

**CARDSERVICE INTERNATIONAL
INTERNET MERCHANT AGREEMENT
#101200**

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INTERNET MERCHANT AGREEMENT

This Agreement ("Agreement") is entered into by and between you ("Merchant"), the Member FDIC Insured Bank identified in the Internet Merchant Application and Agreement ("Bank"), represented by its Registered Service Provider, Cardservice International, Inc. ("Cardservice International"), an Independent Sales Organization and Merchant Services Provider for Bank. The guarantor(s) to this Agreement is also a party as a continuing guarantor(s) pursuant to paragraph 7.20. To the maximum degree permitted by law and by MasterCard International, Inc. ("MasterCard") and Visa U.S.A., Inc. ("VISA") rules and regulations, it is the intention of the parties that the rights of Bank set forth in this Agreement or arising from this Agreement, may be exercised by Cardservice International. Within the context of this Agreement and to the full extent permitted by law and by MasterCard and VISA rules and regulations, the rights granted to Cardservice International shall also be for the benefit of any company affiliated with Cardservice International to the extent such affiliate may have or may have had a prior relationship with Merchant concerning or related to credit card processing. Merchant, Cardservice International and Bank make this Agreement in consideration of the mutual covenants set forth herein.

This Agreement shall not be effective until the Internet Merchant Application, which incorporates this Agreement by reference, is approved by Bank. If Merchant reasonably anticipates that it will have sales volume in excess of \$10,000 per month in combined MasterCard and VISA transactions, Merchant, at the request of Bank and Cardservice International, shall submit its current financial statement with this Agreement. Merchant's financial condition shall be one of the factors on which acceptance of this Agreement shall be conditioned. Merchant acknowledges that this Agreement is premised upon Merchant having a floor limit of ZERO dollars. By entering into this Agreement, Merchant agrees to comply with and be subject to, all MasterCard and VISA rules and regulations as they may exist from time to time, including, but not limited to, chargeback procedures and the resolution of any disputes relating thereto. Merchant's agreement to be so bound is made without Merchant having seen or read the rules and regulations. Merchant acknowledges that the sole responsibility for obtaining these rules and regulations and their updates is with Merchant.

Any violation of MasterCard or VISA rules and regulations by Merchant shall constitute a breach of this Agreement and may, at the option of Bank and Cardservice International, be grounds for terminating this Agreement.

ARTICLE 1 – GENERAL RULES AND REGULATIONS

DEFINITIONS

Account Number – A unique sequence of numbers assigned to a cardholder account that identifies the issuer and type of financial transaction card.

Association Bank – A licensed association member that acquires the data relating to a transaction from the card acceptor or merchant and submits that data into interchange, either directly or indirectly.

Authorization – The process used by card issuers to approve or decline a transaction request (this only validates this transaction, it does not guarantee the sale).

Automated Clearing House (ACH) – One of the groups of processing institutions that have networked together to exchange (clear and settle) electronic debit transactions.

Average Ticket – A predetermined dollar amount that the merchant can process on a per-sale basis.

Batch – A set of records within the merchant's closing transmission through the e-commerce Web site.

Card Issuer – The financial institution that issues a credit card.

Cardholder – The customer to whom a card has been issued or the individual authorized to use the card.

Monthly Volume – A predetermined dollar amount that the merchant can process through an e-commerce Web site.

1.01 HONORING CARDS

Merchant shall honor, in accordance with the terms and conditions of this Agreement and in accordance with all MasterCard and VISA rules and regulations in existence at the time of the transaction, without discrimination, all MasterCard and VISA credit cards ("Cards") when properly presented as payment by the Internet Merchant's customers ("Cardholder") in connection with bona fide, legal transactions. If Merchant's Web site does not transact business with the general public, e.g., the Web site allows transactions only from registered members, Merchant shall be deemed to have complied with this non-discrimination rule if it honors all valid Cards of Cardholders who have purchasing privileges or memberships with Merchant.

Merchant shall not establish minimum or maximum transaction amounts.

1.02 ADVERTISING

Merchant shall display any advertising or promotional messages provided by Bank and Cardservice International on the Merchant's Web site. This material will be designed to inform online shoppers that Cards will be honored for payment over the Internet.

Merchant shall not display or use advertising or promotional materials which suggest, implicitly or explicitly, that Merchant only honors Cards issued by Bank.

Merchant shall have the right to use or display the proprietary names and symbols associated with Cards on their Web site only while this Agreement is in effect or until Merchant is notified by Bank, Cardservice International, MasterCard or VISA to stop such usage.

Merchant shall only use the proprietary names and symbols associated with Cards to indicate that Cards are accepted for payment online and shall not indicate, directly or indirectly, that Bank and Cardservice International, MasterCard or VISA endorses Merchant's products or services.

1.03 TRANSACTION EXAMINATION AND CARD RECOVERY

Before shipping any goods ordered, Merchant shall:

- (a) Review status reports to verify the positive authorization of all payment types and appropriate response through AVS screening parameters.
- (b) Recognize that obtaining authorization shall not, by itself, satisfy Merchant's obligation to exercise due diligence. Neither shall authorization constitute a waiver by Bank of any other procedures required of Merchant by this Agreement or any MasterCard or VISA rules or regulation. Authorization shall not validate a transaction which would otherwise be invalid.

Merchant shall remain fully liable for any chargeback and fees related to an invalid transaction, whether or not prior authorization was obtained.

1.04 NON-IMPRINT TRANSACTIONS

Internet transactions are non-imprint transactions. These transactions may be conducted on the Internet by the customer or, in the case of Virtual LinkPoint, by the Merchant.

In any non-imprint transaction, as a material consideration for Bank and Cardservice International entering into this Agreement, Merchant acts solely at its own risk, and waives the right to dispute any chargeback arising from a failure to produce an imprinted draft to Bank and Cardservice International. Merchant further assumes all risks attendant to such non-imprint Internet transactions.

1.05 RELEASE OF CARDHOLDER ACCOUNT INFORMATION

Unless required by law, Merchant shall not, under any circumstances, sell, purchase, provide, or otherwise disclose Cardholder's account information or other Cardholder personal information to anyone except Issuer or Bank and Cardservice International.

1.06 PURGED TRANSACTIONS

Merchant acknowledges that batches of transactions that are not closed and transmitted within forty-five (45) days shall be automatically purged and erased from the processing system, and are not recoverable. Merchant releases Bank and Cardservice International from any loss they may sustain as a result of such purging and erasure and agrees to indemnify each of them for any losses, including attorneys' fees and costs, that they may sustain from any source because of this.

