

PUBLIC NOTICE OF MEETING
TAKE NOTICE THAT A SPECIAL MEETING OF THE
Board of Directors of
Reunion Ranch Water Control and Improvement District
Will be held at the offices of Willatt & Flickinger, PLLC,
12912 Hill Country Blvd., Suite F-232, Austin, Texas 78738 (SEE NOTES BELOW)

in Travis County, Texas, commencing at **4:00 p.m.** on April 1, 2025, to consider and act upon any or all of the following:

PLEASE NOTE: THIS MEETING WILL BE HELD IN PERSON AT THE ABOVE LOCATION AND AT LEAST THREE DIRECTORS WILL BE PHYSICALLY PRESENT AT THE ABOVE LOCATION. ANY PERSON IS WELCOME AT THE MEETING LOCATION. HOWEVER, AS AN OPTION, MEMBERS OF THE PUBLIC MAY ACCESS THIS MEETING BY TELEPHONE AND PARTICIPATE IN THE MEETING BY CALLING ONE OF THE FOLLOWING TOLL-FREE NUMBERS: (877) 853-5247 OR (888) 788-0099 AND ENTERING THE FOLLOWING INFORMATION: MEETING ID: 814 1800 4415 AND PASSWORD: 579817. USING THE ZOOM APP YOU CAN ALSO ACCESS THE MEETING ON YOUR SMART PHONE OR COMPUTER BY ENTERING THE FOREGOING MEETING ID AND PASSWORD.

PLEASE SEE THE DISTRICT'S WEBSITE AT WWW.RRWCID.ORG FOR THE MEETING PACKET.

AGENDA

1. Call to order
2. Roll call of Directors
3. Public Comments

This is an opportunity for members of the public to address the Board of Directors concerning any issue that is not on the agenda. The response of the Board to any comment under this heading is limited to making a statement of specific factual information in response to the inquiry or reciting existing policy in response to the inquiry. Any deliberation of the issues is limited to a proposal to place it on the agenda for a later meeting. Each speaker shall be limited to 3 minutes, unless more than 10 members of the public wish to speak during this meeting. In such case, speakers offering public comment shall be limited to 1 minute each.

Note: Members of the public wishing to address the Board of Directors on specific agenda items will be required to indicate the agenda items on which they wish to speak. They will be given an opportunity to speak when the item is called and prior to consideration by the Board. Such comments shall be limited to 3 minutes per speaker for each agenda item. If more than 10 members of the public wish to speak, all speakers shall be limited to 1 minute each per item per person.

4. JPMorgan Chase Bank Agreements for ACH/Credit card payments
5. Any and all agreements and matters related to the transition from Inframark to Municipal Operations & Consulting, LLC
6. Status of transition from Inframark to Municipal Operations & Consulting, LLC
7. Adjourn (Dennis Daniel)

The Board may go into closed session at any time when permitted by Chapter 551, Government Code. Before going into closed session a quorum of the Board must be assembled in the meeting room, the meeting must be convened as an open meeting pursuant to proper notice, and the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551, Government Code, authorizing the closed session.

(SEAL)



Attorney for the District

The District is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call Jeniffer Conciencie, Willatt & Flickinger, PLLC, at (512) 476-6604, for information.



Merchant Attestation and Amendment of Agreement and ECP Addendum Terms

The undersigned merchant (“**Merchant**”) hereby enters into an agreement with Paymentech, LLC (“**Paymentech**”), for itself and on behalf of JPMorgan Chase Bank, N.A. a national banking association (“**Chase**”), Paymentech being a wholly owned subsidiary of Chase, for merchant services processing on the terms and conditions set forth in the Terms and Conditions for Merchant Services Processing (the “**Agreement**”) and the Electronic Check Processing Addendum (the “**ECP Addendum**”), each of which has been received by the Merchant and are attached hereto, subject to the amendments set forth below which have been prepared on behalf of and agreed to by Paymentech and Chase. In connection with the Agreement, Merchant is providing Paymentech and Chase with certain information required by Paymentech and Chase about Merchant’s identity, business, financial condition and ownership (the “**Account Opening Documentation**”). In connection with the Agreement, Paymentech has provided the statutory verifications in Exhibit A attached hereto on behalf of itself and Chase. Paymentech represents and warrants to Merchant that it is authorized to enter into the Agreement and related documents on behalf of Chase.

The Agreement is hereby amended as follows:

- (a) Section 3.3(a)-(b) (**Holding a Reserve**) is hereby deleted and replaced in its entirety by the following:

- “a) We can require a Reserve to protect us against the risks of Card Network Liabilities resulting from your use of the Service.

- b) Any such Reserve may only be required after a Card Network has first imposed a Card Network Liability and then only in such amount of such liability imposed by the Card Networks.”

- (b) Section 8.2 (**Set-off and grant of security interest**) is hereby deleted and replaced in its entirety by the following:

- “Reserved”

- (c) Section 8.5 (**Indemnification and holding harmless**) is hereby deleted and replaced in its entirety by the following:

- “a) You agree, to the extent allowed by law, to unconditionally release, indemnify, defend and hold harmless us and our Related Persons for any Claim arising from or related to:

- us providing Services, or accepting or processing a Transaction or Instruction from you, your Authorized Person or on your behalf related to the Services or otherwise consistent with this Agreement
- us paying a Tax, interest or penalty for which you are liable or for which we otherwise have no responsibility
- us taking any action permitted by this Agreement, including defending against a Claim
- you breaching this Agreement or any JPMC Document or a representation or warranty you give in any JPMC Document
- you claiming against a Card Network or payment network relating to the Services or a Transaction
- you or us incurring Fees, fines or penalties arising from you breaching Legal Requirements or the Card Network Rules
- you or anyone else using our Service with your Security Protocol, Access Code or other Security Credentials, and
- a third party claim.

- b) This indemnification does not apply to any Claim to the extent it is directly caused by our negligence, recklessness or willful misconduct.

- c) Indemnity obligations in this Agreement remain in force after an account closes or this Agreement or any Service terminates.”

- (d) Section 9.1 (**Governing Law**) is hereby deleted and replaced in its entirety by the following:

- “a) The internal laws of the State of Texas (without reference to its conflict of laws rules) apply to this Agreement, subject to any modifying Legal Requirements.

- b) All rights and remedies relating to this Agreement, Legal Requirements and the Card Network Rules are cumulative and do not exclude any other rights or remedies.

- c) The maximum amount of pre- and post-judgment interest in connection with any Claim will be the lower of the prime rate and the limit set by the State of Texas.”
- (e) Section 9.2 (**Venue**) is hereby deleted and replaced in its entirety by the following:

“a) Disputes relating to any Services will be resolved by an arbitration tribunal or by a court of competent jurisdiction in the State of Texas and you agree to submit to this jurisdiction.

b) Reserved.”

The ECP Addendum is hereby amended as follows:

- (a) Section 5.1 is hereby deleted and replaced in its entirety by the following:

“5.1 Merchant agrees to be bound by and subject to the NACHA Rules, and to comply therewith. Merchant shall not, through act or omission, cause Paymentech to violate the NACHA Rules. In addition, Merchant shall comply with all applicable laws, rules and regulations governing electronic check processing, check conversion and/or the initiation of electronic debit entries (whether by ACH, Facsimile Draft, or otherwise), including, but not limited to, Electronic Funds Transfer Act of 1978, Regulation E, the Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act as enacted in any state, and all Federal Reserve, Consumer Financial Protection Bureau and Federal Trade Commission regulations or requirements (including those relating to partial payment transactions originated via ECP transactions). Merchant agrees not to initiate any ECP transaction or take any action that violates any applicable NACHA Rule or applicable law, rule or regulation. Merchant agrees to pay any and all fines, fees, penalties, liabilities, charges and other amounts which may be imposed or assessed by NACHA (or other applicable network) on Merchant, Paymentech, or the originating depository financial institution utilized by Paymentech in connection with the processing of ECP transactions (the “ODFI”), as a result of your actions, omissions, or ECP transactions or ECP Returns, including without limitation, your failure to comply with the NACHA Rules (or other applicable network’s rules). Merchant agrees, to the extent allowable by law, to fully indemnify and hold Paymentech harmless from any losses, costs (including attorney’s fees), fines, fees resulting from any Merchant noncompliance with the NACHA Rules or any applicable laws. Paymentech specifically disclaims all liability and responsibility for Merchant’s assessment of any service charges on dishonored checks.”

- (b) Section 5.5 is hereby deleted and replaced in its entirety by the following:

“5.5 Merchant warrants to Paymentech, with respect to each Facsimile Draft, that the person on whose account the Facsimile Draft was drawn authorized the issuance of such Facsimile Draft for the amount and to the payee stated on the Facsimile Draft. Merchant authorizes Paymentech to debit Merchant’s account for any claim or ECP Return based upon an unauthorized Facsimile Draft and Merchant agrees, to the extent allowable by law, to indemnify and hold Paymentech harmless from and against any claims, liabilities, costs and expenses (including attorneys’ fees) resulting directly from any breach of the foregoing warranty.

Merchant hereby agrees to the terms and conditions, as modified and specifically subject to the modifications herein, of the Agreement and the ECP Addendum (if Merchant is using this service), and represents and warrants that the application, Account Opening Documentation and other documentation that have been or will be provided to Paymentech and Chase are true and correct.

(Signature page to follow)

In addition, I, the undersigned, on behalf of Merchant, certify, represent and warrant that:

- (a) I am an authorized representative of Merchant, duly authorized to:
 - enter into legally binding agreements on behalf of Merchant;
 - execute and submit this document on behalf of Merchant;
 - provide all information contained herein (including, as applicable, banking or financial information relating to Merchant) on behalf of Merchant.
- (b) All information contained within this document or submitted in connection herewith is true, complete and not misleading.
- (c) To the extent any bank account information is being provided in connection with this document, Merchant owns such bank account, and such account is being maintained solely for business purposes and not for personal, family, or household purposes.
- (d) Paymentech and Chase may:
 - investigate and verify the credit and financial information of Merchant, and
 - obtain credit reports on Merchant from time to time in connection with establishing Merchant's account and maintain the Agreement.

Agreed and Accepted by:

Reunion Ranch WCID

MERCHANT LEGAL NAME

Legal Address

By (authorized signature)

By, Name, Title

Date

**Agreed to (for purposes of the above amendments and the statutory verifications provided in Exhibit A)
by Paymentech, LLC for itself and on behalf of JPMorgan Chase Bank, N.A.:**

By (authorized signature)

Name

Title

Date

Exhibit A to the Merchant Attestation and Amendment of Agreement and ECP Addendum Terms

As required by Chapter 2271 of the Texas Government Code, as amended, Paymentech hereby verifies that it, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this agreement, the phrase "boycott Israel" has the meaning assigned to such term in Section 808.001, Texas Government Code, as amended.

