

TERMS AND CONDITIONS FOR SAGE PAYMENT SOLUTIONS VIRTUAL CHECK

The following terms and conditions govern Company's use of Sage Payment Solutions' ACH Processing Services (the "Services") for its virtual check products. The term "Sage" means "Sage Payment Solutions", a Virginia corporation. The term "Company" refers to the merchant receiving the Services. These are the terms and conditions referred to in the Sage Payment Solutions Virtual Check Merchant Processing Agreement attached hereto, the provisions of which are incorporated herein by reference. These terms and conditions and the attached application constitute the entire agreement between Sage and Company with respect to the subject matter hereof.

Sage is providing an Internet gateway to enable Company's customers to pay for goods and services by means of the Automated Clearing House ("ACH") process. This Agreement and Sage's Web site includes important disclosures and regulatory information that are associated with the Services. The Services allow Company to collect periodic payment receivables from its customer accounts ("Customer Accounts") through Sage Virtual Check and/or transfer credits to its customers through use of the ACH process; Sage will act as Company's agent to initiate credit, debit and adjustment Entries through an Originating Depository Financial Institution (the "Bank"), all pursuant to the terms of this Agreement, the provisions of Title 31 Code of Federal Regulations Part 210 and the operating rules of the National Automated Clearing House Association, as amended from time to time (collectively referred to herein as the "Rules"). Company agrees that it entering into this Agreement, that it will be bound by the Rules. Company understands that in order for the Services, including future services that may be available, to perform, Company is solely responsible for the hardware, software or other technology it uses to access the Services, which will be processed via ACH. Sage will not be responsible for any service difficulties resulting from Company's failure to possess technology adequate to use the Services.

TERMS & CONDITIONS

1. Definitions. Except as otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The term "Entries" shall have the meaning provided in the Rules and shall also mean the data received from the Company hereunder from which Sage prepares Entries.

2. Transmittal of Entries by Company. The Company will use reasonable efforts to provide computer readable information that is accurate, current and in the format specified in the Rules and in conformance with other requirements set forth by Sage, as the same may be amended from time to time, necessary to prepare debit and credit Entries in order to effect collection from and credit to Customer Accounts of the following types: ARC, PPD, WEB, CCD, TEL, POP, RCK. The Company shall update such information from time to time in order that it remains current and accurate at all times. The Company hereby authorizes Sage to initiate ACH credits, debits and adjustments to the Authorized Account. This authorization will remain in effect after termination of this Agreement until all of the Company's obligations to Sage have been paid in full. Confirmation from Sage of a credit or debit ACH transaction does not constitute a warranty that the Company will be paid for the transaction.

3. Processing and Transmittal of Entries. (a) Debits. Sage shall process Entries received from the Company to conform with the file specifications set forth in the Rules, transmit such Entries to the Bank for re-transmittal to the ACH Operator or other location designated by the Bank, all in accordance with the Rules and applicable regulations and operating circulars adopted or issued by the Federal Reserve Board or applicable Federal Reserve Bank, as in effect from time to time. Each Entry or File shall be delivered to Sage by an authorized representative of the Company in accordance with the processing instructions attached hereto. Provided the Company delivers the necessary data in accordance with the processing instructions and in an acceptable format, Sage shall initiate debit Entries to electronically debit Customer Accounts for settlement on the Effective Entry Date (or next banking day in the event that the Effective Entry Date falls on a non-banking day at the customer's depository institution), however if any Debit Entries are returned to Sage in accordance with the Rules, or if any Debit Entries originated by you were unauthorized, Sage reserves the right to charge the amount of such Debit Entries to the Authorized Account. All Net Settlement Amounts (as defined in Section 16 below) shall be deposited into the account at the financial institution designated in the Application attached hereto to which Sage and the Company are parties ("Authorized Account"). (b) Credits. Provided the Company delivers the necessary data in accordance with the processing instructions and in an acceptable format and deposits immediately available funds into the Agent Account (as hereinafter

defined) in an aggregate amount equal to the Entries to be transmitted, Sage shall initiate credit Entries to electronically credit Customer Accounts for settlement on the Effective Entry Date (or next banking day in the event that the Effective Entry Date falls on a non-banking day at the customer's depository institution). Unless such funds are timely received, Sage shall be under no obligation to transmit the related Entry(ies). Once an Entry is transmitted by Sage, the Company shall have no right to the cancellation or amendment of any Entry after its receipt by the Bank. However, Sage shall use reasonable efforts to act on a request by the Company for cancellation of such Entry(ies) prior to crediting a Receiver's account. Except in the case of payroll entries, *the total dollar amount of Credit Entries transmitted by the Company to the Bank on any one day shall not exceed Three Thousand U.S. Dollars (\$3,000).* The Company acknowledges and agrees that, if an Entry describes its customer or other Receiver inconsistently by name and account number, payment of the Entry transmitted to the Receiving Depository Financial Institution might be made by the Receiving Depository Financial Institution (or by the Bank in the case of an "on-us" Entry) on the basis of the account number even if it identifies a person different from the named customer or Receiver, and that the Company's obligation to pay the amount of the Entry to Sage is not excused in such circumstances. Company agrees that Sage may withhold any amounts due to the Company from subsequent payments in the event of an overpayment by Sage to Company.