1.07 MONTHLY VOLUME AND AVERAGE TICKET

Merchant represents that the estimated monthly Card sales volume and average ticket amount appearing on the Internet Merchant Application is a reasonable estimate. Merchant acknowledges that any monthly volume in excess of that estimated by Merchant will cause Cardservice International to review Merchant's file and that this review may result in delay in transmission of funds and possible interruption or termination of service.

ARTICLE 2 – REPRESENTMENT, PAYMENT AND CHARGEBACK

FEES

Chargeback, Credit or Debit, or Representment – \$15.00 each

Documentation Retrieval Request – \$10.00 each

DEFINITIONS

Chargeback – A procedure in which a disputed transaction is returned to the Merchant by the card-issuing bank (via the merchant's bankcard processor) for possible resolution.

Credit Slip (Draft or Voucher) – A record of a return or refund of a transaction presented by the Merchant to the Cardholder and Merchant's bankcard processor.

Representation – A procedure in which a disputed transaction is returned to the card-issuing bank.

Retrieval Request – A request made by a Card Issuer to a Merchant (via the bankcard processor) for verification of the details of the transaction when there is a question about it.

2.01 TRANSMISSION OF DATA

Merchant shall transmit all sales data and credit data to Bank and Cardservice International by means of magnetic tape or electronic data. "Sales data" refers to information transmitted by Merchant which is combined in a sales draft or the electronic or magnetic tape record that is the equivalent of such a sales draft. "Credit data" refers to the information transmitted by Merchant combined in a credit draft or the electronic or magnetic tape record that is the equivalent of such a credit draft. All such data ("Transaction Records") transmitted shall be in a media form and format approved in advance by Bank and Cardservice International and shall be pre-sorted and organized according to Bank and Cardservice International's instructions. It shall include all information which appears on the sales or credit draft. All references in this Agreement to "sales drafts," "credit drafts," "sales data," or "credit data" shall include, as applicable, Transaction Records transmitted electronically or on magnetic tape, or in original format.

2.02 ACCEPTANCE AND DISCOUNT

Subject to Merchant not being in default of this Agreement and subject to Bank's chargeback rights, Bank agrees to accept valid Transaction Records from Merchant during the term of this Agreement and to pay Merchant the total amount represented by the Transaction Records, less any applicable discount fees and other charges agreed to by the parties and all setoff rights Bank may have. Any payment made by Bank to Merchant shall not be final but shall be subject to subsequent review and verification by Bank. Upon thirty (30) days written notice to Merchant, Bank and Cardservice International retain the right to change the fees set forth in this Agreement.

2.03 ENDORSEMENT

Merchant shall endorse any Transaction Record it presents to Bank and Cardservice International. If Merchant fails to do so, Merchant shall be deemed to have endorsed any Transaction Record it presents to Bank and Cardservice International in favor of Bank and Cardservice International and Merchant hereby appoints Bank and Cardservice International, acting either jointly or alone, as its attorney in fact to supply such endorsement on Merchant's behalf.

2.04 CHARGEBACK

After acceptance by Bank and Cardservice International, Merchant shall nevertheless repay Bank the amount represented by the Transaction Record, plus any applicable chargeback or related fee, if Bank has been charged back by another financial institution or if any one or more of the following circumstances exist:

- (a) The Transaction Record or any material or information on a sales or credit draft (such as, by way of example only, the account number, expiration date of the Card, Merchant description, transaction description or notation of prior authorization for the transaction amount or date) is illegible, incomplete or otherwise not discernible, is not endorsed or is not delivered to Bank and Cardservice International within the required time limits;
- (b) The Cardholder account number was declined or was not authorized on the transaction date and Merchant failed to reject the transaction;

- (c) The Internet order does not contain information on the Card that was valid, effective and unexpired on the transaction date;
- (d) The transaction was one for which prior credit authorization was required and prior credit authorization was not obtained or a valid authorization number is not correctly and legibly included on the Transaction Record;
- (e) The Transaction Record is a duplicate of an item previously paid;
- (f) The Cardholder disputes the execution of the underlying data contained in the Transaction Record, the sale, delivery, quality or performance of the goods or services purchased, or alleges that a credit adjustment was requested and refused or that a credit adjustment was issued by Merchant but not posted to Cardholder's account;
- (g) The price of the goods or service shown on the Transaction Record differs from the amount shown on the copy of the sales draft or the receipt delivered to the Cardholder at the time of the transaction;
- (h) Bank and Cardservice International reasonably determine that Merchant has violated any term, condition, covenant, warranty or other provision of this Agreement in connection with the Transaction Record or the transaction to which it relates;
- (i) Bank and Cardservice International reasonably determine that the Transaction Record is fraudulent or that the related transaction is not a bona fide transaction in Merchant's ordinary course of business, or is subject to any claim of illegality, cancellation, rescission, avoidance, or offset for any reason whatsoever, including without limitation, negligence, fraud or dishonesty on the part of Merchant or Merchant's agents or employees;
- (j) The Transaction Record arises from a mail or telephone or Internet order transaction that the Cardholder disputes entering into or authorizing, or that involves an account number that never existed or that has expired and has not been renewed;
- (k) Merchant fails to provide Bank and Cardservice International with any sales draft or credit draft in accordance with this Agreement;
- (l) Multiple authorization attempts were made by Merchant for a single transaction;
- (m) Merchant has divided a single transaction, in violation of MasterCard and VISA regulations or of this Agreement; or
- (n) The Transaction Record is otherwise subject to chargeback by the Card Issuer or Cardholder in accordance with the Associations' MasterCard/VISA rules or applicable law.

2.05 CHARGEBACK AND SECURITY INTEREST

Merchant covenants, agrees and acknowledges that, simultaneously with each purchase by Cardservice International, or Bank with respect to Bankcard transactions hereunder of Debt, a contingent and unmatured claim for chargeback accrues against Merchant in favor of Cardservice International and Bank for the amount that Cardservice International and/or Bank is required, or has the right, to pay to or repurchase for MasterCard or VISA with respect to any fees, discounts, customer credits and adjustments, charges, fines, assessments, penalties or other items which may be charged back to Merchant by Cardservice International and/or Bank, and that all settlements or credits given or payment made by Cardservice International and/or Bank in connection with such purchases are provisional, and subject to revocation, chargeback or refund, subject to the other terms of this Agreement, the rules and regulations of MasterCard or VISA, and

their Operating Procedures. The right of Merchant to receive any amounts due or to become due to it from Cardservice International and/or Bank is expressly subject and subordinate to the chargeback, setoff, lien and security interest rights of Cardservice International and Bank without regard to whether such chargeback, setoff, lien and security interest rights are being applied to claims that are liquidated, unliquidated, fixed, contingent, matured or unmatured.

