules and procedures promulgated by Visa Inc., MasterCard Incorporated, and Quest.

3. Card Acceptance. Merchant shall accept Card payments in strict accordance with all applicable Rules,

and all federal, state, and local laws and regulations. Merchant shall not refuse to complete a Transaction for a Cardholder who otherwise has complied with the conditions for Card presentment solely because such Cardholder refuses to provide additional identification information. However, Merchant may require additional identification from a Cardholder where required to complete a Transaction, such as for shipping purposes. Merchant shall not refuse to complete an e-commerce Transaction solely because a Cardholder does not have a digital certificate or other secured protocol. Merchant shall not directly or indirectly require a Cardholder to pay a surcharge, convenience fee, or any other fees in connection with a Transaction except as expressly permitted by the Rules and all applicable laws and regulations. Merchant may provide a discount to its customers for cash payments. Merchant shall not submit for payment into interchange any Transaction that (a) represents the refinancing or transfer of an existing Cardholder obligation that has been deemed to be uncollectible; (b) arises from the dishonor of a Cardholder’s personal check; or (c) arises from the acceptance of a Card at a terminal that dispenses scrip. Merchant shall not accept payment from a Cardholder via cash, check, or any other form for products or services for which payment has been initiated via a Card, and shall not accept a Card payment for products or services for which Merchant has received or expects to receive payment in any other form or from any third party.

4. Authorization. Where required by the Rules or by this Agreement, Merchant shall obtain due authorization before completing a Transaction. Servicer reserves the right to refuse to process any Transaction Record (as defined below) submitted by Merchant without authorization for the associated Transaction.

5. Identity of Merchant to Cardholder. Merchant shall prominently and unequivocally inform each Cardholder of its identity at all points of interaction, so that the Cardholder readily can identify Merchant and distinguish Merchant from third parties such as suppliers of products or services to Merchant. Any web site used by Merchant shall (a) prominently display Merchant’s legal entity or approved business



Merchant Agreement Terms & Conditions

name; and (b) prominently indicate that Merchant's name used on such web site shall be the same name that will appear on the Cardholder statement for all Transactions. Merchant shall display its name as prominently as any other information depicted on such web site(s), other than images of the products or services being offered for sale.

6. Additional MasterCard Requirements. Merchant shall comply with all Rules promulgated by MasterCard, as the same have been amended and may further be amended, modified, or updated from time to time in accordance with their terms (the "MasterCard Rules"). Merchant acknowledges that all MasterCard trademarks and logos as set forth in and defined by the MasterCard Rules are and will remain the exclusive property of MasterCard and its affiliates, and that any and all use and references shall be in strict accordance with the MasterCard Rules. Merchant shall not infringe or otherwise use any MasterCard mark or logo in such a manner as to create an impression that Merchant's products or services are affiliated with, or sponsored, produced, offered, or sold by MasterCard. Merchant shall not use any MasterCard mark or logo on its stationery, business cards, or the like, or in any solicitation materials. However, Merchant may use the approved MasterCard logo in close proximity to a payment or enrollment space in its solicitation materials in a size not to exceed 1 1/4 inches in horizontal length, and may use an approved MasterCard trademark in type not to exceed the size of the type used in the majority of text on the same page; provided further that the legend, "Accepted for Payment" must accompany the MasterCard logo or mark used and must be the equivalent size of the mark or logo. In no case shall Merchant use any MasterCard mark or logo on the front or first page of a solicitation. Merchant shall comply with the Card acceptance requirements set forth in Rule 5.8 of the MasterCard Rules and in section 2.1 of the Chargeback Guide (as defined by the MasterCard Rules). If Merchant is in a location that supports use of the MasterCard Address Verification Service (as defined in the MasterCard Rules), Merchant may require the Cardholder's ZIP or postal code to complete a Cardholder-Activated Terminal ("CAT") Transaction (as defined in the MasterCard Rules), or may require the Cardholder's address and ZIP or postal code to complete a mail-order, telephone-order, or e-commerce Transaction. Merchant shall refer to sections 2.1.12 and 2.4 of the Chargeback Guide for requirements regarding Transactions involving "cash back." Merchant shall comply with all requirements for submitting Transactions to Servicer as set forth in Rule 5.9 of the MasterCard Rules, and shall promptly inform Servicer of the identity of any Data Storage Entity or

