



This is an application for Payment Processing Services and Rental Services of Point of Sale Terminals with Payment Solutions Providers Inc. ("PSPS") (henceforth referred to as the "Agreement"). Notwithstanding that this Agreement may make reference to other documents, including but not limited to, other applications, contracts etc., the sole contracting parties to this Agreement are PSPS and Merchant.

MERCHANT BUSINESS INFORMATION					
Doing Business As (DBA) Name			Legal Name		
Business Address			Legal Address		
City	Province/State	Postal/ZIP	City	Province/State	Postal/ZIP
Website			GST/HST/PST # <input type="checkbox"/> Exempt	Registration Date	
Business Phone Number		Business Email		Authorized Contact Person Name	
Years	Months	Years	Months	Description of Goods Services	
Length of Time Business Operating		Length of Time Business Owned		Merchant Category Code (MCC)	
Ownership Type <input type="checkbox"/> Sole Prop <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> Corp <input type="checkbox"/> Government <input type="checkbox"/> Non-Profit <input type="checkbox"/> Trust			Billing Descriptor		Descriptor Phone

OWNERSHIP INFORMATION					
<i>Ownership must be equal to or greater than 50% to sign. Parties with 25% or more ownership must be listed (not required to sign). Use separate sheet for additional owners, if necessary.</i>					
Ownership Name		Beneficial Owner		Title	
Date of Birth (MM/DD/YYYY)		SIN/SSN		Percent Owned	
Home Address		City		Province/State	Postal/ZIP Code
Driver's License Number		Issuing Province/State	Other ID Type, if Driver's Licence not available		Document Number
Ownership Name		Beneficial Owner		Title	
Date of Birth (MM/DD/YYYY)		SIN/SSN		Percent Owned	
Home Address		City		Province/State	Postal/ZIP Code
Driver's License Number		Issuing Province/State	Other ID Type, if Driver's Licence not available		Document Number

CARD ASSOCIATION INFORMATION	
Merchant Type, select all that apply <input type="checkbox"/> Retail <input type="checkbox"/> MOTO <input type="checkbox"/> Virtual Terminal <input type="checkbox"/> e-Commerce	Processing Volume (must total 100%) _____ Card Present (%) _____ Card Not Present (%) _____ Virtual Terminal (%) _____ eCommerce (%)

CARD ACCEPTANCE	
<i>Please confirm which cards you want to accept</i>	
All Cards: Interac, AMEX, UnionPay, Discover and JCB	
Interac / Flash AMEX UnionPay Discover / JCB	

MONTHLY PROCESSING VOLUME				
Total Monthly Volume – Credit (\$)	Interac Volume (\$)	Average Ticket Size (\$)	High Ticket Size (\$)	
AMEX SE Number, if applicable		Frequency of High Tickets, select all that apply <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually		

VALUE ADDED SERVICES					
Are you a seasonal merchant? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please indicate months CLOSED					
January	March	May	July	September	November
February	April	June	August	October	December
Statement Delivery <input type="checkbox"/> DBA Address <input type="checkbox"/> Legal Address <input type="checkbox"/> Email <input type="checkbox"/> Online			Terminal Shipment <input type="checkbox"/> DBA Address <input type="checkbox"/> Legal Address <input type="checkbox"/> Sales Agent Address		

ELECTRONIC FUNDS TRANSFER (EFT) / AUTOMATED CLEARING HOUSE (ACH) AUTHORIZATION
Please provide a Void Business Cheque or Bank Letter or Pre-Authorized Debit Form confirming your business account Transit # (Routing) and Account # (DDA).

Schedule A – Pricing Information

One Time Fees		Pricing Structure	
Application Fee	\$	Tiered Pricing	
Terminal Set Up Fee	\$	Amex Interchange Rate	Website
Fee to Set Up Interac Debit	\$	Discover Interchange Rate	Website
Merchant Set Up Fee	\$	Interac Flat Rate	Website
Seasonal Set-Up Fee	\$	MasterCard Interchange Rate	Website
Seasonal Activation Fee	\$	Visa Interchange Rate	Website
Security Set Up Fee	\$	UnionPay Interchange Rate	Website
E-Commerce Application Fee	\$	Qualified Rate	%
E-Commerce Mobile Application Fee	\$	Mid-Qualified Rate	%
Installation Fee	\$	Non-Qualified Rate	%
Training Fee	\$	Merchant Discount Rate	%
Gateway Set-Up Fee	\$	Flat Rate	
Fraud Detection Set-Up Fee	\$	Amex Interchange Rate	\$
Wireless Set-Up Fee	\$	Discover Interchange Rate	%
Software Fee	\$	Interac Flat Rate	\$
Online Set-Up Fee	\$	MasterCard Flat Rate	%
Monthly Fees	\$	Visa Flat Rate	%
Statement Fee	\$	UnionPay Interchange Rate	%
Monthly Minimum Fee	\$	Cost Plus Pricing	%
Host Level Change	\$	Flat Rate	%
PCI Fee	\$	Amex Interchange Rate	Website
Non-Compliance Security Fee	\$	Discover Interchange Rate	Website
Retrieval Request Fee	\$	Interac Flat Rate	Website
Early Cancellation Fee	\$	MasterCard Interchange Rate	Website
Gateway Fee	\$	Visa Interchange Rate	Website
Virtual Terminal Fee	\$	UnionPay Interchange Rate	Website
Monthly Service Fee	\$	Non-Qualified Surcharge Rate	%
Annual Fee	\$	Interchange Differential Rate	
Transaction Fees		Visa Interchange Rate	Website
Visa Authorization Fee	\$	Visa Applicable Interchange Rate	%
MasterCard Authorization Fee	\$	Interchange Differential Rate	%
Interac Authorization Fee	\$	Merchant Discount Rate	%
American Express Authorization Fee	\$	Rate Adjustment Fee	%
Visa Transaction Fee	\$	MasterCard Interchange Rate	Website
MasterCard Transaction Fee	\$	MasterCard Applicable Interchange Rate	%
Interac Transaction Fee	\$	Interchange Differential Rate	%
American Express Transaction Fee	\$	Merchant Discount Rate	%
Union Pay Transaction Fee	\$	Rate Adjustment Fee	%
Visa Cross-Border Rate	Website	Interac Flat Rate	Website
MasterCard Cross-Border Rate	Website	Other Variable Fees	
Visa Assessment Rate	Website	Reversal Fee	\$
MasterCard Assessment Rate	Website	Decline Fee	\$
Amex International Assessment Fee	\$	Chargeback Fee	\$
Discover International Assessment Fee	\$	Batch Fee	\$
MasterCard International Assessment Fee	\$	Interac Debit Surcharge	\$
Visa International Assessment Fee	\$	Interac Debit Monthly Minimum	\$
UnionPay International Assessment Fee	\$	Online/Web Reporting Fee	\$
Other / Miscellaneous Fees		Voice Authorization	\$

Authorizations			
AUTHORIZATIONS			
Union Pay	\$	Other: _____	\$
Foreign Network Fee	\$		\$
Discover	\$		\$
American Express	\$		\$
		Voice Authorization – Touchtone	\$
		Voice Authorization – Phone Operator	\$
		Voice Authorization – with AVS	\$
		Voice Authorization – Bank Referral	\$

MERCHANT PORTAL	
Primary MID: _____	No. of Locations: _____

POINT OF SALE EQUIPMENT HARDWARE OR SOFTWARE						
# of TIDs Required: _____	Gateway: _____	VAR Provider: _____			VAR Version: _____	
Quantity	Description	Purchase	Rental	Purchase Price	Total Rental Price	Rental Terms (Monthly)
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	

Please debit my bank account for all One Time Fees (as described below) as they become due
Void business cheque attached

Pre-Authorized Debit Agreement - One Time Fees

Merchant hereby authorizes PSP Services Inc. ("PSPS") and Merchant's financial institution to debit the account maintained by Merchant the details of which can be found on the attached void cheque, bank letter or pre-authorized debit form (the "Settlement Funds Account") for the purpose of paying all fees listed on Schedule A to this Agreement under the heading "One Time Fees" owing by Merchant to the Servicers under the Merchant Agreement. Fixed debits shall be made on or about the 5th business day following the date of the Merchant's monthly statement. **Merchant agrees to waive the right to receive any notice from PSPS of the amount of any debit to the Settlement Funds Account or the date on which any debit will be processed, and waives the right to receive notice of any and all future changes to the amounts or date of debits to the Settlement Funds Account.** Merchant acknowledges that PSPS will require written notice of any and all changes with respect to the Settlement Funds Account which has been designated by the Merchant for PADs to be drawn. Merchant acknowledges that this PAD Agreement and the debits authorized hereunder are for business purposes. Merchant acknowledges that this PAD Agreement will take effect when the Merchant signs and dates the signature field below and will be terminated if this Agreement is not approved by PSPS. Merchant may revoke this PAD Agreement at any time upon providing 30 business day's notice to PSPS. Upon revocation of this PAD Agreement and within 30 days of same, PSPS will cease issuing PADs in accordance with the terms of the PAD Agreement. To obtain a sample cancellation form, or for more information on the right to cancel a PAD Agreement, the Merchant may contact its financial institution or visit www.payments.ca. Revocation of this PAD Agreement does not terminate the Merchant Agreement. This PAD Agreement applies only to the method of payment of amounts due by Merchant under the Merchant Agreement and does not otherwise have any bearing on the Merchant Agreement. Merchant acknowledges that it has certain recourse rights if any debit does not comply with this Authorization. For example, Merchant has the right to receive reimbursement for any debit that is not authorized or is not consistent with this PAD Agreement. For more information, including recourse rights, related to this PAD Agreement, Merchant may contact its financial institution or visit www.payments.ca. Merchant acknowledges that this PAD Agreement will be governed by the laws of the Province of Ontario and the laws of Canada applicable in that Province. Merchant agrees that the court of the Province of Ontario will have exclusive jurisdiction over all matters arising at law or in equity.

Signature: _____ Date: _____

Please debit my bank account for all Other Service Fees (as described below) as they become due
Void business cheque attached

Pre-Authorized Debit Agreement - Other Service Fees

Merchant hereby authorizes PSP Services Inc. ("PSPS") and Merchant's financial institution to debit the account maintained by Merchant the details of which can be found on the attached void cheque, bank letter or pre-authorized debit form (the "Account") for the purpose of paying all fees listed on Schedule A to this Agreement under the heading "Transaction Fees", "Tiered Pricing", "Flat Rate", "Interchange Differential Rate" and "Other Variable Fees" (the "Other Service Fees") owing by Merchant to the Servicers under the Merchant Agreement. Variable debits shall be made on or about the 5th business day following the date of the Merchant's monthly statement. **Merchant agrees to waive the right to receive any notice from PSPS of the amount of any debit to the Account or the date on which any debit will be processed, and waives the right to receive notice of any and all future changes to the amounts or dates of debits to the Account.** Merchant acknowledges that PSPS will require written notice of any and all changes with respect to the Account which has been designated by the Merchant for PADs to be drawn. Merchant acknowledges that this PAD Agreement and the debits authorized hereunder are for business purposes. Merchant acknowledges that this PAD Agreement will take effect when the Merchant signs and dates the signature field below and will be terminated if this Agreement is not approved by PSPS. Merchant may revoke this PAD Agreement at any time upon providing 30 business day's notice to PSPS. Upon revocation of this PAD Agreement and within 30 days of same, PSPS will cease issuing PADs in accordance with the terms of the PAD Agreement. To obtain a sample cancellation form, or for more information on the right to cancel a PAD Agreement, the Merchant may contact its financial institution or visit www.payments.ca. Revocation of this PAD Agreement does not terminate the Merchant Agreement. This PAD Agreement applies only to the method of payment of amounts due by Merchant under the Merchant Agreement and does not otherwise have any bearing on the Merchant Agreement. Merchant acknowledges that it has certain recourse rights if any debit does not comply with this Authorization. For example, Merchant has the right to receive reimbursement for any debit that is not authorized or is not consistent with this PAD Agreement. For more information, including recourse rights, related to this PAD Agreement, Merchant may contact its financial institution or visit www.payments.ca. Merchant acknowledges that this PAD Agreement will be governed by the laws of the Province of Ontario and the laws of Canada applicable in that Province. Merchant agrees that the court of the Province of Ontario will have exclusive jurisdiction over all matters arising at law or in equity.

