ACH (AUTOMATED CLEARINGHOUSE) PROCESSING AGREEMENT TERMS AND CONDITIONS

THIRD-PARTY BENFICIARIES

The term Financial Institution as used in this ACH Agreement Terms and Conditions ("Agreement") refers to collectively to any bank, ACH Third Party Sender, Operator or Service Provider with which Phoenix Payments, LLC (hereinafter "ACH PROCESSOR") has a service or sponsor bank Agreement. Therefore, Client and ACH PROCESSOR acknowledge that such Financial Institution is an express and intended third-party beneficiary to this Agreement and has all the rights under this Agreement as if it were a party thereto, including, without limitation, the right to enforce any terms of the Agreement or assert claims against Client for breach of the Agreement.

AUTHORIZATION

As a duly authorized representative for the Client named above, I authorize the account designated by Client to be debited and/or credited by ACH PROCESSOR according to the terms of this Agreement. I further authorize ACH PROCESSOR to process electronic funds transfers through the account listed within this Application/Agreement. This authorization is also applicable for any new account information provided by Client at a future date. I agree to be bound the by the ACH Agreement Terms and Conditions as stated elsewhere in this Agreement. Client agrees to provide new account information to ACH PROCESSOR at least 10 days prior to closing or changing the above account. This authorization shall continue in perpetuity until all obligations to ACH PROCESSOR are met and the authorization shall survive termination of this Agreement.

CANCELLATION

Either party may cancel this Agreement with 30 days written notice to the other party. ACH PROCESSOR may also immediately cancel this Agreement and suspend all processing of originations, without advance notice, upon the request of an Originating Depository Financial Institution ("ODFI") or any applicable Federal, state or banking regulatory authority ("Agency") for any reason, or if ACH PROCESSOR reasonably believes that Client is violating or has previously violated any applicable Federal, state or local laws or regulations governing ACH transactions (collectively, "Regulations"), or the Operating Rules or Guidelines ("Rules") of the National Automated Clearing House Association ("NACHA").

CONSUMER CREDIT INQUIRIES

A credit report may be made in connection with this Application/Agreement. Applicant(s) authorize ACH PROCESSOR, or any credit bureau or any credit reporting agency employed by ACH PROCESSOR or any agents of ACH PROCESSOR to investigate the references provided or any other statements or data obtained from Client, or any of the above principals, for the purpose of this application. Client also authorizes ACH PROCESSOR to obtain additional credit reports regarding Client on an annual basis, unless ACH PROCESSOR, in its sole and absolute discretion, determines that it is necessary for ACH PROCESSOR to periodically obtain Client's credit report on a more than annual basis, in which case Client authorizes ACH PROCESSOR to obtain such additional credit reports. Notwithstanding anything in this paragraph, Client authorizes ACH PROCESSOR to obtain a credit report regarding Client if Client requests increased processing amounts or parameters, or if the Client originates sporadic transactional volume.

ACH PROCESSING

ACH PROCESSOR and Client have contracted for ACH PROCESSOR to provide Automated Clearing House ("ACH") services as a Third Party Processor of ACH transactions. These transactions will be placed through a financial institution used by ACH PROCESSOR who will be acting as the ODFI. Client shall act as the Originator. ACH PROCESSOR will debit funds ("Debit Entry") for the purpose of collecting Automatic Payments from the accounts of the Client's customers ("Receivers") and/or credit funds ("Credit Entry") for the purpose of paying the Client's accounts receivable in accordance with the terms of this Agreement, Rules, and applicable Regulations governing ACH transactions. The terms and conditions of this Agreement do not limit Client's obligation to comply with the Rules and Regulations. "Entry or "Entries" shall mean either a Credit Entry or a Debit Entry.

AUTHENTICATION

Client agrees that ACH PROCESSOR may adjust processing fees and/or add authentication services without notice if Client experiences a return rate outside the standard return rates for Client's industry (as determined solely by ACH PROCESSOR) or if ACH PROCESSOR deems the authentication process employed by Client is not adequate based upon standards determined by ACH PROCESSOR. ACH PROCESSOR, at its sole and absolute discretion, will determine the standards of authentication and the rate of return acceptable for Client.

REPRESENTATIONS REGARDING AUTHORIZATION

Client agrees to obtain authorization from Receivers pursuant to the requirements of the Rules and Regulations prior to debiting or crediting Receivers' accounts. Client will maintain copies of the authorizations for a period of two years from the date the record was created.