Pursuant to Chapter 2252 of the Texas Government Code, Paymentech hereby represents and certifies that, at the time of execution of the Agreement, neither Paymentech, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.

As required by Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, Paymentech hereby verifies that Paymentech, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott energy companies, and will not boycott energy companies during the term of the Agreement. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code, as amended.

As required by Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, Paymentech hereby verifies that Paymentech, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. As used in the foregoing verification, "discriminate against a firearm entity or trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19), as amended.

For purposes of each of the above verifications, the term "parent company" shall include Chase and its affiliates.



J.P.Morgan

TERMS AND CONDITIONS

Merchant Services Processing

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1 Scope, purpose and interpretation of these Terms and Conditions

1.1 Understanding these Terms and Conditions and Your Agreement

- a) These Terms and Conditions govern the Services and are effective on the date you sign your Application and are subject to our approval of you as a customer consistent with our credit underwriting policies and procedures.
- b) These Terms and Conditions and the other JPMC Documents form the Agreement and represent the entire understanding between the Parties and replace any previous relevant agreements for the Services.
- c) By using the Services you agree to all terms of the Agreement.
- d) The Agreement shall continue until it is terminated by you or us.
- e) You will use the Services for business purposes only and not for personal or consumer purposes.
- f) You agree that the Agreement governs any use of the Services that may have occurred before the Agreement became effective.
- g) You agree that in entering this Agreement you have not relied on statements or representations we have made.

1.2 Interpreting this Agreement

- a) Capitalized terms are defined throughout and at the end of this Agreement.
- b) If there is an inconsistency between this Agreement and any JPMC Document, the terms of this Agreement will prevail.
- c) In each JPMC Document:
 - section headings are for convenience only and do not affect its meaning
 - "include" or "including" means "including without limitation"
 - "can" and "may" have the same meaning and allow a Party to take, or not take, any action in its discretion
 - "will", "shall" and "must" have the same meaning and require a Party to take, or not take an action
 - a reference to a document includes all changes, amendments, schedules, exhibits, and supplements to it, and
 - a word has the same meaning in both its singular and plural forms.
- d) If this Agreement permits us to make a decision, give consent or approve anything, it will be at our discretion, in good faith and conclusive.

1.3 Changes to the Agreement

- a) We can change this Agreement, including suspending or discontinuing any service, by giving you notice and any change is effective from the date indicated on our notice. We will try, but are not required, to give you 30 days' notice before the effective date of any change in a Fee.
- b) When we give you notice of a change to this Agreement and you continue to use the Services, you accept such change from the date it takes effect.
- c) We can also notify you about any feature we add, delete or modify. If you use our new or modified features, you agree to any related requirements we tell you about.
- d) Our failure to exercise or delay exercising a right under the JPMC Documents is neither a waiver of any right nor does it preclude us from further exercise of any right. Any waiver by us is not effective unless it is signed by us.

2 Use of the Services

2.1 Exclusivity

- a) You agree that for all transactions that originate in the U.S.:
 - we will be your exclusive provider of payment processing services, and
 - you will submit all such transactions to us for processing.
-

**2.2
Complying with Card
Network Rules and
Chase Requirements**

- a) The Card Network Rules:
 - are generally available directly from the Card Networks, and
 - govern the Services and your acceptance of Cards.
- b) You agree:
 - to comply with all Card Network Rules, including the Chase Requirements applicable to your Chase Transactions, applicable Legal Requirements and the Security Standards
 - not to cause us to violate the Card Network Rules or Security Standards, and
 - to reimburse us for all Card Network Liabilities.
- c) A Card Network may require, and you will fully cooperate with:
 - an investigation, review, audit, or inspection of your business (including your premises), directly or through us or an agent, to ensure you are complying with the Card Network Rules and Security Standards, and/or
 - the engagement of a forensic investigator approved by the Card Network to investigate any known or suspected Security Breach affecting you, your Systems or your Merchant Service Providers.

**2.3
User Guides**

- a) You will comply with our user guides related to the Services.

**2.4
Authorizing
Transactions**

- a) Each Transaction must have a valid authorization code.
- b) The authorization code is not a representation from us, a Card Network, or any card-issuing bank that a Transaction:
 - is valid or undisputed, or
 - will not be subject to Chargeback.
- c) You will not originate any Transaction that violates a Legal Requirement or the Card Network Rules.
- d) We are not obligated to process a Transaction or follow an Instruction if we have a good faith reason to deny it, such as suspected fraud.

**2.5
Transmitting
Transaction data**

- a) We will transmit your Transaction data to the applicable Card Network. If a Transaction involves an Eligible Chase Card, we will process it directly as a Chase Transaction.

**2.6
Your Settlement
Account**

- a) You will designate in Proper Form, and maintain, one or more Settlement Accounts to receive settlement funds.
- b) We will fund your Settlement Account for the amount of your Transactions minus all Fees. We will have no responsibility for any settlement of Transactions involving Card Networks that settle funds directly to you.
- c) You authorize us to initiate ACH, wire transfer, or other electronic credit and debit entries to your Settlement Account for amounts owed by or to you under this Agreement, regardless of the source of the account's funds.
- d) Your Settlement Account will remain open while we provide you with our Services and for at least 180 days afterwards (or longer as we may request). During this time you will:
 - ensure that we are permitted to initiate debit and credit entries to or from the Settlement Account
 - not do anything that would prevent us from debiting or crediting a Settlement Account, including closing the Account, revoking our authority to debit the account, or imposing a debit block without giving us at least ten business days' notice and designating a new Settlement Account for our use, and
 - ensure the Settlement Account is used for business purposes only, and not for personal or consumer purposes.

**2.7
Accepting equipment**

- a) If we sell or otherwise provide you with terminals or other equipment:
 - we are the equipment reseller, and not the manufacturer
 - we will give you pricing and any additional terms (including any manufacturer's warranty) before purchase, and
 - by accepting the equipment, you agree to any related additional terms.

**2.9
American Express
(AMEX) OptBlue**

- a) If you want to participate in the American Express OptBlue Program then you must comply with the requirements set forth in **Exhibit 1** to this Agreement. Capitalized terms not otherwise defined in Exhibit 1 shall have the meaning set forth in this Agreement.
-

**2.10
Transaction restrictions**

- a) You will not submit any Transaction that:
- originates from a business or store location outside of the U.S.
 - you know or should know is illegal, fraudulent, not authorized by the customer or is authorized by a customer colluding with you to commit a fraud, or
 - could damage the Card Network's goodwill or reputation.
- b) Unless indicated on your Application, you will not submit any Transaction representing an installment sale, a full or partial pre-payment, a deferred payment plan charge, or a recurring billing transaction, or otherwise submit any Transaction until all goods or services are shipped or provided.
- c) You will give us at least 30 days' notice of:
- significant changes to your business, products or services, or
 - any increase in the average time between taking payment and the shipment or delivery of the goods or services which that payment relates to (where we have previously approved you accepting advance payment).
- d) Except as the Card Network Rules allow, you will not give a customer cash as part of a Transaction, including when they are redeeming a prepaid Card.
- e) At every point of interaction, you will clearly and explicitly tell your customer who you are, and distinguish yourself from any third party such as a third-party merchant or your supplier.
- f) You will not sell, buy, give, exchange or otherwise disclose Card Information or any materials including Card Information to anyone other than us, a Card Network, or for a valid request from a Government Authority.

3 Fees, Chargebacks, Refunds and Reserves

**3.1
Paying Fees and other
amounts due**

- a) You will pay all Fees in full and consistent with the JPMC Documents without set-off or counterclaim. We can debit Fees from your Settlement Account without notifying you regardless of whether we previously provided you with invoices for Fees.
- b) You will pay or reimburse us for our reasonable attorney fees and other costs in connection with any Claims or disputes under this Agreement.
- c) Our Fee Schedule, or any invoice that we provide to you, is the official record of Fees you owe us. If there is a discrepancy between the Fee Schedule and another JPMC Document, we will determine which amount is correct.
- d) In addition to any Fees you pay us, we may also receive commissions, rebates, interchange or other compensation from third parties related to any Service.
- e) The Fees may be adjusted to reflect (i) increases by Card Networks in interchange, assessments, (ii) other Card Network fees, additional fees imposed by the Card Networks, or (iii) increases in third party fees identified in this Agreement or in the JPMC Documents. You will pay all such adjusted fees and each such adjustment shall become effective on the date the fee is implemented by the Card Network or third party provider.
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- f) To recover Fees, Chargebacks, Reserves, Card Network Liabilities, and other amounts you owe under this Agreement, we can:
 - withhold some or all of your settlement funds (or any other funds that would otherwise be payable to you), and apply them against amounts due
 - debit your Settlement Account
 - receive prompt payment within five business days after our request
 - apply the amount of any Reserve, or
 - collect them in any other manner allowed under this Agreement.
 - g) At our option, we may also recover amounts due and payable you owe us or any of our Affiliates, whether under this Agreement or otherwise, by withholding and applying settlement funds, debiting your Settlement Account, receiving payment from you, applying the amount of any Reserve or collecting in any other manner as provided above.
-

3.2 Chargebacks and Refunds

- a) You are responsible for all Chargebacks assessed to us under Card Network Rules, except where a Chargeback:
 - is reversed in your favor, in which case we will refund the amount, or
 - results from a consumer-initiated, fraudulent Transaction using a lost or stolen mobile device or Card, unless you were involved in that fraud.
 - b) You are responsible for all Refunds submitted for processing, including ones third parties submit using your credentials without your authorization.
-

3.3 Holding a Reserve

- a) We can require a Reserve to protect us against the risks from you using the Service, including Chargebacks, Refunds and Card Network Liabilities or to protect our ability to collect and recover amounts you owe us as described above.
 - b) We will notify you of the amount of any required Reserve, which we will determine in good faith.
 - c) We will hold and control any required Reserve.
 - d) The Reserve will not bear interest, and we can commingle the Reserve with other funds.
 - e) You have no interest in any Reserve other than a contingent right to receive any unused funds.
 - f) We may periodically:
 - increase your required Reserve, or
 - return Reserve funds we no longer need to manage your risk.
 - g) When we decide that we no longer need a Reserve, we will return all unused Reserve funds to you.
 - h) Our right to require a Reserve will survive termination of this Agreement. This means that this section will remain in force even if you or we terminate the Agreement.
-

4 Statements

4.1 Making Statements available

- a) Statements provided electronically are available for you to examine when we:
 - make it available online, or
 - send notification of its availability.
 - b) We are not responsible for:
 - you relying on balance, Transaction or related information that is updated or corrected, or
 - the accuracy or timeliness of information supplied to us by any third party.
 - c) You agree that our Statements are sufficient for you to inspect and review activity and to identify errors and unauthorized or altered Transactions.
-

4.2 Missing Statements,

- a) You will promptly:
 - examine your entire Statement once it is available, and
 - notify us if you cannot access your Statement.

errors and timeliness of Claims

- b) You will promptly, and no later than 60 calendar days after the Statement date, reconcile your Statement with your Settlement Account bank statements from the same period, and notify us of any:
 - unauthorized Transactions, including any claims of such activity or requested adjustments
 - alterations, errors, discrepancies and irregularities, or
 - discrepancies you identify when reconciling with your settlement or other accounts.
- c) If you do not act in the timeframes above, you agree that you cannot:
 - assert you exercised reasonable care and promptness in reviewing your Statement and identifying errors
 - be reimbursed for a Claim refused as a result, and
 - make a Claim or otherwise act against us for a subsequent loss that was preventable or caused by the same wrongdoer's repeated act.

