

CHECK PROGRAMS TERMS AND CONDITIONS

RECITALS

A. MERCHANT wishes to initiate Debit and/or Credit Entries pursuant to the terms of this agreement ("Agreement") and the Rules of the National Automated Clearing House Association (the "Rules"), and Sage Payment Solutions EFT ("SPS- EFT") is willing to act as the THIRD party processor for MERCHANT, subject to the terms and conditions set forth in this Agreement with respect to such Entries.

B. Unless 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, which is transmitted by the MERCHANT to SPS- EFT to prepare such Entries for processing.

C. This agreement is applicable to processing the following transactions based on the payment acceptance options as selected by MERCHANT on the front of this Agreement utilizing the end-customer's Checking account data: (i) Point of Sale (POS) transactions which are "POP" Entries as defined by the Rules; (ii) ACH Debit transactions which are "PPD" Entries as defined by the Rules; (iii) Tele-Debit transactions which are "PPD" Entries as defined by the Rules; (iii) Checks by Phone transactions which are "TEL" Entries as defined by the Rules; (iv) Checks by Web transactions which are "WEB" Entries as defined by the Rules; (v) Paper Guarantee which are traditional check transactions and (vi) Check 21+ transactions which are traditional check payments processed electronically via Image Cash Letter (ICL). Any SPS- EFT products and associated software specifically designed for such transactions will be utilized by MERCHANT when required by SPS- EFT, and such software will either be hosted and maintained by SPS- EFT, or alternatively, provided directly to MERCHANT for installation on MERCHANT equipment. In all cases where SPS- EFT hosts software for MERCHANT, the various terms and conditions referenced below regarding disclosure, transaction and processing requirements and all other requirements imposed by either regulatory agency, law, SPS- EFT, or otherwise shall have full force and effect. MERCHANT agrees not to change, modify, or alter such software or product in any way.

AGREEMENT

1.1 **MERCHANT'S AUTHORITY.** MERCHANT specifically warrants that MERCHANT has authority to enter into this Agreement with SPS- EFT and acknowledges that this Agreement constitutes the legal, valid and binding obligation of MERCHANT and is enforceable in accordance with its terms.

1.2 INTENTIONALLY OMITTED.

1.3 **COLLECTION.** MERCHANT authorizes SPS- EFT to re-present all return items forwarded to SPS- EFT and to originate an electronic Entry for the amount of any allowable recovery fee. SPS- EFT shall have sixty (60) days from the date of receipt of any returned transaction item to complete its re-presentation process. If this Agreement is terminated for any reason, SPS- EFT will retain the right to complete the electronic re-presentation process for all returned transaction items forwarded to SPS- EFT prior to termination.

2.1 **MERCHANT'S PUBLIC DISCLOSURE RESPONSIBILITIES.** SPS- EFT shall provide signage to be displayed at the point of purchase (POP), which informs customers of the MERCHANT'S use of SPS- EFT Check Processing Service and of any applicable Returned Check Fees that may be electronically debited from the customer's account. MERCHANT agrees to inform customers that MERCHANT will honor check processing services provided by SPS- EFT. From time to time, SPS- EFT may design educational and promotional materials into any related software and send such to MERCHANT for MERCHANT to disseminate to customers. MERCHANT will discontinue the use of all SPS- EFT's promotional materials upon receipt of written notification of suspension or termination of this Agreement.

2.2 **RESTRICTIONS ON USE OF PROMOTIONAL MATERIALS.** MERCHANT shall make no use of SPS- EFT's software or promotional materials, other than as expressly set forth in this Agreement. In no way shall the MERCHANT indicate that SPS- EFT's services are an endorsement of the MERCHANT, its business or its business practices.

3.1 **CUSTOMER'S AUTHORIZATION INITIATES DEBIT ENTRY.** MERCHANT acknowledges that the Customer's authorization allows MERCHANT to instruct SPS- EFT to initiate an ELECTRONIC DEBIT ENTRY ("ENTRY") for MERCHANT against customer. If transaction is returned unpaid after presentation and where SPS- EFT has funded the MERCHANT, SPS- EFT shall be entitled to debit the MERCHANT'S account for the amount of the transaction. **MERCHANT ACKNOWLEDGES AND UNDERSTANDS THAT IT IS A FEDERAL VIOLATION TO PROCESS ACH DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT ACCOUNT HOLDER'S EXPRESSED AUTHORITY. MERCHANT HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT INSTRUMENT TO UNLAWFULLY INITIATE A DEBIT TRANSACTION IS PUNISHABLE BY A MAXIMUM OF A \$10,000.00 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 HAS RECEIVED APPROVAL FOR ELECTRONIC DEPOSIT OF ACH TRANSACTION (S) OR IS INTENDED FOR ELECTRONIC DEPOSIT 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 SPS- EFT AND ALL OF ITS ASSIGNS AND ASSOCIATES HARMLESS AND REIMBURSE SPS- EFT FOR THE TRANSACTION (S) WITHIN 24 HOURS OF SAID OCCURRENCE. IF MERCHANT REFUSES OR IS UNABLE TO REIMBURSE SPS- EFT FOR ANY SUCH OCCURRENCE, IT IS EXPRESSLY STATED AND UNDERSTOOD THAT THE MERCHANT IS IN DIRECT VIOLATION OF THIS AGREEMENT AND FEDERAL LAW, AND SPS- EFT WILL PURSUE ALL LEGAL, CIVIL, AND COLLECTION REMEDIES AS ARE POSSIBLE UNDER LAW AS REMEDY.**

3.2 **RESTRICTIONS ON ACCEPTANCE OF CHECKS/ ACH TRANSACTIONS FOR ELECTRONIC PROCESSING.** From time to time, SPS- EFT shall establish necessary security and identification procedures for presentation of checks for electronic processing pursuant to the Rules and applicable law. MERCHANT agrees to comply with such procedures and to accept such "properly presented" checks for electronic processing. SPS- EFT may establish minimum and maximum amount limitations on transactions presented for processing by MERCHANT and MERCHANT shall not accept or attempt to process transactions in excess of the maximum limitations established by SPS- EFT. In no event will SPS- EFT accept or will MERCHANT attempt to process a transaction greater than the approved check limit assigned by SPS- EFT. SPS- EFT shall also establish the number of transactions that may be submitted on a daily basis by any customer for electronic processing. MERCHANT agrees to provide SPS- EFT with any and all information needed to establish such limitations. MERCHANT further agrees to inform SPS- EFT immediately of any changes in business activities, rules or regulations, which may affect these limitations. MERCHANT further agrees to abide by these limitations as a condition for SPS- EFT to electronically process any checks.

3.4 **SURCHARGES AND TAXES.** MERCHANT shall not impose any illegal surcharge on any processed transactions. MERCHANT shall collect all required taxes and/or shipping charges at time of sale. All required taxes and/or shipping charges must be included in the total transaction amount at the time such transaction is submitted for authorization to SPS- EFT. In any event, MERCHANT shall not collect any required taxes separately in cash, or otherwise. MERCHANT is responsible for paying all taxes collected to the appropriate authorities as required by state or Federal law.

3.5 **IRS REPORTING AND WITHHOLDINGS.** Section 6050W of the Internal Revenue Code ("Code") requires payment providers and third party payment networks, such as SPS- EFT, to report payment settlement amounts to the Internal Revenue Service ("IRS") for each Merchant processing through SPS- EFT. Merchant shall verify its identity by providing SPS- EFT with a Tax Identification Number ("TIN") such as a Social Security Number (SSN) or Employer Identification Number (EIN) for each Merchant Account. In the event Merchant fails to provide its TIN, SPS- EFT will place a restriction on Merchant's Account and may restrict the receipt of funds into Merchant's Account, or withhold a percentage of payments deposited into Merchant's Account in order to satisfy the backup withholding requirements of the IRS.

4.1 **EQUIPMENT/SOFTWARE.** MERCHANT shall utilize a POP MICR reader/check scanner, virtual terminal or payment gateway that SPS- EFT has previously authorized for processing all electronic check transactions. (a) MERCHANT is responsible for all telecommunication fees and charges, including but not limited to telephone fees, associated with and related to the use of the equipment/software and any related software costs/expenses. (b) MERCHANT shall maintain all hardware/software necessary for electronic check processing, including reader/check scanner, necessary file servers, payment gateway, and computer telecommunications equipment in good working order at MERCHANT's sole expense. (c) MERCHANT shall advise SPS- EFT immediately in the event of a security breach or breakdown of related equipment, electronic check software problems, and/or any other system failure. (d) MERCHANT acknowledges that SPS- EFT is not responsible for any related Internet or computer and telecommunications equipment used by the MERCHANT or for POP MICR reader/check scanner equipment problems. Moreover, SPS- EFT's approval of such equipment does not constitute nor express an implied warranty, representation or endorsement of such equipment. (e) MERCHANT also acknowledges that SPS- EFT assumes no liability in the performance of MERCHANT'S use of a third party's payment gateway. In this regard, SPS- EFT shall not be responsible for any unauthorized tampering or altering to software specifically installed by SPS- EFT on the part of the MERCHANT or MERCHANT'S agent. SPS- EFT's approval of equipment and/or software, including without limitation, payment gateway software, does not constitute an express or implied warranty, representation or endorsement of such equipment and MERCHANT accepts responsibility for selection and compliance with the Rules of such equipment and/or software. In the event of a security breach of MERCHANT'S records or payment gateway, MERCHANT is required to notify SPS- EFT immediately of such a breach, and to provide as much information as may be required to allow SPS- EFT to act accordingly to protect SPS- EFT'S legal rights and responsibilities. MERCHANT further agrees to immediately remove and properly dispose of SPS- EFT'S previous version releases of any related software and to utilize the most current software version releases upon receipt of such from SPS- EFT. In the event of termination, MERCHANT shall immediately and unconditionally remove all software related to SPS- EFT services at MERCHANT'S expense.

4.2 **USE OF EQUIPMENT.** MERCHANT agrees to utilize only software, equipment, and a payment gateway approved by SPS- EFT for the electronic processing of transactions and in a format and medium of transmission acceptable to SPS- EFT.

4.3 INTENTIONALLY OMITTED.

4.4 **OWNERSHIP OF NEW INTELLECTUAL PROPERTY.** All rights and title to all inventions, derivative works, improvements and/or discoveries, including software, know-how, copyright, patent, technology, data, trade secrets, and other intellectual property arising directly or indirectly from the Solutions ("New Intellectual Property Rights") during the Term of this Agreement shall belong to SPS- EFT. To the extent that such New Intellectual Property Rights do not automatically vest in SPS- EFT, MERCHANT hereby assigns and transfers over such rights to SPS- EFT, grants SPS- EFT power of attorney to accomplish all such assignments and transfers and agrees to take any and all actions that SPS- EFT or its counsel deem necessary to transfer and vest good title in such rights in SPS- EFT.

