

Merchant Notification Terms & Conditions

1. **Additional Locations.** MERCHANT must complete an Additional Location Form for each additional MERCHANT location. MERCHANT expressly agrees and acknowledges that each MERCHANT location shall be governed by these Merchant Processing Terms & Conditions and the Merchant Application & Agreement, including and without limitation, the rates and fees described therein, as may be amended from time to time.

2. **Acceptance of Bank Cards.** (a) MERCHANT agrees to honor without discrimination all lawful and valid bank cards when properly presented as payment by customers and within MERCHANT's approved processing profile parameters, in connection with bona fide, legitimate business transactions arising out of MERCHANT's usual trade or business as disclosed in the Merchant Application & Agreement. MERCHANT agrees not to submit any bank card transactions that will violate applicable laws or rules and regulations of Visa/MasterCard, American Express, Discover, PayPal, and PIN Debit/EBT Networks, and/or any other bank card networks. The acceptance of all other bank cards (e.g., Diner's Club) is subject to the rules and regulations of the issuing organizations. Such rules and regulations are incorporated herein by this reference.

MERCHANT understands instant board and processing may be available in some instances. Bank shall have the absolute and unconditional right to delay boarding and processing or withhold any transaction(s) processed for a minimum of 3 days until Banks risk can be fully assessed.

(b) MERCHANT is solely responsible for compliance with all applicable local, state, and federal laws, rules, and regulations, as well as rules and regulations of the various Card Brands (e.g., Visa, MasterCard, American Express, Discover), regarding any amounts charged for a customer's use of a credit or debit card (whether as a "service fee," "convenience fee," "surcharge," or otherwise), or any discount offered for a customer's payment with cash. MERCHANT shall be responsible for any fines imposed by, or other actions taken by, the applicable authority with respect to any violation of such laws, rules and regulations by MERCHANT. BANK has the right, at its sole discretion, to terminate or modify, with or without notice to MERCHANT, any program (if any) offered by BANK relating to any such charge or discount.

(c) MERCHANT is prohibited from using the Program Marks, as defined below, other than as expressly authorized in writing by BANK. Program Marks mean the brands, emblems, trademarks and/or logos that identify various bank cards. Additionally, MERCHANT shall not use the Program Marks other than to display decals, signage, advertising and other forms depicting the Program Marks that are provided to MERCHANT by BANK or otherwise approved in advance in writing by BANK. MERCHANT may use the Program Marks only to promote the services covered by the Program Marks by using them on decals, indoor and outdoor signs, websites, advertising materials and marketing materials; provided that all such uses by MERCHANT must be approved in advance by BANK in writing. MERCHANT shall not use the Program Marks in such a way that customers could believe that the products or services offered by MERCHANT are sponsored or guaranteed by the owners of the Program Marks. MERCHANT recognizes that it has no ownership rights in the Program Marks. MERCHANT shall not assign to any third party any of the rights to use the Program Marks. MERCHANT agrees that if this Agreement is terminated for any reason, MERCHANT shall cease display and use of any and all Program Marks.

3. **Completion of Bank Card Sales Draft.** MERCHANT agrees to complete all bank card sales drafts (hereinafter "sales slips") or credit drafts or vouchers (hereinafter "credit slips") in accordance with prescribed rules and regulations of Visa, MasterCard, American Express, Discover, PayPal and PIN Debit/EBT Networks or any other applicable card issuing organization. MERCHANT agrees, in all face-to-face sales, to either (i) imprint the sales slip with the embossed data from the customer's bank card and the MERCHANT's imprint plate, or (ii) generate electronically a sales slip by swiping through a POS terminal (as defined below) a customer's bank card. MERCHANT shall obtain the cardholder's signature on the sales slip and confirm that such signature matches the signature on the card. MERCHANT shall verify that the embossed cardholder number is the same cardholder number contained in the bank card's magnetic strip. MERCHANT agrees not to accept bank cards when the customer's signature does not match the signature on the signature strip or the bank card has expired. Notwithstanding MERCHANT's use of an electronic terminal or similar device through which an authorization may be obtained ("a point of sale" or "POS" terminal), for all face-to-face sales MERCHANT must still obtain the cardholder's signature on the printed sales receipt. Failure to properly follow all terms of this Agreement may result in a delay or denial in processing, a chargeback or sales proceeds not being paid to MERCHANT's account. MERCHANT shall be solely responsible for the proper verification of the cardholder's signature and the expiration date of the bank card, which obligation shall not be discharged by receipt of an electronic approval code.

