

BA MERCHANT SERVICES

MERCHANT

SERVICES

AGREEMENTS

Welcome to BA Merchant Services, LLC. ("BAMS"). Please carefully complete the enclosed Application and read the attached Card Processing Agreement, Debit Card Agreement, and Equipment Agreement, as applicable to you. Execute the original copy and return it to BAMS. **Keep a Copy of the entire Application and the Agreements for your records.** Your Application is subject to BAMS's underwriting review process. BAMS's acceptance of this Application will be made in a manner authorized in the attached Agreements.

Thank you for choosing BAMS. If you have any questions, please contact BAMS Target Marketing at 1 (800) 592-1591.

INSTRUCTIONS FOR COMPLETING THE APPLICATION

ALL INFORMATION INDICATED BELOW MUST BE COMPLETED BEFORE SUBMITTING THE APPLICATION.

If you decide to change any of your existing information in the future, please contact BAMS for the required documentation.

1. APPLICATION TYPE

- **NEW MERCHANT**— Indicate if you are a new Merchant of BAMS.
- **ADDITIONAL LOCATION**— If you decide to submit additional locations in the future, complete a new Application and return the form to BAMS. If you are initially implementing up to two additional locations, please complete an Application for each location. If more than two (2) locations are initially being implemented, please complete the Multiple Locations Addendum.

2. MERCHANT BUSINESS INFORMATION

- Include all information pertaining to the legal entity executing the Application and Agreements. Also list all "d/b/a" names used in the business.

3. BUSINESS OWNERSHIP AND MANAGEMENT

- Include all information pertaining to the actual location where the transactions will occur, if different from the above address. If the Corporate location is the same as the business location, you will only need to indicate "Same as above". You may also use this space to provide information for a second distinct retail location operated by the exact same business entity.
- **OWNER/OFFICER INFORMATION**— Provide all the requested Owner/Officer information. If the Merchant operates as a proprietorship, partnership or closely held corporation, then information about the Owner(s) must be supplied.
- **MERCHANT BANK ACCOUNT INFORMATION**— Indicate the financial institution in which BAMS is to settle your funds. **An imprinted, encoded, voided check (not a temporary check) or Verification of Account Letter from your deposit bank must be attached to the Application to initiate distribution of your funds.**

4. BUSINESS CERTIFICATION

- **A. Card Presented %**— Indicate your anticipated percentage of cards presented, and break down Card Presented percentage into categories of Card Swiped (percentage of cards that will be swiped at the point of sale) and Hand Entered (percentage of transactions that will be hand entered).
- **B. Card Not Present %**— Indicate your anticipated percentage of cards not presented, and break down Card Not Present percentage into categories of MO/TO% (Catalog) (percentage of Mail-order or Telephone Order transactions), Internet% (percentage of Internet transactions), and Other/No Card % (percentage of credit cards not presented other than Mail Order, Telephone Order, or Internet transactions).
- **CURRENT PROCESSOR**— Provide your current Processor name, the reason for the change, your current/previous Merchant # and submit 3-6 months current processing statements
- **Seasonal Business**— Indicate whether your business is seasonal and the inactive months, if applicable.
- **AVERAGE TICKET**— Provide your average ticket over a 12-month period. If the Average Ticket varies by location, make sure to note the individual location's Average Ticket on the additional locations list.
- **ANNUAL BANKCARD VOLUME**— Indicate your anticipated Annual Bankcard Volume in dollars
- **TRADE REFERENCE**— Provide a Trade Reference for BAMS to verify credit information
- **CERTIFICATION OF MERCHANT'S BUSINESS**
 - **YEARS/MONTHS IN BUSINESS**— Indicate the number of years in which the business has been operating
 - **YEARS UNDER CURRENT OWNERSHIP**— Indicate the number of years in which the business has been under the current ownership
 - **BUSINESS TYPE**— Indicate the type of goods sold
 - **FORM OF OWNERSHIP**— Indicate the ownership status
 - **BUSINESS ENVIRONMENT**— Indicate the business environment of the business location

5. EQUIPMENT AND PROCESSING SPECIFICATIONS (COMPLETE WITH SALES REPRESENTATIVE)

- **SHIPPING INFORMATION**— Provide site address for equipment delivery if different than the address in Merchant Business Information section.
- **MERCHANT TYPE**— Indicate processing type using options provided*
*(*PURCHASING CARD - Upon receipt of your request for Purchasing Card, BAMS will provide you with an additional form to be completed and returned to BAMS. The requested information may qualify suppliers for federal and state government agency programs.)*
- **TELEPHONE DIALING ACCESS** -- Indicate whether type of service requested is tone or rotary (dial), or if using a non-tone or rotary solution, then select "IP"
- **MERCHANT TRAINING**— Indicate whether you wish to receive BAMS training.
- **EQUIPMENT SPECIFICATIONS AND PROVIDER**— Please complete the information for the terminals, equipment and miscellaneous items.

6. ADDITIONAL INFORMATION

TO BE USED BY YOUR BAMS SALES REPRESENTATIVE

7. MERCHANT SERVICES AND RELATED FEES

- **CARD TYPE**— Indicate which card types you will be submitting through BAMS
 - Check Services:** If you elect to receive Check Services, please indicate which service you are requesting. Please be advised that some Check Services require execution of a separate agreement with the provider.
 - Debit:** If you elect to receive on-line Debit services, you will receive access to the Debit Networks that BAMS makes available. On-line Debit requires a terminal, printer, and pin pad for processing.
 - **ACCOUNT NUMBER:**
 - American Express:** If you currently have an account with American Express, please list your 10-digit account number in the space provided. Otherwise, this section should be completed by your BAMS Account Manager.
 - Diner's Club:** To be completed by BAMS.
 - Discover Card:** If you currently have an account with Discover, please list your 16-digit account number in the space provided. Otherwise, this section should be completed by your BAMS Account Manager.
 - JCB:** If you will be submitting JCB through BAMS/Bank, you must provide your JCB Merchant Number for each location. Otherwise, this section should be completed by your BAMS Account Manager.
 - Private Label:** If you will be submitting Private Label through BAMS/Bank, please contact your BAMS Account Manager for detailed instructions.
 - **REPORTING**— Indicate if reporting is to be daily or monthly
- ### 8. PERIODIC SERVICE FEES AND SERVICE OPTIONS
- A check for all applicable Membership, Application and Reprogramming fees must be included with these Agreements. Do not sign Application unless all "blocks" are completed the applicable fee or an "X" signifying that no such fee applies to your account.

MERCHANT SIGNATURE — *The Application must be fully executed and initialed where indicated. Please retain a copy of the entire Application (including the attached Agreements) for your files.*

TO RETURN YOUR APPLICATION - Please return the following items to BAMS at the address indicated below. If you have questions, please contact BAMS Target Marketing.

1. BAMS's copy of the Application
2. If applicable, a check made payable to "BA Merchant Services, LLC." for purchased equipment and all applicable fees
3. If applicable, a check made payable to the leasing company for rented or leased equipment
4. A voided check for the bank account in which BAMS is to deposit your funds
5. Current 3 months processing statements from your existing processor

MAIL TO: BA MERCHANT SERVICES, LLC.
1231 DURRETT LANE
LOUISVILLE, KY 40213
ATTN: KY6-200-01-12

BA MERCHANT SERVICES

APPLICATION

SALES CODE

Merchant Number

Store Number

1. APPLICATION TYPE

New Merchant Additional Location

MCC (For Internal Use Only)

2. MERCHANT BUSINESS INFORMATION

(If P. O. Box, Physical Location Is Also Needed)

BUSINESS / DBA NAME _____ CONTACT NAME _____

PHYSICAL ADDRESS (INCLUDE CITY, COUNTY, STATE AND ZIP) _____

MAILING ADDRESS (INCLUDE CITY, COUNTY, STATE AND ZIP) _____

PRIMARY TELEPHONE () _____ ALTERNATE TELEPHONE () _____

FAX () _____ E-MAIL ADDRESS _____

INTERNET WEBPAGE ADDRESS _____ FEDERAL TAX ID _____

3. BUSINESS OWNERSHIP AND MANAGEMENT

Same as above Location _____ of _____

If this second location operates under a name other than the above Merchant's, then specify below. If more than two (2) retail locations, please complete the Multiple Locations Addendum.

NAME _____ CONTACT NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE () _____ ALTERNATE TELEPHONE () _____

FAX () _____ E-MAIL ADDRESS _____

Statements for this location to be sent to primary address listed above

OWNER/OFFICER INFORMATION

Information on the individual(s) signing the Application must be provided below

FIRST NAME, MI, LAST NAME _____ OWNER (% Ownership _____)

TITLE _____ DATE OF BIRTH: _____ OFFICER

ADDRESS _____ CITY _____ STATE _____ ZIP _____

HOW LONG AT PRESENT ADDRESS _____ DRIVERS LICENSE # _____

OWN RENT STATE ISSUED _____

TELEPHONE _____ SOC. SEC. # _____

FIRST NAME, MI, LAST NAME _____ OWNER (% Ownership _____)

TITLE _____ DATE OF BIRTH: _____ OFFICER

ADDRESS _____ CITY _____ STATE _____ ZIP _____

HOW LONG AT PRESENT ADDRESS _____ DRIVERS LICENSE # _____

OWN RENT STATE ISSUED _____

TELEPHONE _____ SOC. SEC. # _____

MERCHANT BANK ACCOUNT INFORMATION

This Checking Account serves: All locations ONLY the location specified

FINANCIAL INSTITUTION _____ CONTACT NAME _____

STREET ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE () _____

TRANSIT/ABA # [] ACCOUNT # []

Imprinted, Encoded Voided check or Verification of Account Letter from Bank must be attached. If not provided account cannot be set up.

4. BUSINESS CERTIFICATION

CERTIFICATION OF MERCHANT'S CARD PROCESSING ACTIVITY

A. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % Card Presented (Break out percentages below) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % Card Swiped <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % Hand Entered	B. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % Card Not Present (Break out percentages below) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % MO/TO (Catalog) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % Internet <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % Other / No Card	A. % Card Presented + B. % Card Not Present MUST EQUAL <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> % TOTAL
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Has merchant previously processed MC/VS? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, why processor change? _____	Is merchant's business seasonal? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, list active months: _____
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Current/Previous Merchant #

<input type="checkbox"/> Current <input type="checkbox"/> Previous BANKCARD PROCESSOR NAME _____	Last 3 months consecutive statements are attached? <input type="checkbox"/> YES <input type="checkbox"/> NO
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Average Ticket – Primary Location \$ _____	Occasional Higher Tickets To: \$ _____	Total Annual Volume – All Locations \$ _____
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TRADE REFERENCE

TRADE REFERENCE	CONTACT NAME/PHONE #
STREET ADDRESS	
CITY	
STATE	ACCOUNT NUMBER

CERTIFICATION OF MERCHANT'S BUSINESS

YEARS IN BUSINESS	MONTHS IN BUSINESS	YEARS UNDER CURRENT OWNERSHIP	BUSINESS TYPE
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FORM OF OWNERSHIP (Mandatory) <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Assoc. / Estates / Trusts <input type="checkbox"/> Limited Liability Companies <input type="checkbox"/> Corporation <input type="checkbox"/> Tax Exempt Organization <input type="checkbox"/> Joint Venture <input type="checkbox"/> Medical or Legal Corp. <input type="checkbox"/> Government <input type="checkbox"/> Other _____	BUSINESS ENVIRONMENT (Check All That Apply) <input type="checkbox"/> Storefront <input type="checkbox"/> Kiosk <input type="checkbox"/> Seminar <input type="checkbox"/> Office <input type="checkbox"/> In Home <input type="checkbox"/> MO/TO <input type="checkbox"/> Door to Door <input type="checkbox"/> Trade Show/ Flea Market <input type="checkbox"/> Internet <input type="checkbox"/> Job/Service Site <input type="checkbox"/> Business to Business <input type="checkbox"/> Other _____
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If you accept and process Internet transactions, 1. provide the name of your Internet service provider _____
 2. identify Gateway: NPC Other Gateway: _____

Please describe your business so it would be very clear to one who has never seen or heard of you. Include a description of the products/services you provide.