"DSE" (as defined in the MasterCard Rules) to which Merchant intends to afford access to Card account, Cardholder, or Transaction information. Merchant shall be solely liable for any acts or omissions of a DSE, and for such DSE's compliance with the MasterCard Site Data Protection ("SDP") Program in accordance with section 10.3.4 of the MasterCard Security Rules and Procedures Manual (as defined by the MasterCard Rules). If a Cardholder using a MasterCard should be directed to Merchant's web site from any Sub-Merchant's (as defined in the MasterCard Rules) web site for payment, Merchant's name must appear in DE 43 (Card Acceptor Name/Location in accordance with the MasterCard Rules), subfield 1 (Card Acceptor Name) in conjunction with the name of such Sub-Merchant. If a Cardholder using MasterCard accesses Merchant's web site directly, in which case Merchant's name is prominent and visible to the Cardholder from the selection of goods or services to the completion of the checkout process, then Merchant's name may appear in DE 43 without the name of the Sub-merchant. For Card-present Transactions, both Merchant's name and the Sub-merchant name must appear in DE 43 unless only the name of Merchant is known to the Cardholder. Merchant shall ensure that each Cardholder understands that Merchant is responsible for the Transaction, including delivery of any and all products (whether physical or digital) and provision of any and all services that are the subject of the Transaction, as well as for customer service and dispute resolution associated with such Transaction. This section is not intended and shall not be construed as a complete statement of Merchant's obligations under the MasterCard

Rules, and the parties agree that the entirety of such MasterCard Rules are deemed incorporated into this Agreement by reference.

7. Additional Visa Requirements. Merchant shall: (a) perform its obligations hereunder in compliance with applicable laws; and (b) comply with the Visa International Operating Regulations, as the same have been amended and may further be amended, modified, or updated from time to time in accordance with their terms (collectively the "Visa Rules") regarding use of the Visa-Owned Marks (as set forth in and defined by the Visa Rules), and acceptance of Visa Cardholder payments. If Merchant is an "Electronic Commerce Merchant" and a "3-D Secure Participant" (as both terms are defined by the Visa Rules) permitted to display the "Verified by Visa" mark, it shall use such mark in strict accordance with the Visa Rules, and shall not use the mark in any way that implies endorsement of any other product or service, or that indicates



Merchant Agreement Terms & Conditions

payment acceptance in any application. Merchant shall not refuse to accept a Visa Card that is otherwise properly presented for payment under the Visa Rules, where, for example, the card is foreign-issued or is co-branded with the mark of a competitor of Merchant. Merchant may steer customers to an alternative method of payment, such as providing discounts for cash, but may not do so in a confusing manner that denies Cardholder choice. Merchant shall be permitted to consider whether circumstances present undue risk, such as where a transaction involves high-value electronics, the Card's signature panel is not signed, and the Cardholder does not present any other valid identification. Merchant shall accept payment by Visa Card for goods or services without charging any amount over the advertised price, except as expressly permitted by the Rules and applicable law. Merchant shall comply with all provisions of the Cardholder Information Security Program (as defined by the Visa Rules), and shall request authorization, regardless of the Transaction amount, if any of the following is true: (a) a Cardholder presents an expired Card; (b) a Cardholder neglects to present his or her actual Card; (c) a Card signature panel is blank; (d) Merchant is reasonably suspicious of a proposed Transaction; (d) a Cardholder presents a Visa Electron Card at a Visa Electron Merchant (as defined by the Visa Rules); or (e) a Transaction is any of the following: an Electronic Commerce Transaction; a Mail-Order/Phone Order Transaction; an In-Transit Service Transaction; a Recurring Transaction; or a V PAY Transaction (as each of the above is defined by the Visa Rules). Visa will have the right to limit or terminate this Agreement with respect to all Visa-branded Cards at its sole discretion. This section is not intended and shall not be construed as a complete statement of Merchant's obligations under the Visa Rules; and the parties agree that the entirety of such Visa Rules are deemed incorporated into this Agreement by reference.

8. Additional EBT Requirements. Merchant shall comply with all applicable policies of the Quest® Operating Rules adopted by the National Automated Clearing House Association's Electronic Benefits and Services Council (formerly the EBT Council) in April 1996, as the same have been amended and may further be amended, modified, or updated from time to time in accordance with their terms (the "Quest Rules"). If Merchant is a Full Service Merchant (as defined by the Quest Rules) or a Cash Account Merchant (as defined below) Merchant shall promptly honor each valid Card presented for an EBT (each an "EBT Card") when such EBT Card is presented by a Cardholder with a valid PIN for the purpose of engaging in a Cash Account Transaction (as defined by the Quest Rules). If Merchant is a Full Service