5 Confidential Information, Use of Data and Publicity

5.1 Keeping information confidential

- a) Each Party will keep all Confidential Information confidential by taking the same reasonable care to prevent unauthorized disclosure as it does for its own Confidential Information.
- b) You agree that:
 - when you use our Services, you may receive Confidential Information that is solely our property or that of our licensors
 - you will keep all Confidential Information in confidence and disclose it only to a Person who needs to access it for their duties related to the Services, and
 - you will not disclose the terms of this Agreement, the amount of the Fees or the contents of any JPMC Documents other than as required by Legal Requirements or Card Network Rules.
- c) These obligations do not apply to information that:
 - is now, or later becomes, available to the public, through no action (or inaction) of a Party in violation of this Agreement
 - is disclosed consistent with a Legal Requirement or the Card Network Rules, or to defend or prosecute a claim or legal proceeding
 - is obtained from a third party if the receiving Party is not aware that third party was required to keep it confidential
 - the disclosing Party agrees can be shared
 - the receiving Party independently develops without using the Confidential Information, or
 - a Government Authority requests.

5.2 Permitted disclosures and uses

- a) We and our Related Persons can disclose your Confidential Information to:
 - any of our Related Persons and their officers, directors, employees, agents, attorneys, auditors, consultants and other banks
 - proposed assignees and your agents, attorneys, auditors and consultants
 - a Referral Partner
 - tax authorities (this may include your name and account number), and
 - other third parties if the Confidential Information is aggregated or does not directly identify you or your vendors or suppliers.
 - b) We and our Related Persons can use and disclose your Confidential Information:
 - to offer, provide, maintain or service the Services
 - to comply with Legal Requirements or the Card Network Rules
 - to prevent, investigate or reduce fraud, and for risk management and operational purposes
 - to market or sell JPMC products or services to you and your Related Persons
 - to analyze, summarize and compile Transaction and other data for business purposes, research, strategic planning, product and service development and promotion, and
-

-
- if allowed by another JPMC Document.
 - c) We can transfer your information to any Affiliate branch or unit, including subsidiaries in other countries where we or our Affiliate does business or has a Service Provider. Some of these jurisdictions may not provide the same level of protection for your information as the laws where you are based.
-

**5.3
Publicity**

- a) Neither Party shall, without the other Party's prior written permission:
- make press releases or similar public statements regarding the business relationship that is the subject of this Agreement, or
 -

6 System and Information Security

**6.1
Your Systems and
transmitting data**

- a) You, and each of your Authorized Persons, are responsible for installing, maintaining and protecting your Systems, no matter who owns them, including:
- keeping data transmitted through your Systems secure and applying Software updates
 - complying with all data and system security Legal Requirements (and any of our related policies and procedures that we have made you aware of)
 - applying reasonable security standards that evolve to address changes in technology and cybersecurity, and
 - defending your Systems against outside threats, unauthorized access and data loss.
- b) We can rely on data received from you or on your behalf and we are not liable or responsible for the authenticity, accuracy, corruption, disappearance, theft or damage of, or tampering with, your data, including all Transaction data transmissions, except as provided by Legal Requirements or Card Network Rules.
- c) We are not responsible for your Systems, including:
- their errors, malfunctions, failures or compatibility with our systems
 - notifying you about upgrades, fixes or enhancements, or
 - giving you technical or other support.
- d) You will confirm with your advisers that your Systems and the Internet are suitable for the Services.
- e) You accept all operating, performance and security risks in using your Systems and an open network.

**6.2
Your Internet security**

- a) You agree that using an open network such as the Internet has security, corruption, transmission error and access availability risks.
- b) You will regularly assess and update your Internet security, including your browser, encryption, anti-virus, anti-spyware and Internet security software.
- c) You agree that having malware on your computers (including keystroke-logger malware) means you:
- have not maintained proper functioning and security of your Systems
 - will be liable for any related Claim, and
 - will be precluded from making a Claim against us relating to that malware.

**6.3
Protecting against
cyberfraud**

- a) You agree that we are not:
- your cybersecurity consultant or adviser, or
 - liable for any Claim you incur based on cyber information we do or do not give you.

**6.4
Using an approved
Security Protocol**

- a) You must use any Security Protocol we issue or approve when using the Internet or other electronic means to:
- access account or Transaction information
 - issue an Instruction, or
 - originate a Transaction.

-
- b) You agree that when any Security Protocol is used, you are responsible for its use and safekeeping and we can enforce an Instruction we have verified.
 - c) You and each of your Authorized Persons will:
 - safeguard all Security Protocols, and
 - make sure only Authorized Persons know of and use your Security Protocols.
-

**6.5
Security Breaches**

- a) You will have:
 - controls adequate to promptly detect a potential or actual Security Breach of your Systems, and
 - a response plan for a Security Breach consistent with current cybersecurity practices.
 - b) You agree to:
 - notify us immediately if there has been, or you suspect there may be, a Security Breach
 - provide the details of the Security Breach
 - fully investigate the Security Breach, and
 - cooperate with us to remediate the Security Breach.
 - c) If you do not notify us immediately about a Security Breach or misuse, you will be precluded from making any subsequent related Claims.
-

**6.6
Keeping information
secure**

- a) You agree to notify us promptly if you use or intend to use a Merchant Service Provider.
 - b) You are responsible for the acts of your Merchant Service Providers, and will:
 - ensure any Merchant Service Provider you use complies with Security Standards and is registered with the Card Networks
 - ensure any third-party payment software or applications you use to transmit, store or process Card Information complies with Security Standards, and is registered with or recognized by the relevant Card Networks, and
 - pay any Card Network Liabilities resulting from the acts of a Merchant Service Provider, including from a Security Breach.
-

**6.7
Using third-party service
providers**

- a) You are solely responsible for your use of third-party service providers, systems, security and communications software and all related costs (including for equipment or software).
 - b) Even if we suggest that you use a third-party service provider or system or offer a third-party site link to download software, we do not endorse any third-party system, software or site and you accept all risks related to their use.
-

**6.8
Location of Services**

Certain services may be performed by us or any of our affiliates, including affiliates, branches or units located in any country in which we conduct business or have a service provider. You authorize us to transfer your information to such affiliates, branches or units at such locations as we deem appropriate. We reserve the right to store, access, or view data in locations we deem appropriate for the services provided.

7 Termination

7.1 Mutual Termination

- a) Either Party can terminate this Agreement by giving the other at least 30 calendar days' prior notice.
- b) In addition to any termination rights under any other JPMC Document, either Party can immediately terminate this Agreement by giving the other Party notice because of:
 - failure of the other Party to promptly pay amounts owed to the terminating Party
 - failure of the other Party to comply with this Agreement or any other agreement between the Parties
 - an inability by the other Party to meet its debts as they become due
 - receivership, administration, liquidation, bankruptcy or similar proceeding
 - assignment to benefit the other Party's creditors or anything similar
 - a good faith belief that the other Party materially breached a representation or warranty or has engaged in fraudulent activity
 - a good faith belief that the other Party's finances or business is impaired
 - a good faith belief that the other Party's activities are not consistent with the terminating Party's applicable policies
 - a good faith belief that any event has significantly increased the risk to the terminating Party or violates its policies or procedures
 - a Legal Requirement or Card Network Rule or failing to comply with any of these, or
 - a Material Adverse Change to the other Party

7.2 Immediate Termination

- We can immediately terminate this Agreement or suspend or terminate the Services by giving you notice if:
- a Card Network asks us to, or imposes burdensome, costly or impractical conditions on our dealings with you
- you or any of your principal owners or officers becomes listed on a Card Network database of terminated or high-risk merchants, or
- you are put in a chargeback monitoring or similar Card Network risk-based program, or we determine that you have excessive Chargebacks
- you do not transmit Transactions to us for a period of more than 180 consecutive days
- you issue Bearer Shares or you are a Bearer Share Company

7.3 After Termination

- a) After termination of this Agreement, you shall continue to be liable for all Chargebacks, Refunds, Fees, Card Network Liabilities, credits, and adjustments resulting from or relating to Transactions processed pursuant to this Agreement.
- b) If you submit Transactions to us after the date of termination, we may, but are not required to process such Transactions. Any Transactions we process will be in accordance with and subject to all of the terms of this Agreement.
- c) This provision will survive termination of this Agreement. This means that this section will remain in force even if you or we terminate the Agreement.

8 Liability, Set-off, Waiver, Timely Claims, Indemnification, Disclaimers and Representations

8.1 Our Liability

- a) Under no circumstances will our financial liabilities arising out of or related to this Agreement exceed the total fees paid to us under this Agreement (net of Card Network and other third party fees such as Interchange, assessments, and Card Network Liabilities) for the six months prior to the time the liability arose.
- b) We are only liable for reasonably foreseeable damages directly caused by an act that is within our direct control and are not responsible for your actions, inactions, omissions, delays or failures, or those of third parties.
- c) We are not liable for any claim of negligence if we follow our procedures, which you agree constitute our exercise of good faith and ordinary care.
- d) We are not liable for:
 - Any fraud or forgery (other than by us).
- e) We do not guarantee:
 - the security, sequence, timeliness, accuracy or completeness of any service, data or technology, or
 - access to any service or technology.

8.2 Set-off and grant of security interest

- a) We can, without notifying you or making a demand for payment retain, apply or set off any amount we owe you or the value of any of your property in our possession, against any amount you owe us or our Affiliates for any obligation irrespective of whether we have made any related demand (even if it is unmatured).
- b) We can exercise our set-off rights by any means we consider appropriate,
- c) You assign and grant us a lien and security interest in all your accounts, funds and credits with us to secure your obligations and liabilities to us.

8.3 Waiving Special Damages

- a) The Parties shall not be liable for any Special Damages, regardless of the form of action and even if advised of a possibility of Special Damages. Each Party hereby waives the right to claim or recover Special Damages.

