

Electronic Merchant Systems 5005 Rockside Road, #PH100 Cleveland, Ohio 44131

MERCHANT APPLICATION

MCC:

MN:

Sponsored By ☐ Chesapeake Bank Williamsburg, VA

☐ Merrick Bank Woodbury, NY

800-726-2117	Offic	e:		Acco	unt Mgr:		A	Account Rep:		
BUSINESS NAME(S)									
Corporate or Legal Name			No. Location	No. Locations		Doing Business As				
Corporate Address				Location Address (if different from corporate)						
City, State, Zip Code				City, State, Zip Code						
Telephone Number Fax Number				Telephone Number Alternate Phone						
()					()			()		
Federal Tax ID Number: (must b	pe nine digits)	ntact Person			Contact E-M	lail			Mail to: ☐ Corporate [☐ Location
	MERCHANT	PROFIL	.E			٧	ISA / MASTER	CARD HIS	TORY	
Type of Ownership ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC				Has the business or any associated owner ever been terminated as a						
Type of Goods Sold			SIC/MCC	SIC/MCC						□ NO
Length of Ownership	Years at Loca	ition B	usiness Estat	siness Established in:		If yes, please submit 3 most current monthly statements.				
YRS MOS	YRS	MOS				3rd parties/payment application involved with			□YES	□NO
CREDIT	CARD TRAN	SACTION	PROFILE		. ,	process?				
□Retail			/		If yes, ide	entify				
☐ Restaurant w/tip	On Premise S Off Premise S		POS termi	ed through nal	Is your b	usiness PC	CI compliant?		□ YES	□NO
Lodging	Mail Order	ales		%			had any ongoing onvestigations?	or prior	□ YES	□NO
☐Trade/Craft Shows	Iviali Order		Sales ke	eyed into	Additional	Sanicas	Mer	chant Number	e	
☐ Mail/Phone Order	Telephone Ord	der9	6 POS termi				SS			DC □Auth
□Internet	Internet	9	6	%		Diners Clu	b			C □Auth
Service	MUST TOTAL	100%	MUST TO	TAL 100%	Website Add					
OWNERS AND OFF	CERS									
Name (please print)	102110		Title	Residence Addres	ss City State	Zin County				
1)					,,,	,,				
Social Security Number		Equity Ow	nership %	Time at Residence Yrs	Mos	□Own □Rent	Date of Birth	Resid	dence Telephone	
Name (please print) 2)			Title	Residence Addres	ss, City, State	, Zip, County				
Social Security Number		Equity Ow	nership %	Time at Residence Yrs	Mos	□Own □Rent	Date of Birth	Resid	dence Telephone	
BANK REFERENCE			Account #:			Telephone N	l Number:	Contact:		
TRADE REFERENCE			Account #:			Telephone Number: Conta			act:	
TRADE REFERENCE			Account #:			Telephone Number:		Contact	Contact:	
TRADE REFERENCE			Account #:			Telephone Number:		Contact:	Contact:	
MERCHANT SITE INSF										
Merchant Location: Shopping Center Residence Mobile Merchant Office Building Area is Zoned: Mobile Merchant Office Building Square Footage O-250 D 500-2000 D 2000+										
Does the inventory, merchandise and staff appear to be consistent with the type of business? NO If no, please explain:										
The Merchant Owns Leases Landlord's Name or Mortgage Holder Landlord/Mortgage Holder Telephone Number:										
General Comments by Inspector:										
Thereby verify that I □ have □ have not physically inspected the business premises of the merchant at this address and the information stated above is correct to the best of my knowledge.					Inspector:				Date:	

MERCHANT AGREEMENT

DEBIT/CREDIT AUTHORIZATION

Signature

_ Merchant Setup_____

Bank Name: ___

MERCHANT hereby authorizes BANK and EMS in accordance with this MERCHANT Agreement to initiate debit/credit entries to MERCHANTS' checking account as indicated below. This authority is to remain in full force and effect during the term of the Agreement. This authorization extends to such entries in said account concerning lease, rental or purchase agreement applying to POS terminal, accompanying equipment, check guarantee fees and/or gift/loyalty card fees.