5.1 **DAILY SETTLEMENT OF TRANSACTIONS.** "Batch out" shall mean that MERCHANT transmits all of the transactions to SPS- EFT by midnight (12:00 am) on the day SPS- EFT authorizes the sale. SPS- EFT will generally transmit settlement to MERCHANT'S bank within 3 business days from batch out for Point of Sale and Check 21+, within 7 business days from batch out for all other ACH programs, and within 28 days from the date of initial claim for Paper Guarantee. SPS- EFT reserves the right to decrease or increase settlement as determined necessary based on business credit, risk, and financial stability. In cases where MERCHANT has been approved by SPS- EFT in advance to initiate credit entries, the debit to MERCHANT'S account will be initiated first and the credit to the customer may be held until MERCHANT'S debit clears, generally within 6 banking days or for a longer period as determined necessary by SPS- EFT to insure the funds have cleared MERCHANT'S account. In addition, any transactions contained in an untimely batch out may be refused or become subject to chargeback or held until after a sixty-day period for customer chargebacks by SPS- EFT. Transactions contained in an untimely batch out are not covered under check guarantee programs. If so requested by SPS- EFT, all documentation related to the customer's ACH authorization, including but not limited to customer's telephone number, billing address, and proof of signed, recorded, or Internet authorization, must be faxed and received by SPS- EFT within 48 hours from the request date. Failure to do so will remove SPS- EFT'S obligations under check guarantee programs. MERCHANT acknowledges that failure to batch out on a timely basis may be grounds for suspension or termination at SPS- EFT'S sole discretion. SPS- EFT reserves the right to hold additional monies as necessary to reduce any risk associated with daily processing of electronic checks. SPS- EFT may, in its sole discretion and to insure against, place a hold on funds due to MERCHANT in settlement of transactions in order to insure against potential losses. SPS- EFT will then provide a net deposit to MERCHANT after a period of time acceptable to SPS- EFT (usually 90 days from transaction processing date). In addition, **MERCHANT understands that a failure to batch out will delay funds being deposited into MERCHANT'S account.**

5.2 **NETTING OF TRANSACTIONS.** MERCHANT acknowledges that all transactions between SPS- EFT and MERCHANT under this Agreement shall be treated as a single transaction for purposes of daily settlement between MERCHANT and SPS- EFT. Chargebacks may be deducted from daily settlement or may be debited from MERCHANT'S account if no pending credits are available to offset the chargeback.

5.3 **PROVISIONAL SETTLEMENTS.** MERCHANT acknowledges that all settlements between SPS- EFT and MERCHANT are provisional and are subject to the customer's rights to dispute the charges against the customer's account.

5.4 **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 chargebacks, 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 SPS- EFT through the ACH network and shall normally be electronically transmitted directly to MERCHANT'S designated account. However, SPS- EFT 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 the ACH network, payment to MERCHANT can be delayed. In such cases, MERCHANT agrees to work with SPS- EFT to help resolve any problems in crediting MERCHANT'S designated account. In the event that a payment is rejected by MERCHANT'S bank or fails to arrive within seven (7) banking days from the date of settlement due to problems beyond SPS- EFT'S control, SPS- EFT may periodically wire transfer all funds due MERCHANT until the problem is corrected, at MERCHANT'S expense. All payments to MERCHANT shall be made after first deducting any credit, chargeback, reserve or other charge for which MERCHANT is responsible pursuant to this Agreement. Said charges shall be deducted from incoming transactions or may be debited from MERCHANT'S designated Account(s) at SPS- EFT'S sole discretion, without any further notice or demand.

5.5 **AUTHORIZATION TO ACCESS MERCHANT'S ACCOUNT.** MERCHANT hereby authorizes SPS- EFT to initiate debit and credit Entries to MERCHANT'S designated account(s). MERCHANT'S authorization shall continue in effect for at least 120 days after termination of this Agreement, or for a longer period as determined necessary by SPS- EFT in the exercise of its sole discretion in order to properly terminate business. Except as allowed in certain cases under the ACH Debit program, no MERCHANT or customer is authorized to initiate a customer credit Entry, except where the Entry is the result of a reversal of a previous ACH debit Entry. SPS- EFT may holdback certain amounts where SPS- EFT is investigating a transaction for breach of warranty or transaction requirements by MERCHANT or for other reasons. SPS- EFT shall monitor MERCHANT'S transactional activity and MERCHANT agrees that SPS- EFT may delay funds for a reasonable period to investigate account activity. SPS- EFT will attempt to notify MERCHANT of any investigation, but SPS- EFT shall have no liability to MERCHANT or any other party, for any such actions taken by SPS- EFT. MERCHANT agrees that SPS- EFT may hold, setoff, or retain funds to protect against amounts owed to SPS- EFT based on MERCHANT'S transaction history and/or MERCHANT'S financial condition. SPS- EFT will not be liable for any dishonor of any item as a result of actions taken hereunder. All accounts are subject to review, verification, audit and acceptance by SPS- EFT. SPS- EFT may return any item to MERCHANT for correction or proper processing.

5.6 **RETURNS AND CREDITS.** MERCHANT shall maintain a fair policy permitting refunds, exchanges, returns and adjustments. During the term of this Agreement, MERCHANT shall be responsible for making all refunds to customer after a transaction has been released for settlement. Each debit and credit Entry shall constitute a separate transaction. MERCHANT must initiate voids, which occur the same day as the day of authorization and prior to batching out. MERCHANT must use the equipment/software to transmit the void. If it becomes necessary for a reversal of a transaction to be initiated, MERCHANT shall request in writing for SPS-EFT to initiate such reversal. MERCHANT shall give SPS-EFT enough information to create such reversal.

6.1 **REPRESENTATIONS AND WARRANTIES BY MERCHANT.** MERCHANT represents and warrants the following: (i) MERCHANT complies and will comply during the term of this Agreement with all federal, state, and local laws, rules and regulations, as amended from time to time, including those with respect to consumer protection, data security, and processing of ACH transactions; (ii) the description of type and nature of MERCHANT's business in the Application is complete and accurate and will remain so during the term of this Agreement; (iii) the Application has been signed by a principle of MERCHANT and that if there is a change in control of MERCHANT that MERCHANT will not submit Entries under this Agreement without SPS-EFT's prior written consent; (iv) in the event of a security breach of MERCHANT's records or payment gateway, MERCHANT will notify SPS-EFT immediately of such a breach and to provide as much information as may be required to allow SPS-EFT to act accordingly to protect SPS-EFT's legal rights and responsibilities and those of customers affected by the breach; (v) all of MERCHANT'S business locations engage in the business activity listed on the face of this Agreement and no other business; (vi) MERCHANT has taken all necessary legal action and has authority to enter into this Agreement with SPS-EFT; and (vii) the person(s) signing for and on behalf of MERCHANT is specifically authorized and directed to do so by MERCHANT. MERCHANT also represents and warrants that with each transaction presented to SPS-EFT by MERCHANT for authorization: (a) each customer has authorized the debiting or crediting of its checking account, that each debit or credit is for an amount agreed to by the customer; (b) each debit or credit Entry was authorized by the person named on the checking account; (c) the proof of purchase is valid in form and has been completed in accordance with all applicable laws and all of the provisions set forth in this Agreement; (d) the total amount of each proof of purchase evidences all goods and services purchased in a single transaction (no splitting check transactions into multiple transactions); (e) MERCHANT has or will deliver the goods or completed the services identified in the sale; (f) each sales draft represents a bona fide direct sales transaction between the MERCHANT and the person presenting the electronic check in the MERCHANT'S ordinary course of business and that the amount of the sales draft evidences the customer's total indebtedness for the transaction involved; (g) the person presenting the electronic check has no claim, defense, right of offset, or dispute against MERCHANT in connection with the purchase of the goods or services and MERCHANT will provide adequate services to the person presenting the electronic check and will honor all warranties applicable thereto; (h) MERCHANT has not submitted transactions drawn from its personal or business checking accounts on the MERCHANT'S electronic hardware, software, or payment gateway; (i) MERCHANT has used only the name and address contained in the Application on all its sales drafts; (j) MERCHANT has not submitted duplicates of any transaction; (k) the banking information submitted to SPS-EFT for processing has not been altered by MERCHANT; (l) no transactions submitted for authorization to SPS-EFT is with or through an entity other than MERCHANT; (m) the percentage of mail order sales listed by MERCHANT for each location is consistent with the information provided in the application; MERCHANT further acknowledges that if for any reason funds are credited to MERCHANT in excess of the amount that MERCHANT is entitled to receive under this Agreement, MERCHANT shall return all such excess funds to SPS-EFT upon demand by SPS-EFT. Such excess funds may be collected by SPS-EFT by a debit to MERCHANT'S designated account initiated by SPS-EFT as provided in this Agreement. If for any reason such account does not have sufficient funds, then MERCHANT shall promptly remit the excess funds to SPS-EFT. Until the return of such funds to SPS-EFT, MERCHANT acknowledges that it shall hold all such funds in trust for the benefit of SPS-EFT.

7.1 **LIMITATION OF LIABILITY AND MERCHANT'S WAIVER OF DAMAGES.** SPS-EFT'S ENTIRE LIABILITY, IF ANY, UNDER THIS AGREEMENT WHETHER TO MERCHANT OR TO ANY OTHER PARTY, WHATEVER THE BASIS OF THE LIABILITY, SHALL NOT EXCEED THE AMOUNT OF FEES PAID TO SPS-EFT UNDER THIS AGREEMENT DURING THE 6 MONTHS PRECEDING THE DATE OF ANY CLAIM. IN NO EVENT WILL SPS-EFT, NOR ITS OFFICERS, AGENTS, DIRECTORS, PARENT COMPANY, AFFILIATES, OR EMPLOYEES BE LIABLE TO MERCHANT FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING WITHOUT LIMITATION LOSS OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR OF ELECTRONIC CHECKS. SPS-EFT makes no other warranty, express or implied, regarding any services it performs in accordance with this Agreement, and nothing contained in the Agreement will constitute such a warranty. SPS-EFT DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If any of the Entries that are on SPS-EFT'S system belonging to MERCHANT are subpoenaed in a civil matter, SPS-EFT shall use reasonable efforts to notify MERCHANT before producing such records in accordance with the subpoena. This section shall survive termination of this Agreement. SPS-EFT shall be responsible for performance of the ACH services as a third-party electronic check processor in accordance with the terms of this Agreement. SPS-EFT functions solely as the processor and assumes no liability in the performance of MERCHANT'S hardware, software, or payment gateway. SPS-EFT shall not be responsible for any other person's or entity's errors, acts, omissions, failures to act, negligence or intentional conduct, including without limitation to entities such as SPS-EFT'S communication carrier or clearing houses, and no such entity shall be deemed to be a representative or an agent of SPS-EFT. SPS-EFT may, at its option provide certain pre-verification services prior to processing an Entry; such services are at SPS-EFT'S discretion and shall in no way create a guarantee from SPS-EFT or obligation on SPS-EFT'S part to verify the customer identity and validity of a submitted Entry.