2.06 CHARGEBACK AND DOCUMENTATION RETRIEVAL FEE

Merchant shall pay Bank a \$15.00 fee for each chargeback or credit. Such fee shall be increased to \$25.00 any time that chargebacks are classified as "excessive" as defined in paragraph 2.09 of this Agreement. Merchant shall pay a \$10.00 fee for each Documentation Retrieval Request. The amount of these fees are subject to change by Bank and Cardservice International upon Bank and Cardservice International giving Merchant thirty (30) days notice of any change.

2.07 WITHHOLDING

If Bank reasonably believes that any of the circumstances listed in paragraph 2.04 exists or are likely to exist with respect to any Transaction Record which Bank has accepted and forwarded to Cardholder's issuing bank for payment, Bank may withhold from payments due Merchant under this Agreement an amount equal to the Transaction Record less any discount until such time that:

- (a) Bank is itself charged back by the issuing bank for the transaction. In such event Bank shall retain the funds pursuant to the chargeback procedure; or
- (b) The period of time by which Cardholder must dispute the Transaction Record and the issuing bank exercise its chargeback rights against Bank has expired; or
- (c) Bank otherwise determines to their exclusive satisfaction that a chargeback on the Transaction Record will not occur.

Upon termination of this Agreement, Bank/Cardservice International may withhold payment to Merchant for such period of time reasonably determined by Bank and Cardservice International as necessary to establish a reserve to cover any chargebacks, credit drafts and uncollected discounts or fees, including, but not limited to, costs for accounting, investigation and account management, that may result from transactions previously processed and appearing after the termination date.

2.08 DISPUTES WITH CARDHOLDER

All disputes between Merchant and any Cardholder relating to any Card transaction shall be settled between Merchant and such Cardholder. Merchant shall, in accordance with paragraph 7.12, indemnify Bank, Cardservice International, MasterCard and VISA from any claim or suit brought by Cardholder relating to any transaction with Merchant.

2.09 EXCESSIVE CHARGEBACKS AND RETRIEVAL REQUESTS

Merchant agrees that if Bank and Cardservice International are presented, during any monthly period, with (a) chargebacks relating to Merchant's transactions processed by Bank in excess of one percent (1%) of the average monthly dollar amount of such transactions or (b) Documentation Retrieval Requests in excess of three percent (3%) of the total number of transactions processed, then such chargebacks or retrieval requests shall be conclusively deemed to be excessive under applicable MasterCard and VISA regulations. Bank and Cardservice International may thereupon terminate this Agreement or take such other action as may be authorized herein or by applicable MasterCard or VISA regulations. The percentage figure in this paragraph shall not be deemed to be, nor shall be, a limitation of Bank's rights to establish a reserve pursuant to the terms of this Agreement. Merchant agrees that the amount or extent of any such reserve shall be based on Bank and Cardservice International's reasonable estimation of the need for it, in light of circumstances known to them at the time.

ARTICLE 3 – TERMINATION, MODIFICATION AND COMPLIANCE WITH LAW

3.01 COMPLIANCE WITH LAW

Merchant shall comply with all laws, ordinances and regulations applicable to Merchant, Merchant's business and any Card transaction, including without limitation all state and federal consumer credit and consumer protection statutes and regulations. Neither Bank nor Cardservice International shall have any obligation to notify or advise Merchant of the existence of such laws or changes in such laws. Merchant warrants that it has the right to sell the products it sells and to use the trade names it uses.

3.02 MODIFICATION REQUIRED BY LAW

This Agreement is subject to such modifications, changes and/or additions as may be required, or determined by Bank and Cardservice International, by reason of any state or federal statute, judicial decision, MasterCard or VISA rules or regulations, or the regulation or ruling of any federal agency having jurisdiction over Bank and Cardservice International or Merchant. Such modifications, changes and additions may be made unilaterally by Bank and Cardservice International, shall be in writing and shall be effective immediately upon dispatch by Bank and Cardservice International.

3.03 REFUSAL OR REVOCATION OF CREDIT AND REPAYMENT BY MERCHANT

Without derogating any of its other rights, Bank may refuse to accept any online order or revoke its prior acceptance thereof in any one or more of the following circumstances:

- (a) The transaction giving rise to the online order was not made in compliance with all terms and conditions of this Agreement, as well as all applicable laws, rules or regulations; or
- (b) The Cardholder disputes his or her liability to Bank and Cardservice International or other issuer for any reason including, but not limited to, those chargeback rights enumerated in MasterCard and VISA operating regulations in effect from time to time; or
- (c) The transaction giving rise to the online order was not a bona fide transaction directly between Merchant and Cardholder. Merchant shall not accept any transaction on behalf of any other person or persons, or any other business; or

(d) Merchant has processed transactions accumulated prior to the issuance of a Merchant Number.

If such refusal or revocation by Bank occurs, Merchant shall, in addition to any penalties and fees, immediately repay Bank the full amount credited by Bank to Merchant's account on the basis of such transaction(s).

3.04 TERMINATION

The term of this Agreement shall be six (6) months unless otherwise provided for herein. Notwithstanding this six (6) month term, and any renewals of that term as provided for in paragraph 3.05 of this Agreement, Merchant may terminate this Agreement by giving thirty (30) days written notice to Bank and Cardservice International and concurrently with said notice, paying Cardservice International \$300.00 as an early cancellation fee. Furthermore, if this Agreement is terminated because of Merchant's breach of any of its obligations, such termination shall also be deemed an early cancellation and will require the Merchant to pay to Cardservice International the early cancellation fee of \$300.00. Merchant and Cardservice International mutually agree that said \$300.00 is a reasonable estimate of the costs and expenses Cardservice International will incur as a result of any early cancellation of this Agreement by Merchant.

For a period of six (6) months from the effective date of this Agreement, Cardservice International will not increase the initial discount rate offered to Merchant except as that rate is affected by any increased charges to Cardservice International in Interchange, Assessments and Communication costs from MasterCard, VISA and communications suppliers, or any other fees beyond Cardservice International's control. This rate guarantee is void, if Merchant has a higher than allowable percentage of keyed transactions, retrievals or chargebacks or if this Agreement is in a renewal period.

Notwithstanding the six (6) month term, Bank and Cardservice International may terminate this Agreement, without cause, upon thirty (30) days prior written notice to Merchant.