STAPLE CHECK HERE

DO NOT USE A DEPOSIT TICKET MAKE SURE CHECK IS VOIDED PROPERLY

CHECK MUST BE MICR ENCODED WITH ABA ROUTING NUMBER AND ACCOUNT NUMBER MAKE SURE CHECK IS PRE-PRINTED WITH MERCHANT BUSINESS NAME

NA MA	KE SURE CHE	CK IS PRE	-PRINTED WITH I	MERCHANT BUSINESS NA	AME	
AMERICAN EXPRESS CAP	RD ACCEPTANCE					
entity above, which agrees to be bound be Related Services Company, Inc. ("Amerincluding by requesting reports from condirect EMS and American Express and agencies. Such information will include further understand that upon American E Conditions") will be sent to such entity all intention to be bound, the entity agrees to	by the Card Acceptance Agra can Express") and Americas sumer reporting agencies, a American Express agents a the name and address of th xpress's approval of the ent ong with a Welcome Letter o	eement, and that a n Express's agent and disclose such and Affiliates to infa e agency furnishi ity indicated abov or like Welcome Ma	all information that I have provide to and Affiliates to verify the info information to their agents, subo form me directly, or through the ng the report. If I have applied, e to accept the American Expres	including the application page, the "Card Acces of herein is true, complete, and accurate. I authormation in this application and receive and excontractors, Affiliates and other parties for any pentity above, of reports about me that they hon behalf of the entity above, for American Expiss Card, the terms and conditions for American can Express Card for the purchases of goods a	horize EMS and American E change information about n purpose permitted by law. I awe requested from consul press's standard Card servi Express® Card Acceptance	Express Trave me personally authorize and mer reporting ice program, e ("Terms and
SCHEDULE OF FEES						
VISA/MasterCard/Discover	Discount	% +	¢ Authorization	\$15.00 Monthly Access		
☐ Pin Debit Network	Discount	% +	¢ Transaction	\$22.50 Monthly Access with	Debit or Online State	ements
☐ Quote Rates		% +	¢ Transaction	\$30.00 Monthly Access with	Debit and Online Sta	atements
Quote Rates		% +	¢ Transaction	Voice ARU \$0.60 / Batch Hea	aders \$0.30	
☐ Quote Rates ☐ E-Commerce		% +	¢ Transaction	Monthly 100K Data and Brea)
			Trans \$	Monthly Minimum Visa/MC/D	iscover Discount \$2	5.00
☐ Cellular Transactions \$25.00☐ Platinum Service Club \$10.0		'er Transaction	n	Semi-Annual Technology Upg	grade and Update \$7	75.00
signature debit world and enhanced copass through cost. Pin Debit Network in AN INVESTIGATIVE CONSUMER REFAGENCY EMPLOYED BY BANK OR UNDERSIGNED PRINCIPALS, FOR THIS PREDICATED ON THE BUSINESS IF AVERAGE MONTHLY SALES OFFICERS AND OWNERS OF METHAT ANY VARIANCE MAY RESUL IMPORTANT NOTICE: All informative left incomplete. N/A or None	ards will be surcharged .95 cludes base switch, acquir PORT MAY BE MADE IN PEMS TO INVESTIGATE HE PURPOSE OF THIS AFPROFILE AND THE FOLLO VOLUME: \$ RCHANT WARRANT TH. TIN THE DELAY OR THI mation contained in the sis to be filled in any sp	5%. Card associa er, interchange a CONNECTION V THE REFEREN PLICATION OR DWING INFORM AT THE AVERA E WITHHOLDIN e attached Mei ace where app	tition's network transaction fees nd authorization expenses. All sWITH THE ATTACHED APPLIC CES GIVEN OR ANY OTHE ANY APPLICATION FOR ACCATION: VERAGE TICKET SIZE: GE MONTHLY SALES VOLUNG OF FUNDS SETTLEMENT CHANT APPLICATION WAS CONTICABLE.	nts standard visa credit and signature debit re s and assessments will be charged to the me signature debit card sales will be surcharged to the me signature debit card sales will be surcharged to the me signature debit card sales will be surcharged to the me signature debit card sales will be surcharged to the surcharged to the surcharged to the surcharge sales will be surcharged to the	erchant on every transactions. \$.10 per transaction. \$.10 per transaction. CKET SIZE: CKET SIZE: CCURATE AND ACKN. NT AGREEMENT. I officers of Merchant. Agreement.	nn as a direct REPORTING NY OF THE ILE OF FEES IOWLEDGE No spaces
	DURES FOR OPENING A NEW	V ACCOUNT. To help unt. What this means	to the government fight the funding of for you. When you open an account	RATE RESOLUTION If terrorism and money laundering activities, Federal t, we will ask for your name, address, date of birth, an identified in #1 and #2 have the authority to	nd other information that will allo	ow us to identif
Print Merchant Name				MS on behalf of the corporation.	Š	
(1) Sign X			Sign X			
(1) Sigil X	T:11 -	D-4		Tit	tle Da	ate
(2) Sign X	Title	Date	By my sign	ature, I verify that I already own a manual im ever necessary.	printer and will provide im	printed sales
	Title	Date	e Sign X			
PERSONAL GUARANTY FR	OM OWNER/OFFIC	ER	Sigil X	Tit	tle D:	ate
The undersigned (jointly and severally if unconditionally guarantee the full and pr amended from time to time, whether bef demand, collection from others or any de expenses including attorney fees and co successors and may not be changed exceptions.	more than one) in consider ompt payment of any and a ore or after termination or ex- lay in enforcement. This Gu- sets. Any sums owing by the cept in writing and signed by	ration of BANK ar all amounts owed to xpiration of the Agaranty includes (i) the MERCHANT to by BANK and EMS	to BANK and EMS and the perfo greement. The undersigned gua any amount returned by the BAI the undersigned shall be subo . Each of the undersigned herel	ant Agreement ("Agreement") with the above r rmance of all MERCHANT'S obligations under rantor(s) agree(s) to pay or perform upon dem NK and EMS after receipt due to any bankruptcy rdinated to sums owed to BANK. This Guaran by authorize BANK and EMS to and obtain fron in connection with the maintenance, renewal o	named Merchant, hereby at this Agreement as may be nand and waive any notice, y or similar law and (ii) BAD thy is continuing, binding up m any credit reporting ageno	bsolutely and subsequently presentment ('s and EMS's pon heirs and cy financial o
(1) Sign X	TITLE PERMITTED	Date	e	PLEASE PRINT NA	.ME	
(2) Sign X						
	TITLE PERMITTED	Date	e	PLEASE PRINT NA	.ME	
EMS AND BANK USE ONLY						
			Declined			
EMS Approval:		Tial -		Signature	Title	Date
Signature	•	Title Dat		AL ID NUMBER:		
Bank Approval:						

