



Supplement to Merchant Services Agreement Executed with PPA Version 01202014

PPA Payment Processing Alliance Terms And Conditions



The Merchant Processing Agreement and these Terms and Conditions form the basis of the relationship between the Merchant and PPA and the legal agreement between the Merchant and PPA. To the extent the Merchant selects a service or product provided by PPA or through a third party, the Merchants legal relationship with the Third Party is also set forth in these Terms and Conditions below and the Third Party is a third party beneficiary of this agreement. In addition the terms of this agreement may be changed from time to time based on ODFI, regulatory or legal requirement with or without notice. Any services used with PPA or services which are covered under agreement these Terms and Conditions is automatically protected and precludes Merchant from contracting directly with any merchants, representatives, banks or system providers of PPA nor can merchant disclose any such information to other parties. This includes any attempt to reverse reengineer any product offered by PPA. It is agreed disclosure of this information would do irreparable harm to which money damages may be inadequate.

The following terms, that are used in this Agreement, are defined below:

- ❑ **"ACH"** shall mean a funds transfer system, governed by the NACHA Operating Rules, that provides for the inter-bank clearing of electronic entries for participating financial institutions.
- ❑ **"ACH" Credit** shall have the same meaning as that provided in the NACHA policies and guidelines.
- ❑ **"ACH" Debit** shall have the same meaning as that provided in the NACHA policies and guidelines.
- ❑ **"Agreement"** means this Merchant Processing Agreement and these Terms and Conditions.
- ❑ **"Business Day"** means a day on which commercial banks settle payments in the United States.
- ❑ **"Charge Back"** shall mean a transaction that is rejected by the transactee's bank as unauthorized or fraudulent or based on a claim against the merchant such as failure to deliver.
- ❑ **"Check 21"** refers to the Check Clearing Act of the 21st Century. It may also be used to describe a specific file type (usually preceded by the reference: X9) approved by the Federal Reserve whereby the intent of the act may be achieved. Financial institutions sometimes refer to this type of check transaction as: "Check 21" or "X9.37" or "Image Cash Letters" or "Paper Based (electronic) Transactions".
- ❑ **"Clearing Account"** means a checking account that is used to manage check deposits and withdrawals. In this case the checks are being credited and debited electronically.
- ❑ **"Confidential Information"** means all information which prior to or upon its disclosure is designated as such by one party (the "Disclosing Party") to the other party (the "Receiving Party"), or which should reasonably be considered as information of a confidential nature by the Receiving Party and which information includes, without limitation, data relating to Customers, their transactions, this Agreement, PPA' or Merchants products, services, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs. Further all information as defined by state and federal laws, regulations, rules and guidelines, including but not limited to, the Gramm-Leach-Bliley Act of 1999, the Fair Credit Reporting Act and similar information shall be kept confidential by the parties to this agreement and used solely in the manner set forth by law.

- ❑ **"Customer(s)"** means the natural person(s) or legal entity or entities who or which have purchased or ordered services from Merchant.



- ❑ **"PPA Service Provider"** shall mean any entity designated or chosen by PPA (including but not limited to a ODFI Bank or a Master Independent Sales organization which has a contract with a ODFI Bank) which provides to Merchants or other banks, on behalf of PPA, Processing Services and shall also mean any entity which provides Third Party Products to PPA which PPA shall provide to Merchants.
- ❑ **"Financial Institution"** shall mean a legally chartered bank or credit union.
- ❑ **"ODFI "** is a financial institution (Network) used by a PPA Merchant who will be acting as the Originating Depository Financial Institution as defined by NACHA rules. A participating financial institution that initiates ACH entries at the request of and by agreement with it customers. ODFI's must abide by the provision of NACHA operating guidelines. For purposes of this agreement this term may also be used to refer Bank of First Deposit which is a term used in conjunction with Check 21 origination,
- ❑ **"Merchant"** means a business which has entered into a Merchant Check Agreement or software sub license agreement, or Third Party Agreement with PPA and/or a PPA Service Provider.
- ❑ **"Merchant Check Agreement"** means any agreement for provision of Processing Services or Products in effect between PPA and a Merchant and, in some cases, a PPA Service Provider, and shall include any information provided by the Merchant as part of the agreement.
- ❑ **"NACHA"** means the National Automated Clearing House Association.
- ❑ **"Originator"** shall have the same meaning as that provided in the NACHA policies and guidelines.
- ❑ **"Processing Services"** means the equipment, operational support and/or software relating to the acceptance, transmittal, processing, storage and collection of check transactions and/or electronic payments (Electronic Funds Transfer — EFT). Creation of electronic files (ACH or Check21) whereby financial institutions can move funds from one account to another.
- ❑ **"Receiver"** - shall have the same meaning as that provided in the NACHA policies and guidelines.
- ❑ **"Refund"** means any amount returned by DPC to a Customer(s) account at their financial institution based upon specific instructions of Merchant to do so. Such refund may be either an ACH credit or paper check. A "Refund" may also be referred to as an ACH Credit.
- ❑ **"Reserve"** — shall mean a deposit of funds into an account owned by PPA for the purpose of serving to absorb checks that are returned or charged back. A reserve will be maintained and survive the merchant relationship with PPA to cover an extended risk period as defined by PPA.
- ❑ **"Returns"** — shall mean check transactions that are returned and shall have the same meaning as that provided in the NACHA policies and guidelines.
- ❑ **"Rules"** means the written regulations, guidelines, policies and procedures issued by NACHA, the Federal Reserve, PPA, ODFI Bank, a Third Party providing services under this agreement or government agency having jurisdiction over the activities of such entities, all as amended from time to time.
- ❑ **"Third Party Agreement"** is the terms under which a party (one other than the Merchant or PPA) provide services to the Merchant. The terms governing the third party relationship are set forth herein. An agreement with a third party is consummated when the Merchant processes their first transaction using the third party's services. Example: If a merchant contracts for the use of PPA' Payment Gateway they will agree to a Third Party Agreement with RedFin, a vendor PPA' contracted with to provide and maintain a PCI compliant payment gateway.

The first transaction using the gateway by this definition consummates the Third



Party Agreement between the Merchant and RedFin but does not cancel or supersede this agreement.

- ❑ **"Third Party Products"** means product provided by one (other than the Merchant or PPA) directly involved in this agreement. Examples include but are not limited to RedFin, various check guarantee companies, A2ia, Ranger, ODFI(s), and other companies whose services PPA and or the Merchant may use as part of this agreement.
- ❑ **"Transactee"** means the Customer or Receiver.

ACH/EFT and or Check 21 Transactions Products and Services 1.

PPA Products and Services:

- a. **ACheck21 Premier**- a workflow-driven, multi-pass remittance processing software client with distributive capture and distributive workflow solutions. Features include: 2 pass or 1 pass, multiple stub options, web services/web site ACheck21™ Gateway, A/R posting, hot files, reporting and search capabilities, archival, OCR and CAR/LAR read, Verification, ACH and Check 21 file formats, mechanical and virtual endorsement. Services include PPA clearing transactions either through a PPA clearing account or direct to the Merchants bank. If the Merchant does not want to send items to a bank electronically Premier supports power encoding.
- b. **ACheck21 Express** - a workflow-driven, single-pass, distributive capture solution. Features include web services/web site - ACheck21™ Gateway, A/R posting, hot files, reporting and search capabilities, archival, OCR and CAR/LAR read, Verification, ACH and Check 21 file formats, mechanical and virtual endorsement. Services include PPA clearing transactions either through a PPA clearing account or direct to the Merchants bank.
- c. **ACheck21 Micro** - a high speed web based thin client solution. Features include: High speed, Reporting, OCR and CAR/LAR, ACH and Check 21 file format. Services include PPA clearing transactions either through a PPA clearing account or direct to the Merchants bank.
- d. **ACheck21 Gateway** - provides online financial services featuring accessibility through our web services portal. The ACheck21 Gateway provides the following features: Duplicate check detection, supports a wide variety of input mechanism, available for use with e-sales, and other alternative cash flow mechanisms, robust reporting and searching capability, Provides connectivity between "front end" clients and "back end" processing.
- e. **Check clearing services** — PPA will clear checks through bank clearing accounts owned by PPA or through bank clearing accounts owned by the Merchant.
- f. **ACheck21 ODFI Assistant** - The ODFI Assistant is a powerful yet lightweight tool that provides the ability to automate outbound and inbound file transfers between PPA and the originating financial institution. This product and service is used to assist a Merchant's bank in managing the flow of files from PPA. Features include:
 - Electronic 'Traffic Cop' that controls and facilitates the flow of files to and from the bank
 - Resides on bank operator's system tray (see picture)



- Operates on secured 128 bit security — the highest security available
- Web Proxy technology that interfaces with our back end web services layer — not exposed to the open world wide web.
- Operates like MSN Messenger — notifies user of activity or communication.

Has ability to `pick up' files and mark them as processed as a simple means of file handling for not technical staff.

Can `parse' return files from the Federal Reserve — and circulate the return item to the appropriate recipient.

Can handle both ACH and Check 21 file formats.

Has message capability — provides immediate communication between ODFI and PPA.

Can parse XML deposit files for viewing that allows simple ODFI same-day credits and automation functionality.

Messenger capability can also provide information to RDFI through a variety of communication protocols, including e-mail, as well as

communicating to a remote installation of the ODFI Assistant at the RDFI.

- g. **ACheck21 Tool Kit** - allows in house software customizations that will make Merchant's back office processing more streamlined and efficient
- h. **ACheck21 Data Mining** — technology to capture and parse to a contact management program the information about the check writer located on the face of the check
- i. **ACheck21 Remote Remittance Processing**- technology to allow multiple locations to image and capture checks remotely over the internet while a central operation processes the payments. Visualize a remittance processing operation whereby the checks are being captured remotely using check imaging equipment but the work to repair defective checks, balance deposits, product output files and in general maintain the back office is centralized.