Signature: _____ Date: _____

Applicable to the Province of Quebec Only: Pursuant to the Charter of the French Language, a French version of this Agreement has been provided to the Merchant and upon reviewing same, it is the express wish of the Merchant and all parties to this Agreement that this Agreement, any and all other related documents be drawn up and executed in English. The Merchant acknowledges and consents to adhere to this Agreement, any and all other documents in English. In the event of a discrepancy between the French and English version of this Agreement, the Merchant acknowledges that the English text shall prevail.

EXCLUSIVEMENT APPLICABLE À LA PROVINCE DE QUÉBEC: Conformément à la Charte de la langue française, une version française du présent contrat a été fournie au marchand. Après l'avoir étudiée, ce dernier et toutes les parties au présent contrat souhaitent que le contrat et les documents soient afférents rédigés et signés en Anglais. De même, le marchand reconnaît et consent à adhérer à ce contrat et à tous les autres documents en Anglais s'y rapportant. En cas de divergence entre la version française et la version anglaise, il reconnaît et consent que le texte anglais prévaudra.

Signature: _____ Date: _____

By executing this Agreement on behalf of the merchant described above (“Merchant”), its principals and each of the individual(s) signing for the Merchant below represent(s), warrant(s), acknowledges(s) and agree(s) that: (i) all information contained in this Agreement is true, correct and complete as of the date of this Agreement; (ii) if the Merchant is a corporation, limited liability company, or partnership, the individual(s) executing this Agreement have the requisite legal power and authority to complete and submit this Agreement on behalf of the Merchant and to make and provide the acknowledgements, authorizations and agreements set forth herein on behalf of the Merchant and individually;

(iii) the information contained in this Agreement is provided for the purpose of obtaining, or maintaining, a merchant account for the Merchant with the Servicers. PSPS will rely on the information provided herein in its approval process and in setting the applicable Discount Rate and other fees contemplated herein; (iv) PSPS is authorized to investigate, either through our own agents or through credit bureaus/agencies, the credit of the Merchant and each person listed on this Agreement and any personally identifiable information collected through this Agreement and the credit verification process will be used and disclosed in accordance with PSPS Privacy

Policy and only for the purpose of determining eligibility for qualification as a Merchant and as required by law; (v) PSPS will determine the Discount Rate and all rates, fees and charges and notify Merchant of the approved fees and by Merchant’s submission and acceptance of Merchant’s first settled transaction, Merchant agrees to pay such approved fees; (vi) the Merchant Agreement will not take effect until Merchant has been approved by PSPS and a merchant number has been issued to the Merchant; and (vii) the Merchant has received, read, understood, the Merchant Agreement including: (A) the Agreement; (B) Schedule A hereto being the applicable rates and fees, which is incorporated herein by reference; (C) the Terms and Conditions, which are incorporated herein by reference; (D) the continuing personal guaranty set out below; and (E) the Payment Network Rules, as defined in the Terms and Conditions, and agrees, on behalf of the Merchant, to be bound by the such Merchant Agreement. Merchant acknowledges that PSPS will rely on the representations and warranties set forth in the Agreement and Merchant Agreement.

By signing below Merchant further acknowledges that they have read, understand and agree to be bound by the terms of the Payment Card Industry Security Standards Council standards (“PCI”) and other security standards described on at: <https://www.americanexpress.com/us/merchant/us-data-security.html> and https://www.discoverglobalnetwork.com/solutions/pci-compliance/pci-compliance-training/?search=srch_result_txt_1&srchQ=pci%20compliance

MERCHANT		PSP SERVICES	
Principal 1 Signature		Signature	
Printed Name		Printed Name	
Title	Date	Title	Date
Principal 2 Signature			
Printed Name			
Title	Date		

CONTINUING PERSONAL GUARANTY PROVISION – PERSONAL GUARANTOR

By signing below, each individual or entity (“Guarantor”) jointly and severally (if there is more than one Guarantor) and unconditionally guarantees to PSPS the prompt payment and full and complete performance of all obligations of the Merchant identified above under the Merchant Agreement, as amended from time to time, including, without limitation, all promises and covenants of the Merchant, and all amounts payable by the Merchant under the Merchant Agreement, including, without limitation, charges, interest, costs and other expenses, such as attorney’s fees and court costs. This means, among other things, that PSPS can demand performance or payment from any Guarantor if the Merchant fails to perform any obligation or pay what the Merchant owes under the Agreement. Each Guarantor agrees that his or her liability under this guaranty will not be limited or canceled because: (1) the Merchant Agreement cannot be enforced against the Merchant for any reason, including, without limitation, bankruptcy proceedings; (2) PSPS agrees to changes or modifications to the Merchant Agreement, with or without notice to Guarantor; (3) PSPS releases any other Guarantor or the Merchant from any obligation under the Merchant Agreement; (4) any law, regulation, or order of any public authority affects the rights of PSPS or the Merchant, under the Merchant Agreement; and/or (5) anything else happens that may affect the rights of PSPS against the Merchant or any other Guarantor. Each Guarantor further agrees that: (a) PSPS may delay enforcing any of its rights under this guaranty without losing such rights and hereby waives any applicable Statute of Limitations; (b) PSPS can demand payment from such Guarantor without first seeking payment from the Merchant or any other Guarantor; and (c) such Guarantor will pay all court costs, attorney’s fees, and collection costs incurred by PSPS in connection with the enforcement of the Merchant Agreement or this Guaranty, whether or not there is a lawsuit, and such additional fees and costs as may be directed by a court. If the Merchant is a corporation or limited liability company, this Guaranty must be executed by a principal or affiliate of Merchant. **The undersigned hereby authorizes any credit reporting agency or bureau to provide PSP Services, upon our request, with a credit bureau report that relating to the undersigned.**

Principal 1 Name	Signature	Date
Principal 2 Name	Signature	Date

MERCHANT INITIALS _____

TERMS AND CONDITIONS

PSP Services



Terms And Conditions

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Terms And Conditions

Subject to the requirements of applicable Payment Network Rules, PSP Services (“Processor”) may allocate its respective duties and obligations as appropriate and at their sole discretion and PSP Services may assert or exercise the rights or remedies provided to PSP Services hereunder. This Merchant Agreement contains the terms and conditions under which PSP Services and/or other third parties will service the merchant. This Merchant Agreement also includes the Merchant Application, signed by the Merchant. A French version of this Merchant Agreement has been provided to the Merchant and upon reviewing same, it is the express wish of the Merchant and all parties to this Merchant Agreement that this Merchant Agreement, any and all other related documents be drawn up and executed in English. The Merchant acknowledges and consents to adhere to this Merchant Agreement, any and all other related documents in English. In the event of a discrepancy between the French and English version of this Merchant Agreement, the Merchant acknowledges that the English text shall prevail. Une version française du présent marchand contrat a été fournie au marchand. Après l’avoir étudiée, ce dernier et toutes les parties au présent contrat souhaitent que le contrat et les documents soient afférents rédigés et signés en Anglais. De même, le marchand reconnaît et consent à adhérer à ce contrat et à tous les autres documents en Anglais s’y rapportant. En cas de divergence entre la version française et la version anglaise, il reconnaît et consent que le texte anglais prévaudra.

1.PSP Services Merchant Agreement Terms and Conditions

1.1 Definitions

“**Account**” means a commercial chequing or demand deposit account maintained by Merchant at a branch in Canada of a Canadian financial institution (and referred to in the section hereof entitled “Deposit Account”) for the crediting of collected funds and the debiting of fees and charges under the Merchant Agreement.

“**Authorization**” means a computerized function or a direct phone call to a designated number to examine individual Transactions to obtain approval from the Card Issuer to charge or debit the Card for the sale.

“**Branded Card**” means a Visa or MasterCard branded card or an Interac debit card.

“**Business Day**” means Monday to Friday, not including statutory holidays in the Province of Ontario.

“**Card**” means, (i) a valid credit or debit card bearing the “Visa”, “**MasterCard**” or “Interac” branded marks; or (ii) any other valid credit or debit card accepted by Merchant by agreement with PSP Services.

“**Payment Network**” means Visa, MasterCard, Interac, or any other brand in conjunction with which Card Issuers provide Cards accepted by Merchant by agreement with PSP Services.

“**Payment Network Rules**” means the respective and collective by-laws, rules, regulations, operating manuals, operating letters and policies, and cardholder data security standards, as such may be amended from time to time, and established and imposed by Payment Networks in respect of Cards.

“**Card Issuer**” means the financial institution or company which has provided a Card to a Cardholder.

“**Card Not Present**” or “**CNP**” means that an Imprint of the Card is not obtained at the point POS Device.

“**Cardholder**” means the person whose name is embossed upon the face of the Card, or other authorized users of the Card.

“**Cardholder Information**” means any non-public, personally identifiable information about a Cardholder, including any combination of Cardholder name plus the Cardholder’s social insurance number, driver’s license or other identification number or credit or debit card number, or other bank account number.

“**Chargeback**” means the procedure by which a Sales Draft (or disputed portion thereof) is returned to PSP Services by a Card Issuer because such item does not comply with the applicable Card plan’s operating regulations.

“**Credit Voucher**” means a document executed by a Merchant evidencing any refund or price adjustment relating to Cards to be credited to a Cardholder account.

“**Data Security Event**” means an event that may have significance to the security of systems or data.

“**Data Privacy Requirements**” means Laws and guidelines pertaining to privacy such as the Personal Information Protection and Electronic Documents Act, Payment Network bylaws, operating regulations

and rules related to data security, data integrity and the safeguarding of Cardholder Information including the Payment Card Industry Data Security Standard (“PCI”), MasterCard’s Site Data Protection Program (“SDP”), Visa’s Customer Information Security Program (“CISP”), Interac requirements and such other reasonable requirements provided by PSP Services from time to time.

“**EFT**” means the Electronic Funds Transfer system managed by the Canadian Payments Association.

“**Event of Default**” has the meaning has the meaning and referred to in section set out in hereof entitled “Termination for Cause”.

“**Imprint**” means (i) an impression on a Sales Draft manually obtained from a Card using an imprinter, or (ii) the electronic equivalent obtained by swiping or dipping a Card through a terminal and electronically capturing Card Data and printing a Sales Draft.

“**Interac**” means the Interac Association.

“**Law**” or “**Laws**” means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, statutory rules, principles of law, published policies and guidelines, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and the terms and conditions of any grant of approval, permission, authority or license of any governmental authority, including without limitation, all consumer credit and consumer protection Laws, and anti-money laundering Laws; and the term “applicable” with respect to Laws and in a context that refers to one or more persons, means that the Laws apply to the person or persons, or its or their business, undertaking or property, and emanate from a governmental authority having jurisdiction over the person or persons or its or their business, undertaking or property.

“**MasterCard**” MasterCard International Incorporated.

“**Merchant Agreement**” means the Merchant Application once approved and accepted by PSP Services together with these Terms and Conditions, and any supplementary documents referenced herein, and all schedules and amendments to the foregoing.

“**Merchant Guide**” means the PSP Services guide related to the Merchant Agreement and such other policies and guidelines as PSP Services may provide to the Merchant.

“**Non-Qualifying Transaction**” means any sale Transaction that fails to qualify for lowest interchange rate assigned by the applicable Payment Network for Merchant’s standard card industry code.

“**Outlet’s Permanent Establishment**” means the establishment where the merchant conducts their business and the terminal will reside

“**Payment Card Industry**” a network that enables acceptance of credit and/or debit cards bearing the network’s brand by providing connections between merchants, acquirers and financial institutions that issue payment cards.

“**POS Device**” means terminal, software or other point-of-sale device at a Merchant location that conforms to the requirements established from time to time by PSP Services and Payment Network Rules.

Terms And Conditions

“Qualifying Transaction” means any sale Transaction that is not a Non-Qualifying Transaction.

“Representative(s)” means any employee, service provider, subcontractor, agent, representative, contractor, associate, officer, director, principal of Merchant or any other third party engaged by Merchant.

“Reserve Account” has the meaning and referred to in section set out in hereof entitled “Reserve Account”. **“Retrieval”** means responding to requests for documentation relating to a Transaction.