Merchant or Food-Stamp-Only Merchant (as defined below), Merchant shall promptly honor each valid EBT Card when presented by a Cardholder with a valid PIN for the purpose of engaging in a Food-Stamp Transaction. Only a Merchant that has received authorization from Food and Consumer Service ("FCS") of the U.S. Department of Agriculture may accept EBT Cards for Food Stamp Transactions. If a Merchant acts as a POS Terminal Operator (as defined by the Quest Rules), then Merchant will further comply with provision of the Quest Rules applicable to POS Terminal Operators. Merchant may be Cash Account Merchant, Food-Stamp-Only Merchant, or Full Service Merchant. A "Cash Account Merchant" is a merchant that has agreed to accept EBT Cards for purchases of goods or services from Cash Accounts and not from Food Stamp Accounts. A "Food Stamp Only Merchant" is a merchant that has agreed to accept EBT Cards for purchases of goods or services from Food Stamp Accounts, but not from Cash Accounts, and that has been specifically authorized by FCS to accept Food Stamp Transactions, including a Manual Only Merchant (as all of the above are defined by the Quest Rules). Merchant shall be liable to the Issuer for each Merchandise Return Transaction authorized by or on behalf of the Issuer and shall settle for the full amount of such Transaction. Merchant shall bear the risk of denial, for any reason, of a Store and Forward Food Stamp Transaction or Manual Food Stamp Transaction for which a Telephone Authorization (as the above are defined by the Quest Rules) was not received. Merchant shall require each Cardholder to enter his or her own PIN at or in proximity to the point of sale for each Transaction, except as otherwise expressly provided by the Quest Rules. Whenever a PIN can be validated by either the CAS or a third party performing Stand-In Processing on behalf of the CAS (as such terms are defined by the Quest Rules), Merchant shall not require the Cardholder to provide a signature or any other form of identification unless Merchant has grounds to suspect fraud. However, Merchant shall obtain the Cardholder's signature if technical problems prevent the Cardholder from entering his or her PIN and Merchant elects to use a Sales and Credit Draft (as defined by the Quest Rules). Merchant may also request additional identification where there is suspicion of fraud. Merchant shall be permitted to return to a Cardholder an EBT Card inadvertently left at a Merchant location only if the Cardholder presents valid, positive identification. If a Cardholder does not retrieve an EBT Card within 48 hours of its discovery by Merchant, or does not provide valid, positive identification, then Merchant shall promptly notify the Issuer and then destroy the Card. Merchant shall not reveal to any third party any information regarding a specific EBT Transaction or series of Transactions involving any one



Merchant Agreement Terms & Conditions

Cardholder without such Cardholder's prior written consent, except: (a) to each Participant (as defined by the Quest Rules) involved in or necessary to effect such Transaction or resolve any alleged error regarding such Transaction; (b) to any other person who is a party to a Transaction or is necessary to effect such Transaction; (c) to its auditors; (d) as required by the Quest Rules; or (e) as required by applicable law. Servicer will have the authority to terminate this Agreement or suspend processing for Merchant if properly directed to do so by a court of law or government agency. Merchant shall provide prompt notice to Servicer if the FCS revokes, rescinds, or otherwise eliminates Merchant's authority to accept Food-Stamp Transactions. Merchant shall request Authorization for each such Transaction even if the Card used to initiate such Transaction has expired, except with respect to Manual Food Stamp Transactions for which a Telephone Authorization cannot be obtained, and for Store and Forward Food Stamp Transactions (as defined by the Quest Rules). If Merchant accepts EBT Cards for POS Cash Transactions, then Merchant shall also support Purchase Only from Cash Account Transactions and any related Correction Requests and Correction Responses (as the above terms are defined by the Quest Rules). If Merchant accepts EBT Cards for Food Stamp Transactions, then Merchant shall also support Food-Stamp-Purchase- and Food-Stamp-Merchandise Refund Transactions (as defined by the Quest Rules) and any related Correction Requests and Correction Responses. Merchant shall not modify any amount originally entered at the point of sale for an EBT Transaction. However, Merchant will not be precluded from modifying an erroneous amount entered on a Sales and Credit Draft where the Cardholder is present and expressly approves such modification. Merchant shall not, and shall likewise instruct its employees that they shall not request that any Cardholder disclose his or her PIN. Merchant is hereby granted a nonexclusive, nontransferable license to use the QUEST Mark (as defined by the Quest Rules) solely within the United States, and solely in connection with the promotion and provision of goods and services for which Merchant is authorized to accept EBT Cards. Merchant shall, (a) bear all costs and expenses and full responsibility and liability associated with its use of the QUEST Mark; (b) comply strictly with all specifications, directives, and requirements concerning intellectual-property rights under the Quest Rules, and as may be directed to Issuer or Servicer by the National Automated Clearing House Association ("NACHA"); and (c) at any time required by NACHA, at Merchant's expense, remove from use the QUEST Mark and, surrender to NACHA any depiction of the

QUEST Mark in any signs, decals, advertisements, promotional materials, and any other written materials. This section is not intended and will not be construed as a complete statement of Merchant's obligations under the Quest Rules; and the parties agree that the entirety of such Quest Rules are deemed incorporated into this Agreement by reference.