4. Authorizations; Prenotifications. The Company will obtain written authorizations for each requested Entry that it has received from its customers, or, in the event of an authorization for a TEL entry, the minimum information requirements in accordance with the Rules must be provided to Sage. The Company shall further retain the original or a microfilm record for two (2) years after termination or revocation of such authorization, or in the case of an authentication made via telephone, the Internet or other on-line network, the Company must retain a copy of the authorization and a recorded record of the authentication. The foregoing authorizations shall be provided to Sage upon request. The Company agrees that, at its cost, it will periodically review its authentication techniques to ensure that its security measures are adequate, and make all necessary changes, to ensure that all authentication techniques are in accordance with all applicable laws, regulations and statutes and the Rules. Sage may, at its option, initiate a pre-notification entry for any ACH transaction. If Sage chooses to transmit pre-notification entries, it will not initiate live dollar entries until at least six (6) banking days following the settlement date of the pre-notification entry. Such notice shall be provided to the Bank in the format and on the medium provided in the Rules. After Sage has received notice that any such notification has been rejected by a receiving financial institution, or that a receiving financial institution will not receive Entries without having first received a copy of the authorization signed by its customer, Sage will not

initiate any Entry to such customer unless and until the Company provides Sage and the receiving financial institution with such authorization within the time limits provided by the Rules. If individual ACH transaction values or the monthly total of the Company's ACH Debits and Credits exceeds Sage's standard limits, Company may request Sage to increase these limits by agreeing to additional underwriting review to be performed by Sage. If Rejects or Returns exceed two percent (2.0%) of total monthly transaction volume, Sage reserves the right to (i) adjust transaction fees and rates, (ii) require reserves, or additional reserves as defined in this Agreement; or (iii) to cease providing the Services described hereunder if Sage in its sole discretion determines that the Services provided to the Company hereunder contribute to an unacceptable volume of ACH returned items. Additional factors that may determine adjustment of fees, potential reserves or cancellation include average sale amount, processing volume, credit volume, and other factors that may affect the risk of fraud or merchant instability, in the sole discretion of Sage.

5. Rejects/Returns/Revocations of Authorization; Reserve Account. Sage shall notify the Company by fax or electronic transmission of the receipt of a returned Entry from the ACH Operator no later than two (2) business days after such receipt. Except for an Entry transmitted by the Company in accordance with Section 3, Sage shall have no obligation to re-transmit a returned Entry or reinitiate an Entry without further evidence of valid authorization. *All returned Entries are each subject to an additional \$25.00 return fee, unless otherwise stated in this agreement.* Company hereby agrees, if so requested by Sage, to maintain a reserve with Sage with a sufficient balance in Sage's sole discretion to cover Returns, NSF, reversal of ACH transactions and similar debits and fees payable hereunder and any other liabilities of Company as specified in Section 16 ("Reserve Account"). Company authorizes Sage to establish and maintain reserves in such Reserve Account by means of offset from daily settlement activity or provide such reserve funds requested by Sage within 48 hours of the request. Company will pay to Sage the amount of any returned debit that cannot, for any reason in part or in whole, be debited against Company. Company understands that electronic funds transfers can be "charged back" or "returned" against the Originating Financial Depository Institution's account for up to 60 days following the statement date of the receiving institutions' transaction notification to customers' accounts for debit and credit entries. If the Company wishes to revoke an authorization, (other than for a POP, TEL and Single Entry WEB entries) it must do so directly with Sage and provide an executed affidavit to the RDFI that the debit entry has been revoked directly with Sage. Sage's Bank may request a copy of the affidavit within one (1) year of the date on which the adjustment entry was initiated by the RDFI.