“Sales Draft” means the paper form, whether electronically or manually imprinted, evidencing a Transaction.

“Scrip” means any substitute for currency which is not legal tender.

“Schedule A” means Schedule A – Fee Disclosure set out in the in the Merchant Application.

“Schedule B” means Schedule B – Pricing Information set out in the Merchant Application.

“Schedule C” means Schedule C – Other Fees set out in the Merchant Application.

“Settlement Funds Account” the bank account information that is submitted along with the Merchant Agreement for settlement of any fees and funding.

“Current Account” same as Settlement Funds account. **“Transaction”** means action between Merchant and a Cardholder using a Card that results in actual or attempted activity on the Cardholder’s account (e.g., payment, purchase, refund, or return) hereunder.

“Visa” means Visa U.S.A., Inc. or Visa Canada, Inc.

“Voice Authorization” means a direct phone call to a designated number to obtain credit approval on a Transaction from the Card Issuer, whether by voice or voice-activated systems.

1.2 Card Acceptance

(a) HONORING CARDS

Merchant will accept all Cards when properly presented by Cardholders in payment for goods or services, subject to applicable Payment Network Rules including but not limited to those requiring Merchant to elect whether to accept credit only, debit only or both debit and credit Cards. Merchant’s election in that regard is set forth in the Application. Merchant may not establish minimum or maximum amounts for Card sales as a condition for accepting any Card. Merchant may not require any Cardholder to pay any part of any discount rate or other charge imposed upon Merchant by the Merchant Agreement, whether through imposition of a price increase not imposed on cash paying customers or through imposition of any charges not imposed on cash paying customers. However, nothing herein shall prevent Merchant from offering (i) discounts to customers for cash purchases or (ii) differential discounts to customers among different Payment Networks to the extent permitted by the Payment Networks. Merchant may not engage in a Transaction (other than a mail, internet, telephone order, or preauthorized sale to the extent permitted under the Merchant Agreement) if the person seeking to charge the purchase to their Card account does not present the Card to permit Merchant to compare the signature on the Card to the signature on the Sales Draft and obtain an Imprint or otherwise use the physical Card to complete the Transaction. Merchant must not engage in any acceptance practice that discriminates against or discourages the use of a Card in favor of any other acceptance brand.

(b) ADVERTISING

Merchant should clearly and prominently display their name and location country to the cardholders at all points of interaction. Merchant will prominently display the promotional materials provided by PSP Services in its place(s) of business at the Point-of-Interaction, wherever payment options are presented. Merchant’s use of promotional materials and use of any trade name, trademark, service mark or logo type (“Marks”) associated with a Card is limited to informing the public that the Card will be accepted at Merchant’s place(s) of business. Merchant’s use of promotional materials and Marks is subject to PSP Services’ direction and to the Payment Network Rules including the location of display and other requirements relating to the reproduction, usage, and artwork of the Payment Network Marks. The Payment Network Marks for each Payment Network must be clearly visible at the POI displayed at parity. The Payment Network is the sole and exclusive owner of the Marks. Merchant agrees not to contest such ownership for any reason. Merchant may use promotional materials and Marks only during the term of the Merchant Agreement and will immediately cease use and return any inventory to PSP Services’ upon termination thereof. Merchant acknowledges and agrees that: (a) PSP Services is responsible for Merchant’s Card acceptance policies and procedures and may require Merchant to make changes to its website or otherwise to ensure that Merchant remains in compliance with the Payment Network Rules governing the use of the Payment Network Marks and (b) the Payment Network may at any time, immediately and without advance notice, prohibit Merchant from using that Payment Network’s Marks for any reason. Merchant may not use any promotional materials or Marks associated with a Payment Network in any way which suggests or implies that the Payment Network endorses any goods or services other than Card services.

(c) CARD ACCEPTANCE

When accepting a Card, Merchant will follow the steps provided by PSP Services for accepting Cards and will:

- a) Determine in good faith and to the best of its ability that the Card is valid on its face;
- b) obtain Authorization from the Card Issuer to charge the Cardholder’s account;
- c) unless the Sales Draft is electronically generated or is the result of a mail, internet, phone or preauthorized order,
 - (i) obtain an Imprint of the Card including embossed data from the merchant Imprinter; and,
 - (ii) except where Cardholder verification requires the processing of the Cardholder’s PIN, obtain the Cardholder’s signature on the Sales Draft and compare that signature to the signature on the Card, where Cardholder verification requires the processing of the Cardholder’s PIN, in lieu of obtaining the Cardholder’s signature, Merchant shall have the Cardholder enter Cardholder’s PIN to process the Transaction;
- d) enter a description of the goods or services sold and the price thereof (including any applicable taxes);
- e) deliver a true and completed copy of the Sales Draft to the Cardholder at the time the goods are delivered, or services performed, or, if the Sales Draft is prepared by a POS Device, at the time of the sale; and,

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- f) offer the Sales Draft to PSP Services for purchase according to procedures and the terms of the Merchant Agreement. Merchant must ensure that the Cardholder is easily able to understand that the Merchant is responsible for the Transaction, including delivery of the goods (whether physical or digital) or provision of the services that are the subject of the Transaction, and for customer service and dispute resolution, all in accordance with the terms applicable to the Transaction.

Merchant may request but not require Cardholders to provide additional identification information as a condition of Card acceptance, unless such information is required to complete the Transaction, or as specifically permitted by the Payment Network Rules.

(d) AUTHORIZATION

Merchant will obtain an Authorization for all Card sales. If Merchant cannot, for any reason, obtain an electronic Authorization using a terminal, Merchant will request a Voice Authorization from PSP Services designated authorization center and will legibly print the Authorization number on the Sales Draft or add it to a secure electronic representation thereof. Merchant will not obtain or attempt to obtain Authorization from PSP Services' authorization center unless Merchant intends to submit to PSP Services a Transaction for the authorized amount if Authorization for the Transaction is given. Merchant may not divide a single Transaction between two or more Sales Drafts on a single Card to avoid Authorization limits that may be set by the Card Issuer. Merchant acknowledges that an Authorization provides only that the Cardholder account has sufficient credit available to cover the amount of the current sale and that an Authorization is not a guarantee that the Transaction will not be subject to dispute or Chargeback and does not warrant the Cardholder's identity.

Merchant may not attempt to obtain an Authorization by successively decreasing the sale amount. PSP Services may refuse to purchase or process any Sales Draft presented by Merchant:

- a) unless a proper Authorization code or approval code has been recorded on the Sales Draft;
- b) if PSP Services determines that the Sales Draft is or is likely to become uncollectible from the Cardholder to which the Transaction would otherwise be charged; or,
- c) if PSP Services has reason to believe that the Sales Draft was prepared in violation of any provision of the Merchant Agreement. Merchant will use, and may not circumvent, fraud identification tools requested by PSP Services, including Address Verification System processing, CVC2/CVV2 processing and acknowledges that the use of these tools may prevent Merchant from accepting certain Cards as payment. Merchant acknowledges that its use of fraud identification tools may not prevent fraudulent Card usage and agrees that any fraudulent Transaction may ultimately result in a Chargeback, for which Merchant retains full liability under the Merchant Agreement.

(e) RETENTION OF CARDS

Merchant will use its best efforts, by reasonable and peaceful means, to retain or recover a Card when receiving such instructions when making a request for Authorization or if Merchant has reasonable

grounds to believe the Card is counterfeit, fraudulent or stolen.

Merchant's obligations under

this section do not authorize a breach of the peace or any injury to persons or property, and Merchant will hold PSP Services harmless from any claim arising from any injury to person or property or other breach of the peace in connection with the retention or recovery of a Card.

(f) MULTIPLE TRANSACTION RECORDS: PARTIAL CONSIDERATION

Merchant may not prepare more than one Sales Draft for a single sale or for a single item but will include all items of goods and services purchased in a single Transaction in the total amount on a single Sales Draft except under the following circumstances:

- (a) for purchases in separate departments of a multiple department store;
- (b) for partial payment, installment payment, delayed delivery or an advance deposit; or,
- (c) for delayed or amended charges governed by Payment Network Rules for travel and entertainment merchants and Transactions

(g) INTERNET, TELEPHONE ORDERS, MAIL ORDERS, PREAUTHORIZED ORDERS AND INSTALLMENT ORDERS

Unless Merchant has been approved by PSP Services to accept mail, internet or telephone orders, Merchant warrants that it shall submit only Transactions related to its walk-in trade business, located in a retail business place where the public moves in and out freely in order to purchase merchandise or obtain services. If PSP Services determines Merchant has accepted unapproved Card Transactions which are placed by internet, telephone, generated through telephone solicitation or mail order or through other means that do not create a Sales Draft that bears the Card Imprint and Cardholder's signature, PSP Services may immediately terminate the Merchant Agreement, debit back to Merchant all such unapproved Card Transactions from the first day of processing hereunder and exercise all other rights hereunder to protect against loss, including but not limited to, withholding funds, establishing a Reserve Account, demanding other security, foreclosing on security interests and exercising all rights triggered by the termination of the Merchant Agreement. Unless approved by PSP Services, the Merchant Agreement does not contemplate acceptance of Cards for preauthorized orders or for orders generated by mail, internet or telephone. If an occasional Card Transaction is made by mail, phone or preauthorized order, the Sales Draft may be completed without the Cardholder's signature or an Imprint, but in such case Merchant will create a sales slip containing Cardholder data, an Authorization number, the sale amount and the letters "MO", "TO", "IO", as appropriate. Receiving an Authorization will not relieve the Merchant of liability for Chargebacks.

(h) TRANSACTION RECEIPT DATA REQUIREMENTS:

The Transaction receipt to be delivered to a Cardholder by an eCommerce Merchant or for a mail order or telephone order Transaction must include the following:

- a. The Merchant name must be recognizable to the Cardholder, e.g.:
 - I. Merchant Doing Business As ("DBA"),
 - II. Merchant Universal Resource Locator ("URL"), or

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III. The Merchant name used in the Transaction Clearing Record;

- b. Customer service number(s) for goods or services delivered domestically or internationally;
- c. The Terms and Conditions of restricted sales; and
- d. If offered, the exact date a free trial period expires.

(i) WEB SITE REQUIREMENTS FOR ECOMMERCE

MERCHANTS:

A web site operated by an eCommerce Merchant must contain all the following information:

- a) The name of the Merchant, so that the Cardholder can easily distinguish the Merchant from any other party, such as a supplier of products or services to the Merchant. The Merchant must prominently and clearly disclose to the Cardholder at all points of interaction:
- b) Complete description of the products or services offered;
- c) Return merchandise and refund policy; which includes the communication of the return policy during the order process and the requirement that the cardholder must be allowed to select a “click to accept” option or other affirmative but on to acknowledge the policy;
- d) Terms and conditions;
- e) Customer service contact including e-mail address or telephone number;
- f) Transaction currency;
- g) Export or legal restrictions;
- h) Delivery policy;
- i) Consumer data privacy policy;
- j) The security method offered for transmission of payment data such as Secure Sockets Layer or 3-D Secure; and
- k) Address of the Merchant Outlet’s Permanent Establishment. The location (physical address) of the Merchant to enable the Cardholder to easily determine, among other things, whether the Transaction will be a Domestic Transaction or a Cross-border Transaction. The Merchant location must be disclosed before the Cardholder is prompted to provide Card information.

(j) BONA FIDE PURCHASES BY MERCHANT TO THE CARDHOLDER

Merchant must estimate and obtain Authorization for the Transaction based upon the Cardholder’s intended length of stay at hotel, car rental, restaurant(s) (and/or approximate tip/gratuity). Additional Authorization must be obtained and recorded for charges actually incurred in excess of the estimated amount. Regardless of the terms and conditions of any written preauthorization form, the Sales Draft amount for any lodging, vehicle rental or restaurant Transaction must include only that portion of the sale, including any applicable taxes evidencing a bona fide sale by Merchant to the Cardholder and may not include any consequential charges. Nothing contained herein is intended to restrict Merchant from enforcing the terms and conditions of its preauthorization form through means other than a Card Transaction.