2. Third Party Products or Services

- a. **ACheck21 Verification** — Verifies that the routing and account number found on a check is not currently listed on one of several national "negative" data bases. A negative data base is used to allow financial institutions, originators and third party processors to report routing and account numbers that have failed to clear checks submitted due to insufficient funds or other allowed reasons.
- b. **ACheck21 Payment Gateway** — Payment gateway is a PCI compliant credit card and check payment "terminal" that communicates with the check or credit card payment to authorize and settle transactions.
- c. **ACheck21 CAR/LAR Reading** — technology that reads handwriting as well as OCR (optical character recognition)
- d. **ACheck21 Check Guarantee** — a service to guarantee checks subject to certain criteria.
- e. **ACheck21 Check Recovery** — a service to recover checks that are returned for account closed or insufficient funds.



MERCHANTS OBLIGATION AND ACKNOWLEDGEMENTS TO PPA

Merchant must comply with, at all times, this Agreement including the Terms and Conditions. In addition, the Merchant is responsible for providing accurate and truthful information as part of this application process and whenever asked by PPA. It is the Merchants obligation to update their information and notify PPA, in writing, within 5 Business Days of any change. AS PART OF THIS RELATIONSHIP, MERCHANT SHALL APPOINT PPA AS THEIR AGENT TO CLEAR FUNDS THROUGH AN ACCOUNT OWNED BY PPA OR THE MERCHANT, AT A BANK APPROVED BY PPA, FOR THE PURPOSE OF MAKING CREDITS AND OR DEBITS OF MERCHANT FUNDS IN ACCORDANCE WITH THIS AGREEMENT.

1. Merchant acknowledges and agrees that they are an Originator under the NACHA rules.
2. Merchant represents and warrants to PPA that they are providing a bonified service to the receiver (customer) for which payment is lawfully due or the receiver is providing a bonified service to the Merchant for which payment is lawfully due and that all transactions submitted to PPA are for a service lawfully given or received.
3. Merchant agrees to abide by restrictions on the dollar amount of a transaction, the size of a file (i.e. number of items and or images in the file) and the types of paper remittances PPA is willing to accept. Restrictions, if any, are attached to the Merchant Processing Agreement. Merchant warrants to PPA that Merchant shall at all times comply with Merchant Processing Agreement.
4. Merchant warrants that the amount of any credits and debits for which payment instructions are given to PPA shall be accurate and timely.
5. Merchant agrees to provide appropriate notice and obtain any authorization as required by the rules from Transactee prior to debiting or crediting Transactees' accounts. Merchant will maintain copies of the authorizations in accordance with NACHA rules: <http://pubs.nacha.org/>.
6. Merchant shall insure that there are adequate funds in its account at all times to cover Returns, Charge Backs or other demand for funding. If any amount debited against the Merchant or Merchant's Transactee is dishonored or returned for any reason, such as but not limited to, non-sufficient funds, account closed, or unable to locate account, or is reversed by Merchant, Merchant's Transactee and/or Transactee's Bank, PPA may take any action permitted by law or this agreement including but not limited to:
 - a. Reversing any corresponding credit issued to Merchant, Merchant's Transactee or any other party without liability to Merchant or Merchant's Transactee or any other party.
 - b. Requiring Merchant to wire funds to PPA to be received no later than 3:00 pm Central Time on the same day Merchant was notified of said return if Merchant was notified prior to 11:00 a.m. Central Time on such day; otherwise by no later than 3:00 pm Central Time on the next business day.
 - c. Resubmitting the item and Merchant will owe PPA a late fee as provided in the fee section below.
 - d. Merchant agrees to reimburse PPA for any returned payments that were disbursed to Merchant. PPA is authorized to debit the amount from the Merchant's Account via ACH or withhold the amount from the next disbursement or deduct amount from Merchants Reserve. Returned items from ACH entries may be reprocessed by PPA and may be collected upon resubmission. Should resubmission fail, Merchant shall be required to collect said funds and pay



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fees to PPA as described in the Merchant Processing Agreement.

e. Merchant understands PPA is acting as an agent for merchant and merchant authorizes PPA to collect items made payable to merchant and understands as a result of said agent relationship PPA does not assume any liability as to the validity of any transaction delivered for processing into any of the PPA systems, financial institutions or affiliated entities.

Merchant shall pay all of PPA's collections costs, including but not limited to, attorney's fees, within 10 days after receipt of written demand for payment.



7. If requested to do so, and if Merchant is processing transactions through PPA, Merchant shall maintain adequate reserves to cover the highest seven (7) day average of checks returned to Merchants account over the three (3) months preceding the date of this agreement or in the case of high risk six (6) months preceding the date of this agreement. Requirement is set forth strictly at the discretion of PPA and can be modified based on merchant type, transaction volumes and termination circumstance.
8. The Merchant shall immediately wire funds to .PPA' clearing account, in the event the Reserve should ever prove inadequate to cover one or more returned checks.
9. Merchant agrees to promptly and regularly review all entries and other communication received from Merchants Bank and/or PPA and to immediately notify PPA (within two (2) business days) and its bank in writing if there are any discrepancies between Merchant records and those provided by PPA or with respect to any transfer not authorized by Merchant, then the Merchant will be solely responsible for all losses or other costs associated with any erroneous or unauthorized transfer and shall indemnify, defend and hold PPA, ODFI and ACHeck21 or their agents, Third Party Vendors, assigns harmless from all losses, attorney's fees and costs arising with respect thereto.
10. Merchant will create all files directing where and when (within the time schedules set by PPA) all money will be moved. Upon the request of Merchant, PPA may make adjustments or edits on files received and on occasion, PPA has the right to create files initiating credit/debit entries to make adjustments which have been requested by Merchant or whenever PPA and or the bank in whose name files have been moved to or transferred to deems it necessary to do so.
11. Merchant desires to utilize the ACHeck21 TM software and processing services of PPA to create and transmit ACH and or x9 files (Check 21) files for the purpose of transferring money through the National Banking System pursuant to the terms of this Agreement and NACHA rules. Merchant shall initiate credit/debit entries through the use of ACHeck21 technology in accordance with the training and instructions provided by PPA and or their designated Independent Sales Group. The total amount of credits must equal the total amount of debits
12. It shall be Merchants responsibility to manage the security of the system by carefully controlling access and monitoring use through their user name and password. Merchant shall also be responsible for instituting measures to monitor for fraud, theft or misrepresentation and similar acts that may result in unauthorized checks being submitted to PPA.
13. NACHA, the Bank and PPA have all adopted rules which may be amended from time to time effective upon reasonable notice to Merchant. Merchant agrees to abide by said rules.
14. **MERCHANT ACKNOWLEDGES THAT PPA LICENSES ACHeck21 TM SOFTWARE FOR USE THROUGH PPA TO MERCHANT AND PROVIDES ONLY ITS SERVICES TO MERCHANT. Further, Merchant acknowledges that PPA IS A THIRD PARTY PROCESSOR OF ACH/EFT and Check 21 TRANSACTIONS AND FURNISHES NO FINANCIAL ACCOMMODATIONS TO MERCHANT OR, WHERE APPLICABLE, MERCHANT'S TRANSACTEE. Further, Merchant, acknowledges that THE MERCHANT PROCESSING AGREEMENT AND THESE TERMS AND CONDITIONS(WHICH ARE PART OF THE AGREEMENT)DO NOT LIMIT MERCHANT'S OBLIGATION TO COMPLY WITH SUCH LAW OR RULES .**
 15. Merchant must provide a voided check to PPA. The check should have a bank routing code and account number. The voided check is used to verify the information entered on the Merchant Processing Agreement.



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16. Merchants should store maintain check images and records for the amount of time mandated by the transaction type, based on NACHA and other rules. See <http://pubs.nacha.org/>. for further information. In the event of natural disasters or other unforeseen events stored files may be destroyed or corrupted
17. Merchant agrees to destroy transactees original check as soon as Merchant verifies that an image document of that check is posted online.



PPA OBLIGATION TO MERCHANT

1. PPA agrees to supply and Merchant agrees to license the ACHeck21™ software and purchase the Processing Services described in the Merchant Processing Agreement. Processing Services will be provided in accordance with this agreement and may rely on Third Parties to assist carrying out this contract.
2. PPA will only be responsible for processing entries that are submitted in proper format and on a timely basis. PPA shall have the right to advise Merchant of any applicable cut-off times which may change from time to time at the discretion of PPA after at least 3 business days' prior notice to Merchant. Merchant does not have the right to cancel or amend any entry after submission to PPA or the National Banking System and PPA shall have no liability to Merchant for any transactions that have been processed after submission by Merchant. However, Merchant has the ability to amend or cancel entries prior to submitting files to PPA or the National Banking System. However if PPA finds entries which at their discretion could place PPA, its merchant banks, the financial system or merchant at risk for any loss or detrimental action PPA at its discretion may delete transactions. It is the client or merchant responsibility to balance the system daily and request back up information regarding any discrepancy within 3 days of the actual system discrepancy. Should a request be received that is outside the 3 day window PPA is not obligated nor liable for any information requested in such request.
3. PPA shall provide a secure link to and from the PPA Gateway (internet portal) for Merchant's access. This secure link is encrypted through 128-bit SSL following industry standard guidelines and will be used for file transmission and various reports. Access links will be authenticated with username and password. PPA, PPA Independent Sales Office and ACHeck21™ will not have access to the username and password. PPA is acting only as a processor of ACH and Check 21 entries on behalf of the Merchant It is understood and agreed that PPA' obligation under this Agreement is to facilitate the transfer of funds.
4. PPA may reverse any credit if payment of the corresponding debit is not honored or is reversed by Merchant's bank for any reason or if Merchant fails to deposit adequate funds.
5. All successfully collected payments, less applicable fees and returned items, shall be deposited into one or more accounts designated by Merchant as "Merchant Accounts".
6. Transaction Services:
 - a. PPA will provide the ACHeck21™ software product and the processing services to create an x9 file format or ACH file and deposit of all funds processed into the Merchant's account.
 - b. Capture of check images and information to create an x9 or ACH file that includes check MICR line information (ABA, DDA, Check number and amount) and check images.