7.2 **FORCE MAJEURE.** SPS-EFT 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 SPS-EFT.

8.1 **CONFIDENTIALITY OF AGREEMENT AND OF CUSTOMER INFORMATION.** MERCHANT further warrants and agrees that it shall not sell, purchase, provide, or exchange checking account information in the form of sales drafts, mailing lists, tapes, or any other media obtained by reason of a transaction or otherwise, to any third party other than to SPS-EFT. MERCHANT'S agents approved by SPS-EFT for the purpose of assisting MERCHANT in its business to SPS-EFT, the financial institution named on the check, or pursuant to lawful government demand without the account holder's explicit written consent. All media containing checking account numbers must be stored in an area limited to selected personnel until discarding and must be destroyed prior to or in connection with discarding in a manner that will render the data unreadable. MERCHANT will not disclose and will keep confidential the terms and conditions of this Agreement

9.1 **CHARGEBACKS AND RETURNS.** MERCHANT shall bear all risk of loss, without warranty or recourse to SPS-EFT for the amount of any transaction, or other amounts due SPS-EFT (including SPS-EFT'S actual costs and expenses) due to returns of any kind, whether for customer chargebacks, insufficient funds returns, administrative or corporate returns, or any other type of returns, except as set forth in the Guarantee provisions below (provided that MERCHANT has purchased and SPS-EFT agreed to provide Guarantee services). SPS-EFT shall have the right to debit MERCHANT'S incoming transactions, designated account or any other funds of MERCHANT in SPS-EFT'S direct or indirect control by reason of SPS-EFT'S security interest granted to SPS-EFT by MERCHANT hereunder, and to chargeback such transactions to MERCHANT including, but not limited to any of the following situations: (a) where goods have been returned or service canceled by the person submitting the electronic check for electronic processing and that person has requested a credit draft and such credit draft was not processed by MERCHANT; (b) where the sales draft or purchaser breaches any representation, warranty or covenant or failed to meet the requirements of this Agreement, or applicable law, or has not been authorized in advance by the authorization center as required hereunder; (c) where the transaction is for a type of goods or services sold other than as disclosed in the MERCHANT application or approved in advance by SPS-EFT or the amount shown on the sales receipt differs from the copy given to the customer; (d) where a customer contends or disputes in writing to SPS-EFT, or the customer's financial institution named on the check that: (1) Goods or services were not received; or (2) Goods or services received do not conform to the description on the sales receipt; or (3) Goods or services were defective or the customer has a claim, dispute or defense to payment related to the transaction; or (4) The dispute reflects a claim or defense authorized by a relevant statute or regulation, (e) where a check authorization is subject to indemnification charged back by the customer's financial institution; (f) where the transaction was generated through the use of an account that was not valid or not open on the transaction date or which was made on an altered, fraudulent, or counterfeit check or of which MERCHANT had notice not to honor and failed to reject the transaction or if MERCHANT disregarded any denial of authorization; (g) where the check results in a R29 return (Unauthorized ACH Entry to Corporate Account; (h) where customer did not authorize the transaction in an approved manner as described in the Additional Terms and Conditions at the bottom of this Agreement, or if MERCHANT failed to obtain specific authorization in advance from SPS-EFT to complete the transaction and/or the customer has certified in writing to SPS-EFT or his financial institution that no authorized user made or authorized the transaction; (i) where security procedures were not followed; (j) where the customer's financial institution or SPS-EFT has information that MERCHANT fraud occurred at the time of the transaction(s), or the transaction is not a sale by MERCHANT whether or not such transaction(s) was authorized by the customer; (k) in any other situation where the check authorization was executed or a credit was given to MERCHANT in circumstances constituting a breach of any representation or warranty of MERCHANT or in violation of applicable law or where MERCHANT has not provided documents or resolved a customer dispute whether or not a transaction is charged back; (l) a sales authorization was charged back and represented whether or not the customer knows or consents to this representation; (m) where MERCHANT does not provide copy of the authorization receipt as requested by SPS-EFT within forty-eight (48) hours from the time of such request. If, with respect to any one of MERCHANT'S outlets, the amount of or number of any counterfeit or fraud incidents becomes excessive, in the sole determination of SPS-EFT, MERCHANT will be charged back for all transactions. This Agreement may be terminated immediately without notice, and MERCHANT'S funds, including but not limited to those in incoming transactions and in MERCHANT'S designated account, shall be held pursuant to the provisions herein. SPS-EFT shall retain any fees related to a chargeback transaction. MERCHANT agrees that SPS-EFT will assess up to twenty-five dollars for each chargeback, or such increased or additional charges as may be established by SPS-EFT from time to time. **Additionally, SPS-EFT shall have the same rights to debit MERCHANT'S account for transactions returned or not honored for any reason, including but not limited to insufficient funds, administrative or corporate returns, or any other kind of returned transaction.**

9.2 **CHARGEBACK AND RETURNS RESERVE ACCOUNT.** Notwithstanding any other language to the contrary contained in this Agreement, SPS-EFT reserves the right to establish, without notice to MERCHANT, and MERCHANT agrees to fund a non-interest bearing Chargeback and Return Reserve Account, or demand other security and/or to raise rates hereunder, upon SPS-EFT'S reasonable determination of the occurrence of any of the following: (a) MERCHANT engages in any processing of charges which create an overcharge to the customer by duplication of charges; (b) **Failure by MERCHANT to fully disclose the true nature or percentage of its actual or expected losses due to insufficient funds transactions, fraud, theft or deceit on the part of its customers, or due to returned chargebacks, or rejections by customers;** (c) **Failure by MERCHANT to fully disclose the true nature of its business to SPS-EFT to permit a fully informed decision as to the suitability of MERCHANT for processing through SPS-EFT;** (d) Failure by MERCHANT to fully disclose the true ownership of MERCHANT'S business entity or evidence of fraud; (e) Processing by MERCHANT of unauthorized charges or any other action which violates applicable risk management standards of SPS-EFT or is likely to cause loss; (f) **Any misrepresentation made by MERCHANT in completion of the MERCHANT Application or breach of any other covenant, warranty, or representation contained in this Agreement or applicable law including a change of type of business without prior written approval by SPS-EFT;** (g) MERCHANT has chargebacks or returns of any kind which exceed 1% of the total dollars processed by MERCHANT; (h) Excessive number of requests from customers or issuing banks for retrieval of documentation; (i) MERCHANT'S financial stability is in question or MERCHANT ceases doing business; or (j) Upon notice of or termination of this Agreement. After payment or adequate provision for payment is made by SPS-EFT, for all obligations on the part of MERCHANT to SPS-EFT under this Agreement, MERCHANT may request SPS-EFT to disburse to MERCHANT any funds remaining in the Chargeback and Return Reserve Account unless otherwise agreed to by SPS-EFT. Such funds will not be disbursed to MERCHANT until the end of one hundred eighty (180) days after termination of this Agreement or ninety (90) days from the date of the last chargeback or return activity, whichever is later, unless SPS-EFT in its sole discretion has reason to believe that customer chargeback rights may be longer than such period of time or that loss is otherwise likely, in which event SPS-EFT will notify MERCHANT of such fact and SPS-EFT will set the date when funds shall be released. No monies held in the Chargeback and Return Reserve Account shall bear interest. Provisions applicable to the designated account are also applicable to this account.

9.3 **COLLECTIONS.** MERCHANT acknowledges and agrees that when collection services are required, SPS-EFT may utilize an appropriately licensed third party to perform such collection services. MERCHANT further authorizes SPS-EFT to continue collection efforts for MERCHANT. If collections are unsuccessful after sixty (60) days, SPS-EFT shall discontinue collections and be absolved of all responsibility, except as stated in the provisions under the Guarantee programs detailed in the Additional Terms and Conditions.

10.1 **INTENTIONALLY OMITTED.**

10.2 **AUTHORIZATION RETRIEVAL REQUESTS.** Whereby a financial institution, regulatory or law enforcement agency, or similar authority has demanded from SPS-EFT proof of valid customer authorization, in accordance with NACHA Rules, MERCHANT shall provide said proof of authorization to SPS-EFT within (2) business days. In the event that MERCHANT cannot provide the appropriate customer authorization, and SPS-EFT suffers a penalty enforced by NACHA, SPS-EFT shall have the right to offset such penalty and charge MERCHANT a minimum of (\$100 up to a maximum of \$10,000) per incident.

11.1 **ELECTRONIC CHECK PROCESSING.** SPS-EFT shall not be responsible for the settlement of any electronic transaction for which SPS-EFT has not received transactions Entries from MERCHANT for processing within twenty-four hours of the initial transaction date of the transaction. MERCHANT shall be required to submit all documentation related to the transactions to SPS-EFT at SPS-EFT'S request. MERCHANT shall make its books and records available to SPS-EFT in order to verify compliance with this agreement and in order to verify any information in an Entry.

11.2 **ASSIGNMENT OF ELECTRONIC CHECKS.** As of the date of this Agreement and by subscribing to SPS-EFT service, MERCHANT shall be deemed to have assigned to SPS-EFT, all of MERCHANT'S right, title and interest in any and all electronic 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 any applicable jurisdictions to secure and defend SPS-EFT'S rights and shall do nothing to prejudice those rights. MERCHANT shall cooperate with SPS-EFT in pursuing SPS-EFT'S rights, including suing or prosecution of the customer under all applicable laws.

11.3 **NOTIFICATION OF PAYMENTS RECEIVED.** MERCHANT acknowledges that SPS-EFT 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 SPS-EFT by telephone of the payment, endorse the check; sign it over to SPS-EFT and immediately mail the payment to SPS-EFT by certified mail. If customer pays cash, MERCHANT shall reimburse SPS-EFT by MERCHANT'S check.