4. **Point-of-Sale Devices.** MERCHANT agrees to keep all imprinters and POS terminals used to process bank card transactions in good working order. When processing debit card transactions, MERCHANT agrees to use a Point of Sale ("POS") device and PIN entering device that meets network and/or brand compliances guidelines, including, but not limited to, Triple-DES DUKPT (Derived Unique Key Per Transaction) compliance requirements. MERCHANT understands that BANK cannot and does not warrant the connectivity, performance of equipment, or quality of services as a result of MERCHANT's data or voice connection, or similar type service. MERCHANT agrees that BANK is not responsible for, and MERCHANT accepts full responsibility for, issues that may arise when utilizing data or voice connections, or similar service, including but not limited to; failure to obtain authorizations, batching, settlement, equipment, equipment/software installation, communications, downloads and internet connectivity. Further, MERCHANT acknowledges it will

not make any claim against BANK for any losses or damages, including, but not limited to, loss of income, loss of revenue, economic loss, or consequential, direct, indirect, special, exemplary, punitive, or multiple damages relating to the use or connectivity of any data or voice connections or similar services.

5. **Mail Order, Telephone Order, and Electronic Commerce Sales.** BANK discourages MERCHANT from accepting mail, telephone or electronic commerce orders because of the high incidence of fraud associated with such sales. MERCHANT also understands BANK does not allow transactions to be processed for items sold through online auction sites, where bidding for merchandise takes place, due to the high incidence of fraud and chargebacks. MERCHANT acknowledges that BANK shall have the right to immediately terminate this Agreement without liability, if MERCHANT has not received previous written approval from BANK to accept mail, telephone or electronic commerce orders or if MERCHANT exceeds the percentage of mail, telephone or electronic commerce orders previously approved by BANK or described in the Merchant Profile section of the Merchant Application & Agreement. BANK's failure to hold funds, suspend processing or terminate this Agreement shall not constitute a waiver of such rights and such rights may be exercised at any time regardless of when BANK determines to exercise such rights. MERCHANT agrees to use and retain proof of a traceable delivery system as means of shipment of product to customer.

6. **Sales Slip Storage and Retrieval.** The bank card networks, including without limitation Visa, MasterCard, American Express, Discover and PayPal, require BANK to obtain from MERCHANT and forward to bank card issuers, upon request, copies of sales or credit slips. MERCHANT shall set up a system satisfactory to BANK to store and maintain sales slips and MERCHANT shall deliver to BANK within 24 hours of request copies of any sales slip requested by BANK. MERCHANT shall preserve a copy of the actual paper sales slips, credit slips and, if a mail order or pre-authorized order is involved, the customer's signed authorization for the transaction, for at least three (3) years after the date MERCHANT presents the transaction data to BANK. To assist in the resolution of any dispute and in addition to and without limiting the foregoing provisions of this paragraph, MERCHANT agrees to retain for two (2) years and make available within three (3) days of a request all pertinent records pertaining to each transaction in question, including, but not limited to, itemized bills, authorization requests, and other related documents. MERCHANT shall preserve the confidentiality of all information in an area limited to selected personnel and exercise best efforts to maintain these materials in a secure manner. MERCHANT's obligations under this paragraph shall survive following the close of MERCHANT's business and the termination of this Agreement. MERCHANT understands that its failure to respond timely to a retrieval request may result in a chargeback under Visa, MasterCard, American Express, Discover, PayPal and PIN Debit/EBT Networks rules and regulations. All chargebacks and fees shall be the responsibility of MERCHANT and paid by and charged to MERCHANT. In connection with retrieval requests or other administrative requirements associated with any MERCHANT agreement or account, BANK and/or its designated processor may charge retrieval fees and administrative charges which shall be the responsibility of MERCHANT. BANK and/or its designated processor shall determine in their sole discretion the amount of any retrieval fee and administrative charge and when such fee and charge shall be assessed. MERCHANT shall not be entitled to notice of any such fee or administrative charge or with respect to any change in the amount of any fee or administrative charge.