6. Compliance with Laws and the Rules; Notification of Change. The Company and its principals understand the Rules, agree to be bound by,

and shall comply with the Rules. Furthermore, the Company agrees to comply with all applicable Federal, state and local laws, rules and regulations as amended from time to time regarding the subject matter of this Agreement, including but not limited to the Federal Fair Credit Reporting Act and Regulation E, 12 CFR 205 et. seq., Regulation CC, Articles 4 and 4A of the Uniform Commercial Code, and the Electronic Funds Transfer Act. The specific duties of the Company provided in this Agreement in no way limit the foregoing undertaking. The Company agrees that it will promptly respond to all Reports of Possible ACH Rules Violation to Sage. Company bears the final responsibility to ensure that its consumers' policies and procedures meet the requirements of the Rules. The Company agrees to consult with its counsel regarding compliance of its authorization and payment procedures and its compliance with the Rules, and shall not rely on Sage for any advice with respect to compliance with the Rules, or any Federal, state, or local rule, statute, regulation or law.

Sage shall make reasonable attempts to provide the Company with a notification of change ("NOC") from the ACH Operator within two (2) business days following the Bank's receipt of same, if the Bank has provided Sage with the NOC. Sage shall, following receipt of an NOC, reserve the right not to re-transmit or reinitiate an Entry without confirmation that the Entry is accurate.

7. Rejected Entries. Sage shall use reasonable efforts to notify the Company of a rejected Entry by fax or electronic transmission no later than the following business day such Entry would have been transmitted by Bank or ACH Operator to Sage. Regardless of the reason for a rejected Entry, it shall be the responsibility of the Company to remake such Entries or provide sufficient data for Sage to remake such Entries in any case where such rejection by the ACH was due to mishandling of such Entries by Sage and sufficient data is available to Sage to permit it to remake such Entries. The Company shall retain and provide Sage on request all information necessary to remake any file of Entries for three (3) days after the midnight of the Settlement Date.

8. Reversals; Erroneous Entries. The Company shall be responsible for monitoring the accuracy of all transmittals and of notifying Sage of any duplication or error requiring correction. The Company shall not knowingly transmit any false information. Sage may assess a processing fee of up to \$500 per occurrence for each instance in which it proves that the Company has knowingly transmitted false information as part of an Entry. If the Company discovers that any Entry it has initiated was in error, it must notify Sage within 24 hours of the discovery of the error. If such notice is received no later than three hours prior to the ACH receiving deadline, Sage will utilize reasonable efforts to initiate a reversing Entry or stop payment of any "on us" Entry within the time limits provided by the Rules. If such notice from the Company is received after the time provided above, Sage would utilize its reasonable efforts on behalf of the Company. Except for an Entry transmitted by the Company in accordance with Section 3, Sage shall have no liability for and shall be indemnified (including attorneys' fees and costs) by the Company for its efforts to affect an adjusting Entry or stop payment.

9. Marketing Materials; Use of Sage Marks; Company's Marks. The Company shall have a non-exclusive license to use Sage marketing materials containing the Sage name, service mark, symbols, and logos associated therewith as may be supplied by Sage from time to time including but not limited to EFTCash® Sage™, Sage Virtual Check™, and Sage Gateway™ (the "Sage Marks"). The Company will use the Sage Marks only in a manner and form approved by Sage. Company is granted by Sage the right to use the Sage logo unaltered on its web-site in the

reasonable representation of the Company's use of the Services until such time as this Agreement is terminated and solely in the connection with the solicitation of its customers' agreement to utilize the Services provided hereunder. All right, title, ownership and interest in and to the Sage Marks remain with Sage, and upon termination of this Agreement, the Company shall have no further right to the use of the Sage Marks, shall immediately cease all use and display thereof, and shall return to Sage all such marketing materials provided by Sage and remaining in Company's possession. If at any time during the term of this Agreement, Sage determines that the Company is not utilizing the Sage Marks in accordance with the terms of this Agreement, Sage may demand that the Company cease and desist from all use of the Sage Marks and return all such marks directly to Sage. The Company is fully responsible for the content of its web site and for the advertising and promotion through any media of all of its offerings. The Company certifies and represents to Sage that it is the owner or that it has full right and authority to use and disseminate all information, data, graphics, text, video, music or other intellectual property which either forms a part of its web-site, which is provided by Company to its consumers, or which is used by Company in its advertising or promotion.

10. Acceptance of ACH Rules. In order to facilitate the Company's compliance hereunder with the Rules and with applicable law, subject to the limitations set forth in Paragraph 6, Sage may provide certain materials, and forms ("Materials") and may make available appropriate personnel as it deems appropriate to assist the Company to maximize their use of the Services offered hereunder. The Company further acknowledges that it is an Originator under the Rules. All Materials are provided solely for the convenience of the Company, and Sage makes no representation or warranty as to the legal sufficiency thereof and assumes no liability therefore, and Company represents and warrants that it will have its own legal counsel review the sufficiency thereof and will rely on its own business and legal judgment in determining to what, if any, extent it wishes to utilize Sage Materials. All such forms shall be printed at the sole expense of the Company and all unused Materials shall be returned to Sage or destroyed by the Company upon termination of this Agreement.

