



MERCHANT PROCESSING AGREEMENT

Agent Code:

Additional Location: _____ Name: _____ SIC/MCC: _____ Received Date: _____

TID#: _____ MID#: _____ IATA/ARC: _____ (MCC 4722 Only)

SECTION 1) BUSINESS INFORMATION

Name of Ownership Entity (Legal Name)			Name of Business (Doing Business as/Same as Signage)		
Corporate/ Billing Address			Location Address (attach additional locations)		
City	State	Zip	City	State	Zip
Phone #	Federal Tax ID		Phone #	Fax #	
Name (as it appears on your income tax return)			☐ I certify that I am a foreign entity/nonresident alien (if checked, please attach IRS Form W-8)		
Contact First and Last Name		NOTE: Failure to provide accurate information may result in a withholding of merchant funding per IRS Regulations (See Part IV, Section A.4 of your Program Guide for further information.)			
Web Address			Email Address		
Customer Service Number					

SECTION 2) MERCHANT INFORMATION

Check One: ☐ Retail ☐ Service ☐ Home ☐ MO/TO ☐ Internet

Have you been placed on the "CTMF" (Combined Terminated Merchant File) or the "CMNF" (Consortium Merchant Negative File)		☐ Yes ☐ No	Describe business detail to include products and services:
☐ Sole Proprietorship ☐ Partnership ☐ Corporation Type of Corporation: State of Incorporation:			
Do you use any third party to store, process, or transmit cardholder data? If so list name/address:		☐ Yes ☐ No	Please list any Software used for storing, transmitting, or processing Card Transactions or Authorization Requests:
How Long in Present Business?	Years: Months:	Previous Processor:	Reason for Leaving: ☐ Rate ☐ Service ☐ Terminated ☐ Other: List other here:

SECTION 3) OWNERS / PARTNERS / OFFICERS

Provide the following information for each individual who owns, directly or indirectly 25% or more of the equity interest of your business, or who otherwise has significant responsibility to control, manage, or direct your business. If Merchant is organized as a sole proprietorship, then the Merchant should include his or her full name including first, last, and middle initial.

PRINCIPAL INDIVIDUAL #1		% Ownership			
Last Name	First Name	MI	Title		
Residence Address		City	State	Zip	
Home Phone #	Social Security #	DOB	Driver's License #	State	

PRINCIPAL INDIVIDUAL #2		% Ownership			
Last Name	First Name	MI	Title		
Residence Address		City	State	Zip	
Home Phone #	Social Security #	DOB	Driver's License #	State	

PRINCIPAL INDIVIDUAL #3		% Ownership			
Last Name	First Name	MI	Title		
Residence Address		City	State	Zip	
Home Phone #	Social Security #	DOB	Driver's License #	State	

PRINCIPAL INDIVIDUAL #4		% Ownership			
Last Name	First Name	MI	Title		
Residence Address		City	State	Zip	
Home Phone #	Social Security #	DOB	Driver's License #	State	

SECTION 4) SETTLEMENT INFORMATION (please attach voided check)	
Deposit Bank	Bank Contact
Transit/ABA #	Deposit Account #

SECTION 5) PROCESSING AND AGREEMENT VOLUME		(for internal use only) ☐ Monthly ☐ Daily	
Avg. Monthly Vol. MC/VISA/DISCOVER NETWORK	\$	Avg. Monthly Vol. AMERICAN EXPRESS	\$
Avg. Ticket MC/VISA/DISCOVER NETWORK	\$	Avg. Ticket AMERICAN EXPRESS	\$
Peak Season Vol. MC/VISA/DISCOVER NETWORK	\$	Max Ticket	\$
Seasonal? ☐ Yes ☐ No	High Vol. Months Open From:	To:	
Transactions will be in U.S. Dollar Currency only.			