8.4 Timely filing of claims

- b) You must file a Claim in connection with the Services or any Transaction with a tribunal or court of competent jurisdiction within two years of the event that gave rise to the Claim. Failure to do so will mean you have waived that claim against us.

8.5 Indemnification and holding harmless

- a) You agree to unconditionally release, indemnify, defend and hold harmless us and our Related Persons for any Claim arising from or related to:
 - us providing Services, or accepting or processing a Transaction or Instruction from you, your Authorized Person or on your behalf related to the Services or otherwise consistent with this Agreement
 - us paying a Tax, interest or penalty for which you are liable or for which we otherwise have no responsibility
 - us taking any action permitted by this Agreement, including defending against a Claim
 - you breaching this Agreement or any JPMC Document or a representation or warranty you give in any JPMC Document
 - you claiming against a Card Network or payment network relating to the Services or a Transaction
 - you or us incurring Fees, fines or penalties arising from you breaching Legal Requirements or the Card Network Rules
 - you or anyone else using our Service with your Security Protocol, Access Code or other Security Credentials, and
 - a third party claim.
- b) This indemnification does not apply to any Claim to the extent it is directly caused by our negligence, recklessness or willful misconduct.
- c) Indemnity obligations in this Agreement remain in force after an account closes or this Agreement or any Service terminates.

8.6**We disclaim warranties**

- a) You agree this Agreement is for commercial services and the Uniform Commercial Code does not apply to the Services.
- b) We provide all Services and Software “as is” and “as available,” and disclaim all warranties and representations, whether express, statutory or implied, including warranties of:
 - merchantability, satisfactory quality, or fitness for a particular purpose, dealing or trade use, and
 - non-infringement.
- c) Where Legal Requirements impose an implied warranty by us, our warranty ends 30 days from the date the Service or Software is first available to you.

8.7**Your representations**

- a) You represent that the JPMC Documents:
 - can be enforced against you despite any immunity (sovereign or otherwise) you may have, and
 - do not breach your Organizational Documents, Authority Documents or agreements with third parties, or any Legal Requirements.
- b) When you give us a Person’s information, you represent that you have the right to:
 - share their information with us, and
 - allow us to make continued use of that information or related records about the Person or any other Related Person for any of our “Know Your Customer”, anti-money laundering and compliance procedures or other appropriate business purposes, to provide you or such other Person with the Services.
- c) You represent and warrant that:
 - only an Authorized Person will submit written information to us and that all written information submitted to us is true, complete and not misleading as of the date that the information is submitted.
 - You will comply with all restrictions, requirements, loss mitigants, policies, and procedures that we have made you aware of.
 - You will notify us immediately if you have a new beneficial owner of more than 10 percent of the combined voting power of your ownership interests.
 - You will not use the Services or any Software for illegal, offensive, malicious or defamatory activities.
 - You will give us and our representatives access at reasonable times to your facilities, data and records. We will provide you with reasonable notice before we audit or inspect you or your facilities.
 - you have implemented and maintain policies and procedures (including anti-money laundering policies) designed to ensure compliance with Legal Requirements and Card Network Rules.
 - You are not a Bearer Share Company and that you will not issue Bearer Shares

9 Miscellaneous

9.1 Governing law

- a) The internal laws of the State of New York (without reference to its conflict of laws rules) apply to this Agreement, subject to any modifying Legal Requirements.
- b) All rights and remedies relating to this Agreement, Legal Requirements and the Card Network Rules are cumulative and do not exclude any other rights or remedies.
- c) The maximum amount of pre- and post-judgment interest in connection with any Claim will be the lower of the prime rate and the limit set by the State of New York.

9.2 Venue

- a) Disputes relating to any Services will be resolved by an arbitration tribunal or by a court of competent jurisdiction in the State of New York and you agree to submit to this jurisdiction.
- b) This section does not prevent us from starting proceedings in a court or tribunal of any state with jurisdiction, including concurrently in any number of states.

9.3 Waiving rights to a jury trial

- a) Each Party waives the right to a trial by jury for any matter or Claim relating to:
 - this Agreement
 - the JPMC Documents and
 - the Services or a Transaction.

9.4 Severability

If a court or other tribunal decides a provision of this Agreement or any JPMC Document cannot be enforced, that decision will not affect the remaining provisions.

9.5 Assigning this Agreement

- a) We must agree in writing before you transfer or assign this Agreement (including by operation of law or merger). Without our consent, such transfer or assignment is void and may result in us immediately terminating the Agreement. Where we do agree, an assignee or transferee is subject to this Agreement and the obligations and liabilities you owed to us before the date it is transferred or assigned.
- b) We must agree in writing before an assignee can continue, assume or assign this Agreement for the benefit of a creditor, custodian, receiver, trustee in bankruptcy, debtor in possession, sheriff or court officer, or Person taking charge of your assets or business.
- c) We can at any time assign or transfer this Agreement, in whole or in part, or any or all of our rights and obligations under this Agreement.

9.6 Change of control

- a) You will give us notice at least 60 calendar days before:
 - you sell all or substantially all of your assets, or
 - a Person becomes a beneficial owner with more than 50 percent of the combined voting power of your ownership interests, or acquires voting control.
 - b) You will give us information we request about a major asset sale or ownership change.
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9.7**Providing information**

- a) All information that you give us will be accurate, complete and not misleading, and you will notify us immediately if at any time you learn it is not.
- b) You will give us, in Proper Form, all documents, financial statements and other information we request related to the JPMC Documents or the Services.
- c) We will rely on your Authority Documents until you give us notice in Proper Form that you have changed or revoked them, and we have had reasonable time to implement such modification.
- d) If you send us any documents or Instructions we may make ministerial changes to them as long as we advise you of any such changes.
- e) We can rely on the information you give us and you agree our reliance is reasonable. We do not need to verify:
 - any information your Authorized Person gives us
 - any representations or warranties you give us, or
 - the accuracy or timeliness of information a third party gives us on your behalf.

9.8**“Know-Your-Customer”
and Sanctions**

- a) You will comply with our “Know-Your-Customer” requests, and policies and procedures that we make you aware of, by providing in Proper Form (including certifying it if we require) information that we ask for.
- b) We can delay, suspend or terminate the Services without notice if you do not:
 - give us in Proper Form information that we ask for, or
 - allow us access to your facilities.
- c) You will use commercially reasonable efforts to ensure neither you nor any Authorized Person is:
 - on a government list of people designated under Sanctions or otherwise subject to Sanctions, or
 - operating or located in a country, region or territory that is subject to or a target of Sanctions.
- d) You will notify us immediately if any of these events occur.

9.9**Screening Transactions**

- a) Consistent with our policies and procedures (including those related to Sanctions), we can screen Transactions, which can cause delays or cancellations, including a delay in your funds being available.
- b) You agree that our screening benefits you even if it causes a delay or cancellation.

9.10**Acting as an independent
contractor**

- a) We are an independent contractor providing commercial services to you. We are not acting as your agent or in a fiduciary, quasi-fiduciary or similar role for you, any Person you represent or any other Person.
- b) You agree:
 - you had the opportunity to consult legal counsel about this Agreement and the JPMC Documents
 - to exercise your own judgment about your business and your Instructions, and
 - we are not advising you on any investment, tax, legal regulatory, accounting or other matters in this Agreement, the other JPMC Documents or your accounts, Services and Transactions.

9.11**Your Authorized Persons**

- a) You are responsible for:
 - the acts of your employees and representatives and their complying with your internal controls, and
 - advising each Authorized Person of their obligations under, and ensuring their compliance with, the JPMC Documents.
 - b) We can follow the Instructions of a Person we reasonably believe is authorized to act on your behalf, even if your Authority Documents do not list that Person.
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**9.12
Taxes**

- a) All Fees and other amounts due to us under any JPMC Document are exclusive of Taxes. You are responsible for any applicable state taxes imposed on interchange, assessments or other third-party fees collected by us under this Agreement. You agree we may increase the amount collected from you to reflect such taxes.
- b) If we are required to pay Taxes to any Government Authority on your behalf, then:
 - you will pay or reimburse us for all amounts we pay
 - we will make a deduction for all amounts we pay from payments due to you, or
 - we will debit your Settlement Account, even if it creates or increases an overdraft.
- c) All payments to us consistent with this section must be made in full, without set-off or counterclaim and free of any deduction unless required by Legal Requirements, in which case you will:
 - make the deduction
 - increase the payment to us so that the net amount we receive is the same as the amount we would have been entitled to receive without the deduction
 - pay the amount of the deduction to the applicable Government Authority, and
 - within 30 days after you make this payment, give us a certified copy of the original receipt issued by the Government Authority as proof of payment.

**9.13
Unlawful Internet
gambling**

- a) You will not use the Services or any Card, account, Service or Software for unlawful Internet gambling as defined by 12 CFR Section 233.2(bb) of the Code of Federal Regulations and any future amendments, including accepting or receiving credit, services or funds as proceeds of a Transaction.

**9.14
Force majeure**

- a) We are not liable to you for not carrying out, or delaying performance of, any actions caused by:
 - an act of God
 - a Government Authority or any Card Network
 - a Legal Requirement
 - a catastrophe
 - war or terrorism
 - civil or labor disturbance
 - fire, flood or other natural disaster, or
 - any other cause beyond our reasonable control.

**9.15
Survival**

- a) We will have reasonable time to act on a termination request.
 - b) Before terminating the Services, we can process a Transaction or Instruction initiated or sent to us before we received your termination request.
 - c) Closing an account or terminating a Service does not affect any Party's liability to the other for any Claim arising, or related to any Transaction occurring, before or on closure or termination. This liability continues with full effect (including payment and reimbursement obligations) after this Agreement terminates.
 - d) The rights and obligations under sections 3, 5, 6.6, 7.4, 8 and 9.1 - 9.3 will survive this termination of this Agreement, along with any other provision that says it does, or that reasonably should survive.
 - e) If we are not able to contact you or do not receive an Instruction from you about an account termination, we can:
 - mail you a check for a final account balance, or
 - transfer your funds to an unclaimed-moneys account.
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**9.16
Notices**

- a) All notices will be effective when given if they are in writing, sent to the specified addresses that the Parties give each other and delivered by:
 - email, Internet, cloud or other electronic means we permit
 - hand
 - regular mail, or
 - overnight courier.
- b) We can send notices to any Authorized Person.
- c) We can send additional or duplicate notices to other addresses we reasonably determine to be appropriate if we are unable to contact you at your specified address.

**9.17
Electronic records**

- a) Each Party can make and keep recordings of phone conversations.
- b) Each Party can store an electronic or other copy of the JPMC Documents as an original and:
 - destroy the original paper version consistent with its record-keeping policies, and
 - use an electronic or other type of copy instead of the original in a legal proceeding.