12.1 **COMPLIANCE AND DISCLOSURE OF INFORMATION.** The MERCHANT'S rights and obligations with respect to any Entry are governed by the NACHA Rules ("the Rules"), this Agreement and applicable law. The Merchant agrees to comply with and be bound by "the Rules". The Merchant agrees to comply with applicable state and federal law or regulation and Merchant warrants that it will not transmit any Entry that violates the laws of the United States, including, without limitation, regulations of the Office of Foreign Asset Control (OFAC). MERCHANT shall provide such information and certifications as SPS-EFT may reasonably require from time to time, to determine MERCHANT'S compliance with the terms and conditions of this Agreement and applicable law. MERCHANT further agrees to provide to SPS-EFT from time to time such information including, but not limited to, credit reports, personal and/or business financial statements, income tax returns, or other such information as SPS-EFT may request. MERCHANT grants to SPS-EFT continuing authority to conduct credit checks and background investigations and inquiries concerning MERCHANT and MERCHANT'S owner(s) including, but not limited to, character and business references and the financial condition of MERCHANT and

MERCHANT'S owner(s). MERCHANT expressly authorizes SPS- EFT or its agents, attorneys, accountants, and representatives to provide and receive such information from any and all third parties directly, without further consent or authorization on the part of MERCHANT. SPS- EFT may share with others its credit, sales and other information. MERCHANT will not transfer, sell, or merge or liquidate its business or assets or otherwise transfer control of its business, change its ownership in any amount or respect, engage in any joint venture partnership or similar business arrangement, change its basic nature or method of business, types of products sold or engage in sales by phone or mail order without providing notice to SPS- EFT and provide SPS- EFT with the opportunity to terminate this Agreement.

13.1 **DATA RETENTION.** MERCHANT shall retain all records related to authorization, including all sales and credit receipts and authorizations for a period of no less than two years following the date of the transaction. If customer's authorization instrument is handed back to customer then MERCHANT acknowledges that SPS- EFT will not be able to provide any check collection services beyond the third electronic presentation of the check. Failure to provide the customer's authorization to SPS- EFT will result in cessation of collection efforts, and SPS- EFT will be entitled to immediately debit MERCHANT'S account for any previously processed and returned transactions.

14.1 **ADDITIONAL MERCHANT REPRESENTATIONS.** MERCHANT agrees to permit SPS- EFT to audit MERCHANT upon reasonable notice. MERCHANT agrees that any outstanding amount(s) owed to SPS- EFT shall be subject to a 1.5% finance charge monthly. Any outstanding sums will be sent to an outside collection agency and charged the maximum amount of civil, legal and collections fees / charges as is allowed by law.

15.1 **ADDITIONAL SPS- EFT RESPONSIBILITIES.** SPS- EFT will accept Entries via MERCHANT'S hardware, software, or payment gateway on a 24-hour per day basis. SPS- EFT is only responsible for processing Entries that have arrived at its premises in a proper format and on a timely basis. SPS- EFT will use information provided by MERCHANT to Originate its Entries in the ACH. MERCHANT understands and agrees that SPS- EFT may reject MERCHANT'S Entries for any reason permitted in this Agreement and/or if acceptance of such Entry would cause SPS- EFT to potentially violate any federal, state or local law, rule, statute, or regulation, including without limitation any Federal Reserve or other regulatory risk control program. At MERCHANT'S written request, SPS- EFT will make reasonable efforts to reverse or delete an Entry, but will under no circumstance be liable for the failure to comply with such request.

16.1 **INDEMNIFICATION.** MERCHANT hereby agrees to indemnify and hold SPS- EFT and its officers, directors, employees and agents harmless from any claim relating to or arising out of: (i) MERCHANT'S breach of the representations and warranties of this Agreement; (ii) a dispute between MERCHANT and a customer regarding the action or inaction of MERCHANT; (iii) any dispute between MERCHANT and a MERCHANT Customer with respect to the alleged or actual failure by MERCHANT to process a transaction as requested by such customer or to MERCHANT'S failure to provide data security; and (iii) MERCHANT'S failure to comply with any of the provisions of this Agreement and applicable laws, Rules and/or regulations. MERCHANT further agrees to indemnify and hold SPS- EFT harmless from all claims, liability and expenses arising or resulting from any dispute or claim made against SPS- EFT by any third party arising out of MERCHANT'S breach of this Agreement or the Rule. Further, MERCHANT shall reimburse SPS- EFT for all expenses and costs, including attorney's fees, with regard to the foregoing. MERCHANT warrants that it will notify SPS- EFT immediately of any breach of this Agreement.

17.1 **NON-WAIVER.** Neither the failure nor any delay on the part of SPS- EFT to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof or give rise to an estoppel nor be construed as an agreement to modify the terms of this Agreement, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a party hereunder shall be effective unless it is in writing and signed by the party making such waiver, and then such waiver shall apply only to the extent specifically stated in such writing.

17.2 **ASSIGNMENT.** MERCHANT may not assign or transfer any rights under this Agreement unless and until it receives the prior written approval of SPS- EFT. SPS- EFT may freely assign this Agreement, its rights, benefits and duties hereunder.

17.3 **TERMINATION.** This Agreement shall continue indefinitely unless and until terminated by either party. MERCHANT must provide sixty (60) days written notice to SPS- EFT of termination. SPS- EFT shall have the right to suspend or terminate this Agreement immediately and without notice to MERCHANT.

17.4 **INTENTIONALLY OMITTED.**

17.5 **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, such counterparts to constitute but one and the same instrument.

17.6 **ENTIRE AGREEMENT.** This Agreement is the complete and exclusive statement of the agreement between SPS- EFT and the MERCHANT with respect to the subject matter hereof and supersedes any prior agreement(s) between SPS- EFT and the MERCHANT with respect to the subject matter. In the event the performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which SPS- EFT, the Originating Depository Financial Institution (ODFI) or MERCHANT is subject, and which governs or affects transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy and SPS- EFT, the ODFI and MERCHANT shall incur no liability as a result of such changes.

17.7 **AMENDMENTS.** This Agreement is subject to amendment to conform to the Rules. Further, SPS- EFT may, from time to time, amend any provision of this Agreement, including, without limitation, those relating to the fees and charges payable by MERCHANT by providing written notice to MERCHANT of the amendment, and the amendment shall become effective unless SPS- EFT receives MERCHANT'S notice of termination of this Agreement within 7 days. Amendments due to changes in the Rules or any law or judicial decision may become effective on such shorter period of time as SPS- EFT may specify if necessary to comply with the applicable Rule, law or decision. No other amendments or modifications to this Agreement will be effective unless such changes are reduced to writing and are signed by the duly authorized party or parties to this Agreement and such Amendments are incorporated into and made a part of this document.

17.8 **BINDING AGREEMENT- BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. This Agreement is not for the benefit of any other person or entity and no other person or entity shall have any right against SPS- EFT.

17.9 **ATTORNEYS FEES.** In the event that it becomes necessary for SPS- EFT to employ an attorney to enforce, interpret, mediate or arbitrate this Agreement, or collect a debit from MERCHANT, SPS- EFT shall be entitled to recover its reasonable attorneys' fees, costs, and disbursements related to such dispute from MERCHANT.

17.10 **GOVERNING LAW, VENUE, & JURISDICTION.** MERCHANT shall comply with the Rules, Regulation E of the Federal Reserve Board, and the Electronic Fund Transfer Act. The Agreement shall be governed by the law of the state of Florida except those rules relating to conflicts of laws. MERCHANT acknowledges that this Agreement was formed in Florida upon its acceptance by SPS- EFT. All parties hereby submit to the exclusive jurisdiction and venue of the State of Florida, County of Okaloosa or Federal District Court for the Northern District of Florida for the purposes of any legal action arising in connection with this Agreement.

17.11 **SEVERABILITY.** If any provision of the Agreement is held to be illegal, invalid, or unenforceable, in whole or in part, by court decision, statute, or rule (or arbitration) such holding shall not affect any other provisions of this Agreement. All other provisions or parts thereof shall remain in full force and effect and this Agreement shall, in such circumstances, be deemed modified to the extent necessary to render enforceable the provision hereof.

17.12 **HEADINGS.** The headings in this Agreement are used for reference purposes only. They shall not be deemed as part of this Agreement and shall not affect its interpretation.

17.13 **SECURITY INTEREST.** (a) This Agreement is a security agreement under the Uniform Commercial Code. MERCHANT grants to SPS- EFT a security interest in and lien upon: (i) the account designated by MERCHANT for settlement and all funds at any time in such account, whatever the source of such funds, (ii) the Chargeback and Return Reserve Account (as defined above) and all funds at any time in the Chargeback and Return Reserve Account, whatever the source of such funds, (iii) all MERCHANT'S rights relating to this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement; and (iv) all MERCHANT deposit accounts now owned or hereafter acquired and the proceeds of all of the foregoing (collectively, the "Secured Assets"). Upon request of SPS- EFT, MERCHANT will execute one or more financing statements or other documents to evidence this security interest. MERCHANT authorizes SPS- EFT and appoints SPS- EFT its attorney in fact to sign its name to any financing statement used for the perfection of any security interest or lien granted in this Agreement. These security interests and liens will secure all of MERCHANT'S obligations under this Agreement and any other agreements between MERCHANT and SPS- EFT including, but not limited to, MERCHANT'S obligation to pay any amounts due to SPS- EFT. With respect to such security interests and liens, SPS- EFT will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. SPS- EFT may exercise its rights under this Agreement to collect any amounts due to SPS- EFT including, without limitation, rights of set-off and recoupment.

17.14 **EFFECTIVE DATE.** This Agreement shall be effective only upon acceptance by SPS- EFT.