Client represents and warrants with respect to all Entries originated by Client and processed by ACH PROCESSOR for the Client that (1) each Receiver has authorized the debiting and or crediting of its account, (2) each Entry is for an amount agreed to by the Receiver, and (3) each Entry is in all other respects properly authorized. Client agrees to indemnify ACH PROCESSOR, including its directors, officers, employees and affiliates, for any claims, demands, losses, liabilities, costs or expenses suffered or incurred (including attorneys' fees and costs) relating to, arising out of or involving any breach of these representations and warranties. These representations and warranties by Client and its indemnity obligation hereunder shall survive termination of the Agreement.

ACTION BY CLIENT EMPLOYEES AND ADMINISTRATORS

Client acknowledges that the actions of its officers, directors, employees, affiliates, agents, administrators, consultants or independent contractors ("Client Administrator") will be deemed actions by Client hereunder, and Client accepts full responsibility and liability for such acts and/or omissions of said Client Administrator.

IDENTIFYING NUMBERS

Client understands that ACH PROCESSOR may rely solely on identifying numbers provided by the Client to determine the bank and account of a Receiver even if the numbers identify a bank or account holder different from the one identified by the Client by name. Client will indemnify ACH PROCESSOR, including its directors, officers, employees and affiliates, for any claims, demands, losses, liabilities, costs or expenses suffered or incurred (including attorneys' fees and costs) as a result of an incorrect account or other identification. Client's indemnity obligation hereunder shall survive termination of the Agreement.

REGULATORY COMPLIANCE

Client bears the final responsibility to insure that the Client's policies and procedures meet the requirements of the Rules and all applicable Regulations. Client is encouraged to consult counsel regarding compliance with the Rules and Regulations whenever there is any doubt about compliance. Client represents and warrants that all Entries originated by Client and processed by ACH PROCESSOR for the Client comply with all applicable Rules and Regulations, including without limitation the following Regulations: 1) FTC Act (15 U.S.C. §§ 41, *et seq.*); 2) TSR (16 C.F.R. 310, *et seq.*); 3) Electronic Fund Transfer Act (15 U.S.C. §§ 1601, *et seq.*) and Regulation E (12 C.F.R 205, *et seq.*), if applicable; 4) Uniform Commercial Code Article 4-A, if applicable; 5) Federal Reserve Board Regulation J, if applicable; 6) the rules and sanctions laws of the Office of Foreign Assets and Control ("OFAC"); 7) Unlawful Internet Gambling Enforcement Act (31 U.S.C. §§ 5361, *et seq.*) and accompanying regulations (12 C.F.R. 233; 31 C.F.R. 132); 8) PACT Act (15 U.S.C. §§ 376, *et seq.*, Jenkins Act (15 U.S.C. §§ 375, *et seq.* and accompanying regulations; 9) Title X of the Dodd-Frank Act and accompanying regulations; and (10) all applicable state laws and regulations. Client further represents and warrants that it shall not originate any Entries that constitute (i) improper telemarketing in violation of the TSR or other applicable Rules or Regulations; (ii) sales or marketing of advance-fee credit cards in violation of the TSR or other applicable Rules or Regulations; (iii) restricted Internet gambling transactions; (iv) unlawful Internet tobacco sales; and/or (v.) that violate or are alleged to violate any Rule, Regulation or Financial Institution or Agency requirement. Client represents and warrants that it will not transmit any entries that violate the laws of the United States or any other applicable Rule or Regulations. These representations and warranties by Client shall survive termination of this Agreement. Client will indemnify ACH PROCESSOR, including its directors, officers, employees and affiliates, for any claims, demands, losses, liabilities, costs, fines or expenses suffered or incurred (including attorneys' fees and costs) relating to, arising out of or involving any breach of these representations and warranties or failure to comply with any applicable Rule, Regulation or Financial Institution or Agency requirement. Client's indemnity obligation survives termination of this Agreement. With limiting any of its other rights under this Agreement, ACH PROCESSOR may immediately cancel this Agreement if ACH PROCESSOR reasonably believes that Client is violating or has previously violated any applicable Rule or Regulation or is in breach of these representations and warranties.

