

**JUDICIAL COUNCIL OF CALIFORNIA
MASTER AGREEMENT AMENDMENT COVERSHEET**

AGREEMENT NUMBER MA-200307	AMENDMENT NUMBER 8
FEDERAL EMPLOYER ID NUMBER 94-1687665	

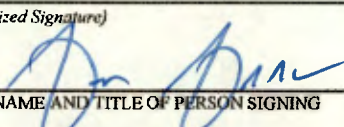
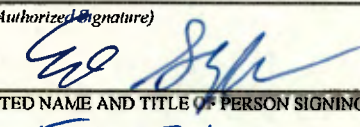
1. All capitalized terms not defined in this amendment (the "Amendment") have the meanings given to them in the Master Agreement referenced above. As set forth in the Master Agreement, the terms "Contractor" or "we" refers to **Bank of America, N. A.**, and the terms "Judicial Council" or "AOC" or "State" or "you" refers to the **Judicial Council of California**.

2. Title of the Agreement: **Government Banking Services**
The title listed above is for administrative references only and does not define, limit, or construe the scope or extent of the Agreement.

3. This Amendment becomes effective on 5/4/2015.

4. As of the effective date of this Amendment, the parties agree to amend the Master Agreement as follows:
 - A. Paragraph 1.4, Merchant Services, is deleted and replaced with a new paragraph 1.4, attached hereto and incorporated into the terms and conditions of the Master Agreement.
 - B. Exhibit E-1 Merchant Services Agreement, Exhibit E-2 Addendum to Merchant Services Agreement, and Exhibit E-3, Participation Agreement, as amended, are deleted and replaced with Exhibit E-1(A), Bank of America Merchant Services, Merchant Services Processing Agreement, attached hereto, which also incorporates the following documents:
 - Annex 1
 - Schedule A to Merchant Processing Agreement – Fee Schedule
 - Other Card Services Supplement to Merchant Processing Agreement and Attachment 1 to Schedule A
 - Debit Transactions Supplement to Merchant Processing Agreement and Attachment 2 to Schedule A
 - Exhibit A - Participation Agreement (Form)
 - Exhibit B - Equipment Pricing
 - Exhibit C - Form of Amendment of the Merchant Processing Agreement
 - Exhibit D - Service Level Agreement

5. Except as provided in this Amendment, all terms and conditions of the original Master Agreement (as previously amended, if applicable) remain in full force and effect.

JUDICIAL COUNCIL'S SIGNATURE	CONTRACTOR'S SIGNATURE
Judicial Council of California	CONTRACTOR'S NAME (if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.) Bank of America, N. A.
BY (Authorized Signature) 	BY (Authorized Signature) 
PRINTED NAME AND TITLE OF PERSON SIGNING Stephen Saddler, Manager, Business Services	PRINTED NAME AND TITLE OF PERSON SIGNING Ed Sykes, SVP
DATE EXECUTED 5/4/15	DATE EXECUTED 4/27/15
ADDRESS Attn: Finance Business Services Unit 455 Golden Gate Avenue San Francisco, CA 94102	ADDRESS Attn: James Jackett, Senior Vice President, Government West CA3 11715-01 555, Capitol Mall Sacramento, CA 95814

Judicial Council of California Master Agreement
Amendment 8 to Contract Number MA-200307 with Bank of America

The following provision is incorporated into the Master Agreement's terms and conditions pursuant to this Amendment:

Paragraph 1.4 of the Master Agreement is deleted in its entirety and replaced with the following

"1.4. Merchant Services

The entire and integrated agreement between Judicial Council of California and the Bank related to Merchant Services shall consist of this Master Agreement and the Bank of America Merchant Services, Merchant Processing Agreement as described in Exhibit E-1(A), and its attachments, exhibits, and schedules."

END OF LIST

Judicial Council of California Standard Agreement
Amendment 8 to Contract Number MA-200307 with Bank of America

EXHIBIT E-1(A)
BANK OF AMERICA MERCHANT SERVICES
MERCHANT PROCESSING AGREEMENT
(GOVERNMENT)

JUDICIAL COUNCIL OF CALIFORNIA CUSTOMER's Legal Name	SAME AS LEGAL NAME Doing Business As		
455 GOLDEN GATE AVENUE, FLOOR 7 Street Address	SAN FRANCISCO City	CA State	94102-7016 Zip Code
STATE GOVERNMENT CUSTOMER's business organization type (corporation, LLC, partnership, non-profit or other entity)	CA State of Organization	Taxpayer Identification Number	
GREG KEIL, ASSISTANT TREASURER Recipient/Title for Notices	(415) 865-7956 Facsimile Number		

In consideration of the mutual covenants and agreements set forth herein and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, SERVICERS and CUSTOMER agree as follows:

This MERCHANT PROCESSING AGREEMENT ("**Agreement**") is entered into by and among the undersigned customer ("**CUSTOMER**") for its benefit and the benefit of the Superior Courts of California, the California Courts of Appeals, including the California Supreme Court, and the Habeas Corpus Resource Center (all, collectively "Judicial Branch Entities" or "JBEs") as further described below, BANK OF AMERICA, NA ("**BANK**") and BANC OF AMERICA MERCHANT SERVICES, LLC ("**BAMS**" and, together with BANK and any other third party providers who enter into Supplements to this Agreement in order to perform services hereunder, collectively, "**SERVICERS**") for the Services described herein. Unless otherwise specified in this Agreement, (a) each SERVICER'S obligations under this Agreement shall be joint, but not several, and (b) each SERVICER shall have separate but equal rights against the CUSTOMER.

In addition, this Agreement amends and restates the Exhibit E-1A of the Master Agreement by and among BANK and CUSTOMER dated on or about January 1, 2004, including all amendments, addenda, exhibits and schedules thereto (the "Original Agreement"), except that if CUSTOMER provided any applications, additional locations, setup forms or other instructions to BANK in connection with the Original Agreement, such applications, additional locations, setup forms or other instructions (together, with all attachments and schedules thereto and all additions and modifications thereto) are part of this Agreement.

This Agreement governs processing services regarding credit, debit and certain other Card transactions and other services, as those services are further described in this Agreement, the Fee Schedule attached hereto as Schedule A (including any Exhibits, additions and changes thereto, the "**Fee Schedule**"), any and all concurrent and subsequent addenda, supplements or schedules to this Agreement (each, including the Fee Schedule, as amended from time to time, a "**Supplement**"), and the Card Organization Rules, all as elected by CUSTOMER and approved by SERVICERS (or their applicable Affiliate) (for the purposes of this Agreement, collectively, the "**Services**"). Unless otherwise expressly provided in this Agreement or any

Supplement, (i) references to each Supplement shall be deemed to include this Agreement and (ii) references to this Agreement shall be deemed to include each Supplement. To the extent the terms of a Supplement directly conflict with the terms of this Agreement, the terms of that Supplement shall control.

The intent of this Agreement is to provide one set of standardized general terms and conditions to be utilized by CUSTOMER, and each JBE that executes a Participation Agreement, as further described below, with respect to each such party's receipt of the Services. CUSTOMER represents and warrants to SERVICERS that it has the necessary power and authority under the laws of the State of California to enter into this Agreement for itself and for the benefit of the JBEs as described herein. CUSTOMER acknowledges and agrees that SERVICERS may provide a copy of this Agreement to the JBEs.

A JBE may not receive Services under this Agreement unless and until it has entered into a Participation Agreement substantially in the form attached hereto as Exhibit A, and JBE and SERVICERS have executed such Participation Agreement. Upon complete execution of a Participation Agreement, the JBE that is a party thereto will have all the same rights and obligations that CUSTOMER has under this Agreement as if that JBE had separately entered into this Agreement; provided, however, that (i) SERVICERS may terminate any Participation Agreement for the same reasons as it has to terminate this Agreement and (ii) any amendments to this Agreement will constitute simultaneous and identical amendments to each Participation Agreement. CUSTOMER is liable to SERVICERS for its own use of the Services and is not liable to SERVICERS for the use of the Services by the JBEs. Each JBE will be liable to SERVICERS only with respect to its own receipt of Services under this Agreement, and no individual JBE will be liable to SERVICERS under this Agreement for any other JBE. The rights and obligations of CUSTOMER and each participating JBE shall be separate, individual and independent of each other JBE.

BANK's obligations hereunder shall be limited to the sponsorship and settlement of certain Card transactions submitted in accordance with the terms and conditions of this Agreement and the Card Organization Rules, and BANK shall not have any obligation or liability of any nature in connection with any services of any kind provided by BAMS or its Affiliates hereunder or pursuant hereto. In performing this Agreement, without diminishing SERVICERS' obligations to CUSTOMER, SERVICERS may use the services of third parties, including, without limitation, their respective Affiliates.

1. **Definitions.** As used in this Agreement, capitalized terms will have the meaning set forth in Annex 1, the Operating Guide or Card Organization Rules, as applicable.
2. **Services.**
 - 2.1 [Intentionally deleted]
 - 2.2 Subject to Card Organization Rules, Services may be performed by BAMS or BANK subject to the agreements between them as the same may be modified from time to time. In addition to SERVICERS, one or more affiliates of BAMS may assist in providing Terminals or other equipment and local support functions

in connection with this Agreement.

2.3 SERVICERS will make the Services operational and available to CUSTOMER through a mutually agreed upon implementation plan. CUSTOMER agrees to at all times cooperate with SERVICERS and provide SERVICERS with all necessary information and assistance required by SERVICERS to provide the Services in accordance with the Card Organization Rules and Applicable Law, including, without limitation, making changes to Merchant Equipment as SERVICERS require. CUSTOMER will provide SERVICERS with information regarding participating JBEs as SERVICERS may request from time to time, provided such requests are reasonable and the information requested is legally disclosable and maintained as confidential by SERVICERS. CUSTOMER will be responsible for (i) use of the Services by CUSTOMER, Customer's employees and agents and Merchant Providers, (ii) CUSTOMER's failure to properly access the Services in the manner prescribed by SERVICERS, and (iii) CUSTOMER's failure to supply accurate information regarding the Services.

2.4 SERVICERS will provide the Services in accordance with the Service Level Agreement set forth in Exhibit D attached hereto (the "SLAs").

3. Election of Cards, Duty to Honor Cards and Use of Marks.

3.1 Card Election. CUSTOMER has elected and SERVICERS have approved CUSTOMER to accept those Card types and Services designated in this Agreement or the Supplements. CUSTOMER may change CUSTOMER's election of Card types and Services from time to time upon at least sixty (60) days' advance notice to SERVICERS; SERVICERS will use their reasonable efforts to accommodate CUSTOMER's requests in less than this time but SERVICERS will not be obligated to do so. Upon SERVICERS' approval of such new Card type or Service, the parties will execute a Supplement therefor. CUSTOMER will not seek authorization for or submit a transaction of a new Card type until the parties have entered into a Supplement for it. Unless otherwise directed by SERVICERS, CUSTOMER will not seek authorization for or submit a Card transaction of a Card type CUSTOMER desires to discontinue accepting later than the effective date of the notice to SERVICERS. With respect to inadvertent or unintentional acceptance of a transaction other than the type or service anticipated for Customer's account (including, without limitation, a different Card type), CUSTOMER will also be subject to payment to SERVICERS of their then-current transaction fee(s) with respect to such Card, transaction and/or service and be liable, obligated and responsible under this Agreement for any such transaction or service to the same extent as CUSTOMER would be if it was of an anticipated Card type or service.

3.2 Honoring Cards Generally. CUSTOMER will honor a Card by accepting it for payment. CUSTOMER will not engage in any acceptance practice or procedure that discriminates against, or discourages the use of, any particular Card type elected by CUSTOMER and approved by SERVICERS, in favor of any competing Card brand also elected and approved.

3.3 Cards Issued by US Card Issuers. For all Cards issued by U.S. Issuers, CUSTOMER will honor all Cards within the Card types elected and approved in accordance with this Agreement. For example, if CUSTOMER elects and is

approved to accept Visa credit Cards, CUSTOMER will submit payments from Visa-branded credit Card Cardholders without regard to whether the credit Card is a Visa-branded rewards credit Card or Visa-branded business purpose credit Card.

3.4 Cards Issued by Non-US Card Issuers. CUSTOMER will honor all Cards issued by non-U.S. Issuers. For example, even if CUSTOMER elects to limit CUSTOMER's acceptance of MasterCard Cards to MasterCard credit Cards, CUSTOMER will accept for processing a MasterCard debit Card issued by a non-U.S. Card issuer.

3.5 Marks Generally. CUSTOMER, CUSTOMER and SERVICERS acknowledge that no party will acquire any right, title or interest in or to the Marks of any other party or of any Card Organization or SERVICERS' agents by virtue of this Agreement, without prior written consent. CUSTOMER will not assign to any third party any of the rights to use the Marks of SERVICERS, SERVICERS' agents or Card Organizations.

Except as otherwise provided herein, no party will use any other party's Marks, or use language from which the connection of such Marks may be inferred, in any advertising, written sales promotion, press releases or other publicity matters relating to this Agreement without such party's prior written consent.

3.6 Special Provisions Regarding Discover Network Processed Cards. Services provided for transactions made with Discover branded Cards or DNP Card Types (as hereinafter defined) are processed by BAMS and not by BANK. DNP Card Types are Cards branded by Diners Club International®, JCB, China UnionPay, Korea Bank and Credit® or any other Card Organizations subsequently designated by Discover, and each of those Card Organizations is referred to as a "**DNP Card Organization**". The Services provided, transactions processed and other matters contemplated under this Agreement for Discover Cards and DNP Card Types and DNP Card Organizations are subject to the rest of this Agreement; provided, however, that BANK is not a party to this Agreement insofar as it relates to Services for transactions made with Discover Cards or DNP Card Types, and BANK is not liable to CUSTOMER in any way with respect to such Services.

4. General Requirements and Restrictions for Card Transactions.

4.1 Accuracy of Data Submitted. CUSTOMER will be responsible for the quality and accuracy of all data provided to SERVICERS. SERVICERS may, at SERVICERS' option, return to CUSTOMER for correction before processing any data submitted by CUSTOMER which is incorrect, illegible or otherwise not in proper form. If CUSTOMER does not provide data in accordance with SERVICERS' specified format and schedule, SERVICERS will use reasonable efforts to reschedule and process the data as promptly as possible, but related expenses incurred by SERVICERS will be charged to CUSTOMER.

4.2 Prohibitions on Increasing Price of Goods or Services. CUSTOMER will not increase the price of goods or services for a Card transaction or impose any fee for the service of accepting a Card except as allowed by the Card Organization Rules and Applicable Law. CUSTOMER may charge a convenience or service fee for a

Card transaction only as permitted by the Card Organization Rules and Applicable Law. If clearly disclosed to the Cardholder, CUSTOMER may offer a discount from the standard price for payments by cash.

4.3 Payments from Cardholders. CUSTOMER agrees that CUSTOMER will not accept or process, any funds representing a Cardholder's payment to an Issuer.

