

Paya-EFT Services: Merchant Rights and Responsibilities

- A. These are the terms and conditions (“T&Cs”) referenced in the merchant agreement application (“Application”). These T&Cs, together with the Application, form the agreement (“Agreement”) between Paya EFT, Inc. (“Paya-EFT”) and the merchant who submitted the executed Application (“MERCHANT”). MERCHANT desires to use the services pursuant to the terms of this Agreement and the rules of the National Automated Clearing House Association (the “Rules”), and Paya-EFT is willing to provide the services subject to the terms and conditions set forth in this Agreement.
- B. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The term “Entries” shall have the meaning provided in the Rules and shall also mean the data, which is transmitted by the MERCHANT to Paya-EFT to prepare such Entries for processing.

AGREEMENT

- MERCHANT'S AUTHORITY.** MERCHANT specifically warrants to Paya-EFT that MERCHANT has taken all necessary legal action and has authority to enter into this Agreement with Paya-EFT. It further warrants that the person(s) signing for and on behalf of MERCHANT is specifically authorized and directed to do so by MERCHANT. MERCHANT acknowledges that this Agreement constitutes the legal, valid and binding obligation of MERCHANT, enforceable in accordance with its terms. The attached Schedules for the POS Conversion, QSP, Check 21+ Remote Check Deposit, Checks-By-Phone, Checks-By-Web, ACH Debit, Checks-By-Phone, and Paper Guarantee services are hereby incorporated into these T&C's to the extent Merchant selects such services in the Application. These T&Cs are only applicable to the Paper Guarantee services to the extent set forth in Sections 23 -43 and the Paper Guarantee Schedule attached hereto.
- MERCHANT's PUBLIC DISCLOSURE RESPONSIBILITIES.** Paya-EFT shall provide signage to be displayed at the point of purchase (POP) or payment collection site, which informs customers of the applicable (i) MERCHANT'S use of Paya-EFT Electronic Check Processing Service; or (ii) electronic debit for the amount of any state allowable NSF or recovery fee as stated in Section 3 of the Check 21+ Remote Check Deposit Addendum. MERCHANT agrees to display these materials in the best visible and unhindered location so as to inform the public of, if applicable, such electronic debit entry or that MERCHANT will honor electronic check and ACH processing services (as applicable) provided by Paya-EFT. From time to time, Paya-EFT may disseminate (i) changes to rules governing the Services; and (ii) educational and promotional materials to MERCHANT for MERCHANT to distribute to customers. MERCHANT further agrees to immediately (i) remove and properly dispose of Paya-EFT's stale promotional materials and to display the most current materials upon receipt of such from Paya-EFT; and (ii) comply with such rule changes. MERCHANT will discontinue the use of all of Paya-EFT's promotional materials and properly remove said materials upon receipt of written notification of suspension or termination of this Agreement. In the event Merchants' account is reinstated by Paya-EFT after suspension, MERCHANT shall redisplay appropriate materials upon receipt of written verification of resumption of service by Paya-EFT.
- RESTRICTIONS ON USE OF PROMOTIONAL MATERIALS AND REPRESENTATIONS CONCERNING Paya-EFT's SERVICES.** MERCHANT shall make no use of Paya-EFT's promotional materials, marks, or software, other than as set forth in paragraph 2 above, without Paya-EFT's prior written consent. In no way shall the MERCHANT indicate that Paya-EFT's services are an endorsement of the MERCHANT, its business or its business practices. In the event of termination, MERCHANT immediately shall properly discard all software related to Paya-EFT services at MERCHANT's expense.
- SURCHARGES AND TAXES.** MERCHANT shall not impose any illegal surcharge on any processed ACH, Remote Check Deposit (Check 21 Plus) processed check, or electronically processed check transaction. MERCHANT shall collect all required taxes at time of sale. All required taxes must be included in the total transaction amount at the time such is submitted for authorization by Paya-EFT and must be reflected in the face amount of the check or ACH Debit (if applicable). In any event, MERCHANT shall not collect any required taxes separately in cash, or otherwise. MERCHANT is responsible for paying all taxes collected to the appropriate authorities in a timely manner.
- USE OF EQUIPMENT.** MERCHANT agrees to utilize only equipment and software (including payment gateways) approved by Paya-EFT for the electronic processing of checks and ACH Debits and in a format and medium of transmission acceptable to Paya-EFT.
- NETTING OF TRANSACTIONS.** MERCHANT acknowledges that all transactions between Paya-EFT and MERCHANT under this Agreement, except assessment of fees, shall be treated as a single transaction for purposes of daily settlement between MERCHANT and Paya-EFT. The Settlement period varies depending on the Service. Chargebacks may be deducted from net settlement or may be debited from MERCHANT's account if no pending credits are available to offset the chargeback.
- PAYMENT.** MERCHANT acknowledges that this Agreement provides for the provisional settlement of MERCHANT'S transactions, subject to certain terms and conditions, fees, credit transactions, contingent claims for chargebacks, adjustments and final settlement including but not limited to those enumerated herein. All payments to MERCHANT for legitimate and authorized transactions shall be made by Paya-EFT through the ACH and shall normally be electronically transmitted directly to MERCHANT'S designated account. However, Paya-EFT cannot guarantee the timeliness with which any payment may be credited by MERCHANT'S bank. MERCHANT understands that due to the nature of the ACH and the electronic networks involved and the fact that not all banks belong to an ACH, payment to MERCHANT can be delayed. In such cases, MERCHANT agrees to work with Paya-EFT to help resolve any problems in crediting MERCHANT'S designated account. In the event that a payment is rejected by MERCHANT'S bank or fails to arrive within seven (7) banking days from the date of settlement due to problems beyond Paya-EFT'S control, Paya-EFT may periodically wire transfer all funds due MERCHANT until the problem is corrected, at MERCHANT'S EXPENSE. All payments to MERCHANT shall be made after first deducting therefrom any discount fee, transaction fee, credit, chargeback, reserve or other fee or charge for which MERCHANT is responsible pursuant to this Agreement. Said charges and fees shall be deducted from incoming transactions or may be debited against MERCHANT'S designated Account at Paya-EFT's sole discretion, without any further notice or demand.
- AUTHORIZATION TO ACCESS MERCHANT's ACCOUNT.** MERCHANT hereby authorizes Paya-EFT to initiate debit and credit entries to MERCHANT'S designated account. MERCHANT's authorization shall continue in effect for at least 120 days after termination of this Agreement, or for a longer period as determined necessary by Paya-EFT in the exercise of its sole discretion in order to properly terminate business. Unless a reserve or delay is placed on the MERCHANT'S account, Paya-EFT will generally transmit settlement to MERCHANT'S bank within 7 business days. In cases where MERCHANT has been approved by Paya-EFT in advance to initiate credit entries, the debit to MERCHANT's account will be initiated first and the credit to the customer may be held until MERCHANT's debit clears, generally within 6 banking days or for a longer period as determined necessary by Paya-EFT to insure the funds have cleared MERCHANT's account. With respect to the Services, (i) settlement shall consist of a 7 banking day net settlement unless approved in advance by Paya-EFT in writing settlement shall consist of a 7 banking day net settlement unless approved in advance by Paya-EFT in writing; and (ii) No MERCHANT or customer is authorized to initiate a customer credit Entry, except where the Entry is the result of a reversal of a previous WEB debit Entry. Returns received after a transaction has been settled may be offset and deducted from current outstanding funds due to MERCHANT, or returns may be charged back to MERCHANT's account at Paya-EFT's discretion. MERCHANT specifically authorizes Paya-EFT to debit MERCHANT's account via Automated Clearing House (ACH) transfer for any previously funded transaction that is returned, and MERCHANT warrants to Paya-EFT that MERCHANT will maintain a sufficient balance to cover return entries and to promptly notify Paya-EFT of any changes to MERCHANT's accounts. In addition, Paya-EFT may require additional monetary sums for the reserve account from MERCHANT, and Paya-EFT reserves the right to hold additional monies as necessary to reduce any risk associated with the daily processing of checks, as requested by MERCHANT. In the event of processing termination, Paya-EFT may hold outstanding funds due to MERCHANT for up to one-hundred-twenty (120) days from the transaction date if Paya-EFT determines that the return history reasonably justifies the holding of funds. Paya-EFT may hold back certain amounts where Paya-EFT is investigating a transaction for breach of warranty or transactional requirements by MERCHANT or for other reasons. Paya-EFT shall monitor MERCHANT's transactional activity and MERCHANT agrees that Paya-EFT may delay funds for a reasonable period to investigate account activity. Paya-EFT will attempt to notify MERCHANT of any investigation, but Paya-EFT shall have no liability to MERCHANT or any other party, for any such actions taken by Paya-EFT. MERCHANT agrees that Paya-EFT may hold, setoff or retain funds to protect against amounts owed Paya-EFT or based on MERCHANT's transaction history and/or MERCHANTS' financial condition. Paya-EFT will not be liable for any dishonor of any item as a result of actions taken hereunder. Any account is subject to review, verification, audit and acceptance by Paya-EFT. Paya-EFT may return any item to MERCHANT for correction or proper processing.
- RETURNS AND CREDITS.** MERCHANT shall maintain a fair policy permitting refunds, exchanges, returns and adjustments. During the term of this Agreement, MERCHANT shall be responsible for making all cash, check, or ACH Debit refunds to customer after a transaction has been batched out for settlement. Unless MERCHANT has been approved by Paya-EFT in advance to initiate credit entries for a lesser amount than the original check, electronic check, or ACH Debit entry, MERCHANT must initiate a credit receipt for the same amount as the original check or debit entry to effect voids, which occur the same day as the day of authorization and prior to batching out. As applicable, MERCHANT must use the POP equipment, approved Paya-EFT software, or ACH Debit Software to transmit the credit. MERCHANT shall obtain proper written authorization from the Customer whose name is used in the transaction or printed on the face of the check or the customer's authorized representative prior to crediting Customer's account. Except for Checks-By-Web, the customer or its authorized representative shall sign the completed credit receipt and a copy of the credit receipt shall be delivered to the customer at the time of each cancellation of a transaction. Each void, debit, and credit entry shall constitute a separate transaction for which a processing fee will apply. If it becomes necessary for a reversal of a transaction to be initiated, MERCHANT shall request in writing to Paya-EFT to initiate such reversal. MERCHANT shall give Paya-EFT enough information to create such reversal. A fee of no more than twenty-five dollars for each transaction reversal may be charged by Paya-EFT.
- WARRANTIES BY MERCHANT.** MERCHANT warrants and agrees to fully comply with all federal, state, and local laws, rules and regulations, as amended from time to time, including those with respect to consumer protection. MERCHANT also warrants not to change the nature of its business as indicated on the Application attached hereto and submitted herewith or to modify the ownership of the business without the prior written consent of Paya-EFT. With each transaction presented to Paya-EFT by MERCHANT for authorization, MERCHANT specifically warrants and represents that: (a) each customer has authorized the debiting or crediting of its checking account, that each debit or credit is for an amount agreed to by the customer; (b) each debit or credit entry was authorized by the person named on the checking account or the authorized representative or agent of such person; (c) the sales receipt or other proof of purchase is valid in form and

has been completed in accordance with all applicable laws and all of the provisions set forth in this Agreement; (d) the total amount of each sales receipt or other proof of purchase evidences all goods and services purchased in a single transaction (No splitting check transactions to multiple checks as applicable); (e) MERCHANT has delivered the goods or completed the services identified in the authorized sales receipt; (f) each sales draft and check represents a bona fide direct sales transaction between the MERCHANT and the person presenting the check or ACH Debit in the MERCHANT'S ordinary course of business and that the amount of the sales draft or check evidences the customer's total indebtedness for the transaction involved; (g) the person presenting the check or ACH Debit has no claim, defense, right of offset, or dispute against MERCHANT in connection with the purchase of the goods or services and MERCHANT will provide adequate services to the person presenting the check or ACH Debit and will honor all warranties applicable thereto; and (h) all of MERCHANT'S business locations engage in the business activity listed on the face of this Agreement.