TAX NAME AND IDENTICATION NUMBER

Client shall provide to ACH PROCESSOR its correct and accurate tax filing name and tax identification number ("TIN") for the U.S. Internal Revenue Service ("IRS"). Client bears all liability and agrees to indemnify, defend and hold harmless ACH PROCESSOR and its Financial Institution, including all of their respective directors, officers, employees and affiliates, from any and all claims, demands, liabilities, losses, damages, fines, costs or other expenses (including attorneys' fees and costs) suffered or incurred arising out of, relating to or involving in any way Client's failure to provide an accurate tax filing name or tax identification number.

TAX REPORTING OBLIGATIONS

Client acknowledges that, pursuant to Section 6050W of the Internal Revenue Code, ACH PROCESSOR is responsible for filing with the IRS annual information returns for all reportable payment transactions to Client for whom ACH PROCESSOR processes transactions under this Agreement. Client shall cooperate with ACH PROCESSOR and take all reasonable steps to aid its reporting obligations and compliance with Section 6050W, including, but not limited to, provide an accurate and verifiable tax filing name and TIN for each Client account.

Client further acknowledges and agrees that if it fails to provide an accurate tax filing name or TIN information, the IRS notifies ACH PROCESSOR of a discrepancy between the information provided by Client and the IRS records, or if requested by the IRS for any reason, ACH PROCESSOR shall be required to perform backup withholding from Client funding by deducting and withholding income tax in an amount based on the IRS withholding regulations at the time withholding is required from the gross amount of each reportable transaction pursuant to Section 6050W and its corresponding regulations. Client expressly authorizes ACH PROCESSOR to withhold from Client's funding or debit Client's Settlement Account (or another account designated by Client if there are insufficient funds in the Settlement Account to cover the required withholding) for any and all backup withholding amounts required by Section 6050W and its corresponding regulations.

RECORDKEEPING REQUIREMENTS

Client shall keep, for a period of 2 years from the date the record is produced, all records of verifiable consumer authorizations. Client further agrees to retain all documentary evidence that proves it is compliant with all applicable Rules, Regulations and Financial Institution and Agency requirements

to the satisfaction of the Financial Institution, NACHA, FTC, any state Attorneys General, or any applicable Agency or government authority for a period of no less than three (3) years, or as otherwise required by any Rules, Regulation or Financial Institution or Agency requirements. Client agrees to provide copies of such documents or records to ACH PROCESSOR immediately upon written request from ACH PROCESSOR.

NOTICE OF ERRONEOUS UNAUTHORIZED TRANSFERS

Client agrees to promptly and regularly review all Entries and other communication received from ACH PROCESSOR and to immediately notify ACH PROCESSOR if there are any discrepancies between Client's records and those provided by ACH PROCESSOR, the ODFI or Client's bank, or with respect to any transfer not authorized by Client. If Client fails to notify ACH PROCESSOR within 7 days of the date ACH PROCESSOR mails or otherwise provides a statement of account or other report of activity to Client, then the Client will be solely responsible for all losses or other costs associated with any erroneous or unauthorized transfer.

REPRESENTATIONS AND WARRANTIES OF CLIENT

In addition to all other representations and warranties made in this Agreement, Client represents and warrants the following to ACH PROCESSOR and the Financial Institution; now and as of the time it initiates each Entry:

(1) As to each Credit Entry submitted by Client: (a) Each person shown as the Receiver on an Entry received by ACH PROCESSOR from Client has authorized the initiation of such Entry and the crediting of its account in the amount and on the Effective Entry Date shown on such Entry; (b) Such authorization is operative at the time of transmittal or crediting by ACH PROCESSOR as provided herein; (c) Entries transmitted to ACH PROCESSOR by Client are limited to those types of credit Entries set forth on the Application and in the Guidelines; (d) The Entry is timely; (e) The Entry is in conformity with the Rules, Regulations and all Financial Institution, ODFI and Agency requirements; (f) That, at the time the Entry is transmitted to the ACH Network by ACH PROCESSOR, Client does not have actual knowledge of the revocation or termination of the authorization by the Receiver; (g) That the Receiver's authorization is neither inoperative nor ineffective by operation of law, nor has it been terminated by operation of law; (h) That Client has provided all written disclosures required by the Rules, Regulations and all Financial Institution, ODFI or Agency requirements to all consumers on whose behalf ACH PROCESSOR performs any Service; (i) Client will comply with all provisions of the Rules, Regulations and all Financial Institution, ODFI and Agency requirements applicable to the services provided under this Agreement to Client; and (j) Client acknowledges and agrees that all Entries originated as part of a service shall comply with all Regulations, including but not limited to, any economic sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) and shall not act on behalf of, or transmit funds to or from, any party subject to such sanctions.