**9.18
Agreeing to terms electronically**

- a) We can provide you with this Agreement and any other JPMC Document (including amendments) electronically, including posting them on a website. You agree to such JPMC Document by continuing to use the Services after:
 - we notify you of the terms electronically
 - you electronically click or e-sign your approval, or
 - you agree by other means in Proper Form.
- b) Electronically accepting our terms and conditions (including related amendments) has the same effect as you agreeing to them with your handwritten signature.

**9.19
Third-party beneficiaries**

- a) This Agreement is not intended to benefit or to create a right or cause of action for any third-party beneficiary.
- b) You will not act as a fiduciary or deposit funds, facilitate Transactions or make payments for or on behalf of a third party.

**9.20
Disputes and Arbitration**

- a) If a dispute of any kind arises, we want to understand and address your concerns quickly and to your satisfaction. Please contact us if you have a dispute. If we cannot resolve your concerns, we agree to an informal dispute resolution process requiring individual arbitration.
 - b) You agree that any Claim related to the Agreement or the Services, including claims regarding the applicability of this arbitration clause, shall be resolved exclusively and finally by binding arbitration administered by the American Arbitration Association ("AAA"). We will select another arbitration forum if the AAA ceases operations.
 - c) In the absence of this arbitration clause you may otherwise have had a right or opportunity to litigate any Claim through a court before a judge or jury and to participate or be represented in litigation filed in court by others (including class actions). You are waiving those rights and any Claim you have must now be resolved through arbitration.
 - d) All Claims are subject to arbitration, no matter what theory they are based on. This includes Claims based on contract, tort (including intentional tort), fraud, agency, negligence, statutory or regulatory provisions, or any other source of law.
 - e) Claims and remedies sought as part of a class action, private attorney general, or other representative action are subject to arbitration on an individual (non-class, non-representative) basis only, and the arbitrator may award relief only on an individual (non-class, non-representative) basis.
 - f) The arbitration will be conducted before a single arbitrator and will be limited solely to the Claim between you and us. The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. The prohibition against class action contained in this Section shall be non-severable from the remainder of this Section.
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- g) If either party prevails in the arbitration of any Claim against the other, the non-prevailing party will reimburse the prevailing party for any fees it paid to the AAA in connection with the arbitration, as well as for any reasonable attorneys' fees incurred by the prevailing party in connection with such arbitration.
 - h) Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered in a court of competent jurisdiction.
 - i) Rules and forms of the AAA may be obtained and Claims may be filed at any AAA office, www.adr.org, or 335 Madison Avenue, New York, NY 10017, telephone 1-800-778-7879. Any arbitration hearing at which Merchant appears will take place at a location within New York County, New York, New York.
 - j) This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16. This arbitration agreement applies to all Claims now in existence or that may arise in the future. Nothing in this Agreement shall be construed to prevent any party's use of (or advancement of any Claims, defenses, or offsets in) bankruptcy or repossession, replevin, judicial foreclosure, or any other prejudgment or provisional remedy relating to any collateral, security, or other property interests for contractual debts now or hereafter owned by either party to the other.
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10 Definitions

Access Code	<p>A code that we provide, or your designated Security Administrator or Program Administrator creates, which is used to:</p> <ul style="list-style-type: none">• access an online system or application, or• authenticate an Instruction or Transaction.
Affiliate	<p>A Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with another Person. A subsidiary is an Affiliate.</p>
Agreement	<p>These Terms and Conditions, including the Application and all addenda, Fee Schedules, schedules, attachments, supplements and exhibits.</p>
Application	<p>Your application for Services in Proper Form, which may include a statement of your financial condition, business or organizational characteristics, and related credit, financial or other business information.</p>
Authority Document	<p>A document or other evidence in Proper Form evidencing the power and authority of a Person to:</p> <ul style="list-style-type: none">• agree to this Agreement and other documents related to the accounts and Services• issue Items or Instructions• access Software or platforms, or• take actions on your behalf. <p>These include certificates of authority to transact business, open accounts, Security Administrator designations, forms, resolutions, delegation of authorities, appointments, officer's certificates, access requests, certificates of incumbency, powers of attorney and implementation forms.</p>
Authorized Person	<p>An:</p> <ul style="list-style-type: none">• Authorized User, Program Administrator and Security Administrator, or• any Person (including a third party), that your Authority Documents identify as authorized to act on your behalf, or has authority to bind you under the law of agency or other Legal Requirements.
Authorized User	<p>An individual you, your Program Administrator or your Security Administrator entitled to act on your behalf for any Service or who is permitted to use your account or Services. You, the Program Administrator or the Security Administrator will define the entitlements for each Authorized User.</p>
Bearer Shares	<p>Securities that are not registered on the books of the issuing corporation and thus payable to any possessor of the shares.</p>
Bearer Shares Company	<p>A type of company which, unlike registered share companies, issues its securities as Bearer Shares.</p>
business day	<p>A day we are open to the public for carrying on substantially all of our banking functions, but not:</p> <ul style="list-style-type: none">• a state or federal holiday in the location we maintain an account or deliver Services• a Saturday, Sunday or other day when banks in New York City are authorized by Legal Requirements to remain closed, or• a day on which any Card Network or the Fedwire systems are not operating.
Card	<p>A physical or virtual credit or debit card, device, mobile application or other technology or means used to access an account through which Card Network or alternate payment network services are requested, delivered, authorized and established.</p>

Card Information	Information that is: <ul style="list-style-type: none"> • specific to a Card, including any Card account number, expiry date, security code, PIN, credit limit and account balance, or • read, scanned, imprinted, or otherwise obtained from a Card, (such as a customer name, address or phone number), even where such information is not specific to the Card.
Card Network	Any payment system or network provider that offers or licenses Cards, including Visa Inc., MasterCard International, Inc., Discover Financial Services, LLC, American Express, Pulse, NYCE and STAR. This includes us for your Chase Transactions.
Card Network Liabilities	A fine, fee, penalty, liability, or other charge or assessment by a Card Network relating to your or your Merchant Service Provider's actions or your Transactions.
Card Network Rules	All rules, programs, regulations, requirements and manuals of the Card Networks. This includes the Chase Requirements applicable to Chase Transactions.
Chargeback	A reversal under the Card Network Rules of a Transaction you previously submitted to us to process, including as a result of a dispute by the Card holder or by the bank that issued the Card.
ChaseNet	Our ChaseNet payment-processing platform where we directly process Transactions made with Eligible Chase Cards.
Chase Requirements	Our rules and requirements for Chase Transactions.
Chase Transaction	A Transaction using an Eligible Chase Card, which we process over the ChaseNet platform. Chase Transactions will not include PIN debit transactions unless we have provided you with pricing specific to PIN debit Chase Transactions.
Claim	An actual or potential action, loss, claim, dispute, controversy, damage, demand, liability, garnishment, lien, levy or other order, cost or expense, including Special Damages, attorney fees and dispute resolution costs.
Confidential Information	Nonpublic information one Party reveals to the other Party or its Affiliates in writing, orally or by other means. Our Confidential Information includes our: <ul style="list-style-type: none"> • Software, user guides and technology, and • any information about our internal controls and data security practices report (including an SSAE 18, PCI-DSS Attestation of Compliance or Letter of Compliance).
Eligible Chase Card	A Card that we or our Affiliates issue and those we determine is eligible for use in Chase Transactions. Eligible Chase Cards are limited to Visa-branded consumer and small business credit and debit Cards.
Fee	A charge, cost, fee (including reasonable attorney's fees) or expense relating to the Services, including interchange fees and Card Network Liabilities and those obligations payable by you under any JPMC Document, not including interest. Your Fees may be provided on the Fee Schedule or in another JPMC Document.
Fee Schedule	Any JPMC Document that lists the Fees for the Services. For example, the Fee Schedule may be contained in a separate JPMC Document and may also be signed separately, but is subject to the terms of this Agreement.

Government Authority	A U.S. or foreign government authority, a U.S. state and political subdivision, and an agency, regulatory (including self-regulatory) authority, department, commission, board, bureau, court or tribunal with jurisdiction over a Person, any of its subsidiaries or Affiliates, or their respective properties.
Instruction	Any kind of instruction you or any Authorized Person gives to us.
JPMC Documents	This Agreement, all Authority Documents, any applications and all other documents relating to the Services.
Legal Requirement(s)	Each applicable law, ordinance, decree, requirement, order, judgment, rule, regulation, directive, circular, interpretive letter, guidance or other official release (or a related interpretation) of a Government Authority or a regulatory (including self-regulatory) organization to which a Party (and/or its Affiliates) is subject, including: <ul style="list-style-type: none"> • all applicable anti-money laundering laws, rules and regulations • "Know-Your-Customer" and Sanctions laws, rules and regulations • Federal Reserve Board Regulations, and • tax regulations.
Material Adverse Change	A significant negative change in reputation, property, financial condition, business, liabilities, operations, prospects, affairs of a party or the ability of a party to meet obligations under any of the JPMC Documents as reasonably determined by the other party.
Merchant Service Provider	Any third party engaged by you or acting on your behalf that processes, stores, receives, transmits, or can access Card Information.
Merchant Mobile App	Any mobile application software developed by you, or on your behalf, that provides services for your customers, including the ability to pay for your goods or services.
Organizational Document	A document in Proper Form that: <ul style="list-style-type: none"> • proves your organization exists, or • controls or establishes governance of your organization.
Party/Parties	Individually, you or us, and collectively, you and us.
PCI Council	Payment Card Industry Security Standards Council.
PCI-DSS	Payment Card Industry Data Security Standards, as adopted by the PCI Council.
Person	A natural person, unincorporated sole proprietor, corporation, limited liability company, trust, joint venture, association, company, partnership, Government Authority or other entity.
Program Administrator	A Person you authorize to perform administrative and security functions in connection with your commercial cards.
Proper Form	The time, manner, form (tangible or electronic) or substance, which we solely determine or agree is satisfactory to us, for delivery of requested or required information.
Referral Partner	A third party that has entered into a (i) formal referral relationship with us pursuant to which it referred you to us for payment processing services and/or (ii) preferred pricing program with us. The Referral Partner may be paid a fee by us for the referral of Merchant to us. In addition, the Referral Partner may be involved in the servicing and maintenance of your account. Referral partners may include, as applicable, without limitation, financial institutions, your franchisor, independent sales organizations, trade associations or groups and service providers.