- c. Providing administrative access to Merchant's Transactee data to electronically update accounts receivable send emails, download payment data and print reports .
 - d. All processing will be performed by PPA powered by ACHeckrm1 and supported by PPA Independent Sales Group.
 - e. Merchant agrees to notify all Merchant Transactees if their checks shall be electronically deposited through the ACH system or Check 21 image exchange through the National Banking System. PPA will provide, or provide through PPA Independent Sales Groups, Processing Services, software and training. Merchant must provide PC, Internet connection, imaging equipment and all other related hardware.
7. Image Storage/disaster recovery: ACHeck21 TM has the ability to store images at the Merchant location. The amount of storage at any one time will depend on the memory capacity of the Merchants computers. In addition, ACHeck21 TM allows the Merchant to transfer storage files from their computer to other storage media thus allowing unlimited storage at no costs. PPA assumes no liability for check images or account data stored on merchant systems at merchant location or merchant related affiliate.
8. PPA reserves the right to retain or expunge images stored on behalf of merchant in compliance with all known laws and regulations.
9. PPA reserves the right to require additional information regarding third party Originators and Merchant agrees to supply said information within three (3) business days upon written request. Analysis of information provided to the Bank may be used to determine approved activity limits and balance requirements.
10. PPA will be responsible for the performance of ACH/EFT services as a Third Party Processor in accordance with the terms of this Agreement and the laws, rules and regulations governing ACH and Check 21.
11. PPA will use the information provided by the Merchant to originate Entries



MERCHANTS LIABILITY AND INDEMNIFICATION

1. Liabilities and indemnification - PPA is not responsible for the actions of Merchant or any

other third party with respect to the amount, accuracy, and timeliness of transmittals or authorization of entries received from Merchant, or entry data received on behalf of the merchant. The acts of any other person or organization including, without limitation, banks or other financial institutions, or transmissions facilities, shall not be deemed the acts of PPA. PPA is not liable for errors, acts, or failure to act by others, including but not limited to, banks or common carriers. PPA is not liable for any loss, liability or delay caused by acts of God, fires, earthquakes, war, civil disturbances, terrorism, power surges or failures, acts of governments, labor disputes, failures in communication networks, legal constraints or other events beyond the reasonable control of PPA.

Notwithstanding anything to the contrary contained herein, the remaining sentences of this paragraph shall control for all purposes and may only be modified by a subsequent writing signed by the Parties hereto. MERCHANT SHALL INDEMNIFY AND HOLD HARMLESS ACHeck21 AND PPA. IN NO EVENT SHALL PPA BE LIABLE FOR OR ANY DAMAGES, WHETHER IN AN ACTION OF CONTRACT OR TORT, FOR LOSS OF PROFITS, LOSS OF USE, BUSINESS LOSSES, OR ANY OTHER INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH MAY ARISE, IN CONNECTION WITH

SERVICES PROVIDED HEREUNDER, EACH OF WHICH IS HEREBY PRECLUDED AND WAIVED BY AGREEMENT OF THE PARTIES, EVEN IF PPA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL PPA AGGREGATE AND CUMULATIVE LIABILITY FOR DAMAGES HEREUNDER EXCEED THE AMOUNT OF FEES RECEIVED BY PPA UNDER THIS AGREEMENT FOR THE THREE MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO DAMAGES, EXCEPT FOR DAMAGES RESULTING FROM PPA' LIABILITY FOR ITS OWN GROSS NEGLIGENCE, RECKLESSNESS, BAD FAITH OR WILLFUL MISCONDUCT.

- a. Merchant represents and warrants with respect to all transactions originated by Merchant that (1) each Merchant Transactee has authorized the debiting and or crediting of its account, (2) each Entry is for an amount agreed to by the Merchant Transactee, and (3) each Entry is in all other respects properly authorized. And proper authorization will be provided immediately upon request.
- b. Merchants shall protect the check writers information by keeping checks safe until they are successfully imaged and then destroying the originals; institute operational controls to insure compliance with the law, regulations and rules; monitor hiring practices; have regular training concerning the rules and merchants responsibilities as outline herein and in the rules; and, regularly review IT infrastructure to insure secure access.
- c. Merchant agrees to indemnify, defend and hold PPA harmless from any losses, liabilities, costs or expenses including attorney's fees suffered or incurred as a result of Merchant's breach of its representations and warranties herein.
- d. Merchant understands that PPA may rely solely on identifying numbers provided by the Merchant to determine the bank and account of a Transactee even if the



- numbers identify a bank or account holder different from the one identified by the Merchant by name. Merchant will indemnify, defend and hold PPA harmless from any losses, liabilities, costs or expenses suffered or incurred as a result of an incorrect account or other identification.
- e. Merchant acknowledges and agrees that PPA may reject Entries for any reason permitted or required in the Law, Rules or Regulations associated with the movement of money. Merchant also understands that entries or files which exceed the threshold parameters identified and set for the Merchant may be rejected. Merchant also acknowledges and agrees that an Entry may be rejected if the Entry would cause PPA to violate any Federal Reserve or other regulatory risk control program or any other law or regulation. PPA will, at Merchant's written request, make reasonable efforts to reverse, modify, or delete an Entry previously submitted to PPA by Merchant; provided, however, that notwithstanding anything to the contrary contained herein, Merchant acknowledges and agrees that PPA shall have no liability for the failure or inability to comply with Merchant's request under any circumstance and Merchant hereby waives and releases PPA from any loss or claim arising there from. All requests by Merchant for PPA to reverse modify or delete a previously submitted Entry must be made in writing and faxed, or delivered to PPA , by certified mail, within 48 hours of the Entry in issue.
 - f. Merchant represents and warrants that funds from Merchant's account shall be available to PPA if PPA fails to collect from Merchant's Transactees.
 - g. Merchant shall be 100% liable for any and all legal fees of PPA for defense of any action brought against PPA as a result of the associated merchant contract. This includes the defense against any action resulting from regulatory or governmental investigation or action Merchant attempts to bring against PPA or should PPA be required to seek legal counsel for any reason as a result of it's affiliation or doing business with Merchant.



FEES

1. In exchange for PPA' Services under this Agreement, Merchant shall pay PPA fees as set forth in the Merchant Processing Agreement. The Merchant's account will be debited monthly, unless the Merchant predominantly issues credits, in which case, fees will be collected either from the clearing account or from a reserve maintained by the Merchant.
 - a) For those accounts debited monthly, PPA will supply an electronic invoice at least 3 business days before an electronic debit occurs. If any electronic debit for PPA' fees is returned, PPA reserves the right to temporarily or permanently remove Merchant from processing Entries through PPA. Any returned billing transactions for PPA fees are subject to a service charge. Past due accounts shall be subject to a 1.5% monthly service charge. Merchant authorizes PPA to automatically collect all fees, charges and other amounts due them pursuant to this Agreement by appropriate ACH entries three business days after billing to Merchant. Merchant authorizes PPA to debit/credit Merchant's bank account.
 - b) For those Merchants who primarily issue credits, Merchant must deposit adequate funds at least 24 business hours prior to the release of credits to cover both the credits and PPA' fees. If prior funding is inadequate to cover both the credits and fees the credits will not be issued to the Merchants Transactees.
2. The Merchant has provided information to PPA concerning their existing bank account. This account may be used by PPA to transfer funds by credit or debit.
3. In the event the Reserve should ever prove inadequate to cover one or more returned checks, the Merchant shall immediately wire funds to PPA' clearing account (if applicable). In such event, Merchant agrees to cover the costs or overdraft fees (if any) and to pay PPA \$75 to cover the time and effort required to, notify the merchant and work with the bank. In the event the Merchant is unable to wire funds the same business day and PPA if forced to cover the overdraft, there shall be an additional fee of \$200 plus interest at the highest rate allowed by law.
4. In case of a return item for PPA fees, PPA may re-submit the item and Merchant will be charged a \$30 service fee. If further collection attempts are required, all PPA' collections costs, including attorney's fees where permitted by law, will be charged to and paid by Merchant. Merchant will have ten (10) days after receipt of written demand for payment and if not timely paid, PPA shall have the right, in addition to all other rights, to offset funds sufficient to pay any amounts owed to PPA from the Merchant's Account by an appropriate entry.
 6. Merchant understands and agrees that if any interest accrues on funds transferred to the Bank clearing account is the property of PPA.
 7. It is the merchants responsibility to seek legal advice on any interpretation of the terms of this agreement. Merchant understands this agreement is fully referenced in the merchant contract and Merchant understands it is their responsibility to insure they have received the most recent version of the Terms and Conditions as referenced in the merchant contract to which these Terms and Conditions are a part.



Supplement to Merchant Services Agreement Executed with PPA

TERM

1. **Term of this Agreement:** This Agreement will have a term of three years commencing with the date of this Agreement. This Agreement will automatically renew for subsequent successive periods of (1) year, unless either party provides the other party written notice of termination one hundred eighty (180) days prior to the end of any succeeding term of this Agreement. Terms of this agreement survive the business relationship in perpetuity which are terms regarding reserve requirements, reserve distributions, authorization requirements legal fee collection and defense requirements.