9. Cards other than MasterCard, Visa, and EBT Cards. Merchant may submit Transaction Records for Cards other than MasterCard or Visa only if Merchant has an agreement with the respective Association associated with such Card. Servicer will process Transaction Records only for those Associations designated on Servicer's web site, as the same may change from time to time. Transaction Records submitted for Cards other than MasterCard or Visa will be processed and cleared to the appropriate Association. Except to the extent that Servicer may provide funds-settlement services for JCB, Diners Club/Carte Blanche, or Discover Transactions, payments of proceeds due to Merchant will be made in accordance with the agreement between Merchant and each such Association (other than MasterCard or Visa), and Servicer will assume no responsibility for such Association's performance. If an agreement between Merchant and an Association requires such Association's consent for Servicer to perform the Services, Merchant shall be responsible for obtaining such consent.

10. Submission of Transaction Records. Merchant shall submit to Servicer an electronic record of each Transaction (each a "Transaction Record"), and represents, warrants, and covenants that each such Transaction Record represents a valid, bona-fide Transaction between Merchant and a Cardholder. Merchant shall not submit to Servicer any Transaction that Merchant knows or should have known to be fraudulent, not authorized by the Cardholder, or authorized by a Cardholder for a fraudulent purpose or otherwise in contravention of the Rules or any applicable law or regulation. Merchant shall submit only Transaction Records that directly result from Merchants own, direct Transactions, and shall not submit Transaction Records reflecting Transactions between a Cardholder and any another entity. Merchant shall submit Transaction Records to Servicer no later than three business days after the date of each such Transaction, except (a) a Transaction Record shall not be submitted until after the products are shipped or the services are performed unless, at the time of the Transaction, the Cardholder agrees to a valid, legal, and appropriately disclosed delay with respect to such delivery or performance; (b) where



Merchant Agreement Terms & Conditions

Merchant receives Cardholder authorization for a delayed presentment (in which case the words "Delayed Presentment" shall be noted on the transaction information document ("TID")); (c) where Merchant is obligated by law to retain the TID or return it to a Cardholder upon timely cancellation, in which case Merchant should present the Transaction Record within ten business days after the Transaction date; (d) where Merchant has multiple locations and uses a central facility to accumulate and present Transaction Records to Servicer, in which case Merchant shall present the Transaction Records in accordance with applicable law, and in no case more than 30 days after the Transaction. Merchant shall not submit for payment to Servicer any Transaction that is illegal or that in the sole discretion of a Card Association could damage the goodwill or reflectively negatively on such Association. Merchant shall be solely and directly responsible for the conduct of its employees, agents, and representatives with respect to this section, as well as for their compliance with this entire Agreement.

11. Settlement. To facilitate receipt of the most favorable interchange rate, Merchant shall submit Transaction Records to Servicer on the first business day following each respective Transaction. For debit Transactions, Merchant shall transmit such Transaction Record to Servicer within 24 hours of receiving the authorization for such Transaction. Merchant shall be solely responsible for any expenses incurred in the transmission of Transaction Records. To receive settlement funds from Bank, Merchant shall at all times maintain a bank account at a bank that is a member of the Automated Clearing House ("ACH") system and the Federal Reserve wire system ("Merchant Account"). Merchant shall provide Bank and Servicer at least five days' prior written notice, including information regarding its substitution of another qualified bank account, before closing a Merchant Account. Merchant shall be solely liable for all fees and costs associated with its Merchant Account, including any and all overdrafts. Merchant hereby authorizes Bank to initiate ACH credit- and debit-entries and adjustments to the Merchant Account for the purpose of settling Transactions and Chargebacks (as set forth below and defined by the Rules) and making any other necessary adjustments in accordance with this Agreement. Such authorization will remain in full force and effect until termination or expiration of this Agreement and subsequent satisfaction of all of Merchant's obligations hereunder. Neither Bank nor Servicer will be liable for any delay in Merchant's receipt of funds or errors in account entries caused by a Card Association, Merchant's bank, or any third party. For all Transactions, Bank will clear Merchant's Transaction Records to facilitate collections from

the Associations and issuing banks. After Bank receives credit associated with such Transaction Records, Bank will provisionally credit the Merchant Account with the settlement proceeds. The proceeds associated with each Transaction Record will be equal to the amounts received by Bank from the Associations and/or issuing banks for each respective Transaction, less the sum of the fees, charges, and discounts set forth in Schedule A; any and all adjustments and Chargebacks, any hardware or equipment charges; Cardholder refunds and adjustments; any amounts deducted for deposit into the Merchant Reserve Account, and any other fees, charges, fines, assessments, penalties, or other liabilities that may be imposed from time to time by the Associations. All such amounts shall be due and payable at the time the associated Services are rendered for Merchant or the related Chargebacks or other fees or adjustments are received from the Associations or issuing banks. In the alternative, Bank may, in its discretion, credit the gross amounts submitted via the Transaction Records as such are made available to Bank, and then debit the Merchant Account directly for the fees, Chargebacks, and adjustments indicated above. To the extent the Merchant Account does not have a sufficient balance to pay any amounts due under this Agreement, Bank or Servicer may pursue one or more of the following options: (a) demand immediate payment for such amounts; (b) attempt to debit Merchant's bank account for the full amount owed, thereby overdrawing the Merchant Account; (c) withhold settlement payments until all amounts due are paid in full; (d) set-off any amounts due with other funds of Merchant that Servicer may be holding, including any funds in a Merchant Reserve account; and (e) pursue any remedies Bank or Servicer may have at law or in equity. Furthermore, if the amount represented by Merchant's Transaction Records in any day should be negative due to refunds or credits in excess of Merchant's sales, Merchant shall provide Bank with sufficient funds prior to the submission of the Transaction Records to prevent the occurrence of a negative balance in the Merchant Account.