11. Data Retention; Verification and Security. The Company shall retain data on file adequate to permit remarking of Entries for seven (7) banking days following the date of their transmittal by Sage as provided herein, and shall provide such data to Sage upon its request. For Internet-initiated Entries, the Company represents and warrants that it shall ensure that the financial information it receives is protected by security practices and procedures that include (i) physical security to protect against theft, tampering or damage, (ii) personnel and access controls to protect against unauthorized access and use, (iii) network security to ensure secure capture, storage and distribution, (iv) 128-bit encryption technology for Internet transactions, (v) commercially reasonable fraud detection systems, (vi) procedures to verify routing numbers and authenticate consumer identity, and procedures to establish credit-worthiness and exposure limits for its customers. Company agrees that it shall conduct or have conducted annual audits to ensure that the financial information it obtains from its customers is protected by security practices and procedures that include, at a minimum level, the practices set forth in (i) through (iii), hereinabove. For each Entry initiated in response to a telephone authorization from a consumer, Company represents and warrants that its has employed commercially reasonable procedures to verify the identity of the consumer; and that it has utilized commercially reasonable procedures to verify that each routing number is valid.

12. Further Representations and Warranties of Company. The Company represents, warrants and agrees that (a) All information contained in this Agreement, any application or in any other documents delivered to Bank and/or Sage in connection therewith is true and complete and properly reflects Company's business, financial condition and principal partners, owners or officers; (b) this Agreement (i) has been duly authorized, and delivered by the Company; (ii) is in full force and effect; (iii) the person executing this Agreement is duly authorized to bind the Company to all provisions of this Agreement; and (iv) such person is authorized to execute any and all documents and to take any action on behalf of the Company which may be required by Sage now or in the future; (c) this Agreement does not violate any law or conflict with any other agreement to which the Company is bound; (d) There is no action, suit or proceeding pending or threatened which if decided adversely would impair Company's ability to carry on its business substantially as it is now being conducted; (e) the Company has obtained all necessary regulatory approvals, licenses and certificates to provide any services that it intends to offer; (f) the Company shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, regardless of the nature of the laws and regulations, and shall continue to comply with all applicable laws and regulations that may apply to it in the future; (g) Company shall be bound by and comply with the Rules as in effect from time to time and acknowledges that Entries may not be initiated that violate the Rules, or laws of the United States; (h) it shall pay all taxes and other charges imposed by any governmental authority on the Services provided under this Agreement (i) each person shown as the Receiver on an Entry received by Sage from Company has authorized the initiation of such Entry and the crediting and/or debiting of such person's account in accordance with the Rules, by Regulation E or other applicable law and this Agreement in the amount and on the Effective Entry Date shown on such Entry, and the Company will retain all of such authorizations for a period of six (6) years after their termination or revocation or for such longer period as may be required by the Rules or applicable law and provide a copy to Sage upon request; (j) such authorization is valid at the time of transmittal or crediting/debiting by Sage as provided herein and has not been revoked by operation of law or otherwise; (k) Entries transmitted to Sage by Company are limited to those types of credit and debit Entries set forth in Schedule A, and is for an amount which, as of the applicable Settlement Date, will be due and owing, has been specified to be paid, or is a correction of a previously transmitted erroneous Entry; (l) except as otherwise notified by Company, each of the Customer Accounts is a "consumer account" within the meaning of Federal Reserve Board Regulation E; (m) all transactions submitted hereunder are bona fide; (n) Company has never been terminated for cause from an agreement in which the Services contemplated herein are provided; (o) this Agreement constitutes the legal, binding and enforceable obligation of Company, enforceable in accordance with its terms; (p) each Entry conforms in all respects to the Rules and applicable law; and (q) Company authorizes Sage to audit its records to confirm compliance with this Agreement. All Sage instructions as set forth in this Agreement or in any schedule shall be complied with by Company. Non-compliance may result in immediate implementation of non-compliance fines and/or cessation of service by Sage.