7. **Warranties by MERCHANT.** MERCHANT warrants that it shall fully comply with all federal, state, and local laws, rules, and regulations, as amended from time to time, including, but not limited to, the Federal Truth-in-Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System.

As to each bank card transaction presented to BANK for payment, MERCHANT warrants that:

(a) MERCHANT has delivered to the cardholder a true and complete copy of the sales slip or suitable receipt evidencing the transaction involving use of the bank card;

(b) MERCHANT has not charged cardholder any separate or additional fee(s) or sur-charge or required cardholder to pay any part of any charge imposed on MERCHANT by BANK in connection with the acceptance of a bank card transaction. The foregoing shall not prohibit MERCHANT from extending discounts to customers paying cash, check, or any other means other than by bank card, provided such discounted price is presented as a discount from the standard price available for all other means of payment;

(c) MERCHANT may display the proprietary names and symbols associated with bank cards only while this Agreement is in effect, or until MERCHANT is notified by BANK or the bank card brands/organizations to cease such usage. BANK and the bank card brands/organizations shall have the right at any time to require MERCHANT to cease such usage for any reason, whether or not this Agreement remains in effect. MERCHANT may use the proprietary names and symbols associated with bank cards only to indicate that bank cards are accepted for payment and shall not indicate, directly or indirectly, that BANK, Visa, MasterCard, American Express, Discover, PayPal, or any other bank card brand/organization endorses MERCHANT's products or services;

8. **Returns and Credits.** MERCHANT shall properly complete a credit slip and deliver one completed copy to cardholder at the time of each return of merchandise or cancellation of a sale or transaction. MERCHANT acknowledges no debit returns are permitted. With respect to EBT, MERCHANT shall properly complete an EBT refund and deliver a completed receipt to the cardholder at the time of each return of merchandise or cancellation of sale. BANK shall charge MERCHANT the transaction fee as well as other fees applicable to all credit transactions. MERCHANT shall not, under any circumstances

Merchant Notification Terms & Conditions, continued

issue: (i) cash or MERCHANT's check for returns of merchandise or cancellation of service where goods or services were originally purchased in a bank card transaction; (ii) a credit slip to a cardholder without having completed a previous purchase transaction or charitable donation transaction with the same cardholder; or (iii) a credit slip to a cardholder for any prior sale, service or charitable donation made or provided at a location other than the location where the credit slip is issued.

With proper disclosure at the time of the transaction where purchased goods or services are delivered to cardholder, MERCHANT may:

Refuse to accept merchandise in return or exchange and refuse to issue a refund to a cardholder; or

Accept returned merchandise in exchange for the MERCHANT's promise to deliver goods or services of equal value available from MERCHANT at no additional cost to cardholder.

Proper disclosure shall be deemed to have been given if, at the time of the transaction and prior to obtaining the customer's signature, the following notice appears on all copies of the sales slip in legible letters at least 1/4 inch high and in close proximity to the space provided for the cardholder's signature stating "NO REFUND" or "EXCHANGE ONLY" or "IN STORE CREDIT ONLY," as applicable, or equivalent language.

9. **Electronic Commerce.** If BANK approves MERCHANT to accept bank cards via the Internet, then MERCHANT will provide secure encryption capability, such as Secure Socket Layer (SSL), to cardholders. MERCHANT agrees that it must also, in addition to and not in lieu of other applicable procedures and rules, comply with the following:

(a) Post its privacy and security policy on its website, where such policies shall be clearly marked for consumers to see and clearly review; and

(b) Include on its website the following information displayed in the following manner:
(i) a complete description of the products offered, (ii) the return merchandise and refund policy, (iii) a method for the cardholder to acknowledge their acceptance of the Terms & Conditions for return merchandise or for the refund policy; this acknowledgement should be in a format that complies with brand guidelines for proper disclosure, (iv) a customer service contact, including email address and/or telephone number, (v) any applicable export or legal restrictions, (vi) a delivery policy and (vii) a consumer data privacy policy.