POINT OF SALE (POP) – ADDITIONAL TERMS AND CONDITIONS

1. **REQUIREMENTS FOR PROCESSING ELECTRONIC CHECKS.** MERCHANT shall comply with the following conditions when processing electronic checks and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operation as may be established by SPS- EFT from time to time. MERCHANT shall accept only the following checks as source documents to initiate ACH debit entries through SPS- EFT; (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, account number and check serial number printed on the check, and be for an amount less than the check limit assigned by SPS- EFT. (b) MERCHANT shall obtain proper identification, in the form of a valid driver's license, from the customer so as to verify that the customer is authorized to negotiate the check before submitting the check to SPS- EFT for authorization. (c) MERCHANT shall obtain a customer authorization in the form of a signed sales receipt for each check transaction submitted for electronic processing; (d) MERCHANT shall scan each check through its POP MICR reader/check scanner to initiate electronic processing. MERCHANT shall use an electronic printer connected to a POP MICR reader/check scanner to generate and print all electronic check sales receipts; (e) All items, goods and services purchased in a single transaction shall be included in the total amount on a single sales receipt; (f) At the time MERCHANT initiates authorization with SPS- EFT, MERCHANT warrants that the person presenting the check has been properly identified and is legally authorized to present the check for payment. Once SPS- EFT authorizes the transaction, MERCHANT shall ensure that the customer that presented the check signs the receipt and legibly prints his/her correct full name and telephone number by hand. To be valid, MERCHANT shall ensure the following: 1. That the sales receipt contains the following correct information: (a) the customer's bank account number and the check number from the MICR data; (b) MERCHANT'S correct name and business address; (c) the date of the transaction; (d) the total cash price of the sale (including all applicable state, federal or local surcharges and taxes) or the amount to be charged if a partial payment is made in cash or by credit card or the amount to be charged as the remaining balance owing after the deposit has been made. (e) After customer signs the receipt, MERCHANT shall deliver to the person presenting the check a true and completed copy of the sales receipt; (f) No check may be altered after SPS- EFT authorizes acceptance of the check. MERCHANT may not resubmit a check electronically or deposit it by any means, once SPS- EFT authorizes a transaction. 2. MERCHANT shall write the current phone number and driver's license number of the customer on the face of the check. Failure to comply with the above requirements will, in addition to other penalties (such as but not limited to loss of guarantee of ALL transactions), subject MERCHANT to chargebacks or withholding of funds and may be grounds for immediate suspension/termination of services and indemnification of SPS- EFT by MERCHANT pursuant to this Agreement. **YOU UNDERSTAND THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT THE ELECTRONIC CHECK WRITER'S EXPRESSED AUTHORITY. YOU HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT 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 YOU THAT ANY TRANSACTION EVENT INITIATED AS AN UNAUTHORIZED MANUAL ENTRY OR DEPOSIT BY YOU AFTER YOU HAVE RECEIVED APPROVAL FOR ELECTRONIC DEPOSIT OF CHECK (S) OR IS INTENDED FOR ELECTRONIC DEPOSIT 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 SPS- EFT AND ALL OF ITS ASSIGNS AND ASSOCIATES HARMLESS AND REIMBURSE SPS- EFT FOR THE TRANSACTION (S) WITHIN 24 HOURS OF SAID OCCURRENCE. IF MERCHANT REFUSES OR IS UNABLE TO REIMBURSE SPS- EFT FOR ANY SUCH OCCURRENCE, IT IS EXPRESSLY STATED AND UNDERSTOOD THAT THE MERCHANT IS IN DIRECT VIOLATION OF THIS AGREEMENT AND FEDERAL LAW, AND SPS- EFT WILL PURSUE ALL LEGAL, CIVIL, AND COLLECTION REMEDIES AS ARE POSSIBLE UNDER LAW AS REMEDY.**

2. **UNACCEPTABLE TRANSACTIONS.** a) MERCHANT shall not process 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 electronically process any checks drawn on any depository institution that is not federally insured or part of the ACH network, (c) MERCHANT shall not electronically process any checks drawn on the personal checking account of MERCHANT or any of its agents or employees. (d) MERCHANT shall not accept any third party items for electronic processing or checks made payable to "cash" or "bearer". (e) MERCHANT shall not accept a traveler's check, money order, payroll check, counter check or sight draft, (f) MERCHANT shall not submit for processing any transaction representing the financing of an existing obligation whether previously owed to MERCHANT, arising from the dishonor of a check or arising from a credit card, debit card or smart card dispute with the MERCHANT, (g) MERCHANT shall not submit a transaction for processing which represents an attempt to collect a chargeback, (h) MERCHANT shall not submit a check written for goods or services that are not concurrently provided to the customer, including any check given for a service contract, gift certificate, a layaway (except for the final payment) or for a similar transaction, or for goods or services provided to a third party, (i) MERCHANT shall not submit a check which contains erasures, or which is altered, unless the alteration is initiated by the customer at time of presentation, (j) MERCHANT shall not knowingly submit a check on an account which SPS- EFT previously denied authorization. MERCHANT'S submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination, and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold. This will also remove SPS- EFT POS Guarantee Conversion coverage from ALL checks.

3. **SPS- EFT GUARANTEE CONVERSION.** The SPS- EFT POS GUARANTEE CONVERSION provisions are operational only if MERCHANT has marked the SPS- EFT POS GUARANTEE CONVERSION box on the application form of the Agreement. If MERCHANT has not marked the appropriate box, MERCHANT has engaged SPS- EFT to provide for each check: verification, electronic funds transfer and certain collection services. If so marked, MERCHANT wishes SPS- EFT to provide a guarantee for reimbursement of losses sustained by MERCHANT in accepting checks for electronic processing. In addition to the provisions previously set forth and notwithstanding any provisions to the contrary, SPS- EFT has established a per account Guarantee Limit, based on a percentage of the face amount of any and all checks presented at MERCHANT'S place of business or at other locations which are listed in any attachments to this Agreement, subject to the terms and conditions set forth in this Agreement. SPS- EFT shall reimburse MERCHANT per Schedule, up to the Guarantee Limit, as measured from the date of verification of non-payment, subject to MERCHANT'S compliance with all of the terms and conditions contained in this Agreement or any of SPS- EFT'S other published instructions.

SPS- EFT shall have the right to adjust MERCHANT'S rate including SPS- EFT POS Guarantee Conversion rate based upon its sole determination. Each month MERCHANT shall have access to an itemized summary of electronic check deposits. SPS- EFT shall process up to the check limit established for MERCHANT, but will not be responsible for reimbursement of checks exceeding the MERCHANT'S approved guarantee limit. The following transaction types are not included in the SPS- EFT POS GUARANTEE CONVERSION service, and SPS- EFT assumes no liability for and will provide no reimbursement for transactions as follows: Incorrect MICR data reads, unable to locate account or invalid account number returns, customer chargebacks or customer revocations of any transaction. **POS Guarantee Conversion reimbursement shall only serve to cover MERCHANT losses due to, NSF returns, and Insufficient Funds returns up to the per account guarantee limit placed in the approval section of the contract.**

4. **CHECKS FOR WHICH MERCHANT WILL NOT BE REIMBURSED UNDER SPS- EFT GUARANTEE CONVERSION.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, SPS- EFT shall have no obligation to reimburse MERCHANT for checks that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the check; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as a principal or as an accessory, in the issuance; (c) Accepted by MERCHANT or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by SPS- EFT; (d) Lost, stolen, altered or counterfeit, and SPS- EFT has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted check, whether or not the previous check was authorized by Company or, any check upon which MERCHANT has accepted full or partial payment; (f) One of multiple checks presented to MERCHANT in a single transaction for electronic processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by MERCHANT or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) Checks for which MERCHANT returns cash back to the customer, unless MERCHANT is approved in writing by SPS- EFT for such cash back; (j) Checks for which SPS- EFT previously denied authorization; (k) Not in compliance with this agreement and not processed in accordance with the check processing provisions of this Agreement; (l) Incorrect MICR data scans or reads; (m) unable to locate account or invalid account number returns. In addition, before processing the check and as a condition to honoring the check, MERCHANT shall obtain sufficient personal information to locate the person presenting the check, including but not limited to a current home or business telephone number including area code, a current home address consisting of a street or rural route address, not a post office box, and the customer's valid, unexpired driver's license number or non-driver identification number together with the state of issuance. MERCHANT shall ensure that this identifying information is legibly printed on the check; (n) Checks must have a current phone number of customer imprinted or written on them; (o) Checks must have drivers license written on them.

ACH DEBIT (PPD) – ADDITIONAL TERMS AND CONDITIONS

1. **EQUIPMENT/SOFTWARE.** MERCHANT must utilize a SPS- EFT-approved payment gateway, software, and approved method of electronic file transmission to use the Signature-Authorized Payments service. MERCHANTS who utilize electronic file transmission will not receive the benefit of any pre-verification services to determine if the CUSTOMER'S account or driver's license is flagged by the national negative database for unpaid items, which may result in higher returns or chargebacks to MERCHANT'S account. Refer to Software Requirements section.

2. **REQUIREMENTS FOR PROCESSING ACH DEBITS.** MERCHANT shall comply with the following conditions when processing ACH Debits and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operation as may be established by SPS- EFT from time to time. MERCHANT shall accept only the following ACH Debits as source documents to initiate ACH debit entries through SPS- EFT: (a) All demand deposit account ACH Debits must be drawn on or payable through a federally insured depository financial institution; be based on checking accounts where checks were issued with machine-readable with the bank routing number, account number and check serial number printed on the check, and be for an amount less than the check limit assigned by SPS- EFT. (b) Customer shall authorize by signature written agreement containing ACH Debit amount and day of month to be debited from customer's account. (c) All items, goods and services purchased in a single transaction shall be included in the total amount on a form of proof of purchase; (d) To be eligible for guarantee coverage, if guarantee service was selected by MERCHANT and approved by SPS- EFT, MERCHANT shall have customer provided on the signed written payment agreement sufficient information to verify and locate customer, including address, telephone number, driver's license number, and last four digits of customer's social security number or year of birth. (e) Once SPS- EFT authorizes the transaction, MERCHANT shall ensure that the proof of purchase contains the following correct information: (a) the customer's bank routing and account number from the MICR data; (b) MERCHANT'S correct name and business address; (c) the date of the transaction; (d) the total cash price of the sale (including all applicable state, federal or local surcharges and taxes. (e) After customer electronically accepts the receipt, MERCHANT shall deliver to the person presenting the ACH Debit a true and completed copy of the proof of purchase with the goods and services purchased; (f) MERCHANT'S failure to input the correct routing number or account number into the Virtual Terminal will result in MERCHANT'S loss of guarantee for the ACH Debit. (g) No ACH Debit may be altered after SPS- EFT authorizes acceptance of the ACH Debit. MERCHANT may not resubmit an electronic check or ACH Debit electronically or deposit it by any means once SPS- EFT authorizes a transaction. Failure to comply with the above requirements will, in addition to other penalties (such as but not limited to loss of guarantee on all ACH Debits), subject MERCHANT to chargebacks and may be grounds for immediate suspension/termination of services and indemnification of SPS- EFT by MERCHANT pursuant to this Agreement. **YOU UNDERSTAND THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT THE CUSTOMERS EXPRESSED AUTHORITY. YOU HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT INSTRUMENT OR DEVICE TO UNLAWFULLY INITIATE A DEBIT TRANSACTION IS PUNISHABLE BY A MAXIMUM OF \$10,000.00 FINE, IMPRISONMENT FOR A TERM OF TEN YEARS, OR BOTH.**

3. **UNACCEPTABLE TRANSACTIONS.** In addition to the restrictions set out above and in any event, the following transactions are unacceptable for electronic processing. MERCHANT agrees not to submit any of the following transactions to SPS- EFT for electronic processing: (a) MERCHANT shall not electronically process any ACH Debit drawn on any depository institution that is not federally insured or part of the ACH network, (b) MERCHANT shall not electronically process any ACH Debit drawn on the personal checking account of MERCHANT or any of its agents or employees. (c) MERCHANT shall not accept any third party items for electronic processing or ACH Debit made payable where the purpose is for the customer to receive cash or cash back, (d) MERCHANT shall not submit for processing any transaction representing the financing of an existing obligation whether previously owed to MERCHANT, arising from the dishonor of an ACH Debit, electronic check or arising from a credit card, debit card or smart card dispute with the MERCHANT, (e) MERCHANT shall not submit a transaction for processing which represents an attempt to collect a chargeback, (f) MERCHANT shall not submit an ACH Debit written for goods or services that are not concurrently provided to the customer, including any ACH Debit given for gift certificate, a layaway (except for the final payment) or for a similar transaction, or for goods or services provided to a third party, (g) MERCHANT shall not submit an ACH Debit which is altered by the Merchant in any way (h) MERCHANT shall not knowingly submit an ACH Debit on an account on which SPS- EFT previously denied authorization. MERCHANT'S submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold.