MERCHANT NUMBER:__

1010A

MERCHANT NAME

THIS MERCHANT AGREEMENT (the "Agreement"), which includes the attached Merchant Application"), is made and entered into by and among Chesapeake Bank, a national banking association or Merrick Bank, a national banking association, depending upon which such institution titing Transactions for Merchant ("Bank"), Francis David Corporation, an Ohio corporation doing business as Electronic Merchant Systems ("EMS"), and the undersigned Merchant ("Merchant"). is settling Tran

WHEREAS, Bank is engaged in the business of providing settlement services to Merchants that accept a valid credit card or valid off-line debit card (hereinafter, each a "Card") of Visa, U.S.A., Inc. ("Visa"), MasterCard International, Inc. ("MasterCard") or other credit card associations (hereinafter, each an "Association", and, collectively, the "Associations") for payment for goods and/or services sold, rented or rendered by Merchant; and

WHEREAS, EMS is registered with Visa as an Independent Sales Organization and with MasterCard as a Member Service Provider, and has agreed with the Bank to provide credit card processing, authorization and related services for Merchants that use Bank's settlement services for Card transactions (individually, a "Transaction", and, collectively, Transactions"); and

- WHEFEAS, the streptisted with beas as in helperotent Sales Organization and with Material Card as a Network service frowder, and has agreed with the Bank to provide credit card processing, authorization and related services for Merchants that use Bank's settlement services for Card transactions.