Refund	Any full or partial refund, credit or adjustment issued to a Card for any reason.
Related Person	A Party's past, present and future direct and indirect parents and Affiliates and any Authorized Person, director, officer, employee, manager, partner, shareholder, beneficial owner, insurer, Service Provider, agent or attorney, including all successors, subrogees and assigns.
Reserve	Funds we may withhold from you or require you to pay us and which we maintain to protect us against a risk that we reasonably anticipate.
Sanctions	Economic or financial sanctions, or trade embargoes that a Government Authority imposes, including the Office of Foreign Assets Control of the U.S. Department of the Treasury.
Security Administrator	<p>Any Person you designate as a System Administrator or Security Administrator, or you otherwise authorize to:</p> <ul style="list-style-type: none"> • receive, exchange and distribute a Security Protocol • receive and distribute Security Procedure materials, documents and account information • define or grant entitlements relating to your accounts and our Services or Software • administer or receive notices regarding any Software or Service on your behalf, including identifying what Service functions, including the Mobile App, each user can access and accepting the JPMC Document governing a Service, or • give us your list of users, if we ask. <p>You will notify us if your Security Administrator changes and any change will not be effective until you notify us and we have a reasonable time to act.</p>
Security Breach	Any event that impacts the confidentiality, integrity, or availability of a system or information, including Confidential Information, which may need to be investigated to determine if it needs external reporting. Such events may include unauthorized access, use, or disclosure of Confidential Information.
Security Credential	A unique user identification number or name, unique password or unique device.
Security Protocol	<p>Any of the following used to authenticate an Authorized Person's identity or authorize an Instruction:</p> <ul style="list-style-type: none"> • Access Codes • a Security Credential • identification, authorization or authentication codes, biometric identifiers, passwords or encryption algorithms, and • tangible or intangible security tokens, cookies, digital signatures, and private or public keys we issue or approve.
Security Standards	<p>Card Network and PCI Council rules, regulations, standards, or guidelines for information privacy and data security, and for safeguarding, sharing and handling Card Information, including the:</p> <ul style="list-style-type: none"> • PCI DSS • PCI PIN Transaction Security Requirements • Visa Cardholder Information Security Program and Visa Payment Application Best Practices • Discover Information Security and Compliance Program • American Express Data Security Operating Policy, and • MasterCard Site Data Protection Program and POS Terminal Security Program.
Settlement Account	A demand deposit account you maintain with us or another financial institution, which you designate to receive settlement funds for Transactions under this Agreement.

Services	<p>The services we provide to you related to your acceptance of Cards as payment for the goods and services you sell, including:</p> <ul style="list-style-type: none"> • authorizing, conveying and settling Transactions • providing any supporting equipment or terminals, and • any related service.
Service Provider	<p>A non-Affiliate vendor we or our Affiliate engages to perform or help perform any actions for an account, Service or Transaction, and over whom we or they maintain reasonable control. For the avoidance of doubt, Service Providers are not our agents.</p>
Software	<p>A portal, platform, software, application or Internet website we provide for you to:</p> <ul style="list-style-type: none"> • access the Services and related activity information, Transaction data, and reports • maintain your account and Services, and • transmit Transactions or other documents.
Special Damages	<p>Indirect, special, incidental, speculative, remote, exemplary, punitive or consequential damages, lost profits, loss of business or goodwill, Tax or late payment penalties and damages, including any related to:</p> <ul style="list-style-type: none"> • systems or equipment issues • access to any online service • Service Providers, and • problems or delays using our Software and Services. <p>For the avoidance of doubt, Special Damages do not include fines, fees, penalties or other charges, liabilities or assessments imposed by any Card Network, and such amounts shall be deemed direct damages.</p>
Statement	<p>A report of activities, including Transactions and Fees, relating to the Services.</p>
Systems	<p>Your browsers, software, hardware, telecommunications equipment or other equipment (and all related policies and procedures), that you use to communicate with us, including your:</p> <ul style="list-style-type: none"> • email, fax, Internet and cloud services • devices, such as a phone, tablet and laptop, and • computers, workstations, browsers, programs, connections, data or other transmission systems.
Taxes	<p>Any taxes (including value-added, sales and similar taxes), levies, imposts, deductions, charges, stamp, transaction and other duties and withholdings (with related interest, penalties, fines and expenses) in connection with the Fees, accounts or other Services (including payments or receipts) except if such taxes are imposed on our overall net income.</p>
Terms and Conditions	<p>This document.</p>
Transaction	<p>A sale, Refund, Chargeback or other Services related activity in which you and your customer exchange consideration using a Card and which you submit to us for processing.</p>
U.S.	<p>United States of America, excluding its possessions and territories unless specified.</p>
we, our and us	<p>JPMorgan Chase Bank, N.A. in its capacity as a member of several Card Networks and Paymentech, LLC in its capacity as an authorized processor of Transactions.</p>

you, your and yours

Our customer for whom we provide any Services under this Agreement or any other JPMC Document. You may be referred to in other JPMC Documents as our Customer or the "Merchant".

Exhibit 1: AMEX OPTBLUE

American Express OptBlue

1. American Express OptBlue Provisions

To participate in the American Express OptBlue Program, you must agree to comply with the requirements, acknowledgments and authorizations specific to your acceptance of American Express Payment Cards set forth in this Exhibit. Further, by participating in American Express OptBlue Program, you agree to the limited manner described in this Exhibit by which American Express may directly market and communicate to you, or use and disclose information you provide in connection with your participation in the OptBlue Program. The "OptBlue Program" is a program under which we and other eligible third party acquirers may enable small merchants (defined as merchants that process American Express card transactions where the gross annual sales amount of such American Express card transactions is One Million U.S. Dollars or less) to accept American Express Payment Cards.

2. Acceptance

You hereby agree to accept American Express Payment Cards only in accordance with the terms of this Agreement and the *American Express Merchant Operating Guide*, as may be amended from time to time and which is located at www.americanexpress.com/merchantopguide, provided however that:

- (a) any Claim between us and you arising from or relating in any way to this Agreement, even if relating to acceptance of the American Express Payment Card or otherwise involving or relating to American Express (including claims to which American Express is a party or has a right to join), shall be brought in accordance with the Agreement, and not the dispute resolution provisions of the *American Express Merchant Operating Guide*;
- (b) American Express's right to provide you information, notify you or otherwise provide you Solicitations (as hereinafter defined) shall be in accordance with Section 5 below and not the *American Express Merchant Operating Guide*; and
- (c) American Express's right to use Transaction data and Merchant Data provided to American Express by us shall be in accordance with Section 6 below and not the *American Express Merchant Operating Guide*.

American Express has asked us to inform you that any claim brought by Merchant against American Express, to which we are not a party, arising from or relating in any way to this Agreement is to be resolved pursuant to the dispute resolution provisions of the *American Express Merchant Operating Guide*, provided that nothing in this Agreement shall provide any grounds for us to be a party to any claim between you and American Express that does not relate to this Agreement. For purposes of the OptBlue Program, "**Merchant Data**" means names, postal and email addresses, tax ID numbers, names and social security numbers of the authorized signer of OptBlue Program Merchants and similar identifying information about OptBlue Program Merchants. For clarification, Merchant Data does not include Transaction data.

3. Authorization

You authorize us to submit Transactions to, and receive settlement from, American Express.

4. Communication with Merchants

By agreeing to use the "OptBlue" service, you understand and agree that American Express may communicate with you to provide information about the OptBlue Program and other programs regarding the American Express network as set forth below, including:

- (a) "welcome acceptance" communications;
- (b) communications designed to inform you how to increase Customers' usage of the American Express Card (e.g., information regarding posting of the American Express logo);

- (c) communications required by law or to comply with directions from American Express regulators;
- (d) communications necessary for you to fulfill or comply with offers made by American Express to its Customers;
- (e) communications under certain circumstances where American Express seeks to transfer you to direct card acceptance program with American Express because Merchant's American Express transactions are more than \$1 million annually or we no longer participate in the OptBlue Program;
- (f) communications about programs on the American Express network that are relevant to merchants participating in the OptBlue program, but do not include Solicitations (as defined below); and
- (g) communications about the benefits to you of accepting the American Express card, but do not include Solicitations.

5. American Express Programs

Although American Express may send you general information about American Express programs (e.g., notifications about the occurrence of American Express's "Small Business Saturday" program or the availability of American Express's "Pay with Points" program), American Express will not directly solicit you to register for, purchase or otherwise obtain products or services unrelated to the OptBlue Program ("Solicitations"). You may, however, receive solicitations from American Express if it has provided the necessary data or consent directly to American Express outside the scope of this agreement). To register for, purchase or otherwise obtain products or services from American Express unrelated to the OptBlue Program, please contact American Express directly by visiting the website <http://www.americanexpress.com/privacy> or calling American Express at 1-(800)-528-5200.

6. Disclosure of Transaction Data and Merchant Data

You understand and agree that we will disclose Transaction Data and Merchant Data to American Express, and American Express may use such information to perform its responsibilities in connection with the OptBlue Program, perform analytics and create reports, to communicate with you in the manner permitted above and for any other lawful purposes (other than Solicitations).

7. Protection of Merchant Data

American Express uses reasonable administrative, technical and physical security measures to protect the security and confidentiality of Merchant Data obtained from us under this Agreement. American Express requires industry standard confidentiality and data security measures from third parties who are authorized by American Express to process data on its behalf. American Express only shares data in accordance with its data protection privacy principles, available here: <https://www.americanexpress.com/us/content/customer-privacy-principles.html>.

8. High CV Merchants

You acknowledge that you may be converted from the OptBlue Program to a direct Payment Card acceptance relationship with American Express if and when you becomes a High CV Merchant. You acknowledge that upon any such conversion, processing of any American Express Payment Card will be governed by American Express's then current card acceptance agreement (and not this Agreement) and American Express will be solely responsible for setting pricing and other fees payable by you for acceptance of any American Express Payment Card. For purposes of this Agreement, a High CV Merchant is defined as a Merchant with greater than \$1,000,000 in charge volume in a rolling 12 month period.

9. No Assignment of Payments

You will not assign to any third party any payments due you under this Agreement. All indebtedness arising from charges will be for bona fide sales of goods or services (or both) at your establishments and free of liens, claims and encumbrances other than ordinary sales taxes. The prohibition on assigning payments due you, however, does not apply to the sale of Transaction receivables to us, our Affiliates or a partner of our or our Affiliates that provides cash advance funding.

10. Refund Policies

You acknowledge that your refund policies for purchases by American Express Payments Cards must be at least as favorable as its refund policy for purchases made on Payment Cards of other Card Networks. You agree to disclose to holders of American Express Payment Cards the refund policy at the time of purchase and in accordance with Applicable Law.

11. Collection for Cardholders

You may not collect or attempt to collect from any holder of American Express Payment Cards for any purchase or payment on an American Express Payment Card unless: (A) the charge has been charged back to you; (B) you have accepted/paid the charge (i.e., no Chargeback reversal has been processed); and (C) you have a right to collect or attempt to collect funds to recover unpaid amounts lawfully owed to you by such holder American Express Payment Cards.