(k) RETURNS AND ADJUSTMENTS; CREDIT VOUCHERS

Merchant’s policy for exchange or return of goods sold and for adjustments for services rendered will be established and posted in

accordance with the applicable Payment Network Rules. Merchant will disclose to a Cardholder before a Card sale is made, where applicable; if merchandise is returned

- (i) no refund, or less than a full refund, will be given
- (ii) returned merchandise will only be exchanged for similar merchandise of comparable value; or,
- (iii) only a credit toward purchases will be given, and that special conditions or circumstances apply to the sale (e.g., late delivery, delivery charges, restocking fees, or other non-credit terms). If Merchant does not make these disclosures, a full refund in the form of a credit to the Cardholder’s Card account must be given upon the Cardholder’s request. The above disclosures must be made on all copies of Sales Drafts or invoices in each case in letters approximately 1/4” (64 mm) high and, with respect to all Sales Drafts and all invoices requiring a signature, in close proximity to the space provided for the Cardholder’s signature. Any change in Merchant’s return, cancellation or adjustment policies must be submitted in writing to PSP Services not less than 14 days prior to the change.

PSP Services may refuse to process any Sales Draft made subject to a revised return, cancellation or adjustment policy.

(l) CASH PAYMENTS

Merchant may not receive any payment from a Cardholder for charges included in any Transaction nor receive any payment from a Cardholder to prepare and present a Transaction for the purpose of affecting a credit to the Cardholder’s Card account.

(m) CASH ADVANCES; SCRIP PURCHASES

Merchant may not present to PSP Services for collection any Transaction for the purpose of obtaining or providing a cash advance either on Merchant’s Card or the Card of any other party; or accept any Card at a Scrip terminal. Violation of either clause of this section is grounds for immediate termination of the Merchant Agreement between PSP Services and Merchant, without prior notice or opportunity to cure.

(n) DUPLICATE TRANSACTIONS

Merchant may not present to PSP Services for collection duplicate Transactions. PSP Services may debit Merchant for any duplicate Transaction adjustments and Merchant is liable, without limitation, for any Chargebacks resulting therefrom.

(o) PRESENTMENT OF FRAUDULENT TRANSACTIONS

Merchant may not accept or present to PSP Services for collection any fraudulent Transaction and may not under any circumstances present for processing or credit, directly or indirectly, Transactions originated with any other merchant or other third party. Merchant may accept only Transactions arising from bona fide purchases from Merchant for the goods and services for which Merchant has been approved under the Merchant Agreement. If Merchant presents to PSP Services for collection any prohibited Transaction, PSP Services may, at its discretion immediately terminate the Merchant Agreement, without prior notice or opportunity to cure, and/or, withhold funds and establish or modify a Reserve Account as provided herein; and/or report Merchant to MATCH file, and any Interac equivalent. Merchant’s

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employees' actions are chargeable to Merchant under the Merchant Agreement.

(p) COLLECTION OF PRE-EXISTING DEBT

Merchant may not prepare and present to PSP Services for collection any Transaction representing the refinancing of an existing Cardholder obligation including, but not limited to, obligations previously owed to Merchant, arising from the dishonor of a Cardholder's personal cheque or relating to a Chargeback, or representing the collection of any other pre-existing indebtedness, including collection of delinquent accounts on behalf of third parties.

(q) DATA SECURITY PERSONAL/CARDHOLDER INFORMATION

Merchant may not, as a condition of sale, impose a requirement on Cardholders to provide any personal information as a condition for honoring Cards unless such information is required to provide delivery of goods or services or Merchant has reason to believe the identity of the person presenting the Card may be different than that of the Cardholder. Merchant will not, under any circumstances, release, sell or otherwise disclose any Cardholder Information to any person other than PSP Services or the applicable Payment Network, except as expressly authorized in writing by the Cardholder, or as required by law.

(r) SAFEGUARDS

Merchant will maintain appropriate administrative, technical and physical safeguards for all Cardholder Information. These safeguards will:

- a. Insure the confidentiality of Cardholder Information
- b. Protect against any anticipated threats or hazards to the security or integrity of Cardholder Information
- c. Protect against unauthorized access to or use of Cardholder Information that could result in substantial harm or inconvenience to any Cardholder; and,
- d. Properly dispose of all Cardholder Information to ensure no unauthorized access to Cardholder Information. Merchant will maintain all such safeguards applicable to Merchant in accordance with Data Privacy Requirements and applicable Laws. Merchant must promptly report the use of any third parties, defined as any entity that is not a member of a Payment Network but has a direct relationship with a Merchant, and which has access to Cardholder data and performs such services such as gateway, fraud scrubbing, programs, etc. PSP Services is required by Payment Network Rules to register the third party with Payment Network and ensure that the third party is documented compliant with the Payment Card Industry requirements.

(s) COMPLIANCE WITH DATA PRIVACY REQUIREMENTS AND PAYMENT NETWORK DATA SECURITY

Merchant represents, warrants and covenants that it is and will remain throughout the term of the Merchant Agreement in compliance with obligations pertaining to the collection, use, disclosure, retention of Cardholder Information including, data security, data integrity and the safeguarding of such information as set out in the Data Privacy Requirements in effect and as may be amended, supplemented or replaced. Merchant will maintain appropriate administrative, technical

and physical safeguards for all Cardholder Information. These safeguards will:

- a) insure the confidentiality of Cardholder Information;
- b) protect against any anticipated threats or hazards to the security or integrity of Cardholder Information;
- c) protect against unauthorized access to or use of Cardholder Information that could result in substantial harm or inconvenience to any Cardholder; and,
- d) properly dispose of all Cardholder Information to ensure no unauthorized access to Cardholder Information. Merchant will always cause all its Representatives to comply with the Data Privacy Requirements. Merchant will report any non-compliance immediately to PSP Services. To help accomplish the foregoing, Merchant and its Representatives will encrypt, at appropriate standards required by the Data Privacy Requirements, all debit, credit or stored value card numbers whether in storage, transport or backup and will not store data security codes on its systems, network or software.

Merchant shall not use Cardholder Information to create or maintain a repository of primary account numbers ("PANS") or map Card tokens to PANs for any purpose.

(t) ANNUAL CERTIFICATION

Merchant will provide, if requested by PSP Services, annual certification to PSP Services (in a form acceptable to PSP Services) certifying its and its Representatives compliance with the Data Privacy Requirements and other data security provisions of the Merchant Agreement.

(v) INFORMATION USE LIMITATIONS

Merchant may not sell, disclose, or otherwise make Cardholder Information available, in whole or in part, in a manner not provided for in the Merchant Agreement, without PSP Services prior written consent. Merchant may, however, transfer Cardholder Information to its Representatives who have a need to know such information to enable PSP Services to provide the services described in the Merchant Agreement provided that such individuals or entities have agreed in writing to be bound by the confidentiality obligations and data security provisions herein, including compliance with Data Privacy Requirements and other applicable Laws.

(w) RESPONSE TO UNAUTHORIZED ACCESS

Merchant will immediately notify PSP Services of its knowledge or suspicion of any breach in security resulting in unauthorized access to Cardholder Information. Merchant will, provide any assistance that PSP Services, the issuing bank of any Cardholder, and their regulators and the Payment Networks deem necessary to contain and control the incident to prevent further unauthorized access to or use of Cardholder Information. Such assistance may include, but not be limited to, preserving records and other evidence, compiling information to enable PSP Services and the issuing bank or the Payment Networks to investigate the incident and aiding and cooperation to facilitate the ability of the issuing bank to:

- (a) file suspicious activity reports (as applicable)
- (b) notify their regulators (as applicable); and,
- (c) notify the affected Cardholder (as required).

Under no circumstances will Merchant admit any liability, assume any financial obligation, pay any money, or incur any expense in connection

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with any Data Security Event without PSP Services' prior written consent. If Merchant does, Merchant will bear all costs associated therewith, including but not limited to the cost of notifying the affected Cardholder(s).

(x) ACCESS REQUESTS AND COMPLAINTS

Merchant will cooperate with PSP Services in any request for access to Cardholder Information by an individual and in responding to any complaints or investigations by individuals, Payment Networks or regulators or with respect to Cardholder Information.

(y) MISCELLANEOUS

Merchant may not make a claim against PSP Services or hold PSP Services liable for the acts or omissions of others, including but not limited to Merchants, Representatives, Payment Networks, and financial institutions. These provisions supplement, augment and are in addition to obligations of indemnification, audit, confidentiality and other similar provisions contained in the Merchant Agreement. Merchant may not store in any system or in any manner Card read data, including without limitation CVV2/CVC2 data, PIN data, address verification data or any other information prohibited by Payment Network Rules and/or Data Privacy Requirements.

(z) SURVIVAL

Merchant obligations pertaining to Data Privacy Requirements and Cardholder Information contained in the Merchant Agreement will survive indefinitely beyond termination of the Merchant Agreement.

(aa) COMPLIANCE WITH PAYMENT NETWORK RULES

Merchant represents, warrants and covenants that it is and will remain in compliance with Payment Network bylaws, operating regulations and rules related to data security, data integrity and Payment Card Industry Data Security Standards ("PCI-DSS"), Visa's Customer Information Security Program ("CISP"), Discover's Information Security and Compliance (DISC) program, MasterCard's Site Data Protection Program ("SDP") and the American Express Data Security Requirements ("DSR") in effect, and Merchant will cause all of its service providers, subcontractors and agents to comply with PCI, SDP, CISP, DSR and DISC requirements at all times. Merchant will report any non-compliance immediately to PSP Services. To accomplish the foregoing, Merchant will encrypt all debit, credit or stored value card numbers whether in storage, transport or backup and will not store data security codes on its systems, network or software.

Merchant shall comply with and conduct its Card activities in accordance with all applicable Laws, Payment Network Rules and the Merchant Guide, as such rules and regulations may be amended from time to time whether Merchant has been informed of any such amendment. Failure to comply with such rules and regulations may result in Merchant being terminated for cause and listed on various Payment Network and industry databases, including the Terminated Merchant File and the Merchant Alert to Control High Risk Merchants file maintained by MasterCard or Visa (collectively as "MATCH") and any Interac or other Payment Network equivalent. With respect to MasterCard, Visa and Interac, Merchant may not:

- (a) accept Cardholder payments, cash or otherwise, for previous Card charges incurred at the Merchant location for goods or services of the Merchant itself;

(b) establish a minimum or minimum transaction amount as a condition for honoring a Card;

(c) require a Cardholder to complete a postcard or similar device that includes the Cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed;

(d) add any surcharge to Transactions;

(e) add any tax to Transactions, unless applicable Law expressly requires that Merchant impose such tax (and, in such cases, such tax must be included in the transaction amount and not collected separately);

(f) deposit or submit to PSP Services any Sales Draft or Credit Voucher for a Transaction that was previously charged back to PSP Services and subsequently returned to Merchant, irrespective of Cardholder approval (Merchant may pursue payment from the Cardholder outside the Payment Network system);

(g) request or use a Card or other account number of any purpose other than as payment for its goods or services;

(h) disburse funds in the form of travelers' cheques, if the sole purpose is to allow the Cardholder to make a cash purchase of goods or services from Merchant;

(i) disburse funds in the form of cash, unless:

(i) Merchant is a lodging or cruise line merchant disbursing cash to a Cardholder;

(ii) Merchant is dispensing funds in the form of travelers' cheques or foreign currency, or

(iii) Merchant is participating in a Payment Network cash back service;

(j) accept a Card for the purchase of Scrip;

(k) accept a Card for manual cash disbursement;

(l) accept a Card to collect or refinance existing debt;

(m) enter into a Transaction that represents collection of dishonored cheque;

(n) prohibit against depositing a credit transaction without a preceding debit; and,

(o) must not impose, as a condition of acceptance, a requirement that the Cardholder waive a right to dispute a Transaction with its issuer. Merchant will pay all Payment Network fines, fees, penalties and all other assessments or indebtedness levied by Payment Networks to PSP Services which are at ributable, at PSP Services' discretion, to Merchant's Transaction processing or business.

Merchant acknowledges and agrees that the Payment Network has the right to enforce any provision of the Payment Network Rules and to prohibit Merchant from engaging in any conduct that the Payment Network deems could injure (or create a risk of injury) to the Payment Network, including injury to reputation. Merchant will not take any action that could interfere with or prevent the exercise of this right by the Payment Network.