TERMINATION

1. Notwithstanding anything to the above in TERM 1, either party may terminate this Agreement at any time at the occurrence of one or more Events of Default. Events of Default are as follows: (i) breach by Merchant or PPA of any covenant, condition or representation of this Agreement and the failure to cure such breach within thirty (30) after receipt of written notice from the non-defaulting party of said breach; or (ii) any dissolution, bankruptcy, insolvency, liquidation, or similar event affecting either party and (iii) Cancellation or suspension of a necessary license or any other reason that makes it legally impossible for either party to perform the obligations, terms and conditions under this agreement.
2. Non-Default Termination of Agreement: Any time while this Agreement is in effect during which time neither party is in breach of this Agreement, any party to this Agreement may terminate this Agreement upon one hundred eighty days (180) days notice of termination to be faxed to either party and followed up by written correspondence. Merchant's representations, obligations and duties shall survive termination of this Agreement and Merchant shall indemnify, defend and hold PPA harmless from all claims, losses and expenses including attorney's fees relating to any breach of this Agreement and Merchant shall be liable to PPA for all sums of monies due and payable hereunder to PPA leading up to said breach.

There are terms of this agreement that survive in perpetuity. It is the merchants responsibility to understand those terms and seek legal advice on any item which is not fully understood.



Supplement to Merchant Services Agreement Executed with PPA

PERSONAL GUARANTEE

1. Personal Guarantors guarantee to PPA the performance of this Agreement, and any addendum thereto by Merchant, including payment of all sums due and owing and costs associated with the enforcement of the terms hereof. PPA shall not be required to first proceed against the Merchant or enforce any other remedy before proceeding against the undersigned individual.
2. This is a continuing guarantee and shall not be discharged or affected by the death of the undersigned and shall bind the heirs, administrators, representatives and assigns and be enforced by or for the benefit of any successor of PPA. The term of this guarantee shall be for the duration of the Merchant Processing Agreement and any addendum thereto and shall guarantee all obligations which may arise in connection with Merchants activities during the term thereof though enforcement shall be sought subsequent to any termination.
3. PPA reserves the right to substitute two years of audited financial reports in lieu of Personal Guarantees.



OTHER

1. **Authority:** Merchant represents and warrants that it has been authorized to enter into this Agreement and stipulates that any action that PPA takes in reliance upon this Agreement is authorized by either actual or apparent authority of the Merchant, its agents, assigns, officers, directors, and employees. In the event that any of Merchant's agents, assigns, officers, directors, and employees do not have the authority to agree to the debit or the credit process by PPA, Merchant shall indemnify, defend and hold PPA harmless from such actions and all costs and attorneys fees incurred by PPA. Merchant stipulates and agrees that Merchant is liable for all actions taken by PPA in reliance upon the actual or apparent authority of Merchant representative.
2. **Document Execution:** The parties to this Agreement agree to execute whatever documents are reasonably necessary to carry out the terms of this Agreement and give effect to the intentions of the parties contained herein.
3. **Intellectual Property:** ACHeck21™ is copyrighted by ACHeck21, LLC a Missouri limited liability company located at 7505 NW Tiffany Springs Pkwy Ste 110 Kansas City, Missouri. All rights, title and interest, including, without limitation all intellectual property rights, (Collectively, the "Rights") in and to ACHeck21, the contemplated services, any and all products, software, documents and other material related thereto are retained by ACHeck21, LLC or PPA. Merchant may only use the services, software and documentation under license from ACHeck21, LLC or PPA. The trademarks "ACHeck21™", and such other trademarks that may be filed from time to time are also proprietary and may not be used except by permission. Merchant acknowledges and agrees that the processing services and any software used in connection therewith contain proprietary and confidential information of ACHeck21 and PPA that is protected by applicable intellectual property and other laws.
4. **Use of Merchant Information:** PPA agrees that all Merchant's Transactee data is confidential and will only be disbursed to third parties of PPA when necessary to effect the terms of this agreement.
5. **Suitability Review:** Merchant agrees that PPA may require the Merchant to update the information provided to PPA as part of our initial review and underwriting at any time, including by not limited to updated financials and bank statements. Merchant also agrees that PPA may employ other services to ascertain the Merchant's continued suitability in PPA sole judgment for check processing services. During regular business hours PPA may visit Merchant location to determine Merchant's compliance with this agreement and or require of the Merchant a self assessment to address the Merchant's suitability. Should Merchant be judged by PPA to be unsuitable for continued processing, PPA may discontinue processing for Merchant and may invoke the termination procedures set forth in this agreement.
6. **Agreement not to sue:** Merchant hereby waives releases and agrees not to sue PPA for any claim in connection with, arising out of, or in any way related to this Agreement. The procedure for settlement of all disputes shall be by negotiation first, mediation second and final resolution by Arbitration as follows:
 - a. In the event of any dispute, claim, question, or disagreement arising from or relating to this agreement or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory



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- to both parties.
- b. If they do not reach solution by negotiation within a period of 60 days, then, upon written notice by either party to the other, all disputes, claims, questions, or differences shall be settled by non binding mediation administered by the American Arbitration Association under its Commercial Mediation. The cost of mediation will be split among the parties.
7. **Arbitration:** Any controversy or claim arising out of or relating to this contract, or the breach thereof, or any part of such controversy or claim, not first settled by either negotiation or mediation shall be settled by arbitration administered by the American Arbitration Association in accordance with its commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrators shall award to the prevailing party, if any, as determined by the arbitrators, all of its costs and fees. "Costs and fees" mean all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees.
 8. **Legal fees:** Should either party appeal an Arbitration award or any part of such award the court having jurisdiction shall award the "post arbitration award" legal Costs and Fees to the prevailing party, if any, as determined by the court. "Costs and fees" mean all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees.
 9. **Governing Law:** This agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri. The Parties acknowledge that this agreement evidences a transaction involving interstate commerce. The United States Arbitration Act shall govern the interpretation, enforcement, and proceedings pursuant to the arbitration clause in this agreement. In the event an Arbitration ruling is appealed, venue shall be Platte County, Missouri or in the United States Federal District Court, Kansas City, Missouri.
 10. **Survivability:** If any provision of this Agreement contravenes or is held invalid under the laws of any jurisdiction, this Agreement shall be construed as though it did not contain that provision, and the rights and liabilities of the parties to this Agreement shall be construed and enforced accordingly.
 11. **Successors:** This Agreement shall be binding upon the successors and assigns of the parties.
 12. **Entire Agreement:** This Agreement, together with exhibits thereto, constitutes the entire Agreement between the parties and correctly describes the parties' mutual understanding of this Agreement. Any and all oral or written agreements, representations or understandings between the parties entered into or made prior to or made contemporaneously with the effective date of this Agreement have been incorporated into this Agreement or were revoked, released or terminated before the effective date of this Agreement. No modifications, deletions, additions or amendments to this Agreement shall be binding on PPA unless the same are reduced to writing and the writing is signed by PPA.
 13. **Data Privacy:** The Parties acknowledge that, during the Term of this Agreement, each party may provide the other with Confidential or NPI, as defined hereunder, including but not limited to data, information, ideas, materials, specifications, procedures, schedules, software, technical processes and formulas, source code, product designs, sales, cost and other unpublished financial information, product and business plans, advertising revenues, usage rates, advertising relationships, projections, marketing data or other



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relevant information that is marked "confidential" (or similarly) or, if not so marked, is clearly intended to be confidential (collectively, the "Confidential Information"). Each Party will protect all Confidential Information of the other with at least the same degree of care it uses to protect its own confidential information, but not less than a reasonable degree of care. Neither party may use, disclose, provide, or permit any person to obtain any Confidential Information in any form, except for employees, agents, or independent contractors whose access is required to carry out the purposes of this Agreement and who have agreed to be subject to the same restrictions as set forth in this Agreement. Violation of any provision of this Section is the basis for the immediate termination of this Agreement. Each party's obligation to maintain confidentiality will survive termination of this Agreement.

The confidentiality obligations of this Section do not apply to any information received by a party that (i) is generally available to or previously known to the public, (ii) can be reasonably demonstrated was known to a party prior to the negotiations leading to this Agreement, (iii) is independently developed by a party outside the scope of this Agreement without use of or reference to the other party's Confidential Information, or (iv) is lawfully disclosed pursuant to a court order, provided that the party subject to the order will promptly notify the party whose Confidential Information is to be disclosed, so that party may seek a protective or similar order.

Each party will monitor for any incidents involving the compromise of Confidential Information or NPI, as defined below (a "Breach") and agrees to notify the other party as soon as possible of any such incident to enable that party to expeditiously implement its incident response program. Should any Breach occur, each party agrees that the non-breaching party has the right, in addition to such other remedies which may be available to it, to seek injunctive relief enjoining such use, disposition, attempted use or attempted disposition, it being acknowledged that legal remedies are inadequate to protect non-breaching party under such circumstances and that the unavailability of immediate injunctive relief would subject non-breaching party to irreparable harm.