SECTION 6) TERMINAL INFORMATION		☐ Reprogram ☐ Purchase ☐ Lease	
☐ Omaha	☐ MO/TO	☐ Bypass	☐ Retail
☐ Restaurant	☐ Cardnet	☐ Quick Serve Rest w/Tip	☐ Hotel
☐ Nashville	☐ Retail Tip		
☐ Swiped	%	☐ Imprint/Keyed	%
☐ MO/TO	%	☐ Internet	% = 100%
Does your business offer products and/or services to customers through a mobile application?		☐ Yes ☐ No	If so, list name of mobile application:

SECTION 7) SERVICE FEE SCHEDULE			
It is presumed you will ACCEPT ALL VISA, MASTERCARD, DISCOVER NETWORK, and AMERICAN EXPRESS TRANSACTIONS, unless any selections below are checked.		See Section 1.9 of the Program Guide for details regarding limited acceptance.	
MASTERCARD	☐ Accept Mastercard CREDIT Transactions ONLY ☐ Accept Mastercard NON-PIN DEBIT Transactions ONLY	VISA	☐ Accept Visa CREDIT Transactions ONLY ☐ Accept Visa NON-PIN DEBIT Transactions ONLY
DISCOVER NETWORK	☐ Accept Discover Network CREDIT Transactions ONLY ☐ Accept Discover Network NON-PIN DEBIT Transactions ONLY	AMERICAN EXPRESS	☐ Accept American Express CREDIT Transactions ONLY

☐ Interchange Cost Plus Program		
Pass Through Mastercard, Visa & Discover Interchange and American Express Pricing plus	% on gross volume	Per Transaction Fee \$

☐ 3 Tier ☐ ERR			
Fee Category	Discount Rate	Transaction Fee	ERR%
Visa/MC/Discover Network QUAL CREDIT	%	\$	%
Visa/MC/Discover Network MID-QUAL CREDIT	%	\$	N/A
Visa/MC/Discover Network NON-QUAL CREDIT	%	\$	N/A
Visa/MC/Discover Network QUAL DEBIT	%	\$	%
Visa/MC/Discover Network MID-QUAL DEBIT	%	\$	N/A
Visa/MC/Discover Network NON-QUAL DEBIT	%	\$	N/A
American Express QUAL CREDIT	%	\$	%
American Express MID-QUAL CREDIT	%	\$	N/A
American Express NON-QUAL CREDIT	%	\$	N/A

Comments:

Authorization & Transaction Fees (fee per item)			
Visa/MC/Discover Network Auth. Fee	\$	American Express Auth. Fee	\$
Transarmor Authorization Fee	\$	Batch Fee	\$
Diner's Authorization Fee	\$	JCB Authorization Fee	\$
Wireless Transaction Fee	\$	Gateway Transaction Fee	\$

Monthly Fees			
Min. Monthly Fee	\$	per location	E-Merchant View \$ per access
Statement Fee	\$	per statement	Gateway Fee \$ per website
Wireless Fee	\$	per terminal	eIDS Fee \$ per access
Clover Fee	\$	per station	Insightics Fee \$ per location
☐ Braandz**	**Requires a separate Agreement		Braandz Gift Card \$ per month

Other Fees			
PCI Compliance Fee	\$	per month	One-Time Admin. Fee \$ Early Termination Fee \$
IRS TIN Processing Fee	\$	per month	Annual Membership Fee \$ Other Volume %

Pin Debit Fees			
Pin Debit ☐ Yes ☐ No	✓ Plus Debit Network Processing Fees		Pin Debit Other Volume Percentage %
PIN Debit Fee (per transaction) \$	Debit Access Fee (per location) \$		

EBT Fees			
EBT Fees (per transaction) \$	Monthly Access Fee \$	EBT (SNAP/FNS) Number:	☐ Food Stamps ☐ Cash Benefits

Fleet Rates & Fees			
Wright Express: Other Item Rate \$	per item	Voyager: QUAL %	Other Item Rate \$ per item