 WHEFEAS, Merchant clearise to use the services of Bank and EMS to authorize, process and settle Transactions understeen by any authorized user and card (collectively, the "Services") on the terms and conditions hereinather set forth.

 NOW, TheFEAS, Merchant clearise to use the services of Bank and EMS to authorize, process and settle Transactions understeen the particular of the services of the Agreement, the parties hereinather set to do never by agree as follows:

 1. Honoring/Acceptance of Cards. Merchant agrees to honor and accept, without discrimination, all valid Cards when properly presented as payment by a service of the Agreement. Merchant will assign and a service of the Agreement. Merchant will assign and a service of the Agreement. Merchant will assign and a service of the Agreement. Merchant will assign a service of the Agreement. Merchant will assign a service of the Agreement. Merchant will assign a service of the Agreement of the Agreement. Merchant and a service of the Agreement of the Agreement of the Agreement and the Agreement of the
- A. Mail, Telephone, E-Commerce (Internet), Recurring and Pre-Authorized Transactions. In an an EMS discours or Internet (Internet), Recurring and Pre-Authorized Transactions. In an Internet (Internet), and EMS discours or Internet (Internet),
- Agreements (Mail, Telephone, Recurring Transactions, Pre-authorized Orders and E-Commerce (Internet) Transactions, Merchant acknowledges that all mail order Transactions, telephone order Transactions, periodic charges for recurring goods or services to be provided by Merchant ("Recurring Transactions"), pre-authorized order Transactions, and e-commerce (Internet) Transactions and e-commerce (Internet) Transactions and E-Commerce (Internet) Transactions are difficult to device a disparation and the state of the state of

name, billing address and shipping address, Authorization code, and Merchants name and address.

Recurring Transaction and Pre-authorized Order Regulations. If Merchant processes Recurring Transactions and charges a cardholder's account periodically for recurring products or services (e.g., monthly insurance premiums, yearly subscriptions, annual membership fees, etc.). Merchant must, in addition to other applicable procedures and the Rules, comply with the following: (i) have the cardholder complete and deliver to Merchant a written request and consent for such products or services to be charged to cardholder's account. At a minimum, the written request must specify the transaction amounts, the frequency of recurring charges and the cultation of time for which the cardholder's consent of permission is granted and beginning the receiving a cancellation notice from the cardholder's consent of the cardholder's consent or studies provided promptly in response to a cardholder's account, (iii) Merchant may not complete a Recurring Transaction and the name that the cardholder's account, (iii) Merchant may not complete a Recurring Transaction and name that the cardholder's consent or sistening bank or services to be charged to the cardholder's consent or sistening bank or after a request for Authorization has been denied, (iv) Merchant must soldain an Authorization for each Transaction and type or print legibly on the signature line of the sales daril for Recurring Transactions free words. Recurring Transaction and the name and the properties signature and must provide both an invoice number and the appropriate "Recurring Transaction" inclination must be included in each Authorization request; (iv) Merchant must perform an AVS inquir) for at least the first Transaction and then annually thereafter, if applicable. Merchant understands that penalties can be assessed by the Associations for failure to use the Recurring Transaction and the name and the properties of the services of the first transaction or pre-authorized

- the rescurring represents measured, vigo a recurring interaction or reversal presentation of Pre-authorized order. Pre-authorized order. Pre-authorized order. Pre-authorized solves or for buildings be submitted if Menthant advises the carefulder that at victorized carefulder that at the time of the submitted of the carefulder that at the time of the submitted in the carefulder of the carefulder solves or for buildings and the presentation of the presentation of
- S. Visa Cardholder Information Security Program/MasterCard Site Data Protection Program, Non-Disclosure, Retention, and Storage of Cardholder and Transaction Information Requirements. Merchant understands that it must comply with the Rules, including without limitation, to cardholder information security issues, non-disclosure of cardholder information information and other security procedures adopted by the Associations. Merchant hereby confirms its agreement to ablic comply with such limitation the Rules and procedures despited procedures despited by the Associations. Merchant hereby confirms its agreement to ablic comply with such limitation in the Rules and procedures despited by the Associations.