13. Liability; Limitations on Liability. Sage shall be responsible only for performing the Services expressly provided for in this Agreement, and may be liable only for its gross negligence in performing those Services. Sage shall not be responsible for the acts or omissions of the Company or its owners, directors, officers, employees or representatives (including without limitation the amount, accuracy, timeliness of

transmittal or due authorization of any Entry received from the Company) or those of any other person, including, without limitation, the Bank, any Federal Reserve Bank or transmission or communications facility, any Receiver or Receiving Depository Financial Institution (including without limitation the return of an Entry by such Receiver or Receiving Depository Financial Institution), and no such person shall be deemed Sage's agent. Sage also will not be responsible for any loss, liability or delay caused by fires, earthquakes, wars, civil disturbances, power surges or failures, acts of government, labor disputes, failures in communication, networks, legal constraints or other events beyond its control. Because of the difficulty of determining actual damages for any failure of Sage to perform its obligations under this Agreement, the parties agree that the extent of any damages hereunder, if any, shall be limited in amount to the greater of the Minimum Transaction Processing Fees or the amount of the Transaction Processing Fees based upon the Schedule of Charges (Fees) attached to this Agreement paid for the one calendar month preceding the month in which the loss occurred. IN NO EVENT SHALL Sage BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT LOSS OR DAMAGE WHICH THE COMPANY MAY INCUR OR SUFFER IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT, INCLUDING ANY LOSS OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM Sage'S ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT. Sage DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, IN RELATION TO THE SERVICE, ITS USE AND THE RESULTS OF SUCH USE. Without limiting the foregoing, Sage specifically disclaims any warranty (i) that the service will be uninterrupted or error-free, (ii) that defects will be corrected, (iii) that security methods employed will be sufficient, or (iv) the service will be correct, accurate or reliable. In addition, Sage shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in the Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to Federal Reserve Board guidelines or if Sage otherwise would cause the violation of any provision of any risk control program of the Federal Reserve Board or any rule or regulation of any other US governmental regulatory authority. Sage's liability for loss of interest resulting from its unexcused error or delay shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of New York for the period involved. At Sage's option, payment of such interest may be made by crediting the Authorized Account resulting from any claim for which Sage is liable for under this Section 13.

14. **Indemnification.** The Company shall be liable for and shall indemnify and hold harmless Sage and the Bank and their employees, officers, directors, agents and affiliates from and against any claim, loss, damage, penalty, cost or expense (including attorneys' fees and expenses) resulting or arising from (a) any breach of any of the representations, warranties and agreements of the Company contained in this Agreement, (b) any claim of any person whatsoever of whatever nature arising out of this Agreement, and for all attorneys' fees and other costs or expenses paid by Sage in the enforcement of this Agreement, including, but not limited to those resulting from any transaction processed under this Agreement and/or (c) any costs or expenses incurred by Sage related to any bankruptcy filing that Company may file. If any of the Entries that are on Sage's system belonging to Company are subpoenaed by legal process or otherwise, Sage shall use reasonable efforts to notify Company. If Company does not respond in a timely

manner, and/or thirty (30) days elapses from Sage's receipt of subpoena, Sage may produce records in accordance with the subpoena. Notwithstanding the foregoing, should Company request that Sage not produce any records in response to a valid subpoena, Company shall indemnify and pay all costs incurred, including attorneys' fees that Sage incurs in opposing the subpoena. Sage shall estimate the costs and attorneys' fees of opposing the subpoena, and Company shall pay those fees and costs to Sage BEFORE Sage has any obligation to take any action to oppose the subpoena. If Company fails to pay the costs and fees in advance, Sage shall have no obligation to oppose the subpoena and may respond to it in accordance with its terms. Should Company pay Sage's fees and costs in advance, Sage shall oppose the subpoena but does not warrant whether it will be successful in doing so,

15. **Compensation.** The Company shall pay Sage the fees and charges for the Services rendered hereunder in accordance with the Fees and Charges as set forth in this Agreement. Such fees and charges do not include, and Company shall be responsible for payment of, any sales, use, excise, value added, utility or other similar taxes relating to the Services provided for herein, and any fees or charges provided for in any related account agreement with the Bank. **The fees and charges are subject to change upon 30 days' prior written notice (by electronic or U.S. mail) to the Company.** Upon receipt of any notice of fee increase, the Company may, by written notice to Sage given at least 10 days prior to the effective date of any such fee increase, terminate this Agreement as set forth in Paragraph 17. In such event no cancellation fees will be charged. The effective date of termination shall be no later than 90 days following the date of the Company's notice. Any such fee increase shall not be effective with respect to the Company during the notice period. If Company does not terminate the Agreement, it shall be deemed to have accepted the fee and cost increase.