(bb) MERCHANT'S BUSINESS

PSP Services, shall hold, administer, and control all settlement funds for the Merchant and reserve funds derived from settlement. In the course of doing business, the Merchant may incur charges from PSP Services, PSP Services, at its sole option, may,

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(i) on a monthly basis, electronically debit Merchant's bank account for payment of the charges, or
 (ii) deduct the charges from any funds payable to the Merchant by PSP Services. If any electronic debit is rejected for any reason, PSP Services may make demand on Merchant for immediate payment. Additionally, PSP Services may collect for any rejected electronic debit or any other amount owed by Merchant to PSP Services by applying and setting off against such amounts owed, any other amounts that may be due and payable to Merchant pursuant to this Agreement or any other agreement between Merchant and PSP Services. Merchant will notify PSP Services immediately if it intends to, and prior to taking of any steps to:

- (a) transfer or sell a substantial part of its assets, or liquidate;
- (b) change the basic nature of its business, including selling any products or services not related to its current business;
- (c) change ownership or transfer control of 10% or more of its business;
- (d) enter into any joint venture, partnership or similar business arrangement whereby any person or entity not a party to the Merchant Agreement assumes any interest in Merchant's business;
- (e) alter in any way Merchant's approved monthly volume, average ticket, or maximum ticket;
- (f) changes its return policies or fulfillment house from those identified in the Merchant Application;
- (g) any substantial change in the volume of Transactions in respect of domestic versus foreign purchases; or
- (h) adds any outlet operations to its business in respect of the same products and/or services being offered by Merchant. Merchant will immediately notify PSP Services in writing if it becomes subject to any voluntary or involuntary bankruptcy or insolvency petition or proceeding. Merchant's failure to provide notice as required above may be deemed a material breach and will be sufficient grounds for termination of Merchant and for PSP Services' exercise of all its rights and remedies provided by the Merchant Agreement. If any change listed above occurs, PSP Services may, at its sole discretion, immediately terminate the Merchant Agreement. Merchant further acknowledges and agrees that PSP Services may, at its sole discretion, withhold funds (set lement or otherwise) or temporarily suspend processing under the Merchant Agreement if PSP Services, in its sole discretion, determines that such withholding or suspension is required to protect PSP Services or any other entity from potential losses or if there exist material variances from the disclosures on the Merchant application in

- (i) the nature of Merchant's business,
- (ii) the type of or composition of Card processing conducted, or
- (iii) the actual average ticket size or actual monthly volume amount. If (A) such variances exist, (B) Merchant does not swipe or dip credit card or debit card through POS terminals, (C) Merchant does not receive authorization for Transactions, (D) PSP Services receives excessive Retrieval requests against Merchant's prior activity, or (E) excessive Chargebacks are debited against Merchant's prior activity, then PSP Services may delay or withhold set lement of funds for a period not less than 180 days or until PSP Services is reasonably certain fraud or other activity detrimental to PSP Services has not occurred. PS Services' right to withhold set lement funds as set forth herein survives termination of the Merchant Agreement. Merchant must immediately contact PSP

Services if material variances from the average ticket size or monthly volume occur. For purposes hereof, PSP Services' determination of materiality shall be binding upon Merchant which determination is made at the sole discretion of PSP Services.

(cc) MERCHANT WARRANTIES

Merchant represents, warrants and covenants that (a) all information contained in the Merchant Application or any other documents delivered to PSP Services in connection therewith is true and complete and properly reflects Merchant's business, financial condition and principal partners, owners and officers; Merchant has power to execute, deliver and perform the Merchant Agreement, and the Merchant Agreement is duly authorized, and will not violate any provisions of law, or conflict with any other agreement to which Merchant is subject; (b) Merchant holds all licenses, if any, required to conduct its business and is qualified to do business in every jurisdiction where it is required to do so; (c) there is no action, suit or proceeding at law or in equity now pending or, to Merchant's knowledge, threatened by or against or affecting Merchant which would substantially impair its right or ability to carry on its business as now conducted or adversely affect its financial condition or operations or the entering into of the Merchant Agreement; during the term of the Merchant Agreement, (d) each Sales Draft presented to PSP Services for collection will be genuine and will not be the result of any fraudulent or prohibited Transaction or will not be presented on behalf of any business other than Merchant as authorized by the Merchant Agreement; (e) each Sales Draft will be the result of a bona fide Card Transaction for the purchase of goods or services from Merchant by the Cardholder in the total amount stated on the Sales Draft which goods and services are sold or offered in the ordinary course of business of the Merchant; (f) Merchant has performed or will perform all of its obligations to the applicable Cardholder in connection with each Card Transaction; (g) Merchant has complied (and will comply) with PSP Services' procedures for accepting Cards, and each Card Transaction itself will not involve any element of credit for any purpose other than as set forth in the Merchant Agreement, and will not be subject to any defense, dispute, offset or counterclaim which may be raised by any Cardholder under the Payment Networks' Rules, under any applicable consumer protection legislation or any other relevant provincial or federal statutes or regulations; (h) any Credit Voucher which it issues and will issue, will represent a bona fide refund or adjustment on a Card sale by Merchant with respect to which a Sales Draft has been accepted by PSP Services; (i) each Sales Draft presented to PSP Services shall have been obtained and presented in a manner that is compliant with the Payment Network Rules; (j) no Sales Draft submitted to PSP Services shall have been previously submitted, in whole or in part, to any third party; (k) each Sales Draft submitted hereunder shall be in respect of goods or services of the Merchant that are legal in Canada and where the Cardholder resides; and (l) no Sales Draft submitted to PSP Services shall be in respect of a Cardholder who is shareholder, director, officer, employee, agent or representative of Merchant or any of its affiliates.

(dd) CANADIAN TRANSACTIONS ONLY

Merchant shall ensure that all Transactions processed under the Merchant Agreement will originate from original sales Transactions within Canada; and without limiting the generality of the foregoing, in no event will Merchant send a Sales Draft to PSP Services deemed by a

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Payment Network to be originating from any country other than Canada.

1.3 Presentment, Payment, Chargeback

(a) ACCEPTANCE

PSP Services will accept from Merchant all Sales Drafts presented under the terms of the Merchant Agreement and will present the same to the appropriate Card Issuers for collection against Cardholder accounts. Merchant must transmit Sales Drafts and Credit Vouchers to PSP Services or its processing vendor on the same or next business day immediately following the day that such Sales Drafts and Credit Vouchers have been originated and via electronic data transmission in accordance with PSP Services' formats and procedures. All presentment and assignment of Sales Drafts, collection therefor and reassignment or rejection of such Sales Drafts are subject to the terms of the Merchant Agreement and regulations of the Payment Network. PSP Services will only provisionally credit the value of collected Sales Drafts to Merchant's Account and reserves the right to adjust amounts collected to reflect the value of Chargebacks (actual and anticipated), fees, penalties, late submission charges, reserve deposits, negative Sales Draft batch presentments and items for which PSP Services did not receive final payment.

(b) ENDORSEMENT

By presenting Sales Drafts to PSP Services for collection and payment, Merchant agrees to sell and assign all its right, title and interest in each such Sales Draft and constitutes an endorsement by Merchant to PSP Services of such Sales Drafts. PSP Services may supply such endorsement on Merchant's behalf.

(c) PROHIBITED PAYMENTS

PSP Services may receive payment of any Sales Draft presented by Merchant unless and until there is a Chargeback. Unless specifically authorized in writing by PSP Services, Merchant may not collect or attempt to collect any Sales Draft, including Chargebacks, and will hold in trust for PSP Services and promptly deliver in kind to PSP Services any payment Merchant receives, in whole or in part, of the amount of any Transaction, together with the Cardholder's name and account number and any correspondence accompanying payment.

(d) CHARGEBACKS

Merchant will accept for chargeback any sale for which the Cardholder disputes the validity of the sale according to prevailing Payment Network regulations, or a Card issuer or PSP Services determines that Merchant has in any way failed to comply with Payment Network regulations or PSP Services' procedures in accepting a Card and presenting the resulting Sales Draft to PSP Services for purchase. Merchant shall require Cardholder to sign an imprinted copy of the Sales Draft during the time when the POS Device printer is inoperable. Notwithstanding any other provision herein, PSP Services may chargeback the amount of a Card sale disputed by the Cardholder if Merchant failed to obtain the Card Imprint or the Cardholder's signature or if the Sales Draft is otherwise not compliant with the terms hereof. Merchant may not initiate a Transaction to collect a Chargeback. Merchant will pay the current published fees for each Chargeback as listed on Schedule A as well as the face-value of the Chargeback.

(e) RESERVE ACCOUNT

Notwithstanding anything to the contrary in the Merchant Agreement, PSP Services may, at its own discretion, establish and Merchant shall upon request by PSP Services, be required to fund a reserve account without interest accruing to the Merchant (the "Reserve Account") or may demand other security from the Merchant, including on the happening of any of the

following:

- (a) Merchant engages in any processing that creates an overcharge to a Cardholder by duplicating charges;
- (b) any activity designed by Merchant to circumvent a "call center" message when attempting to process a transaction;
- (c) Merchant breaches the Merchant Agreement, violates any representation, covenant or warranty herein, violates any applicable Payment Network Rules or applicable Law;
- (d) Merchant's application is in any way inaccurate or becomes inaccurate subsequent to PSP Services' approval of the application;
- (e) Merchant changes its type of business without PSP Services' prior written approval;
- (f) Merchant engages in fraud, processes an unauthorized charge, or engages in other action that violates PSP Services' applicable risk management standards or is likely to cause a loss;
- (g) the ratio of Chargebacks to Branded Card Transactions completed during any 30 calendar day period exceeds the lesser of one half of one percent (0.5%) or a percentage that violates a then applicable Payment Network Rules or the ratio of aggregate dollars charged back to the aggregate Branded Card dollar sales volume during any 30 calendar day period exceeds the lesser of one half of one percent (0.5%) or a percentage that violates a then applicable Payment Network Rules;
- (h) PSP Services receives an excessive number of requests from consumers or Card Issuer to retrieve documentation;
- (i) Merchant's financial stability is in question, as determined by PSP Services in its sole discretion, or Merchant ceases doing business; or,
- (j) the Merchant Agreement is terminated. Once the Reserve Account is established, collected funds will be placed in the Reserve Account until the balance is sufficient, in the discretion of PSP Services, to address the applicable risk. Further, Merchant shall deposit additional amounts into the Reserve Account, from time to time during the term of the Merchant Agreement, as per instructions from PSP Services, based upon Merchant's processing history and/or anticipated risk of loss to PSP Services. Upon termination or expiration of the Merchant Agreement, before releasing funds from the Reserve Account Merchant will pay any equipment cancellation fees and any outstanding challenges, losses or amounts, and Chargebacks for which Merchant has liability and has provided indemnification under the Merchant Agreement. Once established, unless PSP Services determines otherwise at its sole discretion, the Reserve Account will remain in place for 180 days and a reasonable period thereafter, as determined by PSP Services in its sole discretion, during which Cardholder disputes may remain valid under applicable Payment Network Rules following termination or expiration of the Merchant Agreement. The provisions of the

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Merchant Agreement relating to account debits and credits apply to the Reserve Account and survive the Merchant Agreement's termination until PSP Services, in its discretion, terminates the Reserve Account. Any balance remaining after Chargeback rights have expired and all of PSP Services' other expenses, losses and damages have been paid will be disbursed to Merchant.

1.4 Term, Termination, Effect of Termination And Exclusivity

(a) TERM

Merchant Agreement will be effective once PSP Services accepts it and, unless otherwise terminated, will continue for (5) five years with automatic and successive six (6) month renewals thereafter until Merchant provides written notice of non-renewal given not less than 30 days before the end of the then current term. An early termination fee will apply.

(b) TERMINATION

WITHOUT CAUSE

PSP Services may terminate the Merchant Agreement, for any reason or for no reason, on 30 days' notice to Merchant. The Payment Network may terminate the Merchant Agreement at any time for any reason.

