

TERMS AND CONDITIONS OF SERVICE

For Credit Card Processing Services



1. Description of Service. The Beanstream Internet Commerce Inc. ("Beanstream") program incorporates a telecommunications and information processing service over the Internet for credit/private label card authorization, and data capture. A "Card Transaction" is initiated when a consumer presents their credit card and the information is processed electronically by Beanstream servers.

For each Card Transaction processed by our servers, Beanstream will provide a "Credit Authorization Service" that electronically authorizes or refuses a card processed through the "Merchant" web site. In addition, Beanstream will provide a "Data Capture Service" using Beanstream's Merchant Credit Card accounts. Processing and settlement of the Merchant's Card Transactions to the Merchant's bank account will be accomplished in accordance with the terms and conditions defined in that account agreement.

2. Electronic Data Capture. Beanstream will retain electronically in its database all credit card transactions received from the Merchant's web site for a period of six months from date of transaction. Any discrepancies between the Beanstream Electronic Card Transactions and the Merchant's balanced transaction data should be resolved by the Merchant reviewing the Merchant's Beanstream transaction record, or by inquiry to the Merchant's bank.

3. Preauthorized Payments. Beanstream will debit the Merchant's account as indicated on the attached "void" cheque under these Terms & Conditions until such time as written notice to the contrary is given by the Merchant to Beanstream. The Merchant acknowledges that delivery of its authorization to Beanstream constitutes delivery to the branch of the financial institution where the Merchant maintains an account and that such financial institution is not required to verify that the payment(s) are drawn in accordance with this authorization. Termination of this preauthorization does/may not terminate this contract for goods or services exchanged. The Merchant will notify Beanstream in writing of any changes to the account information or termination of this authorization prior to the next due date of the pre-authorized debit.

Items charged under any of the following conditions will be reimbursed, subject to written notification, by the Merchant to the financial institution of account within 90 days:

- a) Authorization was not provided to Beanstream.
- b) The pre-authorized debit was not drawn in accordance with the Merchant's authorization.
- c) The Merchant's authorization was revoked.
- d) The debit was posted to the wrong account due to invalid/incorrect account information supplied by Beanstream.

The Merchant warrants that all persons whose signature(s) are requested to sign on the account of the Merchant have read, understood and received a copy of these Terms & Conditions.

4. Fees. The Merchant will pay to Beanstream a monthly and per card transaction processing fee for each Customer account, as set forth in the attached Beanstream Merchant Application. These fees provide the Merchant with access to the Beanstream processing service system and will be billed to the Merchant monthly, in arrears. Statements should be reviewed monthly and any discrepancies in the statement fees, settlement or other charges should be brought forward within 30 days of the statement date. After this review period, charges are considered valid.

5. Charge-backs. Chargebacks will be handled between the Merchant and the Acquirer. Beanstream will use its reasonable commercial efforts to prevent consumer transactions that could be in error, including duplicate transactions.

6. Privacy and Data Protection.

Merchant shall comply with all privacy and data protection laws, rules and regulations which are or which may in the future be applicable to the terms of

this agreement. Furthermore, Merchant represents and warrants that the appropriate measures and procedures are in place to protect customer information in accordance with all applicable federal and provincial laws.

7. Limitation of Liability. In no event will either party, or its respective directors, officers, employees or agents be liable for any incidental, direct, indirect, special or consequential damages (including without limitation, damages for personal injury, loss of profits or sales, business interruption, loss of business information, data loss or any other pecuniary loss) in connection with or arising out of this contract, whether caused by circumstances beyond its control (including without limitation, computer, utility or remuneration breakdown), or otherwise. Except as expressly provided herein, there are no warranties, express or implied, by operation of law or otherwise, for any services furnished hereunder. Beanstream disclaims any and all implied warranties including the warranties of merchantability and fitness for a particular purchase. Beanstream has not assumed, or authorized anyone else to assume on its behalf, any other liabilities. In all situations involving performance or nonperformance of the Beanstream system, the Merchant's sole remedy is the adjustment or repair of the Beanstream system.

Beanstream shall not be responsible for any delay in performance when and to the extent that such is caused in whole or in part, but without limitation, by any one or more of the following: computer, utility or communication breakdown, fire, flood, earthquake, strike, material shortage, lockout, war, revolution, riot, insurrection, or act of God. Beanstream shall not be liable for damages, loss of data, delays, errors or failure of performance occurring directly or indirectly by reasons of the above or similar events or occurrences.

No legal action, regardless of form, arising out of, or under this contract, or any matters or transactions there under, may be brought against Beanstream more than one (1) year after the cause of action has been brought to the attention of the Merchant.

8. Amendment. With respect only to charges, Beanstream, under these terms and conditions, may amend unilaterally its charges upon thirty (30) days' advance written notice to the Merchant, or in the case of an increase in charges, upon ninety (90) days advance written notice to the Merchant. In the event the Merchant is notified of an amendment, the Merchant has the option of terminating this contract upon written notice to Beanstream, provided that Beanstream receives such notice prior to the effective date of the amendment.

9. Termination. This Agreement may be terminated by either party for any reason upon 30 days' advance written notice to the other party. Services and this Agreement can be terminated immediately by Beanstream in the event of any material breach of any of the terms and conditions contained herein by the Merchant, including but not limited to inappropriate use of the services.

10. Card Issuers. It is expressly recognized and acknowledged that the credit card transaction service is dependent upon the ability and agreement of Beanstream's contract processors to provide such service, as well as the cooperation and continued operation of various credit card issuers. The compatibility and/or availability of any particular credit card issuer with the Beanstream program is subject to modification with notice. By agreeing to these terms and conditions, the Merchant recognizes and acknowledges that the availability and content of credit card transaction authorizations are controlled by the credit card transaction issuers subject to their respective rules and regulations and are not under the control of Beanstream. Neither Beanstream nor Beanstream's credit card processors will be liable for any discrepancies not reported to Beanstream within the time periods specified in this contract.

11. Controlling Law. This Agreement, and all provisions contained herein, shall be interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

12. Language. The parties hereby acknowledge that they have required this agreement and all related documents to be drawn up in the English language. Les parties reconnaissent avoir demandé que le présent contrat ainsi que les documents qui s'y rattachent soient rédigés en langue anglaise.