Sea Cardholder Information Security Program and MasterCard Site Data Protection Program. Visa and MasterCard have implemented programs to protect cardholder data. The Visa Cardholder Information Security Program ("CISP") and MasterCard Site Data Protection Program. Visa and MasterCard have implemented programs to protect cardholder data. The Visa Cardholder Information Security Program ("CISP") and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 19 and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 20 and MasterCard Site Data Protection Program ("SDP") and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant in Fig. 20 and MasterCard Site Data Protection Program ("SDP") and MasterCard MasterCard Site Data Protection Program ("SDP") apply to Merchant In Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant In Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant In Fig. 20 and MasterCard Site Data Protection Program ("SDP") apply to Merchant In Fig. 20 and MasterCard Site Data Protection Program ("SDP") and MasterCard MasterCard Site Data Protection Program ("SDP") and MasterCard Site Data Protection Program ("SDP") and MasterCard Site Data Protection Program ("SDP") and MasterCard Program Provisions Site Data Protection Program ("SDP") and MasterCard Program Provisions Site Data Protection Program ("SDP") and MasterCard Program Provisions Site Data Protection Program ("SDP") and MasterCard Program Provisions Site Data Protection Program ("SDP") and MasterCard Program Provisions Site Data Protection Program Provisions Site Data Protection Program Provisions Site Data Protection Prog

- each person with computer access to data; (wii) don't use vendor-supplied defaults for system passwords and other security parameters; (x) frack access to data by unique ID; (x) maintain a policy that addresses information security for employees and contractors; and (x) restrict physical access to adraholder, which are already and the properties of the
- Minimum biscount Fee as provided in Schedule UT Fees to tribe term of this Agreement.

 11. Point of Sales Devices, (a) Merchant agrees to utilize and maintain, at Merchant's expense, POS terminal(s), proprietary software and related equipment approved by Bank and EMS for all Transactions, in a format and medium of transmission acceptable to Bank and EMS. Bank and EMS shall have no liability or responsibility for any negligent design or manufacture of any POS terminal or printer, or for any proprietary software or related equipment. EMS' entire liability, if any, and Merchant's exclusive remedy in all situations, shall be to perform repair services on any inoperative POS terminal and non-timent acknowledges that a teach outlet, retail location, or to usinesses entity will have its own POS terminal and Merchant's internaction by Swipping'the card through the POS terminal and and adversors in the subject of the post of
- The Collection of the Collection of the Goods return or exchange and refuse to Seven as permitted as the Seven as a considerated the minimation after a collection of the Goods or accellations, the Collection of the Goods or accellations of service where goods or accellations, during the term of this Agreement, issue cash for return of goods or cancellations of service where goods or accellations of service where goods or accellations of the Goods or accellations of service where goods or accellations of the Goods or accellations of the Goods or accellations of service where goods or accellations of the Goods or accellations of the Goods or accellations of service where goods or accellations of the Goods or accellations of the Goods or accellations of the Goods or accellation of the Goods or accellation

engage in the same or substantially similar business activity as that listed on the face of this Agreement; (h) the percentage of mail and/or telephone order sales listed by Merchant is consistent at all of Merchant's locations; (i) MERCHANT offers no enticements or incentives to cardholders in connection with Transactions for the sale of Merchant products; (j) Merchant and its employees will not use their personal credit cards on the Merchant's POS Terminat; (j) Merchant uses both the name and address shown on the front of the Agreement on all sales drafts and does not use any other name; (k) shall include all items of goods and services purchased in a single Transaction in the total amount on a single sales draft or transaction at each of the sale of esentations, covenants and agreen ount pursuant to Section 15 hereof.