11. **CHARGEBACKS AND RETURNS.** Paya-EFT and third-party bank partners will monitor MERCHANT for adherence to established maximum acceptable return rate thresholds as established by the Rules which are as follows: Overall return rate level of 15% or less, Administrative return (R02, R03, R04) rate level of 3% or less, and an Unauthorized return (R05, R07, R10, R29, or R51) rate level of 0.5% or less. MERCHANT shall bear all risk of loss, without warranty or recourse to Paya-EFT for the amount of any transaction, applicable fees, or other amounts due Paya-EFT (including Paya-EFT's actual costs and expenses) due to or caused by chargebacks and returns of any kind, whether for customer chargebacks, insufficient funds returns, administrative or corporate returns, or any other type of returns, except as set forth in this Agreement and the Paya-EFT POS GUARANTEE CONVERSION, ACH DEBIT GUARANTEE, Checks-By-Phone Guarantee, and Remote Deposit Capture (Check 21 Plus) with Guarantee Schedules below (provided that MERCHANT has purchased and Paya-EFT agreed to provide Guarantee services). Paya-EFT shall have the right to debit MERCHANT'S incoming transactions, designated account or any other funds of MERCHANT in Paya-EFT's direct or indirect control by reason of Paya-EFT's security interest granted to Paya-EFT by MERCHANT hereunder, and to chargeback such transactions to MERCHANT including, but not limited to any of the following situations: (a) where goods have been returned or service canceled by the person submitting the applicable check or ACH Debit for electronic processing or Remote Deposit Capture (Check 21 Plus) processing and that person has requested a credit draft and such credit draft was not processed by MERCHANT; (b) where the sales draft or purchaser breaches any representation, warranty or covenant or failed to meet the requirements of this Agreement, or applicable law, or has not been authorized in advance by the authorization center as required hereunder; (c) where the transaction is for a type of goods or services sold other than as disclosed in the MERCHANT application or approved in advance by Paya-EFT or the amount shown on the sales receipt or proof of purchase differs from the copy given to the customer; (d) where a customer contends or disputes in writing to Paya-EFT, or the customer's financial institution named on the check or ACH Debit that: (1) Goods or services were not received; or (2) Goods or services received do not conform to the description on the sales receipt or proof of purchase; or (3) Goods or services were defective or the customer has a claim, dispute or defense to payment related to the transaction; or (4) The dispute reflects a claim or defense authorized by a relevant statute or regulation, (e) where a check authorization document or recording, proof of purchase, or credit receipt was not received by Paya-EFT as required herein or is subject to indemnification charged back by the customer's financial institution; (f) where the transaction was generated through the use of an account that was not valid (As in, but not limited to, R03,R04 return codes) or effective (As in, but not limited to, R02 return code) on the transaction date or which was made on an altered, fraudulent, or counterfeit check authorization document, recording, or ACH debit or of which MERCHANT had notice not to honor and failed to reject the transaction or if MERCHANT disregarded any denial of authorization; (g) where the check results in a R29 return (Unauthorized ACH entry to Corporate Account) and any collection efforts are not successful; (h) where no signature or electronic acceptance of the transaction appears on the sales check authorization document (as applicable) or proof of purchase (or the proof of purchase does not contain the information from the ACH Debit), where customer did not authorize via recorded oral authorization, or if MERCHANT failed to obtain specific authorization in advance from Paya-EFT to complete the transaction and/or a valid authorization number was not on the sales receipt or proof of purchase and/or the customer has certified in writing to Paya-EFT or his financial institution that no authorized user made or authorized the transaction; (i) where security procedures were not followed; (j) where the customer's financial institution or Paya-EFT has information that MERCHANT fraud occurred at the time of the transaction(s), or the transaction is not a sale by MERCHANT whether or not such transaction(s) was authorized by the customer; (k) in any other situation where the check authorization or proof of purchase was executed or a credit was given to MERCHANT in circumstances constituting a breach of any representation or warranty of MERCHANT or in violation of applicable law or where MERCHANT has not provided documents or resolved a customer dispute whether or not a transaction is charged back; (l) an Entry was charged back and represented whether or not the customer knows or consents to this representation. If, with respect to any one of MERCHANT'S outlets, the amount of or number of any counterfeit or fraud incidents becomes excessive, in the sole determination of Paya-EFT; (m) MERCHANT does not provide Paya-EFT with a copy of the signed authorization receipt or recorded oral authorization within forty-eight (48) hours from the time of Paya-EFT's request. MERCHANT may be charged back for all transactions, this Agreement may be terminated immediately without notice, and MERCHANT'S funds, including but not limited to those in incoming transactions and in MERCHANT'S designated account, shall be held pursuant to the provisions herein. Paya-EFT shall retain any discount or fee related to a chargeback transaction. MERCHANT agrees that Paya-EFT will assess up to twenty-five dollars for each chargeback, or such increased or additional charges as may be established by Paya-EFT from time to time. **Additionally, Paya-EFT shall have the same rights to debit MERCHANT's account for transactions returned or not honored for any reason, including but not limited to insufficient funds, administrative or corporate returns, or any other kind of returned transaction. If MERCHANT has requested the Paya-EFT GUARANTEE service, and Paya-EFT has accepted the application for Guarantee service, certain transactions are guaranteed, as listed in this Agreement, including the Paya-EFT POS GUARANTEE CONVERSION Remote Check Deposit (Check 21 Plus) with Guarantee, Checks-By-Phone Guarantee, or ACH DEBIT GUARANTEE Schedules below.**
12. **CHARGEBACK AND RETURNS RESERVE ACCOUNT.** Notwithstanding any other language to the contrary contained in this Agreement, Paya-EFT reserves the right to establish, without notice to MERCHANT, and MERCHANT agrees to fund a non-interest bearing Chargeback and Return Reserve Account, or demand other security and/or to raise any discount fee or transaction fee hereunder, upon Paya-EFT's reasonable determination of the occurrence of any of the following: (a) MERCHANT engages in any processing of charges which create an overcharge to the customer by duplication of charges; (b) **Failure by MERCHANT to fully disclose the true nature or percentage of its (i) actual or intended telephone and/or mail order business; and (ii) actual or expected losses due to insufficient funds transactions, fraud, theft or deceit on the part of its customers, or due to administrative chargebacks/returns, or chargebacks or rejections by customers;** (c) **Failure by MERCHANT to fully disclose the true nature of its business to Paya-EFT to permit a fully informed decision as to the suitability of MERCHANT for processing through Paya-EFT;** (d) Failure by MERCHANT to fully disclose the true ownership of MERCHANT'S business entity or evidence of fraud; (e) Processing by MERCHANT of unauthorized charges or any other action which violates applicable risk management standards of Paya-EFT or is likely to cause loss; (f) **Any misrepresentation made by MERCHANT in completion of the MERCHANT Application or breach of any other covenant, warranty, or representation contained in this Agreement** or applicable law including a change of type of business without prior written approval by Paya-EFT; (g) MERCHANT has chargebacks or returns of any kind which exceed 1% of the total number of transactions completed or dollars processed for Checks-By-Web Services by MERCHANT in any thirty (30) calendar day period; (h) Excessive number of requests from customers or issuing banks for retrieval of documentation; (i) MERCHANT'S financial stability is in question or MERCHANT ceases doing business; or (j) Upon notice of or termination of this Agreement. After payment or adequate provision for payment is made by Paya-EFT, for all obligations on the part of MERCHANT to Paya-EFT under this Agreement, MERCHANT may request Paya-EFT to disburse to MERCHANT any funds remaining in the Chargeback and Return Reserve Account unless otherwise agreed to by Paya-EFT. Such funds will not be disbursed to MERCHANT until the end of one hundred twenty (120) days after termination of this Agreement or ninety (90) days from the date of the last chargeback or return activity, whichever is later, unless Paya-EFT in its sole discretion has reason to believe that customer chargeback rights may be longer than such period of time or that loss is otherwise likely, in which event Paya-EFT will notify MERCHANT of such fact and Paya-EFT will set the date when funds shall be released. No monies held in the Chargeback and Return Reserve Account shall bear interest. Provisions applicable to the designated account are also applicable to this account.
13. **COLLECTIONS.** MERCHANT acknowledges and agrees that when collection services are required, Paya-EFT may utilize an appropriately licensed third party to perform such collection services. MERCHANT further authorizes Paya-EFT to continue collection efforts for MERCHANT. If collections are unsuccessful after sixty (60) days, Paya-EFT shall discontinue collections and be absolved of all responsibility.
14. **PAYA-EFT POS GUARANTEE CONVERSION, CHECKS-BY-PHONE GUARANTEE, REMOTE CHECK DEPOSIT (CHECK 21 Plus), AND ACH DEBIT GUARANTEE.** The Paya-EFT POS GUARANTEE CONVERSION, Remote Check Deposit (Check 21 Plus) with Guarantee, Checks-By-Phone Guarantee, and ACH Debit Guarantee provisions are operational only if MERCHANT has marked the applicable Paya-EFT POS GUARANTEE CONVERSION, Checks-By-Phone Guarantee, Check 21 Plus with Guarantee, or ACH Debit Guarantee box on the application form of the Agreement. MERCHANT must utilize the Paya-EFT Virtual Terminal to qualify for the ACH Debit Guarantee coverage and the Paya-EFT Checks-By-Phone Gateway to qualify for Guarantee coverage. The ACH Debit Guarantee coverage is only available for Single ACH Debit services and are not offered for Recurring ACH Debit services. If so marked, MERCHANT wishes Paya-EFT to provide a guarantee for reimbursement of losses sustained by MERCHANT in accepting checks or Single ACH Debits for electronic or Remote Check Deposit (Check 21 Plus) processing. In addition to the provisions previously set forth and notwithstanding any provisions to the contrary, Paya-EFT has established a per account Guarantee Limit, as per the Schedule, based on a percentage of the face amount of any and all checks (and a local access [Transaction fee] fee) as set forth in the pricing section of the agreement) presented at MERCHANT'S place of business or at other locations which are listed in any attachments to this Agreement, subject to the terms and conditions set forth in this Agreement. Paya-EFT shall reimburse MERCHANT per Schedule, up to the Guarantee Limit, as measured from the date of verification of non-payment, subject to MERCHANT's compliance with all of the terms and conditions contained in this Agreement or any of Paya-EFT's other published instructions. Paya-EFT shall have the right to adjust MERCHANT'S rate including Paya-EFT POS Guarantee Conversion, Remote Check Deposit (Check 21 Plus) with Guarantee, Checks-By-Phone Guarantee, and ACH Debit Guarantee rate based upon its sole determination. Merchant must utilize the Virtual Terminal to qualify for ACH Debit Guarantee service and the Paya-EFT Checks-By-Phone Gateway to qualify for Checks-By-Phone Guarantee service. Each month MERCHANT shall have access to an itemized summary of applicable electronic check, Checks-By-Phone, Remote Check Deposit (Check 21 Plus) check, and ACH Debit deposits. Paya-EFT shall process up to the check limit established for MERCHANT, but will not be responsible for reimbursement of checks exceeding the MERCHANT'S approved guarantee limit. The following transaction types are not included in the Paya-EFT POS GUARANTEE CONVERSION, Remote Check Deposit (Check 21 Plus) with Guarantee, Checks-By-Phone Guarantee, or ACH Debt Guarantee service, and Paya-EFT assumes no liability for and will provide no reimbursement for transactions as follows: Incorrect MICR data reads, unable to locate account or invalid account number returns, (R29) Unauthorized Corporate returns, customer chargebacks or customer revocations of any transaction. Merchant agrees to provide any additional information to Paya-EFT on occasion as needed to

assist in collection efforts. **Guarantee reimbursement shall only serve to cover MERCHANT losses due to, NSF returns, and Insufficient Funds returns up to the per account guarantee limit placed in the approval section of the contract.**