(2) As to each Debit Entry submitted by Client: (a) The Entry is for a sum due and owing to Client from a Customer or for a sum specified by a Customer to be paid to Client; (b) The Entry is timely; (c) The Entry is forwarded in accordance with an authorization executed by the Receiver and held by the Client; (d) The Entry is in conformity with the Rules, Regulations and all Financial Institution, ODFI and Agency requirements; (e) That, at the time the Entry is transmitted to the ACH Network by ACH PROCESSOR, Client does not have actual knowledge of the revocation or termination of the authorization by the Receiver;

(f) That the Receiver's authorization is neither inoperative nor ineffective by operation of law, nor has it been terminated by operation of law; (g) The Entry is of a type of debit Entry specified in the Application and the Guidelines; (h) The Client has complied with the Rules, Regulations and all Financial Institution, ODFI and Agency requirements pertaining to the Entry; (i) Client shall be bound by and comply with the Rules as in effect from time to time, including, without limitation, the provision making payment of an Entry by the RDFI of final settlement for such Entry; and Client specifically acknowledges that it has received notice of the Rule regarding provisional payment and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and Client shall not be deemed to have paid the Receiver the amount of the Entry;

(j) Client will comply with all provisions of the Rules, Regulations and all Financial Institution, ODFI and Agency requirements applicable to the services provided to Client under this Agreement; and (k) Client acknowledges and agrees that all Entries originated as part of a service shall comply with all Regulations, including but not limited to, any economic sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) and shall not act on behalf of, or transmit funds to or from, any party subject to such sanctions.

(3) Client, including its subsidiaries, predecessors, principals, officers or managing members, has complied with and shall remain in compliance with all Rules, Regulations, Financial Institution, ODFI and Agency requirements (including rules, regulations, codes, plans, injunctions, judgments, orders, decrees, rulings, and charges there under) of all Federal, state, local and foreign governments and all Agencies thereof, and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed or commenced against any of them alleging any failure to comply. Client further represents and warrants that it shall not originate any Entries that constitute (i) improper outbound telemarketing in violation of the TSR or other applicable Regulations or Rules; (ii) sales or marketing of advance-fee credit cards in violation of the TSR or other applicable Regulations or Rules; (iii) restricted Internet gambling transactions; and/or (iv) unlawful Internet or other remote tobacco sales.

(4) Client is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization.

(5)   Client has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes valid and legally binding obligations of Client and is enforceable in accordance with its terms and conditions.

(6)   Neither the execution or delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will violate any statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government Agency, or court to which Client is subject or any charter of Client, or conflict with or create any right to accelerate, terminate, modify, or cancel or require any notice under any other agreement, or other arrangement to which Client is a party or by which either is bound.

(7)   Client has provided to ACH PROCESSOR a copy of any and all government or Agency inquiries or complaints regarding Client or any of its subsidiaries, predecessors, principals, officers or managing members.

(8)   The information, authorizations, documents, reports, financial statements, and other documentation provided by Client pursuant to this Agreement are correct, accurate, and complete and do not contain any untrue or misleading statement or fact.

(9)   Client acknowledges receiving notice of the NACHA Rule regarding provisional payment and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and neither ACH PROCESSOR nor ODFI shall be deemed to have paid the Receiver the amount of the Entry.

(10)   The representations and warranties made by Client in this Agreement shall survive termination of this Agreement and the termination of processing services provided by ACH PROCESSOR.

(11)   ACH PROCESSOR, in its sole and absolute discretion, has the right to immediately suspend or terminate processing for Client and/or this Agreement if ACH PROCESSOR, the Financial Institution, ODFI or any applicable Agency believes that Client has breached these representations and warranties, any other representations and warranties made elsewhere in this Agreement, or has initiated any unauthorized Entries.

(12)   In addition to all other indemnification obligations in this Agreement, Client agrees to indemnify, hold harmless and defend ACH PROCESSOR, Financial Institution and the ODFI, including all of their directors, officers, employees and affiliates, for any claims, losses, liabilities, costs, fines or expenses suffered or incurred (including attorneys' fees and costs) relating to, arising out of or involving any actual or alleged breach of these representations and warranties, any other representations and warranties made elsewhere in this Agreement, or unauthorized Entries.