THIRD PARTY AGREEMENTS

(Third Party Agreements or the terms of any third party services will be appended here)

ACheck21 Payment Gateway Powered by RedFin Network

The ACheck21 Payment Gateway is provided through a non exclusive agreement between PPA Services and Virtual Payment Solutions, Inc. Virtual Payment solutions has authorized PPA Services to resell their PCI Compliant Payment Gateway under the ACheck21 brand. Merchant is granted a right to use the ACheck21 Payment Gateway subject to the following:

- Intellectual Property. For purposes of this Agreement, "Intellectual Property Rights" means intellectual property, including any patent, patent application (whether registered or un registered), copyright (whether registered or un registered) copyright application (whether registered or unregistered), trade secret, trademark (whether registered or unregistered), trademark application (whether registered or un registered), trade name, service mark (whether registered or unregistered), service mark application, confidential information, know how, process, technology, development tool, ideas, concepts, design right, database right, methodology, algorithm or invention, (ii) any right to use or exploit any of the foregoing, and (iii) any other proprietary right, whether arising under the laws of the United States or any other country.
- Proprietary material. Merchant acknowledges that the product contains proprietary software and or technical information of Virtual Payment Solutions and that ownership of all Proprietary Materials shall remain with Virtual payment solutions. Merchant understands and agrees that this Agreement does not constitute a sale of any Proprietary Materials or any rights therein.
- **MERCHANT UNDERSTANDS AND AGREES THAT (i) PPA' SOLE LIABILITY WITH RESPECT TO SERVICES PROVIDED HEREUNDER SHALL BE AS SET FORTH HEREIN; AND (ii) ALL CUSTOMER CLAIMS CONCERNING THE SERVICES PROVIDED THROUGH THE ACHECK21 PAYMENT GATEWAY HEREUNDER ARE TO BE MADE SOLELY AND EXCLUSIVELY AGAINST VIRTUAL PAYMENT SOLUTIONS. IN THE EVENT THAT THE GATEWAY FAILS TO PERFORM**

PROPERLY, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND PPA' SOLE OBLIGATION SHALL BE FOR PPA TO REPERFORM THE SERVICES AT ITS OWN EXPENSE, AT VIRTUAL PAYMENT SOLUTIONS DIRECTION. PPA DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL IN RESPECT OF THE GATEWAY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SERVICES ARE NOT WARRANTED TO BE FREE FROM ERROR OR INTERRUPTION. PPA SHALL HAVE NO LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, TO MERCHANT ARISING OUT OF OR RELATED TO THE GATEWAY OR PPA' SERVICES. IN NO EVENT WILL PPA BE LIABLE TO MERCHANT FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, . REGARDLESS OF WHETHER PPA WAS INFORMED OF THEIR POSSIBILITY AND REGARDLESS OF WHETHER ANY LIMITED REMEDY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. MERCHANT ACKNOWLEDGES AND AGREES THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE REASONABLE GIVEN THE FACT THAT PPA DOES NOT OWN THE GATEWAY OR CONTROL ITS TECHNOLOGY BUT IS ONLY OFFERING IT ON BEHALF OF VIRTUAL PAYMENT SOLUTIONS AS A RESELLER. MERCHANT'S REMEDIES HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES IN LAW OR EQUITY.



CHECK GUARANTEE

Requirements for Check Acceptance: MERCHANT will comply with the following conditions while accepting checks for payment and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operations as may be established by PPA from time to time. MERCHANT shall accept only the following checks for payment and processing through its processing system; (a) all demand deposit account checks must be drawn on or payable through a federally insured depository financial institution, be machine-readable MICR-encoded with the bank routing number and check serial number printed on the check, (b) MERCHANT shall obtain proper check verification at the Point-of-Order ("POO") as directed in the **Requirements for Check Verification** procedures set forth in this Agreement and as amended from time to time by PPA, (c) at the POO MERCHANT shall record the last four digits of the customer's checking account number in MERCHANT's Point-of-Sale ("POS") system so as to create a record that prints on the delivery ticket that accompanies MERCHANT's product, (d) MERCHANT shall ensure that upon delivery of its product and acceptance of payment by check, MERCHANT's delivery agent or employee will verify that the four digit customer checking account number printed on the delivery ticket is the same as the last four digits of the checking account number MICR-encoded on the actual check presented by the customer for payment of the product, (e) MERCHANT warrants that it will follow its customary procedures for ensuring that the person presenting the check has been properly identified and is legally authorized to present the check for payment, (f) MERCHANT shall process all accepted checks through the PPA ("PPA") ACHeck21 system for check conversion and electronic deposit. Failure to comply with the above requirements will, in addition to possible other penalties, subject MERCHANT to chargeback's or withholding of funds and may be grounds for immediate suspension/termination of services pursuant to this Agreement.

MERCHANT ACKNOWLEDGES RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTICIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBT INSTRUMENT TO UNLAWFULLY INITIATE A DEBIT TRANSACTION IS PUNISHABLE BY A MAXIMUM OF A \$10,000 FINE, IMPRISONMENT FOR A TERM OF TEN YEARS, OR BOTH. IT IS SPECIFICALLY UNDERSTOOD BY MERCHANT THAT ANY TRANSACTION EVENT INITIATED AS AN UNAUTHORIZED MANUAL ENTRY OR DEPOSIT BY MERCHANT AFTER MERCHANT RECEIVED APPROVAL FOR THE CHECK(S) SHALL BE INTERPRETED AS AN UNLAWFUL DEBIT TRANSACTION PURSUANT TO THIS NOTICE. IN THE EVENT OF SUCH A VIOLATION, MERCHANT AGREES AND WARRANTS TO HOLD PPA AND ALL OF ITS ASSIGNS AND ASSOCIATES HARMLESS AND REIMBURSE PPA FOR THE TRANSACTION(S) WITHIN 24 HOURS OF SAID OCCURRENCE. IF MERCHANT REFUSES OR IS UNABLE TO REIMBURSE PPA FOR ANY SUCH OCCURRENCE, IT IS EXPRESSLY STATED AND UNDERSTOOD THAT MERCHANT IS IN DIRECT VIOLATION OF THIS AGREEMENT AND FEDERAL LAW, AND PPA OR ITS ASSIGNEE'S WILL PURSUE ALL LEGAL, CIVIL, AND COLLECTION REMEDIES AS ARE POSSIBLE UNDER LAW AS REMEDY.



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Unacceptable Checks: In addition to the restrictions set out above and in any event, the following checks are unacceptable for processing, and MERCHANT agrees not to submit any of the following; (a) MERCHANT shall not submit any temporary checks or checks that do not have the customer's current name, address and phone number preprinted on its face, (b) MERCHANT shall not submit any check drawn on any depository institution that is not federally insured or part of the ACH network, (c) MERCHANT shall not submit any third party checks or checks made payable to "cash" or "bearer" (d) MERCHANT shall not submit a traveler's check, money order, payroll check, counter check or sight draft, (e) MERCHANT shall not submit a check which represents an attempt to collect a chargeback, (f) **MERCHANT** shall not submit a check which contains erasures, or which is altered, unless the alteration is initiated by the customer at time of presentment, (g) MERCHANT shall not submit a check on an account which PPA has denied authorization through its verification process. (h) MERCHANT shall not submit a check that the date of the check is more than one (1) day from the date on which the check was verified, (i) MERCHANT shall not submit a check that does not have the same account number of the checking account that was verified. MERCHANT's submission of any of the above checks may subject MERCHANT to chargeback's, immediate suspension or termination, and all funds of MERCHANT may be placed on hold.

Surcharges And Taxes: MERCHANT shall not impose any surcharge on any electronically processed check transaction. MERCHANT shall collect all required taxes at time of sale. MERCHANT is responsible for paying all taxes collected to the appropriate authorities in a timely manner.

Requirements for Check Verification: Check verification is required to be performed by MERCHANT at POO on all checks that are submitted for processing by PPA. MERCHANT shall follow the conditions for check acceptance as described in this Agreement as well as the check verification procedures. MERCHANT will verify each check at POO through the Internet-based utility provided through PPA that links to the NCN national negative database. MERCHANT, at its expense, will provide the required connectivity for this Internet-based utility at each location that **will** be accepting check payments. In the event that the Internet-based utility is unavailable, or MERCHANT elects to accept a non-verified check, MERCHANT acknowledges and agrees that any checks accepted without such verification may be subject to chargeback if uncollectable by PPA. PPA reserves the right to further modify the procedures described in this paragraph from time to time.

Requirements for Check Conversion and Electronic Deposits: MERCHANT shall maintain a licenses in good standing with PPA for the use of ACHeck21 and its third-party products. All checks submitted for process under the terms of this Agreement must be properly processed through the ACHeck21 system.

Equipment: MERCHANT will furnish each outlet, retail location, or business entity that will be accepting checks with equipment and Internet capabilities as defined by PPA. PPA can provide scanning equipment for this purpose through either lease or purchase (with option for depot maintenance) upon agreement with MERCHANT.

Equipment Fees: MERCHANT agrees to pay the monthly equipment rental fees as described in Exhibit A of this Agreement based on the deployed devices that have been provided under this Agreement by PPA. In the event of termination of this Agreement by either party MERCHANT hereby acknowledges and agrees to pay for the balance of the cost of the equipment. Fee rates will increase every two years with a cost of living increase tied to the inflation index.

Pricing: *PPA will hold the pricing set forth in Exhibit A for 6 months following the effective date of this agreement. However, following the initial 6 months the parties agree that PPA has the right to review the discount rate for each market segment it serves from time to time and if PPA determines the discount rate for any market segment is unprofitable then PPA reserves the right to change the discount rate universally for all merchants within that segment or cancel this sub license agreement. PPA will provide 30 days notice of either a price increase or cancellation. PPA agrees that it will not review the pricing for any one market segment more often than once every 6 months.*

Provisional Settlement: MERCHANT acknowledges that all settlements from either the ACHeck21 or third-party systems are provisional and are subject to the customer's rights to dispute the charges against the customer's account. In submitting electronic checks to PPA, MERCHANT endorses and assigns to PPA and its assignee's or agents all right, title and interest to such checks with rights of endorsement. MERCHANT acknowledges that PPA has the right to receive payment on all electronically processed checks acquired and MERCHANT will not attempt to collect on any such transactions. If any payment is tendered to MERCHANT, MERCHANT will notify PPA by telephone of payment, endorse the check, sign it over to PPA and immediately mail the payment to PPA by certified mail. If customer pays cash, MERCHANT shall reimburse PPA by MERCHANT's check.