15. **SWIFTSETTLE.** Merchant acknowledges that to receive SwiftSettle processing, merchant's transactions must be received prior to the established cutoff time by the Originating Depository Financial Institution ("ODFI"). Any transaction received after the established SwiftSettle cutoff will be processed in the standard evening processing cycle (i.e., the Effective Entry Date will be the next business day) and the SwiftSettle Transaction fee still applies. SwiftSettle is currently available through gateway and file transmission only. Support assisted reversals are not available for SwiftSettle items. Same day voids and reversals may be supported through the gateway (check with gateway provider to confirm functionality). A SwiftSettle Entry must be for an amount of \$25,000 or less, and an IAT Entry cannot be a SwiftSettle Entry. Paya does not represent or warrant that the Originating Depository Financial Institution ("ODFI") will timely transmit any Entry to its ACH Operator, or that the ACH Operator will timely transmit the Entry for same-day processing and settlement. It is understood that the ODFI, ACH Operator and Receiving Depository Financial Institution (RDFI) may impose additional requirements for SwiftSettle, in accordance with the NACHA Rules, or their own policies and procedures.
16. **MERCHANT PAYMENT OBLIGATIONS.** Merchant shall pay Paya-EFT the fees and charges for the Services rendered hereunder in accordance with the Fees and Charges as set forth in the Application. MERCHANT must promptly notify Paya-EFT in writing of any dispute regarding fees under this Agreement. MERCHANT'S written notice must include: (i) MERCHANT name and account number; and (ii) the dollar amount and description of the disputed fees. Such written notice must be received by Paya-EFT no later than ninety (90) days after the disputed fees have been paid by MERCHANT or charged to MERCHANT'S account by Paya-EFT. MERCHANT'S failure to so notify Paya-EFT will waive and bar the dispute. If applicable, for the purpose of billing a Mobile Image shall consist of the front-and-back of a check; any other image capture shall be billed as a separate image regardless of whether or not multiple images are of a single document.
17. **ASSIGNMENT OF CHECKS AND ACH DEBITS.** As of the date of this Agreement and by subscribing to Paya-EFT services, MERCHANT shall be deemed to have assigned to Paya-EFT, without recourse, all of MERCHANT'S right, title and interest in and all ACH Debits return fees and checks, including any rights to treble or punitive damages permitted under applicable law. MERCHANT shall execute and deliver endorsements, instruments, and papers and shall do whatever is necessary under the laws of any applicable jurisdictions to secure and defend Paya-EFT'S rights and shall do nothing to prejudice those rights. MERCHANT shall cooperate with Paya-EFT in pursuing Paya-EFT'S rights, including suing or prosecution of the customer under all applicable laws.
18. **COMPLIANCE AND DISCLOSURE OF INFORMATION.** MERCHANT agrees to comply with all applicable state or federal laws, rules and regulations affecting the use of checks, drafts and ACH transactions, including but not limited to rules and procedural guidelines established by the Federal Trade Commission ("FTC") and Regulation E (Reg. E). MERCHANT is solely responsible for any and all Losses incurred by MERCHANT or Paya-EFT in the event MERCHANT initiates any transaction prohibited by Regulation E Rules or other rules or laws of the United States of America ("USA") or in breach of this Agreement. MERCHANT shall provide such information and certifications as Paya-EFT may reasonably require from time to time to determine MERCHANT'S compliance with the terms and conditions of this Agreement and applicable law. MERCHANT further agrees to produce and make available for inspection by Paya-EFT or its officers, agents, attorneys, accountants, or representatives, such books and records of MERCHANT as Paya-EFT may deem reasonably necessary to be adequately informed of the business and financial condition of MERCHANT, or the ability of MERCHANT to observe or perform its obligations to Paya-EFT pursuant to this Agreement. MERCHANT further agrees to provide to Paya-EFT from time to time such information including, but not limited to, credit reports, personal and/or business financial statements, income tax returns, or other such information as Paya-EFT may request. MERCHANT grants to Paya-EFT continuing authority to conduct credit checks and background investigations and inquiries concerning MERCHANT and MERCHANT'S owner(s) including, but not limited to, character and business references and the financial condition of MERCHANT and MERCHANT'S owner(s). MERCHANT expressly authorizes Paya-EFT or its agents, attorneys, accountants, and representatives to provide and receive such information from any and all third parties directly, without further consent or authorization on the part of MERCHANT. Paya-EFT may share with others its credit, sales and other information. MERCHANT will not transfer, sell, or merge or liquidate its business or assets or otherwise transfer control of its business, change its ownership in any amount or respect, engage in any joint venture partnership or similar business arrangement, change its basic nature or method of business, types of products sold or engage in sales by phone or mail order without providing notice to Paya-EFT and provide Paya-EFT with the opportunity to terminate this Agreement.
19. **COMPLIANCE WITH THE RULES AND APPLICABLE LAW.** MERCHANT'S rights and obligations with respect to any Entry are governed by the NACHA Rules ("the Rules"), this Agreement and applicable law. The Merchant agrees to comply with and be bound by "the Rules". MERCHANT agrees to comply with applicable state and federal law or regulation and Merchant warrants that it will not transmit any Entry that violates the laws of the United States, including, without limitation, regulations of the Office of Foreign Asset Control (OFAC).
20. **DATA RETENTION.** MERCHANT shall retain all records related to authorization, including all sales and credit receipts and authorizations for a period of no less than two years following the date of the transaction, or two years from authorization revocation if applicable. According to Paya-EFT'S current Paya-EFT policies, MERCHANT shall, as applicable, stamp or mark "ACH processed" and hand the check back to the check writer and retain for a period of 2 years all ACH Debits received from customers. **If check is handed back to check writer, ACH authorization form is handed back to consumer, or recorded oral authorization is lost then MERCHANT acknowledges that Paya-EFT will not be able to provide any check collection services beyond the third electronic presentment of the check. Failure to provide the signed authorization receipt, form, or recorded oral authorization to Paya-EFT will result in cessation of collection efforts, and Paya-EFT will be entitled to immediately debit MERCHANT'S account for any previously processed and returned transactions.**
21. **ADDITIONAL MERCHANT REPRESENTATIONS.** MERCHANT agrees to permit Paya-EFT to audit MERCHANT upon reasonable notice. MERCHANT agrees that any outstanding amount(s) owed to Paya-EFT shall be subject to a 1.5% finance charge monthly. Any outstanding sums will be sent to an outside collection agency and charged the maximum amount of civil, legal, and collection fees/charges as is allowed by law. MERCHANT will not disclose and will keep confidential the terms and conditions of this Agreement.
22. **ADDITIONAL PAYA-EFT RESPONSIBILITIES.** Paya-EFT will accept, as applicable, entries via check reader hardware, MERCHANT'S payment gateway, double sided check images from a Paya-EFT approved check imager/software vehicle, ACH Debit software, and Checks-By-Phone Gateway on a 24-hour per day basis. Paya-EFT is only responsible for processing entries that have arrived at its premises in a proper format and on a timely basis. Paya-EFT will use information provided by MERCHANT to originate its entries in the applicable Remote Check Deposit (Check 21 Plus) network or ACH. MERCHANT understands and agrees that Paya-EFT may reject MERCHANT'S entries for any reason permitted in this Agreement and/or if acceptance of such entry would cause Paya-EFT to potentially violate any federal, state or local law, rule statute, or regulation, including without limitation any Federal Reserve or other regulatory risk control program. At MERCHANT'S written request, Paya-EFT will make reasonable efforts to reverse or delete an entry, but will under no circumstance be liable for the failure to comply with such request.
23. **LIMITATION OF LIABILITY AND MERCHANT'S WAIVER OF DAMAGES.**
 - a) In addition to any limitation of liability appearing in any other provision of this Agreement, Paya-EFT shall not be liable for any of the following types of Loss, regardless of the form of action, whether in contract, tort (including negligence), strict product liability, or otherwise, even if such Loss were foreseeable and even if Paya-EFT has been advised of the possibility of such Loss: (1) any indirect, special, punitive, exemplary, incidental, or consequential Loss of any kind, (2) loss or interruption of use, business, profits, sales, bargain, contract, opportunity, goodwill or anticipated savings, or (3) loss or corruption of data or otherwise; and (ii) the maximum aggregate liability of a Party for any liability and any cause of action arising under or in connection with this Agreement, howsoever arising (including by way of negligence or any other theory of law), shall be limited to the fees paid by Merchant to Paya-EFT during the three (3) months immediately preceding the date on which the relevant cause of action arose. For greater certainty, any amounts paid by Paya-EFT pursuant to this Section shall reduce the liability limit applicable to such claim by such amounts for any period for which Paya-EFT may be required to pay Losses thereafter.
 - b) Paya-EFT shall have no liability in relation to any of Merchant's dealings with any third-party person directly contracting with the Merchant (including any breach by a third-party person directly contracting with the Merchant or Merchant of any agreement between Merchant and a third-party person directly contracting with the Merchant) or any decision, action or omission of a regulatory authority including, without limitation, with respect to Settlements or availability of funds.
 - c) Paya-EFT shall stand in the place of each of its affiliates with respect to any claims, actions or proceedings arising out of the Agreement in respect of the Services Merchant receives from Paya-EFT. Merchant acknowledges and agrees that its sole remedy, if any, for Paya-EFT'S or any of its affiliates' failure to provide the Services as provided for in the Agreement shall be against Paya-EFT pursuant to the terms of the Agreement, and that Merchant hereby expressly waives any and all separate claims against any Paya-EFT affiliate performing any part of the Services. This waiver shall apply whether such claim arises out of contract or tort law, or whether such claim lies in equity or at law and regardless of whether either party knew or should have known of the likelihood of damages arising out of such a claim.
 - d) Notwithstanding the provisions of this Section, nothing in this Agreement shall limit or exclude any other Loss which cannot by Applicable Law be limited or excluded.
 - e) Third Parties. Merchant acknowledges and understands that certain components of the Paya-EFT services will rely on third parties (such as Paya-EFT'S communication carrier or clearing houses, ISPs, banks, processing networks, money transfer systems, external data bases, etc.) and are subject to such third party's solvency, acts or omissions, performance, availability, service levels, availability of processed funds, and terms and conditions. Paya-EFT shall not be responsible for the acts and omissions of third parties.
24. **FORCE MAJEURE.** Paya-EFT shall not be responsible for delays, nonperformance, damages, lost profits or other Losses caused directly or indirectly by any Act of God, including, without limitation, fires, earthquakes, tornadoes, hurricanes, wars, labor disputes, communication failures, legal constraints, power outages, data transmission loss or failure, incorrect data transmission or any other event outside the direct control of Paya-EFT.
25. **CONFIDENTIALITY.** Each party acknowledges that all other materials and information disclosed to the other party ("Recipient") in connection with the performance of this Agreement, including any trade secret, process, technique, algorithm, computer program (source and object code), design, drawing, formula, business plan or test data relating to any research project, work in process, future development, engineering, marketing, servicing, financing, strategic partnership or personnel matter consist of confidential and proprietary data. Each Recipient will hold those materials and that information in strict confidence, and will restrict its use of those materials and that information to the purposes anticipated in this Agreement. If the law or legal process requires Recipient to disclose confidential and proprietary data, Recipient will notify the disclosing party of the request. Thereafter the disclosing party may seek a protective order or waive the confidentiality requirements of this Agreement, provided that Recipient may only disclose the minimum amount of information necessary to comply with the requirement. Recipient will not be obligated to hold confidential any information from the disclosing party which (a) is or becomes publicly known through no act or omission of the Recipient, (b) is received from any person or