4. **SPS- EFT ACH DEBIT GUARANTEE.** The ACH Debit Guarantee provisions are operational only if MERCHANT has marked the ACH Debit Guarantee box on the application form of the agreement. MERCHANT must utilize the SPS- EFT Virtual Terminal to qualify for Guarantee coverage. Guarantee coverage is only available for Single ACH Debit services and are not offered for Recurring ACH Debit services. If so marked, MERCHANT wishes SPS- EFT to provide a guarantee for reimbursement of losses sustained by MERCHANT in accepting Single ACH Debits for electronic processing. In addition to the provisions previously set forth and notwithstanding any provisions to the contrary, SPS- EFT has established a per account Guarantee Limit based on a percentage of the face amount of any and all checks presented at MERCHANT'S place of business or at other locations which are listed in any attachments to this Agreement, subject to the terms and conditions set forth in this Agreement. SPS- EFT shall reimburse MERCHANT per Schedule, up to the Guarantee Limit, as measured from the date of verification of non-payment, subject to MERCHANT'S compliance with all of the terms and conditions contained in this Agreement or any of SPS- EFT'S other published instructions. SPS- EFT shall have the right to adjust MERCHANT'S rate including ACH Debit Guarantee rate based upon its sole determination. Each month MERCHANT shall have access to an itemized summary of ACH Debit deposits. SPS- EFT shall process up to the check limit established for MERCHANT, but will not be responsible for reimbursement of checks exceeding the MERCHANT'S approved guarantee limit. The following transactions types are not included in the ACH Debit Guarantee service, and SPS- EFT assumes no liability for and will provide no reimbursement for transactions as follows: Incorrect MICR data entry, unable to locate account or invalid account number returns, (R29) Unauthorized Corporate returns, customer chargebacks or customer revocations of any transaction. Merchant agrees to provide any additional information to SPS- EFT on occasion as needed to assist in collection efforts. **ACH Debit Guarantee reimbursement shall only serve to cover MERCHANT losses due to Insufficient Funds returns up to the per account guarantee limit placed in the approval section of the contract.**

5. **ACH DEBITS FOR WHICH MERCHANT WILL NOT BE FUNDED ON UNDER SPS- EFT ACH DEBIT GUARANTEE.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, SPS- EFT shall have no obligation to reimburse Merchant for ACH Debits that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the ACH Debit; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as principal or as an accessory, in the issuance; (c) Accepted by merchant or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by SPS- EFT; (d) Lost, stolen, altered or counterfeit, and SPS- EFT has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted ACH Debit or ACH Debit, whether or not the previous Electronic check or ACH Debit was authorized by Company or, any ACH Debit upon which MERCHANT has accepted full or partial payment; (f) One of multiple electronic checks or ACH Debits presented to Merchant in a single transaction for electronic processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by merchant or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) ACH Debits for which Merchant returns cash back to the customer, unless Merchant is approved in writing by SPS- EFT for such cash-back transactions; (j) ACH Debits for which SPS- EFT previously denied authorization; (k) ACH Debits not in compliance with this agreement and not processed in accordance with the ACH Debit processing provisions of this Agreement. (l) Incorrect Routing and Account Number data entry; (m) unable to locate account or invalid account number returns or unauthorized corporate account returns. In addition, before processing the ACH Debit and as a condition to honoring the ACH Debit, MERCHANT shall obtain sufficient personal information to locate the person presenting the ACH Debit including but not limited to a current home or business telephone number including area code, a current home address consisting of a street or rural route address, not a post office box, and the customer's valid, unexpired driver's license number or non-driver identification number together with the state of issuance, and the last four digits of customer's social security number or year of birth in YYYY format. MERCHANT shall ensure that this identifying information is legibly printed on the ACH Debit Payment Agreement form; (n) ACH Debit Payment Agreement form must contain a current phone number of customer; (o) ACH Debit Payment Agreement form must contain the customer's drivers license number; (p) SPS- EFT must receive the completed ACH Debit Payment Agreement form within 48 hours of SPS- EFT'S request; (o) MERCHANT'S failure to input into the Virtual Terminal the correct routing number and/or account number will result in MERCHANT'S loss of guarantee.

CHECKS BY PHONE (TEL) – ADDITIONAL TERMS AND CONDITIONS

1. **EQUIPMENT/SOFTWARE.** MERCHANT must utilize a SPS- EFT-approved payment gateway, software, and approved method of electronic file transmission to use the Telephone-Authorized Payments service. Merchant must submit a file for testing purposes prior to using the Telephone-Authorized Payments service if Merchant utilizes electronic file transmission. Merchants who utilize electronic file transmission will not receive the benefit of pre-verification services to determine if the CUSTOMER'S account or driver's license is flagged by the national negative database for unpaid items and may result in higher returns or chargebacks to MERCHANT'S account.

2. **CALIBRUS RECORDING SERVICE.** SPS- EFT has established a relationship with Calibrus, Inc. to provide recording services. Recording Services are the primary method of obtaining customer authorizations to access their account in order to process a Check by Phone payment. IF MERCHANT has completed the Recording Service Addendum then MERCHANT wishes SPS- EFT also to provide Calibrus Recording services to MERCHANT. IF MERCHANT has not completed the Recording Service Addendum, MERCHANT must obtain customer's authorization via Written Authorization Form and such form must be approved by SPS- EFT in advance, or MERCHANT has retained other recording service and has provided the recording access information on the Merchant Information Sheet submitted with the Checks By Phone Service Application. Separate monthly and usage per minute fees apply for use of the Calibrus Recording Service

3. **REQUIREMENTS FOR PROCESSING CHECKS BY PHONE.** MERCHANT shall comply with the following conditions when processing electronic checks and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operation as may be established by SPS- EFT from time to time. CUSTOMER will provide check information via recorded oral telephone authorization or by completing written ACH authorization form. MERCHANT is not authorized to process checks through this service if CUSTOMER does not have a pre-existing relationship with MERCHANT and MERCHANT initiated the call. A pre-existing relationship is established if the CUSTOMER has purchased goods/services from the MERCHANT within the last two years or if there is a written agreement in place between the merchant and the customer for provision of goods or services (i.e. a service contract). MERCHANT shall accept only the following sources to initiate ACH debit entries through SPS- EFT: (a) All demand deposit accounts must be drawn on or payable through a federally insured depository financial institution; be machine-readable MICR-encoded with the bank routing number and account number, and be for an amount less than the check limit assigned by SPS- EFT. (b) MERCHANT shall obtain proper identification in the form of a valid driver's license number from each customer (c) MERCHANT shall obtain a customer authorization in the form of a signed written ACH authorization form or by recorded oral ACH authorization for each transaction submitted for electronic processing; (d) MERCHANT shall authorize each ACH transaction through the SPS- EFT Checks by Phone Gateway-based system to initiate electronic processing or through approved file transmission. (e) All items, goods and services purchased in a single transaction shall be included in the total amount on a single ACH authorization form or recorded oral authorization; Once SPS- EFT authorizes the transaction, if MERCHANT utilizes written ACH authorization form, MERCHANT shall ensure that the customer that presented the electronic check signs the ACH authorization form or has provided recorded oral authorization. To be valid, MERCHANT shall ensure that the ACH Authorization form or recorded oral ACH Authorization contains the correct customer bank routing, account, and check numbers from the MICR data; MERCHANT'S correct name and telephone number; the date of the transaction; the total cash price of the sale (including all applicable state, federal or local surcharges and taxes) or the amount to be charged if a partial payment is made in cash or by credit card or the amount to be charged as the remaining balance owing after the deposit has been made; Customer's personal information including but not limited CUSTOMER'S full name, address, telephone number, driver's license state and number, last four of social security number or date of birth in YYYY format; disclosure statement that CUSTOMER understands he/she is authorizing MERCHANT to process an ACH debit entry to the CUSTOMER'S account t; (f) After customer signs the ACH Authorization form or clearly agrees via Recorded Oral Authorization, MERCHANT shall deliver to the person presenting the ACH transaction a true and completed copy of the sales receipt via email, facsimile, or sales receipt must be included with product shipment; (g) No

ACH authorization form or recorded oral ACH authorization may be altered after SPS- EFT authorizes acceptance of the ACH transaction. MERCHANT may not resubmit an ACH transaction electronically or deposit the original source document by any means, once SPS- EFT authorizes a transaction; (h) MERCHANT's failure to input the correct routing number, account number, or recording service call sequence number into the CHECKS BY PHONE Gateway will result in MERCHANT's loss of guarantee using the CHECKS BY PHONE program. Failure to comply with the above requirements will, in addition to other penalties (such as but not limited to loss of guarantee of ALL transactions), subject MERCHANT to chargebacks or withholding of funds and may be grounds for immediate suspension/termination of services and indemnification of SPS- EFT by MERCHANT pursuant to this Agreement. **YOU UNDERSTAND THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT ACCOUNT HOLDER'S EXPRESSED AUTHORITY. YOU HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT 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 YOU THAT ANY TRANSACTION INITIATED AS AN UNAUTHORIZED MANUAL ENTRY OR DEPOSIT BY YOU AFTER YOU HAVE RECEIVED APPROVAL FOR ELECTRONIC DEPOSIT OF ACH TRANSACTION (S) OR IS INTENDED FOR ELECTRONIC DEPOSIT 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 SPS- EFT AND ALL OF ITS ASSIGNS AND ASSOCIATES HARMLESS AND REIMBURSE SPS- EFT FOR THE TRANSACTION (S) WITHIN 24 HOURS OF SAID OCCURRENCE. IF MERCHANT REFUSES OR IS UNABLE TO REIMBURSE SPS- EFT FOR ANY SUCH OCCURRENCE, IT IS EXPRESSLY STATED AND UNDERSTOOD THAT THE MERCHANT IS IN DIRECT VIOLATION OF THIS AGREEMENT AND FEDERAL LAW, AND SPS- EFT WILL PURSUE ALL LEGAL, CIVIL, AND COLLECTION REMEDIES AS ARE POSSIBLE UNDER LAW AS REMEDY. FURTHERMORE, SPS- EFT'S CHECKS-BY-PHONE SERVICE IS NOT APPLICABLE FOR TELEMARKETING BUSINESSES (OR THE LIKE) IN WHICH THE PRIMARY FUNCTION OF THE BUSINESS IS OUTBOUND SALES CALLS. UNACCEPTABLE BUSINESSES FOR THIS PROGRAM INCLUDE COLD-CALLING, "BOILER ROOMS", MAIL ORDER MARKETING, CREDIT REPAIR AND/OR CREDIT ESTABLISHMENT OPPORTUNITIES, VACATION AND/OR BENEFIT PACKAGES, AND INVESTMENT OPPORTUNITY OPERATIONS IN WHICH THERE IS NO PREEXISTING RELATIONSHIP BETWEEN THE MERCHANT AND THE CONSUMER WHEREBY MERCHANT IS ENGAGING PRIMARILY IN OUTBOUND CALL AND/OR OUTBOUND MAIL ACTIVITY TO INITIATE A CHECK BY PHONE TRANSACTION. IF MERCHANT VIOLATES THIS AGREEMENT BY PARTICIPATING IN SUCH BUSINESS PRACTICES, SPS- EFT SHALL IMMEDIATELY HOLD ALL MERCHANT'S FUNDS, CANCEL THIS AGREEMENT, DEBIT MERCHANT'S ACCOUNT FOR ALL RETURNS, AND TAKE OTHER LEGAL ACTION AS DEEMED NECESSARY BY SPS- EFT'S LEGAL COUNSEL, THE FEDERAL TRADE COMMISSION, THE UNITED STATES POSTMASTER GENERAL, AND/OR NACHA (National Automated Clearing House).**