(c) In any real-time electronic commerce bank card transaction, MERCHANT will cause the cardholder to enter the verification value located on the back of the card and the cardholder's street number and zip code for address verification. MERCHANT acknowledges and agrees all e-commerce transactions must be submitted utilizing e-commerce certified software acceptable to BANK. MERCHANT acknowledges that the electronic commerce indicator must be used to identify e-commerce transactions in the authorization request and clearing record. Penalties can be assessed for failure to use the correct electronic indicator. MERCHANT acknowledges and agrees MERCHANT will not submit e-commerce transactions via a point-of-sale (POS) terminal. MERCHANT agrees to use and retain proof of a traceable delivery system as means of shipment of product to MERCHANT's customer.

10. **Recurring Transactions.** Recurring transactions are not allowed on PIN Debit transactions, but are allowed with other types of cards. If MERCHANT agrees to accept a transaction from a cardholder for the purchase of goods or services, or charitable donations, which are to be delivered or performed periodically (a "Recurring Transaction"), the cardholder must complete and deliver to MERCHANT a written request for such goods, services or charitable donations to be charged to the cardholder's account periodically. Each of the following provisions shall apply to all recurring transactions:

(a) The cardholder's written authorization must be retained for the duration of the recurring charges and provided promptly in response to a cardholder's request for a copy;

(b) MERCHANT must not complete an initial or subsequent recurring transaction after receiving a cancellation notice from the cardholder, BANK, or the card-issuing bank;

(c) MERCHANT shall type or print legibly, on the "Signature Line" of the sales draft for recurring transactions, the words "Recurring Transaction";

(d) The cardholder's written authorization must include the amount of the transaction, frequency of the charge and the duration of time for which cardholder's permission is granted; and if the cardholder elects to renew a Recurring Transaction, the cardholder must complete and deliver to MERCHANT a new written Recurring Transaction request.

11. **Rules and Regulations.** This Agreement shall be subject to the bylaws and operating rules and regulations of Visa, MasterCard, American Express, Discover, PayPal, and PIN Debit/EBT Networks, as amended from time to time.

12. **PCI DSS Compliance and Customer Information Security.** BANK shall implement policies and procedures to maintain the security of cardholder data that BANK possesses, stores, processes or transmits on behalf of MERCHANT, or to the extent that BANK could impact the security of MERCHANT's cardholder data environment, in accordance with applicable Payment Card Industry Data Security Standard (PCI-DSS) requirements.

MERCHANT and Agent (as defined below) shall exercise reasonable care to prevent disclosure or use of Customer Information (as defined below), other than (i) to MERCHANT's agents and contractors for the purpose of assisting MERCHANT in completing a payment transaction, (ii) to the applicable card brand or organization or governmental entities and authorities, or (iii) as specifically required by law. MERCHANT is prohibited from storing CVV2 or CV2, magnetic stripe track data and PIN data. "Customer Information" means personal information related to a customer of MERCHANT or a customer's payment instrument that is obtained by MERCHANT as a part of a bank card transaction. Such information shall include a customer's name, address, phone number, date of birth, payment instrument account number and expiration date, PIN data, and CVV2 or CVC2 data, and any data read, scanned, or otherwise obtained from the payment instrument, whether printed thereon, or magnetically, electronically or otherwise stored thereon. MERCHANT will store all media containing allowed Customer Information, currently limited to customer