- entity who, to the best of Recipient's knowledge, or Recipient's reason to know, has no duty of confidentiality to the disclosing party, (c) was already known to Recipient prior to the disclosure, and that knowledge was evidenced in writing prior to the date of the other party's disclosure, or (d) is developed by the Recipient without using any of the disclosing party's information. MERCHANT further warrants and agrees that it shall not sell, purchase, provide, or exchange checking account information in the form of sales drafts, mailing lists, tapes, or any other media obtained by reason of a transaction or otherwise, to any third party other than to Paya-EFT, MERCHANT'S agents approved by Paya-EFT for the purpose of assisting MERCHANT in its business to Paya-EFT, the financial institution named on the check, or pursuant to lawful government demand without the account holder's explicit written consent. All media containing checking account numbers must be stored in an area limited to selected personnel until discarding and must be destroyed prior to or in connection with discarding in a manner that will render the data unreadable. MERCHANT will not disclose and will keep confidential the terms and conditions of this Agreement.
26. **INDEMNIFICATION.** Merchant shall at its expense and upon demand indemnify, defend and hold harmless Paya-EFT and its affiliates and Paya-EFT and its affiliates' respective employees, officers and directors ("Paya-EFT Indemnified Parties") from Losses, which Paya-EFT suffers or incurs in relation to any Claim brought against Paya-EFT Indemnified Parties by a third party where such Claim is caused by Merchant or arises out of any breach of this Agreement by Merchant or as a result of, or in connection with Merchant's misrepresentation, breach or failure to comply with the Rules or applicable law or regulations and/or with respect to Merchant's websites, trademarks, products or services, and where relevant to Paya-EFT's use of the above, and including without limitation, in relation to actual or alleged infringement, misappropriation, or violation of any third-party intellectual property rights. "Claim" means, collectively, each action, cause of action, dispute, controversy, complaint, suit, litigation, proceeding, claim, demand or assessment, fine or similar charge whether arising in contract, tort or otherwise. "Losses" means, collectively, any liability of any kind, loss, claim, damage, interest, fine, penalty, fee, charge, cost and/or expense (including reasonable and properly incurred legal and other professional fees, costs and/or expenses). For further certainty, without limiting the foregoing, Merchant shall indemnify, defend and hold harmless the Paya-EFT Indemnified Parties from Losses suffered or incurred in connection with any dispute between Merchant and a customer regarding Merchant's acts or omissions, including any alleged or actual failure to process a transaction as requested by such customer or to provide data security.
27. **SECURITY INTEREST.** (a) This Agreement is a security agreement under the Uniform Commercial Code. MERCHANT grants to Paya-EFT a security interest in and lien upon: (i) the account designated by MERCHANT for settlement and all funds at any time in such account, whatever the source of such funds, (ii) the Charge-back and Return Reserve Account (as defined above) and all funds at any time in the Chargeback and Return Reserve Account, whatever the source of such funds, (iii) all MERCHANT's rights relating to this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement; and (iv) all MERCHANT deposit accounts now owned or hereafter acquired and the proceeds of all of the foregoing (collectively, the "Secured Assets"). Upon request of Paya-EFT, MERCHANT will execute one or more financing statements or other documents to evidence this security interest. MERCHANT authorizes Paya-EFT and appoints Paya-EFT its attorney in fact to sign its name to any financing statement used for the perfection of any security interest or lien granted in this Agreement. These security interests and liens will secure all of MERCHANT's obligations under this Agreement and any other agreements between MERCHANT and Paya-EFT including, but not limited to, MERCHANT's obligation to pay any amounts due to Paya-EFT. With respect to such security interests and liens, Paya-EFT will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. Paya-EFT may exercise its rights under this Agreement to collect any amounts due to Paya-EFT including, without limitation, rights of set-off and recoupment.
28. **IRS REPORTING AND WITHHOLDINGS.** Section 6050W of the Internal Revenue Code ("Code") requires payment providers and third party payment networks, such as Paya-EFT, to report payment settlement amounts to the Internal Revenue Service ("IRS") for each merchant processing through Paya-EFT. Merchant shall verify its identity by providing Paya-EFT with a Tax Identification Number ("TIN") such as a Social Security Number (SSN) or Employer Identification Number (EIN) for each Merchant Account. In the event Merchant fails to provide its TIN, Paya-EFT will place a restriction on Merchant's Account and may restrict the receipt of funds into Merchant's Account, or withhold a percentage of payments deposited into Merchant's Account in order to satisfy the backup withholding requirements of the IRS. Paya-EFT may charge up to \$25.00 annually for associated administrative costs.
29. **NON-WAIVER.** Neither the failure nor any delay on the part of Paya-EFT to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof or give rise to an estoppel nor be construed as an agreement to modify the terms of this Agreement, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a party hereunder shall be effective unless it is in writing and signed by the party making such waiver, and then such waiver shall apply only to the extent specifically stated in such writing.
30. **ASSIGNMENT.** MERCHANT may not assign or transfer any rights under this Agreement unless and until it receives the prior written approval of Paya-EFT. Paya-EFT may freely assign this Agreement, its rights, benefits and duties hereunder.
31. **TERMINATION.** This Agreement shall continue indefinitely unless and until terminated by either party. MERCHANT may terminate this Agreement after one (1) year and thereafter upon sixty (60) days written notice to Paya-EFT of termination and monthly minimum and subscription fees will continue in effect for this time. If either party terminates this agreement a fee as set forth in the Application will be assessed and electronically debited from MERCHANTS account. Paya-EFT shall have the right to suspend or terminate this Agreement immediately and without notice to MERCHANT.
32. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, such counterparts to constitute but one and the same instrument.
33. **SCHEDULE OF FEES.** Attached to this Agreement and incorporated herein by reference is a Schedule of Fees, which contains the, as applicable, Discount Fee, Transaction Fees, Return Fee per returned item, Minimum Monthly Discount Fee, Subscription Fee, Batch Out Fee, Monthly Check 21 Access Fee, Termination Fee and other terms and conditions in effect on the commencement date of this Agreement. Paya-EFT reserves the right at all times to unilaterally change all or part thereof, or any other terms of this Agreement upon written notice to MERCHANT.
34. **APPLICATION FEE.** Any application fee paid to Paya-EFT is non-refundable whether or not MERCHANT and this Agreement are accepted by Paya-EFT.
35. **ENTIRE AGREEMENT.** This Agreement, including the attached Schedules, together with the Account Agreement, is the complete and exclusive statement of the agreement between Paya-EFT and the MERCHANT with respect to the subject matter hereof and supersedes any prior agreement(s) between Paya-EFT and the MERCHANT with respect to the subject matter. In the event of any inconsistency between the terms of this Agreement and the Account Agreement, the terms of this Agreement shall govern. In the event the performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which Paya-EFT, the Originating Depository Financial Institution (ODFI) or MERCHANT is subject, and which governs or affects transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy and Paya-EFT, the ODFI and MERCHANT shall incur no liability as a result of such changes except as provided in the following paragraph.
36. **AMENDMENTS.** As stated in paragraph 35, Paya-EFT, the ODFI or MERCHANT may amend operations or processing procedures in order to conform to and comply with any changes in the Rules or applicable Federal or State Regulations. The changes would be, without limitation, those relating to any cut-off time and the close of any business day. Such amendments to operations or procedures shall become effective upon receipt of written notice to the other party, as provided for herein, or upon such date as may be provided in the Rules or applicable law or regulation referenced in the written notice, whichever is earlier in time. Use of the ACH or Remote Check Deposit (Check 21 Plus) services after any such changes shall constitute acceptance of the changes by the parties. Further, Paya-EFT may, from time to time, amend any provision of this Agreement, including, without limitation, those relating to the fees and charges payable by MERCHANT by providing written notice to MERCHANT of the amendment, and the amendment shall become effective unless Paya-EFT receives MERCHANT's notice of termination of this Agreement within 7 days. Amendments due to changes in the Rules or any law or judicial decision may become effective on such shorter period of time as Paya-EFT may specify if necessary to comply with the applicable Rule, law or decision. No other amendments or modifications to this Agreement will be effective unless such changes are reduced to writing and are signed by the duly authorized party or parties to this Agreement and such Amendments are incorporated into and made a part of this document.
37. **BINDING AGREEMENT; BENEFIT** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. This Agreement is not for the benefit of any other person or entity and no other person or entity shall have any right against Paya-EFT.
38. **ATTORNEYS' FEES.** In the event that it becomes necessary for Paya-EFT to employ an attorney to enforce, interpret, mediate or arbitrate this Agreement, or collect a debt from MERCHANT, Paya-EFT shall be entitled to recover its reasonable attorneys' fees, costs, and disbursements related to such dispute from MERCHANT.
39. **CHOICE OF LAW, VENUE & JURISDICTION.** Notwithstanding any language to the contrary, all issues related to the electronic processing of checks and ACH Debits under the terms of this Agreement shall be determined in accordance with the NACHA Rules, Federal Trade Commission and Regulation E Rules, and laws of the United States of America and the State of Florida as it applies to contracts. In the event of a conflict between the Rules and applicable local, state or federal law, the Rules shall prevail unless otherwise prohibited by law. To the extent that an issue arises which is not covered by the Rules, this Agreement shall be governed by and construed in accordance with Florida law and it is expressly agreed that venue and jurisdiction for all such matters shall lie exclusively in Okaloosa County, Florida. MERCHANT acknowledges that this Agreement was formed in Florida, upon its acceptance by Paya-EFT.
40. **SEVERABILITY.** If any provision of the Agreement is held to be illegal, invalid, or unenforceable, in whole or in part, by court decision, statute, or rule (or otherwise would go in if you wanted to include arbitration) such holding shall not affect any other provisions of this Agreement. All other provisions or parts thereof shall remain in full force and effect and this Agreement shall, in such circumstances, be deemed modified to the extent necessary to render enforceable the provision hereof.
41. **HEADINGS.** The headings in this Agreement are used for referenced purposes only. They shall not be deemed as part of this Agreement and shall not affect its interpretation.
42. **EFFECTIVE DATE.** This Agreement shall be effective only upon acceptance by Paya-EFT.
43. **AFFILIATES.**
- Paya-EFT may satisfy its obligation to provide Services under the Agreement by causing one or more of its Affiliates that is reasonably capable of performing such services to provide part or all of the Services or by subcontracting any of such Services or any portion thereof to such Affiliates (each, a "Paya-EFT Affiliate"). "Affiliate" means with respect to any entity, another entity that directly or indirectly controls, is controlled by or is under common control with such entity. Paya-EFT hereby fully and unconditionally guarantees the due and punctual performance of any such Services, consistent with the terms of the Agreement, by any such Paya-EFT Affiliate.
 - MERCHANT and Paya-EFT stipulate and agree that any Paya-EFT Affiliate performing any portion of the services shall be an intended third-party beneficiary of this Agreement and shall have the right to enforce the terms of this Agreement against MERCHANT as if it were a party hereto.