Bank and Cardservice International may terminate this Agreement immediately for cause if any of the following occur:

- (a) If Merchant is or becomes bankrupt or is otherwise unable to pay its debts as they become due; or
- (b) If Merchant violates any term, condition, covenant or warranty of this Agreement; or
- (c) If Merchant is identified on the MATCH File. MERCHANT ACKNOWLEDGES THAT SUCH IDENTIFICATION IS GROUNDS FOR IMMEDIATE TERMINATION OF THIS AGREEMENT AND OF IMMEDIATE TERMINATION OF SERVICE.

Upon the effective date of any termination, Merchant's right to utilize Cardservice International's electronic commerce payment system shall terminate along with Merchant's rights to make Card transactions, to deposit transactions with Bank and Cardservice International and to use sales draft forms, credit draft forms, promotional material and/or any other items provided or made available through Bank and Cardservice International. However, Merchant's obligations in connection with any Transaction Record accepted by Bank and Cardservice International before or after termination shall survive such termination including, without limitation, Merchant's chargeback obligations. Following the effective date of termination, Merchant shall maintain funds on deposit on account available to Bank for a reasonable time. Based upon Cardholder and Issuer chargeback rights, the amount of funds shall be reasonably adequate to cover all chargeback deposit charges, refunds, and fees, including, but not limited to, costs for accounting, investigation and account management, incurred

by Bank and Cardservice International pursuant to this Agreement, MasterCard or VISA operating regulations, or the regulations of any processing facility. Bank is hereby irrevocably authorized by Merchant to charge such account or other accounts maintained by Merchant, for the amount of such matters. Merchant shall pay Bank for all such matters upon demand by Bank, together with all costs and expenses incurred by Bank and Cardservice International, including reasonable attorneys' fees.

3.05 AUTOMATIC RENEWAL

This Agreement will be automatically renewed for successive periods of six (6) months unless either party notifies the other, in writing, of its intention not to renew no less than thirty (30) days and no more than ninety (90) days prior to the end of each term.

3.06 MATCH FILE

MERCHANT EXPRESSLY ACKNOWLEDGES that Member Alert To Control High-Risk (MATCH) or any successor thereto is maintained by MasterCard containing the business name and names and identification of principals of Merchants which have been terminated for one or more of the reasons specified in MasterCard or VISA operating regulations. Examples would be, but are not limited to, fraud, counterfeit drafts, unauthorized transactions, excessive chargebacks and retrieval requests, laundering or where a high security risk exists.

MERCHANT ACKNOWLEDGES THAT BANK AND CARDSERVICE INTERNATIONAL ARE REQUIRED TO REPORT THE BUSINESS NAME OF THE MERCHANT AND THE NAMES AND IDENTIFICATION OF ITS PRINCIPALS TO MATCH WHEN A MERCHANT IS TERMINATED FOR ONE OR MORE OF THE REASONS SPECIFIED IN MASTERCARD OR VISA OPERATING REGULATIONS. MERCHANT EXPRESSLY AGREES AND CONSENTS TO SUCH REPORTING BY BANK AND CARDSERVICE INTERNATIONAL.

ARTICLE 4 – GATEWAY PROGRAMMING

4.01 APPLICABILITY TO THIS AGREEMENT

In addition to all other provisions of this Merchant Agreement, the provisions of this Article 4 shall apply if Merchant has elected to utilize the electronic commerce payment system offered by Cardservice International.

4.02 ELECTRONIC PAYMENT SYSTEM

So long as Merchant is current in the obligations to Cardservice International and is not otherwise in breach of this Merchant Agreement, Cardservice International shall provide Merchant the use of its Internet-based electronic payment system.

4.03 PROGRAMMING OF WEB SITE

While Cardservice International provides specific APIs or programming scripts to Merchant or Merchant's Web site programmer(s), Merchant acknowledges that such sample programming scripts are insufficient to allow the Merchant's Web site to function with the LinkPoint Secure Payment Gateway. Programming of the Merchant Web site and its functionality are the sole responsibility of Merchant.

4.04 MERCHANT'S PROGRAMMING AGENT

Merchant has the sole responsibility to select and employ any competent programming agent to accomplish the programming required to make the Merchant's Web site function correctly with the LinkPoint Secure Payment Gateway.

4.05 FEES SUBJECT TO FLUCTUATION

All fees for Gateway service are based on the number of monthly transactions processed by Merchant. The amount of these fees will therefore fluctuate based on Merchant's volume. The Merchant Agreement provisions requiring notice prior to a change in fees shall not apply to any transactions governed by this Article 4.

4.06 TECHNICAL SUPPORT

Merchant shall be responsible for all technical support for Web site-related issues.

4.07 SHUT DOWNS

Cardservice International reserves the right, from time to time, without prior notice, to shut down and restart the LinkPoint Secure Payment Gateway service for maintenance and/or software upgrades for time periods of at least one (1) minute and generally not to exceed five (5) minutes.

ARTICLE 5 – LINKPOINT VIRTUAL CHECK

DEFINITIONS

LinkPoint VirtualCheck Discount Rate – Negotiated percentage rate set forth in the Merchant Application section of this Agreement.

LinkPoint VirtualCheck Transaction Fee – A charge for each LinkPoint VirtualCheck transaction submitted to Cardservice for processing. This is in addition to any transaction fee charged for bankcard transactions.

LinkPoint VirtualCheck Return Item Fee – A charge for each LinkPoint VirtualCheck item returned to Cardservice International.

LinkPoint VirtualCheck Transaction Cancellation Fee – A charge for canceling a LinkPoint VirtualCheck transaction not yet submitted to the ACH system.

LinkPoint VirtualCheck Reversal Fee – A charge for canceling a LinkPoint VirtualCheck transaction that has already been submitted to the ACH system. A second ACH transaction is submitted to reverse a prior ACH transaction. The LinkPoint VirtualCheck reversal fee is \$15.00 per occurrence.

LinkPoint VirtualCheck Non-conforming Transaction Fee – A penalty charged to the merchant for violations of the Rules and/or Regulations. The LinkPoint VirtualCheck non-conforming transaction fee is \$100.00 per occurrence.

5.01 PURPOSE

Cardservice International will provide Merchant Automated Clearing House (“ACH”) services up to \$5,000 per check. These transactions will be placed through a bank with whom Cardservice International has a relationship and who will be acting as the Originating Depository Financial Institution (“ODFI”). Cardservice International will debit money (“Debit Entry”) for purposes of collecting Automatic Payments from the accounts of the Merchant’s customers (“Customers”) and/or credit money (“Credit Entry”) for the purpose of paying Merchant’s accounts payable. Cardservice International will provide these services in accordance with the terms and conditions of this Agreement, the Operating Rules (“Rules”) of the National Automated Clearing House Association (“NACHA”) and the applicable Federal Regulations (“Regulations”) governing ACH transactions as they exist at the time of your transactions. “Entry” shall mean either a Credit Entry or a Debit Entry. All provisions of Merchant Agreement shall remain in full force and effect and are reaffirmed, including but not limited to Cardservice International's right to establish reserve accounts, hold back procedures and the granting of security interests.