12. Refunds and Adjustments. Merchant shall maintain a fair policy with respect to Cardholders' rights to return goods or to cancel orders for merchandise or services, and in making associated adjustments to Transactions, and shall disclose such policy to Servicer on its Application, as well as to Cardholders. Merchant shall notify Servicer in writing of any proposed material change to such policy or associated practices at least 14 days before Merchant's desired implementation of such change. Servicer may refuse to process any Transaction made subject to a revised return/cancellation policy of which Merchant failed to provide such notification. If Merchant should allow a price adjustment,



Merchant Agreement Terms & Conditions

merchandise return, or service cancellation in connection with a Transaction, Merchant shall provide to Servicer a Transaction Record reflecting such activity within three days of its processing. The amount of any such adjustment shall not exceed the amount shown on the original Transaction Record, except to the extent required to reimburse a Cardholder for postage to return goods to Merchant. Merchant shall not accept cash or any other payment or consideration from a Cardholder in exchange for preparing a refund or adjustment to be deposited to Cardholder's account, and Merchant shall not provide a cash refund to any Cardholder in connection with a Transaction unless required by law.

13. Chargebacks. A "Chargeback" is a reversal of a Transaction initiated by the Cardholder or the Card issuing bank, and may be initiated for a variety of reasons as set forth in the Rules. If Servicer or Bank should determine in its or their discretion that Merchant is receiving an excessive number or volume of Chargebacks, Servicer or Bank may take any or all of the following actions in addition to seeking any other remedies that may be available under the Rules or this Agreement: (a) review Merchant's internal procedures relating to acceptance of Cards and implement new procedures to be adopted by Merchant to help avoid future Chargebacks; (b) impose additional fees for processing Merchant's Chargebacks; (c) establish or increase the minimum balance required in a Merchant Reserve Account (as set forth below) as determined by Servicer or Sponsor Bank in its or their discretion to be sufficient to cover anticipated Chargebacks and related fees and fines; or (d) terminate this Agreement.

14. Merchant Reserve Account. At any time and from time to time, Bank or Servicer may temporarily suspend or delay payments to Merchant or designate an amount of funds that Bank or Servicer will maintain in a reserve account in order to protect itself or themselves against the risk of existing or potential Chargebacks, or to satisfy Merchant's other obligations under this Agreement (the "Reserve Account"). The Reserve Account will contain sufficient funds to cover any unbilled processing costs plus Servicer's or Bank's potential exposure based on Merchant's susceptibility to Chargebacks, returns, unshipped merchandise, or unfulfilled services. Bank or Servicer may (but shall not be required to) apply funds in the Reserve Account to satisfy amounts that are or will become due from Merchant in connection with this Agreement. The Reserve Account will not bear interest, and will be subject to Bank's sole dominion and control. Reserve

Account funds may be commingled with other reserve funds and not maintained in a separate account. Merchant hereby grants to Bank and Servicer an irrevocable security interest in the Reserve Account and any and all funds held therein, including any proceeds thereof, that may at any time be in Bank's possession and control. Merchant shall execute and deliver to Bank or Servicer any documents that Bank or Servicer may request to perfect and confirm the security interest and associated rights set forth in this Agreement. Merchant hereby authorizes the financial institution where its Merchant Account is maintained to comply with any instructions from Bank with respect to establishment or funding of the Reserve Account. Merchant's obligations and Bank's and Servicer's rights under this section will survive termination of this Agreement.