name, payment instrument account number and expiration date, in an unreadable format wherever it is stored and in an area limited to selected personnel on a "need to know" basis only and prior to either party discarding any material containing Customer Information, the party will destroy it in a manner rendering the account numbers and other Customer Information unreadable. If at any time MERCHANT determines that Customer Information has been compromised MERCHANT will notify BANK immediately, and in no case later than twenty-four (24) hours after discovery of the event, and assist in providing notification to the proper parties, as BANK deems necessary. MERCHANT information may be shared by BANK with BANK's affiliates and with governmental entities and authorities and the card brands or organizations subject to the provisions of this Agreement and the bylaws, rules and regulations, as they exist from time to time, of the card brands and organizations, as well as applicable laws and/or regulations (the "Rules"). MERCHANT agrees to comply with all security standards and guidelines that may be published from time to time by any card brand or organization, including, with-out limitation, the Payment Card Industry Data Security Standards ("PCIDSS"), the Visa Cardholder Information Security Program ("CISP"), the MasterCard Site Data Protection program ("SDP"), the American Express® Data Security Operating Policy - United States ("DSOP") and the Discover/PayPal-Security Requirements (collectively, the "Security Guidelines"). All Service Providers MERCHANT uses must be recognized by Visa as CISP compliant service providers and payment applications MERCHANT uses must be recognized by VISA as compliant with the Payment Application Data Security Standards ("PA-DSS"). "Service Provider" means any party that processes, stores or transmits Customer Information on MERCHANT's behalf. MERCHANT understands that failure to comply with the Rules, including PCIDSS, CISP, SDP or other Security Guidelines, or the compromise of any customer account information, may result in assessments, fines, and/ or penalties by the card brands and organizations or governmental entities or authorities, and MERCHANT agrees to indemnify and reimburse BANK immediately for any assessment, fine, or penalty imposed on BANK due to any such failure or MERCHANT's breach of this paragraph and any related loss, cost or expense incurred by BANK, including but not limited to, forensic investigation costs. Furthermore, MERCHANT must comply with BANK's request to upgrade any non-compliant POS system and/or terminal within ten (10) business days of such request. BANK reserves the right of set-off to any and all bank card proceeds to be applied toward any and all balances relating to such expenses, cost and/or fees, with or without notice to MERCHANT. MERCHANT further agrees to (i) exercise reasonable due diligence to ensure that all of MERCHANT's Service Providers, payment applications, agents, business partners, contractors, and subcontractors maintain compliance with the Security Guidelines and (ii) provide BANK upon BANK's request with the assessment of MERCHANT's compliance with the Rules, Security Guidelines and PA-DSS as required by the card brands and organizations. If any card brand and organization, governmental entity or authority requires an audit of MERCHANT or any of MERCHANT's Service Providers, payment applications, agents, business partners, contractors, or subcontractors due to a data security compromise event or suspected event, MERCHANT agrees to cooperate with such audit and agrees to pay for all costs and expenses related to such audit, including all of BANK's costs relating to such audit, including attorneys' fees. MERCHANT's obligations and BANK's rights under this section shall survive the termination of this Agreement.

BANK may make available a PCI DSS compliance program, either directly or through a third-party. Depending on the program, BANK shall have the right to charge an annual or monthly PCI fee whether or not MERCHANT participates in the program. Further, BANK may charge a non-compliance fee on a frequency to be determined by BANK for merchants who fail to provide certification of PCI compliance, and maintain an annual certificate of compliance.

MERCHANT acknowledges and agrees that MERCHANT's participation in any such PCI DSS compliance program, including any use of the third-party services does not guarantee MERCHANT's compliance with any of the rules or security standards established by Visa/MasterCard/American Express/Discover/PayPal and any other applicable card companies. MERCHANT further acknowledges and agrees that MERCHANT's participation in any such PCI DSS compliance program, including any use of the third-party services, does not guarantee the security of MERCHANT's IP addresses or that MERCHANT's systems are secure from unauthorized access. MERCHANT is responsible for establishing and maintaining security policies and procedures, and for compliance with the rules and security standards of Visa/MasterCard/ American Express/Discover/PayPal and any other applicable card companies, including any obligation to notify Visa/MasterCard/American Express/Discover/PayPal and any other applicable card companies and BANK of any suspected breach of MERCHANT's systems.