Payment: MERCHANT acknowledges that this Agreement provides for the provisional settlement of MERCHANT's transactions, subject to certain terms and conditions, fees, credit transactions, contingent claims for chargeback's,



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adjustments and final settlement including but not limited to those enumerated herein. All payments to MERCHANT for legitimate and authorized transactions shall be made by PPA or its third-party vendor through the ACH and shall normally be electronically transmitted directly to MERCHANT's designated account. However, PPA or its third-party vendor cannot guarantee the timeliness with which any payment may be credited by MERCHANT's bank. MERCHANT understands that due to the nature of the ACH and the electronic networks involved and the fact that not all banks belong to an ACH; payment to MERCHANT can be delayed. In such cases, MERCHANT agrees to work with PPA or its third-party vendor to help resolve any problems in crediting MERCHANT's designated account.

Authorization To Access MERCHANT's Accounts: MERCHANT hereby authorizes PPA and its third-party vendors to initiate debit and credit entries to MERCHANT's designated account(s). MERCHANT's authorization shall continue in effect after termination of this Agreement for whatever period of time is determined necessary by PPA and its third-party vendors in order to properly terminate business.

Assignment Of Checks: As of the date of this Agreement and by subscribing to ACHeck21, MERCHANT shall be deemed to have assigned to PPA and its third-party vendor, without recourse, all of MERCHANT's right, title and interest in any and all checks, including any rights to treble or punitive damages permitted under applicable law. MERCHANT shall execute and deliver endorsements, instruments, and papers and shall do whatever is necessary under the laws of applicable jurisdiction to secure and defend PPA's and its third-party vendors rights and shall do nothing to prejudice those rights. MERCHANT shall cooperate with PPA in pursuing PPA's rights, including suing or prosecution of the customer under all applicable laws.

Chargeback's: MERCHANT shall bear all risk of loss, without warranty or recourse to PPA for the amount of any check, or other amounts due PPA or its third-party vendor, due to or caused by MERCHANT accepting checks that: (a) do not comply with the terms of this Agreement and PPA has determined it is unable to collect the face amount of the check, (b) the face amount of the check is greater than \$500 (whether verified or not) and PPA has determined it is unable to collect the face amount of the check. Chargeback's for applicable checks will be debited against MERCHANT's designated account on a daily, weekly, monthly or "upon occurrence" basis at the sole discretion of PPA. Warranties by MERCHANT: MERCHANT warrants and agrees to fully comply with all federal, state, and local laws, rules and regulations, as amended from time to time, including those with respect to consumer protection. For each check presented to PPA or its third-party vendor for verification, MERCHANT specifically warrants and represents that : (a) MERCHANT has delivered the goods or completed the services represented by the check payment, (b) each check represents a bona fide direct sales transaction between MERCHANT and the person presenting the check in MERCHANT's ordinary course of business and that the amount of the check evidences the customer's total indebtedness for the transaction involved, (c) the person presenting the check has no claim, defense, right of offset, or dispute against MERCHANT in connection with the purchase of goods or services and MERCHANT will provide adequate services to the person presenting the check and will honor all warranties applicable thereto, (d) MERCHANT has not charged any separate or additional fee(s) in connection with the transaction other than as may be required by law. The foregoing shall not prohibit MERCHANT from extending discounts to customers paying by check. (e) MERCHANT, nor any of its employees have submitted checks from their personal checking accounts, (f) MERCHANT has not submitted duplicates of any check, (g) no check submitted for verification to PPA is with or through an entity other than MERCHANT.

Limitation of Liability and MERCHANT Waiver of Damages: PPA and its third-party vendors shall be responsible for its performance in accordance with the terms of this Agreement. PPA and its third-party vendors shall not be responsible for any other person's or entity's errors, acts, omissions, failures to act, negligence or intentional misconduct, including without limitation entities such as either parties' communication carrier or any clearing house, and no such entity shall be deemed to be a representative or an agent of PPA. IN NO EVENT SHALL PPA BE LIABLE TO MERCHANT FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHICH MERCHANT OR ITS CUSTOMERS, AFFILIATES, PARENT COMPANIES, ASSOCIATES, AGENTS, OFFICERS, DIRECTORS OR EMPLOYEES MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT, INCLUDING LOSS OR DAMAGES FROM SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM PPA's, IT'S AGENTS, ASSIGNEE'S, OR THIRD-PARTY VENDORS; ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT.

Force Majeure: PPA shall not be responsible for delays, nonperformance, damages, lost profits or other losses caused directly or indirectly by any Act of God, including, without limitation, fires, earthquakes, tornadoes, hurricanes, wars, labor disputes, communication failures, legal constraints, power outages, data transmission loss or failure, incorrect data transmission or any other event outside the direct control of PPA.



RETURN CHECK RECOVERY

A. General. Merchant agrees that no check will be accepted as payment unless it bears the home telephone number and street address (no PO Box) of the maker (the "Checkwriter"). Merchant will execute an "Authorization for Release of Returned Checks" form directing all Returned Checks to Payliance for collection after the first presentment. Payliance will cause appropriate information from each Returned Check to be entered into its collection and verification systems promptly upon receipt.

B. Collection Procedure. Active collection efforts will begin for all Returned Checks within one day of entry into the collection system. Collection procedures include, but are not limited to, (i) electronic draft, (ii) letters, (iii) phone calls, (iv) electronic representations, (v) credit bureau reporting and (vi) legal action by licensed attorneys as selected by Payliance and are subject to application/change at any time at the sole discretion of Payliance. Electronic draft (see i, above) includes the amount of the original check plus the state-allowed service charge. At all times, collection efforts will conform to the Fair Debt Collection Procedures Act ("FDCPA") and applicable state regulations. Merchant agrees to refer any Checkwriter who contacts Merchant for settlement of his obligation to Payliance and to promptly notify Payliance of any payments received directly from a Checkwriter.

C. Collection and Remittance. All monies collected relating to a Returned Check from any source whatsoever, including funds paid directly to Merchant, will be applied as follows:

1. To service charges and legal fees and expenses to the maximum extent allowed by law or regulation, and then
2. To the principal amount of the Returned Check.

All monies applied under item C. (2), above, will be remitted to Merchant on Payliance's regular remittance cycle.

D. Legal Process. After exhausting its collection efforts, at Payliance's option, Returned Checks may be referred to an attorney for collection. Monies will be applied as in item C., however, Merchant will receive 50% of the principal amount of the Returned Check

E. Check return to Merchant. Subject to section H, Payliance will return any check or, at the discretion of Payliance, an imaged copy thereof, to Merchant upon request or upon termination. There is no charge for a check returned within five days of listing by Payliance. Thereafter, Payliance will be entitled to receive \$5.00 per check per month, or any portion thereof, during which it has maintained the Check in its collection system, not to exceed the maximum service charge allowable for each check.

F. Hold Harmless. Merchant and Payliance mutually agree to hold each other harmless from any and all actions at law or suits in equity that may arise as a result of the negligent acts, willful misconduct or inactions of their employees or agents. Merchant further agrees to indemnify Payliance against losses or expenses arising from its failure to notify Payliance of any direct collections under item C above. Neither party shall be liable to the other for losses or damages caused by natural disasters such as earthquake, fire, flood, power failure or acts of God.

G. Assignment of Rights. By execution of this agreement, Merchant assigns, transfers and



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conveys to Payliance all rights, title and interest in all Returned Checks, statutory service charges and penalties.

H. Retention of Checks. If not returned to Merchant or Checkwriter by request, Payliance will retain Returned Checks or, at the discretion of Payliance, an imaged copy thereof, for a period not to exceed one year.



CASH MANAGEMENT PRODUCTS

AGREEMENT FOR CUSTOMER USING A THIRD PARTY SENDER

This Agreement for Customer using a Third Party Sender (this "Agreement") is applicable to certain services that Bank agrees to provide to the undersigned customer ("Customer").

1. Services. Bank agrees to provide services to Customer, which will consist of sending and/or receiving ACH transactions and receiving check image deposits based on information and instructions provided to Bank by Customer's Processor (identified below). Processor shall be considered Customer's agent with full power and authority to act on behalf of Customer, until Bank receives written notice from Customer to the contrary and has had a reasonable opportunity to act thereon. Bank will debit and/or credit transactions to an account designated by Processor (the "Account"), regardless of whether the Account is held in the name of Processor or Customer. All bank statements, notices and other communications in respect of the Account or the transactions hereunder shall be directed by Bank to Processor. Although the Account may designate that it is for the benefit of Customer, **CUSTOMER UNDERSTANDS AND AGREES THAT CUSTOMER'S PROCESSOR HAS FULL AND EXCLUSIVE POWER AND AUTHORITY TO PROVIDE BANK WITH INSTRUCTIONS PERTAINING TO THE ACCOUNT, INCLUDING, WITHOUT LIMITATION, THE AUTHORITY TO INSTRUCT BANK TO INITIATE ACH DEBITS AND CREDITS FROM THE ACCOUNT, TO MAKE DEPOSITS TO AND WITHDRAWALS FROM THE ACCOUNT, TO ORDER SWEEPS FROM THE ACCOUNT, AND TO OTHERWISE MAKE TRANSFERS FROM THE ACCOUNT. BANK HAS NO OBLIGATION OR LIABILITY WHATSOEVER WITH RESPECT TO: (1) ACTS, ERRORS, OMISSIONS OR DELAYS BY PROCESSOR; (2) REPRESENTATIONS OR WARRANTIES MADE BY PROCESSOR; (3) LOSSES TO CUSTOMER ARISING OUT OF PROCESSOR'S INSOLVENCY; OR (4) MISAPPROPRIATION OF CUSTOMER'S FUNDS BY PROCESSOR. PROCESSOR IS NOT AN AGENT OR REPRESENTATIVE OF BANK AND HAS NO POWER OR AUTHORITY TO ACT OR MAKE COMMITMENTS ON BEHALF OF BANK. BANK DOES NOT INTEND TO AND HAS NO OBLIGATION TO MONITOR PROCESSOR'S TRANSACTIONS IN RESPECT OF CUSTOMER'S FUNDS.**

2. Compensation. BANK's sole compensation for services rendered shall be due from Processor.

3. BANK's Obligations. BANK agrees to comply with the terms of this Agreement and agrees to use ordinary care in performing services hereunder. So long as BANK exercises such diligence as the circumstances may require, BANK's failure or delay in performance will be excused if due to interruption of communications or computer facilities, failure of equipment, emergency conditions or other circumstances beyond BANK's control. BANK reserves the right to reject any ACH transfer directions or deposits submitted by Processor (but has agreed to give Processor prompt telephonic notice thereof).