Are you openly and actively conducting business with customers? YES NO If "No", please explain: _____

Do you maintain a quantity and type of inventory consistent with the described business, products/services? YES NO If "No", please explain: _____

Are your facilities and equipment consistent with the described business, products/services? YES NO If "No", please explain: _____

5. ADDITIONAL INFORMATION

6. EQUIPMENT AND PROCESSING SPECIFICATIONS

SHIPPING INFORMATION Provide site address for equipment delivery if different from Merchant Business Information in Section Two..

NO P. O. BOXES – MUST BE PHYSICAL ADDRESS

COMPANY _____ ATTN: _____ PHONE: _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

MERCHANT TYPE

TYPE: _____ 1= Retail 2= Restaurant 3= Internet/Wireless 4= MO/TO 5= Supermarket 6= Car Rental 7= Small Ticket/QSR 8= Other: _____

If MOTO, provide Customer Service phone number: _____

TERMINAL TELEPHONE LINE & MERCHANT TRAINING INFORMATION

TYPE OF SERVICE <input type="checkbox"/> Tone <input type="checkbox"/> Rotary <input type="checkbox"/> IP	CALL WAITING ON TERMINAL LINE? <input type="checkbox"/> Yes <input type="checkbox"/> No	ROLL OVER LINES? <input type="checkbox"/> Yes <input type="checkbox"/> No	# / #S TO GET OUTSIDE LINE	MERCHANT'S TIME ZONE <input type="checkbox"/> East <input type="checkbox"/> Central <input type="checkbox"/> Mountain <input type="checkbox"/> Pacific
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BAMS TO TRAIN MERCHANT? Yes No

BAMS TO REPROGRAM TERMINAL? Yes No

EQUIPMENT SPECIFICATIONS AND PROVIDER: Please provide complete specifications for merchant set up and for all equipment, regardless of provider.

LINE ITEM	PROVIDER CODE	QUANTITY	PAYMENT METHOD	UNIT PRICE	TOTAL PRICE	EQUIPMENT TYPE	PROCESSOR CODE	APPLICATION CODE	TRACK (Tranz 330 Only)	AUTO CLOSE
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TERMINALS ONLY

T1									<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> Yes
T2									<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> Yes

PRINTERS, PIN PADS, READERS, ETC.

3										
4										

MISCELLANEOUS ITEMS FROM BAMS: Stackers, Imprinters, Cables, Etc.

5	BAMS									
6	BAMS									

All Other Fees: _____ (type) \$

PROVIDER CODES: NPC= NPC Platform MER= Merchant
 PAYMENT METHOD CODES: L= Lease (requires a separate check made payable to Leasing Provider) P= Purchase O= Other
 PROCESSOR CODES: NPC= NPC Platform VSN= Visanet MAPP= Mapp BUY= Buypass
 APPLICATION CODES: RET= Retail RST= Restaurant HOT= Hotel QSR= Quick Service Restaurant

Paid By: ACH Debit Check TOTAL \$

OWNED EQUIPMENT	TERMINAL	PRINTER	OTHER
MODEL NUMBER			
SERIAL NUMBER			
CHIP VERSION			
<input type="checkbox"/> INTEGRATOR	INTEGRATOR NAME: _____ CONTACT NAME: _____	Equipment Type _____ Version _____	Telephone () _____ Fax () _____

THIS SECTION IS MANDATORY IF REQUESTING DEBIT CARD SERVICE

THIS SECTION IS MANDATORY FOR PC TERMINAL SOFTWARE

WILL MERCHANT OFFER CASH BACK?
 YES NO AMOUNT \$ _____

SOFTWARE NAME

PUBLISHED BY

PLATFORM WIN DOS MAC

If accepting Internet transactions, please identify Gateway: BAMS Other Gateway: _____

OPTIONAL PRINT LINES FOR THE RECEIPT IN THE HEADER/FOOTER

1 st LINE OF RECEIPT HEADER (up to 20 characters)	1 st LINE OF RECEIPT FOOTER (up to 20 characters)
2 nd LINE OF RECEIPT HEADER (up to 20 characters)	2 nd LINE OF RECEIPT FOOTER (up to 20 characters)

MERCHANT INITIALS X _____

7. MERCHANT SERVICES AND RELATED FEES

The following pricing is based on the processing methodology of

AMERICAN EXPRESS INFORMATION IF MERCHANT DOES NOT HAVE AN EXISTING AMERICAN EXPRESS ACCOUNT NUMBER, THIS SECTION MUST BE COMPLETED TO ACCEPT AMEX. Estimated annual AMEX Volume \$ _____ Estimated average AMEX Tickets _____ FLAT FEE (\$5.00 Monthly) OR GROSS PAY (Monthly or Daily) Franchise Cap # _____ DISCOVER INFORMATION (FOR INTERNAL USE ONLY) Discover Franchise Code # _____	CHECK THE BOX FOR EACH REQUESTED SERVICE	Discount Rate (%)	Inquiry Fee	Split Dial	Is Service currently established? If "Yes" provide account number.
	<input type="checkbox"/> Visa Credit Qualified Rate ^{1,2}	%	\$	N/A	
<input type="checkbox"/> MasterCard Credit Qualified Rate ^{1,2}					
<input type="checkbox"/> Visa Off-Line Debit Qualified Rate ^{1,2,1} (no PIN)	%	\$	N/A		
<input type="checkbox"/> MasterCard Off-Line Debit Qualified Rate ^{1,2,1} (no PIN)					
<input type="checkbox"/> Diners/Carle Blanche ¹	%	\$			
<input type="checkbox"/> American Express ¹	%	\$		<input type="checkbox"/> YES	
<input type="checkbox"/> Discover ¹ (Discover Fee of \$.10 per item plus the indicated discount rate. A one-time \$25.00 Discover membership fee will be collected via a separate ACH by Discover.)	%	\$			
<input type="checkbox"/> J C B ¹	%	\$		<input type="checkbox"/> YES	
<input type="checkbox"/> Check Service (identify - separate agreement required)					
<input type="checkbox"/> Online Debit (PIN)	BAMS Processing Fee	N/A	\$	N/A	
	Debit Network Fee	N/A	\$		
<input type="checkbox"/> EBT	<input type="checkbox"/> Food Stamps <input type="checkbox"/> Cash Benefits	%	\$		FCS# _____
<input type="checkbox"/> Other Service	<input type="checkbox"/> Both				
<input type="checkbox"/> Other Service			\$	<input type="checkbox"/> YES	
<input type="checkbox"/> Other Service			\$	<input type="checkbox"/> YES	

* The following surcharge may be assessed in addition to the Qualified rate as described in Section 6 of the Card Processing Agreement: **Credit: Mid-Qualified Surcharge _____ Non-Qualified Surcharge _____** **Off Line Debit: Mid-Qualified Surcharge _____ Non-Qualified Surcharge _____**

DISCOUNT ASSESSED Daily Monthly **Additional surcharge for monthly discount** _____ % **'OFF LINE DEBIT PER ITEM FEE SURCHARGE** \$0.05 per off line debit transaction

¹Possible fee adjustments are explained in Section 6 of the Card Processing Agreement.

² If Merchant accepts a card type other than the type(s) selected above and there is no rate listed for said card type, Merchant will be charged a qualified rate of 3.5% for each submitted transactions outside Merchant's election, in addition to the Inquiry Fee and any Mid-Qualified or Non-Qualified Surcharge, if applicable.

8. PERIODIC SERVICE FEES AND SERVICE OPTIONS *

Voice Authorization Fee (per attempt)	Monthly Minimum	Paper Statement Fee (per statement) Yes <input type="checkbox"/> No <input type="checkbox"/> Fee: _____	Electronic Statement Fee (per month) (for fax and web) Yes <input type="checkbox"/> No <input type="checkbox"/> Fee: _____	Monthly Debit Access Fee
Small Business Advantage** N/A	Monthly Wireless Fee	Bankcard Chargeback Fee (per c/b)	Annual Fee	Training Fee
Internet Setup Fee	Internet Monthly Fee	Pin Pad Encryption Fee	Reprogramming Fee (per terminal)	Check Service Setup Fee
Application Fee	Excessive Chargeback Fee (per c/b)	Retrieval Fee (per retrieval)	Other	Other
Other	Other	Other	Other	Other

* MasterCard allows Issuers to collect a handling fee for specific authorization chargebacks: 07-Warning Bulletin File, 08-Requested/Required Authorization Not Obtained or Declined and 47-Fraudulent Transaction/Exceeds Floor Limit/Not Authorized. This fee is in addition to any other fees assessed by BAMS or the Associations and will be processed separately from the applicable chargeback. Issuers may collect this fee on each submission of the chargeback for certain Merchant Industry types. Industry types excluded from the handling fees must be processed with the appropriate codes to avoid assessment of the handling fees.

**The Small Business Advantage Service is provided by a third party. BAMS/Bank has no liability for the performance of said service and you agree to indemnify BAMS/Bank against any loss, liability, damage or expense that arises out of your use of the Small Business Advantage Service.

Brick and mortar Merchants will be assessed any applicable monthly recurring charges, including but not limited to the Monthly Minimum charge stated in this Part 8 of the Application, once their terminal is capable of accepting charges; Internet Merchants will be assessed recurring monthly charges, including but not limited to the Monthly Minimum charge stated in Part 8 of the Application, upon approval of their Application regardless of the operational status of their website.

If this Agreement is terminated for any reason prior to the expiration of the then current term, you will be subject to a \$250.00 Early Deconversion Fee as set forth in the Agreement. You agree to pay us an Account Administration Fee of \$25.00, or our then current rate, for administrative services, including but not limited to changing your Settlement Account information or processing returned ACH items. Other non-recurring charges or additional special fees may be charged to your account as permitted within the attached Agreements.

REPORTING/CHARGEBACKS/RETRIEVALS/BILLING ALL INFORMATION WILL BE MAILED TO THE ADDRESS IN THE MERCHANT BUSINESS INFORMATION SECTION UNLESS OTHERWISE NOTED

REPORTING (please select):	<input type="checkbox"/> Weekly or <input type="checkbox"/> Monthly		
RETRIEVALS (please select):	<input type="checkbox"/> Mailed or <input type="checkbox"/> Faxed or <input type="checkbox"/> E-mailed	<input type="checkbox"/> Corporate or <input type="checkbox"/> Each Location	Attn: _____ FAX: ()
CHARGEBACKS (select one):	<input type="checkbox"/> Mailed or <input type="checkbox"/> Faxed or <input type="checkbox"/> E-mailed	<input type="checkbox"/> Corporate or <input type="checkbox"/> Each Location	Attn: _____ FAX: ()

Send information to this address: Address: _____ City: _____ State: _____ ZIP: _____

MERCHANT INITIALS X _____

9. GENERAL PROVISIONS

The initial term of the Agreements is thirty-six (36) months.

The completed Application, the Card Processing Agreement, the Equipment Agreement (if applicable), and the Debit Card Agreement (if applicable) (collectively the "Agreements"), and the Manuals/Instructions constitute the entire agreement between the parties with respect to the subject matter, supersede any prior agreements or understandings, and except as provided within the Agreements may be amended only by written agreement signed by all parties. By signing below or by submitting transaction data, you affirm your understanding and acceptance of the terms and conditions of the Agreements, which are all incorporated herein by reference as if set forth verbatim at this point, and that you have received a complete copy of the Agreements. You acknowledge that: (a) no handwritten changes have been made to the printed text of the Agreements and (b) the parties may produce and rely on a copy or electronically stored image of the Agreements for all legal purposes as provided in the Agreements. Further, you expressly warrant that the information provided in the Application is true, accurate and complete, and that we may rely upon the same, without further investigation, for all purposes.