16. **Collection of Amounts from Debit Entries and Fees.** Concurrent with the execution and delivery of this Agreement, Sage shall have established a fiduciary account and a ledger account on its books in connection with its master account, titled "Sage Corporation/Fiduciary" (the "Agent Account") with the Bank(s) into which funds received from Customer Accounts shall be credited and from which funds may be debited by Sage for settlement in accordance with this Agreement. Within 5 days of the Settlement Date of the respective debit Entries initiated by it hereunder (or such longer period as may be required by Sage as a condition to acceptance of this Agreement, which shall be specified in a written notice to the Company), Sage shall direct the remittance to the Company of the aggregate amount of such debit Entries less (i) all applicable fees and charges payable to Sage under this Agreement or required by Sage to fund or replenish the reserve established hereunder and (ii) the amount of rejected Entries and returns of debit Entries (the "Net Settlement Amount"). Periodic and other single charges payable hereunder shall be deducted from the first transmittal of Entries received during the period in which the fee or charge is payable. From time to time, Sage shall debit the Agent Account, the Authorized Account, or related clearing account for fees and charges earned under this Agreement and for any returns not previously deducted. The Company authorizes Sage and Bank to debit via ACH the Agent Account, the Authorized Account, the Reserve Account, any other account the Company has with Sage, an affiliate or subsidiary of Sage, Bank or at any other financial institution as an offset for any amount the Company owes under this Agreement or under any other contract, note, guaranty, or dealing of any kind now existing or later entered into between the Company and Sage or any subsidiary or affiliate, whether the Company's obligation is direct, indirect, primary, secondary, fixed, contingent, joint or several.

In the event such ACH does not fully reimburse Sage and Bank for the amount owed, the Company will immediately pay Sage and Bank such amount. **The Company acknowledges that this Agreement is an agreement pursuant to which Sage is extending the Company financial accommodations within the meaning of Section 365(c) of the Bankruptcy Code.** In the event Company becomes a debtor in any bankruptcy or similar proceeding, this Agreement cannot be assumed or enforced by any other person and Sage shall be excused from any further performance hereunder.

17. **Term.** Except as otherwise provided herein for earlier termination, the initial term of this Agreement shall be three (3) years commencing as of the Effective Date hereof and shall be automatically renewed for additional two (2) year terms, unless either party gives to the other party written notice of its intention not to renew at least ninety (90) days prior to the expiration of the then current term. The effective date ("Effective Date") shall be defined by the date the contract is ratified by Sage. *Upon receipt of any material modification to this Agreement as set forth in Paragraph 15, the Company may terminate this Agreement within seven calendar days after delivery of notice of termination to Sage.* Notwithstanding the foregoing, this Agreement shall not terminate beyond the term of Sage's agreement with the Bank for the origination of ACH entries.

18. **Default; Termination.** Sage shall have the right to immediate termination of this Agreement if the Company's representations and warranties contained in this Agreement are not true and correct both on the day made and at any time during the term of this Agreement. Sage may also cancel any account for any customer of Company or Company if it participates in any illegal, unethical or other unacceptable behavior that Sage, in its sole discretion, deems to adversely reflect on Sage's reputation, and either party may terminate this Agreement if the other party (i) is in default of any obligation under this Agreement (which shall include nonpayment of fees and charges) and such default has continued for fifteen (15) days following notice and opportunity to cure, (ii) files or suffers the filing of a petition for relief under the bankruptcy laws or (iii) makes an assignment of all or substantially all of its assets for the benefit of creditors. Any termination of this Agreement shall not affect any of the obligations of either party arising prior to such termination. Notice of termination must be given in writing by Company. **Upon termination of this Agreement by Company during the Initial Term or any Renewal Term, Company shall pay to Sage a Termination Fee of Twenty-Five (\$25.00) Dollars for every month remaining in any such term ("Termination Fee"), except that a Termination Fee shall not be owed to Sage in the event of a termination for a fee increase as set forth in Paragraph 15.** Upon termination as set forth in this Paragraph, the Company shall notify Sage of the effective date of such termination, and any processing fees due to Sage must immediately be paid upon notice of cancellation. Sage shall retain in the Agent Account for a period of no less than one hundred fifty (150) days following termination an amount in reserve sufficient, in its sole discretion, to pay for any items returned subsequent to the effective date of termination to cover return items. Accounts are not closed until the account balance is paid in full. Sage is hereby authorized to draft from Company's bank account the amount of all fees due upon cancellation. During this period, Sage shall forward to the Company return item verifications as they are received. At the expiration of such period, Sage shall return any remaining funds owed the Company or invoice the Company for any return item amount still due it. Any termination by Company will not affect Sage's rights or obligations arising before the termination.