(13)   If Client breaches these representations and warranties, any other representations and warranties made elsewhere in this Agreement, or has initiated any unauthorized Entries, Client acknowledges that ACH PROCESSOR, Financial Institution and/or the ODFI will suffer irreparable harm and the total amount of monetary damages for any injury to any or all of them will be impossible to calculate and therefore are an inadequate remedy at law. Accordingly, ACH PROCESSOR, Financial Institution or the ODFI, as applicable, may (i) seek temporary and permanent injunctive relief against Client, or (ii) exercise any other rights and seek any other remedies to which ACH PROCESSOR, Financial Institution or the ODFI, as applicable, may be entitled to at law, in equity and under this Agreement.

All representations and warranties made in this section shall survive any expiration or termination of the Agreement.

INDEMNITY
Without limiting any of the foregoing provisions, Client agrees to indemnify, hold harmless and defend ACH PROCESSOR from and against any and all claims, demands, losses, liabilities, costs or expenses suffered or incurred (including attorneys' fees and costs) relating to, arising out of or involving any breach of the representations and warranties set forth in this Agreement, or the failure of Client to comply with the terms of the Agreement, all applicable Rules and Regulations, or applicable Financial Institution or Agency requirements. Client's indemnity obligation survives termination of this Agreement.

ACCEPTING TRANSACTIONS
ACH PROCESSOR will only be responsible for processing Entries that have arrived at its premises in proper format and on a timely basis. ACH PROCESSOR will advise Client of any applicable cut-off time. Client does not have the right to cancel or amend any Entry after submission.

ORIGINATING TRANSACTIONS
ACH PROCESSOR will use the information provided by the Client to originate Entries to the ACH. Client acknowledges its understanding that ACH PROCESSOR may reject Entries for any reason permitted or required by the Rules or applicable Regulations. Client also understands that Entries or files may be rejected which exceed the threshold parameters identified and set for the Client. Client also understands that an Entry may be rejected if the Entry would cause ACH PROCESSOR to violate any Federal Reserve or other regulatory risk control program, any other applicable Rule or Regulation, or ACH PROCESSOR'S Agreement with its Originating Bank or Financial Institution. At Client's request, ACH PROCESSOR will make reasonable efforts to reverse, modify, or delete an Entry, but will have no responsibility for the failure to comply with that request. All such requests must be made in writing and faxed, delivered, or mailed to ACH PROCESSOR.

RETURNED ENTRIES ACH PROCESSOR will apply returned Entries to Client's account when they are received. ACH PROCESSOR will create and make available to the Client a report containing detailed information about returned Entries. If the Client requests that the returned entries be

provided electronically, ACH PROCESSOR may do so according to the Rules and Regulations regarding those transactions. Client is solely responsible for payment of any and all returned Entries. Client acknowledges that ACH PROCESSOR has the right to establish return rate thresholds, which may be changed from time to time. ACH PROCESSOR has the right to immediately suspend processing and terminate this Agreement if returns exceed the established threshold.

SETTLEMENTS AND FINALITY

Funds representing collected ACH Payments shall settle to Client's Designated Bank Account on a schedule determined by ACH PROCESSOR based upon an evaluation of the risk and credit exposure imposed by Client. The settlement cycle will be communicated to Client upon notice of account approval or account activation. ACH PROCESSOR reserves the right, at its sole and absolute discretion, to adjust the settlement cycle based upon account performance and changes in estimated credit exposure. If any Entry is returned after settlement, ACH PROCESSOR will at ACH PROCESSOR's sole and absolute discretion, either apply the debit to the current day's settlement, or debit the Client's account for the amount of the returned Entry plus associated fees. If sufficient funds to cover returned Entries is not available in the Client's account, the Client shall immediately remit payment to ACH PROCESSOR to fully cover the amount of all returned Entries.