YOU REPRESENT THAT YOU CHOSE FOR YOURSELF ANY SERVICES, EQUIPMENT OR THIRD PARTY SELECTED IN CONNECTION WITH THE AGREEMENTS AND YOUR DECISION WAS SOLELY BASED ON YOUR OWN CRITERIA AND ANALYSIS. YOU NOW AND FOREVER EXPRESSLY DISCLAIM ANY RELIANCE UPON PROMISES OR REPRESENTATIONS, UNLESS SPECIFICALLY INCORPORATED HEREIN IN WRITING, MADE BY US, SALES REPRESENTATIVES OR OTHERS RESPECTING THE FUNCTIONALITY, OPERABILITY, COMPATIBILITY, ETC. OF THE EQUIPMENT OR SERVICES. YOU AGREE TO HOLD BAMS HARMLESS FOR ANY ACTIVITY ARISING OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT, ACTS AND/OR OMISSIONS OF ANY THIRD PARTY ENGAGED BY YOU, INCLUDING THE EMPLOYEES AND/OR AGENTS OF SAID THIRD PARTY.

APPLICABLE ONLY IF MERCHANT ACCEPTS AMERICAN EXPRESS: I authorize American Express Travel Related Services Company, Inc (American Express") to verify the information on this Application and to receive and exchange information about me, including, requesting reports from consumer reporting agencies. If I ask American Express whether or not a consumer report was requested, American Express will tell me, and if American Express received a report, American Express will give me the name and address of the agency that furnished it. I understand that upon American Express' approval of the business entity indicated above to accept the American Express Card, the Terms and Conditions for American Express' Card Acceptance ("Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express card for the purchase of goods and/or services, you agree to be bound by the Terms and Conditions.

APPLICABLE ONLY IF MERCHANT ACCEPTS DISCOVER: By signing below, I represent that the information I have provided on this application is complete and accurate. I hereby request that Discover Card acceptance be added to my Merchant Application. I understand that the Terms and Conditions for Discover Card Acceptance (Terms and Conditions) will be sent to the business indicated above upon approval by Discover Financial Services, Inc. for this business entity to accept the Discover Card. By accepting the Discover Card for the purchase of goods and/or services, I agree to be bound by the Terms and Conditions.

The undersigned further unconditionally authorizes BAMS or its agents to investigate the information and references contained herein, and to obtain additional information about the Merchant and Guarantors from credit bureaus and other lawful sources, including persons and companies named in this the Application. The undersigned further authorizes BAMS to provide to any governmental, administrative or regulatory entity, as well as any vendor or affiliate of BAMS, any information about Merchant, whether independently obtained by BAMS or provided by Merchant, that BAMS deems reasonably necessary or connected to the provision of services contemplated in the Agreements, upon request from such entity, vendor or affiliate or in compliance with applicable law, including the USA Patriot Act. If you are a franchisee or member of a corporate association, and you are receiving preferential pricing and/or other benefits as a result of your relationship with said entity, then upon the request of said entity, we may provide said entity any information about Merchant that BAMS deems reasonably necessary or connected to the provision of services contemplated in the Agreements.

IN WITNESS WHEREOF, the parties cause the Application and applicable Agreements to be executed by their duly authorized owners and/or officers:

 ("MERCHANT") (Business Name - print or type)

BA MERCHANT SERVICES, LLC. ("BAMS")

Signature: _____

Signature: _____

Name (print or type): _____

Name (print or type): _____

Title (print or type): _____

Title (print or type): _____

Date: _____

Date: _____

 ("MERCHANT") (Business Name - print or type)

BANK OF AMERICA, N.A. ("Bank")

Signature: _____

Signature: _____

Name (print or type): _____

Name (print or type): _____

Title (print or type): _____

Title: _____

Date: _____

Date: _____

By signing below, the individual(s) represents that he or she is an owner or senior officer of the Merchant, that he/she will benefit from the services and financial accommodations provided to the Merchant business, and that he/she consents to the terms of the attached and incorporated Agreements. In order to induce BAMS to enter into the Agreements, each Guarantor hereby personally guarantees Merchant's full performance under the Agreements, and amendments or extensions thereof, including all fee, cost, and chargeback liabilities and indemnity obligations whenever so incurred by Merchant. If there is more than one Guarantor, each such Guarantor shall be jointly and severally liable. BAMS may proceed against any Guarantor with or without joining or first proceeding against the Merchant entity or any other persons. Each Guarantor waives every kind of notice to which the undersigned might be entitled and agrees that the undersigned's liability shall not be affected by any act or omission of BAMS, or indulgence granted by BAMS, respecting Merchant. The undersigned further unconditionally authorizes BAMS or its agents to investigate the information and references contained herein, and to obtain additional information about the Guarantors from credit bureaus and other lawful sources, including persons and companies named in this the Application.

GUARANTOR

GUARANTOR

Signature: _____

Signature: _____

Name (print or type): _____

Name (print or type): _____

Date: _____

Date: _____

Please Affix Copy of Imprinted, Encoded, Voided Check

CARD PROCESSING AGREEMENT

This CARD PROCESSING AGREEMENT ("Agreement") is among the Merchant identified in the attached Application (which is incorporated herein and constitutes a part of this Agreement as if fully set forth herein), Bank of America, N.A., with its principal office located in Charlotte, North Carolina ("Bank") and BA Merchant Services, L.L.C., an Ohio Limited Liability Company headquartered in Louisville, Kentucky ("BAMS"). BAMS is engaged in the business of processing and transmitting electronic data of a financial, banking or economic nature, including but not limited to card transactions. Bank is a member of Visa U.S.A., Inc. ("Visa") and MasterCard International Inc. ("MasterCard"). In this Agreement, the words "you" and "your" mean the Merchant and the words "we," "our" and "us" unless the context clearly requires otherwise, refer collectively to Bank and BAMS. We may allocate our rights and obligations hereunder as between ourselves as we deem appropriate. As used in this Agreement, "the Application" means both the Application as attached to this Agreement when first executed by you and us and any supplemental versions of the Application that we and you agree upon when you open additional locations or when you otherwise request additional or different services. During the term of this Agreement and unless we otherwise specifically agree in writing, this will be a "requirements contract" which means we and you agree that we (directly or through others providing services on our behalf) will be the sole providers of all services necessary to authorize, process and settle all of your Visa and MasterCard transactions and all services specified in the Application for any other Cards specified therein, except for any Card transactions beyond the authority of a U.S. member of Visa and MasterCard.

1. Acceptance of Cards.

a) You may elect to accept:

- (i) A. all Debit MasterCard cards and Other MasterCard cards (you must maintain a policy that does not discriminate among customers seeking to make purchases with any MasterCard card),
B. Debit MasterCard cards (you must maintain a policy that does not discriminate among customers seeking to make purchases with a Debit MasterCard card),
C. All Other MasterCard cards (you must maintain a policy that does not discriminate among customers seeking to make purchases with another MasterCard card), or
D. No MasterCard cards;

and

- (ii) A. all Visa cards, including consumer credit and business cards and offline debit cards,
B. Visa consumer debit cards only (includes mandatory acceptance of all Visa consumer debit card products),
C. Visa consumer credit and business cards only (includes mandatory acceptance of all Visa credit and commercial products including Visa business check cards), or
D. No Visa cards.

The above-referenced acceptance options apply only to domestic transactions. The Association Rules require merchants accepting any Card product bearing a Card symbol to continue to accept both debit and credit card products issued by non-U.S. Members. You may selectively reject or decline authorization requests for account numbers that are within a product category not accepted by you. Should you submit a transaction outside of the product categories regularly accepted by you, there is no requirement for us to reject the transaction. If you elect limited acceptance as set forth above, any transaction submitted into interchange outside of the selected product category will be assessed the standard interchange reimbursement fee applicable to that product or any other applicable fee set forth on the application. Your initial election shall be made in your Application. If you wish to modify your election and we agree to said modification, then you shall provide us sixty (60) days advance notice of your intent to change said election in writing, and you shall be responsible for any Association charges assessed as a result of your limited acceptance and any and all costs incurred by us as a result of your election.

b) You must honor any valid and applicable Visa and MasterCard cards properly tendered for use, as well as any properly tendered Electron card, without imposing any special conditions not required by any rule or regulation adopted by an Association (collectively "Association Rules"). "Association" means Visa, MasterCard, any other Card Issuer of Cards you agree to accept as specified on the Application and, for Electron Cards, such term also includes Visa International. You may offer a "discount for cash" if you clearly disclose this as a discount from the standard price available for all other means of payment. In this Agreement, "Card" means a credit or off-line debit card bearing the service mark of Visa or MasterCard and a card issued by any of the other card issuers specified in the Application as being covered by this Agreement. Unless otherwise agreed in writing, "Card" does not include an "on-line" debit card, such as an Interlink or Maestro debit card that generally requires use of the holder's personal identification number. "Card" shall also mean all international point of sale payment cards bearing one of the Electron Program Marks and governed by the Visa International Operating Regulations. You must submit any Visa, MasterCard and other card transaction drafts and records to us no later than five (5) calendar days or three (3) banking days (whichever is earlier) and no later than two (2) business days for Electron Cards after you complete Card transactions (unless you are entitled to any special extension of these deadlines). **These are outside deadlines, and faster time frames are required to qualify for incentive programs.** Unless otherwise specifically provided in this Agreement or the applicable requirements of Visa or Visa International, all provisions of this Agreement applicable to Visa Cards also will apply to Electron Cards. Electron Card transactions are permitted only in face-to-face transactions when the Card and the Cardholder are present. You must process any Electron Card transactions through an electronic data capture terminal that obtains an electronic authorization response and prints a transaction receipt. You agree to check the valid date and expiration date of each Card presented. You have a zero "floor limit", which means no Card transaction, regardless of its dollar amount, may be processed without being authorized (except as otherwise provided on the applicable Schedules for EPS and QPS transactions). If you are approved to utilize batch authorization by us, you may obtain batch authorization for certain sales after such sales have occurred provided, however, that authorization for each transaction is obtained by end of the calendar day upon which such sale was initiated and that you do not present the batch by account number or BIN. Further, you explicitly agree that you will be responsible for any fines, fees, chargebacks, assessments, and declined or disputed transactions that may result from using a batch authorization process.

For all Card transactions submitted to us: (a) the transaction must represent obligations of the person to whom the Card has been issued and/or the authorized user (the "Cardholder") for the amounts in the transaction (including tax, but without any surcharge) and only for merchandise actually sold or rented or services actually rendered by you (except for any delayed delivery or advance deposit authorized by Association Rules and this Agreement) and must not involve any element of credit for any other purpose, (b) the transaction must represent a bona fide sale/rental of merchandise and/or services not previously submitted and may not represent a refinancing of any prior obligation, (c) the price charged for the transaction must not be subject to any dispute, setoff or counterclaim, (d) you must have no knowledge or notice of any fact, circumstances or defense which would indicate that the transaction was fraudulent or not authorized by the Cardholder or which would otherwise impair the validity or collectibility of the Cardholder's obligation or relieve the Cardholder from liability for the transaction, and (e) except as otherwise provided in the Rules, the transaction does not represent the refinancing of an existing obligation of the Cardholder (including any obligation otherwise owed to you by a Cardholder, or arising from the dishonor of a personal check). Unless we otherwise agree in writing, you may not accept Card transactions for services or products that will be delivered or provided more than thirty (30) days from the date you submit any portion of said transaction for settlement.

You may not accept MO/TO/IO transactions unless you have specifically informed us of the percent of MO/TO/IO transactions to be conducted and we have specifically authorized you to accept such transactions. Acceptance of such transactions without authorization from us will constitute a breach of this Agreement. If you are authorized to accept MO/TO/IO transactions, you must, in addition to the other provisions hereof, conduct such activity in accordance with the terms of this Agreement as well as all applicable Association Rules and requirements. You may not process transactions against your own, personal or business Cards or those of your employees, officers, spouses, etc. Transactions of this type can be considered "cash advances" and are not permissible under this Agreement or Visa or MasterCard Rules and regulations. You acknowledge that we may use an independent sales organization/member service provider ("ISO/MSP") operating under applicable Visa and MasterCard Rules and Regulations. ISO/MSP is an

independent contractor and not an agent of BAMS/Bank. ISO/MSP has no authority to execute the Agreement on our behalf or to alter the terms hereof without our prior written approval. Any alteration of the terms of this Agreement must be initiated and approved by us.