MERCHANT may elect to use a third party as MERCHANT's agent ("Agent") to perform some of MERCHANT's obligations under this Agreement. Agents include, but are not limited to, MERCHANT's software providers and/or equipment providers. MERCHANT shall bear all risk and responsibility for conducting MERCHANT's own due diligence regarding the fitness of an Agent for a particular purpose and for determining the extent of an Agent's compliance with the BANK Rules, the Operating Regulations, and the Laws.

BANK may approve or deny the use of an Agent in BANK's sole discretion and at any time. MERCHANT acknowledges and agrees that MERCHANT shall cause its Agent to complete any steps or certifications required by any Brand (e.g., registrations, PA-DSS, PCI, audits, etc.) If an Agent is designated a service provider under any applicable Operating Regulation, MERCHANT shall cause such Agent to cooperate with BANK in completing any due diligence and/or steps required for registration and/or certification. MERCHANT is solely responsible for any and all applicable fees, costs, expenses and liabilities associated with such steps, registrations, and certifications. MERCHANT expressly agrees that BANK shall in no event be liable to MERCHANT or any third party for any actions or inactions of any Agent used by MERCHANT (even if such Agent is introduced, recommended, or resold by BANK), and MERCHANT hereby expressly assumes all such liability.

MERCHANT expressly authorizes BANK to access information regarding MERCHANT's PCI compliance status. Upon BANK's request, MERCHANT or MERCHANT'S PCI vendor

Merchant Notification Terms & Conditions, continued

must provide information, including but not limited to, PCI compliance/validation certification, SAQ (Self-Assessment Questionnaire), and Network scan results, and or any other information BANK requests with regard to MERCHANT's PCI compliance within ten (10) business days of request.

BANK at its discretion may discontinue, modify or amend the PCI DSS compliance program at any time. Upon termination of the Merchant Application & Agreement, MERCHANT's right to participate in any PCI DSS compliance program made available by BANK shall cease notwithstanding the prior payment of any PCI fee paid by MERCHANT.

MERCHANT expressly acknowledges and agrees that BANK shall be a third party beneficiary of any agreement entered into between MERCHANT and BANK's third party service provider relating to BANK's PCI compliance program and BANK shall have the rights, remedies and protections afforded therein to the same extent as such third party service provider.

13. **Assignment.** This Agreement and the rights and obligations underlying this Agreement may be assigned by Fifth Third Bank, an Ohio banking corporation, Member FDIC, or First American Payment Systems, L.P., or their respective affiliates or subsidiaries. This Agreement may not be assigned by MERCHANT.

14. **Credit Card/Money Laundering.** MERCHANT agrees to abide by all local, state, and federal laws and statutes and Visa, MasterCard, American Express, Discover and PayPal regulations regarding Credit Card/Money Laundering. MERCHANT acknowledges that it may only enter transactions into the bank card system if (i) transactions are through an approved merchant account for sales or charitable donations which are originally generated by MERCHANT, (ii) transactions are between MERCHANT and a bona fide cardholder, and (iii) transactions are submitted from MERCHANT's own accounts. BANK reserves the right to terminate this Agreement, with or without notice, if BANK reasonably believes MERCHANT is in violation of any of the above.

15. **Governmental Reporting Requirements.** MERCHANT represents and warrants that all information MERCHANT has provided in the Agreement is true and correct. MERCHANT also acknowledges that BANK may be required to report certain information regarding MERCHANT including but not limited to MERCHANT's TIN, Entity Name, DBA, processing volume, and principal's Social Security Number to governmental agencies such as the Internal Revenue Service (IRS). BANK shall have the absolute and unconditional right to impose a monthly fee to MERCHANT when the information provided by MERCHANT is incorrect or does not match government agency information. MERCHANT agrees to fulfill any request from BANK for additional information which may be required or requested by any government agency. Notwithstanding the foregoing, MERCHANT understands that BANK may be required to withhold processing funds and forward such funds to the IRS as a result of incorrect information provided by MERCHANT or otherwise at the direction of a government agency. MERCHANT expressly agrees and releases BANK from any and all liability hereunder resulting from incorrect information being submitted to any government agency and/or the withholding of funds. MERCHANT is responsible for any fines or penalties which may be assessed to MERCHANT and/or BANK.