19. **Status of Sage.** The parties hereto acknowledge and agree that Sage is acting solely in the capacity of

data processing agent for the Company, has no responsibility for providing any funds to the Bank to cover any Entry it transmits on behalf of the Company, and the Company, any accounts established by the Company, hereunder or otherwise, and/or the Guarantor(s) are liable for any and all compensation due Sage for its Services as agent.

20. Security Procedures; Confidentiality. The Company agrees to comply with the procedures established by Sage or the Bank for security as are communicated to it either orally or in writing and will contact Sage immediately if it has reason to believe that confidentiality has been or is likely to be breached.

21. Notices. All notices, requests and other communications under or in connection with this Agreement shall be in writing and shall be given by electronic mail, facsimile transmission, express carrier or United States registered or certified mail, addressed to the applicable party or parties at the address provided to the other or as set forth above, or at such other address as may be designated by notice as provided herein. Any such communication shall be effective upon its receipt.

22. Binding Agreement; Third Party Beneficiary. The terms of this Agreement shall be binding upon and inure to the benefit of each party hereto and its respective successors and permitted assigns. The Company agrees that the Bank shall be a third party beneficiary of this Agreement and, without limitation as to other rights as a third party beneficiary, shall be entitled to rely on the representations, warranties and agreements of the Company as if made in a written agreement directly between the Bank and the Company. Except as expressly contemplated by herein, this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto and the Bank.

23. Amendment. From time to time Sage may amend any of the terms and conditions contained in this Agreement, including without limitation, any cut-off time, any business day in order to comply with modifications to applicable laws and regulations and the Rules. Such amendments shall become effective upon receipt of notice by the Company or such later date as may be stated in Sage's notice to the Company.

24. Assignment. The Company may not assign this Agreement or any of the rights or obligations hereunder, without the prior written consent of Sage, which consent shall not be unreasonably withheld.

25. Entire Agreement; Headings. The terms and conditions contained herein together with the Agent Account, application, Authorized Account and any exhibits hereto constitute the entire agreement between the parties hereto relating to the subject matter hereof and supersede any prior agreement or understanding and except as set forth herein, may only be modified in writing executed by all parties. In the event of any inconsistency between the terms of this Agreement and any Materials/Instructions provided by Sage, the terms of this Agreement shall govern. Headings contained in this Agreement are used for reference purposes only and are not a part and shall not affect the construction or interpretation of this Agreement.

26. Credit and Financial Inquiries. (a) Company authorizes Sage to make, at any time, any credit inquiries which either may consider necessary to accept or review acceptance of this Agreement subsequent to Sage's acceptance of this Agreement. Such inquiries shall include, but are not limited to, a credit check of the business including its proprietor, partners, principal owners or officers. If requested to do so by Sage, Company shall provide the written consent of any person for which an inquiry has been or is to be made if such person has not executed this Agreement and will provide any financial statements income tax and business tax returns and other financial information as Sage may consider necessary

to perform initial or periodic reviews of Merchant's financial stability and business practices

27. Severability. In the event performance of the Services required hereunder would result in a violation of any present or future statute, regulation or government policy to which Sage is subject, then any provision of this Agreement the performance of which would constitute such a violation shall be deemed null and void, and this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Sage shall incur no liability to the Company as a result of its performance in accordance with any such amendment.

28. Survival. All representations, warranties, covenants, and agreements of the Company contained herein shall survive the execution, delivery and termination of this Agreement.

29. Governing Law; Jurisdiction; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without giving effect to choice of law rules. The Company consents to the jurisdiction and venue of the United States District Court for the Eastern District of Virginia and the courts of general jurisdiction of Fairfax County, Virginia as applicable, to the exclusion of all other forums. Sage hereby designates Christian Abou Fadel, CFO, at Sage's address, as its agent for service of process upon it in any suit or action. **EACH PARTY HERETO IRREVOCABLY WAIVES ALL RIGHTS IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE ARISING OUT OF, BY VIRTUE OF, OR IN ANY WAY CONNECTED TO THIS AGREEMENT, ANY DOCUMENT EXECUTED IN CONNECTION HERewith, ANY AMENDMENT OR SUPPLEMENT HERETO OR THERETO, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. COMPANY ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.**

30. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. A facsimile signature will be binding and legal in all respects as if it were an original signature to the Agreement.

31. Consent to E-Mail Communications. By entering into this Agreement with Sage the Company is consenting to the receipt of electronic mail ("e-mail") from Sage.

32. Non-Compliance. Non-compliance with the terms of this Agreement could result in immediate implementation of non-compliance fines to Company and/or cessation of the service described hereunder by Sage.