SECTION 8) MISCELLANEOUS FEES			
Checking Account (DDA Change) - \$25.00, ACH Reject Fee - \$25.00, Chargeback Fee (per item) - \$25.00* (refer to Part IV, Section A3 of the Program Guide), Documentation - \$2.00 per page, Research/investigation Fee - \$150.00 per hour (\$25.00 minimum), 3rd Party Help Desk Calls - \$6.00 per call, Retrieval Fee - \$10.00 per item, Merchant Club - \$12.95 per location, Voice Authorization - \$0.95 per item, Electronic AVS Fee - \$0.05 per item, Voice AVS Fees - \$2.25 per item, Annual Membership - \$89.00 applies unless otherwise indicated in higher above field. Pass through all Card Association fees at cost for the following but not limited to: Pass Through Mastercard, Visa & Discover Dues & Assessments; Mastercard Processing Integrity Fee; Mastercard National Acquirer Brand Usage (NABU) Fee; Mastercard Cross Border Fee; Mastercard Acquirer Support Fee; Mastercard License Fee; Mastercard ICA Fee; Mastercard Kilobyte Fee; Mastercard AVS Fee; Mastercard CVC2 Fee; Mastercard BIN/ICA Fee; Mastercard Account Status Fee; Mastercard Location Fee; Visa Misuse of Authorization Fee; Visa Zero Floor Limit Fee; Visa Acquirer Processing Fee; Visa Transaction Integrity Fee; Visa International Acquirer Fee; Visa ACQ ISA Fee; Visa BIN/ICA Fee; Visa Fixed Acquirer Network Fee (FANF); Visa Kilobyte Fee; Visa AFD Non Participation Fee; Visa Account Verification Fee; Visa Staged Digital Wallet Fee; Visa B2B Virtual Payments Fee; Discover International Processing & Service Fee; Discover Data Usage Charge; Discover Network Authorization Fee; Discover Network Card Account Verification Fee; Discover Dispute Fee; Discover Retrieval Fee; American Express Network Fee plus 15 basis points on gross volume; American Express Dispute Fee; American Express Retrieval Fee; American Express Network Fee. Annual Fees for all applicable Debit Networks. Nacha Unauthorized Entry Fee per item. IRS TIN Non-Compliance Fee - \$17.95 per month - PCI Non-Compliance Fee - \$24.95 per month. Transarmor per authorization fee - \$0.03. Wireless and/or Gateway - \$0.05 per transaction. In the event that Client terminates and/or breaches the terms of this Agreement before the end of the initial three (3) year term, Client shall be obligated to immediately pay Acquirer or its representative, as liquidated damages, an early termination fee in addition to any other monthly fees in the Merchant Processing Agreement for the remaining term of the Agreement. Braandz Gift Card Monthly Fee - additional membership information and options are provided by calling MBN direct at 1-877-871-4629.			

SECTION 9) GUARANTY

In exchange for First Data Merchant Services LLC, Wells Fargo Bank, N.A., (a member of Visa USA, Inc. and Mastercard International, Inc.), and TeleCheck Services, LLC, (the Guaranteed Parties) acceptance of the MPA, the Agreement, and/or the Equipment Agreement and/or the TeleCheck/TRS Solutions Agreement, the undersigned (Guarantor): (A) Unconditionally and irrevocably guarantees the full payment and performance of Client's obligations (i) as they now exist or as modified under the foregoing agreements, (ii) with or without actual notice of changes, and (iii) during and after the term of the agreements; (B) Waives notice of Merchant's default; (C) Shall indemnify the Guaranteed Parties for any and all amounts due from Client; (D) Warrants, with knowledge that Guaranteed Parties are acting in full reliance on the same, this Personal Guarantee of payment, and not of collection; (E) Acknowledges that (i) the Guaranteed Parties may proceed in law directly against Guarantor and not Client, (ii) this is a continuing personal guarantee and shall not be discharged or affected for any reason, and (iii) information about the Guarantor as one of the Client Parties may be used and shared as set forth in Section 10.

You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq. as may be amended from time to time, or processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control (OFAC).

Client certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct.