5.02 ANTICIPATED VOLUME

Merchant acknowledges that if any of the anticipated monthly LinkPoint VirtualCheck volume amount, average LinkPoint VirtualCheck ticket amount or maximum LinkPoint VirtualCheck transaction amount are exceeded, Cardservice International has the right to terminate or suspend services or to impose such other conditions as it, in its sole and absolute discretion, deems appropriate.

5.03 REPRESENTATIONS BY MERCHANT

With respect to all Entries Merchant asks Cardservice International to originate, Merchant covenants and represents that:

- (a) Each Customer has authorized the debiting and/or crediting of its account;
- (b) Each Entry is for an amount the Customer has agreed to; and
- (c) Each Entry is in all other respects properly authorized.

5.04 REVOCATION OF AUTHORITY

Merchant shall cease initiating Entries immediately upon receipt of actual or constructive notice of a Customer's termination or revocation of Merchant's authority.

5.05 IDENTIFYING NUMBERS

Merchant understands that Cardservice International may rely solely on identifying numbers provided by Merchant or Customer to determine the bank and account of a Customer even if the numbers identify a bank or account holder different from the one identified by name.

5.06 REGULATORY COMPLIANCE

Merchant shall be responsible for conforming its policies and procedures with the Rules and Regulations. Merchant is urged to consult Merchant's counsel regarding such compliance.

5.07 NOTICE OF ERRONEOUS/UNAUTHORIZED TRANSFERS

Merchant shall regularly and promptly review all entries and other communications sent to Merchant and to immediately notify Cardservice International if any discrepancy exists between Merchant's records and those provided by Cardservice International, the ODFI or Merchant's bank or with respect to any transfer that Merchant believes was not authorized by Merchant or Customer. If Merchant fails to notify Cardservice International within fourteen (14) calendar days after the date that Cardservice International mails or otherwise provides a statement of account or other report of activity to Merchant, Merchant will be responsible for all losses or other costs associated with any erroneous or unauthorized transfer. The foregoing does not limit Merchant's liability for other breaches of this Agreement.

5.08 PROCESSING ENTRIES

Cardservice International is only responsible for processing Entries that have been transmitted by Merchant in a timely manner and in proper format. From time to time, Cardservice International will notify Merchant of the acceptable means of transmission, the proper format and of applicable cut-off times.

5.09 ORIGINATING TRANSACTIONS

Cardservice International will use the information provided by Merchant to originate Merchant's entries to the ACH. Merchant acknowledges that Cardservice International may reject Merchant's entries for any reason permitted or required by the Rules or Regulations. Merchant also acknowledges that Merchant's Entry may be rejected by Cardservice International or its origination may be delayed if processing the Entry would cause Cardservice International to violate any Federal Reserve or other regulatory risk control program or any other law or regulation. At Merchant's request, Cardservice International may make such efforts as it deems reasonable to reverse or delete an entry, but it shall not be required to do so. All requests shall be made in writing and faxed, delivered, mailed or otherwise transmitted to Cardservice International.

5.10 RETURNED ENTRIES

Cardservice International shall apply returned entries to Merchant's account when they are received. Returned items reports will be available to Merchant via the LinkPoint Secure Payment Gateway.

5.11 NOTICE OF CHANGE INFORMATION AND RETRANSMISSION

Merchant shall not initiate entries until such time as the Notice of Change (“NOC”) information has been received and records have been updated. Cardservice International shall have no obligation to retransmit an entry if the original transmission was not in compliance with these terms and conditions. If Merchant requests that the return item be retransmitted, Cardservice International may do so in accordance with the Rules. Merchant shall pay any costs associated with the retransmission.

5.12 METHOD OF TRANSFER

Cardservice International will transfer all funds to a custodial account at Cardservice International's ODFI. Merchant shall not be entitled to interest on such funds. Cardservice International will hold the funds until all preliminary returns have cleared. The funds will then be transferred to the financial institution and account of Merchant's choice. The standard hold period is five (5) banking days. Should questionable activity occur, or if the Merchant's return rate increases significantly, this hold period may be extended by Cardservice International at its absolute discretion.

5.13 SETTLEMENT AND FINALITY

After expiration of the hold period for debit entries, Cardservice International will conditionally credit Merchant's account. However, this credit will not become final until Cardservice International has been paid the full amount of the entries in immediately available funds and all of Customer's rights to dispute the transaction have expired and the transaction has become irreversible in all other ways. If any debit entry is returned to Cardservice International, Merchant authorizes Cardservice International to debit Merchant's account for the amount of the returned item plus fees and costs incurred by Cardservice International. If Merchant's account has insufficient funds to cover Merchant's obligations, Merchant shall pay Cardservice International the amount of any deficiency on demand in immediately available funds or Cardservice International may, without further demand or authorization, debit any account maintained by Merchant. Any credit entries created by Merchant will be debited from Merchant's account in accordance with the hold period prior to the credit being distributed to Merchant's payees' accounts. If the debit entry is returned for any reason, the credit entry will be canceled.

5.14 REPORTS

Cardservice International shall make available to Merchant various activity reports via the LinkPoint Secure Payment Gateway.

5.15 LIMITS OF LIABILITY

Cardservice International will be responsible for its performance of the ACH services as a Third Party Processor in accordance with the Rules and Regulations. However, Merchant and Cardservice International agree that in addition to the limitations of liability contained in the Merchant Agreement, Cardservice International shall not be liable for errors, acts or failures to act of others, including but not limited to banks, communications carriers and clearing houses through which Entries may be originated or through which Cardservice International receives or transmits information. No such person or entity shall be deemed Cardservice International's agent.

5.16 PRICING AND PAYMENT

Cardservice International will notify Merchant in writing of, and Merchant agrees to pay promptly, the fees and charges that Cardservice International establishes from time to time. The current fees and charges are set forth in the Application section of this Agreement. There are no additional fees for

data storage. Merchant authorizes Cardservice International to obtain payment of these fees and any other amounts due it by debiting Merchant's account and, in consideration for Cardservice International entering into this Agreement, and other good and valuable consideration, hereby irrevocably appoints Cardservice International as its attorney in fact to so do.