44. AGENT OF PAYEE. MERCHANT ACKNOWLEDGES AND AGREES THAT, FOR THE INITIAL TERM AND ANY RENEWAL TERM(S) OF THE AGREEMENT, PAYA-EFT AND ANY PAYA-EFT AFFILIATE PERFORMING SERVICES UNDER THE AGREEMENT ARE ACTING AS MERCHANT'S AUTHORIZED AGENTS FOR THE LIMITED PURPOSE OF PROCESSING PAYMENTS ON THE MERCHANT'S BEHALF TO FACILITATE THE PURCHASE OF PRODUCTS AND/OR SERVICES SOLD BY MERCHANT, AND MERCHANT APPOINTS PAYA-EFT AND ANY APPLICABLE PAYA-EFT AFFILIATE PERFORMING SERVICES PURSUANT TO THE AGREEMENT AS ITS AGENTS, AND EXPRESSLY AUTHORIZES PAYA-EFT AND SUCH PAYA-EFT AFFILIATES TO RECEIVE SUCH PROCEEDS ON MERCHANT'S BEHALF. A PAYMENT TO PAYA-EFT OR ANY PAYA-EFT AFFILIATE OF AN OBLIGATION OWED TO MERCHANT SHALL BE CONSIDERED PAYMENT TO MERCHANT, SATISFYING AND EXTINGUISHING THE PAYMENT OBLIGATION OF THE RELEVANT CONSUMER TO THE MERCHANT (IN THE AMOUNT PAID BY SUCH CONSUMER) AS IF THE RELEVANT CONSUMER HAD PAID THE MERCHANT DIRECTLY. MERCHANT SHALL PROVIDE CUSTOMERS WITH A TRANSACTION RECEIPT EVIDENCING SUCH PAYMENT.
45. NOTICE. All notices and other communications required or permitted under this Agreement must be in writing and will be delivered immediately as provided in this Section. If to Paya-EFT, by overnight courier to, email or facsimile to: 303 Perimeter Center North STE 600, Atlanta, Georgia 30346. If to MERCHANT, by overnight courier or email to the address specified in the Application or via email to the contact listed on the Application. A written notice shall also be deemed sent by Paya-EFT and received by MERCHANT if the notification is given to MERCHANT: (i) through a platform used by MERCHANT to access its account(s); or (ii) by way of any periodic statement sent to MERCHANT, whether such statement is sent via a platform, electronically, by commercial courier, mail or email. MERCHANT consents to the written or electronic provision of all notices and other communications required or permitted to be given under this Agreement from Paya-EFT, including any notices and other communications required to be provided to MERCHANT under applicable law. MERCHANT will need a computer or mobile device, internet connectivity, and an updated browser to access any platform used by MERCHANT to access its account(s) and review the notices and other communications provided to MERCHANT.
46. SIGNATURE. MERCHANT represents and warrants that the person executing this Agreement is duly authorized to bind MERCHANT to all provisions of this Agreement, and that such person is authorized to execute any documents and to take any action on behalf of MERCHANT, which may be required by Paya-EFT now or in the future. MERCHANT and Paya-EFT expressly agree that (A) the electronic signature of this Agreement by either party is valid as an original signature of such party and is effective to bind such party to this Agreement; and (B) this Agreement, when signed electronically or manually, is to be deemed (i) to be "written" or "in writing"; (ii) to have been signed; and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. To the extent authorized or permitted by applicable law, such paper copies or "printouts", if introduced as evidence in any judicial proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form.
47. IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their duly authorized officers.
48. CONSUMER CONVENIENCE FEES. MERCHANT acknowledges that this Agreement may also contemplate a Consumer Convenience Fee Option and MERCHANT wishes to participate in the Consumer Convenience Fee Option in which Paya-EFT shall collect a Convenience Fee from the consumer. MERCHANT shall be solely responsible for informing customers of such convenience fee charges and to obtain customer's authorization, by signature or similarly authenticated, to debit the convenience fee from customer's bank account via ACH debit. MERCHANT's customer authorization process should take into consideration whether the convenience fee is or is not included in the face amount of the check and for obtaining proper authorization so that the total amount to be deducted (both the sale amount and the fee) are properly authorized by the customer. MERCHANT hereby confirms that Convenience fees are acceptable to be added under all applicable laws.

ACH Debit/Credit Schedule

With respect to ACH Debit, the Agreement and this Schedule are only applicable to processing Virtual Terminal or ACH file based transactions utilizing the end-customer's Checking account data. Paya-EFT's product and associated software specifically designed for such transactions will be utilized by MERCHANT, and such software will either be hosted and maintained by Paya-EFT on Paya-EFT equipment, or alternatively, provided directly to MERCHANT for installation on MERCHANT equipment. In all cases where Paya-EFT hosts the software for MERCHANT, the various terms and conditions referenced below regarding disclosure, transaction and processing requirements, and all other requirements imposed by either regulatory agency, law, Paya-EFT, or otherwise shall have full force and effect, however, in instances where the Paya-EFT hosted software already complies with MERCHANT requirements, the MERCHANT shall be relieved of certain of these responsibilities. MERCHANT agrees not to change, modify, or alter such software or product in any way. Upon MERCHANT'S request and Paya-EFT's approval, ACH Debit/Credit guarantee services (hereinafter referred to as "Guarantee" service) will also be provided pursuant to provisions below. If MERCHANT has not requested Guarantee service, or if Paya-EFT has not accepted the MERCHANT application for Guarantee service, Paya-EFT will not be liable in any way for any returned ACH Debits/Credits of MERCHANT or its customers, for any reason.

- 1) ACH DEBIT PROCESSING. Paya-EFT shall not be responsible for the payment of any ACH Debits/Credits of MERCHANT that Paya-EFT has not received for processing from MERCHANT within twenty-four hours of the initial transaction date of said ACH Debit(s). MERCHANT shall be required to submit all documentation related to the transactions to Paya-EFT at Paya-EFT's request. MERCHANT shall make its books and records available to Paya-EFT.
- 2) REQUIREMENTS FOR PROCESSING ACH DEBITS. MERCHANT shall comply with the following conditions when processing ACH Debits/Credits and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operation as may be established by Paya-EFT from time to time. MERCHANT shall accept only the following ACH Debits/Credits as source documents to initiate ACH debit entries through Paya-EFT; (a) All demand deposit account ACH Debits/Credits must be drawn on or payable through a federally insured depository financial institution; be based on checking accounts where checks were issued with machine-readable with the bank routing number, account number and check serial number printed on the check, and be for an amount less the check limit assigned by Paya-EFT. (b) Customer shall authorize by signature written agreement containing ACH Debit/Credit amount and day of month to be debited from customer's account. (c) All items, goods and services purchased in a single transaction shall be included in the total amount on a form of proof of purchase; (d) To be eligible for guarantee coverage, if guarantee service was selected by MERCHANT and approved by Paya-EFT, MERCHANT shall have customer provided on the signed written payment agreement sufficient information to verify and locate customer, including address, telephone number, driver's license number, and last four digits of customer's social security number or year of birth. (e) Once Paya-EFT authorizes the transaction, MERCHANT shall ensure that the proof of purchase contains the following correct information: (a) the customer's bank routing and account number from the MICR data; (b) MERCHANT's correct name and business address; (c) the date of the transaction; (d) the total cash price of the sale (including all applicable state, federal or local surcharges and taxes. (e) After customer electronically accepts the receipt, MERCHANT shall deliver to the person presenting the ACH Debit/Credit a true and completed copy of the proof of purchase with the goods and services purchased and provide the consumer with a phone number for inquiries and method by which customer's authorization may be revoked; (f) MERCHANT's failure to input the correct routing number or account number into the Virtual Terminal will result in MERCHANT's loss of guarantee for the ACH Debit. (g) No ACH Debit/Credit may be altered after Paya-EFT authorizes acceptance of the ACH Debit. MERCHANT may not resubmit an electronic check or ACH Debit/Credit electronically or deposit it by any means once Paya-EFT authorizes a transaction. Failure to comply with the above requirements will, in addition to other penalties (such as but not limited to loss of guarantee on all ACH Debits/Credits), subject MERCHANT to chargebacks and may be grounds for immediate suspension/termination of services and indemnification of Paya-EFT by MERCHANT pursuant to this Agreement. YOU UNDERSTAND THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT THE CUSTOMERS EXPRESSED AUTHORITY. YOU HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT INSTRUMENT OR DEVICE TO UNLAWFULLY INITIATE A DEBIT TRANSACTION IS PUNISHABLE BY A MAXIMUM OF \$10,000.00 FINE PER INSTANCE UP TO A \$500,000 MONTHLY FINE, IMPRISONMENT FOR A TERM OF TEN YEARS, OR BOTH.
- 3) CUSTOMER'S AUTHORIZATION INITIATES DEBIT ENTRY. MERCHANT acknowledges that the customer's authorization allows MERCHANT to instruct Paya-EFT to initiate an ACH DEBIT ENTRY ("ENTRY") for MERCHANT against customer. It further permits Paya-EFT to reinitiate an ENTRY where the original ENTRY is returned and to assess a collection fee against CUSTOMER. All such collection fees shall be the sole property of Paya-EFT. Paya-EFT shall be entitled to multiple re-presentments and to assess a transaction fee as set forth in the schedule against MERCHANT for each re-presentment. If an ACH Debit/Credit is returned unpaid after each re-presentment, Paya-EFT shall be entitled to debit the MERCHANT'S account for the amount of the ACH Debit.
- 4) RESTRICTIONS ON ACCEPTANCE OF ACH DEBITS FOR ELECTRONIC PROCESSING. From time to time, Paya-EFT shall establish necessary security and identification procedures for presentment of checks or debits for electronic processing pursuant to the Rules and applicable law. MERCHANT agrees to comply with such procedures and to accept such "properly presented" checks or debits for electronic processing. Paya-EFT shall establish minimum and maximum amount limitations on ACH Debits/Credits presented for electronic processing by MERCHANT. MERCHANT shall not accept or attempt to process ACH Debits/Credits below the minimum or in excess of the maximum limitations established by Paya-EFT. In no event will Paya-EFT accept an ACH Debit/Credit greater than \$5000 for processing without prior written authorization by Paya-EFT. Paya-EFT shall also establish the number of ACH Debits/Credits that may be submitted on a daily basis by any customer for electronic processing. MERCHANT agrees to provide Paya-EFT with any and all information needed to establish such limitations. MERCHANT further agrees to inform Paya-EFT immediately of any changes in business activities, rules or regulations, which may affect these limitations. MERCHANT further agrees to abide by these limitations as a condition to Paya-EFT electronically processing any ACH Debit. For an ACH Debit/Credit transaction to be valid, customer must initiate the transaction and complete the ACH Debit/Credit Payment Agreement.
- 5) UNACCEPTABLE TRANSACTIONS. In addition to the restrictions set out above and in any event, the following transactions are unacceptable for electronic processing. MERCHANT agrees not to submit any of the following transactions to Paya-EFT for electronic processing; (a) MERCHANT shall not electronically process any ACH Debit/Credit drawn on any depository institution that is not federally insured or part of the ACH network, (b) MERCHANT shall not electronically process any ACH Debit/Credit drawn on the personal checking account of MERCHANT or any of its agents or employees, (c) MERCHANT shall not accept any third party items for electronic processing or ACH Debit/Credit made payable where the purpose is for the customer to receive cash or cash back, (d) MERCHANT shall not submit for processing any transaction representing the financing of an existing obligation whether previously owed to MERCHANT, arising from the dishonor of an ACH Debit, electronic check or arising from a credit card, debit card or smart card dispute with the MERCHANT, (e) MERCHANT shall not submit a transaction for processing which represents an attempt to collect a chargeback, (f) MERCHANT shall not submit an ACH Debit/Credit written for goods or services that are not concurrently provided to the customer, including any ACH Debit/Credit given for gift certificate, a layaway (except for the final payment) or for a similar transaction, or for goods or services provided to a third party, (g) MERCHANT shall not submit an ACH Debit/Credit which is altered by the Merchant in any way (h) MERCHANT shall not knowingly submit an ACH Debit/Credit on an account on which Paya-EFT previously denied authorization. MERCHANT's submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold.
- 6) SOFTWARE. MERCHANT shall utilize ACH Debit/Credit software provided by Paya-EFT for processing all ACH Debit/Credit transactions. (a) MERCHANT is responsible for all telecommunication fees and charges, including but not limited to telephone fees, associated with and related to the use of the software. (b) MERCHANT shall maintain all equipment necessarily related to ACH Debit/Credit processing, including necessary file servers, computer and telecommunications equipment in good working order at MERCHANT's sole expense. (c) MERCHANT shall advise Paya-EFT immediately in the event of breakdown of related equipment, ACH Debit/Credit software problems or of any other system failure. (d) MERCHANT acknowledges that Paya-EFT is not responsible for any related computer and telecommunications equipment used by the Merchant. In this regard, Paya-EFT shall not be responsible for any unauthorized tampering or altering to equipment and software specifically installed by Paya-EFT on the part the Merchant or Merchant's agent. Additionally, Paya-EFT's approval of such equipment does not constitute an express or implied warranty, representation or endorsement of such equipment.
- 7) VIRTUAL TERMINAL. The Paya-EFT Virtual Terminal requires a Windows Operating System. Merchant is responsible for all telecommunication fees and charges, including but not limited to telephone fees associated with and related to the use of the Paya-EFT Virtual Terminal Software.
- 8) DAILY SETTLEMENT OF TRANSACTIONS. MERCHANT agrees that a batchfile shall consist of all transactions submitted by 12:00 P.M. (CST) each calendar day. MERCHANT acknowledges that a request to not process a batchfile could result in a \$50.00 fee per day that those transactions are not processed for ACH submittal by Paya-EFT. Merchant acknowledges that it is customary for Paya-EFT to hold in reserve from Merchant an amount equal to three times the daily average of returns. Paya-EFT reserves the right to hold additional monies as necessary to reduce any risk associated with daily processing of ACH Debits/Credits. Paya-EFT also reserves the right to move monies into an account of its choosing to hold it against returns to those monies and providing to the merchant a net deposit after a period of time acceptable to Paya-EFT. MERCHANT acknowledges that failure to submit batchfiles for processing will delay funds being deposited. If so requested by Paya-EFT, the signed Recurring or One-Time Debit/Credit Payment Plan Authorization Form must be sent out and received at Paya-EFT's designated location within 48 hours from the request date. Failure to do so will remove Paya-EFT's obligations under the Guarantee program for such ACH Debits/Credits at Paya-EFT's sole discretion.
- 9) AUTHORIZATION RETRIEVAL REQUESTS. Whereby a financial institution, regulatory or law enforcement agency, or similar authority has demanded from Paya-EFT proof of valid consumer authorization, in accordance with NACHA Rules, MERCHANT shall provide said proof of authorization to Paya-EFT within (2) business days. In the event that MERCHANT cannot provide the appropriate consumer authorization, and Paya-EFT suffers a penalty enforced by NACHA, Paya-EFT shall have the right to offset such penalty and charge

MERCHANT a minimum of \$1000 per instance and up to a \$100,000 per month until the problem is resolved.