12. NOTICE REQUIRED BY AMERICAN EXPRESS

American Express requires that we inform you that (i) American Express charges us a wholesale discount rate and not interchange and (ii) American Express operates a non-interchange based network.

13. Waiver of Right to Contest Jurisdiction; Waiver of Jury Trial; Arbitration

PLEASE READ THIS PROVISION CAREFULLY. IT PROVIDES THAT ANY CLAIM MAY BE RESOLVED BY BINDING ARBITRATION.

WITH BINDING ARBITRATION YOU ACKNOWLEDGE AND AGREES THAT:

- (a) YOU ARE GIVING UP YOUR RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY CLAIM ALLEGED AGAINST US OR RELATED THIRD PARTIES;**
- (b) YOU ARE GIVING UP YOUR RIGHT TO HAVE A COURT RESOLVE ANY CLAIM ALLEGED AGAINST US OR RELATED THIRD PARTIES; AND**
- (c) YOU ARE GIVING UP YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, AND TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT OR ARBITRATION FILED AGAINST US AND RELATED THIRD PARTIES.**

IN THE ABSENCE OF THIS ARBITRATION AGREEMENT, YOU MAY OTHERWISE HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE CLAIMS THROUGH A COURT BEFORE A JUDGE OR A JURY AND TO PARTICIPATE OR BE REPRESENTED IN LITIGATION FILED IN COURT BY OTHERS (INCLUDING CLASS ACTIONS). BUT, EXCEPT AS OTHERWISE PROVIDED ABOVE, THOSE RIGHTS, INCLUDING ANY RIGHT TO A JURY TRIAL, ARE WAIVED AND ALL CLAIMS MUST NOW BE RESOLVED THROUGH ARBITRATION.

- (a) Any claim, dispute, or controversy relating to acceptance of the American Express Payment Card or otherwise involving or relating to American Express ("Claim") by either you or us against the other, or against the officers, directors, employees, agents, parents, subsidiaries, affiliates, beneficiaries, agents, successors, or assigns of the other, arising from or relating in any way to this Agreement or to the relationship formed between the parties as a result of this Agreement, including Claims regarding the applicability of this arbitration clause or the validity of the entire Agreement, shall be resolved exclusively and finally by binding arbitration administered by the American Arbitration Association ("AAA").
- (b) All Claims are subject to arbitration, no matter what theory they are based on. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other source of law.
- (c) Claims and remedies sought as part of a class action, private attorney general, or other representative action are subject to arbitration on an individual (non-class, non-representative) basis only, and the arbitrator may award relief only on an individual (non-class, non-representative) basis. You and us will agree on another arbitration forum if the AAA ceases operations.
- (d) The arbitration will be conducted before a single arbitrator and will be limited solely to the Claim between you and us. The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. The prohibition against class action contained in this Section shall be non-severable from the remainder of this Section.
- (e) If either party prevails in the arbitration of any Claim against the other, the non-prevailing party will reimburse the prevailing party for any fees it paid to the AAA in connection with the arbitration, as well as for any reasonable attorneys' fees incurred by the prevailing party in connection with such arbitration.
- (f) Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered in a court of competent jurisdiction.

- (g) Rules and forms of the AAA may be obtained and Claims may be filed at any AAA office, www.adr.org, or 335 Madison Avenue, New York, NY 10017, telephone 1-800-778-7879. Any arbitration hearing at which Merchant appears will take place at a location within New York County, New York, New York. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16. This arbitration agreement applies to all Claims now in existence or that may arise in the future.
- (h) Nothing in this Agreement shall be construed to prevent any party's use of (or advancement of any Claims, defenses, or offsets in) bankruptcy or repossession, replevin, judicial foreclosure, or any other prejudgment or provisional remedy relating to any collateral, security, or other property interests for contractual debts now or hereafter owned by either party to the other.

14. Conveyed Transactions

If you accepted American Express Payment Cards through the American Express OptBlue Program and no longer can do so because you became a High CV Merchant, in order to accept American Express Payment Cards through Transactions which we convey to American Express, and which American Express will settle directly with you, you must enter into a direct relationship with American Express by executing American Express's then current card acceptance agreement.



**ELECTRONIC CHECK PROCESSING ADDENDUM TO
TERMS AND CONDITIONS
FOR
MERCHANT PROCESSING**

This Electronic Check Processing Addendum (the “**Addendum**”) supplements and attaches to the Terms and Conditions for Merchant Services Processing, as may have been amended or supplemented from time to time (the “**Agreement**”), between Paymentech, LLC (“**Paymentech**”), for itself and on behalf of JPMorgan Chase Bank, N.A. a national banking association (“**Member**”), and the merchant(s) whose signature appears on the Merchant Attestation (“**Merchant**”). Except as otherwise defined herein, capitalized terms used herein shall have the meaning assigned to them in the Agreement. To the extent that any conflict or inconsistency exists between the terms of this Addendum and the Agreement, the terms of this Addendum will control.

This Addendum sets forth additional terms and conditions for the processing of ECP transactions and your receipt of ECP and related Services (as defined below).

WHEREAS, Merchant desires to honor ECP transactions, including but not limited to, ARC, CCD, POP, PPDTEL, and WEB and Facsimile Draft transactions (all as defined below) in connection with the sale of goods or services to Merchant's customers, and to submit Sales Data and ECP Returns representing such transactions to Paymentech for processing; accordingly, the parties agree to the following; and;

WHEREAS, in connection with such ECP Transactions, Merchant wishes to initiate debit and credit entries by means of the Automated Clearing House network pursuant to the terms of this agreement and the rules of the National Automated Clearing House Association (“**NACHA**”), and Paymentech is willing to act as the third party sender with respect to such entries.

WHEREAS, Merchant acknowledges having or having access to a copy of the NACHA operating rules and guidelines, including any amendments or other changes thereto (the “**NACHA Rules**”). The NACHA Rules may be purchased at www.nacha.org under the publications tab.:

1. DEFINITIONS. The following terms, when used in this Addendum, shall have the meanings hereinafter set forth:

ACH is an electronic debit or credit to or from Merchant's Settlement Account as authorized by this Addendum or the Agreement; or an electronic debit or credit to a consumer's bank account as authorized by an agreement between the Merchant and the Customer which represents a sale or lease of goods, services or both to the consumer.

ARC (Account Receivable) is a Single Entry ACH debit initiated by an Originator to the account of a Receiver based on an eligible source document provided to the Originator by the Receiver (check writer) (1) via the U.S. mail or delivery service, (2) at a dropbox location, or (3) in person for payment of a bill at a manned location.

Authorization means, with respect to an ECP transaction, the authorization of all entries to a Customer's account given by the Customer to Merchant. The Authorization must be obtained by Merchant in a manner and form consistent with applicable laws and regulations pertaining to consumer authorizations and applicable NACHA Rules, the Electronic Fund Transfer Act of 1978 and Federal Reserve Regulation E, as each has been amended from time to time, and, where required thereby, must be in writing or similarly authenticated by the consumer. Authorization is required for all ECP and ACH transactions, both recurring and non-recurring. The authorization must be readily identified as an ACH debit authorization and must clearly and conspicuously state its terms for an ACH transaction. The authorization for a Facsimile Draft must be readily identifiable as a Facsimile Draft authorization.

CCD (Corporate Credit or Debit) is a debit or credit entry used to facilitate business-to-business (B2B) ACH payments.

Customer shall have the meaning of your customer as referenced in the Agreement, but shall also include any account holder that provides Authorization to debit or credit the Customer's account in connection with the sale of goods, services or products provided by Merchant, whether an individual or business entity.

ECP means electronic check processing (sometimes referred to as eCheck) which are ACH or Facsimile Draft transactions sent by Merchant to Paymentech for the purposes of debiting or crediting Customer bank accounts.

ECP Return is the reversal of an amount for which Merchant has previously presented as an ECP transaction, as the result of (i) a Notification of Change or (ii) initiated by the consumer's bank at the request of the consumer or may be caused due to invalid account data, insufficient funds at the receiving institution or (iii) any reason allowed by Federal Reserve Regulations or NACHA Rules pertaining to the ACH system.

Facsimile Draft means a remotely created check as defined in Federal Regulation CC and is generated from Sales Data created by Paymentech upon request from Merchant when the transit/routing number has been identified as ineligible for ACH processing.

User Guide means any documentation or guide provided by Paymentech to Merchant relating to ECP transactions and Paymentech's technical and other requirements Merchant must comply with to enable processing of the ECP transactions hereunder, which may be amended from time to time by Paymentech.

NACHA means the National Automated Clearing House Association which is an organization that establishes and controls the Rules under which financial institutions may process ACH transactions.



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Notification of Change is a non-dollar transaction sent to Paymentech by the receiving financial institution which advises that the data contained in the original ECP transaction was either incorrect or has been changed. The Notification of Change provides the corrected data to enable the processing of the corrected ECP transaction.

POP (Point of Purchase) means an ACH single entry debit that has been converted from a Customer's check provided at the point-of-purchase.

PPD (Prearranged Payment and Deposit) is a credit or debit ACH entry originated by an organization to a consumer's account, based on standing or single-entry authorization from that consumer. PPD entries can be used for both recurring and non-recurring payments,

Prenote means a zero dollar transaction sent through the ACH network by Paymentech at the request of a Merchant to a Customer's bank for the purpose of verifying the accuracy of the Customer's account data. It has the same information (with the exception of the dollar amount and transaction code) that will be carried on subsequent entries. Prenotes are optional to the Merchant and Merchant shall be charged for such service in accordance with the ECP Pricing Schedule to the Agreement, attached hereto. Merchant must wait three (3) Business Days prior to processing a sales transaction after the settlement date of the Prenote.

Regulation E is drafted by the Board of Governors of the Federal Reserve System and implements the Electronic Fund Transfer Act (15 U.S.C. § 1693 *et seq.*).

Sales Data means, in connection with an ECP transaction, all documents or data presented to Paymentech as evidence of a sale or lease of goods, services or both (as represented on your Application) to a Customer or any refund or price adjustment made through the use of an ECP transaction, and references in the Agreement to "Transaction data" as referenced therein shall apply in equal measure, in connection with an ECP transaction, to Sales Data as defined in this Addendum.

TEL (Telephone) initiated Entries are consumer debit transactions. The Nacha Operating Rules permit TEL entries when the Originator obtains the Receiver's authorization for the debit entry orally via the telephone.

Transaction shall have the meaning set forth in the Agreement, but shall include any ECP transaction.

Validation is the automatic process by which Paymentech determines if the Sales Data, Refund or Prenote presented are capable of being processed through the Federal Reserve System.