We may, upon receipt of verbal or written instructions from any Association to which we are providing access hereunder, immediately cease to provide to you, including your clients, access to such Association. We shall use reasonable efforts to promptly notify you of such interruption in Association access.

2. **Manuals/Instructions.** We will supply you with various manuals and instructions regarding chargebacks, terminal processing and other operational compliance matters (the "Manuals/Instructions"), and may from time to time otherwise advise you of requirements imposed by the Association Rules by providing you with relevant portions or summaries thereof of the rules, regulations, releases, interpretations and other requirements of Visa, MasterCard and any other issuers of Cards you intend to accept as specified in the Application. You agree to follow the procedures in the Manuals/Instructions in connection with each Card transaction and to comply with all requirements of the Association Rules. Unless the context clearly requires otherwise, references to this Agreement include the Manuals/Instructions and the Association Rule provisions. If there is any conflict between the terms of this Agreement and the Manuals/Instructions, the terms of this Agreement will govern, except to the extent the Manuals/Instructions specifically provides that a particular provision in it overrides any conflicting provision in this Agreement.

3. **Additional Cards.** Our sole responsibility for transactions involving Cards issued by American Express, Diners Club/Carte Blanche, Discover Financial Services, Inc. (the issuer of Discover Cards and certain other cards), and JCB (together with Visa and MasterCard "Card Issuer(s)") and any other Cards specified in the Application, will be to provide the services which we have agreed to provide, as specified in the Application.

Except to the extent the Application specifies that we will provide settlement services for any of these additional Card transactions, we will provide authorization and/or processing services only, and all settlement and chargeback obligations and similar financial responsibilities arising from your transactions involving Cards other than Visa and MasterCard will be governed exclusively by your agreement with the respective Card Issuer and you must not seek authorization for or submit for processing or settlement any transactions involving Cards other than Visa and MasterCard unless you have in effect a valid issuer agreement with the applicable Card Issuer, except to the extent we have agreed to provide settlement services with respect to your JCB, Diners Club/Carte Blanche or Discover Card transactions. You must notify us immediately upon termination of any issuer agreement. Upon such termination, we will have no further obligation to provide any services to you for transactions involving the Cards covered by the terminated issuer agreement (except to the extent we have agreed to provide settlement services with respect to your JCB, Diners Club/Carte Blanche or Discover Card transactions). We do not warrant or bear any responsibility for any Card Issuer or for its performance of any obligations to you. If any issuer agreement requires a Card Issuer's consent for us to perform the services contemplated by this Agreement, you are responsible for obtaining that consent.

If the Application indicates that we will provide settlement services with respect to your Diners Club/Carte Blanche Card transactions, you will not have a separate issuer agreement with such Card Issuer; instead, we will provide you with all specified services for such Card transactions solely pursuant to this Agreement (and any provisions from the Manuals/Instructions or any updates thereto). Unless we advise you otherwise, provisions that address special industries (other than the hospitality industry) and special incentive programs will not apply to JCB, Diners Club/Carte Blanche or Discover Card transactions. In addition, the following special provisions apply (notwithstanding any contrary provision in this Agreement) to your JCB or Diners Club/Carte Blanche Card transactions to be settled by us:

- a) For Diners Club/Carte Blanche: (i) you must retain original sales records and credit records for at least ninety (90) days after the transaction and must retain microfilm or legible copies of sales records and credit records for at least seven (7) years after the transaction; (ii) the contractual floor limit for Diners Club/Carte Blanche transactions will be \$0; (iii) you must not accept a Card embossed "for local use only" outside the territory in which it was issued.
- b) For JCB: (i) you must retain original sales drafts and credit vouchers for at least 120 days after the transaction and must retain microfilm or legible copies of sales drafts and credit vouchers for at least three (3) years after the transaction; (ii) the contractual floor limit for JCB Card transactions will be \$0; (iii) for purposes of your chargeback liability with respect to JCB Card transactions, an authorization obtained on a transaction does not override any chargeback reason which may apply to the item; (iv) if you process JCB Card transaction data electronically, your account number must be included in the JCB Card transaction data transmitted to us, in addition to the other information required to be included on each sales draft or credit voucher; (v) if you are a lodging merchant, JCB Cardholders must be allowed to cancel reservations at resort establishments until 4:00 p.m. on the scheduled arrival date; and (vi) by contracting for JCB settlement services, you authorize JCB to publish your name, address and telephone number in JCB solicitation materials.

4. **Age-Restricted Products.** If you are engaged in the sale of age restricted products such as alcoholic beverages, tobacco products, adult-content material or adult Web sites, gaming transactions, weapons and/or any other applicable age-restricted products or services, you must comply fully with all local, state and federal laws governing the distribution of age-related products. You certify herein that you will implement age verification procedures governing the sale of such products, including age verification of each customer against an official government records database before entering certain transactions into the credit card payment system. For face-to-face sales, you will require the signature of the cardholder. To verify legal age, you will also require the cardholder to present a valid, government-issued photo identification card in the same name and address as the cardholder. For sales made via mail, telephone and/or the Internet, you will (1) only deliver age-restricted products to the name and address listed as belonging to the cardholder, and (2) require, without exception, the signature of the cardholder, as well as presentation of a valid, government-issued photo identification card in the same name and address as the card holder to verify legal age upon delivery of the merchandise. Failure to abide by all applicable age verification laws may result in fines and/or loss of credit card merchant charge privileges, as well as termination of your account with us.

5. **Settlement of Card Transactions.** All credits to the bank account(s) you designate for us to debit and credit for Card transactions and related amounts (the "Settlement Account"), as well as any other payments to you, are provisional and are subject to our final audit and checking. We may debit or credit your Settlement Account for any deficiencies and overages or may deduct such amounts from settlement funds due to you. We may, within our sole discretion, delay your settlement payments for up to seven (7) days, which period will begin after the settlement payments were received by us. In this event, you acknowledge that we will, and you expressly authorize us to, delay your settlement payments for up to seven (7) days. This delay of your settlement funds does not preclude us from exercising our right to establish an escrow/security account or to suspend payments pursuant to Section 11 of this Agreement. The settlement payments will begin to be credited to your Settlement Account, less any monies owed us, on the next business day following expiration of this rolling delay period. This rolling delay of the settlement payments will be ongoing and continue as long as we are providing your processing services.

This Agreement is a contract whereby we are extending financial accommodations to you within the meaning of Section 365(c) of the Bankruptcy Code. We are not liable for any delays in receipt of funds or errors in debit and credit entries caused by unaffiliated third parties including but not limited to the Associations, a clearing house or your financial institution.

To the extent the Automated Clearing House (ACH) settlement process is used by us to effect debits or credits to your Settlement Account for the services elected by you on the Application, you hereby agree to be bound by the terms of the operating rules of the National Automated Clearing House Association, as are in effect from time to time. You hereby authorize us to initiate credit and debit entries and adjustments to your Settlement Account through the ACH settlement process and/or through direct instruction to (or such other arrangements as we deem appropriate with) the financial institution where your Settlement Account is maintained for amounts due to us under this Agreement and under any agreements with us or our affiliates for any related equipment and related services, as well as for any credit entries in error. You hereby authorize and direct the financial institution maintaining your Settlement Account to effect all such debits and credits to

your account initiated by us. This authority shall remain in effect until we provide written notice to the financial institution maintaining your Settlement Account that all monies due from you to us or our affiliates for any related equipment or services have been paid in full. For the duration of the Agreements, you shall be solely liable for all fees and charges assessed by your financial institution, including all overdraft and NSF charges, and you irrevocably release us and hold us harmless from the same fees and charges, regardless of cause.

6. Fees; Adjustments; Collection of Amounts Due From You. Our fees and other charges to you for the services and any supplies we provide will be calculated pursuant to this Section and the Application or any subsequent amendment to this Agreement. We will charge you a daily fee for the services to be provided by us to you under this Agreement as stated in this Section and the Application. The discount fees shown in the Application shall be calculated based on the gross amount of all Visa and MasterCard transactions submitted to us. The fees with respect to other Card transactions shall be a percentage of the gross amount of, or an inquiry fee for all such Card transactions. The inquiry fee will be assessed on every communication attempt from your point of sale device. Further, you shall pay, in accordance with this Agreement, all fees, cost escalations, assessments, tariffs, penalties, fines or other items that may be charged, assessed or imposed under this Agreement and/or the Association Rules. You acknowledge that the fees specified in the Application, as they may be updated or amended from time to time, are basic fees, the lowest discount fee you can achieve, and shall apply only to Card transactions which exactly meet certain processing criteria or "qualify" for basic fees according to the Association Rules. Criteria for determining qualification shall include, but not be limited to, whether a Card transaction is: (1) hand entered (the required data is not electronically captured by a point-of-sale device reading the information encoded in or on a Card); (2) voice authorized; (3) not authorized; (4) transmitted for processing within twenty-four (24) hours of the Card transaction; or (5) deemed "Non-Qualifying" by the Association Rules, such as, but not limited to, Card transactions involving foreign Cards or Cards issued as business, commercial, purchasing or government Cards. In the event that Card transactions submitted to us for processing only partially qualify or do not at all qualify for the qualified discount rate quoted in accordance with the Application and/or the Association Rules, you may be assessed and agree to pay an additional Non-Qualified or Mid-Qualified Surcharge as set forth on the Application. Also, if your average ticket size and/or annualized Bankcard volume falls below the amount shown in the Application for any three (3) month period, we may adjust our fees as we deem appropriate, and you will pay us the corresponding adjustments. Pursuant to Section 18, we may amend the fees and charges for services and supplies provided under this Agreement. You agree to pay any taxes imposed on the Services furnished to you on the transactions under and subject to this Agreement and such taxes shall be added to the charges owed to us and shall be deducted from the settlement monies due to you in accordance with the Agreement terms. Any taxes so imposed shall be exclusive of the taxes based on our net income. We may require you to pay us any extra or special charges imposed by third parties plus our reasonable handling charge for any supplies that we provide, and, if applicable, an overnight shipping charge. We also may require you to pay us any extra or special charges imposed by third parties, plus our handling charge, if any transactions processed or initiated hereunder are charged back, reversed or rejected (including chargeback fees and fines and ACH reject fees). We may charge you interest at our then current rate for any amounts that are not timely paid by you.

We may require you to pay any applicable excessive chargeback handling fees or fines imposed by the applicable Association due to your excessive chargeback volume and any other fees or fines imposed by the applicable Association for your acts or omissions. If your total Visa and MasterCard chargeback items in any line of business exceed 0.5% of your total Visa and MasterCard transactions in such line of business, you shall pay us, for all Visa and MasterCard chargebacks in excess of such 0.5% threshold during such month in your applicable line(s) of business, the excessive chargeback fee shown on the Application, in addition to the regular chargeback fees due to us and any applicable chargeback handling fees or fines imposed by the applicable Association. At our option, we may deduct any chargebacks, adjustments, fees, charges, obligations and other amounts you owe us pursuant to any provisions of this Agreement from any settlements due to you, or we may debit your Settlement Account for any such amounts you owe us, or we may invoice you, in which case you must pay us for the invoiced amounts within thirty (30) days of the date of our invoice or such shorter time as may be specified. Except for amounts we elect to collect by invoice, if there are insufficient funds available to be withheld or debited to pay amounts you owe, you must immediately reimburse us upon demand. You authorize us to debit your Settlement Account, or any other account we are otherwise authorized to debit, for any amounts due pursuant to this Agreement, or due to us or any of our affiliates for any related services.