4.4 Prohibition on Aggregating and Factoring and Employee Transactions. CUSTOMER is prohibited from submitting or presenting, and agrees not to submit or to present, any authorization requests for transactions and Sales Drafts arising from transactions between (i) CUSTOMER and Cardholders who are CUSTOMER's guarantors, officers or employees, other than genuine purchases, leases or rentals of goods or services from CUSTOMER or other payments to CUSTOMER, all in the ordinary course of CUSTOMER's business, and (ii) Cardholders and third parties for their goods or services or other payments to them.

4.5 Draft Requirements. All Sales Drafts and Credit Drafts must include all information required under and in accordance with the Operating Guide, Card Organization Rules and Applicable Law:

4.6 U.S. Dollars. Unless otherwise agreed in advance and writing by SERVICERS, CUSTOMER must submit all Card transactions in U.S. dollars.

5. Operating Guide; Card Organization Rules and Compliance; Order of Precedence.

CUSTOMER acknowledges that it has received the Operating Guide, the terms of which are incorporated into this Agreement; any reference to this Agreement includes the Operating Guide. Notwithstanding any provision to the contrary contained in this Agreement, the parties hereto acknowledge and agree that the Operating Guide provides the principals of a sound Card program and contains the relevant subset of the Card Organization Rules. However, the Operating Guide is not a complete set of all Card Organization Rules. If CUSTOMER loses or otherwise misplaces the Operating Guide or notices of changes thereto, CUSTOMER shall be responsible for contacting SERVICERS to obtain replacement copies. From time to time, SERVICERS may change the Operating Guide, in whole or in part, and other operating procedures, by providing CUSTOMER with at least thirty (30) days' prior written notice of the change. However, in the event of changes in the Card Organization Rules or due to security reasons, certain changes in Card procedures may become effective on shorter notice. If there is any conflict between the terms of this Agreement and the Operating Guide, the terms of this Agreement will govern, unless the conflict is directly related to a change in the Operating Guide which specifically addresses a procedure or requirement detailed in this Agreement.

CUSTOMER must comply with the Card Organization Rules and Applicable Law; however, with regard to Card Organization Rules, CUSTOMER need only comply with those applicable to Cards. CUSTOMER will review the Card Organization Rules and Applicable Law from time to time for changes, and is responsible for staying apprised of all applicable changes to the Card Organization Rules and maintaining compliance with

the Card Organization Rules. Card Organization Rules are available on web sites, such as http://www.usa.visa.com/merchants/operations/op_regulations.html, and <http://www.mastercardmerchant.com>, as those links may be changed from time to time.

If CUSTOMER accepts DNP Card Types, CUSTOMER acknowledges and agrees that transactions made using Cards of DNP Card Organizations will be processed under and subject to Discover Card Organization Rules and the terms of this Agreement applicable to Discover Card acceptance and transactions.

In the event there is a conflict between Applicable Law, the Card Organization Rules, this Agreement and/or the Operating Guide, such documents shall govern in the following order of precedence: 1) Applicable Law; 2) Card Organization Rules; 3) this Agreement; and 4) the Operating Guide, to the extent the conflicting provision in the Operating Guide is not related to a Card Organization Rule.

6. **Authorization.**

6.1 CUSTOMER agrees to submit only Card transactions for which CUSTOMER has received an Authorization. Obtaining an Authorization will not ensure payment to CUSTOMER for a Sales Draft. The fact that an Authorization is obtained by CUSTOMER will not affect SERVICERS' rights thereafter to revoke Authorization of a Card transaction or to charge back the transaction to CUSTOMER. In no event will the fact that an Authorization is obtained by CUSTOMER be deemed to be SERVICERS' representation or warranty, either express or implied, that the particular Card transaction is in fact a valid, authorized or undisputed transaction entered into by the Cardholder.

6.2 The Authorization number provided by SERVICERS shall be noted by CUSTOMER in the appropriate place on the Sales Draft. If Authorization is declined, CUSTOMER shall not complete the Card transaction.

6.3 CUSTOMER shall comply with any special authorization procedures contained in the Card Organization Rules and any other sections or parts of this Agreement.

6.4 CUSTOMER acknowledges that Authorization, (i) indicates only the availability of credit at the time of Authorization; (ii) does not warrant that the person presenting the Card is the rightful Cardholder; and (iii) is not an unconditional promise or guarantee by SERVICERS that any Card transaction will not be subject to Chargeback.

6.5 If CUSTOMER obtains an Authorization by telephone, CUSTOMER shall record the approval number on the Sales Draft.

7. **Electronic Commerce Transactions.**

CUSTOMER acknowledges and agrees that this Section 7 pertains only to ECTs that arise from transactions effected in U. S. dollars. All of CUSTOMER's ECTs must be in U.S. dollars and will be settled in U.S. dollars. Under the Card Organization Rules, ECTs are considered non face-to-face Card transactions. In addition, CUSTOMER must properly identify each ECT in the Sales Draft.

CUSTOMER agrees to develop and maintain a point of presence on the Internet at CUSTOMER's expense. CUSTOMER must post CUSTOMER's consumer data privacy policy and method of transaction security on CUSTOMER's web site(s) in

accordance with the Card Organization Rules and Applicable Law. CUSTOMER will, in accordance with the Card Organization Rules and Applicable Law: (i) install and maintain a working firewall to protect data accessible via the Internet; (ii) keep security patches up to date; (iii) encrypt stored data; (iv) encrypt data sent across networks; (v) use and regularly update anti-virus software; (vi) restrict access to data on a "need to know" basis; (vii) assign a unique ID to each person with computer access to data; (viii) not use vendor-supplied defaults for system passwords and other security parameters; (ix) track access to data by unique ID; (x) regularly test security systems and processes; (xi) maintain a policy that addresses information security for employees and contractors; and (xii) restrict physical access to Cardholder data.

CUSTOMER's Internet web site must contain, to the extent required by the Card Organization Rules, (a) a complete description of the goods or services offered, (b) CUSTOMER's returned merchandise and refund policy, (c) CUSTOMER's customer service contact information, including e-mail address and/or telephone number, (d) transaction currency, (e) export or legal restrictions (if known), (f) CUSTOMER's delivery policy and (g) CUSTOMER's country of domicile immediately prior to the Cardholder's accessing of payment instructions. In addition, CUSTOMER must disclose, at all points of Cardholder interaction (including any of CUSTOMER's supplier or subcontractor Internet web sites and any of CUSTOMER's promotional materials and invoices), to the Cardholder that CUSTOMER, and not any of any CUSTOMER's suppliers of goods or subcontractors for services, is the merchant of record and responsible for any Card transaction. CUSTOMER must also notify the Cardholder that CUSTOMER is responsible for (i) payment transactions, (ii) products and services, (iii) direct customer service, (iv) dispute resolution, and (v) all terms and conditions of the transaction. CUSTOMER must display on CUSTOMER's Internet web site(s) the Card Organization Marks, wherever CUSTOMER display payment options, in accordance with the Operating Guide and Subsection 3.5 of this Agreement.

CUSTOMER will be responsible for all costs of connectivity and communication between CUSTOMER, the Internet and SERVICERS. CUSTOMER agrees to utilize SSL (Secure Sockets Layer) or other secure compatible encryption method acceptable to SERVICERS in providing CUSTOMER's ECTs to SERVICERS for authorization, processing and settlement.

CUSTOMER assumes all responsibility for identification of the Cardholder and the validity of the Card information for ECT. CUSTOMER agrees that each Authorization request will include a request for address verification and a positive response for it. CUSTOMER agrees to identify separately any high-risk transactions CUSTOMER submits. The high-risk transactions include, but are not limited to, any under Merchant Category Code 5967 – Direct Marketing – Inbound Telemarketing Merchants.

8. Multiple Sales Drafts and Partial Consideration.

8.1 Except as shall be specifically set forth in the Operating Guide or the Card Organization Rules, CUSTOMER shall list all items of goods and services

purchased during each Card transaction and the total amount thereof on a single Sales Draft.

8.2 CUSTOMER shall comply with all special procedures and conditions applicable under the Operating Guide and the Card Organization Rules with respect to any partial payment, installment payment, delayed delivery or advance deposit situation and any delayed or amended charges for a travel and entertainment transaction. CUSTOMER shall not use more than one Sales Draft to represent a single Card transaction to avoid the need for Authorization.

9. Pre-Authorized Orders.

9.1A Pre-Authorized Order may include the payment of recurring charges such as insurance premiums, subscriptions, membership fees, tuition or utility charges and may also include preauthorized health care payments (subject to a Supplement).

9.2 If CUSTOMER is authorized to accept Pre-Authorized Orders, Authorization for each such Card transaction, regardless of the amount, must be obtained, and CUSTOMER must write "Recurring Transaction" (for Visa and other non-MasterCard Card transactions) or "PO" (for MasterCard Card transactions) as applicable, on the Sales Draft in lieu of the Cardholder's signature.

9.3 Except for preauthorized health care payments for the incremental costs not covered by insurance, advance deposits and installment payments, all made in compliance with this Agreement, a Pre-Authorized Order may not include partial payments made to CUSTOMER for goods or services purchased in a single transaction. In no event may any finance charges be imposed on any periodic payments in connection with a Pre-Authorized Order.

9.4 CUSTOMER may not accept a Pre-Authorized Order from a Cardholder for the purchase of goods or services which are delivered or performed periodically unless the Cardholder completes and delivers to CUSTOMER a written request (and, when applicable, a written renewal request) identifying (i) the goods or services to be charged to the Cardholder's account, (ii) the amount of the preauthorized or recurring charges (unless such charges are for variable amounts), (iii) the frequency of the preauthorized or recurring charges and (iv) the duration of time for which the Cardholder's permission is granted. If CUSTOMER accepts any Pre-Authorized Orders for variable amounts, CUSTOMER must comply with the supplemental provisions set forth in the applicable Supplements.

9.5 The Cardholder's written request (including any written renewal request) must be: (a) retained for the duration of the preauthorized or recurring charges; (b) provided in response to an Issuer's request for original documentation; and (c) used no longer after receiving notice of cancellation.

10. CUSTOMER Responsibilities for Persons Used by CUSTOMER.

10.1 Use of Persons. CUSTOMER's use of the services, equipment, Software, systems, materials, supplies or resources of Persons regarding CUSTOMER's Card transactions processing, including, without limitation, Merchant Providers and any third party lessors and licensors, will not affect CUSTOMER's obligations under this Agreement to SERVICERS which will apply to the same extent as if CUSTOMER had not used them. SERVICERS have no liability or responsibility to CUSTOMER

or others regarding these Persons, even if SERVICERS referred them to CUSTOMER. These third parties are CUSTOMER's agents, and CUSTOMER is solely responsible for (i) determining whether they can meet CUSTOMER's needs and standards, (ii) their actions, inactions and compliance with the terms of this Agreement and Applicable Law and (iii) any and all fees, costs, expenses and other obligations owed to them by CUSTOMER or owed by them to SERVICERS or to the Card Organizations.

10.2 Merchant Providers. Before CUSTOMER engages any Merchant Provider, CUSTOMER must provide to SERVICERS in writing (a) the Merchant Provider's legal name, (b) contact information, and (c) intended function. CUSTOMER covenants with SERVICERS that CUSTOMER will not use, allow the use of, or provide to any Merchant Provider access to any Cardholder data, BAMS Systems, BAMS Software or Services until CUSTOMER receives SERVICERS' approval and, if required, confirmation of SERVICERS' registration of that Merchant Provider with applicable Card Organizations. CUSTOMER must ensure that CUSTOMER and Merchant Providers: (i) comply with the registration process which can involve site inspections, background investigations, provision of financial statements, and any other information required by a Card Organization; (ii) comply with the periodic and other reporting required by a Card Organization; and (iii) comply with this Agreement and Applicable Law, including without limitation, those provisions requiring security of Cardholder data. CUSTOMER may allow Merchant Providers access to Cardholder data only for purposes authorized under and in conformance with the Card Organization Rules and Applicable Law. CUSTOMER is responsible for all of SERVICERS' costs and expenses associated with SERVICERS' review, approval, certification (and recertification as may be required by the Card Organization Rules) and registration of any Merchant Providers.

Upon request and reasonable notice, CUSTOMER will provide, and will ensure that Merchant Providers provide, to SERVICERS and SERVICERS' respective representatives prompt access to CUSTOMER's and their facilities and records for the purposes of performing any inspection and copying books or records pertaining to the transactions contemplated under this Agreement. CUSTOMER must have written agreements with Merchant Providers requiring such access.

11. Cardholder Refunds and Credits.

11.1 If a Cardholder returns goods or cancels services purchased from CUSTOMER with a Card, or CUSTOMER allows any other price adjustment after a sale has been completed and a refund or adjustment is due to the Cardholder (other than any involuntary refund required by applicable airline or other tariff or by Applicable Law), CUSTOMER will not return cash to the Cardholder but will instead prepare a Credit Draft and process each such refund or adjustment, as specified in the Operating Guide and Card Organization Rules. CUSTOMER will give the Cardholder a copy of the completed Credit Draft.

11.2 If CUSTOMER establishes a policy limiting refunds or acceptance of returned merchandise (e.g., no refund, exchange only, in-store credit only, or special conditions), CUSTOMER must follow the procedures set forth in the Operating Guide regarding refunds and returned merchandise.

12. Presentment of Card Transactions.

12.1 Locations. CUSTOMER will provide SERVICERS with a complete list of all CUSTOMER's Locations in the United States and its territories where CUSTOMER desires to accept Cards, with current information for each Location, including, physical address and telephone number(s), mailing address and, if available, fax number(s) and email address(es). CUSTOMER will provide an updated list as changes to any of CUSTOMER's Locations or their related information occur.

12.2 CUSTOMER shall electronically (or physically, when authorized by SERVICERS) deliver to SERVICERS Sales Drafts and Credit Drafts for all Card transactions to be processed and settled under this Agreement. The deadlines for submitting Sales Drafts and Credit Drafts are set forth in the Operating Guide and Card Organization Rules corresponding to the applicable Card types and desired rates. In no event shall such deadlines be later than the fifth calendar day or third banking day (whichever is earlier) after completing Card transactions (unless CUSTOMER is entitled to any special extension of these deadlines). CUSTOMER acknowledges that the times specified in the preceding sentence are the maximum deadlines and that faster time frames are required to qualify for incentive programs.

12.3 CUSTOMER will not submit any Sales Draft that was not created in conjunction with a Card transaction between CUSTOMER and the applicable Cardholder. Under no circumstances will CUSTOMER submit any Sales Draft that has been previously charged back by the Cardholder and subsequently returned to CUSTOMER.

13. Settlement of Card Transactions.

13.1 Settlement of Sales Drafts. SERVICERS will settle with CUSTOMER for each Sales Draft acquired and accepted by SERVICERS under this Agreement after SERVICERS receive payment for that Sales Draft from the related Card Organization, subject to the terms of this Agreement. Unless SERVICERS agree in writing otherwise, SERVICERS will only acquire Sales Drafts for Visa, MasterCard and Discover Network Card types (including those of other Card Organizations processed under Visa, MasterCard or Discover Network Card Organization Rules); provided, however, that, if CUSTOMER has been classified by Discover Network as having a Discover Direct Strategic Relationship with Discover Network, SERVICERS will not acquire CUSTOMER's Discover Network transactions and they will be subject to CUSTOMER's agreement with Discover Network. CUSTOMER acknowledges and agrees that if SERVICERS have not agreed to or do not acquire transactions for any Card type (i) SERVICERS have no liability or responsibility whatsoever for the settlement of or disputes regarding those transactions and (ii) CUSTOMER will pursue directly with the related Card Organization all claims and disputes regarding those transactions. CUSTOMER agrees to pay SERVICERS for per item processing, authorization and other fees in the Fee Schedule for any non-acquired transaction services CUSTOMER receives from SERVICERS.