- expresentations, coverants and agreements or otherwise provided in this Agreement shall constitute an event of the Agreement shall be agreed the Agreement shall be adressed to the agreement, "Chargeback. Here provided in this Agreement shall be agreed to the agreement," Chargeback shall be agreed to the agreement, "Chargeback shall be agreed to the agreement," Chargeback shall be agreed to the agreement, "Chargeback shall be agreed to the agreement," Chargeback shall be agreed to the agreement shall be agreed to the agreement shall be agreed to the agreement, and the agreement shall be agreed to the agreement, and the agreement shall be agreed to the agreement shall be agreeded to a shall be agreeded to agree the agreement shall be agreeded to a shall be agreeded to agree the agreement shall be agreeded to a shall be agreeded to agree the agreement shall be agr

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 16. Fraudulent Sales, Factoring of Claudering. Mechant shall never accept to deposit or enter in the Sale standard of the Sale

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- DEPUM SET IN STREET AND THE RESIDENCE OF THE RESIDENCE OF
- United States mail, by instricts registered mail, return recept requisesed an opstage prepair, and address as any party may give to the others from time to time by written notice to the other plane.

 20. Security Interest. IN ORDER TO SECURE ALL DBLIGATIONS OF MERCHANT TO BANK AND EMS, SISNING FROM THIS AGREEMENT, MERCHANT SNAME OR BY ANY PARTY SISNING THE PERSONAL GUARANTY AS PART O'T-THIS AGREEMENT, AND TO ALL PROCEEDS OF SAID DEPOSITS. Said security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest may be set-off or otherwise exercised by BANK and EMS without notice of demand of any kind security interest. The part of the security interest may be set-off or otherwise exercised by BANK and EMS shall have the right to require Merchant of security interest.

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 In the security of the security interest may be set off or otherwise exercised by BANK and EMS without notice of the security interest.

 In the security of the security of the security interest may be set off or otherwise exercised by the security of

- 22. Minimum Discount Fee/Access Fee. Merchant agrees that the Minimum Discount Fee to be imposed for any month, or portion thereof, shall be in accordance with the Schedule Of Fees. Merchant acknowledges that the Minimum Discount Fee and Access Fee (see Schedule Of Fees) or such other fee as may be established from time to time if approved in advance by Bank. Merchant also acknowledges that the monthly minimum Discount Fee and Access Fee apply to each Merchant identification number assigned to Merchant, and hereby agrees to pay these fees.

 33. Severability. If any part of this Agreement is held unenforceable or invalid or prohibited by law, said part shall be deemed stricken therefrom and this Agreement shall be read and interpreted as though said part did not exist, and shall not already on the part of Bank or EMS to exercise any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a party hereunder shall be effective unless it is in writing and signed by the party making such waiver, and then such waiver shall apply only to the extent specifically stated in such writing. privilege with respect to any occurrence extent specifically stated in such writing.
- extent speciment processes the entire agreement and understanding between the Merchant, Bank and EMS with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, by Bank, EMS or its sales representative, whether expressed or implied, oral or written. Neither this Agreement nor any portion or provision hereof may be changed, waived or amended orally or in any manner other than be a writing specifically identified as such and sighed by the duly authorized representatives of Bank and EMS. This Agreement is not effective and may not be modified in any respect without the express writine consent of Bank.

 26. Assignment and Delegation. This Agreement may be assigned by Bank. EMS may not subcontract, sasign, license, franchise, or in any manner extend or transfer to any third party any right or obligation of EMS and their premitted without such consents shall be void. This Agreement shall be binding on the positions and their premitted under the Rules) reserves the right, in its sole discretion, to delegate or assign to third parties the performance of certain of Bank's (or EMSs, if applicable) servicing or settlement obligations to Merchant. The relationship of Bank, EMS and Merchant is solely that of independent parties contraction for services.

- extent permitted under the Rules) reserves the right, in its sole discretion, to delegate or assign to third parties the performance of certain of Bank's (or EMS's, if applicable) servicing or settlement obligations to Merchant. The relationship of Bank, EMS and Merchant is solely that of independent parties contracting for services.