Signature of Personal Guarantor (No Title)

Date

Signature of Co-Personal Guarantor (No Title)

Date

SECTION 10) MERCHANT ACCEPTANCE

Client certifies that all information set forth in this completed Merchant Processing Application is true and correct and that Client has received a copy of the Program Guide and Confirmation Page, which is part of this Merchant Processing Application (consisting of Sections 1-10), and by this reference incorporated herein. Client acknowledges and agrees that we, our Affiliates and our third party subcontractors and/or agents may use automatic telephone dialing systems to contact Client at the telephone number(s) Client has provided in this Merchant Processing Application and/or may leave a detailed voice message in the event that Client is unable to be reached, even if the number provided is a cellular or wireless number or if Client has previously registered on a Do Not Call list or requested not to be contacted Client for solicitation purposes. Client hereby consents to receiving commercial electronic mail messages from us, our Affiliates and our third party subcontractors and/or agents from time to time. Client further agrees that Client will not accept more than 20% of its card transactions via mail, telephone or Internet order. However, if your Application is approved based upon contrary information stated in Section 6, Terminal Information section above, you are authorized to accept transactions in accordance with the percentages indicated in that section. This signature page also serves as a signature page to the TeleCheck Solutions Agreement appearing in the Third Party Section of the Program Guide, if selected, the undersigned Client being "You" and "Your" for the purposes of the TeleCheck Solutions Agreement. On behalf of myself as an individual, the entity on whose behalf I am signing, and its principals (collectively, the Client Parties), (A) I authorize Processor, Servicers, the applicable Payment Networks, and its and their Affiliates, third party subcontractors, service providers, and/or agents: (i) to use, disclose, and exchange amongst them and externally with other third-parties, the information in the Agreement and information about each of the Client Parties, (including by requesting and sharing, personal and business consumer reports, bank references, and other information as necessary from time to time), for marketing and administrative purposes, verification purposes, purposes under the Merchant Processing Application and Agreement (MPA), if approved, product improvement, fraud, analytics and any other purposes permitted by law (and to continue to use and share such information following the termination of this Agreement); (ii) to inform me directly about the contents of requested consumer reports (including the name and address of the agency furnishing the report), and (iii) to receive any and all personal and business credit financial information from all references, including banks and consumer reporting agencies, which are hereby released to provide that information; and (B) I certify that: (i) The federal taxpayer identification number and corresponding filing name provided herein are correct; (ii) The statements made and agreed to in this MPA, to which I have not made any alterations or stricken out any language, are true, complete and accurate, and may be relied upon as current unless changed or updated per the Notice provisions of Agreement; (iii) I can read and understand the English language; (iv) I have received and read a copy of the (a) MPA (consisting of Sections 1-10), (b) Program Guide, (c) Confirmation Page (version MBN2607), and (v) I have authority to bind the entity on whose behalf I am signing below and have the appropriate consents and authority from each of the Client Parties (whether individuals or other entities) to authorize the use and sharing of data described above. Processor's privacy notice is available at www.fiserv.com/privacy. Client authorizes FDMS and Bank and their affiliates to debit Client's designated bank account via Automated Clearing House (ACH) for costs associated with equipment hardware, software and shipping. You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq, as may be amended from time to time, or processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control (OFAC). To help the government fight the funding of terrorism and money laundering activities, Servicers obtain, verify, and record certain information including your full name, physical address, and any other information needed for identity verification purposes while processing this MPA, as described in the USA Patriot Act.

Client acknowledges and agrees that we, our Affiliates and our third party subcontractors and/or agents may use automatic telephone dialing systems to contact Client at the telephone number(s) Client has provided in this Merchant Processing Application and/or may leave a detailed voice message in the event that Client is unable to be reached, even if the number provided is a cellular or wireless number or if Client has previously registered on a Do Not Call list or requested not to be contacted Client for solicitation purposes. Client hereby consents to receiving commercial electronic mail messages from us, our Affiliates and our third party subcontractors and/or agents from time to time.

Client certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct. Client agrees to all the terms of this Merchant Processing Application and Agreement. This Merchant Processing Application and Agreement will not take effect until Client has been approved and this Agreement has been accepted by Processor and Bank. Acceptance by Processor and Bank will occur upon the earlier of the execution of this Merchant Processing Application and Agreement by Processor and Bank, or the commencement of the provision of the Services by Processor and Bank.