13.2 Settlement Account and Its Operation. CUSTOMER will designate, in writing, and maintain, the Settlement Account for the purposes of settling transactions under this Agreement. If the Settlement Account is with BANK, in the absence of any other written agreement with BANK, the terms and conditions that apply to BANK's deposit accounts of the same type will apply. As amounts become payable to CUSTOMER or to SERVICERS under this Agreement, SERVICERS may, unless otherwise agreed, make payments to or receive payments from CUSTOMER by crediting or debiting the Settlement Account without prior notice as provided herein. If CUSTOMER does not maintain a Settlement Account with BANK, payments between CUSTOMER and SERVICERS must be made in a manner satisfactory to SERVICERS. If CUSTOMER does not maintain sufficient balances in the Settlement Account to cover amounts owing under this Agreement, CUSTOMER must immediately pay all such amounts directly to SERVICERS, and if CUSTOMER does not do so, at SERVICERS' discretion SERVICERS may cease processing additional Card transactions until the amounts due are paid.

CUSTOMER acknowledges and agrees that transfers to or from the Settlement Account will be made on the basis of account number and bank routing number only. SERVICERS are not responsible for detecting errors in any Settlement Account information CUSTOMER provides, including the account numbers and routing numbers associated with the Settlement Account, even if any of those numbers do not correspond to the account or bank identified by name. CUSTOMER's obligations and SERVICERS' rights regarding any settlement transfers SERVICERS make in reliance on the account number(s) and bank routing number(s) for the Settlement Account are not excused in those circumstances, even if CUSTOMER provides SERVICERS erroneous information.

SERVICERS will initiate a transfer of settlement funds to CUSTOMER as set forth in Section 13.3. SERVICERS will not be liable for any delays in receipt of settlement funds or errors in credits or debits to the Settlement Account that are caused by Persons, including but not limited to, delays or errors of any Card Organization or any financial institution other than BANK.

SERVICERS may debit the Settlement Account for the following purposes: (a) to correct accounting or other settlement errors, (b) for the amount of Credit Drafts, adjustments or Chargebacks, (c) fees and fines imposed upon SERVICERS by a Card Organization or Issuer as a result of CUSTOMER's actions or omissions and (d) as required under the Card Organization Rules.

13.3 Settlement Amounts and Time for Settlement. All settlements to CUSTOMER for Sales Drafts will occur on a daily basis and be based upon gross sales, minus, Credit Drafts, adjustments, Chargebacks, and fees, fines and other amounts imposed upon SERVICERS by a Card Organization or Issuer as a result of CUSTOMER's actions or omissions. SERVICERS will collect all other amounts due from CUSTOMER to SERVICERS, including but not limited to Card

Organization Based Fees. Discount Rate and other transaction fees set forth on the Fee Schedule, on a monthly basis, separately debited as provided herein. All credits to CUSTOMER's Settlement Account or other payments to CUSTOMER are provisional and are subject to (i) SERVICERS' final audit and confirmation, (ii) fees and fines imposed upon SERVICERS by a Card Organization or Issuer as a result of CUSTOMER's actions or omissions and (iii) any other obligations owed by CUSTOMER to SERVICERS.

Except as otherwise set forth in this Agreement, if SERVICERS receive CUSTOMER's Sales Drafts by the applicable cut off time established by SERVICERS, SERVICERS will initiate a transfer of applicable settlement funds, after receipt thereof from the Card Organizations, via ACH (or other payment system available from SERVICERS for these types of transfers) to CUSTOMER's Settlement Account. SERVICERS will generally initiate this transfer by the following Business Day after SERVICERS process the applicable transactions. Generally, the Settlement Account will be credited within two Business Days after SERVICERS' initiation of the transfer. Notwithstanding the foregoing, if CUSTOMER maintains its Settlement Account with BANK, the Settlement Account will generally be credited within one Business Day after SERVICERS' initiation of the transfer.

13.4 Settlement Amounts Subject to Adjustments. This Agreement is a contract whereby SERVICERS are extending financial accommodations to CUSTOMER within the meaning of Section 365(c) of the Bankruptcy Code. CUSTOMER's right to receive any amounts due or to become due from SERVICERS or SERVICERS' respective Affiliates, whether or not those amounts are related to this Agreement, is expressly subject and subordinate to Chargeback, setoff, lien, security interest and SERVICERS' rights to withhold settlement funds under this Agreement, without regard to whether such Chargeback, setoff, lien, security interest and the withholding of settlement funds rights are being applied to claims that are liquidated, unliquidated, fixed, contingent, matured or unmatured.

13.5 Suspension/Change in Payment Terms. In addition to any other remedies available to SERVICERS under this Agreement, CUSTOMER agrees that should any Event of Default (see Section 22) occur, SERVICERS may, with or without notice, change processing or payment terms and/or suspend credits or other payments of any and all funds, money and amounts now due or hereafter become due to CUSTOMER pursuant to the terms of this Agreement, until SERVICERS have had reasonable opportunity to investigate such event.

14. Fees; Adjustments; Collection of Amounts Due; Reconciliation.

14.1 Fees and Card Organization Charges. CUSTOMER will pay SERVICERS, within the times specified by SERVICERS, all the fees and charges for the Services calculated pursuant to the Fee Schedule, which includes fees that are in whole or in part based on (i) fees set by Card Organizations, including, without limitation, interchange fees ("**Card Organization Based Fees**"), (ii) fees set by Persons

related to the Services (together with Card Organization Based Fees, “**Third Party Based Fees**”), and (iii) fees that SERVICERS set. Fees will be charged for all authorization requests, whether or not approved, all Sales Drafts submitted for processing, all Credit Drafts and all Chargebacks. If a Card transaction does not qualify for the lowest interchange rate for which it is eligible, then that Card transaction will be downgraded and processed at a more costly interchange rate for which it qualifies. CUSTOMER will pay retroactive increased interchange fees for any Card transactions that a Card Organization determines did not qualify for the rates originally used.

CUSTOMER acknowledges that the fees stated herein are based upon the qualification of CUSTOMER's Card transactions for certain reduced interchange fees as set by the applicable Card Organizations. If a transaction fails to qualify for CUSTOMER's anticipated interchange levels or CUSTOMER inadvertently or intentionally accepts a Card transaction other than the type anticipated for its account (including a different Card type), then, as applicable to the pricing set forth in the Fee Schedule, CUSTOMER will be charged a higher interchange, Discount Rate or non-qualified interchange fee, as well any applicable surcharge for that transaction, all as set forth in the Fee Schedule.

14.2 Card Organization Fines, Assessments and Penalties. The fees for Services set forth in the Fee Schedule may be adjusted to reflect increases, or new fees imposed by Card Organizations, including without limitation, interchange, assessments and other Card Organization fees, or to pass through increases or new fees charged to SERVICERS by other Persons related to the Services. All such adjustments shall be CUSTOMER's responsibility to pay and shall become effective upon the date any such change or addition is implemented by the applicable Card Organization or other Person as specified in SERVICERS' notice. In addition, CUSTOMER will pay to SERVICERS all fines and penalties, including, but not limited to, any of the foregoing related to CUSTOMER's noncompliance with data security requirements or otherwise based on any CUSTOMER action or failure to act.

14.3 Payment of Fees, Charges and Other Amounts. SERVICERS may debit the Settlement Account for, or withhold from funds SERVICERS owe CUSTOMER under this Agreement, all amounts CUSTOMER owes SERVICERS under this Agreement. If the Settlement Account has insufficient funds, SERVICERS may, without advance notice, withdraw the funds CUSTOMER owes SERVICERS from any other account CUSTOMER maintains with SERVICERS (or their respective Affiliates) or to which CUSTOMER has granted SERVICERS access. If sufficient funds are not available from those sources, CUSTOMER must pay the amount of any deficiency immediately upon demand.

14.4 Third Party Based Fee Changes. SERVICERS will provide CUSTOMER with at least thirty (30) days' advance notice of any increased or new Third Party Based Fees. However, SERVICERS' ability to provide such notice depends on SERVICERS' receipt of timely notice from the applicable Persons, and in those instances SERVICERS may not be able to provide CUSTOMER with thirty (30)

days' notice. In any event, any increased or new Third Party Based Fees will become effective and CUSTOMER shall be responsible for paying them as of the date specified in the notice.

14.5 Fees for Supplies and Other Services. In addition to the other payments required in this Agreement, CUSTOMER agrees to pay SERVICERS for any other fees and charges and any special services or handling CUSTOMER requests or requires not covered in this Agreement. CUSTOMER also agrees to pay SERVICERS for amounts CUSTOMER owes to Persons that SERVICERS pay, for example, payments for leased or rented Merchant Equipment.

14.6 ACH Credits or Debits. To the extent the Automated Clearing House ("ACH") settlement process is used to effect debits or credits to CUSTOMER's Settlement Account, CUSTOMER agrees to be bound by the then-current terms of the operating rules of the National Automated Clearing House Association ("NACHA"). CUSTOMER hereby authorizes SERVICERS to initiate credit and debit entries and adjustments as permitted under this Agreement to CUSTOMER's account through the ACH network and/or through direct institutions to the financial institution where CUSTOMER's Settlement Account is maintained for amounts due under this Agreement and under any agreements with SERVICERS or SERVICERS' respective Affiliates for any related services, as well as for any credit entries in error. CUSTOMER hereby authorizes the financial institution where CUSTOMER's Settlement Account is maintained to effect all such credits and debits to CUSTOMER's account. This authority will remain in full force and effect until SERVICERS have given written notice to the financial institution where CUSTOMER's Settlement Account is maintained that all monies due under this Agreement and any other agreements with SERVICERS or SERVICERS' Affiliates for any related services have been paid in full.

14.7 Taxes, Installation & De-Installation. CUSTOMER agrees to pay any and all sales, use, excise, personal property, stamp, documentary and ad-valorem taxes, license and registration fees, assessments, fines, penalties and similar charges ("Taxes") imposed on the Services or the transactions contemplated by this Agreement. CUSTOMER also agrees to pay any and all Taxes imposed on the ownership, possession or use of the Merchant Equipment. CUSTOMER authorizes SERVICERS, or SERVICERS' respective assigns, to increase the amount of CUSTOMER's preauthorized payment to reflect any and all increases in all applicable Taxes. CUSTOMER further agrees to pay any and all costs associated with the installation and de-installation of Purchased Equipment. CUSTOMER is not responsible for any taxes imposed on SERVICERS based on SERVICERS' net income.

14.8 Duty to Review Statements. CUSTOMER must promptly and carefully review, statements and reports provided or made available to CUSTOMER (physically, electronically or otherwise) reflecting Card transaction activity, including, activity in the Settlement Account, whether provided by SERVICERS or Persons.

14.9 Duty to Notify SERVICERS of Discrepancies or Adjustments. If CUSTOMER believes any discrepancies exist or adjustments are needed with respect to any debits or credits effected by SERVICERS with respect to CUSTOMER's Settlement Account or for any amounts due to or due from CUSTOMER, or if CUSTOMER has any other questions or concerns regarding CUSTOMER's Card transactions that are processed and settled by SERVICERS or regarding any statement or report provided or made available by SERVICERS (physically, electronically or otherwise), CUSTOMER must notify BAMS in writing (i) within sixty (60) days after such debit or credit is effected, such transaction is processed and settled, or such statement or report is provided, or (ii) such shorter time as is provided in the terms and conditions covering that account. If CUSTOMER fails to notify BAMS within such time frame, SERVICERS will not be required to investigate the matter or effect any related adjustment, absent any willful misconduct by SERVICERS. If CUSTOMER notifies BAMS after such time period, SERVICERS may, in SERVICERS' discretion and at CUSTOMER's cost, investigate the matter addressed in CUSTOMER's notice, but SERVICERS will not have any liability to effect any related adjustment absent any willful misconduct by SERVICERS. Any voluntary efforts by SERVICERS to assist CUSTOMER in investigating such matters will not create any obligation to continue such investigation or any future investigation.

14.10 Electronic Statements. If CUSTOMER elects to receive statements via electronic mail or online via the Internet, then (a) CUSTOMER authorizes SERVICERS to deliver statements and reports, Card Organization and regulatory information and notices of change in terms that SERVICERS would typically include with paper statements and notifications to review them (collectively, "**Electronic Statements**") at a web-accessible location on SERVICERS' computer servers, to CUSTOMER electronically, (b) SERVICERS are not required to provide CUSTOMER with a paper copy of statements but SERVICERS may, in SERVICERS' sole discretion, do so at any time, (c) CUSTOMER may request a paper copy of CUSTOMER'S merchant account statement(s) from SERVICERS; however, a fee may apply for such request, and (d) Electronic Statements are part of the Services provided under this Agreement.

If CUSTOMER elects to receive Electronic Statements for its merchant account(s) via electronic mail ("e-mail"), CUSTOMER represents and warrants to, and covenants with, SERVICERS and agrees that: (i) CUSTOMER will disable any spam filter (or similar device or software that could prevent delivery of e-mail from to CUSTOMER) and add "@cedarcod.com" (the specific addressee portion will vary due to automation) (and such other e-mail address or domain that we may specify from time to time or from which CUSTOMER otherwise receives and Electronic Statement from SERVICERS) as a safe e-mail address or domain with respect to the e-mail account CUSTOMER designates for SERVICERS to send Electronic Statements; (ii) CUSTOMER is responsible for the accuracy and validity of all e-mail addresses provided by CUSTOMER and/or its agents; (iii) CUSTOMER will ensure that the e-mail account(s) designated for SERVICERS to send CUSTOMER Electronic Statements are under CUSTOMER's ownership or control and will be regularly accessible and actively monitored by CUSTOMER's authorized representatives; (iv) CUSTOMER will not share or permit to be known by any

Person not authorized to view Electronic Statements on CUSTOMER's behalf, or store as an "autofill" field on a web browser, any password or encryption key; (v) CUSTOMER will notify SERVICERS promptly if CUSTOMER has not received an Electronic Statement from SERVICERS in the time frame that CUSTOMER normally receives Electronic Statements from SERVICERS, but in no event later than five (5) Business Days after the close of the statement cycle; (vi) CUSTOMER will notify SERVICERS prior to any change of e-mail address(es) designated for receipt of Electronic Statements; (vii) Electronic Statements are subject to the reconciliation time frames described in Section 14.6 of the Agreement; and (viii) immediately after being transmitted from SERVICERS'S e-mail server, CUSTOMER will be solely responsible for preventing the disclosure, interception and viewing of Electronic Statements by any unauthorized Person or Person that is otherwise not in compliance with applicable law.

SERVICERS MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING CUSTOMER'S ACTUAL RECEIPT OF E-MAILED ELECTRONIC STATEMENTS THAT SERVICERS ATTEMPTS TO DELIVER TO CUSTOMER.