FOR CAUSE

PSP Services may terminate the Merchant Agreement in its sole discretion, effective immediately, upon written or verbal notice, by suspending performance hereunder or by closing Merchant's POS Device, if PSP Services determines either that any of the conditions enumerated as a reason for the establishment of a Reserve Account exist or that any of the following conditions exist (any such occurrence being an "Event of Default");

- (i) Merchant has violated any provision of the Merchant Agreement;
- (ii) there is a material adverse change in Merchant's business, operations, financial condition, assets or prospects;
- (iii) any case or proceeding is commenced by or against Merchant under any federal or provincial or other law related to insolvency, bankruptcy, receivership or other debt relief;
- (iv) any information which Merchant provided to PSP Services, including Application information, was false, incomplete or misleading when received;
- (v) any information which Merchant provided to PSP Services, including Application information, has thereafter become false, incomplete or misleading;
- (vi) an overdraft in the account exists for more than three days;
- (vii) PSP Services believes that Merchant or any of Merchant's officers or employees has been involved in processing Transactions arising from fraudulent, criminal, suspicious or otherwise unauthorized Transactions;
- (viii) Merchant or will be unable or unwilling to perform its obligations under the Merchant Agreement or applicable Law;
- (ix) Merchant has failed to timely pay PSP Services any amount due;
- (x) Merchant has failed to promptly perform or discharge any obligation under the Account or the Reserve Account;

(xi) any of Merchant's representations or warranties made in connection with the Merchant Agreement was not true or accurate when given or has thereafter become untrue;

(xii) Merchant has defaulted on any agreement it has with PSP Services;

(xiii) PSP Services is served with legal process seeking to attach or garnish any of Merchant's funds or property in PSP Services' possession, and Merchant does not satisfy or appeal the legal process within 15 days of such service;

(xiv) any Payment Network Rules are violated, amended in any way so that the continued existence of the Merchant Agreement would cause PSP Services to be in breach of those rules or any Payment Network no longer permits Merchant to participate in its Card program;

(xv) any guaranty supporting Merchant's obligations is revoked, withdrawn, terminated or altered in any way;

(xvi) any circumstances arise regarding Merchant or its business that create harm or loss of goodwill to any Payment Network;

(xvii) termination is necessary to prevent loss to PSP Services;

(xviii) Merchant's type of business indicated on the Application or as conducted by Merchant could endanger PSP Services' safety or soundness;

(xix) Merchant's owner, officer, guarantor, or corporate entity has a separate relationship with PSP Services and that relationship is terminated,

(xx) Merchant appears on any Payment Network's security reporting;

(xxi) PSP Services' security for repayment becomes impaired;

(xxii) an event of default under any other indebtedness of Merchant shall have occurred the effect of which is to permit the holder thereof to accelerate the due date of all or part of such indebtedness; or,

(xxiii) one or more judgments shall have been entered against Merchant which judgment or judgments shall have remained unsatisfied for a period of 45 days from entry thereof. Merchant shall notify PSP Services in writing immediately upon becoming aware of the occurrence of an Event of Default, or an event which with the passage of time or the giving of notice, or both, would constitute an Event of Default. PSP Services shall have the right to terminate this Agreement immediately if required to do so by a Payment Network.

The Merchant Agreement shall automatically and immediately terminate if the Payment Network de-registers PSP Services.

EFFECT OF BANKRUPTCY

Any account or security held by PSP Services will not be subject to any preference, claim or stay by reason of bankruptcy or similar law. The parties expressly agree that the acquisition of Card Transactions hereunder is a financial accommodation and if Merchant becomes a debtor in any bankruptcy or similar proceeding, the Merchant Agreement may not be assumed or enforced by any other person and PSP Services will be excused from performance hereunder.

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EFFECT OF TERMINATION

If the Merchant Agreement is terminated, regardless of cause, PSP Services may withhold and discontinue the disbursement for all Transactions in the process of being collected and deposited and PSP Services may, without notice to Merchant, refuse to accept or revoke acceptance any Sales Draft or Credit Voucher or the electronic transmission thereof, if applicable, received by PSP Services on or any time after the occurrence of any Event of Default. If Merchant is terminated for an Event of Default, Merchant acknowledges that PSP Services may be required to report Merchant's business name and the names and other identification of its principals to the MATCH file maintained by Visa and MasterCard and any Interac equivalent or other Payment Network. Merchant expressly agrees and consents to such reporting if Merchant is terminated for any reason requiring or permitting listing on the MATCH file, Interac or other Payment Network report. Merchant waives and will hold harmless PSP Services from any claims that Merchant may raise as a result of PSP Services' MATCH file, Interac or other Payment Network reporting. If Merchant is terminated for cause, PSP Services may, without prior notice to Merchant, debit Merchant's Account and Reserve Account in an amount equal to the amount then owed to PSP Services, increase the fees payable by Merchant hereunder, require Merchant to deposit, as cash collateral, such amount as PSP Services may require to secure Merchant's obligations hereunder, and report to one or more credit reporting agencies any outstanding indebtedness of Merchant (or any guarantor of merchant's obligations under the Merchant Agreement). On termination, Merchant will immediately cease requesting Authorizations. If Merchant obtains any Authorization after termination, the fact that any Authorization was requested or obtained will not reinstate the Merchant Agreement. Further, immediately upon termination Merchant will return all PSP Services property, forms, or equipment. All obligations for Transactions prior to and after termination (including payment for Chargebacks and PSP Services' expenses relating to Chargebacks) survive termination. PSP Services is not liable to Merchant for damages (including prospective sales or profits) due to termination. Following termination, Merchant will upon request, provide PSP Services with all original and electronic copies of Sales Drafts and Credit Vouchers that have been retained by Merchant as of the date of termination. Upon termination, any amounts due to PSP Services will accelerate and be immediately due and payable, without any notice, declaration or other act whatsoever by PSP Services. The parties agree that if the Merchant Agreement is terminated before completion of the initial term or any renewal term of the Merchant Agreement for any reason other than a material uncured breach by PSP Services, Merchant will pay PSP Services damages equal to the greater of (a) \$500 per Merchant outlet or location or (b) if the Agreement is terminated during the first six months of the initial term, then the processing fees PSP Services would have received during the initial term based upon Merchant's volume representations set forth on Merchant Application or, if the Agreement is terminated thereafter, the amount equal to the product of the aggregate number of months remaining in the then current term of the Merchant Agreement and any renewal term to which the parties have committed multiplied by the average monthly processing fees earned hereunder plus, with respect to both clauses (a) and (b), PSP Services' costs and legal fees incurred in connection with collecting such damages. Merchant agrees that these damages are not a penalty but are a reasonable computation of the financial harm caused by the

termination of the Merchant Agreement. PSP Services' rights of termination are non-cumulative. In the event Merchant's account is placed into collections for past due rental amounts, Merchant agrees that PSP Services can recover a collection expense charge of \$50.00 for each aggregate payment requiring a collection effort.

(c) EXCLUSIVITY

During the term of the Merchant Agreement PSP Services shall be the exclusive provider of the services offered hereunder for Merchant and for all of Merchant's affiliates and divisions. Such exclusivity extends to all product and business lines of Merchant and its affiliates and divisions and Merchant will not, and will cause its affiliates and divisions not to, retain or otherwise allow any other person or entity to provide such services or perform any such services for itself.

1.5 Equipment

(a) GENERAL

PSP Services may offer Merchant an equipment rental plan or equipment purchase option, as described in Merchant Application. Merchant understands that while any equipment rental or purchase Merchant holds with PSP Services, PSP Services will from time to time, perform services related to said equipment. Merchant agrees that, regardless of equipment rental or purchase option, Merchant shall not assign rights or obligations with respect to, or pledge, lend, create a security interest in, directly or indirectly create, incur, assume or allow to exist any consensual or judicially imposed lien or judgement, or security interest or encumbrances on, or part with possession of equipment to any other person, firm, organization without prior written consent from PSP Services. Merchant waives the benefits of all provisions of any law, statute, or regulation which would in any manner affect PSP Services' rights and remedies in connection with the rental or purchase of the equipment, including any and all applicable legislation.

(b) COMMERCIAL USE/COMPATIBILITY

Under no circumstances will equipment be provided for home or personal use, by Merchant, its principals, employees, or other individuals, nor shall Merchant use or allow the equipment to be used in any manner or for any purpose for which it is not designed or reasonably suited. Merchant acknowledges that the software or equipment rented or purchased from PSP Services may not be compatible with another processor's systems. In no case do we have any obligation to make such equipment or software compatible with any other processing systems. If Merchant elects to use another processing service provider, upon termination of PSP Services' agreement, Merchant acknowledges they will not use the equipment or software obtained within PSP Services' agreement.

(c) EQUIPMENTSETUP, SECURITY AND MAINTENANCE

Merchant agrees that all transactions initiated with equipment are assumed to be authorized by Merchant and Merchant will be responsible for any losses incurred in connected with misused or compromised equipment, passwords, or Cardholder Information. Where applicable, Merchant will immediately replace set-up or default passwords and change regularly and when individual(s) leave place of Merchant employment. Merchant agrees to not install PIN pad(s) in locations that would allow others to view Cardholder's use of the pad, without also installing shield or other form of countermeasures.

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Merchant agrees to notify PSP Services immediately if the equipment or software is not functioning as expected or if irregular messages (e.g. Out of Balance) continue to display. Merchant acknowledges and agrees they are solely responsible for the security of the equipment and software used in processing transactions under the Merchant Agreement with PSP Services. Merchant is also responsible for any unauthorized use of the equipment or software, regardless whether the such unauthorized use was made by Merchant, its principals, employees, agents, customers or other third parties. Merchant must review all equipment and software documentation and understand equipment and software functionality, capabilities, and security measures loaded into software and onto equipment. Merchant must and will ensure that no device is connected to equipment (regardless if provided by PSP Services) or permit any physical alteration or modification of equipment or software without express written consent from PSP Services. Merchant agrees PSP Services, or its representatives may enter Merchant's premises for purposes of inspecting, examining, repairing the software or equipment at any time. Merchants agrees that equipment shall be kept at the address(es) indicated on the Merchant Application and approved by PSP Services and shall not be removed without prior written consent by PSP Services, except where normal use of the equipment requires temporary removal. Under no circumstances will PSP Services be held responsible for any injuries, damages, penalties, claims or losses incurred by Merchant or any other person(s) caused by the installation, manufacture, selection, purchase, rental, ownership, possession, modification, condition, use, return or disposition of equipment and software. Merchant agrees to reimburse PSP Services, defend and hold PSP Services harmless against any claims for any such losses, damages, penalties, claims, injuries or expenses, whether before or after termination of Merchant Agreement with PSP Services.

(d) UNSUPPORTED CARDS

Merchant understands that the equipment and software provided by PSP Services may allow Merchant to accept cards that are not supported by PSP Services and PSP Services will calculate service or processing fee(s) (for cards PSP Services does not support) by taking a percentage of the total amount of the charges made on the card (during statement period) or a per transaction fee for all such card transactions during the period.

(e) EQUIPMENT RENTAL DEFAULT AND REMEDIES

Merchant agrees that PSP Services may consider an uncured material default, of this rental to be a default of Merchant's Agreement. Upon occurrence of any default of rental(s), PSP Services may send to the Merchant a default notice. Merchant has thirty (30) days, from date of default notice, to cure the default. If said default is uncured on the next Business Day, PSP Services may immediately and without further notice terminate the rental, repossess the equipment, accelerate and declare immediately due and payable all monthly rental charges for the remainder of the applicable rental period together with PSP Services' determination of the current fair market value of the equipment, not as a penalty, but as liquidated damages for PSP Services' current loss of the bargain. PSP Services may proceed, in any lawful manner, to obtain satisfaction of the amount(s) owed to PSP Services, and if applicable, recovery of equipment, including entering onto Merchant premises to recover equipment. Merchant shall be responsible for PSP Services' costs incurred for collection and enforcement (on a solicitor and client and substantial indemnity basis), court costs, as well as applicable shipping, repair, reconditioning and restocking costs of recovered

equipment and costs of sale or other disposition. Merchant agrees that PSP Services is entitled to recover any amount(s) due by charging Merchant's Settlement Fund Account, Current Account, Reserve Account or any other Merchant funds that come into our possession or control. Merchant also agrees that PSP Services are entitled to recover amount(s) owed to PSP Services by obtaining them directly from an affiliate or joint venture to which PSP Services are a party and with which Merchant has entered into an agreement.