WEB (Internet Initiated/Mobile Entries) are debit entries initiated pursuant to an authorization that is obtained from the account holder via the Internet or a wireless network.

2. **APPLICABILITY OF MERCHANT AGREEMENT.** Unless otherwise indicated in this Addendum, capitalized terms in this Addendum have the meanings set forth in the Agreement. The terms and conditions of this Addendum apply to all ECP transactions processed pursuant to this Addendum. Unless expressly contradicted by this Addendum, all terms of the Agreement shall also apply to the processing of ECP transactions. Without in any way limiting the generality of the foregoing, (i) all of Paymentech's rights and remedies under the Agreement with respect to Transactions (including in certain instances the right to terminate the Agreement, suspend payment of funds, or require the maintenance of a Reserve Account) shall apply in equal measure to ECP transactions, (ii) all provisions of the Agreement relating to Chargebacks (including all of Paymentech's rights and remedies, and all of Merchant's liabilities, obligations and duties with respect thereto) shall also apply to all ECP Returns.

3. PROCESSING AND PAYMENT.

- 3.1 Merchant hereby agrees to present all its ECP transactions for processing during the term of the Agreement to Paymentech and to pay Paymentech all fees as set forth in the Pricing Schedule to the Agreement or this Addendum, or as otherwise set forth in this Agreement, all in accordance with the terms set forth and our other specifications, codes and requirements as set forth in this Addendum and the User Guide or otherwise provided to you. Paymentech may change these fees from time to time by giving notice of the change to you. If Merchant processes any such transactions with any entity other than Paymentech, Merchant shall pay to Paymentech the associated processing fees as set forth in the ECP Pricing Schedule to the Agreement attached hereto, for such transactions. Paymentech agrees to process all transactions conditionally upon Merchant's payment of fees and compliance with the terms of this Addendum.
- 3.2 Merchant shall present Sales Data for ECP transactions to Paymentech in the manner and within the time specified in the Agreement. All such presented transactions must be supported by a previously obtained Authorization, if required, from the Customer. Sales Data shall be presented in a manner and format acceptable to Paymentech. Paymentech shall deliver to a participant in the Federal Reserve System data representing such Sales Data that pass the Validation process in a timely manner allowing for the initiation of an ECP transaction to the Customer's bank account. Paymentech shall not process any ECP transaction that does not pass the Validation. Paymentech shall report to Member those ECP transactions that fail the Validation process and Merchant hereby authorizes such reporting by Paymentech.



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4. VALIDATION.

- 4.1** All ECP transactions and Prenotes transmitted to Paymentech for processing must go through Paymentech's internal Validation process. ECP transactions that cannot be Validated using this process will not be processed by Paymentech. Paymentech shall exercise reasonable efforts to provide accurate and reliable Validation information; however, Paymentech does not guarantee the accuracy or availability of that information. There is no financial recourse or payment provided for any checks or ECP transactions that are later returned regardless of whether Validation was received by Merchant.
- 4.2** Merchant acknowledges that the Validation services provide information as to the likelihood that an ECP transaction may be returned. While the Validation services may be useful in reducing overall returns of ECP transactions, such services cannot reasonably be expected to accurately identify or detect every particular instance of a possible ECP return. Merchant acknowledges and agrees that obtaining a Validation response does not constitute a representation or warranty from Paymentech or its supplier(s) that a particular transaction is: (a) entered into by the actual authorized account holder; or (b) enforceable against the actual authorized account holder. Paymentech shall have no liability to Merchant for any losses or chargebacks. Furthermore, Merchant acknowledges that neither Paymentech, its suppliers, nor any of their respective affiliates, agents, representatives, suppliers, service providers, licensors, contractors or subcontractors shall be responsible in any way for any losses or damages arising from or as a result of any ECP transaction, or any ACH Return.
- 4.3** If the Validation service is ever inoperative, Merchant's sole and exclusive remedy is the retransmission of Sales Data when the services are operational again. THE VALIDATION SERVICE IS PROVIDED "AS IS" AND PAYMENTECH DISCLAIMS ALL WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED, INCLUDING ANY WARRANTY OF FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY, DESIGN, QUALITY, PERFORMANCE, CONTINUOUS USE OR ERROR-FREE OPERATION. Under no circumstances shall Paymentech be liable for any losses or costs whatsoever caused, directly or indirectly, in whole or in part, by: (i) Merchant or its agents; (ii) a third party; or (iii) incorrect or incomplete Sales Data.

5. MERCHANT OBLIGATIONS AND AGREEMENTS.

- 5.1** Merchant agrees to be bound by and subject to the NACHA Rules, and to comply therewith. Merchant shall not, through act or omission, cause Paymentech to violate the NACHA Rules. In addition, Merchant shall comply with all applicable laws, rules and regulations governing electronic check processing, check conversion and/or the initiation of electronic debit entries (whether by ACH, Facsimile Draft, or otherwise), including, but not limited to, Electronic Funds Transfer Act of 1978, Regulation E, the Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act as enacted in any state, and all Federal Reserve, Consumer Financial Protection Bureau and Federal Trade Commission regulations or requirements (including those relating to partial payment transactions originated via ECP transactions). Merchant agrees not to initiate any ECP transaction or take any action that violates any applicable NACHA Rule or applicable law, rule or regulation. Merchant agrees to pay any and all fines, fees, penalties, liabilities, charges and other amounts which may be imposed or assessed by NACHA (or other applicable network) on Merchant, Paymentech, or the originating depository financial institution utilized by Paymentech in connection with the processing of ECP transactions (the "ODFI"), as a result of your actions, omissions, or ECP transactions or ECP Returns, including without limitation, your failure to comply with the NACHA Rules (or other applicable network's rules). Merchant agrees to fully indemnify and hold Paymentech harmless from any losses, costs (including attorney's fees), fines, fees resulting from any Merchant noncompliance with the NACHA Rules or any applicable laws. Paymentech specifically disclaims all liability and responsibility for Merchant's assessment of any service charges on dishonored checks.
- 5.2** Merchant shall obtain the appropriate consumer's Authorization prior to the initiation of any ECP transaction for such transaction and the authority to provide Customer information, including bank account information to Paymentech and, if applicable, any supplier utilized by Merchant or Paymentech as necessary to perform the services under this Addendum. It shall be the sole responsibility of the Merchant to maintain on file all such Authorizations. Merchant shall provide Paymentech, upon request, evidence of Authorizations for which Merchant has presented ECP transactions. Merchant agrees to maintain on file and make available to Paymentech evidence of compliance with all regulations pertaining to Authorizations for a period of two years from the termination or revocation of the Authorization. The provisions of this Section shall survive the termination of this Addendum and the Agreement.
- 5.3** Merchant warrants that content of the Sales Data for each ECP and Facsimile Draft transaction is accurate, including the amount of the transaction, the account number and the financial institution's ABA number, and that the entry is timely.
- 5.4** Merchant will not reinitiate transactions that have not passed the Validation. Merchant also agrees not to reinitiate a transaction that has been returned to them for any other reason of return that is not allowed to be reinitiated to the Consumer as per NACHA Rules. In the event that Merchant receives a ECP Return Reason Code for R01 Insufficient Funds and/or R09 Uncollected Funds, Merchant agrees it shall not reinitiate the transaction to the Consumer more than the two times currently allowed by NACHA or as NACHA may permit in the future.
- 5.5** Merchant warrants to Paymentech, with respect to each Facsimile Draft, that the person on whose account the Facsimile Draft was drawn authorized the issuance of such Facsimile Draft for the amount and to the payee stated on the Facsimile Draft. Merchant authorizes Paymentech to debit Merchant's account for any claim or ECP Return based upon an unauthorized Facsimile Draft and Merchant agrees to indemnify and hold Paymentech harmless from and against any claims, liabilities, costs and expenses (including attorneys' fees) resulting directly from any breach of the foregoing warranty.



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FOR
MERCHANT PROCESSING**

- 5.6 Merchant represents and warrants that: (i) each ECP transaction it originates will comply with all applicable laws and NACHA Rules; (ii) Merchant will not originate any ECP transaction as a third party sender (as that term is defined in the NACHA Rules) and will not allow any third party to originate an ECP transaction through Merchant's account under this Agreement; (iii) all ECP transactions resulting in a debit to the Customer will be authorized by the Customer in writing and signed or similarly authenticated in a manner that complies with the NACHA Rules; (iv) Merchant will obtain and retain proper authorization, in accordance with all applicable laws and the NACHA Rules, for each initiation of a debit or credit to a Customer's account, and will make copies thereof available to Paymentech upon request; and (v) Merchant hereby makes to Paymentech, and certifies compliance with, all warranties that Paymentech or the ODFI make, or are deemed to make, under the NACHA Rules, in connection with any ECP Transaction that Merchant originates.
- 5.7 Any credit made to Merchant's Customer's account as a result of an ECP transaction originated by Merchant (e.g., an issuance of a refund) is provisional until the Customer's receiving depository financial institution (the "RDFI", as further defined in the NACHA Rules) receives final settlement for such entry through a Federal Reserve Bank. If final settlement is not received by the RDFI, the RDFI will receive a refund from the Customer, and the Customer will not be deemed to have been paid by Merchant.

6. CONFIDENTIALITY.

- 6.1 Merchant shall treat all information that comes to its attention in connection with this Addendum, including, but not limited to, information concerning Checks, ECP transactions, Customer's and Customer's accounts, as strictly confidential ("Confidential Information"), Merchant will prevent disclosure of Confidential Information, other than to agents and contractors for the purpose of assisting Merchant in completing an ECP transaction or as specifically required by law. You hereby authorize Paymentech to provide Merchant information to any supplier utilized by Merchant or Paymentech as necessary to perform the services under this Addendum. Each party will store all media containing Customer account numbers and other account information, including, without limitation, all Sales Data and Authorizations, and transaction agreements in an area limited to selected personnel and prior to either party discarding any material containing account information, the party will destroy it in a manner rendering all account numbers and other account information unreadable. If at any time either party determines that Confidential Information has been compromised, such party will notify the other party immediately and assist in providing notification to the proper parties as we deem necessary. The provisions of this Section shall survive the termination of this Addendum and the Agreement.
7. **Termination.** Except as provided otherwise herein, this Addendum shall remain in effect for so long as the Agreement remains in effect. In the event the Agreement shall terminate or expire for any reason, this Addendum and Paymentech's obligation to provide the services relating to ECP transactions shall also terminate. Notwithstanding the foregoing, Merchant acknowledges that Paymentech may terminate this Addendum and its provision of services hereunder at any time (i) upon thirty (30) days prior written notice to Merchant.
8. **CONTINUED EFFECT.** Unless otherwise amended by the terms of this Addendum, the terms of the Agreement shall continue in full force and effect.