14.11 Duty Regarding Merchant Systems. CUSTOMER will be responsible for auditing, balancing, verifying and reconciling any out-of-balance condition within the Merchant Systems, and for notifying SERVICERS of any errors in the foregoing after receipt of the applicable report from SERVICERS. CUSTOMER will notify SERVICERS of all incorrect reports or output within two (2) Business Days after receipt of such reports or output. Within one (1) Business Day of the original transaction, CUSTOMER must balance each Location to the BAMS system for each business day that each Location is open. If CUSTOMER determines that transaction(s) have been processed in error, CUSTOMER will initiate the appropriate transaction for adjustment to correct the transaction in question. CUSTOMER is responsible for all applicable adjustment fees per applicable Card Organization.

15. Chargebacks.

15.1 Chargebacks Payable Immediately. CUSTOMER will pay SERVICERS the amount of each Card transaction that CUSTOMER submitted to SERVICERS for processing that is charged back to SERVICERS for any reason permitted by the Card Organization Rules. Each Chargeback to CUSTOMER is immediately due and payable by CUSTOMER.

15.2 Disputing Chargebacks. CUSTOMER may dispute a Chargeback as provided in the Card Organization Rules, including any requirements for timely submission. SERVICERS' obligation to CUSTOMER respecting Chargeback disputes is limited to permissible presentment of CUSTOMER's dispute to the appropriate Card Organization. SERVICERS will not engage in direct collection efforts against Cardholders on CUSTOMER's behalf.

15.3 Chargeback Fees. CUSTOMER will pay SERVICERS the fees associated with processing Chargebacks as provided in the Fee Schedule, without regard to whether the Chargeback is settled in CUSTOMER's favor or the Cardholder's favor. In addition, in the event the percentage of Chargebacks to CUSTOMER's merchant

account meets or exceeds the percentage considered excessive by the Card Organizations, CUSTOMER will pay SERVICERS any fees imposed on SERVICERS by the Card Organizations due to such excessive Chargebacks. The rate and the method of calculation for what each Card Organization considers excessive may be found in its Card Organization Rules. All fees related to processing Chargebacks, including any Excess Chargeback fees, are immediately due and payable to SERVICERS upon assessment.

16. Representations; Warranties and Covenants.

16.1 Without limiting any other warranties hereunder, CUSTOMER represents, warrants and covenants with SERVICERS and with the submission of each Sales Draft reaffirms, the following representations, warranties and/covenants:

- (i) each Card transaction is genuine and arises from a bona fide transaction, permissible under the Card Organization Rules and Applicable Law, by the Cardholder directly with CUSTOMER;
- (ii) each Card transaction represents a valid obligation for the amount shown on the Sales Draft, Preauthorized Order, or Credit Draft, and does not involve the use of a Card for any other purpose;
- (iii) each Card transaction represents an obligation of the related Cardholder for the amount of the Card transaction;
- (iv) the amount charged for each Card transaction is not subject to any dispute, set off or counterclaim;
- (v) each Card transaction amount is only for respective merchandise or services (including taxes, but without any surcharge) sold, leased or rented or other payments to CUSTOMER and, except for any delayed delivery or advance deposit Card transactions expressly authorized by this Agreement, that merchandise or service was actually delivered to or performed for the Cardholder entering into that Card transaction simultaneously upon CUSTOMER accepting and submitting that Card transaction for processing;
- (vi) with respect to each Card transaction, CUSTOMER has no knowledge or notice of any fact, circumstance or defense which would indicate that such Card transaction is fraudulent or not authorized by the related Cardholder or which would otherwise impair the validity or collectability of that Cardholder's obligation arising from that Card transaction or relieve that Cardholder from liability with respect thereto;
- (vii) each Card transaction is made in accordance with the terms of this Agreement and Applicable Law;
- (viii) each Sales Draft is free of any alternation not authorized by the related Cardholder;
- (ix) CUSTOMER has completed one Card transaction per sale; or one Card transaction per shipment of goods for which the Cardholder has agreed to partial shipments;
- (x) CUSTOMER is validly existing, in good standing and free to enter into this Agreement;
- (xi) all information provided to SERVICERS in support of this Agreement is true and correct;
- (xii) CUSTOMER is not doing business under a name or style not previously disclosed to SERVICERS;

- (xiii) CUSTOMER has not changed the nature of CUSTOMER's business, Card acceptance practices, delivery methods, return policies, or types of products or services sold requiring a different merchant category code under Card Organization Rules, in a way not previously disclosed to SERVICERS;
- (xiv) CUSTOMER will use the Services only for CUSTOMER's own proper business purposes and will not resell, directly or indirectly, any part of the Services to any Person;
- (xv) CUSTOMER has not filed a bankruptcy petition not previously disclosed to SERVICERS;
- (xvi) CUSTOMER owns and controls the Settlement Account, and no security interest or lien of any type in favor of a Person exists regarding the Settlement Account or any Card transaction;
- (xvii) CUSTOMER will not at any time during the term of this Agreement, or until all amounts due under this Agreement have been paid in full, grant or pledge any security interest or lien in the Settlement Account or transaction proceeds to any Person, without SERVICERS consent; and
- (xviii) CUSTOMER will use best efforts to seek appropriations, including any special appropriations, in order to fulfill its obligations for amounts due and owing to SERVICERS under this Agreement.

16.2 SERVICERS represent and warrant to CUSTOMER that:

- (i) SERVICERS will perform their obligations pursuant to this Agreement in accordance with the Applicable Law and the Card Organization Rules.
- (ii) SERVICERS are validly existing, in good standing and free to enter into this Agreement;

17. Retention of Records.

17.1 Unless prohibited by the Card Organization Rules, CUSTOMER will retain, for a period of at least eighteen (18) months from the date of the Card transaction or such other longer period as may be required by the Card Organization Rules, legible copies or images (electronically or otherwise) of CUSTOMER's Sales Drafts, Cardholder consents for Pre-Authorized Orders and Credit Drafts. CUSTOMER's obligation to retain records does not provide authority for CUSTOMER to retain Card magnetic stripe data.

17.2 CUSTOMER will submit to SERVICERS a legible copy or image of a Sales Draft, Cardholder consent for a Pre-Authorized Order or Credit Draft if any Issuer requests one. CUSTOMER's deadline for providing to SERVICERS a legible copy or image of the requested Sales Draft, Cardholder consent for a Pre-Authorized Order or Credit Draft is ten (10) days after the date of the Issuer's retrieval request, or as specified in the notice from SERVICERS. CUSTOMER acknowledges that CUSTOMER's failure to properly and timely respond to any retrieval request may result in a Chargeback.

18. System Testing and System Enhancements.

18.1 SERVICERS reserve the right to conduct testing of the Merchant Systems for a period of time reasonably necessary for them to meet SERVICERS', the Merchant Equipment manufacturers', any third party integrators' and the Card

Organizations' then-current applicable requirements. Throughout the term of this Agreement, if CUSTOMER changes or modifies the Merchant Systems for any reason, including but not limited to modifications to accommodate changes in Card Organization Rules or Applicable Law, CUSTOMER will immediately notify SERVICERS of such changes or modifications, and SERVICERS will have a reasonable amount of time to conduct certification testing of the Merchant Systems to verify that it meets SERVICERS', any third party integrator's and the Card Organizations' then-current applicable requirements. The first such standard re-certification will be performed by SERVICERS at no cost to CUSTOMER; however, subsequent re-certifications will be billed to CUSTOMER at SERVICERS' then-current hourly rate. Notwithstanding anything to the contrary, by conducting implementation or certification testing, SERVICERS do not guarantee that CUSTOMER's transactions will qualify at the lowest possible interchange level. CUSTOMER assumes all liability resulting from CUSTOMER's failure to notify SERVICERS of the changes or modifications or CUSTOMER's refusal to allow SERVICERS to conduct the implementation or certification testing.

18.2 If, after the effective date of this Agreement, CUSTOMER requests SERVICERS to perform or provide any system enhancements, custom reports, special files, terminal applications, related service enhancements or new services (collectively, "**System Enhancements**"), and SERVICERS agree to do so, these System Enhancements will be made in accordance with terms and conditions, including pricing, agreed to by the parties in writing.

19. Confidentiality.

19.1 CUSTOMER will treat this Agreement and information designated in writing as confidential supplied or otherwise made accessible by SERVICERS or SERVICERS' agents as confidential and will not disclose the same to any third parties except as provided herein, including: (i) information about the products, services, operations, procedures, customers, suppliers, sales, pricing, business plans and marketing strategies of SERVICERS, their Affiliates and the customers, clients and suppliers of any of them; (ii) any scientific or technical information, design, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords either SERVICER a competitive advantage over its competitors; (iii) user IDs, security codes, passwords, personal identification numbers, and other security devices and procedures for the Services or related thereto; (iv) all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, know-how, show-how and trade secrets, whether or not patentable or copyrightable; and (v) any other information we designate as confidential.

19.2 SERVICERS' confidential information shall be used by CUSTOMER only to exercise CUSTOMER's rights and to perform CUSTOMER's obligations hereunder. CUSTOMER shall not disclose the confidential information to any Person, except as may be agreed upon in writing by SERVICERS. CUSTOMER shall safeguard all of SERVICERS' confidential information using a reasonable degree of care, but not less than that degree of care used by it in safeguarding its own similar information or material. Upon request by

SERVICERS or upon termination of this Agreement, CUSTOMER shall return to SERVICERS or destroy all of SERVICERS' confidential information in its possession or control.

- 19.3 SERVICERS will keep confidential, in accordance with Applicable Law and the Card Organization Rules, any information received by SERVICERS from CUSTOMER or CUSTOMER's agents regarding CUSTOMER's use of the Services, including any relationship and transaction information; provided that SERVICERS may disclose such information (i) to Persons to the extent necessary to provide the Services, (ii) SERVICERS' respective auditors and attorneys (internal and external) and regulators, (iii) as required or permitted by Applicable Law and (iv) to SERVICERS' respective Affiliates as SERVICERS deem appropriate. CUSTOMER acknowledges and agrees that any information obtained by SERVICERS may be shared with SERVICERS' respective Affiliates, who have a need-to-know, in connection with the provision of the Services, as long as such Affiliates are under obligation to treat such information with the same degree of care as required of SERVICERS.
- 19.4 In addition to the information security provisions elsewhere in this Agreement, neither CUSTOMER nor SERVICERS will use, store, disclose, sell or disseminate any Cardholder data obtained in connection with a Card transaction (including the names, addresses and Card account numbers of Cardholders), except in accordance with the Card Organization Rules and Applicable Law (e.g., for purposes of authorizing, completing and settling Card transactions and resolving any Chargebacks, retrieval requests or similar issues involving Card transactions). The foregoing will not apply in the instance of a court or governmental request, subpoena or order. SERVICERS may use any Cardholder data for purposes associated with BANK's role as an Issuer if such Cardholder data is derived from a Card transaction in which the Card used was issued by BANK. Further, in accordance with the Operating Guide, Card Organization Rules and Applicable Law, SERVICERS may participate in sharing Cardholder data among SERVICERS' Affiliates, other financial institutions, regulatory authorities, law enforcement agencies and any other Persons authorized by the Card Organization Rules and Applicable Law. In addition, SERVICERS may participate in sharing Cardholder data with any Card Organization or its designee at the request of that Card Organization.
- 19.5 CUSTOMER acknowledges that it will not obtain ownership rights in any information relating to and derived from Card transactions. Cardholder account numbers, personal information and other Card transaction information, including any databases containing such information, may not be sold or disclosed to a Person as an asset upon a bankruptcy, insolvency or failure of CUSTOMER's business. Upon a bankruptcy, insolvency or failure of CUSTOMER's business, all Card transaction information must be returned to SERVICERS or acceptable proof of the destruction of all Card transaction information must be provided to SERVICERS.
- 19.6 The obligations of confidentiality and restrictions on use in this Section shall not apply to any confidential information that: (i) was in the public domain prior to the date of this Agreement or subsequently came into the public domain through no fault of the party that received such confidential information; (ii) was

received from a Person free of any obligation of confidence of the disclosing party and which Person, to the receiving party's knowledge, was not under an obligation to keep the information confidential; (iii) was already in the receiving party's possession prior to receipt from the disclosing party; (iv) is required to be disclosed by law, regulation or court order after giving the disclosing party as much advance notice as practical of the possibility of disclosure; or (v) is subsequently and independently developed by the receiving party's employees, consultants or agents without use of or reference to the disclosing party's confidential information.

- 19.7 CUSTOMER acknowledges that breach of the restrictions on use or disclosure of SERVICERS' confidential information would result in immediate and irreparable harm to the applicable SERVICER, and money damages would be inadequate to compensate for that harm. SERVICERS shall be entitled to equitable relief, in addition to all other available remedies, to redress any breach.
- 19.8 Except as specifically provided for herein, this Section does not confer any right, license, interest or title in, to or under SERVICERS' confidential information to CUSTOMER. Except as specifically provided for herein, no license is hereby granted to CUSTOMER under any patent, trademark, copyright, trade secret or other proprietary rights of SERVICERS, and CUSTOMER shall not assign to any Person the rights to use the Marks of SERVICER or its agents. All right, title, and interest in and to all intellectual property related to the Services (including, without limitation, the content of any materials, web screens, layouts, processing techniques, procedures, algorithms, and methods), owned, developed or licensed by SERVICERS prior to, during the term of, or after the Agreement, or employed by SERVICERS in connection with the Services and any updates, changes, alterations or modifications to or derivative works from such intellectual property, shall be and remain, as among the parties, SERVICERS' exclusive property.
- 19.9 CUSTOMER agrees that SERVICERS may obtain relevant information from any applicable telecommunications provider utilized by CUSTOMER, as necessary to investigate any allegation of fraud, suspected fraud or other actual or alleged wrongful act by CUSTOMER in connection with the Services.
- 19.10 Notwithstanding any contrary provisions in the controlling documents for any other accounts CUSTOMER has with BANK, BANK may share and exchange with BAMS and its respective Affiliates and agents information about CUSTOMER and those accounts in connection with the Services, and any services provided by TeleCheck Services, Inc., First Data Merchant Services Corporation, or any other SERVICERS of Services under this Agreement.
- 19.11 Notwithstanding the foregoing, SERVICERS acknowledge that CUSTOMER and JBE may be subject to the provisions of applicable state "open records" laws ("**Open Records Law**") and any other applicable state law, including California Rule of Court 10.500, and that under certain circumstances, CUSTOMER or JBE may be required to release a copy of this Agreement to a third party under the Open Records Law or other Applicable Law. With respect to Cardholder account numbers, personal information and other Card transaction information, CUSTOMER will not disclose such information to any

such requesting party, and may only disclose such information as otherwise required or permitted under Applicable Law or the Card Organization Rules.

20. Examinations, Audits and Corrective Action.

20.1 SERVICERS' Rights. SERVICERS or their respective designees will have the right, during the term of this Agreement and for one (1) year thereafter, upon reasonable advance written notice and during normal business hours, to conduct a review of the books, records, operations and Merchant Equipment of CUSTOMER, Merchant Providers and CUSTOMER's other third party service providers to determine or to verify CUSTOMER's and their compliance with CUSTOMER's obligations under this Agreement.