If you believe that any adjustments should be made to your Settlement Account based on debits or credits we have made to your Settlement Account, you must notify us in writing within forty-five (45) days after the debit or credit in question was made. If you fail to notify us within such time period, we will not be responsible for investigating or effecting any required adjustments, absent our gross negligence or willful misconduct. If you notify us after such time period, we may, in our discretion, assist you in investigating whether any adjustments are appropriate and whether any amounts are due to or from other parties, but we will not have any liability to effect any such adjustments absent our gross negligence or willful misconduct. Any voluntary efforts by us to assist you in investigating such matters will not create any obligation to continue such investigation or assist with any investigation in response to any future notices of possible adjustments that are not timely submitted.

If we shall hold or maintain funds pursuant to the terms of this Agreement, including but not limited to Section 11, we shall charge you the then-current Investigative Fee per month for every month we retain said funds.

7. Chargebacks, Etc. We may charge back to you any transaction amount (commonly referred to as "chargeback") (and you will reimburse us for any related losses we incur) for transactions settled by us when it appears that the transaction is subject to charge back by the Card issuer or Cardholder in accordance with the Association Rules or applicable law.

8. Confidentiality. Unless you obtain consents from the applicable Associations, card issuers and Cardholders, you must not use, disclose, sell or disseminate any Cardholder information obtained in connection with a Card transaction (including the names, addresses and Card account numbers of Cardholders) for any purpose other than authorizing, completing and settling Card transactions and resolving any chargebacks, retrieval requests or similar issues involving Card transactions, except pursuant to a court or governmental agency request or order. You must use proper controls for secure storage of, and limit access to, and must render unreadable prior to discarding, all records containing Cardholder account numbers, Card imprints and Cardholder signatures. You must not retain or store magnetic stripe data after a transaction has been authorized. If you store any electronically-captured Cardholder signature you may reproduce such signature only upon our request. Additionally, you must comply and must ensure that any and all of its third parties engaged by you ("Merchant Provider(s)") comply with all Association Rules regarding the security of Cardholder data and must have proper security measures in place for the protection of Cardholder data. Any fees, fines or penalties from non-compliance shall be passed through to you. During any term of this Agreement, you shall immediately notify us of any suspected or confirmed loss or theft of any transaction information, including any loss or theft from Merchant Provider. In addition, you must provide and must ensure that Merchant Provider provides reasonable access to their respective locations to an Association or independent third party to verify your ability and the Merchant Provider's ability to prevent future security breaches in a manner consistent with the requirements of any current or future Association Rules. You shall indemnify us against any and all costs, expenses, damages and/or losses resulting from such breach of security, or loss or theft of transaction information. During the term of this Agreement and for two (2) years thereafter, you shall treat this Agreement, all BAMS Manuals/Instructions and any other information provided by us as confidential and shall not disclose to any third parties the terms of this Agreement, the provisions of the BAMS Manuals/Instructions or any other such information; provided, however, that these restrictions shall not apply to information: (a) rightfully obtained by you on a non-confidential basis from an entity or person other than us and our agents and representatives, which entity or person was not subject to a duty of confidentiality, (b) rightfully and independently known by you on a non-confidential basis prior to its disclosure by us or (c) generally available to the public other than through any disclosure by or fault of you or your agents or representatives. In accordance with state and federal law, as well as our applicable policies, we may participate in sharing relevant information among other financial institutions, regulatory authorities, law enforcement agencies and any other entities authorized by such law/policies.

9. Advertising. You must display Visa, MasterCard and any other applicable Card Issuer decals and program marks on promotional materials we furnish, and if applicable the Electron symbol, in equal prominence and as otherwise required by Association Rules. You acknowledge that you will not acquire any right, title or interest in or to any Visa, MasterCard or other applicable Card Issuer marks by virtue of this Agreement. Further, you must not indicate that Visa, MasterCard or any other Association endorse your goods or services and must not continue using such

materials after termination of this Agreement. Any use of a color reproduction, facsimile, replica or picture of an Association Card for advertising purposes other than media advertising is prohibited unless the reproduction, facsimile, replica or picture is proportionately larger or smaller in length and width by at least 10% of the standard dimensions for Association Cards.

10. Assignment. Subject to the following provisions, this Agreement is binding upon successors and assigns and inures to the benefit of the parties and their respective permitted successors and assigns. You may not assign or transfer this Agreement, by operation of law or otherwise, without our prior written consent. For purposes of this Agreement, any transfer of voting control of you or your parent shall be considered an assignment or transfer hereof. No assignee for the benefit of creditors, custodian, receiver, trustee in Bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of your assets or business, will have any right to continue, assume or assign this Agreement. We may assign or transfer this Agreement and our rights and obligations under this Agreement and we may delegate our duties under this Agreement, in whole or in part, to any third party, without obtaining your consent.

11. Terms; Default; Escrow/Security Account.

a) This Agreement is binding upon the earlier of (i) its execution by all parties as evidenced by signatures on the Application or (ii) the settlement by us of (A) any Card transaction submitted by you to us pursuant to this Agreement if you are a new customer that does not already have an agreement with us for Card transaction services or (B) any Card transaction submitted by you thirty (30) or more days after your receipt of this Agreement if you are one of our existing customers whose current agreement with us for Card transaction services is being replaced by this Agreement. Unless otherwise agreed by the parties, the initial term of the Agreement shall be three (3) years ("Initial Term"). The Agreement shall continue in full force and effect for successive one-year periods until terminated in writing, by notice given to the other party or parties not less than one-hundred-twenty (120) days prior to the then current expiration date, or until any earlier termination as provided below.

b) If any of the following events (each a "Default") occurs, we may terminate this Agreement immediately without notice and exercise all of our other rights and remedies under this Agreement and applicable law: (i) a material adverse change in your business, financial condition, business procedures, products or services, a sale of all or a substantial portion of your assets, or a change in control of your business (directly or indirectly); (ii) irregular Card sales, excessive chargebacks or any other circumstances which, in our discretion, may increase our potential exposure for your chargebacks or otherwise present a financial or security risk to us; or (iii) a default by you in any material respect in the performance or observance of any term, covenant, condition or agreement in this Agreement, or in any other agreement with us or any of our affiliates; (iv) any non-compliance by you with the terms of the Agreement or the Rules, or any reasonable belief by us, as applicable, that you may fail to comply with the terms of the Agreement, which failure would constitute a substantial risk to us or (v) you file a voluntary petition or complaint seeking relief under any federal or state Bankruptcy or other debt relief statute, an involuntary petition under any federal or state bankruptcy or other debt relief statute is filed against you, you generally become unable to pay your debts or trade obligations as they become due, or you make a general assignment for the benefit of creditors. If an order of relief is entered against you in a case commenced under Title 11 of the United States Code and you are given the right to assume or reject this Agreement, you must do so within sixty (60) days after the entry of such order of relief; if you fail to do so, we may terminate this Agreement immediately upon written notice to you.

c) If, during any six (6) month period (the "Measurement Period") the average size or the total amount of your bankcard transactions is more than 20% lower than the amount stated in the Application for (i) your average bankcard transaction size or (ii) one-half of your annual Bankcard volume, then we may terminate this Agreement by giving you at least ninety (90) days advance notice; any such notice must be sent to you within thirty (30) days after the end of the applicable Measurement Period.

d) The provisions of this Agreement that govern processing of Card sales and credits and settlement will continue to apply even after this Agreement is terminated, until all Card transactions are settled or resolved, and the provisions of Sections 5, 6, 7, 8, 10, 11, 12, 14, 15, 16 and 17 will survive any termination. Upon termination, all amounts payable to us will be due and payable in full without demand or other notice of any kind (all of which you agree to expressly waive) and you must immediately send us all the data relating to Card sales and credits made up to the date of termination. We will not be liable to you for any direct or consequential damages you may suffer as a result of the termination of this Agreement.

e) If this Agreement is terminated at any time other than upon expiration in accordance with Section 11(a), we will be entitled to recover, and you will pay on demand, any and all losses (including consequential damages, loss of profits, costs, expenses and liabilities) incurred by us in connection with termination. You will be responsible for all collection and legal fees and expenses we incur in the collection of any delinquent amounts you may owe us. You also acknowledge that we will incur costs and expenses to provide certain routine services following termination of the Agreement, similar to those provided during the term of this Agreement, including processing chargebacks relating to transactions that initially occurred prior to termination, providing monthly statements to you to report any such chargebacks or other adjustments and responding to telephone calls and other inquiries. Therefore, notwithstanding any terms or conditions to the contrary contained elsewhere, if this Agreement is terminated prior to expiration of any term, you agree to pay us an Early Deconversion Fee as set forth on the Application to cover our services post-termination services. Whether or not we charge a deconversion fee for our services, you will remain liable for chargebacks and other adjustments as provided in Section 11(f) and for other costs, damages, losses, expenses and liabilities incurred by us in connection with an early termination of this Agreement. You authorize us to debit your Settlement Account for, or deduct from any settlement funds otherwise owed to you, the deconversion fee, plus any and all losses (including costs, expenses and liabilities) incurred by us in connection with termination. If your settlement funds or the balance in your Settlement Account is insufficient to cover the deconversion fee and all such losses, you agree to pay us such amounts immediately on receipt of invoice.

f) After any termination of this Agreement, you will continue to bear total responsibility for any and all chargebacks, credits and adjustments resulting from transactions processed under this Agreement and all other amounts then due, or which later become due, to us under this Agreement or to either of us or any of our affiliates for any related equipment or related services (including any check guarantee or verification services). In connection with termination, we may require that an escrow/security account be established and maintained by you or on your behalf with us (or otherwise for our benefit) in an amount equal to:

i) our reasonable estimate of your dollar volume of incoming chargebacks for a nine (9) month period and your credits (for returns or otherwise) for a two (2) month period (which may be based on actual volume during the preceding 270 days) for chargebacks and 60 days for credits or 9 times your average monthly dollar volume of incoming chargebacks and 2 times your average monthly dollar volume of credits, as determined during a recent 12-month period or any shorter term of this Agreement) or such higher amount that we deem necessary and sufficient to cover our potential liability for chargebacks and credits; plus

ii) our reasonable estimate of all fees, charges, obligations and other amounts that may be owed to us under or in connection with this Agreement at or following termination (including all adjustments needed to reconcile any discrepancies, to reflect increased interchange fees because of failure to comply with intended rates or interchange fees, or otherwise), any and all fines assessed against you, any other fees and charges not collected by us prior to termination, and damages and other amounts due under Section 11(e) upon premature termination; plus

iii) our reasonable estimate of all uncollected fees, charges, obligations and other amounts (including damages and other amounts due upon premature termination) payable to either of us or to any of our affiliates for related equipment or related services.

g) Without exercising (and without waiving) our right to terminate this Agreement immediately without notice and exercise our rights and remedies, if any of the events in

Section 11(b) or 11(c) occur, we may, in our sole discretion, (i) require you to establish an escrow/security account with us during the term of this Agreement equal to the same amount as set forth in Section 11(f) and/or (ii) change processing or payment terms to suspend for any reasonable period of time required credits or other payments of any and all amounts now due or to become due to you pursuant to this Agreement upon three (3) days advance written notice to you, except that no prior notice will be required in cases of fraud or similar cause. Should processing or payment terms be changed for fraud or similar cause, we will notify you in writing within a reasonable time after effecting a suspension of credits or other payments, stating our reason for such suspension. If you have accepted and processed fraudulent transactions, we will not be obligated to pay you for such transactions and will have full recourse against you for all such aforementioned transactions. We shall also have the right to assess fees and recover all costs associated with the investigation of any suspected fraudulent activity. We shall have no liability to you for any losses, either direct or indirect, which you may suffer as a result of any such suspension of funds disbursement or failure to pay for transactions.

