MERCHANT PROCESSING AGREEMENT

This document, “Merchant Processing Agreement” (the “Agreement”), accompanies the document “Merchant Application” (the “Merchant Application”). The Agreement is between you (“Merchant”), the person or company that wants to accept credit cards for the purpose of this Agreement, and us (“Processor and Bank”), the persons or companies specified in the first page of the Agreement. Merchant hereby represents and warrants that all of the statements, representations, agreements, and covenants set forth in the Agreement are true, accurate, complete, and binding. Merchant agrees that the rights and obligations contained in this Agreement do not apply with respect to Discover and American Express Transactions. The terms and conditions of the Merchant Application. The bank (“Bank”) identified in this Agreement is a member of Visa USA, Inc. (“Visa”) and Mastercard Incorporated (“Mastercard”). The bank designated to accept the credit card transactions (“Processor”) is a registered independent sales organization of Visa and a member service provider of Mastercard. This Agreement is between Bank and the person or entity identified as the “Merchant” in the first page of the Agreement. By executing this Agreement, the Merchant agrees that it has read and understood the terms of this Agreement and agrees to abide by the rules and regulations of the applicable credit card networks, as a condition of the Merchant Application. The Bank (“Bank”) identified in this Agreement is a member of Visa USA, Inc. (“Visa”) and Mastercard Incorporated (“Mastercard”). The bank designated to accept the credit card transactions (“Processor”) is a registered independent sales organization of Visa and a member service provider of Mastercard. This Agreement is between Bank and the person or entity identified as the “Merchant” in the first page of the Agreement. By executing this Agreement, the Merchant agrees that it has read and understood the terms of this Agreement and agrees to abide by the rules and regulations of the applicable credit card networks.

RECEIPTS

Merchant agree to credit cards (“Cards”) validly issued by members of Visa, Mastercard, Discover, and American Express. Debit Sponsor and Processor and Bank will provide credit card processing services to Merchant. Therefore, Merchant, Processor and Bank agree not to provide credit card processing services to any third party. Merchant assumes all responsibility for the accuracy of any transaction data, including but not limited to the amount of merchandise purchased, the tax rate and amount due to the applicable tax authorities, and the tax description.

TERMS AND CONDITIONS

1. Honoring Cards.

a. Without discrimination. You will honor, without discrimination, any card properly tendered by a Cardholder. “Cardholder” (sometimes referred to as “Card Member” in some card association or network organization material) means a person possessing a card issued or accepted by a card association or network organization. The term “Cardholder” does not include any person who is not a Cardholder, such as a person who is not the person in whose name the card was issued, the merchant, or any other person.

b. You will be liable for any damages complained of by the Cardholder if you do not honor the Cardholders or cause such damages. You will be liable for any damages complained of by the Cardholder if you do not honor the Cardholders or cause such damages.

c. Cardholder’s right to dispute. You agree that you will not force a Cardholder to accept your offer or action. Any action or decision made by you concerning the acceptance or rejection of a transaction will be made in accordance with the terms and conditions of this Agreement and the Rules and Regulations of the Network. You will be liable for any damages complained of by the Cardholder if you do not honor the Cardholders or cause such damages.

2. Rules and Regulations.

a. The holder of the card (the “Holder”) and all Cardholders are subject to the terms and conditions of the Visa, Mastercard, Discover, American Express, Debit Sponsor, and any other card or network organization rules and regulations that apply to the Card. You will be liable for any damages complained of by the Cardholder if you do not honor the Cardholders or cause such damages.

b. Your liability to any Cardholder for any damages complained of by the Cardholder if you do not honor the Cardholders or cause such damages.

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3. Refusal to honor a Card or a Transaction.

You will not refuse to honor a Card or a Transaction, except as permitted by the Rules. This paragraph does not prohibit you from offering a discount from the standard price to induce a person to accept a Card or a Transaction.

4. Return Policy.

You will purchase, process, and deliver only those goods or services you offer as a condition of paying with a Card, except as permitted by the Rules. This paragraph does not prohibit you from offering a discount from the standard price to induce a person to accept a Card or a Transaction.

5. Authorization.

You will use a Sales Draft (“Sales Draft”) or other form approved by Processor and Bank to document each Card transaction. Each Sales Draft must be signed by the Cardholder unless the Card transaction is a valid mail/telephone order Card transaction, in which case the Cardholder will not be required to sign the Sales Draft. You will use a Sales Draft or other form approved by Processor and Bank to document each Card transaction. Each Sales Draft must be signed by the Cardholder unless the Card transaction is a valid mail/telephone order Card transaction, in which case the Cardholder will not be required to sign the Sales Draft.

6. Dishonored Sales Drafts.

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8. Delivery and Return of Sales Drafts.

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A. Establishment and Authority. Merchant will establish and maintain an account at an ACH receiving deposit institution approved by Processor and Bank and authorized to receive the periodic payments you authorize Processor and Bank to deduct from your Designated Account. You authorize Processor and Bank to debit the Designated Account for all amounts owed to Processor and Bank under this Agreement and, in addition, you authorize Processor and Bank to debit the Designated Account for any amounts owed to Processor and Bank under this Agreement. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You also authorize Processor and Bank to debiting the Designated Account for all amounts owed you under this Agreement, in addition, you authorize Processor and Bank to debit the Designated Account for any amounts owed you under this Agreement. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement, and, in addition, you authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement.

B. Deposit. Processor and Bank will deposit all Sales Drafts to the Designated Account subject to the other provisions of this Agreement. The funds deposited to the Designated Account will be available for you to draw against, and neither Processor nor Bank shall be obligated to pay you for any deposits made on the Designated Account until they have been credited to the Designated Account.