4. **UNACCEPTABLE TRANSACTIONS.** In addition to the restrictions set out above and in any event, the following transactions are unacceptable for electronic processing. MERCHANT agrees not to submit any of the following transactions to SPS- EFT for electronic processing: (a) MERCHANT shall not electronically process any electronic checks drawn on any depository institution that is not federally insured or part of the ACH network, (b) MERCHANT shall not electronically process any electronic checks drawn on the business or personal checking account of MERCHANT or any of its agents or employees, (c) MERCHANT shall not accept any third party items for electronic processing or electronic checks for "cash" or "cash back", (d) MERCHANT shall not submit for processing any transaction representing the financing of an existing obligation whether previously owed to MERCHANT, arising from the dishonor of a check, a dishonor of an electronic ACH transaction or arising from a credit card, debit card or smart card dispute with the MERCHANT, (e) MERCHANT shall not submit a transaction for processing which represents an attempt to collect a chargeback, (f) MERCHANT shall not submit an electronic check for goods or services that are not provided to the customer, including any electronic ACH transaction given for a service contract, gift certificate, a layaway (except for the final payment) or for a similar transaction, or for goods or services provided to a third party, (g) MERCHANT shall not submit an electronic check which is altered by the Merchant in any way (h) MERCHANT shall not knowingly submit a check on an account on which SPS- EFT previously denied authorization. MERCHANT's submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold or charged back to merchant.

5. **SPS- EFT CHECKS BY PHONE GUARANTEE.** The CHECKS BY PHONE GUARANTEE provisions are operational only if MERCHANT has marked the CHECKS BY PHONE GUARANTEE box on the application form of the agreement. MERCHANT must utilize the SPS- EFT Checks by Phone Gateway to qualify for GOLD coverage. If so marked, MERCHANT wishes SPS- EFT to provide a guarantee for reimbursement of losses sustained by MERCHANT in accepting checks by phone for electronic processing. In addition to the provisions previously set forth and notwithstanding any provisions to the contrary, SPS- EFT has established a per account Guarantee Limit based on a percentage of the face amount of any and all checks presented at MERCHANT'S place of business or at other locations which are listed in any attachments to this Agreement, subject to the terms and conditions set forth in this Agreement. SPS- EFT shall reimburse MERCHANT per Schedule, up to the Guarantee Limit, as measured from the date of verification of non-payment, subject to MERCHANT'S compliance with all of the terms and conditions contained in this Agreement or any of SPS- EFT'S other published instructions. SPS- EFT shall have the right to adjust MERCHANT'S rate including CHECKS BY PHONE GUARANTEE rate based upon its sole determination. Each month MERCHANT shall have access to an itemized summary of Check by Phone deposits. SPS- EFT shall process up to the check limit established for MERCHANT, but will not be responsible for reimbursement of checks exceeding the MERCHANT'S approved guarantee limit. The following transactions types are not included in the CHECKS BY PHONE GUARANTEE service, and SPS- EFT assumes no liability for and will provide no reimbursement for transactions as follows: Incorrect MICR data entry, unable to locate account or invalid account number returns, (R29) Unauthorized Corporate returns, customer chargebacks or customer revocations of any transaction. Merchant agrees to provide any additional information to SPS- EFT on occasion as needed to assist in collection efforts. **Check by Phone Guarantee reimbursement shall only serve to cover MERCHANT losses due to Insufficient Funds returns up to the per account guarantee limit placed in the approval section of the contract.**

6. **ELECTRONIC CHECKS FOR WHICH MERCHANT WILL NOT BE REIMBURSED UNDER CHECKS BY PHONE GUARANTEE.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, SPS- EFT shall have no obligation to reimburse MERCHANT for ACH transactions that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the original source document or electronic check; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as a principal or as an accessory, in the issuance; (c) Accepted by MERCHANT or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by SPS- EFT; (d) Lost, stolen, altered or counterfeit, and SPS- EFT has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted check, whether or not the check was authorized by Company or, any check upon which MERCHANT has accepted full or partial payment; (f) One of multiple checks presented to MERCHANT in a single transaction for electronic processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by MERCHANT or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) Checks for which MERCHANT returns cash back to the customer, unless MERCHANT is approved in writing by SPS- EFT for such cash back; (j) Checks for which SPS- EFT previously denied authorization; (k) Not in compliance with this Agreement and not processed in accordance with the ACH transaction processing provisions of this Agreement; (l) Incorrect Routing and Account Number data entry; (m) unable to locate account or invalid account number returns or unauthorized corporate account returns. In addition, before processing the check and as a condition to honoring the check, MERCHANT shall obtain sufficient personal information to locate the person presenting the check, including but not limited to a current home or business telephone number including area code, a current home address consisting of a street or rural route address, not a post office box, and the customer's valid, unexpired driver's license number or non-driver identification number together with the state of issuance, and the last four digits of customer's social security number or year of birth in YYYY format. MERCHANT shall ensure that this identifying information is legibly printed on the ACH Authorization form or clearly captured on the recorded oral authorization; (n) ACH Authorization form or recorded oral authorization must contain a current phone number of customer; (o) ACH authorization forms or recorded oral authorizations must contain the customer's drivers license number; (p) SPS- EFT must receive the completed ACH Authorization form or recorded oral authorization within 48 hours of SPS- EFT'S request; (o) MERCHANT'S failure to input into the CHECKS BY PHONE system the correct routing number, account number, or recording call sequence number will result in MERCHANT'S loss of guarantee.

CHECKS BY WEB (WEB) – ADDITIONAL TERMS AND CONDITIONS

1. **EQUIPMENT/SOFTWARE.** MERCHANT must utilize a SPS- EFT-approved payment gateway, software, and approved method of electronic file transmission to use the Web-Authorized Payments service. MERCHANT may be required to submit a file for testing purposes prior to using the Web-Authorized Payments service if MERCHANT utilizes electronic file transmission. MERCHANTS who utilize electronic file transmission will not receive the benefit of any pre-verification services to determine if the CUSTOMER'S account or driver'S license is flagged by the national negative database for unpaid items, which may result in higher returns or chargebacks to MERCHANT'S account. Refer to Software Requirements section.

2. **DATA RETENTION, VERIFICATION AND SECURITY REQUIREMENTS.** Merchant agrees to complete all transactions in accordance with the provisions of this Agreement, the Rules and such rules of operation as may be established by SPS- EFT from time to time. Merchant shall retain data on file adequate to permit remarking of Entries for seven (7) banking days following the date of their transmittal by SPS- EFT as provided herein, and shall provide such data to SPS- EFT upon its request. Merchant 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) at least 128-bit RC4 encryption technology, (v) commercially reasonable fraud detection systems, (vi) procedures to verify routing numbers and authenticate customer identity, and procedures to establish credit-worthiness and exposure limits for its customers, and (vii) MERCHANT'S Internet payment system must clearly notify the customer that they are initiating an ACH debit authorization and MERCHANT'S authorized payment gateway shall obtain a customer authorization in the form of an electronically signed ACH authorization or similarly authenticated (unique security code or PIN) in accordance with the Rules that clearly demonstrates the customer's assent to authorization for each transaction submitted for electronic processing. Merchant 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. MERCHANT or MERCHANT'S 3rd party software provider shall cooperate with SPS- EFT to test MERCHANT'S Internet payment gateway and for any ongoing support issues. In all cases, CUSTOMER will provide check information via Internet and MERCHANT'S payment gateway. Merchant must obtain the customer's authorization in accordance with the Rules that clearly demonstrates the customer's assent to authorization prior to initiating the ACH debit. In addition, if customer is providing recurring payment authorization, customer must be notified with the method to revoke its authorization. All items, goods and services purchased in a single transaction shall be included in the total amount on a single ACH authorization receipt and all entries must contain the correct customer bank routing, account, and check numbers, MERCHANT'S correct name and telephone number; the date of the transaction, the total cash price of the sale (including all applicable state, federal or local surcharges and taxes) or the amount to be charged if a partial payment is made in cash or by credit card or the amount to be charged as the remaining balance owing after the deposit has been made, Customer's personal information including but not limited to CUSTOMER'S full name, address, telephone number, driver'S license state and number, and a disclosure statement that CUSTOMER understands he/she is authorizing MERCHANT to process an ACH debit entry to the CUSTOMER'S account. After customer authenticates the entry, MERCHANT'S payment gateway must prompt the customer to print the authorization and to retain a copy and no transaction may be altered after SPS- EFT authorizes acceptance of the ACH transaction. MERCHANT may not resubmit the transaction electronically or deposit the original source document by any means, once SPS- EFT authorizes a transaction. Failure to comply with the above requirements will, in addition to other penalties, subject MERCHANT to chargebacks or withholding of funds and may be grounds for immediate suspension/termination of services. **MERCHANT ACKNOWLEDGES AND UNDERSTANDS THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT ACCOUNT HOLDER'S EXPRESSED AUTHORITY. MERCHANT HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT 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 HAS RECEIVED APPROVAL FOR ELECTRONIC DEPOSIT OF ACH TRANSACTION (S) OR IS INTENDED FOR ELECTRONIC DEPOSIT 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 SPS- EFT AND ALL OF ITS ASSIGNS AND ASSOCIATES HARMLESS AND REIMBURSE SPS- EFT FOR THE TRANSACTION (S) WITHIN 24 HOURS OF SAID OCCURRENCE. IF MERCHANT REFUSES OR IS UNABLE TO REIMBURSE SPS- EFT FOR ANY SUCH OCCURRENCE, IT IS EXPRESSLY STATED AND UNDERSTOOD THAT THE MERCHANT IS IN DIRECT VIOLATION OF THIS AGREEMENT AND FEDERAL LAW, AND SPS- EFT WILL PURSUE ALL LEGAL, CIVIL, AND COLLECTION REMEDIES AS ARE POSSIBLE UNDER LAW AS REMEDY.**

3. **UNACCEPTABLE TRANSACTIONS.** In addition to the restrictions set out above and in any event, the following transactions are unacceptable for electronic processing. MERCHANT agrees not to submit any of the following transactions to SPS- EFT for electronic processing: (a) MERCHANT shall not electronically process any electronic checks drawn on any depository institution that is not federally insured or part of the ACH network, (b) MERCHANT shall not electronically process any electronic checks drawn on the business or personal checking account of MERCHANT or any of its agents or employees, (c) MERCHANT shall not submit an electronic check for goods or services that are not provided to the customer, (d) MERCHANT shall not submit an electronic check which is altered by the MERCHANT in any way. MERCHANT'S submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination, and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold or charged back to MERCHANT.