5.17 RELEASE OF INFORMATION

Unless required by law, or by the terms of this Agreement, Merchant shall not, under any circumstances, sell, purchase, provide, or otherwise disclose any Customer's account information or other Customer personal information to anyone. Merchant shall store all data securely. Cardservice International may advise potential users of the services that Cardservice International has a relationship with Merchant.

5.18 TERMINATION

Cardservice International or Merchant may terminate the LinkPoint VirtualCheck Services called for in this Agreement at any time by written notice and without any cancellation fee. Any termination will not affect Merchant's or Cardservice International's rights or obligations arising before the termination.

5.19 NON-SUFFICIENT FUNDS (NSF) FEE

If Merchant has obtained Customer's active prior consent to do so, Merchant may elect to charge Customers a NSF item fee as authorized by law but not to exceed \$25.00. After receipt of instructions from Merchant and proof of Customer's consent, Cardservice International will attempt to collect such fee on Merchant's behalf following a specified number of days after the principal is collected. No NSF item fee will be collected until the principal has been collected. "Active prior consent" means that if the notification occurred online, then the Customer must have affirmatively indicated their consent prior to being able to proceed with the submission of the check for payment.

ARTICLE 6 – OTHER FEES

FEES

Monthly Minimum Charge	\$25.00 minimum
Customer Support Fee	\$10.00 per month
Providing Any Documentation	\$ 2.00 per page
Checking Account Change	\$25.00 per change
Reject Fee	\$15.00 per item, or \$25.00 per daily batch

DISCOUNT PERCENTAGES

Qualified – Percentage rate set forth in the Merchant Application Section of this Agreement.

Mid-Qualified – Refer to the Merchant Application Section of this Agreement for current pricing.

Non-Qualified – Refer to the Merchant Application Section of this Agreement for current pricing.

As mandated by VISA, all direct marketing merchants (businesses where the credit card is not present at the time of the sale) and non-direct marketing merchants who accept mail order and telephone order transactions and all Internet-based merchants must utilize the Address Verification Service (AVS) or face additional Non-Qualifying fees as well as increased risk. All AVS inquiries will incur a \$0.05 AVS fee.

Batch Header Fee

A Merchant is billed a batch header fee each time a batch is transmitted to the Host for settlement. The batch header fee ranges from \$0.20 cents to \$0.30 cents. This fee is negotiated and assigned by the agent or sales representative at the time the Merchant applies for an account.

Transaction Fee

A Merchant is billed a transaction fee each time an online order passes through the LinkPoint Secure Payment Gateway. This fee is negotiated and assigned by the agent or sales representative at the time the Merchant applied for an account.

6.01 PRECEDENCE

To the extent there is any inconsistency between the merchant rates and fees that appear in the Internet Merchant Agreement and merchant fees that appear in the Merchant Application, the merchant rates and fees set forth in the Merchant Application shall govern.

6.02 DISCOUNT PERCENTAGE

Merchant shall pay Bank discount percentages, batch header fees and transaction fees for processing the credit card drafts. The discount percentages shall include consideration for Qualifying, Mid-Qualifying and Non-Qualifying transactions. Merchant hereby authorizes Bank to debit any of the Merchant's Accounts for payment of any and all fees and the discount percentage which shall be paid at the rate established as set forth on the Merchant Application portion of this Agreement. Said discount percentage may be revised from time to time upon thirty (30) days written notice to Merchant.

6.03 MONTHLY MINIMUM

Merchant shall pay a monthly minimum charge of \$25.00 or such other sum as may be determined by Bank and Cardservice International from time to time upon thirty (30) days notice to Merchant.

6.04 CUSTOMER SUPPORT FEE

Merchant shall pay to Bank and Cardservice International a Customer Support Fee as may be determined by Bank and Cardservice International from time to time upon thirty (30) days notice to Merchant.

6.05 REJECT FEE

Merchant acknowledges that failure by Merchant to maintain sufficient funds in its checking account to execute its obligations under this Agreement will result in the imposition of a Reject Fee per item or per daily batch as applicable. This fee is subject to change as may be determined by Bank and Cardservice International from time to time upon thirty (30) days notice to Merchant.

6.06 DOCUMENTATION FEE

If Bank and Cardservice International are required to provide documentation, such as, by way of example only, statement copies, Merchant shall pay to Cardservice International a fee per page provided to Merchant. This fee is subject to change as may be determined by Bank and Cardservice International from time to time upon thirty (30) days notice to Merchant.

ARTICLE 7 – GENERAL PROVISIONS

7.01 FORMS

Merchant shall use only such forms or modes of transmission for sales data as are provided or approved in advance by Bank and Cardservice International. Merchant shall not use forms or equipment available through Cardservice International except in connection with Card transactions hereunder. Cardservice International will make sales drafts and forms available by fee and on order of Merchant.

7.02 RECORDS

Merchant shall retain original transaction data or make legible microfilm copies of both sides of such actual paper Transaction Records, and store for a minimum of three (3) years. Within three (3) calendar days of receipt of Bank and Cardservice International's request, Merchant shall provide to Bank and Cardservice International, at Merchant's cost, either the actual paper Transaction Record, if requested by Bank and Cardservice International, or a legible microfilm thereof comparable in size to the actual paper Transaction Records. In addition, Merchant shall, within three (3) calendar days of Bank and Cardservice International's request, provide any other documentary evidence available to Merchant and reasonably requested by Bank and Cardservice International to meet its obligations under law, including, but not limited to, its obligations under the Fair Credit Reporting Act, or its obligations to otherwise respond to questions concerning Cardholder accounts. Following termination, for so long as Merchant is required to retain the same, Merchant shall promptly provide Bank and Cardservice International with all original and microfilm copies of records required to be retained at the time of termination.

- (a) Merchant assumes full and exclusive responsibility for the security of all data and records it obtains, whether received or in transit, or accumulates, as a result of entering into the Merchant Agreement with Cardservice International. Neither Bank nor Cardservice International or their agents, contractors, licensees, employees, officers, directors or affiliates warrant the security of such data and records. Losses to Bank or to Cardservice International arising from any breach of such security shall give rise, inter alia, to charge back rights by Bank and Cardservice International.

7.03 CHANGE IN TRANSMISSION METHOD

Merchant shall give Bank and Cardservice International at least thirty (30) days prior written notice of its desire to alter in any material respect its medium of transmission of sales data and credit data to Bank and Cardservice International. Any change shall be subject to Bank's and Cardservice International's prior approval.