16. **Guarantor.** Any guarantor hereby guarantees performance of all obligations of MERCHANT and agrees that BANK may require performance of any obligation of MERCHANT hereunder directly from guarantor.

17. **Amendments.** BANK has the right to amend this Agreement, by notice to MERCHANT. Any amendments shall become effective no earlier than ten (10) days from date of notice.

18. **Taxes.** MERCHANT shall pay and be responsible for all sales, use, value added, and other taxes and duties, of whatever nature levied or imposed as a result of this Agreement or in connection with any services hereunder.

19. **Force Majeure.** BANK is released from liability hereunder for failure to perform any of the obligations herein where such failure to perform occurs by reason of any acts of any other party or third party or any acts of God, fire, flood, storm, earthquake, tidal wave, computer or communications failure, software failure, program failure, network problem, sabotage, war, military operation, national emergency, mechanical or electrical breakdown, civil commotion, or the order, requisition, request, or recommendation of any governmental agency or acting governmental authority, or BANK's compliance therewith or government proration, regulation, or priority, or any other cause beyond BANK's reasonable control whether similar or dissimilar to such causes.

20. **Limitation of Damages.** BANK shall not be liable for special, consequential, indirect, exemplary, punitive, or multiple damages. In no event shall BANK's cumulative liability to MERCHANT hereunder, including as a result of BANK's or any processor's own negligence, breach or error, exceed one hundred fifty dollars (\$150.00). MERCHANT acknowledges and agrees that BANK shall not be liable for losses, claims, or damages that arise as a result of acts or omissions, including, but not limited to, those constituting fraud, misrepresentation, misconduct, or negligence committed by MERCHANT or its Affiliates

in connection with or relating to the execution, delivery or performance of the Merchant Application & Agreement/ Merchant Processing Terms & Conditions, whether such acts or omissions were known or unknown by BANK.

21. **Disclaimer.** BANK disclaims all warranties, express or implied, written or oral, including but not limited to warranties of merchantability and fitness for a particular purpose. MERCHANT acknowledges that the service may not be uninterrupted or error free.

22. **Severability.** In the event that any provision of this Agreement or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this Agreement will continue in full force and effect and the illegal, invalid or unenforceable provision is modified to give effect to the original intent consistent with being valid and enforceable under applicable law.

23. **Counterparts.** This Agreement may be executed in counterparts, including facsimile counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.

24. **Survival.** Any and all provisions of this Agreement that impose or could be construed to impose a continuing obligation, duty, or requirement upon MERCHANT including, but not limited to indemnification, PCI DSS Compliance, and chargeback liability, shall survive the expiration or termination, for any reason, of this Agreement.

25. **Visa Member Bank Disclosure.** The responsibilities listed below do not supersede terms of the Merchant Application & Agreement or the Merchant Processing Terms & Conditions and are provided to ensure MERCHANT understands some important obligations of each party and that the Visa Member (Acquirer) is the ultimate authority should MERCHANT have any problems.

Member Bank (Acquirer) Information:

Acquirer Name: Fifth Third Bank
Acquirer Address: 38 Fountain Square Plaza
Cincinnati, OH 45263
Attn: Relationship Manager
Contact Phone: 817-317-2996
Acquirer Phone: 866-250-9764

Important Member Bank (Acquirer) Responsibilities:

- (i.) A Visa Member is the only entity approved to extend acceptance of Visa products directly to a MERCHANT;
- (ii.) A Visa Member must be a principal (signer) to the Merchant Agreement;
- (iii.) The Visa Member is responsible for educating MERCHANTS on pertinent Visa Operating Regulations with which MERCHANTS must comply;
- (iv.) The Visa Member is responsible for settlement of funds to the MERCHANT;
- (v.) The Visa Member is responsible for all funds held in reserve that are derived from settlement.

Important MERCHANT Responsibilities:

- (i.) Ensure compliance with cardholder data security and storage requirements;
- (ii.) Maintain fraud and chargeback below thresholds;
- (iii.) Review and understand the terms of the Merchant Agreement;
- (iv.) Comply with Visa Operating Regulations.