20.2 Card Organization and Investigation. CUSTOMER will, upon reasonable prior written notice from SERVICERS and as directed by any Card Organization, permit any Person acceptable to that Card Organization to examine and audit the records, operations and Merchant Systems relevant to such Card Organization. The scope, standards and frequency of the examinations and audits will be determined by the Card Organization requesting it. The results, including, but not limited to any written reports of such examinations and audits, must be made available to the Card Organization requesting it and SERVICERS. All expenses related to such examinations and audits will be paid by CUSTOMER, when SERVICERS make such request based on SERVICERS' good faith and reasonable belief that CUSTOMER may be in breach of this Agreement or CUSTOMER's conduct or operations may pose an undue risk to SERVICERS; provided, however, that; CUSTOMER shall not be obligated to pay such cost if SERVICERS' request is not based on, or the results of such audit do not validate, such a reasonable belief.

20.3 Remediation. CUSTOMER must promptly take corrective action acceptable to SERVICERS and the Card Organizations to rectify (i) any material failure to comply with this Agreement or any material problem identified in any report, examination or audit that could reasonably be expected to have an adverse impact on SERVICERS, Issuers, Card Organizations or Cardholders and (ii) any material control deficiencies identified in such report.

20.4 Regulatory Agencies. Notwithstanding anything to the contrary in Sections 19 (Confidentiality) and 24 (Information Security) of the Agreement, CUSTOMER agrees to provide reasonable access to Merchant Systems and CUSTOMER's facilities and records and those of Merchant Providers during normal business hours for examination purposes to any state or federal agencies with jurisdiction over SERVICERS or any Card Organization, upon SERVICERS' prior written request.

21. Assignment.

21.1 Any transfer or assignment of this Agreement (or any portion of it) by CUSTOMER without SERVICERS' prior written consent, or any transfer or assignment of this Agreement (or any portion of it) by a JBE without CUSTOMER'S and SERVICER'S prior written consent, by operation of law or otherwise, is voidable at either CUSTOMER'S OR SERVICER'S sole discretion, as applicable. In the event of such transfer or assignment, the party to whom the

Agreement was transferred or assigned shall be bound to the terms and conditions of this Agreement to the same extent as if SERVICERS and such assignee or transferee, as the case may be, entered into an agreement identical to this Agreement on the effective date of such transfer or assignment. Furthermore, CUSTOMER shall be liable to SERVICERS for all liabilities, Chargebacks, expenses, costs, fees and fines arising in connection with such transferee's or assignee's, as the case may be, submission of Card transactions to SERVICERS for processing. SERVICERS are not required to continue this Agreement after CUSTOMER's merger or reorganization with or into another entity without SERVICERS' prior written consent, which will not be unreasonably conditioned, withheld, or delayed. CUSTOMER agrees to provide SERVICERS with at least 30 days' prior written notice of CUSTOMER's intention to take any of those types of actions.

21.2 Upon notice to CUSTOMER, another Visa and MasterCard acquirer may be substituted for BANK under whose sponsorship this Agreement is performed. Upon substitution, such other Visa and MasterCard acquirer shall be responsible for all obligations required of BANK, including without limitation, as may be expressly required by applicable Card Organization Rules. Furthermore, subject to Card Organization Rules, any SERVICER may assign or transfer this Agreement and its respective rights and obligations hereunder and may delegate its respective duties hereunder, in whole or in part, to any Person, whether in connection with a change in sponsorship, as set forth in the preceding sentence, or otherwise, without the notice to or consent of CUSTOMER.

21.3 Except as provided in the following sentence, this Agreement shall be binding upon permitted successors and assigns and shall inure to the benefit of the parties and their respective permitted successors and assigns. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of a party's assets or business, shall have any right to continue or to assume or to assign this Agreement.

22. Term; Events of Default.

22.1 This Agreement and the applicable Supplements shall become effective upon the date this Agreement and the Supplements are signed by SERVICERS, which shall in all instances be on or after the date(s) CUSTOMER signs this Agreement and the applicable Supplements. CUSTOMER acknowledges and agrees that to the extent this Agreement does not represent a renewal or extension of a current agreement between the parties for the Services contemplated hereunder, CUSTOMER shall not process a "live", non-test Card transaction under this Agreement until such time as CUSTOMER has been approved by BAMS' credit department and BAMS and BANK have executed this Agreement.

22.2 This Agreement shall (i) remain effective through the initial term of three (3) years from the date of this Agreement and (ii) automatically renew for successive one (1) year terms until terminated by the parties thereto upon one

hundred and twenty (120) days' notice prior to the end of the then existing term. If CUSTOMER terminates this Agreement in accordance with the foregoing provision and continues to use the Services after the effective date of such termination, then CUSTOMER's termination shall be deemed rescinded and the Agreement shall remain in effect until subsequently terminated in accordance with the foregoing terms.

22.3 If any of the following events shall occur (each an "Event of Default"):

- (i) a material adverse change in the financial condition, business procedures, products or services of CUSTOMER; or
- (ii) irregular Card sales by CUSTOMER, excessive Chargebacks or any other circumstances which, in SERVICERS' sole discretion, may increase SERVICERS' exposure for CUSTOMER's Chargebacks or otherwise presents a financial or security risk to SERVICERS; or
- (iii) any representation, warranty or covenant of CUSTOMER in this Agreement is breached in any material respect or was or is incorrect in any material respect when made or deemed to be made; or
- (iv) CUSTOMER shall default in any material respect in the performance or observance of any term, covenant, condition or agreement contained in this Agreement, including, without limitation, (a) the Information Security requirements as detailed in Section 24 or (b) CUSTOMER's failure to pay SERVICERS for any amounts due and owing under this Agreement; or
- (v) CUSTOMER shall default in any material respect in the performance or observance of any term, covenant or condition contained in any agreement with any respective Affiliate of SERVICERS, including, but not limited to, any agreement governing check guarantee or check verification services; or
- (vi) CUSTOMER shall default in the payment when due, whether upon maturity or otherwise, of any material indebtedness for borrowed money or any material trade payable; or
- (vii) CUSTOMER shall: commence a voluntary case under the Bankruptcy Code; file a petition seeking to take advantage of any other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or entry into a composition agreement or similar arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against it in an involuntary case under such bankruptcy laws or other laws; apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign; generally become unable to pay its debts or trade obligations as they become due; make a general assignment for the benefit of creditors; or take any corporate action for the purpose of authorizing any of the foregoing; or
- (viii) a case or other proceeding shall be commenced against CUSTOMER, in any court of competent jurisdiction seeking relief under the Bankruptcy Code or under any other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts, the appointment of a trustee, receiver, custodian, liquidator or the like of CUSTOMER, or of all or any substantial part of the assets, domestic or

foreign, of CUSTOMER, and such case or proceeding shall continue undismissed or unstayed for a period of sixty (60) consecutive days, or an order granting the relief requested in such case or proceeding against CUSTOMER (including, but not limited to, an order for relief under the Bankruptcy Code) shall be entered;

then, upon the occurrence of (1) an Event of Default specified in subparagraphs (ii), (iv), (vii) or (viii) above, SERVICERS may consider this Agreement to be terminated immediately, without notice, and all amounts payable hereunder by CUSTOMER to SERVICERS shall be immediately due and payable in full without demand or other notice of any kind, all of which are expressly waived by CUSTOMER, and (2) any other Event of Default, this Agreement may be terminated by SERVICERS by giving not less than ten (10) days' notice to CUSTOMER, and upon such notice all amounts payable hereunder by CUSTOMER to SERVICERS shall be due and payable on demand.

22.4 Neither the expiration nor termination of this Agreement shall terminate the obligations and rights of the parties pursuant to provisions of this Agreement which by their terms are intended to survive or be perpetual or irrevocable, and such provisions shall survive the expiration or termination of this Agreement.

22.5 Upon the occurrence of any Event of Default, whether or not it is cured, SERVICERS may, in their sole discretion, exercise all of their rights and remedies under this Agreement and Applicable Law, including, without limitation, exercising their rights under Section 23.

22.6 This Agreement also may be terminated by SERVICERS without penalty, and with as much notice as is reasonably practicable under the circumstances, if in their reasonable discretion and in good faith, such termination is necessary for SERVICERS to comply with their obligations under any Applicable Law, rule or regulation including, but not limited to, the Office of Foreign Assets Control ("OFAC") Regulations and Card Organization Rules. SERVICERS' termination of this Agreement pursuant to this Subsection 22.6 shall not be deemed a breach of contract by SERVICERS.

22.7 If this Agreement is terminated by BANK for cause, CUSTOMER acknowledges that SERVICERS may be required to report CUSTOMER's business name and the names and other identification of its principals to the terminated merchant files maintained by the Card Organizations. CUSTOMER expressly agrees and consents to such reporting in the event CUSTOMER is terminated as a result of the occurrence of an Event of Default or for any reason specified as cause by a Card Organization. Furthermore, CUSTOMER agrees that SERVICERS will not be responsible for any claims which CUSTOMER may have as a result of such reporting as long as it was reported in accordance with the Card Organization Rules.

22.8 In addition to the provisions of the Agreement that survive termination, the terms and provisions governing CUSTOMER's obligations and liabilities and

SERVICERS' rights regarding the following matters will survive termination until all these matters are resolved or settled and all amounts owed to SERVICERS regarding these matters are fully and irrevocably paid: (i) processing and settlement of Card transactions, Sales Drafts and Credit Drafts, (ii) adjustments, (iii) all amounts due to SERVICERS under this Agreement, (iv) the resolution of any Chargebacks, disputes or other issues involving Card transactions, (v) Compromised Data Events and (vi) all SERVICERS' rights regarding CUSTOMER's breach of any of its agreements, representations, warranties, covenants or other obligations under this Agreement. In addition to the above and any terms and provisions which by their terms or nature survive termination, the terms and provisions of Sections 9, 14 through 21, inclusive, 23 through 31, inclusive, Subsection 22.6 and this Subsection 22.8 shall survive any termination of this Agreement. Upon termination of this Agreement, CUSTOMER agrees to immediately send SERVICERS all the data relating to Card transactions made up to the date of termination.

22.9 After termination of this Agreement for any reason whatsoever, CUSTOMER shall continue to bear total responsibility for all Chargebacks, fees, credits and adjustments resulting from Card transactions processed pursuant to this Agreement and all other amounts then due or which thereafter may become due to SERVICERS under this Agreement or which may be due to SERVICERS before or after such termination to either SERVICERS or any of SERVICERS' respective Affiliates for any related equipment or related services.

22.10 In the event CUSTOMER files for protection under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency assignment for the benefit of creditors or similar laws, and CUSTOMER continues to use the Services, it is CUSTOMER's responsibility to open new accounts to distinguish pre and post filing obligations. CUSTOMER acknowledge that as long as it utilizes accounts established prior to such filing, SERVICERS will not be able to systematically segregate CUSTOMER's post-filing transactions or prevent set-off of the pre-existing obligations. In that event, CUSTOMER will be responsible for submitting an accounting supporting any adjustments that CUSTOMER may claim.

22.11 In the event that CUSTOMER can confirm that SERVICERS failed to meet any of the SLA's in the Exhibit D (not including scheduled downtime if applicable) for two consecutive months or any three months in a calendar year, due solely to the acts or omissions of SERVICERS (each, an "SLA Failure"), CUSTOMER may terminate this Agreement, without penalty, by providing SERVICERS with written notice within thirty (30) days of the SLA Failure. Should CUSTOMER not exercise its right of termination during such thirty day period, such right shall be automatically rescinded and thereafter null and void until the occurrence of a future SLA Failure. Notwithstanding any provision in the Agreement to the contrary, CUSTOMER expressly acknowledges and agrees that an SLA Failure shall not constitute SERVICERS' breach of the Agreement, nor shall CUSTOMER have a right to bring any claim or action against SERVICERS under the Agreement on the basis of an SLA Failure.

CUSTOMER acknowledges and agrees that CUSTOMER's sole and exclusive remedy for a SLA Failure shall be termination of this Agreement, as expressly set forth herein.

22.12 This Agreement may be terminated by CUSTOMER upon thirty (30) days prior written notice and concurrent cure period in the event SERVICERS breach a material obligation under this Agreement.

23. Right of Set-off.

In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, SERVICERS are hereby authorized by CUSTOMER at any time and from time to time, without notice or demand to CUSTOMER or to any other Person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all such funds to be deposited into the Settlement Account against and on account of CUSTOMER's obligations to SERVICERS and their respective Affiliates under this Bankcard Addendum, and any other agreement with SERVICERS or any of SERVICERS' respective Affiliates, for any related equipment or related services (including any check guarantee and check verification services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. CUSTOMER agrees to duly execute and deliver to SERVICERS such instruments and documents as SERVICERS may reasonably request to confirm the right of set-off, recoupment and subordination set forth in this paragraph.

24. Information Security.

24.1 Data Protection. CUSTOMER must, and must ensure that Merchant Providers, have proper security measures in place for the protection of Cardholder data, and comply with the Data Security Standards adopted by the PCI Security Standards Council, LLC.(as amended, the "PCI DSS"), which may be reflected in the Visa Cardholder Information Security Program ("CISP"), the MasterCard Site Data Protection Program ("SDP") and Discover Network's Information and Security Compliance ("DISC"), in addition to all other Card Organization Rules, now or in the future. Additional information regarding the CISP, SDP programs and DISC is available at the Visa web site, www.visa.com/cisp, the MasterCard web site, www.mastercard.com/banksdp/, Discover Network's web site, www.DiscoverNetwork.com/fraudsecurity/disc.html, and at the PCI DSS web site: <http://www.PCISecurityStandards.Org>, as those links may be updated by such parties, respectively, from time to time. In addition, when available, CUSTOMER must use only services and Merchant Equipment that have been certified as PCI DSS compliant by the Card Organizations. CUSTOMER must have written agreements with Merchant Providers requiring such compliance. CUSTOMER is responsible for demonstrating CUSTOMER's and Merchant Providers' compliance with the CISP, SDP, DISC, and PCI DSS programs and providing SERVICERS or SERVICERS' designee with reasonable access to CUSTOMER's Locations and facilities, and ensuring that Merchant Providers provide reasonable access to their facilities, to verify CUSTOMER's and Merchant Providers' ability to prevent security violations.

24.2 Controls. CUSTOMER must, and must ensure that all Merchant Providers, have, maintain, and use at all times proper controls as specified in the Card Organization Rules and Applicable Law for secure storage of, limited access to, and rendering unreadable prior to discarding, all records containing Cardholder data, Card imprints and Cardholder signatures. CUSTOMER must not retain or store magnetic stripe or PIN data or Card Validation Codes after a transaction has been authorized. If CUSTOMER stores any electronically captured Cardholder signature, CUSTOMER may reproduce such signature only upon SERVICERS' request.