4. Customer's Responsibility. Customer is responsible for the results of using the services and for the accuracy and adequacy of the data Customer or Customer's Processor provides to BANK. BANK is not responsible to third parties for Customer's use of services (such as, but not limited to, the third parties to whom ACH debit or credits are transmitted hereunder on behalf of Customer). If a third party claim is made against BANK arising out of Customer's use of the services, breach of this Agreement, or breach of any warranty referenced in Section 6, Customer agrees to defend, indemnify and hold BANK harmless against such claim. The foregoing obligation of Customer shall be primary and independent of, and BANK shall have no obligation to assert or pursue, any indemnification or other rights it may have pursuant to its



agreement with Processor

5. Compliance With Law.

(a) Regulation E: NACHA Rules. Customer agrees to comply with the Electronic Fund Transfer Act, Federal Reserve Regulation E, the Fair Credit Reporting Act and similar state laws and regulations, to the extent the same may be applicable to the ACH transactions processed hereunder. Customer agrees that all ACH entries Customer's Processor requests us to originate are the result of bona fide business transactions between Customer and its customers and no such entries are, directly or indirectly, for the benefit of any third party whether in a service bureau or other context. Customer understands that Customer will be considered the Originator of ACH transactions submitted hereunder. Customer agrees to be bound by and comply with all rules and operating guidelines of the National Automated Clearing House Association (collectively, the "Rules") and Customer agrees that entries may not be initiated that violate the laws of the United States. Customer is responsible for breach of any warranty under the Rules in respect of Customer's entries, regardless of whether such warranty is made by Customer as Originator or BANK as ODFI. Customer agrees to Schedule 1, attached and incorporated hereto, entitled "compliance Update for ACH Originators" as such may be revised from time to time (the "ACH Update"). Customer understands that the ACH Update is not a complete or exclusive summary of ACH rules. Customer agrees that BANK may provide Processor or Customer with revised ACH Updates from time to time in the future. If Customer's Processor continues to initiate entries after BANK provides such an ACH Update, Customer will be considered to have agreed to the terms set forth in that ACH Update (except that if Customer ceases initiation of entries within 45 days after the date of such an ACH Update, initiation of entries during that 45-day period will not constitute Customer's agreement).

(b) Check Image Deposits. In addition to other limitations that may apply to the submission of check image deposits by Customer's Processor, Customer understands and agrees that Customer and its Processor: (i) shall assure that checks are properly endorsed before scanning; (ii) shall place an "electronically presented" legend on the face of all checks immediately after they are scanned; (iii) shall not submit files to BANK that contain information which duplicates information Processor, Customer or any third party previously provided to BANK or that contains information with respect to checks that have previously been transferred to, deposited with or attempted to be cleared through BANK or a third party; (iv) shall not and shall assure that no third party shall transfer to, deposit with or attempt to clear through BANK or a third party or otherwise directly or indirectly ask any third party to make payment based on, the checks reflected in the files transmitted to BANK; (v) shall assure that check images accurately represent all of the information on the front and back of the relevant checks, including all endorsements; (vi) shall not alter any data sent to BANK so that it does not accurately reflect the checks referenced in the image files sent to BANK; (vii) shall assure that the images TPS creates accurately represent all of the information on the front and back of the relevant checks, including all endorsements; (viii) shall not alter any data sent to BANK so that it does not accurately reflect the checks referenced in the image files sent to BANK; (ix) shall retain the original scanned checks in a secure setting for a reasonable period, and make such checks available to BANK on request; (x) shall destroy, by shredding, the original checks following the preceding retention period (unless doing so would be a violation of law, rule or regulation); (xi) agree that all transaction data transmitted to BANK reflects the result of bona fide business transactions between the Customer and its customer and no such entries are, directly or indirectly, for the benefit of any third party, whether in a service bureau or other context. If a deposit is returned to BANK, BANK may make the return to Customer or its Processor in the form of a substitute check (or a paper or electronic representation thereof). As to each item reflected in a check image deposit, Customer further warrants to BANK that: (i) Customer is a person entitled to enforce the item or authorized to obtain payment of the item on behalf of a person entitled to enforce the item; (ii) the item has not been altered; (iii) the item bears all endorsements applied by parties that previously handled the item, in paper or electronic form, for forward collection or return; and (iv) no person will receive a transfer, presentment, or return of, or otherwise be charged for, the item, the original item, or a paper or electronic representation of the original item such that the person will be asked to make payment based on an item it already has paid. Customer further makes all the warranties set forth in and subject to the terms of 4-207 of the U.C.C. for each item as if it were an item subject to the U.C.C. and makes the warranties set forth in and subject to the terms of §229.34(c) and (d) of Federal Reserve Regulation CC for each item as if it were a check subject to that section.



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(c) **Other Compliance.** Customer is prohibited from using BANK services in any manner or in furtherance of any activity that constitutes a violation of any law or regulation or that may reasonably be expected to subject BANK or its vendors to investigation, prosecution or legal action. Customer further agrees: (1) to receive, resolve and respond to consumer-alleged errors under applicable laws, regulations and the Rules; and (2) Customer is responsible for promptly handling and, if necessary, responding to and resolving at Customer's expense any Special Handling Claims (as defined in the ACH Update).

6. Customer Account Responsibilities. Customer understands and agrees that sufficient balances in available funds must be maintained in the Account to cover all debit transactions, if any, submitted by Customer or Processor to BANK. If the Account does not have sufficient balances, BANK may decline to forward such transactions. Customer shall immediately reimburse BANK for any overdrafts created on the Account, whether through the origination of credit transactions for which there were not sufficient funds, or for returns received by BANK in respect of originating debit transactions from or deposits to the Account. All deposits are received and all credits are granted by BANK provisionally and subject to final payment. BANK reserves, to the extent permitted by law, the right to reverse all credits and to make corrections and adjustments to deposits. To the extent that any credits to the Account are revoked due to any third party claim or demand or any other process recognized by the applicable laws (including the Uniform Commercial Code) or regulations or the Rules (such as, but not limited to, returns, reversals, adjustments, reclamations, or claims based on breach of any warranty made by BANK, Customer or its Processor) to the extent that BANK does not receive final settlement for any ACH entry or check image deposit (whether due to insufficient funds or any other reason) or to the extent that BANK is otherwise required to pay, reimburse or indemnify any Receiver, RDFI, drawer, drawee or collecting bank or other third party in respect of an ACH entry transmitted or check image deposit accepted on any Customer's behalf, Customer shall immediately reimburse BANK for the amount thereof. BANK's right of reimbursement is absolute and unconditional, shall survive any termination of this Agreement, and shall not, for any reason whatsoever, be subject to any reduction, setoff, defense, counterclaim, deferment or right of recoupment.

7. Security Procedure. ACH transfers will be issued in response to the instructions that BANK receives from Customer's Processor and will be considered authentic if accompanied by the appropriate password supplied to Customer's Processor. This security procedure is intended to verify the authenticity of ACH transfer directions, not errors in transmission or content.

8. Disclaimer. CUSTOMER UNDERSTANDS AND AGREES THAT (i) BANK'S SOLE LIABILITY WITH RESPECT TO SERVICES PROVIDED HEREUNDER SHALL BE AS SET FORTH HEREIN; AND (ii) ALL CUSTOMER COMPLAINTS AND CLAIMS CONCERNING THE SERVICES PROVIDED HEREUNDER ARE TO BE MADE SOLELY AND EXCLUSIVELY AGAINST PROCESSOR. IN THE EVENT THAT BANK FAILS TO PERFORM SERVICES PROPERLY, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND BANK'S SOLE OBLIGATION SHALL BE FOR BANK TO REPERFORM THE SERVICES AT ITS OWN EXPENSE, AT PROCESSOR'S DIRECTION. BANK DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL IN RESPECT OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SERVICES ARE NOT WARRANTED TO BE FREE FROM ERROR OR INTERRUPTION. BANK SHALL HAVE NO LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, TO CUSTOMER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR BANK'S SERVICES. IN NO EVENT WILL BANK BE LIABLE TO CUSTOMER FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, REGARDLESS OF WHETHER BANK WAS INFORMED OF THEIR POSSIBILITY AND REGARDLESS OF WHETHER ANY LIMITED REMEDY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE REASONABLE GIVEN THE FACT THAT NO COMPENSATION IS BEING PAID TO BANK BY CUSTOMER HEREUNDER. CUSTOMER'S REMEDIES HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES IN LAW OR EQUITY.