- 10) **ADDITIONAL MERCHANT WARRANTIES.** With each transaction presented to Paya-EFT by MERCHANT for authorization, MERCHANT specifically warrants and represents that: (a) MERCHANT, nor any of its employees have submitted ACH Debits/Credits drawn from their personal ACH Debiting accounts on the MERCHANT's ACH Debit/Credit software; (b) MERCHANT uses only the name and address shown on the front of the Agreement on all its sales drafts; (c) MERCHANT has not submitted duplicates of any transaction; (d) MERCHANT warrants that ACH Debit/Credit banking information on the printed receipt is correct; and (e) no transaction submitted for authorization to Paya-EFT is with or through an entity other than MERCHANT.
- 11) **ACH DEBITS FOR WHICH MERCHANT WILL NOT BE FUNDED ON UNDER ACH DEBIT GUARANTEE.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, Paya-EFT shall have no obligation to reimburse Merchant for ACH Debits/Credits that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the ACH Debit; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as principal or as an accessory, in the issuance; (c) Accepted by merchant or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by Paya-EFT; (d) Lost, stolen, altered or counterfeit, and Paya-EFT has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted ACH Debit/Credit or ACH Debit, whether or not the previous Electronic check or ACH Debit/Credit was authorized by Company or, any ACH Debit/Credit upon which Merchant has accepted full or partial payment; (f) One of multiple electronic checks or ACH Debits/Credits presented to Merchant in a single transaction for electronic processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by merchant or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) ACH Debits/Credits for which Merchant returns cash back to the customer, unless Merchant is approved in writing by Paya-EFT for such cash-back transactions; (j) ACH Debits/Credits for which Paya-EFT previously denied authorization; (k) ACH Debits/Credits not in compliance with this agreement and not processed in accordance with the ACH Debit/Credit processing provisions of this Agreement. (l) Incorrect Routing and Account Number data entry; (m) unable to locate account or invalid account number returns or unauthorized corporate account returns. In addition, before processing the ACH Debit/Credit and as a condition to honoring the ACH Debit, MERCHANT shall obtain sufficient personal information to locate the person presenting the ACH Debit/Credit including but not limited to a current home or business telephone number including area code, a current home address consisting of a street or rural route address, not a post office box, and the customer's valid, unexpired driver's license number or non-driver identification number together with the state of issuance, and the last four digits of customer's social security number or year of birth in YYYY format. MERCHANT shall ensure that this identifying information is legibly printed on the ACH Debit/Credit Payment Agreement form; (n) ACH Debit/Credit Payment Agreement form must contain a current phone number of customer; (o) ACH Debit/Credit Payment Agreement form must contain the customer's drivers license number; (p) Paya-EFT must receive the completed ACH Debit/Credit Payment Agreement form within 48 hours of Paya-EFT's request; (o) MERCHANT's failure to input into the Virtual Terminal the correct routing number and/or account number will result in MERCHANT's loss of guarantee.
- 12) **CREDIT ENTRIES.**
- a) Prior to initiating an ACH credit entry to any third-party payee, MERCHANT will first conduct a due diligence review on such payee. MERCHANT shall be responsible for maintaining appropriate procedures and processes for conducting periodic due diligence reviews on payees to ensure compliance with the terms of the Agreement, law and the Rules. MERCHANT will provide to Paya-EFT any information reasonably requested regarding payees and the ACH credit entries processed pursuant to the Agreement, including but not limited to information related to Bank Secrecy Act / Anti-Money Laundering and OFAC compliance, transaction monitoring data, and due diligence information.
- b) MERCHANT acknowledges and agrees that ACH credit entries operate on a "good funds" model. As between the Parties, MERCHANT shall be solely responsible and liable for the funding of all ACH credit entries, returns, and all errors in connection with ACH credit entries resulting from incomplete and/or inaccurate data submitted by MERCHANT or any payees.
- i) Paya-EFT shall not have any obligation to fund ACH credit entries unless and until MERCHANT's funding of the ACH credit entry is cleared and settled, which MERCHANT acknowledges may impact the effective entry date of the ACH credit entry.
- ii) As between the Parties, MERCHANT is solely responsible for ensuring that accurate information is provided in connection with an ACH credit entry.
- iii) MERCHANT is solely responsible for properly transmitting the payment data to Paya-EFT's systems using the format and specifications provided by Paya-EFT.
- iv) Paya-EFT is not responsible for reversing any ACH credit entry, but will use good faith efforts to do so upon MERCHANT's request. MERCHANT acknowledges that once transmitted, it may not be possible to reverse an ACH credit entry and that MERCHANT may need to rely on mechanisms outside of the ACH Network to recover any funds credited to a third party in error.
- 13) **REGULATED ACTIVITIES.** This section governs the provision to MERCHANT of payment processing services for Regulated Activities (defined below) (the "Regulated Services") as supplemental services to the other Services provided under this Schedule and the Agreement. "Regulated Activities" shall mean any money transmission services as defined in the Bank Secrecy Act, 31 USC Section 1010.100 (ff)(5), or that are otherwise regulated under state law. MERCHANT and Paya-EFT stipulate and agree that Nuvei US LLC, which is a Paya-EFT Affiliate and a FinCEN registered money service business and licensed money transmitter, is reasonably capable of, and will be responsible for performing, any Regulated Services that form part of the Services provided under the Agreement.