7.04 SUPPLEMENTARY DOCUMENTS

References to "this Agreement" include any supplementary agreements, addenda, appendixes and amendments and any other agreements, schedules, appendixes and amendments promulgated by Bank and Cardservice International and furnished to Merchant from time to time.

7.05 AMENDMENT

In addition to the modification rights contained in paragraph 3.02, Bank and Cardservice International may amend this Agreement at any time by mailing written notice to Merchant of any amendment at least thirty (30) days prior to the effective date of the amendment. The amendment shall become effective on the date specified by Bank and Cardservice International unless Bank and Cardservice International receives Merchant's notice of termination of this Agreement before such effective date.

Any modification of this Agreement must be in writing accepted by the Bank and the corporate office of Cardservice International. No field representative of Bank or Cardservice International is authorized to make any modification to this Agreement or to make any representation which is not set forth in this Agreement.

7.06 MERCHANT ACCOUNT

In order to facilitate the transfer of payments between the parties hereto, or any affiliate thereof, Merchant may maintain a commercial deposit account with Bank. Said account shall be subject to such terms and conditions (including, without limitation, the imposition of service charges and fees) as may be agreed to by Bank and Merchant. In the absence of any express written agreement, the standard terms and conditions applicable to commercial deposit accounts offered by Bank shall apply. As amounts become payable, whether or not under this Agreement, to Bank and/or Cardservice International (including any company affiliated with Cardservice International), or to Merchant under this Agreement, Bank may, unless otherwise agreed in writing, make payments to or receive payments from Merchant by crediting or debiting such account without prior notice. If such a commercial deposit account is not maintained by Merchant, payment between the parties shall be made in a manner satisfactory to Bank and Cardservice International.

7.07 ALL NOTICES

All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if delivered personally. If Merchant transmits by U.S. Mail, first class, postage pre-paid, notice shall be deemed served upon confirmed receipt by Bank and Cardservice International. If Merchant uses facsimile transmission, Merchant shall mail the original of the communication to the receiving party on the date of transmission, by first class mail, postage pre-paid and it shall be deemed served on the day of confirmed receipt by Bank and Cardservice International. If Bank and/or Cardservice International use facsimile transmission, service is deemed to have been duly given on the day of transmission. If facsimile transmission is not used, notice shall be given by, U.S. Mail, postage pre-paid and it shall

be deemed served on the day of mailing. Unless otherwise required by this Agreement, all communications to Cardservice International must be addressed as follows:

Cardservice International, Inc.
Attention: Merchant Services
P.O. Box 5180
Simi Valley, CA 93062-5180
Facsimile: (805) 552-8552

Communications to Merchant shall be addressed to the address appearing on the Merchant Application. Any party may change its address for purposes of this paragraph by giving the other parties written notice of the new address in the manner set forth above.

7.08 EFFECT OF HEADINGS

The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

7.09 ADHERENCE

Merchant agrees to be responsible and liable for adhering to all provisions of this Agreement without exception and in full. Failure to abide by the provisions herein constitute, among other remedies provided for herein, grounds for possible interruption or termination of service.

7.10 CHANGE IN BANKING INFORMATION

Merchant shall notify Cardservice International of any change in business checking account, change of bank or any other banking information. Merchant shall pay Cardservice International a fee in the amount of \$25.00 for each checking account change.

7.11 TIME LIMITATION FOR ASSERTING CLAIMS AND INSTITUTING ACTIONS

Despite any statute to the contrary, any claim arising from or relating to this Agreement (whether contract, tort, or both) shall be brought within two (2) years after it arises, provided that with respect to any claim or dispute concerning fees, charges or other costs charged to Merchant, Merchant must have, within ninety (90) days of the assessment of any disputed fee, charge or costs, appealed such determination to Cardservice International in writing by United States certified mail, return receipt requested, and such appeal must have been denied.

7.12 INDEMNIFICATION

Merchant and Guarantor shall, jointly and severally, indemnify, defend, and hold harmless, Bank and Cardservice International, MasterCard and VISA, against and with respect to any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorneys' fees, that Bank and Cardservice International, MasterCard and VISA shall incur or suffer, that arise, result from, or relate to any breach of, or failure by Merchant to perform any of its representations, warranties, covenants or agreements in this Agreement or in any schedule, supplemental agreement, appendix or other instrument furnished or to be furnished to Merchant under this Agreement or in the event Bank or Cardservice International are named as parties to any litigation involving Merchant brought by a party not party to this Merchant Agreement.

7.13 LIMITATION OF LIABILITY

Bank and Cardservice International's liability to Merchant with respect to any Card transaction shall not exceed the amount represented by the Transaction Record in connection with that transaction, less any applicable discount or fees. Bank and Cardservice International shall in no event be liable for any incidental or consequential damages whatsoever.

7.14 ENTIRE AGREEMENT; WAIVER

This Agreement, together with the Application thereto and any supplemental agreements, appendixes and schedules, constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

7.15 RESERVE ACCOUNT

In addition to the security interest and chargeback rights granted to Bank by Merchant, Merchant hereby authorizes Bank to establish a Reserve Account, with or without prior notice to Merchant, at any time prior to, at or after termination of this Agreement, to ensure Bank's recovery of any liabilities owed it or reasonably anticipated to be owed it by Merchant pursuant to this Agreement.

- (a) Such liabilities include, but are not limited to, those arising out of actual and/or potential post-termination chargebacks, as well as any and all post-termination fees, including, but not limited to, costs for accounting, investigation and account management, charges and expenses due or anticipated to be due Bank from Merchant.
- (b) Merchant agrees that if Bank does establish the Reserve Account, it shall be in any amount that Bank, in its sole discretion, deems reasonable under the circumstances. The Reserve Account may be funded and/or replenished by Bank's withholding or withdrawing from, or freezing all or any part of, the Commercial Account and/or accounts maintained by Merchant with Bank. Unless Bank agrees otherwise in writing with Merchant, the Reserve Account shall not bear interest.
- (c) Bank may enforce its security interest in the Reserve Account without notice or demand. Bank's right to sums owed it by Merchant pursuant to this Agreement shall in no way be limited by the balance or existence of the Reserve Account. Bank's rights with respect to the Reserve Account, as well as the security interest granted Bank under this Agreement, shall survive the termination of this Agreement.

7.16 BANKRUPTCY

No assignee for the benefit of creditors, successor in interest, custodian, receiver, trustee in bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of a party's assets or business, shall have any right to continue or to assume or to assign this Agreement.