h) In connection with the termination of this Agreement or any other event entitling us to require an escrow/security account from you (and continuing thereafter until the escrow is released pursuant to Section 11(i)), we may use any funds otherwise due to you, or we may debit your Settlement Account for funds, to establish and maintain on your behalf (or restore/supplement) the balance of your funds in an escrow/security account containing your funds equal to the amount set forth in Section 11(f). Your escrow/security funds required by Section 11 may be held in a commingled escrow/security account for the escrow/security funds of our customers, without involvement by an independent escrow agent.

i) The requirement to maintain an escrow/security account will not limit our right to debit or withhold ongoing settlement payments as recoupment for chargebacks, potential chargebacks, adjustments, fees, charges, obligations and other amounts due hereunder. Your funds in the escrow/security account may be used to settle chargebacks, adjustments, fees, charges, obligations and other amounts described in Section 11(f), whether arising before, on or after termination and whether such obligations or other amounts are liquidated, fixed, contingent, matured or unmatured, whenever there are not sufficient settlement funds due to you to cover such chargebacks, adjustments, fees or other charges or obligations. We will refund any of your unused funds remaining in such escrow/security account to you generally no later than 280 days after termination of this Agreement, and if we receive a written request from you within thirty (30) days thereafter, we will provide you with an accounting of any of your funds debited or credited from or to such account. If your funds in the escrow/security account are not sufficient to cover the chargebacks, adjustments, fees, charges, obligations and other amounts due from you, or if your funds in such account have been released, you agree to promptly pay us such sums upon request.

j) You acknowledge that we may monitor your daily credit card transaction activity. You agree that we may upon reasonable grounds divert into an escrow/security account the disbursement of your funds and/or temporarily suspend processing under this Agreement. Reasonable grounds shall include, but not be limited to, the following: suspicious or unusual transaction activity; material variance in the nature of your business, type of product and/or service sold, average ticket size, monthly volume or swiped/keyed percentages, from such disclosures made by you in this Agreement; you do not authorize transactions; we receive excessive retrieval requests against your prior activity; excessive chargebacks are debited against your prior activity; you do not deliver product or render full service on or before the transaction date; or you key a foreign card transaction. If your funds are diverted by us or we have temporarily suspended processing under this Agreement, such diversion or suspension shall be for any reasonable period of time required by us to fully investigate your account activity and resolve, to our sole satisfaction, your subject transaction or activity. We shall maintain any funds diverted in a non-interest bearing account, which may be a commingled account. We shall have no liability for any losses, either direct or indirect, which you may attribute to any diversion of funds, or suspension of processing.

k) In the event you fail to establish or maintain any required escrow/security account, we may immediately terminate this Agreement and may exercise any other rights we have under this Agreement.

l) If this Agreement is terminated for any of the reasons specified as cause by the Association Rules, including, but not limited to, fraud, counterfeit paper, prohibited Card transactions, excessive chargebacks, highly suspect activity or non-payment of fees, you acknowledge that we may be required or may elect to report your business name and the names of your principals together with other identifying information to the MATCH (Membership Alert To Control High Risk Merchants) System and other security/credit alert systems. You expressly agree and consent to such reporting in the event this Agreement is so terminated and, furthermore, shall hold us harmless against any claims that arise as a result of such reporting.

12. Security Interest and Setoff Rights. To secure your obligations to us and our affiliates under this Agreement and any other related agreements described below, you irrevocably grant to us a lien against and security interest in any funds pertaining to the transactions contemplated by this Agreement now in our possession or that may come into our possession, whether due or to become due to you, together with the proceeds thereof. Any such funds may be commingled with other funds, and need not be maintained in a separate account. In addition to any rights granted under applicable law and not by way of limitation of such rights, you authorize us at any time and from time to time, without notice or demand (any such notice and demand being expressly waived) to set off, to appropriate and to apply any and all such funds against and on account of your obligations (including damages and other amounts due under Section 11(e) upon premature termination) under or in connection with this Agreement and any other agreement with us or any of our affiliates for any related equipment or related services, whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to execute and deliver to us such instruments and documents we may reasonably request to perfect and confirm the lien, security interest and right of setoff set forth in this Agreement.

13. Financial and Other Information. You and your undersigned official shall provide us upon request financial statements and other information about your business and principal owner(s) and officer(s) and your compliance with the terms of this Agreement. You and your undersigned official(s) and any Guarantor(s) authorize us to obtain from third parties financial and credit information about you, your undersigned official(s) and any Guarantor(s), respectively, in connection with our determination whether to accept this Agreement and our continuing evaluation of the financial and credit status of you, your undersigned official(s) and any Guarantor(s). Upon request, you will provide to us or our representatives reasonable access to your facilities and records for the purpose of performing any inspection and/or copying of your books and/or records we deem appropriate.

You will provide us with written notice of your intent to liquidate, substantially change the basic nature of your business, transfer or sell any substantial part (25% or more) of your total assets, or change the control or ownership of your business or of any other entity that controls your business, thirty (30) days prior to such liquidation, change, transfer or sale taking place. You will also notify us of any judgment, writ, warrant of attachment, execution or levy against any substantial part (valued at 25% or more) of your total assets not later than three (3) days after you obtain knowledge of any such judgment, writ, warrant of attachment, execution or levy.

14. Indemnification. You agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' fees and collection fees and expenses) resulting from any breach of any covenant or agreement or any misrepresentation by you under this Agreement, or arising out of your or your employees' negligence or willful misconduct in connection with your Card transactions, or otherwise arising from your provision of goods and services to Cardholders. Further, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' fees and collection fees and expenses) we may incur pursuant to any Association Rule resulting from your action or inaction, including but not limited to, all losses and expenses we may incur as a result of any action you institute against any Association or Card issuer following a chargeback. Further, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' fees and collection fees and expenses) resulting from our compliance with the verbal or written instructions of any Association. You agree to hold us harmless for any activity arising out of the negligence or

willful misconduct, acts and/or omissions of any third party engaged by you including the employees and/or agents of said third party.

We agree to indemnify and hold you harmless from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees and expenses) resulting from any breach of any covenant or agreement or any misrepresentation by us under this Agreement or arising out of our or our employees' gross negligence or willful misconduct in connection with this Agreement.

IN NO EVENT WILL WE BE RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH YOU MAY INCUR AS A RESULT OF ENTERING INTO OR RELYING UPON THIS AGREEMENT OR TERMINATION OF THIS AGREEMENT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING.

15. Performance of Duties. Each party will be excused from performance under this Agreement, except for any payment obligations, for any period and to the extent that it is prevented from performing, in whole or in part, as a result of delays caused by the other party or any act of God, war, civil disturbance, court order, labor dispute, third party nonperformance or other cause beyond its reasonable control, including failures, fluctuations, or nonavailability of electrical power, heat light air conditioning, or telecommunications equipment. Such nonperformance will not be a default or a ground for termination as long as reasonable means are taken to expeditiously remedy the problem causing such nonperformance. Notwithstanding the foregoing, during any period when our performance is hindered or precluded by reason of any of the aforesaid causes, your obligations to make payments hereunder shall be reduced on an equitable basis. If you elect not to implement the redundant configuration recommended by us for connectivity to us, we shall have no liability if the connectivity fails and you agree to indemnify and hold us harmless from any and all resulting losses, liabilities, damages and expenses resulting therefrom.

16. Governing Law; Miscellaneous.

a) This Agreement is governed by and will be construed in accordance with the laws of the State of North Carolina without regard to conflicts of law provisions, except that Section 17 shall be governed by the Federal Arbitration Act. If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable. In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it.

b) WE MAKE NO WARRANTIES TO YOU, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

17. Dispute Resolution and Arbitration. If the parties disagree as to any matter governed by this Agreement, the parties shall promptly consult with one another in an effort to resolve the disagreement. If such effort is unsuccessful, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator(s) shall have the right to render equitable, as well as other, awards and relief. The parties agree that the underlying agreement between the parties involves interstate commerce, and that, notwithstanding any choice of law provision in Section 16 of this Agreement, any arbitration hereunder shall be governed by the Federal Arbitration Act.

18. Amendments. We may change this Agreement, the Manuals/Instructions, or other operating procedures by giving you at least fifteen (15) days advance notice. However, in the event of changes in the Association Rules or due to security or risk control reasons, certain changes may become effective on shorter notice. In addition, we may from time to time notify you in writing or through other means of requirements that must be satisfied to qualify for various incentive programs. Any Card sales made by you after the effective date of such change will constitute consent to the new terms.

19. Notices. All notices hereunder (unless involving normal operational matters, including requirements for various incentive programs) must be in writing and shall be deemed given (a) if sent by mail, on the third business day after being mailed first-class mail to the specified address; (b) if sent by courier, when delivered; or (c) if sent by facsimile, when transmission is confirmed; in any case, if to you at the address appearing in the Application, and if to us to BA Merchant Services, LLC, 1231 Durrett Lane, Louisville, Kentucky, 40213, Attention: Customer Services, KY6-200-01-14, Fax: (502) 315-2090, or to such other address as we or you may have specified in a written notice to the other.

20. Certain Rights of Visa, MasterCard and Issuers of Other Cards. The parties acknowledge that the Visa and MasterCard Association Rules give Visa and MasterCard certain rights to investigate you and to require termination or modification of this Agreement with respect to transactions involving Visa and MasterCard Cards and the Visa and MasterCard systems. The parties also acknowledge that issuers of other Cards specified in the Application may have similar rights under their applicable Association Rules with respect to this Agreement's applicability to transactions involving such other Cards.

21. Systems Enhancements. If after the effective date of this Agreement, you request us to perform or provide any system enhancements, custom reports, special files, terminal applications or related service enhancements that are different from or in addition to the system, services and reports we agreed to provide to you as of the effective date of this Agreement (collectively "System Enhancements"), and we subsequently agree to provide you such System Enhancements, we will use reasonable efforts to provide such System Enhancements if you pay us the additional fees charged by us for such System Enhancements. Any subsequent changes that we must make in your Systems Enhancements to accommodate changes in applicable law or Card Association Rules will be at your expense.

22. Signature; Electronic Contracting; General Provisions. Your signature, a facsimile copy of your signature, a digitally stored image of your signature, or a unique digital signature on or captured within (as applicable) the Application attached to this Agreement, and, if applicable, a Debit Card Agreement and/or Equipment Agreement serves as the signature for this Agreement. The parties to this Agreement expressly acknowledge and agree that the parties to this Agreement may choose to contract via electronic means and that such contracts shall have the same force and effect as if conducted via conventional form. Notwithstanding anything to the contrary elsewhere in this Agreement or in other agreements you may have with us, it is expressly acknowledged and understood that all such electronic contracting is and shall be conducted pursuant to the provisions of Kentucky Revised Statutes §369.101 et seq. The parties to this Agreement also expressly acknowledge and agree that any duplicate original (whether digital, photographic, or otherwise) or electronic record of this Agreement shall have the same force and effect as the original form of this Agreement. You indicate, by signing the Application or by submitting sales data, your acceptance of and agreement to the terms and conditions of this Agreement. This Agreement will become effective only if and when we note our acceptance of it or process sales data that you submit. In addition, if, after the effective date of this Agreement, you elect to accept other card types, by submitting sales data for said card type (after approval by us and the card issuer, if applicable) you indicate your acceptance to the pricing and conditions associated with accepting said card types.

23. Telephone and Mail Orders; Electronic Commerce; Recurring Sales or Other Preauthorized Orders or Sales. If you accept and we authorize you to accept telephone or mail orders or electronic commerce transactions or recurring sales or other preauthorized orders or sales, you must comply with all requirements of the Association Rules regarding mail order, telephone order, electronic commerce, recurring sales and other preauthorized orders or sales, including but not limited to the rules contained in the Manuals and Instructions.

You acknowledge and agree that you will only submit Electronic Commerce Card transactions in U.S. Dollars that arise from a Cardholder's purchase over the Internet. You shall be responsible for obtaining any operational consents required of the Card Issuer to comply with procedures or practices contemplated by both you and us under this Agreement. If software is to be purchased by you, you shall be responsible for sublicensing fees and all other fees for software and the software program utilized by you that enables you to connect to and maintain communication between us, you and the Internet. You will, at all times, maintain in effect a Sublicense Agreement for any such software. You agree to use any such software and the software program properly and for the purposes for which it was intended.