Check 21+ Remote Check Deposit Schedule

- REMOTE CHECK DEPOSIT (CHECK 21 Plus) with Guarantee.** If MERCHANT has marked the REMOTE CHECK DEPOSIT (CHECK 21 Plus) with Guarantee box on the application form of this Agreement then MERCHANT wishes Paya-EFT also to provide check guarantee and collection services to MERCHANT. If MERCHANT has not marked the appropriate box, MERCHANT has engaged Paya-EFT to provide for each check: verification and Remote Check Deposit service without any guarantee. As of the date of this Agreement and by subscribing to REMOTE CHECK DEPOSIT (CHECK 21 Plus) with Guarantee, MERCHANT shall be deemed to have assigned to Paya-EFT, without recourse, all of MERCHANT's right, title and interest in any and all checks, including any rights to treble or punitive damages permitted under applicable law. MERCHANT shall execute and deliver endorsements, instruments, papers, and shall do whatever is necessary under the laws of any applicable jurisdictions to secure and defend Paya-EFT's rights and shall do nothing to prejudice those rights. MERCHANT shall cooperate with Paya-EFT in pursuing Paya-EFT's rights, including suing or prosecution of the customer under all applicable laws.
- REMOTE CHECK DEPOSIT (CHECK 21 Plus)-REMOTE (Consumer Not Present Transactions).** If MERCHANT has marked the Remote Check Deposit (Check 21 Plus) Remote with or without Guarantee box on the application form of this Agreement and Paya-EFT approves such Agreement, then Paya-EFT agrees to waive certain requirements for processing as stated in sections 5, 15, and 16 of this Schedule. In exchange for such waiver and higher risk of said transactions, Paya-EFT will charge a higher discount rate for the Consumer Not Present Transaction Program (see schedule.) Paya-EFT reserves the right to remove Guarantee coverage on any check transaction in such cases where there is not sufficient information on the check face to contact or locate the customer for collection efforts in the event the check is returned by the customer's bank. At a minimum, the check account number must be verified and approved by our front end host and all checks must be preprinted with the check writer's information, contain at least one phone number, and must not be a starter check. Failure to comply with the minimum standards as explained in this section may result in Merchant's loss of guarantee.
- CHECK COLLECTION.** MERCHANT authorizes Paya-EFT to represent all items that are returned to Paya-EFT and to originate an electronic entry for the amount of any allowable recovery fee. Paya-EFT shall have sixty (60) days from the date of a return check to complete the representment process. If this Agreement is terminated for any reason, Paya-EFT will retain the right to complete the representment process for all return check items prior to said termination. Any collection fees received by Paya-EFT in collecting returned checks shall be the sole property of Paya-EFT. Paya-EFT shall present the ENTRY no more than two times. Paya-EFT, for non-guarantee service, shall be entitled to assess a transaction fee (as set forth in the schedule of fees) from MERCHANT for each representment. If a check is returned unpaid after the second presentment, Paya-EFT shall be entitled to debit the MERCHANT'S account or offset such return amount from the next scheduled merchant settlement for the amount of the check (non-guarantee service only).
- CHECK PROCESSING.** MERCHANT shall submit all documentation related to the guaranteed transactions to Paya-EFT within forty-eight hours of Paya-EFT's request, including but not limited to sales receipts, invoices, or other documentation related to the transaction.
- REQUIREMENTS FOR PROCESSING REMOTE CHECK DEPOSIT (CHECK 21 Plus).** MERCHANT shall comply with the following conditions when accepting checks for Remote Check Deposit (Check 21 Plus) and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operation as may be established and/or revised by Paya-EFT from time to time. MERCHANT shall accept only the following checks as source documents to initiate Remote Check Deposit entries through Paya-EFT: (a) All instruments must be drawn on or payable through a federally insured depository financial institution; be machine-readable MICR-encoded with the bank routing number, account number and check serial number printed on the check, and be for an amount less than or equal to the approved check limit assigned by Paya-EFT. (b) MERCHANT shall obtain proper identification, in the form of a valid driver's license, from the customer so as to verify that the customer is authorized to negotiate the check before submitting the check to Paya-EFT for authorization. (c) MERCHANT shall scan each check through a Paya-EFT approved imaging device and/or an approved software vehicle to initiate Remote Check Deposit (Check 21 Plus) processing. (d) All items, goods and services purchased in a single transaction shall be included in the total amount on a single sales receipt; (e) At the time MERCHANT initiates authorization with Paya-EFT, MERCHANT warrants that the person presenting the check has been properly identified and is legally authorized to present the check for payment. (f) Once Paya-EFT authorizes the transaction, MERCHANT shall retain and store the check in a secure location for a minimum period of ninety (90) days. Refer to "Check Retention" and "Image Requirements" below. (g) MERCHANT shall deliver to the person presenting the check a true and completed copy of the sales receipt. (h) No check may be altered after Paya-EFT authorizes acceptance of the check. Once Paya-EFT authorizes a transaction, MERCHANT may not resubmit a check electronically or deposit it by any means, unless instructed by Paya-EFT to do so in such case where the image quality does not meet the required standards to process the check via Remote Check Deposit. In addition, MERCHANT shall write the current phone number and driver's license number of the customer on the face of the check prior to scanning the check through the check reader. Failure to comply with the above minimum requirements will result in loss of guarantee (if Remote Check Deposit (Check 21 Plus) with Guarantee Service is selected on application) on ALL transactions, subject MERCHANT to chargebacks or withholding of funds, and may be grounds for immediate suspension/termination of services and indemnification of Paya-EFT by MERCHANT pursuant to this Agreement.
- UNACCEPTABLE TRANSACTIONS.** In addition to the restrictions set out above and in any event, the following transactions are unacceptable for electronic Remote Check Deposit (Check 21 Plus) processing, and MERCHANT agrees not to submit any of the following transactions to Paya-EFT for electronic processing: (a) MERCHANT shall not process any temporary checks or checks that do not have the customer's current name, address and phone number pre-printed on its face, (b) MERCHANT shall not electronically process any checks drawn on any depository institution that is not federally insured or part of the ACH network, (c) MERCHANT shall not electronically process any checks drawn on the personal checking account of MERCHANT or any of its agents or employees, (d) MERCHANT shall not accept any third party items for electronic Remote Check Deposit (Check 21 Plus) processing or checks made payable to "cash" or "bearer", (e) MERCHANT shall not accept a traveler's check, money order, payroll check, counter check or sight draft, (f) MERCHANT shall not submit for processing any transaction representing the financing of an existing obligation whether previously owed to MERCHANT, arising from the dishonor of a check or arising from a credit card, debit card or smart card dispute with the MERCHANT, (g) MERCHANT shall not submit a transaction for processing which represents an attempt to collect a chargeback, (he) MERCHANT shall not submit a check written for goods or services that are not concurrently provided to the customer, including any check given for a service contract, gift certificate, a layaway (except for the final payment) or for a similar transaction, or for goods or services provided to a third party, (h) MERCHANT shall not submit a check which contains erasures, or which is altered, unless the alteration is initiated by the customer at time of presentation, (i) MERCHANT shall not knowingly submit a check on an account which Paya-EFT previously denied authorization. MERCHANT's submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination, and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold. This will also remove Paya-EFT POS the Guarantee Conversion coverage from ALL checks.
- EQUIPMENT.** MERCHANT shall furnish each outlet, retail location, or business entity with a Paya-EFT approved check imaging device that captures the front and back of the check and/ or other Paya-EFT approved software. Paya-EFT shall assign each MERCHANT's check imaging device an identification number. MERCHANT is responsible for all telecommunication fees and charges, including but not limited to telephone fees, associated with and related to the use of the software or the check imaging device. MERCHANT shall maintain all equipment related to electronic check processing in good working order at MERCHANT's expense. MERCHANT shall advise Paya-EFT immediately in the event of a breakdown of a Paya-EFT approved imaging device, software, or of any other system failure. MERCHANT acknowledges that Paya-EFT is not responsible for any equipment or software problems. Moreover, Paya-EFT's approval of such equipment does not constitute nor express an implied warranty, representation or endorsement of such equipment. Refer to Image Requirements and Virtual Terminal (if applicable).
- USE OF EQUIPMENT.** MERCHANT agrees to utilize only equipment approved by Paya-EFT for the processing of checks and in a format and medium of transmission acceptable to Paya-EFT.
- VIRTUAL TERMINAL.** If MERCHANT has marked the Virtual Terminal option box on the application form of this Agreement then MERCHANT wishes to use the Paya-EFT Virtual Terminal in place of a traditional point of sale terminal. Paya-EFT's Virtual Terminal performs the basic functions of a traditional point of sale terminal, as it pertains to check processing, including check processing, and transaction voids. NOTE: Remote Check Deposit (Check 21 Plus) Services requires the use of a Paya-EFT compatible two-sided check Imager connected to the PC. If a compatible two-sided check imaging device is not used, then MERCHANT understands that Paya-EFT will only provide Verification or standard Point of Sale ACH services, and there will be no transactions processed via Remote Check Deposit (Check 21 Plus). MERCHANT may utilize a compatible 3.5 inch printer or standard PC printer to print receipts. The Paya-EFT Virtual Terminal requires a Windows Operating System. Merchant is responsible for all telecommunication fees and charges, including but not limited to telephone fees associated with and related to the use of the Paya-EFT Virtual Terminal Software.
- IMAGE REQUIREMENTS.** In order for a check to be processed via Remote Check Deposit (Check 21 Plus) the check image must meet the following guidelines: (a) The check imaging device must capture the front and back of the check and be of minimum required size; (b) The image must not be too dark, too light, or too bright; (c) The check MICR information must be machine-readable and contain the bank routing number, account number, and check serial number printed on the check; (d) The MICR "on us" field value must contain valid data; (e) Check image cannot be missing or incomplete; (f) The check must be filled out in its' entirety for the check to be processed and/or guaranteed. Any check not meeting these standards will need to be manually deposited by merchant and cannot be processed via Remote Capture Deposit. Refer to section 20 of these Terms regarding Check Retention.
- SOFTWARE.** Paya-EFT may select software and related user materials ("Software") for use in Paya-EFT's electronic check deposit services and the processing of Transactions. From time to time, modifications or updates to the Software may be available. Customer agrees to adopt such updates or modifications as they become available. MERCHANT acknowledges that any Software supplied by Paya-EFT for use in Transactions, including, but not limited to, any Software created or modified by Paya-EFT to be specific to MERCHANT's environment is the property of Paya-EFT or a third party from whom Paya-EFT may have licensed rights in Software and that Paya-EFT claims and reserves all rights and benefits therein afforded under copyright and other laws. MERCHANT's license of and permission to use the Software is non-exclusive and nontransferable, and it extends only to MERCHANT's own use of such Software for the purpose of processing Transactions as set forth in this Agreement. Paya-EFT's Software may not be used to process transactions with or through any other party without the express written consent of Paya-EFT, and may not be exported in contravention of U.S. or foreign export laws. MERCHANT further acknowledges that Paya-EFT's Software contains confidential information and trade secrets, which Paya-EFT has entrusted to MERCHANT in confidence. MERCHANT shall protect Paya-EFT's property and its interest in the trade secrets contained in the Software by controlling access to the Software, permitting none of

- its employees nor any other person not an employee or agent of Paya-EFT to examine, alter, attach, add to, modify, decode, reverse engineer, transcribe, extract or reproduce, in whole or in part, the Software in any way. Without limiting the generality of the foregoing, MERCHANT specifically agrees that it will not delete, mask or obscure any proprietary notices, which Paya-EFT places on any Software.
12. **OWNERSHIP OF NEW INTELLECTUAL PROPERTY.** All rights and title to all inventions, derivative works, improvements and/or discoveries, including software, know-how, copyright, patent, technology, data, trade secrets, and other intellectual property arising from, or related to, directly or indirectly, the Paya EFT services or software ("New Intellectual Property Rights").
13. **AUTHORIZED TRANSACTIONS.** Under any of the following circumstances, Paya-EFT shall be conclusively entitled to deem the Transactions to be authorized by, and binding upon, MERCHANT: (a) if the Transactions and the electronic transmission of a file are made by MERCHANT or its actual or apparent agent, or (b) if Paya-EFT reasonably believes the Transactions and the electronic transmission of a file were sent by an authorized representative of MERCHANT, or (c) if MERCHANT utilizes the services of a third party for lockbox or other similar services to facilitate the processing of Transactions, provided that the Transactions and the electronic transmission of a file are in the name of MERCHANT and Paya-EFT reasonably believes that the Transactions and transmission of a file by such third party are sent on behalf of MERCHANT.
14. **RESTRICTIONS ON ACCEPTANCE OF CHECKS FOR PROCESSING.** From time to time, Paya-EFT shall establish necessary security and identification procedures for presentment of checks for Remote Check Deposit (Check 21 Plus) pursuant to the rules and procedural guidelines established by the Federal Trade Commission ("FTC") and Regulation E (Reg E) and applicable law. MERCHANT agrees to comply with such procedures and to accept such "properly presented" checks for Remote Check Deposit (Check 21 Plus) processing. MERCHANT shall not accept or attempt to process checks in excess of the maximum limitations established by Paya-EFT. Paya-EFT shall also establish the number of checks, which may be submitted on a daily basis by any customer for electronic processing. MERCHANT agrees to provide Paya-EFT with any and all information needed to establish such limitations. MERCHANT further agrees to inform Paya-EFT immediately of any changes in business activities, rules or regulations, which may affect these limitations. MERCHANT further agrees to abide by these limitations as a condition to Paya-EFT processing any check. MERCHANT shall scan each check submitted for processing through no more than one Paya-EFT approved imaging device for any given transaction. MERCHANT agrees that sales completed at one location cannot be processed through a check imaging device at another location. YOU UNDERSTAND THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT THE CHECK WRITER'S EXPRESSED AUTHORITY. YOU HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT INSTRUMENT TO UNLAWFULLY INITIATE A DEBIT TRANSACTION IS PUNISHABLE BY IMPRISONMENT. IT IS SPECIFICALLY UNDERSTOOD BY YOU THAT ANY TRANSACTION INITIATED AS AN UNAUTHORIZED ENTRY OR DEPOSIT BY YOU AFTER YOU HAVE RECEIVED APPROVAL FOR DEPOSIT OF CHECK (S) OR IS INTENDED FOR ELECTRONIC DEPOSIT SHALL BE INTERPRETED AS AN UNLAWFUL DEBIT TRANSACTION PURSUANT TO THIS NOTICE. IN THE EVENT OF SUCH A VIOLATION, MERCHANT AGREES AND WARRANTS TO HOLD PAYA-EFT AND ALL OF ITS ASSIGNS AND ASSOCIATES HARMLESS AND REIMBURSE PAYA-EFT FOR THE TRANSACTION (S) WITHIN 24 HOURS OF SAID OCCURRENCE. IF MERCHANT REFUSES OR IS UNABLE TO REIMBURSE PAYA-EFT FOR ANY SUCH OCCURRENCE, IT IS EXPRESSLY STATED AND UNDERSTOOD THAT THE MERCHANT IS IN DIRECT VIOLATION OF THIS AGREEMENT AND FEDERAL LAW, AND PAYA-EFT WILL PURSUE ALL LEGAL, CIVIL, AND COLLECTION REMEDIES AS ARE POSSIBLE UNDER LAW AS REMEDY.
15. **CHECKS FOR WHICH MERCHANT WILL NOT BE REIMBURSED UNDER REMOTE CHECK DEPOSIT (CHECK 21 Plus) with Guarantee.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, Paya-EFT shall have no obligation to reimburse MERCHANT for checks that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the check; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as a principal or as an accessory, in the issuance; (c) Accepted by MERCHANT or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by Paya-EFT; (d) Lost, stolen, altered or counterfeit, and Paya-EFT has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted check, whether or not the previous check was authorized by Company or, any check upon which MERCHANT has accepted full or partial payment; (f) One of multiple checks presented to MERCHANT in a single transaction for Remote Check Deposit (Check 21 Plus) processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by MERCHANT or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) Checks for which MERCHANT returns cash back to the customer, unless MERCHANT is approved in writing by Paya-EFT for such cash back; (j) Checks for which Paya-EFT previously denied authorization; (k) Not in compliance with this agreement and not processed in accordance with the check processing provisions of this Agreement; (l) Incorrect MICR data scans or reads; (m) unable to locate account or invalid account number returns. In addition, before processing the check and as a condition to honoring the check, MERCHANT shall obtain sufficient personal information to locate the person presenting the check, including but not limited to a current home or business telephone number including area code, a current home address consisting of a street or rural route address, not a post office box, and the customer's valid, unexpired driver's license number or non-driver identification number together with the state of issuance. MERCHANT shall ensure that this identifying information is legibly printed on the check prior to imaging the check.
16. **QUALIFIED INSTRUMENTS FOR REMOTE CHECK DEPOSIT (CHECK 21 Plus) with Guarantee.** Paya-EFT has set the following guidelines that each instrument must meet to qualify for reimbursement under the Remote Check Deposit (Check 21) with Guarantee option: (a) At the time of authorization, the individual name or business name must be commercially imprinted on the instrument. In the case of a business entity, the instrument must have the business name and current business address and phone number (as listed with information) commercially imprinted on the check. Temporary checks or checks without commercially imprinted check numbers will not qualify for check guarantee. Drafts will not qualify for check guarantee; (b) Checks drawn on a United States Government entity or account, Cashier's Checks, Certified Checks, Money Orders, Traveler's Check will not qualify for check guarantee; (c) Checks written by one person for goods or services provided to a 3rd party do not qualify for guarantee. (d) An instrument must be authorized with a driver's license presented by the consumer to Merchant and viewed by Merchant at the time of authorization; (e) The customer's valid driver's license and the state code found on the "Quick Reference Guide" or if the guide is not available the abbreviation of the state that issued the identification card must be noted on the instrument at the time of authorization; (f) The authorization number received through the Paya-EFT approved check imaging device and/or software vehicle must be noted on the instrument at the time of authorization prior to MERCHANT storing the check; (g) A street address must be commercially imprinted on the check. If the current street address is not the one imprinted on the instrument at the time of the authorization, it must be crossed out and the most current address should be written on the check prior to scanning the check through the imaging device. Post Office (PO) Boxes only are not acceptable addresses; (h) If the phone number is not imprinted on the instrument, Merchant must note the phone numbers (home phone and business phone) on the instrument at the time of authorization prior to scanning the check through the imaging device; (i) The date of the instrument must be the date on which the instrument was authorized by Paya-EFT (no post-dated or held checks) if merchant was approved for Face to Face Check 21+ POS program; The date of the instrument must be no more than 14 days prior to the date the instrument was authorized by Paya-EFT if merchant was approved for Consumer Not Present Check 21+ Remote program; (j) The instrument must be payable to the Merchant's business (checks written to "cash" or "bearer", or to a 3rd party do not qualify for guarantee). (k) The amount authorized and the amount shown in words and figures on the check must agree; (l) The check number of the instrument being authorized must be the same check number given at the time authorization is attempted. No represented check is guaranteed unless the instrument was authorized with the same dollar amount as when the instrument was originally authorized; (m) In the event of a personal instrument, the signature on the check must be the same as the commercially imprinted name on the check and driver's license provided at the time of authorization; (n) The instrument has been filled out completely by the customer, has not been altered, or has not been tendered in whole or in part in exchange for cash, or was not payment for a prior debt due or a financed obligation; (o) The Merchant did not subsequently receive value in full or in part for the dishonored instrument from the presenter in the form of cash payment, credit, service, exchange or repossession; (p) The instrument was not dishonored as a result of a "stop payment" order issued by the presenter to the financial institution.; (q) The instrument was not previously denied by Paya-EFT based on the same or different driver's license number, which was previously presented for authorization by Merchant. The instrument must be authorized by entering the correct ID number into the Paya-EFT approved check imaging device and/or an approved software vehicle at the time of authorization; (r) The instrument was not one of multiple instruments or payment methods presented to Merchant for sales made that day (no splitting of checks); (s) Paya-EFT reserves the right and Merchant acknowledges that a receipt for the products and services provided to the check writer may be requested. The delivery of this receipt must be postmarked or faxed within 48 hours of the request and its acceptance by Paya-EFT will be required to qualify the claim for payment; (t) Merchant must have followed instructions contained in Paya-EFT's Merchant Quick Reference Guide or other authorized, current published instructions; (u) Merchant acknowledges that first time check writers may have a lesser check limit than those of frequent check writers and check limits are based on not only dollar amount, but number of checks written in a period of time to be determined solely by Paya-EFT; (v) The instrument was not issued in connection with a transaction described herein. Merchant must comply with the terms and conditions of this agreement, including but not limited to, the requirements described herein; (w) the Merchant, or its agents, and employees must not accept any instrument with prior knowledge that the instrument is likely to be dishonored or that the identification used was forged, stolen, or otherwise did not belong to the check writer, or that the transaction for which the instrument was tendered is illegal, void, or invalid.
17. **STOP PAYMENT COVERAGE.** Paya-EFT agrees to waive section 15 (n) of this Schedule and to guarantee Stop Payment instruments up to the limit which was approved by Paya-EFT's underwriting department at the time of acceptance, provided that Merchant shall have performed all of its obligations related to the issuance of said qualified instrument. At Paya-EFT's request, Merchant shall provide written information regarding any claim for reimbursement of a Stop Payment instrument. Stop Payment Coverage must be indicated (checked box) by Merchant upon the initial acceptance by Paya-EFT and must be approved and accepted by Paya-EFT in addition to this agreement. Stop Payment Coverage does not cover business account checks, only personal accounts. Merchant is required to have a check imager to qualify for stop payment coverage. In addition, stop payment claims require a copy of the invoice/work order, and an image of the check along with written information regarding any claims for reimbursement. Service or product must have been delivered to check writer. Stop payments will automatically be debited from the merchant's account until the claim is investigated by Paya-EFT. The accepted claims will be paid within 30 days. STOP PAYMENT COVERAGE IS DESIGNED FOR THE FOLLOWING TYPES OF MERCHANTS: Auto Repair, Paint and Body Repair, Boat Repair, Motorcycle Repair, Motor-Home Repair, Transmission Repair, Auto Glass Install/Repair.
18. **DAILY SETTLEMENT OF TRANSACTIONS.** MERCHANT agrees to "batch out" each check imaging device that is used on a daily basis. "Batch out" shall mean that MERCHANT totals and settles all of the transactions by midnight (12:00 am) of the day Paya-EFT authorizes the sale and transmits the information contained in the batch out to Paya-EFT. MERCHANT agrees to upload images from the check imaging device daily and acknowledges that Paya-EFT cannot process any transactions where the image has not been made available by MERCHANT. In addition, any