(f) OWNERSHIP AND USE OF EQUIPMENT INSURANCE

Merchant agrees that:

- (i) Merchant will maintain the equipment in good operating condition and protect it from deterioration (normal wear and tear accepted);
- (ii) Merchant will not permit any physical alteration or modification of the equipment, or change the installation site of equipment without express written consent from PSP Services;
- (iii) Merchant shall not create, incur, assume or allow to exist any consensually or judicially imposed liens, judgements, security interests or encumbrances on, or part with possession of, or sublease equipment without express written consent from PSP Services;
- (iv) No guarantor shall have any right of subrogation to any of PSP Services' rights in the equipment, Merchant Agreement or against the Merchant, and any such right of subrogation is hereby waived and released. All indebtedness that exists now or arises after the execution of Merchant agreement between Merchant and any guarantor is hereby subordinated to all of Merchant's present and future obligations and those of Merchant's guarantor, to PSP Services and no payment shall be made or accepted on such indebtedness due to Merchant from a guarantor until the obligations due to PSP Services are paid and satisfied and paid in full;
- (v) Merchant is solely responsible for obtaining all permits required to operate the equipment at Merchant's facility(ies);
- (vi) Equipment shall remain personal property of PSP Services and shall not be a fixture affixed to Merchant's real estate. Merchant shall permit PSP Services to affix suitable labels or stencils to the equipment evidencing PSP Services' ownership;
- (vii) Merchant shall keep the equipment adequately insured against loss by fire, theft, and all other hazards or perils. Merchant agrees that loss, destruction, theft or damage of PSP Services' equipment shall not relieve Merchant from obligations to pay the full rental charges payable hereunder for the full term of the rental agreement or execute reparation of equipment to which Merchant shall reimburse cost of equipment restoration to PSP Services.
- (viii) PSP Services will retain title of equipment and Merchant will irrevocably appoint PSP Services as Merchant's attorney-in-fact to execute and file any statement or instrument of ownership of the equipment in Merchant's use/name or on Merchant's behalf. Merchant will execute such further documentation as PSP Services may request to evidence PSP Services' rights to equipment.

(g) RETURN OF EQUIPMENT

Merchant agrees that;

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- (i) Upon completion of the rental term or any extension thereof, Merchant will have the option to return equipment to PSP Services in the condition required by Merchant Agreement, or purchase the equipment from PSP Services for the lesser of Fair Market Value at the time (as determined in good faith by PSP Services based on an assumption that Merchant has complied with Merchant obligations, or an amount equal to 10% of the total rental payments under Merchant Agreement with respect to each item of equipment plus, in either event, any applicable GST and other federal and provincial sales, use, social service, harmonized and similar taxes; and,
- (ii) In the absence of an affirmative election by Merchant to return or purchase equipment, the rental will auto-renew for terms of three (3) months each, a renewal term.

(h) USE OF OTHER EQUIPMENT

If Merchant chooses to use equipment not provided by PSP Services, Merchant understands and agrees Merchant is solely responsible for ensuring this equipment conforms to, and is installed in accordance with, PSP Services rules and standards. Merchant further understands and agrees that if a third party's equipment is used to process electronic card transactions, such third-party becomes Merchant's agent for delivery of card transactions to PSP Services via the applicable processing network. Merchant agrees to assume full responsibility and liability for any failure of such agent to comply with the operating regulations and rules of the applicable Payment Network or network organization including any violation that results in a Chargeback to it. Merchant agrees to remain liable to PSP Services to process and submit sales drafts according to Merchant Agreement and further agree that in no case will PSP Services be liable for any losses arising out of Merchant's use of a third party's equipment. Merchant understands and agrees to abide by the Payment Network Rules requiring that Merchant deploy only device that are PCI Compliance, and certified in accordance with the Payment Network Rules, and certified as approved by PSP Services prior to deployment or use.

1.6 Miscellaneous

(a) MONITORING

Merchant acknowledges that PSP Services may monitor Merchant's daily presentment activity. PSP Services may upon reasonable grounds suspend disbursement of Merchant's funds for any reasonable period required to investigate suspicious or unusual presentment activity. PSP Services will make good faith efforts to notify Merchant promptly following suspension. PSP Services is not liable to Merchant for any loss, either direct or indirect, attributable to any suspension of funds disbursement. In order to maintain quality service, telephone communications with Merchant may be monitored and recorded without further notice or disclosure.

(b) FORMS

Merchant will use only the forms or modes of transmission of Sales Drafts and Credit Vouchers that are provided or approved in advance by PSP Services, and Merchant may not use such forms other than in connection with Card Transactions.

(c) INDEMNIFICATION

Merchant will defend, indemnify and hold PSP Services and its officers, directors, members, shareholders, partners, employees, agents,

affiliates, subcontractors and representatives (collectively "the Indemnified Parties") harmless from and against any and all fines, penalties, claims, damages, expenses, liabilities or fees of any nature whatsoever, including legal fees and costs ("Damages"), asserted against or incurred by any of the Indemnified Parties arising out of, relating to or resulting from, either directly or indirectly; (a) a breach of the security of any system safeguarding Cardholder Information resulting in unauthorized access to Cardholder Information; (b) a breach of any representation, warranty or term of the Merchant Agreement, including, but not limited to, the Data Privacy Requirements herein, by Merchant, or by any of Merchant's Representatives; (c) the negligence, gross negligence or willful misconduct of Merchant or any of its Representatives in the performance of their obligations under the Merchant Agreement, including, but not limited to, the data security provisions; (d) any violation of applicable Law and Payment Network Rules by Merchant or any of its Representatives; (e) matters for which Merchant provides indemnification pursuant to the terms hereof; and (f) all third party claims arising from the foregoing or asserted against any of the Indemnified Parties as a result of the parties' entry into the Merchant Agreement. Notwithstanding the preceding, Merchant is not liable to an Indemnified Party if Damages are caused by, related to or arise out of that Indemnified Party's gross negligence or willful misconduct, or that Indemnified Party's material breach of the Merchant Agreement. Merchant will promptly reimburse the Indemnified Parties for any assessments, fines, fees or penalties imposed by the Payment Network in connection with the Merchant Agreement, including the data security provisions, and authorizes PSP Services to deduct any such sums from amounts to be cleared and settled with Merchant.

(d) RECORDS

In addition to any records Merchant routinely furnishes to PSP Services under the Merchant Agreement, Merchant will preserve a copy of actual paper Sales Drafts and Credit Vouchers and any written Authorization of the Cardholder for at least two years after the date Merchant presents the Transaction to PSP Services.

(e) REQUESTS FOR COPIES

Within two business days following Merchant's receipt of a request by PSP Services, Merchant will provide to PSP Services either the original or a legible copy (in a size comparable to the actual Sales Draft) of the paper Sales Draft and any other documentary evidence available to Merchant that PSP Services reasonably requests to meet PSP Services' obligations under applicable Laws or otherwise to respond to questions concerning Cardholder accounts.

(f) COMPLIANCE WITH LAW; TAXES

Merchant will comply with all applicable Laws to Merchant, Merchant's business and any Card Transaction. Merchant shall be liable for all taxes, except PSP Services' income taxes, required to be paid or collected as a result of the Merchant Agreement.

(g) FEES AND CHARGES

Merchant will pay to PSP Services the fees and charges set forth on Schedule A through E. PSP Services may adjust all charges set forth to reflect changes in, or additions to, (i) Association fees (including but limited to interchange, assessments, and all other Association fees, costs or charges) or (ii) pricing of third party vendor goods or services

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used in connection with the provision of services hereunder. All such adjustments will be effective after 90 days notice period has passed. Amounts due from Merchant hereunder, including but not limited to all fees, charges, amounts required, in PSP Services' sole discretion, to fund the Reserve Account and adjustments incurred by Merchant will be debited through EFT from Merchant's Account or withheld from daily payments to Merchant. The fees and charges herein are based upon Merchant's representations regarding annual anticipated Transaction volume, amount and type, all as set forth on Schedule A through E. To the extent that any such representations are not as anticipated, PSP Services may adjust the fees and charges hereunder to fees and charges appropriate for the actual, as opposed to anticipated, Transaction volume, amount and type. PSP Services may add fees for additional services utilized by Merchant upon 90 days' notice to Merchant.

With respect to a Merchant who is not paying a Discount Fee of "Interchange Plus", the Qualification Rates set forth on Schedule B assume that each Transaction is a Qualifying Transaction. If any Transaction is a Mid or Non- Qualifying Transaction, then Merchant will be charged the Mid or Non- Qualifying Fees (as applicable and as set forth on Schedule A). Non- Qualifying fees are in addition to the increased Association interchange rates and fees which will also be charged to the merchant. Information concerning Visa and MasterCard interchange rates is available respectively, at www.visa.com, and www.mastercard.com.

PSP Services may increase the fees in Schedule A or introduce a new fee, upon providing prior notice to Merchant. Merchant may terminate the Merchant Agreement without any early termination fee or other penalty within ninety (90) days of receiving such notice.

Where Merchant receives a notice from PSP Services regarding a reduction in interchange fees applicable to it, and PSP Services does not pass through the full savings from such reduction to Merchant, Merchant may terminate the Merchant Agreement without any early termination fee or other penalty within ninety (90) days of receiving the notice of such reduction.

Fees payable by Merchant hereunder shall be paid within 2 business days of the Merchant Statement unless they have been paid earlier by offset from set lements to the Merchant.

If PSP Services receives refunds of fees paid by it to a Payment Network and such refunds are not specifically designated as being the property of the Merchant, PSP Services shall have no obligation to remit such refunds to the Merchant. Information on no less than a monthly basis. All information appearing on the Merchant Statement shall be deemed accurate and affirmed by Merchant unless Merchant objects by writ en notice specifying the item in dispute within 30 days of the date of the Merchant Statement. Delivery of the Merchant Statement may be in writ en or electronic form. Where Merchant has not contested the accuracy of a Merchant Statement within such 30 days, Merchant hereby renounces any right to contest the payments contemplated therein or otherwise related to the period covered by the statement or those that precede it.

(i) SECURITY INTEREST

To secure payment of Merchant's obligations under the Merchant Agreement, Merchant grants to PSP Services a security interest in all now existing or hereafter acquired (collectively, the "Collateral"): (a) Transactions, Sales Drafts, Credit Vouchers and other items submit ed to PSP Services for processing by or for Merchant; (b) accounts receivable and payment rights relating to or arising from the Merchant

Agreement, including all amounts due Merchant (including any rights to receive credits or payments hereunder); (c) accounts (including without limitation all deposit accounts) maintained with PSP Services or any institution other than PSP Services, including the Reserve Account, in the name of or for the benefit of, Merchant or any guarantor of Merchant's obligations under the Merchant Agreement; (d) deposits, regardless of source, to Merchant's or any guarantor's accounts with PSP Services or any institution other than PSP Services, including the Reserve Account; (e) all deposits and all other property and funds presented by Merchant to PSP Services or withheld by PSP Services, including funds and property withheld as the result of security monitoring; and (f) proceeds of the foregoing. If PSP Services reasonably determines that Merchant has breached any obligation under the Merchant Agreement, or that proceeds of Merchant's future Card sales are unlikely to cover anticipated Chargebacks, credits, fees and adjustments, or other liabilities of Merchant hereunder, as reasonably determined by PSP Services (whether because the Merchant Agreement has been terminated or for any other reason), PSP Services may setoff or otherwise exercise its security interest without notice or demand by immediately withdrawing from or freezing any account or otherwise exercising its rights under the Merchant Agreement or those rights available under and subject to, applicable Laws, or in equity. In addition to the collateral pledged above, PSP Services may require Merchant to furnish such other and different security as PSP Services deems appropriate in its sole discretion to secure Merchant's obligations under the Merchant Agreement. PSP Services may fully or partially prohibit withdrawal by Merchant of funds from Merchant's deposit accounts maintained with PSP Services or financial institutions other than PSP Services, pending PSP Services' determination from time to time to exercise its rights as a secured party against such accounts in partial or full payment of Merchant's obligations to PSP Services. Merchant agrees that PSP Services may file such financing statements and any other documents as may be required for PSP Services to perfect its security interest, and Merchant will execute any other documents as may be requested by PSP Services and take such actions as PSP Services may require in connection with the security interest, at Merchant's cost. Merchant represents and warrants that no other party has a security interest or lien in any of the collateral pledged above, and Merchant will obtain PSP Services' writ en consent before it grants a lien or security interest in that pledged collateral to any other person.