DEBIT CARD AGREEMENT

This Agreement for the processing of Debit Card transactions is being entered into by and between BA Merchant Services, LLC. ("BAMS") and the Merchant identified in the attached Application ("You").

You wish to purchase from us and we wish to sell to you certain services (the "Services") necessary for the processing and settlement of your on-line debit card transactions submitted to the Debit Networks as specified by us, which are hereinafter referred to individually as a "Debit Network" and collectively as the "Debit Networks."

In entering into this Agreement and performing services for you with respect to on-line point of sale debit transactions, we will provide you with access and sponsorship or will cause you to be provided with access and sponsorship to the point of sale Debit Networks specified by us.

In consideration of the mutual covenants and agreements set forth herein and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, you and we agree as follows:

The text of the attached Application, and Card Processing Agreement, including any related Schedules, Amendments, Addenda, or Exhibits thereto attached, is hereby incorporated herein as if fully set forth at this point, but with the following modifications thereto:

- Sections 1(a), 3, 4, and 23 thereof are deleted in their entirety.
- For the purposes of this Debit Agreement, any and all references to "Bank," "we," "our" and "us," unless the context clearly requires otherwise, refer only to BAMS.
- Any and all references in the Card Processing Agreement to "Visa," "MasterCard," or "Associations" shall be changed to "Debit Networks", defined as debit networks specified by us, hereinafter referred to individually as a "Debit Network" and collectively as the "Debit Networks".
- Any and all references to "chargebacks" in the Card Processing Agreement shall also be construed as "chargebacks/adjustments" for the purposes of this Debit Agreement.
- Any and all references to "Card" or "Cards" in the Card Processing Agreement shall be changed to mean an "on-line" debit card, such as an Interlink or Maestro debit card that generally requires use of the holder's personal identification number.
- The first paragraph of Section 6 is hereby deleted and replaced with the following: "We shall charge the BAMS processing fee set forth on the attached Application for each debit transaction submitted to each Debit Network regardless of whether such transaction is approved, declined, or determined invalid. In addition, you will be assessed for each debit transaction a debit network fee, which is a blended fee based on the transaction fees assessed by the various Debit Networks. The current debit network fee set forth on the attached Application is based upon Debit Network fees currently in effect and upon certain sponsorship arrangements made by us with a Debit Network Sponsor (Sponsor) for your sponsorship needed to participate in each applicable Debit Network. You agree that should any Debit Network or Sponsor raise or lower its interchange fees or other charges, we shall have the right to adjust your fees to reflect the increase or decrease in such fees or charges. You agree to pay for all Debit Network or Sponsor setup fees, chargeback fees and adjustment fees including but not limited to late fees which may be imposed by Debit Networks and Sponsors. You agree to pay any taxes imposed on the Services furnished to you on the transactions under and subject to this Agreement and such taxes shall be added to the charges owed to us and shall be deducted from the settlement monies due to you in accordance with the Agreement terms. Any taxes so imposed shall be exclusive of the taxes based on our net income. We shall charge you the daily/monthly fees as set forth on the Application for the Services to be provided pursuant to this Agreement and such other fees as set forth thereon and such amounts will be payable as provided for in Section 5. Said fees may be collected hereunder in accordance with the terms and provisions of this Section and Section 5. We may require you to pay us any extra or special charges imposed by third parties plus our reasonable handling charge for any supplies that we provide, and, if applicable, an overnight shipping charge. We also may require you to pay us any extra or special charges imposed by third parties, plus our handling charge, if any transactions processed or initiated hereunder are charged back, reversed or rejected (including chargeback fees and fines and ACH reject fees). We may charge you interest at our then current rate for any amounts that are not timely paid by you."
- The following shall be added at the end of Section 8: "All BAMS Systems are and will remain the exclusive property of BAMS or licensors of such BAMS Systems, as applicable (except as may expressly provided to the contrary in this Agreement). BAMS System(s) shall be defined for the purposes of this Agreement as software and related documentation; software technical formats and specifications; hardware and related documentation, formats and specifications; technical and business information relating to inventions and present and future products and product lines; intellectual property; know-how; and any other information that is identified by BAMS as a BAMS System. You acknowledge that BAMS System(s) and the electronic funds transfer systems operated by the Debit Network or its provider and all technical and operational data, specifications, marketing materials and manuals, including the Debit Network Rules and any other information regarding such systems, are proprietary and unique and subject to the confidentiality provisions of this Agreement. You shall have no ownership interest or other rights in any BAMS System. Upon

This Equipment Agreement is being entered into by and between BA Merchant Services, LLC. ("BAMS") and the Merchant identified in the attached Application ("You").

This Agreement governs the sale of certain terminals, printers, and other equipment identified in the Application (the "Equipment"). All references to the Application in this Agreement mean both the Application attached to this Agreement when it is first executed by you and us and any supplemental versions of the Application mutually agreed upon when you open additional locations or when you otherwise request additional or different equipment. **THE EQUIPMENT IS NOT BEING SOLD TO YOU FOR HOME OR PERSONAL USE.** In this Agreement, Equipment refers to any electronic terminal, electronic printer or other electronic peripheral equipment identified on the Application.

In consideration of the mutual covenants and agreements set forth herein and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, you and we agree as follows:

The text of the attached Application, and Card Processing Agreement, including any related Schedules, Amendments, Addenda, or Exhibits thereto attached, is hereby incorporated herein as if fully set forth at this point, but with the following modifications thereto:

- Sections 1-7, 9, 12, 13, 20, 23 and 24 thereof are deleted in their entirety.
- For the purposes of this Equipment Agreement, any and all references to "Bank," "we," "our" and "us," unless the context clearly requires otherwise, refer only to BAMS.
- Section 11 of the Card Processing Agreement is hereby deleted and replaced with the following: "Effective Date and Term of Agreement/Default; Remedies."
 - This Agreement shall become effective on the earlier of the date this Agreement is fully executed by you and us or the first date you are deemed to have accepted any piece of Equipment covered by this Agreement. This Agreement will remain in effect until all of your obligations and all of our obligations under this Agreement have been satisfied. We will deliver the Equipment to the site or sites designated in the Application. You shall be deemed to have accepted each piece of Equipment upon delivery. The provisions of this Agreement shall survive the termination or expiration of the Card Processing Agreement, unless this Agreement terminates or expires before the Card Processing Agreement.
 - If any debit of your Settlement Account initiated by us for charges due hereunder is rejected when due, or if you otherwise fail to pay us any amounts due hereunder when due, or if you default in any material respect in the performance or observance of any obligation or provision in this Agreement, or if any other Default occurs under the Card Processing Agreement, any such event shall be a Default hereunder. In the event that you default in the payment or performance of any of your obligations under this Agreement, you shall immediately (1) forfeit all monies paid hereunder and (2) surrender peacefully and deliver up promptly all Equipment to us.

the expiration or termination of this Agreement you will return all copies of all manuals or other items relating to the BAMS System(s) which are in your possession and certify to BAMS in writing that you have retained no material relating to the BAMS System(s)."

8. Section 9 of the Card Processing Agreement is hereby deleted and replaced with the following: "You shall display the applicable Debit Network program marks on signs or decals at or near the point-of-sale devices to inform the public that certain debit cards will be honored by you and shall not indicate, directly or indirectly, that any Debit Network endorses any goods or services other than its own services. No right, title or interest in or to the program marks has been transferred or is being transferred in this Agreement, except the non-exclusive right to use the program marks as provided in this Agreement. You shall promptly cease all use of a program's marks upon termination of its participation in the applicable Debit Network."

9. The following shall be added at the end of Section 14: "Notwithstanding any other provisions in this Agreement, the following shall apply: you shall indemnify and save harmless BAMS and any third party providing services hereunder (Providers and Sponsors) and each Debit Network and said Debit Network's participants from any and all claims, liabilities or losses, including reasonable costs and attorney's fees, arising or resulting from you, or your employees, agents, or representatives (1) failure to abide by a requirement of this Agreement, (2) violation of any applicable law or regulation or order, (3) misuse of any protected mark of a Debit Network, (4) willful misconduct fraud or gross negligence in the use of the Services, (5) effecting transactions with the use of a lost stolen, counterfeit, or misused debit card in the use of the Services, or (6) conduct of your business.

If providing any of the Services to you hereunder violates, or in our reasonable opinion is likely to violate, any applicable laws or governmental regulations, or should we receive instructions from a governmental agency having authority over your business instructing us to cease providing any or all of the Services, or should you cease operations, then we may, upon oral notice to you, immediately cease providing the affected Services to you."

10. The following shall be added as Section 24: "Access to Debit Networks. You shall sign appropriate agreements with each applicable Debit Network and/or sponsoring institution and agree to comply with the rules, regulations, procedures and other membership duties and obligations of the Debit Networks (the "Debit Network Rules") as from time to time in effect, which are applicable to you. Any penalties incurred by you for failure to comply with Debit Network Rules will be your responsibility."

11. The following shall be added as Section 25: "Access and Use of Services.

a. **Access to the Service.** We shall make the Services selected by you operational and available to you upon a mutually agreed upon implementation plan. You agree to cooperate with us and provide us with all necessary information and assistance required for us to successfully make the Services operational and available to you.

b. **Availability of Terminals.** You shall take all reasonable steps necessary to ensure that all point-of-sale devices and PIN pads shall be available for use by the cardholders of each Debit Network to which you are being provided access as set forth on the Application hereto for the cardholders on-line debit card transactions and such devices and PIN pads shall function in a reliable manner.

c. **Use of Services.** You assume exclusive responsibility for the consequences of any oral or written instructions you may give to us, for your failure to properly access the Services in the manner prescribed by us, and for your failure to supply accurate input information. You shall be responsible for auditing, balancing, verifying and reconciling any out-of-balance condition, and for notifying us of any errors in the foregoing after receipt of the applicable report from us. You will reject all incorrect reports or output within two (2) Business Days after receipt of the reports or output.

You will be responsible for the quality and accuracy of all data provided to us. We may, at our option, return to you for correction before processing any data submitted by you which is incorrect, illegible or otherwise not in proper form. If you do not provide your data to us in accordance with our specified format and schedule, we will use reasonable efforts to reschedule and process the data as promptly as possible, but related expenses incurred by us will be charged to you.

Except as otherwise provided in this Agreement, you will be responsible for the supervision, management and control of your use of our Systems, including without limitation (1) implementing sufficient procedures to satisfy its requirements for the security and accuracy of the input you provide, and (2) implementing reasonable procedures to verify reports and other output from us within the time frames specified here in above. You agree that you will use the Services in accordance with such reasonable rules as may be established by us from time to time as set forth in any materials furnished by us to you.

You agree that, except as otherwise contemplated herein or otherwise permitted by us, you will use the Services only for your own internal and proper business purposes and will not resell, directly or indirectly, any of the Services or any portion thereof to any third party."

EQUIPMENT AGREEMENT

Upon the occurrence of any Default and in addition to the foregoing, we may at our option, effective immediately without notice, either: (i) terminate our future obligations under this Agreement and proceed in any lawful manner against you for collection of all charges that have accrued and are due and payable, in which case this Agreement shall terminate as soon as your obligations to us are satisfied or (ii) require the immediate payment of all remaining amounts due under this Agreement and be entitled to reimbursement for any costs of repossession and/or any amount necessary to restore the Equipment to the same condition in which it was delivered to you, ordinary wear and tear excepted. In either case, you shall also be responsible for court costs and reasonable attorney's fees incurred by or on behalf of us, as well as applicable shipping, repair and refurbishing costs."

4. The following shall be added as Section 26: "Equipment Options and Applicability of Agreement Terms.

a. **Equipment Options.** Whereas: Option 1: You desire to purchase certain Equipment directly from us in consideration of the payment of a purchase price by you to us; or

Whereas: Option 2: You desire to purchase certain Equipment through a person or persons other than us who have procured said Equipment from us, payment for which shall be made by you to said other person or persons.

b. **Applicability of Agreement Terms.** In the event of Option 1 above, you and we agree that all terms and conditions of this Agreement shall apply.