C. Merchant Representations and Warranties. Merchant agrees to the following:

1. Merchant is an independent contractor and not an agent, employee, or joint venturer of Processor and Bank. Merchant is not engaged or affiliated with any businesses, products or methods of selling other than those set forth on the Application, unless you are notified in writing by Processor and Bank. Merchant is not liable to the others for any failure or delay in its performance of this Agreement if such failure or delay arises out of causes beyond the control and without the fault or negligence of such party. Neither Processor nor Bank shall be responsible for the acts or omissions of any party other than Processor, Bank or their respective agents.

E. ACH Authorization. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You also authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions.

F. Indemnification. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions. You authorize Processor and Bank to debit the Designated Account for any amount owed to Processor and Bank under this Agreement other than the amounts directly attributable to the settlement of transactions.
comply with the PCI DSS and does not ensure your compliance with the PCI DSS or any law, rule or regulation related to cardholder data security. The payment of such fee shall not relieve you of your responsibility to comply with all rules and regulations related to cardholder data security. You shall not use or permit any of your employees, officers, directors, or agents, or any of your affiliated or related companies, to receive, disclose, or use any information obtained from a cardholder in connection with a card transaction solely for the purpose of processing a transaction with that cardholder. You agree that you shall not disclose, sell, assign or transfer to any person, other than your authorized employees, officers, directors, or agents, or any of your affiliated or related companies, any information obtained from a cardholder in connection with a card transaction for any purpose other than the processing of such card transaction.

F. Bankruptcy. You will immediately notify Processor and Bank (i) if any bankruptcy, receivership, insolvency or similar action or proceeding initiated or against you or any of its principals and (ii) if it could reasonably be expected that any such action or proceeding would be initiated or against you or any of its principals. You will include Processor and Bank on the list of creditors as filed with the Bankruptcy Court whether or not a claim may exist at the time of filing. Failure to comply with either of these requirements will result in the immediate termination of this Agreement and all other agreements to which you are a party hereto, your successor and permitted assignees, any and all legal or equitable right, remedy, or claim under or in respect of this Agreement or any provision contained herein. You understand that you may withdraw your consent to receive E-statements, or change your email address, upon 30 days written notice to Processor. Please note that a withdrawal of consent does not apply to an E-statement that was furnished before the date on which the withdrawal of consent becomes effective. PC Requirements. Viewing your E-statement on a laptop or computer that is connected to the internet through a standard web browser. The product version numbers and patches must be at the version numbers and patches specified by the various vendors (i.e., Apple, Adobe, Mozilla, and Microsoft). Processor is not obligated to ensure that your E-statements are accessible through outdated vendor products. In the event you are unable to access any of the content or features of your E-statement, please notify Processor in writing immediately.

B. Reporting Of Errors. You must promptly view all E-statements, and immediately notify Processor in writing of any errors. Your written notice must include: (i) Merchant name and account number; (ii) the dollar amount of the asserted error; (iii) a description of the asserted error and; (iv) an explanation of why you believe an error exists and the cause of it, if known. That written notice must be received by Processor within 30 calendar days after the E-statement containing the asserted error is first made available. Your failure to notify Processor of any error within 30 days constitutes a waiver of any claim relating to that error. You may not make any claim against Processor for any loss or expense relating to any asserted error for 60 calendar days immediately following Processor’s receipt of your written notice. During that 60 day period, Processor will be entitled to investigate the asserted error and Processor will notify you of the results of the investigation.

C. Miscellaneous. Processor shall not be responsible for: (i) consequential or incidental damages caused by services performed by Processor, its agents, or your Internet Service Provider (ISP); (ii) damages arising from unauthorized access to E-statement services; or (iii) any costs associated with updating, modifying or terminating your software or hardware. Processor may change, modify, or discontinue any service or feature of any E-statement at any time without notice. You acknowledge and agree that Processor is not responsible for any errors in an E-statement, and Processor is not responsible for any errors in any information that is available to you through third party systems. The information is strictly confidential and will not be released.

MERCHANT ACCOUNT STATEMENT ELECTRONICALLY (an "E-Statement") by viewing it online. This Agreement governs the electronic availability of your E-statement. You agree to abide by the terms and conditions stated herein, and to access E-statements, as well as all notices and initial and future disclosures regarding your E-statement, online. You acknowledge that by the third business day of each month, E-statement shall be available online. You will be notified in writing of the website where you can access your E-statement. Your E-statement will be accessible only through a secure Log In screen which requires the use of a unique User ID and Password. You understand that you will not receive a monthly merchant account statement by U.S. postal mail, and that making your E-statement available online constitutes Processor’s compliance with delivery of your monthly merchant account statement. You can print the E-statement or save the file to your computer’s hard drive or other disk in order to retain a copy of the E-statement. Your E-statement can be accessed through the E-statement link for three consecutive months from the date the monthly E-statement is first made available. You further agree to receive all initial and periodic account disclosure information in electronic format. All such disclosures shall be provided in a clear, conspicuous manner that you can print and/or save using the hardware and software specifications stated. You are also entitled to obtain a paper copy of all disclosures or E-statements upon written request, however such a request does not constitute a withdrawal of consent to receive monthly E-statements. A fee may apply for providing such documentation. You understand that you may withdraw your consent to receive E-statements, or change your email address, upon 30 days written notice to Processor. Please note that a withdrawal of consent does not apply to an E-statement that was furnished before the date on which the withdrawal of consent becomes effective. PC Requirements. Viewing your E-statement on a laptop or computer that is connected to the internet through a standard web browser. The product version numbers and patches must be at the version numbers and patches specified by the various vendors (i.e., Apple, Adobe, Mozilla, and Microsoft). Processor is not obligated to ensure that your E-statements are accessible through outdated vendor products. In the event you are unable to access any of the content or features of your E-statement, please notify Processor in writing immediately.

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