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9. Term. This Agreement shall remain in effect until either party has terminated this Agreement, with or without cause, upon 30 days notice to the other. Terminations shall be effective as to prospective transactions only, and shall not alter the rights of the parties as to transactions prior to the effective date of termination.

10. Notices. Notices hereunder shall be in writing and provided via hand-delivery, facsimile, or U.S. mail to the address of the party set forth above the parties' signatures, or to such other address as the parties may from time to time specify in writing. Notices shall be deemed given on receipt.

11. Risk Management. Customer is solely responsible for all acts and omissions of its officers, directors, partners, employees, agents, representatives, contractors, and third party service providers (such as third party payroll administrators), including Customer's Processor and including persons granted signature authority on Customer's accounts and personnel who are permitted to initiate and/or give BANK instructions in respect of Customer's entries (collectively, "Your Personnel"). BANK is entitled, without further inquiry or investigation, to assume that the actions of Your Personnel are appropriate and authorized by Customer. This authorization will remain in effect unless BANK receives written notice to the contrary from Customer and has a reasonable opportunity to react thereto. Customer is strongly advised to establish and maintain policies and procedures and accounting and auditing controls that will prevent (or at least allow the early detection of) fraud or other unauthorized activity by Your Personnel. As between Customer and BANK, Customer agrees to accept sole responsibility for losses attributable to any and all acts and omissions of Your Personnel.

12. Privacy. Provision of services hereunder may require that BANK receive certain information concerning Customer's consumers (e.g., their checking account numbers). BANK agrees to use reasonable efforts to maintain the confidentiality of such information and agrees not to use or disclose the same except as necessary in connection with the provision of services to Customer. Disclosures of the type described in 12 C.F.R. Sections 40.13, 40.14 and 40.15 shall not be deemed prohibited by the foregoing. Customer is solely responsible for obtaining and maintaining any and all necessary rights, power and authority to provide this information to BANK and for providing applicable privacy disclosures, if any, to its consumers.

13. Miscellaneous. This Agreement: (a) constitutes the entire agreement between the parties with respect to the subject matter hereof; (b) cannot be amended except in writing signed by the parties; (c) shall be binding upon and inure to the benefit of the parties and their successors and assigns; (d) may not be assigned by Customer without BANK's written consent, which will not be unreasonably withheld; and (e) shall be governed by and construed in accordance with the laws of the State of Missouri and or the state governed by the related ODFI Cash Management Terms and Conditions.

NOTICE

Credit given by BANK to Customer with respect to an ACH credit entry is provisional until BANK receives final settlement for such entry through a Federal Reserve Bank. If BANK does not receive such final settlement, Customer is hereby notified and agrees that BANK is entitled to a refund of the amount credited to Customer in connection with such entry, and the party making payment to Customer via such entry (i.e., the originator of the entry) shall not be deemed to have paid Customer in the amount of such entry. Under the operating rules of the National Automated Clearing House Association, which are applicable to ACH transactions involving Customer's Account, BANK is not required to give next day notice to Customer of receipt of an ACH item and BANK will not do so. However, BANK will continue to notify Customer of the receipt of payments in the periodic statements BANK provides to Customer. BANK may accept on Customer's behalf payments to Customer's account which have been transmitted through one or more Automated Clearing Houses and which are not subject to the Electronic Fund Transfer Act and Customer's rights and obligations with respect to such payments shall be construed in accordance with and governed by the laws of the state of Nebraska, unless it has been otherwise specified in a separate agreement that the law of some other state shall govern. In all matters between Customer and BANK, Nebraska law shall govern.



CHANGES TO THESE TERMS AND CONDITIONS MUST BE APPROVED BY AN AUTHORIZED OFFICER OF THE BANK. SALES REPRESENTATIVES ARE NOT PERMITTED TO MAKE ANY REPRESENTATION OR WARRANTY NOT CONTAINED HEREIN AND CANNOT WAIVER, ALTER OR AMEND THE PRINTED TERMS AND CONDITIONS HEREOF.

UPDATE FOR ACH ORIGINATORS

Compliance With the NACHA Rules and Law - By providing information about ACH entries to us, you authorize us to transmit, and to debit or credit the amount of, those entries (referred to below as "your entries") to the Receiver's account. You agree to be bound by the rules of the National Automated Clearinghouse Association and other relevant clearing house associations as in effect from time to time (the "Rules"). You will be considered the Originator of your entries under the Rules. You agree not to initiate entries that violate the laws of the United States.*

**IMPORTANT: These laws include, but are not limited to, sanctions enforced by the Office of Foreign Assets Control (OFAC). It is your responsibility to obtain information regarding OFAC enforced sanctions. You may obtain further information from the OFAC Compliance Hotline at (800)540-OFAC.*

Receiver Authorization - By requesting us to initiate entries, you represent that: (1) The Receiver has authorized you to initiate your entries to the Receiver's account; (2) In the case of CBR, CCD and CTX entries, the Receiver has an agreement with you to be bound by these rules as in effect from time to time; (3) In the case of debit entries to Consumer Accounts (including, but not limited to, TEL and WEB entries), you have obtained the consumer's authorization in the form, content and manner required by the Rules; (4) In the case of WEB entries, you have implemented a commercially reasonable fraudulent transaction detection system to screen entries, you have taken commercially reasonable steps to verify the routing number, and you have complied with the security audit requirements set forth in the Rules (and you agree to provide us with copies of such audit reports promptly after they are completed); and (5) In the case of TEL entries, you have given the consumer the notices required by the Rules and you have taken commercially reasonable steps to verify the consumer's identity and routing number. You agree to retain and provide copies or other evidence of such authorizations as required by the Rules or otherwise requested by us.

Pre-notifications - If you initiate pre-notifications, you agree to send them as required by the Rules. If the RDFI indicates it cannot accept such entries, you agree not to initiate the entries.

Credit Entries - In the case of credit entries subject to UCC Article 4A (in general, this means non-consumer credit entries), you are hereby notified that: (1) these entries may be transmitted through the ACH; (2) your rights and obligations concerning these entries shall be governed by and construed in accordance with New York law (in all matters between you and us, however, Nebraska law shall govern); (3) credit given by RDFIs to Receivers is conditional until final settlement or payment in accordance with UCC 4A; and (4) if an RDFI does not receive such payment, the RDFI is entitled to a refund from the Receiver and you will not be considered to have paid the Receiver.

Rejection of Entries; ODFI Exposure Limits - We may refuse to transmit entries that would violate the general or special exposure limits that we have adopted. We also reserve the right to refuse entries for other reasons, which we determine may expose us to a risk of loss, including, but not limited to, insufficient funds in your account.

Your Entries - We make numerous warranties and indemnities to third parties concerning your entries and files, as specified in the Rules. You agree to reimburse us for any payments we are required to make to these third parties with respect to your entries or files. You also agree to comply with all of your obligations in Article Three of the Rules (Obligations of Originators). If we are fined due to your Rules infractions, you are responsible for reimbursing us for the amount of that fine. You agree not to reinitiate



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entries except as permitted by the Rules. You agree that reversing entries and reversing files must be transmitted on a timely basis as required by the Rules.

Entries based on Paper Items - If you initiate entries based on paper items (for example, XCK, RCK, POP or ARC entries), you are responsible for compliance with all requirements of the Rules that pertain to those entries. This responsibility includes, but is not limited to, responsibility for requirements pertaining to initiation of entries (including rules regarding eligibility of the underlying items), required notices to Receivers, opt out rights, separation of fees, requirements concerning identification of the payee, and requirements regarding keeping, destroying or providing copies or originals of the underlying items. You also have the responsibility specified in the preceding paragraph with respect to any special warranties or indemnities that we make under the Rules as to these entries. If we are processing ARC entries for you and also providing lockbox services: (1) you must provide the identifying information that we request to identify those of your customers that have opted out of ARC entries, in which case we will use reasonable efforts to match incoming items to those customers and process those customers' items as paper items not ARC entries; and (2) in the event that our ability to process ARC entries is interrupted, we will process the affected items as paper items until the interruption is eliminated.

Notifications of Change - You agree to make changes requested in a Notification of Change within six banking days of receipt or prior to initiating another entry to the Receiver's account (whichever is later).

Information Security - You agree to comply with all relevant data security requirements (including, but not limited to, those requiring the use of encryption technology where ACH information is transmitted over unsecured networks such as the internet).

Annual Security Audits for WEB Originators - You agree to comply with the annual security audit requirements as described by NACHA and provide the Bank a copy of the results upon completion.

Returns, Adjustments, Etc. - All credits given to you are provisional until we receive final settlement. To the extent that any credits to your account(s) are revoked or affected by any third party claim or demand or any other process recognized by the Rules (such as, but not limited to, returns, reversals, adjustments, reclamations, or claims based on breach of any warranty made by Originators or ODFIs under the Rules) or to the extent that we are required to indemnify any Receiver, RDFI or other third party in respect of your entries (collectively, "Special Handling Claims"), you agree to reimburse us. Our right of reimbursement is absolute and unconditional, shall survive any termination of our relationship with you, and shall not, for any reason whatsoever, be subject to any reduction, setoff, defense, counterclaim, deferment or right of recoupment. If Special Handling Claims become excessive (in our judgment) we may adjust fees, require reserves and/or modify or discontinue services.

Third-Party Senders - Third-Party Senders (as defined in the Rules) are required to comply with specific obligations and processing requirements as set forth in the Rules. Please refer to the BANK TPS Operating Guidelines for more information.

WEB Entries - Originators and Third-Party Senders that submit WEB entries are required to comply with specific obligations under the Rules, including, but not limited to, the use of commercially reasonable methods of authentication to verify the identity of Receivers. Please refer to the BANK WEB Operating Guidelines for more information.

Effective Date - This ACH Update is effective as of the date first written above and supersedes and replaces any previous update.