In the event of Option 2 above, you and we agree that the terms and conditions set forth in Sections 11(b), 27, 29, 31-33, and 38 of this Agreement shall not apply."

5. The following shall be added as Section 27: "Purchased Equipment; Supplies. We will sell to you, and you will buy from us the Equipment identified in the Application as being purchased by you (the "Purchased Equipment"), free and clear of all liens and encumbrances (subject to Section 7), (except that any "Software" (as defined in Section 8 below) will not be sold to you outright but instead will be provided to you pursuant to, and subject to the conditions of Section 8 hereof. We will also sell to you and you will buy from us the supplies identified in the Application as requested by you from time to time."

6. The following shall be added as Section 28: "Site Preparation. You will prepare the installation site or sites for the Equipment, including but not limited to the power supply circuits and phone lines, in conformance with the manufacturer's and our specifications and will make the site or sites available to us by the confirmed shipping date."

7. The following shall be added as Section 29: "Payment of Amounts Due for Equipment.

a. The purchase price specified in the Application for purchased equipment and supplies, if applicable, shall be due and payable upon execution of this Agreement. You will pay such purchase price to BAMS prior to shipping of the equipment and supplies. All such payments shall be made: (1) in a lump sum by check or by debit to the Settlement

Account through ACH or (2) in installments by debit to the Settlement Account through ACH (defined below) in each case, as specified on the Application. In the event you do not specify payment timing or method, payment shall be made in a lump sum via ACH debit to the Settlement Account. We will also provide you the supplies identified in the Application, as requested by you from time to time. You shall pay the purchase price for such supplies, including all applicable taxes prior to delivery of the supplies or at our option such amounts will be collected by invoice or by debits or deductions pursuant to this Section 4. You hereby authorize us to collect all amounts due from you under this Agreement by initiating our debit entries for such amounts to your account designated pursuant to the Card Processing Agreement to be debited and credited for amounts due from and to you under the Card Processing Agreement (the "Settlement Account") or by deducting (or causing Bank of America, N.A. to deduct) such amounts from settlement amounts due to you under the Card Processing Agreement. All authorizations and other provisions in your Card Processing Agreement regarding the debiting and crediting of your Settlement Account apply with equal force with respect to amounts due to or from you under this Agreement. This authority will remain in full force and effect until we have given written notice to your bank where your Settlement Account is maintained that all monies due from you under this Agreement have been paid in full.

If you shall make any payment hereunder by check and such check shall be returned for non-sufficient funds, or if you shall make any payment hereunder by debit to the Settlement Account and funds in the Settlement Account are inadequate, you agree to reimburse BAMS immediately for any account shortfall that occurs as a result thereof together with our then current fee for handling such shortfall. Should you fail to deposit sufficient funds to cover the shortfall in toto within forty eight (48) hours of notice of such shortfall, you shall then owe to and be charged by us a late charge of 15% of the amount past due. Any deposits made to the Settlement Account shall be applied first to late charges, then to processing charges and then to Equipment charges.

b. In addition, you shall pay, or reimburse us for, amounts equal to any applicable taxes or assessments, however designated, levied or based on such charges, or on this Agreement or the Equipment and related supplies or any services, use or activities hereunder.

c. As indicated in the Application, separate charges apply for Equipment supplies."

8. The following shall be added as Section 30: "Use of Equipment.

a. You shall cause the Equipment to be operated by competent and qualified personnel in accordance with any operating instructions furnished by us or the manufacturer and in connection with the services provided under your Card Processing Agreement. You shall not use the Equipment, or permit the Equipment to be used, in any manner or for any purpose for which the Equipment is not designed or reasonably suited.

b. You shall comply with all governmental laws, rules and regulations relating to the use of the Equipment. You are also responsible for obtaining all legally required permits for the Equipment.

c. After delivery of the equipment any loss, destruction, theft of or damage to the Equipment that occurs thereafter shall not relieve you from your obligation to pay the full purchase price payable hereunder.

d. You shall not move the Equipment from the installation location set forth in the Application for any reason or use whatsoever without our prior written consent.

e. Notwithstanding anything in this Agreement to the contrary, you shall be solely responsible for properly maintaining all Equipment and meeting all technical standards required by this Agreement. You shall at all times insure that all point-of-sale Equipment shall display, print and report your name, city, state and the transaction date on all transaction receipts, as penalties may be assessed against you for transactions that are inaccurately transcribed.

9. The following shall be added as Section 31: "Ownership & Protection of Equipment. During the period of time when any charges, taxes or fees for or on Equipment shall be due us, and until such time as all charges, taxes and fees due shall have been received by us, it is expressly understood and agreed by you that: (1) you shall not directly or indirectly create or permit to exist, and will promptly and at your own expense discharge, any lien, charge or encumbrance on the Equipment; (2) you shall not alter the Equipment in any manner whatsoever; (3) you shall maintain the Equipment at your expense in the same condition in which it was delivered to you, ordinary wear and tear excepted; and (4) in the event of any loss, theft, damage or destruction of the Equipment from any cause whatsoever, you shall notify us immediately of such condition and we, in our sole discretion, shall determine the extent of loss and the cost of repair and/or replacement, and you shall bear the entire risk and promptly pay the cost of such repair and/or replacement."

10. The following shall be added as Section 32: "Security Interest; Financing Statements. You hereby grant to us a security interest in all Purchased Equipment and the related Software to secure payment of the purchase price thereof in accordance with the Uniform Commercial Code."

11. The following shall be added as Section 33: "Software License. Anything in this Agreement to the contrary notwithstanding, we retain all ownership and copyright interest in and to all software, computer programs, related documentation, technology, know how and processes embodied in or provided in connection with the Equipment (collectively, "Software"), and you shall have only a nonexclusive license to use the Software in the operation of the Equipment. You shall not reverse engineer, disassemble or decompile the Software. You shall not give any third party access to the Software without our prior written consent. Your obligations under this Section 8 shall survive the termination of this Agreement."

12. The following shall be added as Section 34: "Limited Warranty for Equipment; Maintenance. Equipment provided to you by us hereunder shall be free from defects in material or workmanship at the initial date of shipment to you and, if covered by any applicable warranty, shall be repaired or replaced by us free of charge within thirty (30) days thereafter. We shall take appropriate steps, to the extent permitted, to assign to you any and all warranties provided by the manufacturer of the Purchased Equipment, but we shall not provide any warranty with respect to the Purchased Equipment.

Equipment provided to you by us hereunder shall conform to applicable specifications for the period of time specified in, and be covered by the warranty provided in, the written materials

accompanying each component of Equipment, copies of which materials will be provided to you upon delivery of the specified Equipment. The exact term, conditions and coverage of each warranty will vary for each component of Equipment in accordance with such written materials. The cost incurred by you, if any, to repair or replace Equipment will be determined by us based upon the specific provisions of the warranty applicable thereto as set forth in such written materials, our applicable repair and replacement policy and the date you request such repair or replacement relative to the initial date of shipment by us.

The warranty statement in the written materials provided to you with respect to the Equipment describes the following in explicit detail, but in general, such warranty shall be voided if there is: (1) alteration, installation, repair or maintenance of the Equipment performed by persons not authorized by us; (2) connection of any device to Equipment or peripherals not certified for use with the Equipment; (3) operation of the Equipment outside the published specifications; (4) negligence by you or any other person with respect to the Equipment; or (5) alteration of Equipment serial number(s).

The warranty statement in such written materials also describes the following in explicit detail, but in general, such warranty does not cover: (1) misuse, neglect or abuse of the Equipment; (2) labor involved in the removal/reinstallation of warranted Equipment or parts on site; (3) damage or malfunction as a result of acts of nature; or (4) operating supplies, including paper, ribbons, accessories and chargeable batteries.

You expressly understand and agree that, except as set forth above, we make no warranties whatsoever, express or implied, relative to the Equipment, including, without limitation, any warranties of merchantability or fitness for any particular purpose, and you hereby expressly waive and release us from any and all warranties with respect to the Equipment, other than those specifically set forth in this Agreement.

You further expressly understand and agree that our sole liability and your sole remedy, whether in contract, tort or otherwise, with respect to any Equipment provided to you under this Agreement shall be limited to the repair or replacement of defective or faulty Equipment in accordance with the terms of this Agreement, and we shall not be liable for indirect or consequential damages, or damages resulting from the loss of use, data or profits, arising out of or in connection with the use of, or the inability to use, the Equipment, and you hereby expressly releases us from any and all liability with respect to the Equipment, other than as expressly set forth above.

WE DISCLAIM ALL OTHER PROMISES, REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT AND THE SOFTWARE, INCLUDING AS TO ITS CONDITION, ITS CONFORMITY TO ANY REPRESENTATIONS OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, AND ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE."

13. The following shall be added as Section 35: "Return, Repair & Replacement of Equipment. We will assist you in obtaining repairs and replacements of any Equipment, which is malfunctioning and which cannot be made to work properly via telephone assistance provided to you by our technical support staff.

The decision to repair or replace Equipment shall be at our sole discretion, and such repair or replacement shall be made by a facility designated by us. We reserve the right to charge for or to refuse repairs or replacements of Equipment more than thirty (30) days after the initial date of shipment to you or which is not procured through us.

In the event that we have approved repair or replacement of specific Equipment, you shall be solely responsible for properly packaging and promptly returning the defective Equipment to our designated facility, freight and insurance prepaid. In the event replacement Equipment is sent to you and you in turn fail or refuse to return the defective Equipment within thirty (30) days thereafter, we shall charge the Settlement Account for the reasonable fair market value of such replacement Equipment, as determined at our sole discretion. If you shall then afterward properly return said defective Equipment, we, upon verification of receipt, shall credit you any amount so charged, less a handling fee for your failure to return the defective Equipment in a timely manner.

You shall be liable and shall pay for all non-warranty repairs, as well as all return shipping and handling fees. In the event of a valid warranty claim, you shall be responsible for the cost of returning defective Equipment to our designated facility as prescribed in this Agreement, plus all repair and replacement costs, unless such return is made within thirty (30) days of the initial shipment of such Equipment to you by us, in which case, your shall be responsible only for such return costs."

14. The following shall be added as Section 36: "Limitation on Liability for Equipment. Our liability arising out of or in any way connected with this Agreement shall not exceed the purchase price paid to us for the particular Equipment involved. In no event shall we be liable for any indirect, incidental, special or consequential damages. The remedies available to you under this Agreement will be your sole and exclusive remedies.

You warrant that you have chosen the Equipment provided under this Agreement based on your own analysis and evaluation and expressly disclaim any reliance upon statements or representations by us or others."

15. The following shall be added as Section 37: "Indemnification for Equipment. You shall indemnify and hold us harmless from and against any and all losses, liabilities, damages and expenses (including attorneys' fees) resulting from (a) the purchase, delivery, installation, acceptance, rejection, ownership, leasing, possession, use, operation, condition, liens against, or return of the Equipment or (b) any breach by you of any of your obligations hereunder, except to the extent any losses, liabilities, damages and expenses result from our gross negligence or willful misconduct. This indemnity shall survive the termination of this Agreement.

You agree to indemnify and hold us harmless from any and all liability for any claims, actions, proceedings, expenses, damages or liabilities, including attorney's fees, arising as a result of your selection or use of the Equipment provided under this Agreement."

16. The following shall be added as Section 38: "Sales Taxes, Installation & De-installation, Etc. You agree to pay any sales taxes imposed on the transactions contemplated by this Agreement, as well as any costs associated with the installation and de-installation of the Equipment, during the term of this Agreement and authorize us, or our assigns, to increase the amount of your preauthorized payment to reflect any and all increases in all applicable taxes, or other taxes imposed on the transactions, contemplated by this Agreement."