NO WARRANTY

Client acknowledges and agrees that ACH PROCESSOR does not have control over the conditions under which Client uses the payment processing system, and does not and cannot warrant the results obtained by such use. **ACH PROCESSOR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE PROCESSING AND/OR ACH PROCESSOR'S SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES AGAINST INFRINGEMENT OF THIRD-PARTY RIGHTS OR THE IMPLIED WARRANTIES OF CLIENTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ACH PROCESSOR DOES NOT WARRANT THAT OPERATION OF THE PAYMENT PROCESSING SERVICE WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE. CLIENT ACKNOWLEDGES THAT THE PAYMENT PROCESSING SYSTEM IS PROVIDED FOR USE BY CLIENT "AS IS." CLIENT FURTHER ACKNOWLEDGES THAT ACH PROCESSOR BEARS NO RESPONSIBILITY FOR THE CLIENT WEB SITE(S). CLIENT ACKNOWLEDGES THAT AN AUTHORIZATION FOR PAYMENT IS NEITHER A WARRANTY THAT THE PERSON PRESENTING THE AUTHORIZATION IS THE RIGHTFUL ACCOUNT HOLDER NOR A PROMISE OR GUARANTEE BY ACH PROCESSOR THAT IT WILL PAY OR ARRANGE FOR PAYMENT TO CLIENT FOR THE AUTHORIZED TRANSACTION. CLIENT ACKNOWLEDGES THAT AN AUTHORIZATION DOES NOT PREVENT A SUBSEQUENT REVERSAL OF A PREVIOUSLY AUTHORIZED TRANSACTION PURSUANT TO THIS AGREEMENT.**

LIMITS OF LIABILITY

ACH PROCESSOR will be responsible for the performance of ACH services in accordance with the terms of this Agreement and the Rules and applicable Regulations. ACH PROCESSOR will not accept responsibility for errors, acts, or failure to act by others (whether directly or indirectly), including but not limited to, Financial Institution, banks, communication providers, common carriers, or clearing houses through which Entries may be passed and or originated. ACH PROCESSOR is not responsible for any loss, liability or delay caused by fires, earthquakes, war, civil disturbances, power surges or failures, acts of governments, labor disputes, failures in communication networks, intervening criminal or tortious acts of third parties who are not within ACH PROCESSOR'S control or employ, legal constraints or other events beyond the control of ACH PROCESSOR. ACH PROCESSOR shall not be liable to Client for any delays in receipt or transmittal of funds or errors in credit or debit Entries caused by third parties, including without limitation, the Automated Clearing House, any depository financial institution, or any agent of Client.

FEES AND PAYMENT

 ACH PROCESSOR will notify Client in writing of fees due for services rendered. Any changes to the existing fee structure as stated in this Agreement must be made in writing to the Client with 30 days' notice. Client has the right to cancel the Agreement in writing at that time. Client also agrees to provide ACH PROCESSOR the information necessary to ACH debit Client's account(s) for fees due, including for payment of returned Entries. If Client returns a transaction initiated by ACH PROCESSOR and this transaction is in accordance with this Agreement, Client will be charged a $25.00 return fee per occurrence. ACH PROCESSOR reserves the right to issue refunds or credits to any consumer that has been debited by Client at any time in ACH PROCESSOR's sole and absolute discretion. In the event ACH PROCESSOR issues any credits or refunds on behalf of Client, the amount of the refund or credit will be deducted from Client's settlement or reserve account. In the event Client does not have the available funds in its processing account, ACH PROCESSOR will debit the Client's bank account on file for the amounts. Client is liable for any and all refunds or credits ACH PROCESSOR issues on behalf of the Client. A charge of 1½% per month or the highest amount permitted by law, whichever is lower, shall be added to the outstanding balance of any account that is thirty (30) days or more delinquent for any outstanding fees allowed by this Agreement. ACH PROCESSOR may offset any fees due from Client settlements, reserve account or debiting the Client's designated bank account.

VOLUME ANALYSIS

ACH PROCESSOR will routinely analyze Client origination and return activity. In the event the Client exceeds a return rate outside the standard return rates for its industry (as determined by ACH PROCESSOR in its sole and absolute discretion), ACH PROCESSOR determines Client's business is operating or previously operated in a manner that ACH PROCESSOR believes in its sole and absolute discretion could cause it financial or legal risk, or ceases to do business with ACH PROCESSOR, ACH PROCESSOR shall have the right at any time to place all of the provisional or final credit provided to Client for each Debit Entry originated by it in an account held by ACH PROCESSOR for a period of two (2) years from the last Debit Entry. The above determining factors are at the sole and absolute discretion of ACH PROCESSOR. ACH PROCESSOR shall have the right to offset against amounts owed to Client for all returned Entries, fees, damages, or other costs that may arise out of ACH processing for the Client.