24.3 Costs. In addition to CUSTOMER's obligations as set forth in Sections 27 (Responsibility of the Parties) and 14 (Fees; Adjustments; Collection of Amounts Due; Reconciliation) of this Agreement, if CUSTOMER or a Merchant Provider (or other Person used by CUSTOMER) is determined by any Card Organization, regardless of any forensic analysis or report, to be the likely source of any loss, disclosure, theft or compromise of Cardholder data or Card transaction information (together, "**Compromised Data Event**") and regardless of CUSTOMER's belief that CUSTOMER has complied with the Card Organization Rules and Applicable Law or any other security precautions and is not responsible for the Compromised Data Event, CUSTOMER must promptly pay SERVICERS for actual expenses, claims, assessments, fines, losses, costs, and penalties and Issuer reimbursements imposed by the Card Organizations against SERVICERS (together, "**Data Compromise Losses**").

24.4 Intentionally deleted.

24.5 Compromised Data Event Appeals. If SERVICERS are permitted under the Card Organization Rules to contest or appeal any Compromised Data Event or Data Compromise Losses which CUSTOMER is obligated to pay SERVICERS under this Section 24 (each, a "Permitted Appeal"), CUSTOMER will be given the opportunity to advise whether or not CUSTOMER wishes SERVICERS to file a Permitted Appeal with each of the applicable Card Organizations. If CUSTOMER requests SERVICERS to file a Permitted Appeal with each applicable Card Organization, CUSTOMER will not be obligated to pay such related Data Compromise Losses while such Permitted Appeal(s) is(are) pending with such Card Organization(s), and all related costs for such Permitted Appeal(s) will be paid by CUSTOMER. If any such Permitted Appeal results in a decision of the applicable Card Organization that (i) SERVICERS are no longer obligated to pay the related Data Compromise Losses to such Card Organization, then CUSTOMER will not be obligated to pay such Data Compromise Losses to SERVICERS; (ii) SERVICERS' obligation to such Card Organization for such Data Compromise Losses is reduced, then CUSTOMER's obligation to SERVICERS for such claim or amount shall likewise be reduced or (iii) SERVICERS' obligation to such Card Organization is affirmed and unchanged, then CUSTOMER's obligation to SERVICERS for such claim or amount shall likewise be affirmed and unchanged. With respect to the decision by the applicable Card Organization of any Permitted Appeal described in clause (ii) or (iii) of the preceding sentence, CUSTOMER shall pay to SERVICERS the amount due for the related Data Compromise Losses within twenty (20) days of SERVICERS' notification of the decision regarding such Permitted Appeal and demand for payment therefor. The decision by the applicable Card Organization

regarding a Permitted Appeal to that Card Organization is final. This section 24.5 will not relieve the CUSTOMER of its obligations to SERVICERS under Section 24.3 hereof for any Compromised Data Events or Data Compromise Losses that cannot be or are not appealed under applicable Card Organization Rules.

24.6 Notice of Data Breach. CUSTOMER will (i) notify SERVICERS of any suspected, alleged or confirmed Compromised Data Event, regardless of the source, including any from any Merchant Provider, and (ii) engage, at CUSTOMER's expense, a certified forensic vendor acceptable to SERVICERS and the Card Organizations no later than the time required by a Card Organization, which may be no longer than 24 hours following CUSTOMER's suspected or actual discovery of that Compromised Data Event. If required by a Card Organization, SERVICERS will engage a forensic vendor approved by a Card Organization. CUSTOMER must cooperate with the forensic vendor so that it may immediately conduct an examination of Merchant Equipment, Merchant Systems, and CUSTOMER's and Merchant Providers' procedures and records and issue a written report of its findings. CUSTOMER agrees that upon CUSTOMER's suspected or actual discovery of a Compromised Data Event, CUSTOMER will not alter or destroy any related records. CUSTOMER agrees to maintain complete and accurate documentation regarding any modifications made to the records. CUSTOMER will share with SERVICERS information related to CUSTOMER's or any Card Organization's investigation related to any actual or suspected Compromised Data Event (including, but not limited to, forensic reports and systems audits), and SERVICERS may share that information with Card Organizations.

24.7 System Scans. Upon notice to CUSTOMER, SERVICERS or SERVICERS' respective representatives may conduct remote electronic scans of Merchant Systems, similar to those conducted under the PCI DSS, to confirm compliance with the requirements of the PCI DSS and similar requirements of the Card Organizations. CUSTOMER must promptly cooperate with SERVICERS to facilitate the scans.

24.8 Increased Fees for Non-Compliance. In addition to any other permitted action, if SERVICERS determine that CUSTOMER is not in compliance with any of the data security requirements imposed by this Agreement, and CUSTOMER has not cured such non-compliance within thirty (30) days following notice from SERVICERS, the fees for authorizing and processing transactions under this Agreement may be increased by 15% (in addition to CUSTOMER's obligation to reimburse SERVICERS for any Data Compromise Losses and Issuer Costs) until such time as SERVICERS are satisfied that CUSTOMER has adequately corrected such noncompliance or CUSTOMER demonstrates that CUSTOMER has adequately corrected the noncompliance as evidenced by an independently produced report of compliance provided in accordance with Card Organization procedures.

24.9 SERVICER Requirements. SERVICERS must comply with all applicable Card Organization Rules, including without limitation, those related to PCI DSS. SERVICERS may in their sole discretion, suspend or terminate Services under this Agreement for any Compromised Data Event.

25. Compliance with Applicable Law. In performing its obligations under this Agreement, the parties agree to comply with all Applicable Law. To the extent that CUSTOMER'S obligations under this Agreement would cause CUSTOMER to violate any Applicable Law, CUSTOMER'S obligation to comply with such Applicable Law will prevail. CUSTOMER shall be solely responsible for (i) determining which laws and regulations apply to their activities under this Agreement and (ii) maintaining compliance with all Applicable Law. CUSTOMER further agrees to cooperate with, and to provide information requested by, any SERVICER as such SERVICER deems necessary to facilitate its compliance with all Applicable Law. CUSTOMER must not use the Services for transactions prohibited by Applicable Law or the Card Organization Rules, such as those prohibited for alcoholic beverages, tobacco products, gambling, Internet gambling (for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq., as may be amended from time to time), drugs, weapons, adult-content material, or adult web sites, services or entertainment.

26. Financial and Other Information.

To the extent CUSTOMER's financial statements are not publicly available, CUSTOMER agrees to provide SERVICERS with such annual and quarterly financial statements as are available to the public through the California State Controller's Office. Upon reasonable notice and request, CUSTOMER shall provide to PROVIDER or their representatives or our regulators reasonable access to CUSTOMER's facilities and records for the purpose of performing any inspection and/or copying of CUSTOMER's books and/or records associated with the Card transactions contemplated in this Agreement.

27. Responsibility of the Parties.

27.1 Subject to any agreement between CUSTOMER and SERVICERS regarding settlement of a Claim, CUSTOMER agrees to reimburse each SERVICER, and its Affiliates, agents, subcontractors, employees directors and officers, for amounts awarded by a court of competent jurisdiction in a final judgment and following all appeals (and excluding attorney's fees and costs except pursuant to statute), for all Claims brought against such SERVICER, and all related Losses, to the extent such Claims result from: (a) any material misrepresentation by CUSTOMER under this Agreement; or (b) any gross negligence or willful misconduct of CUSTOMER, its employees, or agents in connection with CUSTOMER's Card transactions. The provisions of this Section 27.1 shall not relieve the CUSTOMER from its other obligations to the SERVICERS under this Agreement.

27.2 SERVICERS agree to defend, indemnify and hold harmless CUSTOMER from and against all Claims brought against CUSTOMER, and all related Losses, to the extent such Claims result from: (a) any breach of any warranty, covenant or obligation of SERVICERS under this Agreement; (b) any misrepresentation by SERVICERS under this Agreement; or (c) any infringement or misappropriation of any patent, copyright, trademark, service mark, trade secret or other proprietary right (collectively, "**Intellectual Property Rights**") of a third party by the BAMS Systems or the Services; provided that the foregoing shall not apply to that portion (and only that portion) of any such Claim that is caused by, results

from or arises out of (i) CUSTOMER's failure to use the BAMS Systems or the Services as required under this MSA, (ii) CUSTOMER'S configuration, modification or use of the BAMS Systems or the Services in combination with other products or services (including software, equipment or systems) that are not provided by SERVICERS, and that combination creates a process or method that is the causation for the infringement or misappropriation, (iii) SERVICERS' use of any designs, artwork, concepts, specifications or other materials provided by or on behalf of CUSTOMER in connection with this MSA or (iv) SERVICERS' custom development of the BAMS Systems or the Services, or other actions taken by SERVICERS with respect to the BAMS Systems or the Services, at CUSTOMER's request (the Claims (or portions of Claims) referred to in the foregoing clauses (i), (ii), (iii) and (iv) are herein referred to collectively as the "**Excluded Claims**"). Furthermore, if SERVICERS determine that any portion of the BAMS Systems or the Services likely infringes or misappropriates a third party's Intellectual Property Rights, or that it is otherwise in SERVICERS' best interests to reduce or avoid the risk of an actual or potential infringement or misappropriation of a third party's Intellectual Property Rights, then SERVICERS, at their option and expense, may either: (A) obtain the right for CUSTOMER to continue using the infringing or misappropriating portion of the BAMS Systems or the Services; (B) modify the infringing or misappropriating portion of the BAMS Systems or the Services to make it non-infringing or non-misappropriating; (C) replace the infringing or misappropriating portion of the BAMS Systems or the Services with a non-infringing or non-misappropriating equivalent; or (D) terminate either the applicable Addendum or the MSA in its entirety upon written notice to CUSTOMER, and without further liability to CUSTOMER hereunder. The obligations of SERVICERS set forth in this Section 4.2(d) are CUSTOMER's sole and exclusive remedies with respect to any and all Claims made by a third party against CUSTOMER relating to the infringement or misappropriation of such third party's Intellectual Property Rights by the BAMS Systems or the Services.

- 27.3 In the event of any legal action or claim with any third parties concerning any transaction or event in which a claim for reimbursement or indemnification against a party may be made under this Agreement, the party to be reimbursed or indemnified hereunder (the "**reimbursed party**") agrees to: (a) promptly notify the reimbursing party hereunder (the "**reimbursing party**") of the legal action or claim, (b) reasonably cooperate with the reimbursing party in the making of claims or defenses, and (c) provide information, assist in the resolution of the legal action or claim and make available at least one employee or agent who can testify regarding said claim or defenses. In the case of the CUSTOMER as the reimbursed party, to the extent applicable, the reimbursing party shall, upon written notice from the CUSTOMER, immediately undertake the defense of any such legal action or claim with counsel reasonably satisfactory to the CUSTOMER. In the case of the SERVICERS or any of them as the reimbursed party, SERVICERS may request CUSTOMER to undertake defense of any such legal action or claim, and CUSTOMER, in its sole discretion may refuse or accept such defense in its sole discretion, with counsel reasonably satisfactory to SERVICERS. In any event the reimbursing party shall be entitled to direct the defense and settlement thereof with

counsel reasonably satisfactory to the reimbursed party; provided, however, that the reimbursing party shall not compromise or settle any claim or action affecting the reimbursed party to the extent that it involves more than the payment of money by the reimbursing party hereunder without the reimbursed party's written consent.

28. Warranties; Limitation on Liability; Exclusion of Consequential Damages.

28.1 Disclaimer of Warranties. THIS AGREEMENT IS AN AGREEMENT FOR THE SERVICES AND EXCEPT AS EXPRESSLY PROVIDED HEREIN, SERVICERS AND THEIR RESPECTIVE AFFILIATES DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO CUSTOMER OR ANY OTHER PERSON, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE (REGARDLESS OF ANY COURSE OF DEALING, CUSTOM OR USAGE OF TRADE) OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THIS AGREEMENT.

28.2 Limitation of Liability. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, SERVICERS' CUMULATIVE LIABILITY, IN THE AGGREGATE (INCLUSIVE OF ANY INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT, WHETHER SUCH CLAIMS ARE RELATED OR UNRELATED TO ONE ANOTHER) FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES, OR DAMAGES FOR ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS AGREEMENT) AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY SHALL NOT EXCEED THE GREATER OF, (I) \$1,000,000; OR (II) THE AMOUNT OF FEES (OTHER THAN THIRD PARTY BASED FEES) RECEIVED BY SERVICERS PURSUANT TO THIS AGREEMENT FOR THE SERVICES IN THE IMMEDIATELY PRECEDING 12 MONTHS.

28.3 Exclusion of Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER SERVICER OR ITS AFFILIATES BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL THEORY FOR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER ANY PARTY OR ANY ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGES AND AGREES THAT PAYMENT OF ANY LIQUIDATED DAMAGES AS PROVIDED ELSEWHERE IN THIS AGREEMENT SHALL NOT BE PROHIBITED BY THIS PARAGRAPH.

29. Independent Contractor; Subcontractors; Third Party Beneficiaries. The parties are independent contractors. No party shall have any authority to bind any other party. SERVICERS may engage, subcontract with or use its Affiliates and/or other Persons (as hereinafter defined) to provide Services and perform any of its obligations

under this Agreement. SERVICERS' respective Affiliates and any Persons used by SERVICERS in providing the Services are third party beneficiaries of this Agreement and each of them may enforce its provisions as it was a party hereto. Except as expressly provided in this Agreement, nothing in this Agreement is intended to confer upon any Person, any rights or remedies, and the parties do not intend for any Persons to be third-party beneficiaries of this Agreement.

30. Publicity. Neither party will initiate publicity or advertising relating to the other party or this Agreement without the prior written approval of the other, except that either party may make disclosures required by legal, accounting or regulatory requirements, and except as necessary to provide information to JBEs regarding the Services contemplated herein.

31. Force Majeure. No party hereto shall be held responsible for any delays in or failure or suspension of service caused, directly or indirectly, by mechanical or power failure, computer malfunctions (including, without limitation, software, hardware and firmware malfunctions), failure, delay or error in clearing or processing a transaction through the ACH Network or Federal Reserve system, if applicable, the nonperformance, delay or error by a third party or in any other third party system (other than any Merchant Provider or Merchant Provider system) for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications, transmission links or other equipment; any outbreak or escalation of hostilities, war, riots, terrorism or civil disorders in any country; strikes, labor difficulties, fire, inability to operate or obtain service for its equipment, unusual delays in transportation, earthquake, fire, flood, elements of nature or other acts of God, any act or omission of the other party or any government authority, or other causes reasonably beyond the control of such party. The foregoing shall not apply with respect to CUSTOMER's obligation to make any payment due to SERVICERS pursuant to this Agreement.

32. Choice of Law and Venue. This Agreement will be governed by the laws respecting national banks and, to the extent not so covered, by the laws of the State of California without regard to conflicts of law provisions. If any part of this Agreement is not enforceable, the remaining provisions still remain valid and enforceable. To the extent permitted under Applicable Law, the exclusive venue for any actions or claims arising under or related to this Agreement shall be in the courts of the State of California, and each party submits to the jurisdiction of those courts in connection with such actions or claims. To the extent permitted under Applicable Law, CUSTOMER expressly waives its sovereign immunity with respect to actions or claims arising under this Agreement, and consents to the resolution of such actions or claims in the courts specified in the foregoing sentence.