15. Servicer Gateway, Servicer Vault, and Servicer Mobile PayOS. As used in this Agreement (a) "Servicer Gateway" means and includes the Servicer e-commerce application that enables the authorization process for Merchant's Transactions (the "Gateway Software"); (b) "Servicer Vault" means and includes the Servicer e-commerce application that enables secure storage and maintenance of data obtained from Cardholders' Transaction Records authorized and cleared through the Servicer Gateway (the "Vault Software"). Data stored by the Servicer Vault (the "Vault Data") will include such things as the Cardholder's name, address, Card number, and Card expiration date; and Merchant will have the option to select additional "flexible" fields for storage in the Servicer Vault comprising certain other data captured in the Transaction process. The Vault Data is encrypted, and once a Cardholder's data is captured and stored by Servicer Vault, such data can be used only for the purpose of processing additional Transactions for that particular Cardholder. Merchant shall not select or cause to be stored in the Servicer Vault any Cardholder information in violation of the Rules or any applicable law or regulation, and in particular, is expressly prohibited from storing any security-, verification-, identification-, or Card-validation code (i.e., CVV, CVC, CVN, CID, and all variations thereof). Merchant shall defend, indemnify, and hold harmless Servicer and Sponsor Bank for any Cardholder information it selects or causes to be stored in the Servicer Vault in violation of this Agreement; (c) "Servicer Mobile PayOS" means and includes the provision the Servicer mobile-commerce application, which enables the Transaction authorization process via a mobile platform (the "Mobile PayOS Software"). Where the parties have agreed to the provision of one or more of the



Merchant Agreement Terms & Conditions

Services set forth in this section, Servicer hereby grants to Merchant for the term of this Agreement a non-exclusive, non-sub-licensable, non-transferable, revocable, royalty-free right and license to access and use the Gateway Software, the Vault Software, and/or the Mobile PayOS Software, as applicable, along with the associated Servicer-managed network(s) on which such applications are run and hosted (collectively, the "Software"); and to capture and transmit the associated Transaction Records for clearing. Any and all such access and use shall be governed by the End-User License Agreement ("EULA") on Servicer's Web site at www.Servicer.com/eula, the terms of which are incorporated by reference into this Agreement. Each party agrees to be bound by the terms of the EULA with respect to all such Software, and Merchant shall be responsible for all access to and use of the Software by its employees and representatives.

16. Representations. Servicer represents and warrants that it is a PCI-DSS-validated service provider and registered Independent Sales Organization (ISO) as set forth in the Visa Global Registry of Service Providers located at <http://www.visa.com/splisting/searchGrsp.do>.

Merchant represents and warrants to Servicer that (a) Merchant is compliant with the Rules, including all applicable security standards promulgated by the Payment Card Industry Security Standards Council (collectively "PCI Standards"); (b) dependent upon the number of Transactions originated by Merchant, Merchant either conducts a self assessment or has outside auditors conduct an audit with respect to Merchant's compliance with the Rules and PCI Standards; (c) each Transaction Record represents a payment, or a refund of a payment, for the bona fide sale or lease of Merchant's goods or performance of Merchant's services, all of which Merchant has provided in the ordinary course of its business, and Merchant has not submitted any Transaction Record on behalf of a third party; (d) no Transaction Record includes any element of credit for a purpose other than payment for a then-current Transaction (including payment of a previously-dishonored check) and, except in the case of an approved installment or pre-payment plan, the goods have been shipped or services actually rendered to the Cardholder at the time of processing; (e) each Transaction Record is free from any alteration and has been authorized by the Cardholder; (f) Merchant has no knowledge and has received no notice that a Transaction may not be enforced or collected or is otherwise impaired in any manner, and each such Transaction is in compliance with this Agreement, the Rules, and all applicable laws and regulations; and (g) where a Cardholder's purchase is subject to an installment- or deferred-payment plan, Merchant shall prepare and submit

each Transaction Record in accordance with such plan, and on the dates on which the Cardholder has agreed to be charged.

17. Covenants. Merchant hereby covenants and agrees to (a) do all things required to continue to be compliant with the PCI Standards and the Rules, including Visa's Cardholder Information Security Program; (b) deliver to Servicer as soon as available, but in no event

less than 90-days after the end of Merchant's fiscal year: (i) such financial information of Merchant as Servicer or Bank may request in its reasonable discretion; and (ii) the results of its PCI Standards self-assessment or compliance audit as applicable and in a form approved by Servicer; (c) clear its Transactions only through Servicer; (d) at its sole cost and expense, take any other action that Servicer or Bank deems necessary or reasonable in furtherance of its or their ability to obtain the benefits of or to exercise or enforce any of its or their rights or remedies under this Agreement or applicable law.

18. Trademarks. Merchant shall be permitted to use a trademark of an Association (the each an "Association Mark" and collectively, the "Association Marks") only in strict accordance with this Agreement. Any use of an Association Mark by Merchant in acceptance-advertising, acceptance-decals, or related signage, must be in accordance with the Rules, including each respective Association's standards regarding reproduction, usage, and artwork then in effect. An Association Mark may not appear on any Web site of a supplier to a Merchant or of any other entity that is not itself a Merchant (for example only: an entity that is contracted by Merchant to deliver the products or provide the services that are subject of the Transaction). Merchant's use or display of any Association Mark will terminate effective with the termination of this Agreement or upon notification by the respective Association to discontinue such use or display. Merchant shall cease all use of the Association Marks and promptly return any materials displaying the Marks immediately upon termination of this Agreement or notification by the Corporation to discontinue such use. The use or display of any Association Mark does not give Merchant any ownership or interest in the Association Mark.