transactions contained in an untimely batch out may be refused or become subject to chargeback or held until after a sixty-day period for consumer chargebacks by Paya-EFT. If MERCHANT account is Remote Check Deposit (Check 21 Plus) with Guarantee then checks contained in an untimely batch out are not covered under the Guarantee program. MERCHANT acknowledges that failure to batch out on a timely basis may be grounds for suspension or termination at Paya-EFT's sole discretion. MERCHANT acknowledges that failure to batch out will delay funds being deposited and loss of guarantee coverage on those checks and Paya-EFT may apply a \$25.00 fee for each terminal daily on which MERCHANT fails to transmit a timely batch out.

19. **PROVISIONAL SETTLEMENTS.** MERCHANT acknowledges that all settlements between Paya-EFT and MERCHANT are provisional and are subject to the customer's rights to dispute the charges against the customer's account. In submitting Remote Check Deposit (Check 21 Plus) checks to Paya-EFT, MERCHANT endorses and assigns to Paya-EFT all right, title and interest to such checks with rights of endorsement. MERCHANT acknowledges that Paya-EFT has the right to receive payment on all Remote Check Deposit (Check 21 Plus) processed checks acquired and MERCHANT will not attempt to collect on any such transactions. If any payment is tendered to MERCHANT, MERCHANT will notify Paya-EFT by telephone of the payment, endorse the check; sign it over to Paya-EFT and immediately mail the payment to Paya-EFT by certified mail. If customer pays cash, MERCHANT shall reimburse Paya-EFT by MERCHANT's check. In addition, MERCHANT acknowledges that Paya-EFT will have no responsibility for the delayed return of a Substitute Check that includes any message text or other information added by MERCHANT or MERCHANT's third party designee in the depository financial institution endorsement area. Any credit or consideration given by Paya-EFT to MERCHANT with respect to any Transactions shall be deemed provisional, and Paya-EFT shall be entitled to revoke same without prior notice in the event one or more Transactions are rejected or returned to Paya-EFT for any reason.
20. **CHECK RETENTION.** Paya-EFT requires that MERCHANT retain and store the original check in a secure location for the period of at least ninety (90) days. In the event a Remote Capture Deposit (Check 21 Plus) transaction cannot be processed due to a poor quality check image, MERCHANT shall be notified by Paya-EFT in writing (and/or by phone, fax, or email) to manually deposit the check. Once notification has been received, MERCHANT is to deposit the check at their bank within 48 hours. Failure to deposit the check in Merchants' bank account within 48 hours may result in a loss of guarantee. If the manually deposited check is subsequently returned by the check writers bank, MERCHANT shall mail the check to Paya-EFT (73 Eglin Pkwy, Suite 301, Fort Walton Beach, FL 32548) to submit for a claim for reimbursement (if merchant selected the Remote Check Deposit (Check 21) with Guarantee program on the front of this application). In any event, the instrument must be received by Paya-EFT within 45 days of Paya-EFT's initial authorization of the instrument (if guarantee service is selected). **If original check was not retained or was lost by merchant then MERCHANT acknowledges that Paya-EFT will not be able to process the Remote Check Deposit (Check 21 Plus) transaction, provide any sort of guarantee, or provide check collection services. Refer to section 10 of this Schedule regarding Image Requirements.**
21. **ADDITIONAL WARRANTIES BY MERCHANT.** As to the Transactions transmitted to Paya-EFT, MERCHANT represents and warrants to Paya-EFT that: (a) MERCHANT's customer has authorized MERCHANT to endorse all checks and other cash items for collection; (b) the preparation and presentment of the Transactions comply with the terms and conditions set forth in this Services Agreement; (c) the digital image of the check transmitted to Paya-EFT is a sufficient copy that is a true, correct, and accurate image that represents all the information on the front and back of the original check at the time the original check was truncated so that a Substitute Check created from the image will satisfy legal equivalence requirements and the image has not been altered in any manner by MERCHANT or any third party acting on behalf of MERCHANT; (d) MERCHANT, or any third party acting on behalf of MERCHANT, has reviewed and confirmed that the transmission of MICR line information is identical in all respects to the original check and that the encoded check amount is accurate, (e) MERCHANT understands that any message text or other information MERCHANT elects to add to the check image transmitted to Paya-EFT may cause the depository bank's endorsement not to be legible which may result in the delayed return of the Substitute Check or electronic representation if it is not paid, (f) the original check, or a paper or electronic representation, has not previously been deposited for collection with any financial institution, and no depository bank, drawee, drawer, or endorser will be asked to pay a check that it already has paid, (g) MERCHANT will retain the original check, or in the event MERCHANT utilizes the lockbox services of a third party or other similar services that MERCHANT's third party designee will retain the original check, until final settlement of the Transaction and for such additional period as may be required in the event of a disputed truncated or Substitute Check, including claims that the Substitute Check or electronic representation does not satisfy legal equivalence requirements, so that the original check can be processed for collection, and that MERCHANT or MERCHANT's third party designee will take reasonable efforts to safeguard any original checks until they are destroyed, (h) MERCHANT understands that the appearance of the original check and the use of certain background colors, decorative images, and choices in ink on the original check may affect the ability to produce a readable digital image of the check or the creation of a Substitute Check that meets legal equivalence requirements which may require the original check to be processed for collection; (i) MERCHANT has no knowledge or notice of information to indicate that the transaction is fraudulent; (j) that each check is for an amount agreed to by the customer; (K) MERCHANT warrants that ALL types of its business are clearly and precisely stated on this application; (l) the percentage of mail order sales listed by MERCHANT for each location is consistent with the information provided in the application; (m) MERCHANT, nor any of its employees have submitted checks drawn from their personal checking accounts on the MERCHANT's Paya-EFT approved check imaging device; (n) MERCHANT uses only the name and address shown on the front of the Agreement on all its sales drafts; and (o) MERCHANT warrants that no transaction submitted for authorization to Paya-EFT is with or through an entity other than MERCHANT; MERCHANT further acknowledges that if for any reason funds are credited to MERCHANT in excess of the amount that MERCHANT is entitled to receive under this Agreement, MERCHANT shall return all such excess funds to Paya-EFT upon demand by Paya-EFT. Such excess funds may be collected by Paya-EFT by a debit to MERCHANT'S designated account initiated by Paya-EFT as provided in this Agreement. If for any reason such account does not have sufficient funds, then MERCHANT shall promptly remit the excess funds to Paya-EFT. Until the return of such funds to Paya-EFT, MERCHANT acknowledges that it shall hold all such funds in trust for the benefit of Paya-EFT.