33. Waiver of Jury Trial. To the extent permitted by Applicable Law, CUSTOMER and SERVICERS waive any right to trial by jury in any action or proceeding regarding any litigation related to this Agreement, and agree that any such actions or proceedings will be tried by a judge without a jury.

34. Intentionally deleted.

35. Notices. Except as otherwise specifically provided, all notices and other communications required or permitted hereunder (other than those involving normal operational matters relating to the Services) shall be in writing, shall be sent by mail, if to CUSTOMER at the address appearing on the first page of this Agreement, if to BAMS, at the following address: Banc of America Merchant Services, LLC, 1307 Walt Whitman Road, Melville, New York 11747, Attention: Executive Vice President Operations, with a copy to Attention: General Counsel's Office, 150 N. College Street; Mail Code NC1-028-15-01; Charlotte, NC 28213, and if to BANK, 1231 Durrett Lane, Louisville, KY 40213, Attention: Operations Manager, with a copy to BANK's Legal Department-Merchant Services Group, at Bank of America, N.A., Bank of America Plaza, 101 South Tryon Street, Mail Code: NC1-002-29-01, Charlotte, North Carolina, 28255-0001. Any such notices shall be deemed to have been given when received. Notice given in any other manner shall be effective when actually received.

36. IRS Reporting Information. Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities (like BANK) and third party settlement organizations are required to file an information return reflecting all payment card transactions and third party network transactions occurring in a calendar year. This requirement applies to returns for calendar years after December 31, 2010. Accordingly, CUSTOMER will receive a form 1099-k reporting CUSTOMER's gross transaction amounts for each prior calendar year, beginning with transactions processed in calendar year 2011.

In addition, amounts payable under Section 6050W are subject to backup withholding requirements. Payors are required to perform backup withholding by deducting and withholding income tax from reportable transactions if (a) the payee fails to provide the payee's taxpayer identification number (TIN) to the payor, or (b) if the IRS notifies the payor that the TIN (when matched with the name) provided by the payee is incorrect. Accordingly, to avoid backup withholding, it is very important that CUSTOMER provides BANK with the correct name and TIN that CUSTOMER uses when filing its income tax return that includes the transactions for CUSTOMER's business.

37. Severability. The parties intend every provision of this Agreement to be severable. If any part of this Agreement is not enforceable, the remaining provisions shall remain valid and enforceable. In such case, the parties will in good faith modify or substitute a provision consistent with their original intent. If any remedy fails of its essential purpose, then all other provisions, including the limitations on liability and exclusion of damages, will remain fully effective.

38. Entire Agreement; Waiver. This Agreement constitutes the entire agreement between the parties with respect to the subject matter, supersedes any previous agreements and understandings and, except as provided in other Sections of this Agreement, can be changed only by a written agreement signed by all parties. Throughout this Agreement, where appropriate, singular terms include the plural and the plural includes the singular and the words "will" and "shall" are used interchangeably and have the same meaning. Headings are for convenience and reference only, and shall not in any way affect the meaning or construction of any provision of this Agreement. Purchase orders, requests for production, pre-printed terms or other

CUSTOMER-generated documents that SERVICERS may receive are for administrative convenience only and do not modify this Agreement and are expressly rejected by SERVICERS.

A waiver by any of the parties of any of the covenants, conditions, or agreements to be performed by the other or any breach thereof will not be construed to be a waiver of any succeeding breach or of any other covenant, condition or agreement contained in this Agreement. No waiver will be effective unless made in writing by the party against whom it is being enforced.

39. Survival. This Section 39, Sections 14-21 (inclusive), Section 22.8, Sections 23-30 (inclusive), and Sections 32-39 (inclusive) will survive termination of this Agreement.

40. Counterparts; Electronic Originals. This Agreement and any Supplements hereto may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement or any Supplement, by facsimile or other electronic means, shall be effective as delivery of a manually executed counterpart of this Agreement or any Supplement.

41. Card Organization Disclosure

Member Bank Information: Bank of America, NA

The BANK's mailing address is 1231 Durrett Lane, Louisville, KY 40213 and its phone number is 800-430-7161.

Important Member Bank Responsibilities

- (a) The BANK is the only entity approved to extend acceptance of Visa and MasterCard products directly to a Merchant
- (b) The BANK must be a principal (signer) to this Agreement.
- (c) The BANK is responsible for educating Merchants on pertinent Card Organization Rules with which Merchants must comply; but this information may be provided to CUSTOMER by BANK.
- (d) The BANK is responsible for and must provide settlement funds to the CUSTOMER in accordance with the terms of this Agreement.
- (e) The BANK is responsible for all funds held in reserve that are derived from settlement.

Important Merchant Responsibilities

- (a) Ensure compliance with Cardholder data security and storage requirements.
- (b) Maintain fraud and Chargebacks below Card Organization thresholds.
- (c) Review and understand the terms of the Agreement.
- (d) Comply with Card Organization Rules.

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The parties hereto have caused this Agreement to be executed by their duly authorized officers. **THIS AGREEMENT IS NOT BINDING UPON SERVICERS UNTIL SIGNED BY SERVICERS.**

JUDICIAL COUNCIL OF CALIFORNIA
("CUSTOMER")

By: _____

Name: Stephen Saddler
(Please Print or Type)

Title: Manager, Business Services

Date: 5/14/15

BANK OF AMERICA, N.A.
("BANK")

By: **BANC OF AMERICA MERCHANT SERVICES, LLC,**
PURSUANT TO A LIMITED POWER OF ATTORNEY

By: _____
Name: Ed Sykes
(Please Print or Type)

Title: SVP

Date: 4/27/15

BANC OF AMERICA MERCHANT SERVICES, LLC
("BAMS")

By: _____

Name: Ed Sykes
(Please Print or Type)

Title: SVP

Date: 4/27/15

ANNEX 1

The following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Acquirer” means Bank, in the case of MasterCard, Visa and certain debit Card transactions, and Processor, in the case of Discover Card and DNP Card Types transactions.

“Affiliate” means a Person that, directly or indirectly, (i) owns or controls a party to this Agreement or (ii) is under common ownership or control with a party to this Agreement.

“Agreement” means, collectively, this Agreement (including the Supplements) and the Operating Guide, as each may be amended from time to time.

“Applicable Law” means all federal, state and local statutes, ordinances, laws, regulations and executive, administrative and judicial orders applicable to this Agreement, the transactions or other matters contemplated under this Agreement (including, without limitation, the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury), and all amendments thereto.

“Authorization” means an approval by, or on behalf of, the Issuer to validate a Card transaction. An Authorization indicates only the availability of the Cardholder’s credit limit or funds at the time the Authorization is requested.

“BAMS Software” means Software licensed to CUSTOMER by BAMS, including any third party Software BAMS sublicensed to CUSTOMER.

“BAMS Systems” means any and all Card-related information reporting, operating and processing systems used by BAMS or Persons on BAMS’ behalf, including, without limitation, hardware, BAMS Software, related documentation, technical formats and specifications, technical and business information related to inventions, present and future products and product lines, intellectual property, know-how, and any other information that is identified as BAMS’ systems, whether owned by BAMS or Persons used by BAMS.

“Bankruptcy Code” means title 11 of the United States Code, as amended from time to time.

“Business Day” means Monday through Friday, excluding Bank holidays.

“Card” - See either Credit Card or Debit Card.

“Cardholder” means a Person whose name is embossed on the Card (or Debit Card, as applicable) and any authorized user of such Card.

“Card Organization” means any entity formed to administer and promote Cards, including without limitation Visa U.S.A., Inc. (“**Visa**”), MasterCard International Incorporated (“**MasterCard**”) and DFS Services LLC (“**Discover**”), and any applicable Debit Networks

“Card Organization Rules” means the rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Card Organization and related authorities, including without limitation, those of the PCI Security Standards Council, LLC and the National Automated Clearing House Association (including, with respect to EBT, the Quest Operating Rules and with respect

to PIN debit Cards, the rules, regulations, policies and procedures of the applicable Debit Network).

“Card Validation Codes” means a three-digit value printed in the signature panel of most Cards and a four-digit value printed on the front of an American Express Card. Visa’s Card Validation Code is known as CVV2; MasterCard’s Card Validation Code is known as CVC2; Discover’s Card Validation Code is known as a CID. Card Validation Codes are used to deter fraudulent use of an account number in a non-face-to-face environment (e.g., mail orders, telephone orders and Internet orders).

“Chargeback” means a Card transaction (or disputed portion thereof) that is returned to SERVICERS by the Issuer, the liability of which is the CUSTOMER’s responsibility.

“Claim” means any claim, demand, suit, action, cause of action or proceeding of any form, kind or nature (including contract claims and negligence and other tort claims) brought or initiated by a third party.

“Credit Card” means a valid device bearing the Marks of Visa, MasterCard, Discover or a DNP Card Organization and authorizing the Cardholder to buy goods or services on credit and, to the extent the Supplements so provide, a valid device authorizing the Cardholder to buy goods or services on credit and issued by any other Card Organization specified on such Supplements.

“Credit Draft” means a document evidencing the return of merchandise by a Cardholder to CUSTOMER, or other refund or price adjustment made by the CUSTOMER to the Cardholder, whether electronic, paper or some other form, all of which must conform to Card Organization Rules and Applicable Law.

“Debit Card” - See either PIN Debit Card or Non-PIN Debit Card.

“Debit Network” means the telecommunications and processing system of a shared electronic funds transfer network.

“Discount Rate” means a percentage rate and/or amount charged a merchant for processing its qualifying daily Credit Card and Non-PIN Debit Card transactions, as further described in Subsection 14.1 of this Agreement and in the Fee Schedule. Transactions that fail to meet applicable interchange requirements will be charged additional amounts as set forth in Subsection 14.1 of this Agreement and the Fee Schedule.

“Electronic Benefits Transfer” (“EBT”) means the electronic transfer of government benefit funds to individuals through the use of Card technology with point of sale terminals, as further described in the applicable Addenda.

“EBT Network” means a shared electronic funds transfer network that is used by its members to assist government agencies in the distribution of benefits to eligible Recipients, whether such benefits are for the delivery of services or the transfer of funds or information.

“Electronic Commerce Transaction” (“ECT”) means a Card transaction that occurs on the Internet, as further described in Section 7.

“Fee Schedule” means the fee schedules provided with this Agreement, including, without limitation, Schedule A and any attachments thereto, and all additions or changes SERVICERS make to them, whether contained in updated versions or in separate communications.

“Imprinter” means a manual or electric machine used to physically imprint the merchant’s name and ID number as well as the Cardholder’s name and Card number on Sales Drafts.

“Issuer” means the Card Organization or its financial institution member that has provided a Card presented to CUSTOMER by a Cardholder for a Card transaction.

“Judicial Branch Entity” or “JBE” means any entity that is a part of the State of California state judicial system which is authorized by CUSTOMER to obtain Services from SERVICERS as provided herein.

“Location” means a physical location, internet address, division, processing method or business activity for which (i) CUSTOMER has requested and SERVICERS have approved the assignment of a unique merchant account number or (ii) SERVICERS have otherwise determined a unique merchant account number is required and have assigned it.

“Losses” means any liability, obligation, loss, damage, judgment, settlement, cost or expense of any kind or nature (including attorneys’ fees, expert witness fees and collection costs), regardless of whether suit is brought, and any assessment, fee or fine imposed by any Card Organization.

“Magnetic Stripe” means a stripe of magnetic information affixed to the back of a plastic Credit or Debit Card. The Magnetic Stripe contains essential Cardholder and account information.

“Marks” means names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.

“Merchant Equipment” means any and all equipment CUSTOMER uses in connection with Card authorization, clearing, completing, settling, transmitting or other related processing, including, without limitation, all telecommunication lines and wireless connections and Software (excluding BAMS Software), Purchased Equipment and Merchant Systems, Terminals, card readers, merchandise and card scanners, printers, PIN pad devices and other hardware, whether owned by CUSTOMER, Merchant Providers or other Persons used by CUSTOMER.

“Merchant Provider” means any Person engaged by CUSTOMER to provide services to CUSTOMER involving or relating to (i) access to Cardholder data, transaction data or information related to either Cardholder data or transaction data or (ii) PIN encryption, including without limitation, Encryption Service Organizations (ESOs). “Merchant Provider” also includes any corporate entity or franchisor that provides or controls a centralized or hosted network environment irrespective of whether Cardholder data is being stored, transmitted or processed through it.

“Merchant Systems” means any and all Card acceptance and processing systems used by CUSTOMER (except BAMS Systems), including, without limitation, Software (except BAMS Software), related documentation, technical formats and specifications, technical and business information related to inventions and present and future products and product lines, intellectual property, know-how, and any other information that is identified as CUSTOMER’s systems, whether owned by CUSTOMER or Merchant Providers or other Persons used by CUSTOMER.

“Non-PIN Debit Card” means a device with a Visa, MasterCard, Discover or other Card Organization Mark that is tied to a Cardholder’s bank account or a prepaid account and which is processed without the use of a PIN.

“Operating Guide” means the then-current manual prepared by SERVICERS, containing operational procedures, instructions and other directives relating to Card transactions, as amended from time to time.

“PAN Truncation” means a procedure that results in only the last four digits of a Cardholder’s account number appearing on the copy of a Sales Draft or Credit Draft that the CUSTOMER provides to the Cardholder and, as required by applicable law or Card Organization Rules, the Sales Draft or Credit Draft retained by the CUSTOMER.

“Person” means a third party individual or entity, other than the CUSTOMER or SERVICERS.

“PIN” means the Personal Identification Number used by a Cardholder to complete a PIN Debit Card transaction.

“PIN Debit Card” means a device bearing the Marks of ATM networks (such as NYCE or Star) used at a Location by means of a Cardholder-entered PIN in the merchant PIN Pad.

“Pre-Authorized Order” means any Card transaction permitted by this Agreement for which a Cardholder provides CUSTOMER advance permission to charge the Cardholder’s Card for recurring sales, delayed delivery orders or other preauthorized orders.

“Purchased Equipment” means any and all Merchant Equipment sold to CUSTOMER by BAMS (or its applicable Affiliate) pursuant to this Agreement or any Supplement.

“Resubmission” means a transaction that the CUSTOMER originally processed as a Store and Forward transaction but received a soft denial from the respective PIN Debit network or Card Organization. The resubmission transaction allows the merchant to attempt to obtain an approval for the soft denial, in which case CUSTOMER assumes the risk that the transaction fails.

“Sales Draft” means evidence of a purchase, rental or lease of goods or services by a Cardholder from, and other payments to, CUSTOMER using a Card, including preauthorized orders and recurring transactions (unless the context requires otherwise); regardless of whether the form of such evidence is in paper or electronic form or otherwise, all of which must conform to Card Organization Rules and Applicable Law.

“Settlement Account” means an account or accounts at a financial institution designated by CUSTOMER as the account to be debited and credited by SERVICERS

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for Card transactions, fees, Chargebacks and other amounts due hereunder or in connection herewith (e.g., fines, penalties, attorneys' fees, etc.).

"Software" means any and all software, computer programs, related documentation, technology, know-how and processes embodied in or provided in connection with Card authorization, clearing, completing, settling, transmitting or other related processing, whether equipment, PC, server or Internet based.