LIQUIDATED DAMAGES

Notwithstanding any other provision of this Agreement, in the event that Client violates any applicable Regulation or Rule, or is in breach of the representations and warranties made in this Agreement regarding Client's compliance with all applicable Regulations and Rules, Client shall pay to ACH PROCESSOR as liquidated damages an amount equal to the highest ACH fee billing collected from Client within the last twelve (12) months multiplied by twelve (12). The parties agree that ACH PROCESSOR'S damages for Client's violation of any applicable Regulation or Rule, or breach of Client's representations and warranties regarding Client's compliance with all applicable Regulations and NACHA Rules, would be uncertain and difficult to ascertain and that the liquidated damages described in this paragraph are reasonably related to ACH PROCESSOR'S actual damages and are a reasonable estimate of the damages which ACH PROCESSOR would in fact suffer in the event of Client's failure to comply with all applicable Regulations and Rules, or Client's breach of its representations and warranties regarding its compliance with applicable Regulations and Rules.

CONFIDENTIALITY

Each party represents, warrants and mutually agrees that all information concerning the other party which comes into its possession during the term of this Agreement shall be maintained as confidential and shall not be used or divulged to any other party except as necessary to permit the activities contemplated under this Agreement or as required by law.

GOVERNING LAW

This Agreement and all claims related to, arising out of or involving this Agreement or Client's business activities are governed by, and shall be construed under, the laws of the State of Arizona without regard for the principles and conflicts of law. In the event either party to this Agreement, any third-party beneficiary or Guarantor commences legal action with respect to claims related to, arising out of or involving this Agreement or Client's business activities, they (i) agree that any such action shall be commenced only in a court of competent jurisdiction in Maricopa County, Arizona; (ii) consent to exclusive personal jurisdiction and venue in such a court; and (iii) waive any defense of lack of personal jurisdiction or venue in any such proceeding. The prevailing party in any claim or action described in this paragraph shall be entitled to an award of its reasonable attorneys' fees and costs.

AGREEMENT MODIFICATION

Notice will be made in writing before this Agreement can be modified. Use of services after any such modification will evidence acceptance of the modification(s). Any modifications proposed by Client shall be agreed to in writing by ACH PROCESSOR before any such modification to the Agreement becomes effective.

TERM AND TERMINATION

This Agreement is effective from the date hereof and shall continue for a term of two (2) years. Thereafter, this Agreement shall be automatically renewed for consecutive one (1) year periods unless either party gives the other written notice of non-renewal at least 30 days prior to the expiration date of the current term. This Agreement may be terminated by ACH PROCESSOR at any time with 30 days written notice or as otherwise provided by the terms of this Agreement. Immediately upon termination of the Agreement, whether by expiration or otherwise, ACH PROCESSOR'S obligation to provide services under the Agreement shall cease, and any unpaid amounts due and owing by Client shall become immediately due and payable. Payment for any services rendered or any other obligation or liability owing at the time of termination shall not be affected by termination of this Agreement. At the time of termination ACH PROCESSOR will place all funds due to be settled into a reserve account and be released in accordance with the reserve provisions of the Agreement. ACH PROCESSOR may immediately terminate this Agreement and suspend all processing (i) at the request of ACH PROCESSOR'S ODFI (regardless of the reason for the ODFI's request) or Financial Institution; (ii) if ACH PROCESSOR believes that Client is violating or has previously violated any applicable Regulations or Rules; (iii) or if ACH PROCESSOR is unable to process transactions for Client for any reason out of ACH PROCESSOR's control and ACH PROCESSOR no longer has the ability to process transactions for Client.

DAMAGE WAIVER

IN NO EVENT WILL ACH PROCESSOR OR FINANCIAL INSTITUTION BE LIABLE FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA, BUSINESS INTERRUPTION, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, HOWSOEVER CAUSED, AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE. THESE LIMITATIONS WILL APPLY WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OR ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE PARTIES ACKNOWLEDGE THAT THE CONSIDERATION BARGAINED FOR IN THIS AGREEMENT WAS BASED UPON THE FOREGOING LIMITATION OF LIABILITY. ACH PROCESSOR MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY MADE IN THIS AGREEMENT.