(j) MERCHANT STATEMENT

PSP Services shall make available a Merchant Statement or similar information on no less than a monthly basis. All information appearing on the Merchant Statement shall be deemed accurate and affirmed by Merchant unless Merchant objects by writ en notice specifying the item in dispute within 30 days of the date of the Merchant Statement. Delivery of the Merchant Statement may be in writ en or electronic form. Where Merchant has not contested the accuracy of a Merchant Statement within such 30 days, Merchant hereby renounces any right to contest the payments contemplated therein or otherwise related to the period covered by the statement or those that precede it.

(k) MOVABLE HYPOTHEC, WITHOUT DELIVERY ON THE COLLATERAL

Without limitation to the other obligations of the Merchant hereunder, as security for the performance of all the covenants set

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forth herein and all of the obligations of the Merchant to the PSP Services under the Merchant Agreement, the Merchant hereby grants to the PSP Services and/or its assignees or designees, if any, a movable hypothec in the amount of the greater of the amount of the Reserve Account, if any, and \$100,000, subject only to the security interest of the credit card processor, if any, on a universality of all its present and future movable property, both corporeal and incorporeal including g without limitation all Collateral. The Merchant authorizes the registration of the hypothec granted herein at the Quebec Registre des droits personnels et réels mobiliers (RDPRM) by PSP Services or any affiliate or subsidiary thereof, or any assignee or designee thereof, in order to register and perfect the hypothecary rights created hereunder. The Merchant acknowledges receipt of an executed copy of the Merchant Agreement and, to the extent permitted by applicable law, waive the right to receive a copy of the document evidencing the registration of the hypothec created hereby.

(l) MODIFICATIONS TO AGREEMENT

The Merchant Agreement is subject to amendment required to conform with Payment Network regulations, as amended from time to time, and Merchant expressly acknowledges that any election by PSP Services regarding means to comply with either Payment Network Rules or applicable Law or regulation will not diminish or otherwise impact any of PSP Services' rights hereunder. From time to time PSP Services may amend any provision or provisions of the Merchant Agreement, including, without limitation, those relating to the discount rate or to other fees and charges payable by Merchant by mailing written notice to Merchant of the amendment at least 90 days in the case of discount rate and/or other fees and charges) prior to the effective date of the amendment, and the amendment will become effective unless PSP Services receives Merchant's written notice of termination of the Merchant Agreement before such effective date. Amendments required due to changes in either Payment Network's rules and regulations or any law or judicial decision may become effective on such shorter period as PSP Services may specify if necessary, to comply with the applicable rule, regulation, Law or decision. If there is any conflict between a part of the Merchant Agreement and any present or future Association Regulation or applicable Law or regulation, only the part of the Merchant Agreement that is affected shall be modified and that modification shall be limited to the minimum necessary to bring the Merchant Agreement within the requirements of the Association Regulation, law or regulation.

(m) WARRANTY DISCLAIMER

PSP SERVICES MAKES NO WARRANTIES REGARDING THE USE, OPERATION OR PERFORMANCE OR NON-PERFORMANCE OF SERVICES, SOFTWARE, SYSTEMS, OR THIRD PARTY PROCESSORS UTILIZED IN CONNECTION WITH THE MERCHANT AGREEMENT, WHETHER EXPRESS OR IMPLIED, AND PSP SERVICES EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(n) LIMITATION OF LIABILITY

Notwithstanding any other provision herein, (i) PSP Services' liability with respect to any Card Transaction may not exceed the amount of the Sales Draft in connection with that Transaction less any applicable

fees and charges and (ii) PSP Services' aggregate liability shall not, under any circumstance, exceed the fees paid to PSP Services under Schedule A (net of interchange, assessments and all other Payment Network and third party fees imposed on PSP Services) during the twelve month period immediately preceding the event upon which such liability is based. PSP Services is not waives all claims against PSP Services for any loss, claim, demand, penalty, action, delay, cost or expense (including reasonable legal fees) of any kind unless Merchant provides written notice to PSP Services of the occurrence that gave rise to the alleged liability within 30 days after Merchant knew or should have known of the occurrence. Merchant will indemnify and hold PSP Services harmless from any claim relating to or arising out of (i) any Sales Draft or Credit Voucher presented to PSP Services as may be made by anyone by way of defense, dispute, offset, counterclaim or affirmative action (including but not limited to disputes concerning the quality, fitness or delivery of merchandise or the performance or quality of services) or (ii) damages or losses that PSP Services may incur as a result of (a) Merchant's breach of the Merchant Agreement or (b) presentation by Merchant of acceptance or rejection by PSP Services of any Sales Draft or Credit Voucher, provided however that, with respect to clause (b), such indemnification shall not apply in the event of PSP Services' gross negligence. Further, Merchant will reimburse PSP Services for all expenses and costs, including legal fees, regarding PSP Services enforcing its rights under the Merchant Agreement or defending against claims arising on account of the Merchant Agreement. The parties acknowledge that no party shall be entitled to recover losses in respect of any claim under the Merchant Agreement where to do so would involve recovery more than once in respect of the same losses.

(o) WAIVER

PSP Services' failure to enforce one or more of the provisions of the Merchant Agreement will not constitute a waiver of the right to enforce the same or other provision in the future.

(p) WRITTEN NOTICES

All written notices and other written communications required or permitted under the Merchant Agreement must be either personally delivered, sent by prepaid, registered mail or sent by facsimile, charges (if any) prepaid, addressed as follows:

PSP Services

400 Applewood Crescent, Suite 200

Vaughan ON L4K 5C7

Facsimile: +1 (905) 248-3589

Any written notice delivered to the party to whom it is addressed will be deemed to have been given and received on the day it is so delivered at that party's address, provided that (i) it is so delivered before 5:00 p.m.; and (ii) if that day is not a business day then the written notice will be deemed to have been given and received on the next business day. Any written notice transmitted by facsimile will be deemed to have been given and received on the day on which it was transmitted (but if the written notice is transmitted on a day which is not a business day (or after 5:00 p.m.), the written notice will be deemed to have been received on the next business day). Any written notice given by registered mail will be deemed to have been received on the fifth business day after which it is so mailed. Merchant acknowledges and agrees that written notice and other written communications required or permitted to be given by PSP Services

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under the Merchant Agreement shall be properly given if contained in the on-line statement provided from time to time to Merchant by PSP Services. A time of day shall mean that time of day in the jurisdiction of the receiving party (e.g., "5:00 p.m." shall mean 5:00 p.m. in the jurisdiction of the receiving party) and references to "business day" shall be mean a day other than a Saturday, Sunday or statutory holiday in the jurisdiction of the receiving party.

(q) CHOICE OF LAW; JURISDICTION

The Merchant Agreement is governed by and is to be construed and liable for any special, incidental, indirect, punitive or consequential damages whatsoever, including but not limited to lost profits (whether any such claim alleges breach of contract, tort or any other theory of liability. Merchant interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province. Merchant irrevocably submits and atones to the exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity arising from the Merchant Agreement; waives any objection (including any claim of inconvenient forum that it may now or hereafter have) to the venue of any legal proceeding arising out of or relating to the Merchant Agreement in the courts of that Province, or that the subject matter of the Merchant Agreement may not be enforced in the courts; and irrevocably agrees not to seek, and waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this section, of the substantive merits of any such suit, action or proceeding.

(r) ENTIRE AGREEMENT; INTERPRETATION; ASSIGNABILITY

The Merchant Agreement together with the Payment Network Rules expresses the entire understanding of the parties with respect to the subject matter hereof and except as provided herein, may be modified only in writing executed by PSP Services and Merchant. In the event of any conflict or inconsistency between the terms of the Merchant Agreement and the Payment Network Rules, the terms of the Payment Network Rules shall prevail. The Merchant Agreement may not be assigned by Merchant, directly or by operation of law, without PSP Services' prior written consent. PSP Services may assign its rights and obligations under the Merchant Agreement on notice to the Merchant and PSP Services. The Merchant Agreement will be binding upon and inure to the benefit of the parties' respective heirs, personal representatives, successors and assigns. The Merchant Agreement shall not be construed more strongly against any party, regardless of which party was more responsible for its preparation.

(s) DEPOSIT ACCOUNT

Merchant will always maintain an Account at a bank that is a member of the Canadian Payments Association EFT system and will provide PSP Services with proper authorization to debit the Account. All credits for collected funds and debits for fees, payments and Chargebacks and other amounts for which Merchant is liable under the terms of the Merchant Agreement will be made to the Account. Merchant may not close or change the Account without written notice to PSP Services. Merchant will be solely liable for all fees and costs associated with the Account and for all overdrafts and Merchant shall immediately deposit into the Deposit Account an amount sufficient to cover any overdraft and any related service charges or fees. All credits and debits to the Deposit Account made hereunder are subject to review, verification

and acceptance by PSP Services. In the event of error, Merchant authorizes PSP Services to make correcting credits or debits without notice to Merchant. Merchant hereby grants to PSP Services a security interest in the Account to the extent of any and all fees, payments, Chargebacks and other amounts due which may arise under the Merchant Agreement, and Merchant will execute any document and obtain any consents or waivers from the bank at which the Account is maintained as requested by PSP Services to protect its security interests therein. Merchant agrees to \$25.00/hour, with one (1) hour minimum, research fee to be charged by PSP for research and verification it performs at merchant's request.

(t) CREDIT AND FINANCIAL INQUIRIES; ADDITIONAL ALLOCATIONS; INSPECTION

PSP Services may make, at any time, any credit inquiries which it may consider necessary to accept or review acceptance of the Merchant Agreement or investigate Merchant's ability to perform its obligations hereunder, or its Sales Draft presentation and Card acceptance activities subsequent to acceptance of the Merchant Agreement. Such inquiries may include, but are not limited to, a credit and/or criminal background check of the business including its proprietor, partners, principal owners, shareholders or officers. Upon PSP Services' request, Merchant will provide the written consent of any person for which an inquiry has been or is to be made if such person has not executed the Merchant Agreement and will provide any financial statements, income tax and business tax returns and other financial information as PSP Services may consider necessary to perform initial or periodic reviews of Merchant's financial stability and business practices. Merchant may accept Cards only at locations approved by PSP Services. Additional locations may be added subject to PSP Services approval. PSP Services may delete any location by providing notice as provided herein. Merchant will permit PSP Services, at any time and from time to time, to inspect locations to confirm that Merchant has or is adhering to the terms of the Merchant Agreement and is maintaining the proper facilities, equipment, inventory, records and license or permit (where necessary) to conduct its business. PSP Services, its internal and external auditors, and its regulators may audit compliance with (i) the Merchant Agreement, (ii) all applicable Law (iii) Data Privacy Requirements, (iv) Payment Network Rules and regulations and (v) guidance applicable to the services, Card acceptance, Transaction processing, and data security provisions hereof. Merchant will make available its records maintained and produced under the Merchant Agreement, and Merchant's facilities will be made accessible, upon notice during normal business hours for examination and audit. Nothing in this section may be construed to require Merchant to give access to its facilities, personnel or records in a manner that unreasonably interferes with its business operations. Each party will bear its expenses of any audit.

(u) MARKETING OF NON-BRANDED CARD SERVICES

From time to time, PSP Services may offer to Merchant certain additional products and services, which may or may not be related to the acceptance or processing of Card Transactions. If such an offer is made, Merchant may decline the offer or, based on acceptance of the offer by Merchant, in accordance with terms provided by PSP Services, and such non-Branded Card organization, be liable for payment associated with its acceptance of such additional products and services.

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(v) FORCE MAJEURE

The parties will be released from liability hereunder if they fail to perform any obligation where the failure occurs by reason of any act of God, fire, flood, storm, earthquake, tidal wave, communications failure, sabotage, war, military operation, terrorism, national emergency, mechanical or electronic breakdown, civil commotion, governmental regulation or the order, requisition, request or recommendation of any governmental authority, or either party's compliance therewith, or any other similar cause beyond the non-performing party's reasonable control.

(w) NOTHIRD-PARTY BENEFICIARY; NO PARTNERSHIP

No person or entity may be deemed a third-party beneficiary of the Merchant Agreement. Nothing in the Merchant Agreement shall be deemed to create a partnership, joint venture or any agency relationship between the parties.