33. Appointment as Agent. The Company desires to effect settlement of credits and debits from the clearing account of Sage by means of ACH as anticipated by Agreement. In accordance with this desire, the Company authorizes Sage to initiate debit and credit entries to the Authorized Account. By signing this authorization, the Company states that it has authority to agree to such transactions and that the Authorized Account indicated is a valid and legitimate account for the handling of these transactions. This authority is to remain in effect until Sage receives written notice from the Company withdrawing it. This authorization is for the payment of fees, returns, credit collections, and disbursements. The Company also certifies that the appropriate authorizations are in place to allow the Company to authorize this method of settlement.

34. Authorization and Notification Requirements. Transactions processed through the Automated Clearing House (ACH) are strictly controlled by

Governmental Regulations and monitored by the Federal Reserve. The Company must have appropriate authorization from Receivers for initiation of Entries. The following directive is offered to promote accuracy and standardization for authorization requirements: A statement authorizing the Originator (Company) to initiate credit or debit entries to the consumer's account and authorizing the RDFI to accept and post them to such account including (i) Account and Routing numbers must be accurately stated; (ii) date and signature(s) are required, except that in the case of Internet or other electronically initiated transactions, there must be evidence of similar authentication by the Receiver ; (iii) Originators (Companies) must ensure that the consumer is completely aware of the nature of the product or service that he or she is purchasing; (iv) provisions that permit the consumer to terminate the authorization by written notification to the Originator (Company) in such time and manner to afford the Originator (Company) and the RDFI reasonable opportunity to act on such notification. In an application where the debit amount varies, specific additional requirements apply. If a pre-authorized debit transfer varies from a previous transfer relating to the same authorization or from a fixed pre-authorized amount, the Originator (Company) must mail to the customer or deliver to him written notice of the amount and scheduled date of the transfer at least ten (10) calendar days before the scheduled transfer date. Additionally, if the Originator (Company) informs the consumer of the right to receive notice of all varying transfers, the consumer may elect to receive notice only when a transfer does not fall within a specified range of amounts; or, alternately, the consumer may elect to receive notice only when a transfer differs from the most recent transfer by more than an agreed upon amount.

35. Attorneys Fees. Company will be liable for and will indemnify and reimburse Sage for all attorneys' fees and other costs and expenses paid or incurred by Sage in the enforcement of this Agreement, or in collecting any amounts due from the Company to Sage or resulting from any breach by Company of this Agreement.

36. Security Interest. TO SECURE ALL OBLIGATIONS OF COMPANY TO Sage ARISING FROM THIS AGREEMENT, COMPANY HEREBY GRANTS Sage A LIEN AND SECURITY INTEREST IN ALL TRANSACTIONS AND ITEMS SUBMITTED FOR PROCESSING, ALL RIGHTS RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ALL AMOUNTS DUE COMPANY, ALL DEPOSITS REGARDLESS OF SOURCE, TO ANY OF COMPANY'S ACCOUNTS ESTABLISHED AS SET FORTH IN THIS AGREEMENT OR OF ANY PARTY SIGNING THIS AGREEMENT PERSONAL GUARANTY (THE "SECURED ASSETS"). Said security interest may be set off or otherwise be exercised by Sage without notice or demand of any kind. The exercise of this security interest shall be addition to any other rights of Sage under the Uniform Commercial Code, this Agreement, applicable laws or in equity. The parties specifically acknowledge and affirm that pursuant to the Uniform Commercial Code of Virginia, this Agreement shall constitute a security agreement and that Sage has a general lien upon the accounts described in this Agreement and right of offset against all funds that may be due to Company, which shall stand as one continuing collateral security for the timely performance of Company's obligations to Sage. Sage shall also have the right to require the Company to furnish such other and different security, as Sage shall deem appropriate in its sole discretion in order to secure Company's obligations under this Agreement. Company agrees to execute any documents or take any actions required in order to comply with and perfect any security interest under this Section at Company's cost. To the extent permitted by law, Company

authorizes Sage to execute any financing statement or other documents relating to this security interest. Company represents and warrants that no other party has a security interest or lien in the Secured Assets.

37. Force Majeure. Sage shall not have any responsibility and shall incur no liability for any failure to carry out, or any delay in carrying out, any of its obligations under this Agreement resulting from acts, omissions, or inaccuracies of third parties not under its reasonable control, acts of God (including, but not limited to, fire, floods or adverse weather conditions), labor difficulty, legal constraint, war, terrorism, the unavailability or interruption of transmission or communication facilities or utilities, equipment or other technological failure, emergency conditions or any other cause beyond its reasonable control.