RESERVE BALANCES

ACH PROCESSOR shall decide, in its sole and absolute discretion, whether Client will be required to maintain a Reserve Account and the amount of such Reserve Account. ACH PROCESSOR, in its sole and absolute discretion, may also adjust the amount Client is required to put on reserve from time to time during processing for Client. For Clients where Reserve Accounts are required, Client acknowledges that any amount held in reserve by ACH PROCESSOR shall remain in reserve for a period of up to two (2) years following the last debit transaction initiated by Client at the sole and absolute discretion of ACH PROCESSOR. Client acknowledges that this Reserve Account will be used to fund any and all returned Entries. ACH PROCESSOR shall also have the right to offset against amounts owed to Client for all returned Entries, fees, damages, or other costs that may arise

out of ACH processing for the Client. Client acknowledges that no amount of this Reserve Account can or will be refunded except as provided in this paragraph of the Agreement.

CUSTOMER SERVICE

Client agrees to maintain, support and staff a customer service line during normal business hours.

ENTIRE AGREEMENT

This Agreement makes up the entire Agreement between the parties concerning ACH services. If any provision of this Agreement is deemed unenforceable, the remaining provisions shall still be enforceable.

SEVERABILITY

In the event any provision of this Agreement is held invalid, illegal or unenforceable by a court of competent jurisdiction, only that provision shall be severed from this Agreement and the remaining provisions shall continue in force, provided that each Party preserves the substantial benefits of the bargain contemplated in this Agreement.

WAIVER

Waiver of the benefit of any provision of this Agreement must be in writing to be effective. The waiver by any party hereto of a breach of any provision hereof shall not operate or be construed as a waiver of any subsequent breach. No action taken pursuant to this Agreement shall be deemed to constitute a waiver by such party of compliance by the other party hereto with any of the covenants or other obligations contained herein. A failure by a party to insist upon strict compliance with any term of this Agreement, enforce any right, or seek any remedy upon any default of another party shall not affect, or constitute a waiver of, such party's right to insist upon such strict compliance, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default.

NOTICE

Any notice or other communication required or permitted by this Agreement shall be in writing and may be given by personal delivery, overnight delivery service or certified mail. Notice may also be given by facsimile or e-mail if followed up by a writing given by personal delivery, overnight delivery service or certified mail. Notice shall be deemed given upon personal or electronic delivery thereof, on the day after such notice is deposited with an overnight delivery service, or upon receipt of delivery of such notice by certified mail. Notices shall be sent to the addresses set forth in this Agreement or its exhibits hereto. Failure or refusal of a party to accept receipt of a notice or other communication hereunder shall in no matter invalidate the notice.

ASSIGNMENT

This Agreement is binding upon and shall inure to the benefit of the legal successors and assigns of both parties. Client will not have the right or the power to assign any of Client's rights or delegate the performance of any of Client's obligations under this Agreement without the prior written consent of ACH PROCESSOR, including in the case of a merger. ACH PROCESSOR has the right to assign all of its rights, duties and obligations under this Agreement without the need to obtain any consent from Client.

NO PARTNERSHIP OR AGENCY

No agency, partnership, joint venture or employment relationship is created between Client and ACH PROCESSOR by way of this Agreement. In performance of their respective obligations hereunder, the parties are, and will be, independent contractors. Nothing in this Agreement will be construed to constitute either party as the agent for the other for any purpose whatsoever. Neither party will bind, or attempt to bind, the other party to any contract or the performance of any obligation, and neither party will represent to any third party that it has any right to enter into any binding obligation on the other party's behalf.

EXECUTION IN COUNTERPART; COPIES. This Agreement, including all exhibits and addendums thereto (which are incorporated as part hereof) may be executed in the original or by facsimile or e-mail in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile and photocopies of this Agreement shall be considered originals for all purposes, including, but not limited to, any court or arbitration proceedings. **Client acknowledges that it may not receive a countersigned Agreement, exhibits or addendums from ACH PROCESSOR unless such countersigned Agreement is requested by Client in writing. All terms and conditions in this Agreement are deemed accepted by Client upon ACH PROCESSOR's receipt of the Agreement executed by Client.**

BINDING CONTRACT

 This Agreement, which includes Schedule A, ACH Agreement Terms and Conditions, shall be binding on both parties only upon execution by an authorized representative of ACH PROCESSOR, LLC.