 27. Disputes, Governing Law, Jurisdiction, and Venue. Bank and EMS shall have the absolute right to initiate or defend any and all disputes arising from this Agreement with Merchant. This Agreement shall be governed by the dearly of the delian shall lie in the federal or state counts of Curyahoga County, Ohio, and Merchant and any quarantors of Merchant's obligations and duties hereunder do each hereby waive all objections to said jurisdiction and agree to submit thereto. Each party is responsible to its own costs and expenses, except that Merchant shall be liable for all costs and expenses of Bank and EMS (including attorneys fees in connection with the enforcement), as a result of any pursad or the collection of array sums due to Bank of EMS returned in the delian of the result of any sums due to Bank of EMS returned including bank half with the enforcement of this Agreement, as a result in the collection of the returned of the party sing such notice shall refusin from instituting the arbitration proceeding out of the returned of the returned of the parties are substantial to the returned of the re
- Merchant acknowledges that Bank has implemented a customer identification program as required by Bank in connection with its customer identification program and/or as required under the USA Patriot Act and regulations.

 Merchant agrees to make available to Bank and/or EMS such information as may be required by Bank in connection with its customer identification program and/or as required under the USA Patriot Act and related state laws and regulations.
- 30. Amendments. This Agreement may be amended by Bank and EMS from time to time upon written notice of the change(s) in terms and conditions or fees. Any amendment to this Agreement shall be effective on the effective date specified in the notice or in the manner prescribed for notices herein. In the event of any amendment of the terms and conditions or fees. Any amendment of the terms and conditions or fees and feel to terminate this Agreement without the payment of the termination feet provided in Section 10 above by providing Bank and EMS written notice of such termination to the effective date of such amendment. No such termination shall effect any obligation of Merchant to pay any fees, charges, or other obligations in uncerted by Merchant under this Agreement prior to the date of termination. Submission of transactions to Bank and EMS on or after any effective date constitutes acceptance of any amendment. Any unrelated alteration or modification to the perpendiculated in the provided in Section of the payment of the termination. Submission of transactions to Bank and EMS on or after any effective date constitutes acceptance of any amendment. Any unrelated alteration or modification to the perpendiculated in the provided in Section of the payment of the termination of this Agreement viol.

 31. Survival. All representations, warranties and coverants shall survive the termination of this Agreement.
- 32. Construction. The captions contained in this Agreement are for the convenience of the parties and shall not be construed or interpreted to limit or otherwise define the scope of this Agreement.
- 32. Construction. The captions contained in this Agreement are for the convenience of the parties and shall not be construed or interpreted to limit or otherwise define the scope of this Agreement.

 33. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, such counterparts to constitute but one and the same instrument.

 34. Schedule of Fees. Incorporated herein by reference is a Schedule of Fees that contains the Discount Fee, Transaction Fees, and other terms and conditions in effect on the commencement date of this Agreement. Bank and EMS reserve the right at all times to unilaterally change all or part thereof or any other terms of this Agreement in accordance with Sections 19, 21 or 30.

 35. Exclusive Agent. For purposes of this Agreement and performance of the Services by EMS, (i) EMS is the exclusive agent of Bank, (ii) Bank is at all times and entirely responsible for and in control of EMS's performance hereunder, and (iii) Bank must approve, in advance, any fee to or obligation of Merchant arising from or related to performance of this Agreement.

 36. Default interest Rate. Merchant agrees that all amounts due and payable by Merchant to Bank or EMS under this Agreement shall accrue interest at the rate of one and one-half percent (1.50%) per month, or the maximum interest rate permissible under law, whichever is lesser, beginning as of date due and continuing following any luggment obtained by Bank or EMS against Merchant until paid in full.

 37. Financial Accommodation. The acquisition, processing and settlement of Transactions is a financial accommodation and, as such, in the event Merchant becomes a debtor in bankruptcy, this Agreement cannot be assigned or enforced and Bank and EMS shall be excused from performance hereunder.

This Agreement shall be effective only upon acceptance and signature by Bank and EMS. Any application fee paid to Bank or EMS is nonrefundable whether or not Merchant and this Agreement are accepted by Bank and EMS.

		ELECTRONIC MERC	HANT SYSTEMS
Print Merchant Name			
Print Officer Name		Signed By	Date
Signed By	Date		