19. Acceptance Marks. Merchant shall display the officially sanctioned Association Mark of each Association indicating that such Association's Card is accepted by Merchant (for each Association, the "Acceptance Mark" and collectively for all Associations the "Acceptance Marks"). Merchant shall prominently display each Acceptance Mark from each Card that Merchant accepts at the point of



Merchant Agreement Terms & Conditions

interaction. No Association Mark other than an Acceptance Mark can be used in place of an Acceptance Mark. If Merchant is a remote-services Merchant, then Merchant shall display the Acceptance Marks wherever payment options are presented. The Acceptance Marks must be clearly visible to the public at the point of interaction. The preferred location to post Acceptance Marks at a physical point of interaction is the entrance, nearby window or door of Merchant's location, and on the first screen of an electronic point of interaction. Where it is not possible to post signage at the entrance of Merchant's location, posting the Acceptance Marks so that they can easily and readily be seen within the location will satisfy the requirement. Where it is not possible to post the Acceptance Marks on the first screen of an electronic point of interaction, posting the Acceptance Mark on the payment screen will satisfy the requirement. Merchant may use the Acceptance Marks in material or images at the physical or electronic point of interaction to indicate acceptance. Other Association Marks, symbols, logos, or combinations thereof may appear in the same material or image with the Acceptance Marks, if no other acceptance mark, symbol, or logo is more prominent or likely to cause confusion concerning the acceptance of Cards. The Card Acceptance Marks must be displayed as a free-standing mark, and, as such, may not be displayed so as to suggest that they are either a secondary means of payment to a local/regional acceptance brand, or exclusively linked to a local/regional acceptance brand. Visual parity must be maintained between the Acceptance Marks and any local/regional acceptance mark also displayed at a point of interaction or in Merchant advertising.

20. Confidentiality. Merchant shall not sell, purchase, provide, exchange or in any manner disclose Card account number, Transaction or personal information of or about a Cardholder to anyone other than Servicer, to an Association, or in response to a valid government demand. This prohibition applies to Card imprints, TIDs, carbon copies, mailing lists, tapes, database files, and all other media created or obtained as a result of a Transaction. Merchant agrees to keep the terms of this Agreement and Servicer's pricing hereunder confidential. Merchant agrees that its duty of confidentiality regarding the terms of this Agreement and Servicer's pricing hereunder will survive the termination of this Agreement.

21. Noncompliance. Merchant shall be solely liable for and shall defend, indemnify, and hold harmless Servicer and Sponsor Bank from and against any and all fines or penalties assessed, and any other actions

taken by an Association or any other authority having jurisdiction over the subject matter of this Agreement that have resulted from an act or omission by Merchant. Merchant understands and acknowledges that the offer for sale or sale of any product or service, the submission of a Transaction Record, the use of any Mark, or the conduct of any business in violation of the Rules (including all applicable laws, regulations, and policies) will be deemed a breach of this Agreement and the Rules.

22. Warranty; Limitation of Liability. Merchant shall be solely responsible for the acts and omissions of its employees and representatives, as well as those of any agents, processors, service bureaus, or other providers selected by Merchant to create or submit Transactions or to perform any other act on Merchant's behalf in connection with this Agreement; and Merchant shall defend, indemnify, and hold harmless Servicer and Sponsor Bank from and against any and all claims associated therewith. Servicer will be excused from any delay or failure to deliver the Services arising from a legal or regulatory constraint or Sponsor Bank or Card Association directive, interruption of transmission or communications, equipment failure, war, emergency conditions, acts of nature, or other circumstances beyond Servicer's control. Servicer's total liability to Merchant under this Agreement, whether arising in tort (including negligence), contract or otherwise, shall not exceed the aggregate net proceeds Servicer received for providing the Services to Merchant during the 180 days preceding the date on which the claim arose. IN NO EVENT SHALL SERVICER BE LIABLE FOR LOST BUSINESS, LOST PROFITS, OR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, OR INDIRECT LOSS OR DAMAGE THAT MERCHANT MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT OR SERVICER'S PERFORMANCE HEREUNDER.