In the event any party becomes insolvent, makes an assignment for the benefit of its creditors, files a petition or otherwise seeks relief under or pursuant to any other bankruptcy, insolvency or reorganization statute or proceeding, or if any party dissolves, discontinues or substantially discontinues its business or if a receiver, trustee, or similar officer is appointed for Merchant or for a substantial portion of Merchant's business or assets, or if any judgment, writ of attachment execution, levy or similar process against any party is served on the others or is issued with

respect to any substantial part (valued at twenty percent [20%] or more of the total tangible assets) of the property of any party, the other parties may, at their sole election, terminate this Agreement by written notice to the others.

7.17 LAW AND VENUE

This Agreement shall be construed in accordance with, and governed by, California law as applied to contracts that are executed and performed entirely in California. The parties agree that any suit, action, or proceeding arising out of or relating to this Agreement, or the interpretation, performance or breach of this Agreement, shall be instituted in any court of the State of California located in Ventura. Each party irrevocably submits to the jurisdiction of those courts and waives all objections to jurisdiction or venue that it may have under the laws of the State of California or otherwise in those courts in any suit, action, or proceeding. The parties expressly stipulate, consent to and agree that the specific geographic location as the place of performance of this Agreement, in its entirety, shall be within the county of Ventura in the State of California. By this special contract, the exclusive venue for any action between them shall be within the county of Ventura in the State of California.

7.18 ASSIGNABILITY

Merchant may not assign this Agreement, or any rights hereunder, directly or by operation of law, without the prior written consent of Bank and Cardservice International. For purpose of this Agreement, assignment shall include, but not be limited to, transfer of control of Merchant and any ownership change which results in a new majority owner. Without such written consent, Merchant shall continue to be bound by this Agreement.

7.19 ATTORNEYS' FEES AND COSTS

Merchant shall be liable for and shall indemnify and reimburse Bank and Cardservice International for any and all attorneys' fees and other costs and expenses paid or incurred by Bank and Cardservice International in the enforcement of this Agreement, or in collecting any amounts due from Merchant to Bank and Cardservice International hereunder or resulting from any breach of any of the terms or conditions of this Agreement.

In addition, whether legal action is contemplated or commenced against Merchant, Cardservice International shall be entitled to recover from Merchant all of its investigative and other costs related to searching for the whereabouts of Merchant or any Guarantor. Merchant authorizes Cardservice International, at its sole option and without prior notice, to deduct such investigative and other costs from any monies that Merchant may have on deposit with Cardservice International or which Merchant has previously authorized Cardservice International to access.

7.20 GUARANTORS

As a primary inducement to Bank and Cardservice International to enter into this Agreement with Merchant, guarantor(s) of Merchant's performance under this Agreement, jointly and severally, unconditionally and irrevocably, guarantee the continuing full and faithful performance and payment by Merchant of each of its duties and obligations to Bank and Cardservice International pursuant to this Agreement, as it now exists or as it may be amended from time to time, whether before or after termination or expiration and whether or not Guarantor has received notice of any amendment. If Merchant breaches this Agreement, Bank and Cardservice International may proceed directly against Guarantor or any other person or entity responsible for the performance of this Agreement,

without first exhausting its remedies against any other person or entity responsible therefore to it, or any security held by Bank.

7.21 FORCE MAJEURE

Bank and Cardservice International shall have no liability to Merchant for delay or failure to perform any part of this Agreement on account of an act of God or the public enemy, fire, explosion, flood, earthquake, riot, war, sabotage, accident, embargo or any circumstances of like or different character beyond Bank's and Cardservice International's reasonable control or by interruption or delay in transportation, inadequacy or shortage or failure of supply of materials, utilities, computer software, or equipment breakdown, labor trouble, or compliance with any order, direction, action or request of any governmental officer, department or agency.

7.22 CUMULATIVE REMEDIES

All remedies of Bank and Cardservice International hereunder are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed to be an election of such remedy and shall not preclude the exercise of any other remedy. No failure on the part of Bank and Cardservice International to exercise, and no delay in exercising any right or remedy hereunder, shall operate as a waiver of such right or remedy.

7.23 BREACH OF OTHER AGREEMENTS

This Agreement is the principal agreement between Merchant and Bank and Cardservice International. In order to further effectuate the subject matter of this Agreement, the parties acknowledge that a number of additional agreements may be entered into between them. Merchant hereby agrees that Merchant's breach of any of those additional agreements shall also constitute a breach of this Agreement.

7.24 FIDUCIARY RELATIONSHIP

As provided in California Financial Code Section 952 as it now exists and as it may be amended from time to time, whenever Merchant has a deposit held arising from or subject to this Agreement with any bank which, pursuant to this Agreement, Merchant is not entitled to, Merchant's entitlement to such deposit shall be as a fiduciary of Bank and Cardservice International until any claim by Bank and Cardservice International has been resolved. Merchant agrees that its failure to repay, within twenty (20) calendar days of notification, to Bank and Cardservice International funds Merchant is not entitled to, shall result in a presumption that Merchant intends to misappropriate such funds.

7.25 SECURITY INTEREST AND MERCHANT PERFORMANCE REQUIREMENT

To secure Merchant's performance under this Agreement, including without limitation, Merchant's obligations arising out of chargebacks; Merchant hereby grants, pursuant to the California Uniform Commercial Code, to Bank and Cardservice International, a security interest in all Transaction Records, sales drafts, credit drafts, and in all deposits, regardless of source, made to Merchant's account established or designated and maintained pursuant to this Agreement, as well as in the proceeds of those deposits, and in all other accounts maintained by Merchant. Bank may enforce this security interest by one or more of the following:

- (a) Making an immediate debit (charge) to any account, without notice or demand of any kind; and/or interrupting the electronic transmission of funds to any account through the Automated Clearing House (ACH) system;
- (b) Freezing the entire account, without notice or demand of any kind, upon Bank and Cardservice International's reasonable determination that Merchant has breached any term of this Agreement;
- (c) Taking possession of any or all of Merchant's Transaction records, sales drafts, verifications and confirmations of transactions.

Merchant shall provide any statement or notice that Bank and Cardservice International determines to be necessary to preserve and protect Bank's security interest. Merchant's granting of this security interest in no way limits Merchant's liabilities to Bank and Cardservice International under this Agreement.

7.26 SEVERABILITY

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

7.27 CHANGE OF MERCHANT NAME OR BUSINESS TYPE

Changes of, by way of example only, business name, business telephone and/or address, or any banking information shall be submitted, in writing, to Bank and Cardservice International by Merchant under the terms provided in this Agreement. Merchant represents that it is engaged in the business specified on the Merchant Application portion of this Agreement. Merchant shall not process payment transactions for any other type of business.

* * *

This ends the Cardservice International Internet Merchant Agreement.