4. **REQUIREMENTS FOR PROCESSING CHECKS BY WEB.** MERCHANT agrees to complete all transactions in accordance with the provisions of this Agreement, the Rules and such rules of operation as may be established by SPS- EFT from time to time. Merchant shall retain data on file adequate to permit remarking of Entries for seven (7) banking days following the date of their transmittal by SPS- EFT as provided herein, and shall provide such data to SPS- EFT upon its request. Merchant 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) at least 128-bit RC4 encryption technology, (v) commercially reasonable fraud detection systems, (vi) procedures to verify routing numbers and authenticate customer identity, and procedures to establish credit-worthiness and exposure limits for its customers, and (vii) MERCHANT'S payment gateway must clearly notify the customer that they are initiating an ACH debit authorization and MERCHANT'S authorized payment gateway shall obtain a customer authorization in the form of an electronically signed ACH authorization or similarly authenticated (unique security code or PIN) in accordance with the Rules that clearly demonstrates the customer's assent to authorization for each transaction submitted for electronic processing. Merchant 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. MERCHANT or MERCHANT'S 3rd party software provider shall cooperate with SPS-EFT to test MERCHANT'S Internet payment gateway and for any ongoing support issues. In all cases, CUSTOMER will provide check information via Internet and MERCHANT'S payment gateway and payment shall for an amount less than the check limit assigned by SPS- EFT. MERCHANT must obtain the customer's authorization in accordance with the Rules that clearly demonstrates the customer's assent to authorization prior to initiating the ACH debit. In addition, if customer is providing recurring payment authorization, customer must be notified with the method to revoke its authorization. All items, goods and services purchased in a single transaction shall be included in the total amount on a single ACH authorization receipt and all entries must contain the correct customer bank routing, account, and check numbers, MERCHANT'S correct name and telephone number; the date of the transaction, the total cash price of the sale (including all applicable state, federal or local surcharges and taxes) or the amount to be charged if a partial payment is made in cash or by credit card or the amount to be charged as the remaining balance owing after the deposit has been made, Customer's personal information including but not limited to CUSTOMER'S full name, address, telephone number, driver's license state and number, and a disclosure statement that CUSTOMER understands he/she is authorizing MERCHANT to process an ACH debit entry to the CUSTOMER'S account. After customer authenticates the entry, MERCHANT'S payment gateway must prompt the customer to print the authorization and to retain a copy and no transaction may be altered after SPS- EFT authorizes acceptance of the ACH transaction. MERCHANT may not resubmit the transaction electronically or deposit the original source document by any means, once SPS- EFT authorizes a transaction. Failure to comply with the above requirements will, in addition to other penalties, subject MERCHANT to chargebacks or withholding of funds and may be grounds for immediate suspension/termination of services.

5. **ELECTRONIC CHECKS FOR WHICH MERCHANT WILL NOT BE FUNDED FOR UNDER CHECKS BY WEB.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, SPS- EFT shall have no obligation to reimburse MERCHANT for ACH transactions that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the original source document or electronic check; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as a principal or as an accessory, in the issuance; (c) Accepted by MERCHANT or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by SPS- EFT; (d) Lost, stolen, altered or counterfeit, and SPS- EFT has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted check, whether or not the check was authorized by Company or, any check upon which MERCHANT has accepted full or partial payment; (f) One of multiple checks presented to MERCHANT in a single transaction for electronic processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by MERCHANT or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) Checks for which SPS- EFT previously denied authorization; (j) Not in compliance with this Agreement and not processed in accordance with the ACH transaction processing provisions of this Agreement; (k) Incorrect Routing and Account Number data Entry; (l) Unable to locate account or invalid account number returns or unauthorized corporate account returns.

PAPER GUARANTEE – ADDITIONAL TERMS AND CONDITIONS

1. **QUALIFIED INSTRUMENTS.** For any instrument to qualify, it must be authorized properly and meet the following criteria: (a) At the time of authorization, the individual name or business name must be commercially imprinted on the instrument. In the case of a business entity, the instrument must have the business name and current business address and phone number (as listed with information) commercially imprinted on the check. Temporary checks or checks without commercially imprinted check numbers will not qualify for check guarantee; (b) An instrument must be authorized with a driver's license or state issued ID card presented by the customer to Merchant and viewed by Merchant at the time of authorization; (c) The customer's valid driver's license or state issued identification card number and the state code found on the "Quick Reference Guide" or if the guide is not available the abbreviation of the state that issued the identification card must be noted on the instrument at the time of authorization; (d) The authorization number received through the Point-Of-Sale device must be noted on the instrument at the time of authorization; (e) A street address must be commercially imprinted on the check. If the current street address is not the one imprinted on the instrument at the time of the authorization, it must be crossed out and the most current address be written in. Post Office (PO) Boxes only are not acceptable addresses; (f) If the phone number is not imprinted on the instrument, you must note the phone numbers (home phone and business phone) on the instrument at the time of authorization; (g) The date of the instrument must be no more than one (1) day from the date on which the instrument was authorized by SPS- EFT; (h) The instrument must be payable to the Merchant's business name and endorsed by the Merchant and deposited in the Merchant's business account after authorization of said instrument, but before close of business the following business day. Any check deposited more than one time will not be a qualified instrument. The amount authorized and the amount shown in words and figures on the check must agree; (i) The check number of the instrument being authorized must be the same check number given at the time authorization is attempted. No represented check is guaranteed unless the instrument was authorized with the same dollar amount as when the instrument was originally authorized; (j) In the event of a personal instrument, the signature on the check must be the same as the commercially imprinted name on the check and ID card provided at the time of authorization; (k) The instrument has not been altered, or has not been tendered in whole or in part in exchange for cash, or was not payment for a prior debt due; (l) The Merchant did not subsequently receive value in full or in part for the dishonored instrument from the presenter in the form of cash payment, credit, service, exchange or repossession; (m) The instrument was not dishonored as a result of a "stop payment" order issued by the presenter to the financial institution, which is based upon a dispute against the Merchant by the presenter; (n) The instrument was not previously denied by SPS- EFT based on the same or different driver's license number, which was previously presented for authorization by Merchant. The instrument must be authorized by entering the correct ID number into the Point-Of-Sale device at the time of authorization; The instrument must be authorized by entering the correct routing and account number as it appears on the check into the Point-Of-Sale device if a check reader is not utilized to capture the routing and account number at the time of authorization (o) The instrument was not one of multiple instruments or payment methods presented to Merchant for sales made that day; (p) SPS- EFT reserves the right and Merchant acknowledges that a receipt for the products and services provided to the check writer may be requested. The delivery of this receipt must be postmarked within 48 hours of the request and its acceptance by SPS- EFT will be required to qualify the claim for payment; (q) Merchant must have followed instructions contained in SPS- EFT'S Merchant Quick Reference Guide or other authorized, current published instructions; (r) Merchant acknowledges that first time check writers will have a lesser check limit than those of frequent check writers and check limits are based on not only dollar amount, but number of checks written in a period of time to be determined solely by SPS- EFT; (s) The instrument was not issued in connection with a transaction described herein. The Merchant did not comply with the terms and conditions of this agreement, including but not limited to, the requirements described herein, the Merchant, or its agents, and employees accepted the instrument with reason to know that the instrument was likely to be dishonored or that the identification used was forged, stolen, or otherwise did not belong to the check writer, or that the transaction for which the instrument was tendered is illegal, void, invalid, or that a court of law determines that the instrument is in whole or in part not due and payable by the check writer unless such determination results from a bankruptcy proceeding; (t) SPS- EFT may change any of these procedures with a seven (7) day written notices to Merchant.

2. **CLAIM PROCEDURE.** SPS- EFT shall purchase Properly Qualified Instruments up to the contractual purchase limit for each check submitted under the following Procedure: (a) Merchant agrees to require its depository bank to forward dishonored instruments directly to SPS- EFT at its designated address. If the depository bank does not provide this service, then the Merchant agrees to forward all dishonored instruments directly to SPS- EFT at its designated address; (b) All checks submitted for claim must have been deposited in Merchant's financial institution and received at SPS- EFT'S designated address, along with other required documents within thirty (30) days from the date of authorization of said instrument.

3. **CLAIM PAYMENTS.** Reimbursement will be made to Merchant for full face value or up to the purchase limit for qualified claims that meet all necessary criteria in accordance with the following time frames: (a) Normal ACH credit will be transmitted to the Merchant's bank account 30 days from date of claim submission for payment of qualified instruments; (b) NSF Bank fees will be reimbursed to Merchant on all qualified instruments, provided the Merchant has requested this check guarantee enhancement. Merchant agrees to provide SPS- EFT with a copy of Merchant's financial institution NSF fee charges. (c) SPS- EFT reserves the right to suspend its performance to Merchant, including the payment of all checks submitted for reimbursement, during any period in which Merchant's account is delinquent. Continuation of service during any period of delinquency shall not constitute a waiver of SPS- EFT'S rights of suspension and termination.

4. **STOP PAYMENT COVERAGE.** SPS- EFT agrees to waive section 1 (m) above to guarantee payment of Stop Payment instrument arising out of a dispute with Merchant up to the limit, provided that Merchant shall have performed all of his obligations related to the issuance of said instrument. At SPS- EFT'S request, Merchant shall provide written information regarding any claim for reimbursement of Stop Payment instrument. Stop Payment Coverage must be indicated (checked box) by Merchant upon the initial acceptance by SPS- EFT. Stop Payment Coverage does not cover business account checks, only personal accounts.