Signature Owner/Authorized Officer No. 1

Print Name

Title

Date

Signature Owner/Authorized Officer No. 2

Print Name

Title

Date

Wells Fargo Bank, N.A., P.O. Box 6079, Concord, CA 94524

Print Name

Signature of Authorized Officer MBN

Title

Date

Signature of Authorized Officer Acquirer

Title

Date

PROCESSOR INFORMATION: Name: MBNCARD Inc
Address: 365 E Windmill Lane, Suite 100, Las Vegas, NV 89123
URL: www.merchantsbancard.com Customer Service #: 1-877-871-4629

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you.

From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor or the contents of your Agreement with TeleCheck. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.

- 1. Your Discount Rates are assessed** on transactions that qualify for certain reduced interchange rates imposed by Mastercard, Visa, Discover and PayPal. Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 26 of the Program Guide).
- 2. We may debit your bank account** (also referred to as your Settlement Account) from time to time for amounts owed to us under the Agreement.
- 3. There are many reasons why a Chargeback may occur.** When they occur we will debit your settlement funds or Settlement Account. For a more detailed discussion regarding Chargebacks see Section 15 of the Your Payments Acceptance Guide or see the applicable provisions of the TeleCheck Solutions Agreement.
- 4. In consideration of the Services** provided by us, you shall be charged, and hereby agree to pay us any and all fees set forth in this Agreement (for the purpose of clarity, this includes the Application and any additional pricing supplements or subsequent communications), all of which shall be calculated and payable pursuant to the terms of this Agreement and any additional pricing supplements or subsequent communications. If you dispute any charge or funding, you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing or within 30 days of the date of a TeleCheck transaction.
- 5. The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 28, 38.3, and 40.10 of the Card General Terms; or Section 17 of the TeleCheck Solutions Agreement.
- 6. We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 31, Term; Events of Default and Section 32, Reserve Account; Security Interest), (see TeleCheck Solutions Agreement in Section 7), under certain circumstances.
- 7. By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
- 8. The Agreement contains a provision** that in the event you terminate the Agreement prior to the expiration of your initial three (3) year term, you will be responsible for the payment of an early termination fee as set forth in Part IV, A.3 under "Additional Fee Information" and Section 10 of the TeleCheck Solutions Agreement.

9. Card Organization Disclosure

Visa and Mastercard Member Bank Information: Wells Fargo Bank N.A.

The Bank's mailing address is P.O. Box 6079, Concord, CA 94524, and its phone number is 1-844-284-6834.

Important Member Bank Responsibilities:

- The Bank is the only entity approved to extend acceptance of Visa and Mastercard products directly to a merchant.
- The Bank must be a principal (signer) to the Agreement.
- The Bank is responsible for educating merchants on pertinent Visa and Mastercard rules with which merchants must comply; but this information may be provided to you by Processor.
- The Bank is responsible for and must provide settlement funds to the merchant.
- The Bank is responsible for all funds held in reserve that are derived from settlement.
- The Bank is the ultimate authority should a merchant have any problems with Visa or Mastercard products (however, Processor also will assist you with any such problems).

Important Merchant Responsibilities:

- Ensure compliance with Cardholder data security and storage requirements.
- Maintain fraud and Chargebacks below Card Organization thresholds.
- Review and understand the terms of the Merchant Agreement.
- Comply with Card Organization Rules and applicable law and regulations.
- Retain a signed copy of this Disclosure Page.
- You may download "Visa Regulations" from Visa's website at: <https://usa.visa.com/dam/VCOM/download/about-visa/visa-rules-public.pdf>.
- You may download "Mastercard Regulations" from Mastercard's website at: www.mastercard.us/content/dam/mccom/global/documents/mastercard-rules.pdf.
- You may download "American Express Merchant Operating Guide" from American Express' website at: www.americanexpress.com/us/merchant.

Print Client's Business Legal Name: _____

By its signature below, Client acknowledges that it has received the Merchant Processing Application, Program Terms and Conditions consisting of 42 pages including this Confirmation Page and the applicable Third Party Agreement(s).

Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X _____

Title

Date

Please Print Name of Signer



MERCHANT SITE SURVEY FORM

Must be submitted with Merchant Processing Agreement. To be completed by Agent.

RETAIL

Merchant Location: ☐ Store Front ☐ Office Building ☐ Warehouse ☐ Residence ☐ Other

The Merchant: ☐ Owns ☐ Leases building premises

Landlord Name:

Landlord Phone #:

- | | | |
|------------------------------|-----------------------------|---|
| ☐ Yes | ☐ No | Merchant appears to be conducting business as represented in the application. |
| ☐ Yes | ☐ No | Merchant is adequately staffed and stocked to do business. |
| ☐ Yes | ☐ No | Merchant has posted any business license(s) required to do business. |
| ☐ Yes | ☐ No | Have you taken pictures inside and outside the premises? |
| ☐ Yes | ☐ No | Have you confirmed the identity of the person who signed the contract? |
| ☐ Yes | ☐ No | Have you confirmed the signer as owner and/or principal of the business? |

MOTO & INTERNET - if Retail skip section and sign below

1. What % of bankcard sales represent business to business (B2B) (vs. business to consumer): B2B _____ % + B2 Consumer _____ % = 100%

2. What is the time frame from transaction to delivery? (% of orders delivered in each timeframe = 100%):

0-7 days _____ % + 8-14 days _____ % + 15-30 days _____ % + 31-90 days _____ % + 91-180 days _____ % + over 180 days _____ % = 100%

3. MC/Visa/Discover Network/American Express sales are deposited (checkone): ☐ Date of Order ☐ Date of Delivery ☐ Other (specify):

4. Who performs product/service fulfillment? ☐ Direct ☐ Vendor ☐ Other If Vendor add name and address info below:

Name:

Phone:

Address:

Describe how the transaction works, from order taking to merchant fulfillment (attach additional sheet if necessary):

5. Does any of your cardholder billing involve automatic renewals or recurring transactions (i.e. cardholder authorizes initial sale only)? ☐ Yes ☐ No

6. Do you send notifications to customers of recurring billing as a reminder? ☐ Yes ☐ No

7. Return Policy: ☐ Full Refund ☐ Exchange Only ☐ None

8. Do you have a refund policy for MC/Visa/Discover Network/American Express Sales? ☐ Yes ☐ No

If YES, check one: ☐ Exchange ☐ Store Credit ☐ MC/Visa/Discover Network/American Express Credit

9. Advertising Method (attach at least one): ☐ Catalog ☐ Brochure ☐ Direct Mail ☐ TV/Radio ☐ Internet ☐ Phone ☐ Newspaper/Journals ☐ Other
Marketing materials required for Mail Order, B2B and Internet over \$1 Million in annual volume. Attach web page for Internet Merchant.

Comments:

I hereby verify that I have physically inspected the business premises of the merchant at this address.
I also verify that all information submitted in this application is correct to the best of my knowledge.

Merchant's DBA

Inspected By/Sales Representative (print name)

Agent Code

Signature

Date



DuoPricelist Program Agreement

The merchant identified below ("**Merchant**") has elected to participate in the DuoPaySoft (DuoPricelist.com) ("**Program**") administered by Merchants Bancard Network ("**MBN**"). By signing this document ("**Agreement**"), Merchant agrees to the following terms and conditions:

- 1. Program.** As part of the Program, Merchant will, in consultation with MBN, set dual pricing for both cash and credit cards that it will offer to its customers. For the avoidance of doubt, this Agreement supplements (and does not replace) any merchant processing agreement entered into between Merchant and MBN ("**Merchant Agreement**"), and is subject to the availability of the Program as determined in MBN's sole discretion. MBN may modify the terms or requirements of the Program, stop providing the Program, or terminate Merchant's participation in the Program, at any time in MBN's sole discretion. Merchant may cancel its participation in the Program at any time upon thirty (30) days' written notice to MBN. Merchant's cancellation of participation in the Program will not affect the Merchant Agreement.
- 2. Compliance.** Merchant's participation in the Program implemented by Merchant must be in accordance with card network rules and applicable state and federal law, including without limitation laws regarding price labels, customer notices, and Dual Pricing procedures. Although MBN may make suggestions regarding the offering of dual pricing to consumers, Merchant is solely responsible for its compliance, and shall comply, with all of the following (each as amended from time to time by relevant authority): (a) federal, state, local, and international laws and regulations; and (b) rules promulgated by any regulatory authority or any payment card network, including but not limited to those of Visa, Mastercard, American Express and Discover.
- 3. Indemnification.** Merchant agrees to indemnify, defend, and hold MBN and its officers, owners, employees, and representatives harmless from all liabilities, losses, claims, damages, costs, and expenses (including reasonable attorney's fees) whenever arising or incurred that are caused or asserted to have been caused, directly or indirectly, by or as a result of: (a) Merchant's participation in the Program; (b) Merchant's products, services, and business practices; (c) any breach by Merchant or its employees or agents of this Agreement; (d) any fraud, negligence, or willful misconduct by Merchant or its employees or agents; and (e) any violation of any applicable law, regulation, rule, or card brand requirement by Merchant or its employees or agents. All documented, actual expenses (including without limitation attorneys' fees) that MBN incurs in responding to legal process from third parties related to a claim against or investigation of Merchant related to the Program shall be reimbursed to MBN.
- 4. Disclaimer and Limitation of Liability.** MBN makes no warranty of any kind, express or implied, related to the Program or MBN's services provided under this Agreement, and MBN expressly disclaims any and all representations and warranties, including but not limited to any implied warranty of merchantability, fitness for a particular purpose, availability, legal compliance, and non-infringement. The Program and all MBN services are provided solely on an "as is" and "as available" basis. Merchant assumes all risk with respect to offering dual pricing and its business practices, and is responsible for ensuring that it is compliant with all laws, regulations, rules, and industry standards applicable to a dual pricing program. MBN will not be liable for any direct, indirect, incidental special, or consequential damages, however arising, even if MBN has been advised of the possibility of such damages. MBN's total and cumulative liability for damages under this Agreement, regardless of the form of action, whether in contract, in tort (including for negligence), or otherwise, shall in no event exceed the amount received and retained by MBN under this Agreement within the three (3)-month period preceding the first accrual of liability.
- 5. General.** This Agreement shall be governed by and construed in accordance with the laws of Nevada, irrespective of its choice of law principles. Each party agrees that the federal or state court located in Henderson, Nevada shall have exclusive personal jurisdiction and venue with respect to all matters involving this Agreement, and each party submits to the exclusive personal jurisdiction and venue of such courts. The parties waive the right to a jury trial in connection with any dispute arising between the parties for any reason. In addition, where permitted under applicable law, class action lawsuits, class-wide arbitrations, private attorney general actions, and any other proceeding where someone acts in a representative capacity are not allowed, and Merchant agrees that it will bring any claim under this Agreement only in its individual capacity. Unless both Merchant and MBN agree, no arbitrator or judge may consolidate more than one person's or merchants' claims or otherwise preside over any form of representative or class proceeding. All rights and remedies under this Agreement shall be cumulative and shall not be deemed to exclude any other right or remedy that either party may have at law or in equity. This Agreement will bind and inure to the benefit of each party and its permitted successors and assigns. The failure of a party to object to or to take affirmative action with respect to any conduct of the other which is in violation of this Agreement shall not be construed as a waiver of that conduct or any future breach or subsequent wrongful conduct. If any provision of this Agreement is determined by any court or arbitrator to be illegal or invalid, such determination shall not affect the validity of the remaining provisions. This Agreement, together with the Merchant Agreement, sets forth the entire agreement and understanding of the parties in respect of its subject matter. Sections 2, 3, 4 and 5 will survive termination of this Agreement for any reason.

Agreed to as of: _____, 20 ____

Merchant Legal Name: _____

Print Name: _____ Title: _____

Signature: _____