23. Term and Termination. This Agreement will remain in full force and effect for an initial term of three years from the effective date of this Agreement, and will be automatically renewed for successive one-year renewal terms unless Merchant or Servicer provides written notice of termination not less than 90 days prior to the expiration of the initial term or any renewal term. In addition, Servicer may terminate this Agreement or the provision of any Services hereunder for convenience with 90-days' written notice to Merchant, or immediately upon any of the following events: (a) Merchant submits a Transaction Record that is fraudulent, that fails to evidence a bona fide Transaction between Merchant and a Cardholder, or that is for an amount not authorized by the



Merchant Agreement Terms & Conditions

Cardholder; (b) Merchant fails to maintain sufficient balances in its deposit account and Reserve Account sufficient to cover its processing fees, Chargebacks, and other amounts due or required to be secured in connection with this Agreement; (c) Merchant violates any of the Rules or breaches any of its material obligations under this Agreement; (d) Merchant provides false or misleading information on its Application or in any materials provided to Servicer or Sponsor Bank; (e) commencement of bankruptcy or insolvency proceedings by or against Merchant; (f) Merchant receives excessive Chargebacks, as determined by Servicer or Sponsor Bank; or (g) Merchant experiences a material adverse change in its business, financial condition, prospects, or operations, as determined by Servicer or Sponsor Bank. In addition, Merchant acknowledges and agrees that Servicer may hold funds or temporarily suspend performance of the Services if (i) there is a material adverse change in the nature of Merchant's business type or Transaction Records or average Transaction amounts; (ii) Merchant submits Transaction Records without seeking requisite authorization; or (iii) Merchant has processed excessive returns or receives excessive requests for copies of Transaction Records. Servicer may delay or withhold settlement of funds for up to 180 days until Servicer is satisfied that such potentially detrimental activity has ceased. Merchant shall notify Servicer immediately if it experiences any material change in expected Transaction volume or Transaction size. Upon termination of this Agreement, all existing obligations, warranties and agreements with respect to Transaction Records cleared through Servicer will remain in full force and effect and Merchant shall remain liable for the performance of all obligations to Cardholders, Servicer, and Sponsor Bank incurred during the pendency of this Agreement until all such obligations are satisfied. Upon termination of this Agreement, Servicer or Bank may retain funds in the Reserve Account, the Merchant Account, and/or any guarantor account, including net proceeds due to Merchant in settlement of Transaction Records, as reasonably necessary in Servicer or Sponsor Bank's sole discretion to offset any anticipated Chargebacks or other potential liabilities of Merchant for a period of up to ten months after termination. Merchant shall remain liable for any amounts owing in excess of amounts available in Merchant Account. Merchant hereby authorizes Servicer to withdraw Merchant funds on deposit or debit its Merchant Account to offset any amounts owing hereunder. Merchant further authorizes the financial institution where its Merchant Account is maintained to comply with instructions from Servicer or Sponsor Bank in furtherance of this Agreement.

24. Notices. Any notice required to be given under this Agreement will be deemed effective upon receipt if sent (a) by e-mail or facsimile with confirmation of delivery, with a copy by U.S. mail; (b) by overnight courier service; or (c) upon hand-delivery to the other party. A party will be deemed to have received notice on the date stated in the carrier's confirmation or automatically generated receipt (or on the next business day if email or fax delivery is made other than on a business day). Notices to Servicer shall be addressed to Servicer, LLC, 12357B Riata Trace Parkway, Suite 150, Austin, Texas 78727 Attention: Merchant Operations; and notices to Merchant shall be addressed as set forth in Merchant's Application, unless another address is provided in accordance with this section.

25. Miscellaneous. Merchant hereby authorizes Servicer to retrieve credit reports on Merchant, Merchant's principals, or any guarantor on an annual basis or at any time Servicer or Sponsor Bank has reason to believe there has been a material change in the financial condition of Merchant. The terms and conditions of this Agreement, including the Rules and all associated written policies and materials provided by Servicer and Sponsor Bank to Merchant will comprise the entire agreement between the parties regarding the subject matter hereof, and will supersede any and all prior or contemporaneous communications between the parties relating to such subject matter. The parties further agree that this Agreement may not be explained or supplemented by a prior or existing course of dealing between the parties or by any prior conduct of a party. Servicer or Sponsor Bank may modify or replace one or more terms of this Agreement from time to time upon prior written notice to Merchant, and Merchant shall be deemed to have accepted such revision by continuing to use the Services after having received such notice. Except as provided above, no amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of both parties. This Agreement will be binding upon and inure to the benefit of Merchant and Servicer and their respective successors and assigns, except that Merchant shall not have the right to assign its rights or obligations hereunder without the prior written consent of Servicer. This Agreement will be governed by and interpreted in accordance with the laws of the State of Texas, without regard to its conflicts-of-law provisions. Merchant consents and submits to the jurisdiction and venue of any state or federal court sitting in the State of Texas with respect to any claim arising out of or relating to this Agreement. The indemnification obligations set forth herein will remain in full force and effect until all applicable periods of laches or statutes of limitation expire on any associated claim. Nothing in this



Merchant Agreement Terms & Conditions

Agreement will constitute or be construed as a waiver by Servicer of any cause of action or right of set-off for recovery under any applicable law. If any term or provision of this Agreement should be declared invalid, illegal, or unenforceable by a court of competent jurisdiction, all remaining provisions of this Agreement will remain in full force and effect consistent with applicable law.