"Store and Forward" means a transaction that has been authorized by a merchant when the merchant cannot obtain Authorization while the customer is present, typically due to a communications failure. The merchant will store the transaction electronically in their host system and retransmit the transaction when communications have been restored.

"Terminal" means a device placed in a Location which is connected to the BAMS Systems via telephone lines and is designed to authorize, record and transmit settlement data by electronic means for all sales Card transactions.

Attention Judicial Branch Entities:

Schedule A to Merchant Processing Agreement Fee Schedule contains proprietary and confidential pricing/discounts and will not be disclosed outside of the Judicial Branch.

Schedule D Service Level Agreement (SLAs) contains proprietary and confidential information and will not be disclosed outside of the Judicial Branch.

To obtain the confidential information for this contract, please submit your request in an e-mail to:

Greg Keil
Greg.Keil@jud.ca.gov

Your request must be submitted from your Judicial Branch Entity-assigned e-mail address.

The pricing/discounts in Schedule A to Merchant Processing Agreement Fee Schedule must be treated as confidential and must not be disclosed, published or disseminated to any person or entity outside of your Judicial Branch Entity.

Other Card Services Supplement to Merchant Processing Agreement and Attachment I to Schedule A

This Other Card Services Supplement to Merchant Processing Agreement and Attachment I to Schedule A (referred to herein as the “**OCS Supplement**”) supplements the Merchant Processing Agreement (the “**Agreement**”) and Schedule A to which is attached and sets forth the terms applicable to BAMS provision of the specified services for the Card transactions set forth below:

OTHER CARD SERVICES SUPPLEMENT TO MERCHANT PROCESSING AGREEMENT:

1. **GENERAL:** CUSTOMER understands and acknowledges that BAMS’ sole responsibility with respect to Issuer Card transactions shall be to provide the services specified in this OCS Supplement.

In the event CUSTOMER has a separate agreement with an Issuer to accept such Issuer’s cards (“**Issuer Agreement**”) respective Issuer, all Chargeback and financial obligations including but not limited to fees and issues related thereto shall be governed by the terms of such Issuer Agreement. CUSTOMER shall comply with all terms and conditions of the Issuer Agreement and the applicable rules, regulations, interpretations and other requirements of the respective Issuer and shall not seek authorization for or submit for processing or settlement hereunder any Issuer Card transactions at any time when CUSTOMER does not have in effect a valid Issuer Agreement with such Issuer. CUSTOMER agrees to notify BAMS immediately upon the termination of any Issuer Agreement to which it is a party. Upon such termination, BAMS shall have no further obligations hereunder to provide any services to CUSTOMER with respect to any transactions involving such Issuer Cards.

In the event CUSTOMER does not have a separate Issuer Agreement with a respective Issuer, the Issuer Card services to be provided hereunder shall be in accordance with the terms of the Agreement and this OCS Supplement. Issuer Cards shall be considered “Credit Cards” for purposes of Services provided by SERVICERS or BAMS with respect to them and “Card Organizations” shall be deemed to include any Card Organizations set forth in this OCS Supplement for purposes of such Services.

2. ISSUER CONSENTS:

CUSTOMER shall be responsible for obtaining any operational consents required of Issuer to comply with procedures or practices contemplated by both CUSTOMER and BAMS under this OCS Supplement.

3. AUTHORIZATION SERVICES ONLY:

In the event BAMS is providing authorization services only for Issuer Card transactions as specified herein, CUSTOMER shall seek such authorization through BAMS. In the

event that BAMS is not providing processing services for Issuer Card transactions as specified in this OCS Supplement, CUSTOMER shall be responsible for processing and submitting directly to the applicable Issuer for settlement of such Card transactions.

4. PROCESSING AND SUBMISSION TO ISSUERS:

In the event BAMS is providing processing services for Issuer Card transactions as specified herein, CUSTOMER shall submit to BAMS for processing all of CUSTOMER's Issuer Card transactions and BAMS shall process such transactions and transmit them electronically to the applicable Issuer with a summary of such Card transactions

BAMS does not warrant or bear responsibility for the performance of any Issuer in any way.

5. DISCOVER PROCESSING PROVISIONS:

Acceptance of DNP Card Types: Except as provided in this OCS, the terms and conditions governing CUSTOMER's acceptance of DNP Card Types are as specified in the Agreement. CUSTOMER agrees to follow the Agreement concerning CUSTOMER's acceptance of DNP Card Types.

Any provision contained in the Agreement which directs CUSTOMER to contact Discover for customer services or for any other inquiry or purpose is modified hereby to provide that CUSTOMER is to contact BAMS for customer service or in relation to such inquiry or purpose.

ATTACHMENT I TO SCHEDULE A:

American Express* <u> X </u>	Diners Club*** <u> </u>
Discover® <u> </u>	
JCB*** <u> </u>	Fleet* <u> </u>
	Voyager**
Wright Express* <u> </u>	

*Card processing services for these transaction types may be subject to a separate agreement.

**SERVICERS will settle Voyager transactions directly to merchants. All other Card types listed in this Attachment shall be settled by the Issuer.

***These are DNP Card Types will be processed via Discover systems and subject to Discover Card Organization Rules; BAMS will settle transactions for all Discover Cards and DNP Card Types, unless CUSTOMER is classified by Discover Network as a Discover Direct Strategic Relationship as further described in Subsection 13.1 of the Agreement.

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1. **FEES:** See Schedule A.

General Pricing Information:

Billable transactions include: purchases, returns, declines, reversals, authorizations & Terminal balancing totals.

Unless expressly set forth above, the Card transaction fee includes authorization and data capture. Settlement and payment for such Card types will be provided by the applicable Issuer, pursuant to the agreement between CUSTOMER and such Issuer.

The fees and charges set forth above are in addition to all other Third Party Based Fees and all fees due and payable to SERVICERS and/or any applicable Person and will be collected by SERVICERS as set forth in the Agreement.

BANC OF AMERICA
MERCHANT SERVICES, LLC
(BAMS)

By: 

Title: SVP

Date: 4/27/15

JUDICIAL COUNCIL OF CALIFORNIA
(CUSTOMER)

By: 

Title: Stephen Saddler,
Manager, Business Services

Date: 5/14/15

Debit Transactions Supplement to Merchant Processing Agreement and Attachment II to Schedule A

This Debit Transactions Supplement to Merchant Processing Agreement and Attachment II to Schedule A ("**Debit Supplement**") is entered into by and among the undersigned Customer ("**CUSTOMER**"), Banc of America Merchant Services, LLC ("**BAMS**") and Bank of America, N.A. ("**BANK**") (collectively, "**SERVICERS**") and supplements the Merchant Processing Agreement by and among CUSTOMER, BAMS and BANK (the "**Agreement**") and Schedule A to Agreement to which it is attached and sets forth the additional terms applicable to BAMS' provision of the specific services for the PIN Debit Card transactions ("**Debit Services**"). Capitalized terms not defined below have the meanings set forth in the Agreement. CUSTOMER understands and agrees that BAMS is the service provider for Debit Services pursuant to the terms herein. The sponsoring member of the Debit Networks is BANK, or its successors or assigns ("**Debit Network Bank**"). Unless stated otherwise, any reference to this Debit Supplement shall include the Agreement.

DEBIT TRANSACTIONS SUPPLEMENT TO AGREEMENT:

1. Special Provisions For PIN Debit Card

The special provisions outlined in this Debit Supplement apply only to those PIN Debit Card transactions that are processed by a Cardholder entering a PIN. These provisions do not apply to Non-PIN Debit Card transactions which do not involve entry of a PIN. Except and to the extent provided below in this Debit Supplement, the terms and conditions of the Agreement (which may be amended from time to time, as provided in the Agreement) shall govern the Debit Services.

1.1. PIN Debit Card Acceptance. Most, but not all, PIN Debit Cards can be accepted at the point of sale at participating Locations. Examine the back of the PIN Debit Card to determine if the Card participates in a Debit Network that CUSTOMER is authorized to accept. Debit Network Mark(s) are usually printed on the back of the Card. If the PIN Debit Card is valid and issued by a financial institution Issuer participating in a Debit Network, CUSTOMER must comply Applicable Law and Card Organization Rules with respect to PIN Debit Card transactions submitted by CUSTOMER. In addition, CUSTOMER agrees as follows:

- CUSTOMER must honor all valid PIN Debit Cards when presented that bear authorized Debit Network Marks.
- CUSTOMER must treat transactions by Cardholders from all Issuers in the same manner.
- CUSTOMER may not establish a minimum or maximum transaction amount for PIN Debit Card acceptance.
- CUSTOMER may not require additional information, besides the PIN, for the completion of the PIN Debit Card transaction unless the circumstances appear suspicious. A signature is not required for PIN Debit Card transactions.

- CUSTOMER shall not disclose transaction related information to any party other than CUSTOMER's agent, a Debit Network, or Issuer and then only for the purpose of settlement or error resolution.
- CUSTOMER may not process a Credit Card transaction in order to provide a refund on a PIN Debit Card transaction.

1.2. Transaction Processing. The following general requirements apply to all PIN Debit Card transactions:

- All PIN Debit Card transactions must be authorized and processed electronically. There is no voice authorization or Imprinter procedure for PIN Debit Card transactions.
- CUSTOMER may not complete a PIN Debit Card transaction that has not been authorized. If CUSTOMER cannot obtain an Authorization at the time of sale, CUSTOMER should request another form of payment from the Cardholder or process the transaction as a Store and Forward or Resubmission, in which case CUSTOMER assumes the risk that the transaction fails to authorize or otherwise declines. The Cardholder should be instructed to contact the Issuer to find out why a transaction has been declined.
- CUSTOMER may not complete a PIN Debit Card transaction without entry of the PIN by the Cardholder. The PIN must be entered into the PIN pad only by the Cardholder. CUSTOMER cannot accept the PIN from the Cardholder verbally or in written form.
- The Debit Network used to process PIN Debit Card transaction will depend upon, among other things, SERVICERS' business considerations the availability of the Debit Network at the time of the transaction and whether a particular PIN Debit Card is enabled for a particular Debit Network, the routing requirements established by the Debit Networks and the Issuers, or other factors. CUSTOMER agrees that SERVICERS may, in their sole discretion, utilize any Debit Network available to SERVICERS for a given PIN Debit Card transaction.
- CUSTOMER must issue a receipt to the Cardholder upon successful completion of a transaction and effect PAN Truncation on it.
- CUSTOMER may not manually enter the account number. The account number must be read electronically from the Magnetic Stripe. If the Magnetic Stripe is unreadable, CUSTOMER must request another form of payment from the Cardholder.
- Any applicable tax must be included in the total transaction amount for which Authorization is requested. Tax may not be collected separately in cash.
- CUSTOMER acknowledges that CUSTOMER shall not perform or attempt to perform PIN Debit Card return transactions on PIN Debit Card sales transactions. CUSTOMER shall not prompt Cardholder to enter PIN for return transactions. To the extent CUSTOMER allows refunds or returns on PIN Debit Card sales transactions, CUSTOMER shall return/refund such amounts to the Cardholder in cash.

- **CUSTOMER IS RESPONSIBLE TO SECURE CUSTOMER'S TERMINALS AND TO INSTITUTE APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS AND VOIDS THAT DO NOT REFLECT BONA FIDE RETURNS OR REIMBURSEMENTS OF PRIOR TRANSACTIONS.**

1.3. Cash Back From Purchase. CUSTOMER has the option of offering cash back to Cardholders when they make a PIN Debit Card purchase. CUSTOMER may set a minimum and maximum amount of cash back that CUSTOMER will allow. If CUSTOMER is not now offering this service, CUSTOMER's Terminal may require additional programming to begin offering cash back.

1.4. Settlement. Within one Business Day of the original PIN Debit Card transaction, CUSTOMER must balance each Location to the BAMS System for each Business Day that each Location is open.

1.5. Adjustments. An adjustment is a transaction that is initiated to correct a PIN Debit Card transaction that has been processed in error, CUSTOMER will be responsible for all applicable adjustment fees that may be charged by a Debit Network. Some Debit Networks may have established minimum amounts for adjustments.

There are several reasons for adjustments being initiated:

- The Cardholder was charged an incorrect amount, either too little or too much.
- The Cardholder was charged more than once for the same PIN Debit Card transaction.
- A processing error may have occurred that caused the Cardholder to be charged even though the PIN Debit Card transaction did not complete normally at the point of sale. All parties involved in processing adjustments are regulated by time frames that are specified in the Card Organization Rules, the Electronic Funds Transfer Act, Federal Reserve System, Regulation E, and other Applicable Law.


1.6. Change in Sponsorship. Upon notice to CUSTOMER, another Debit Network member may be substituted for Debit Network Bank under whose sponsorship this Supplement is performed. Upon substitution, such other Debit Network member shall be responsible for all obligations required of Debit Network Bank, including without limitation, as may be expressly required by applicable Card Organization Rules. Subject to Card Organization Rules, BAMS and Debit Network Bank may assign or transfer this Supplement and their rights and obligations hereunder and may delegate their duties hereunder, in whole or in part, to any third party, whether in connection with a change in sponsorship, as set forth in the preceding sentence, or otherwise, without the notice to or consent of CUSTOMER.

ATTACHMENT II TO SCHEDULE A TO AGREEMENT:

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2.0. CUSTOMER agrees to pay the fees for the Debit Services set forth in Schedule A, CUSTOMER expressly acknowledges and agrees that the fees set forth in Schedule A are in addition to all other Third Party Based Fees and all fees due and payable to SERVICERS and/or any applicable Person, will be payable by CUSTOMER as set forth in the Agreement.

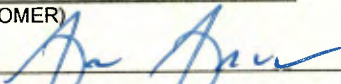
BANC OF AMERICA MERCHANT SERVICES, LLC
(BAMS)

By: 

Title: SVP

Date: 4/27/15

JUDICIAL COUNCIL OF CALIFORNIA
(CUSTOMER)

By: 

Title: Stephen Saddler
Manager, Business Services

Date: 5/4/15

Exhibit A
PARTICIPATION AGREEMENT

This PARTICIPATION AGREEMENT (“**Participation Agreement**”) is entered into as of _____, 2013 by and among BANK OF AMERICA, NA (“**Bank**”), BANC OF AMERICA MERCHANT SERVICES, LLC (“**BAMS**” and, together with Bank and any other third party providers who enter into addenda to this Agreement in order to perform services hereunder, collectively, “**SERVICERS**”), and _____, which is part of the California state court system (“**Judicial Branch Entity**” or “**JBE**”). Capitalized terms used but not defined herein shall have the meanings set forth in the Agreement (as defined below).

WHEREAS, SERVICERS and the Judicial Council of California (“**CUSTOMER**”) entered into a Merchant Processing Agreement, effective as of _____, 20__ (together with any and all amendments, addenda and supplements thereto, collectively, the “**Agreement**”), for the provision of processing services regarding credit, debit and certain other Card transactions and other services as further described therein (collectively, “**Services**”);

WHEREAS, the Agreement provides that the Services will also be provided to any court that enters into a Participation Agreement with SERVICERS and agrees to become a party to the Agreement; and

WHEREAS, JBE desires to become a party to the Agreement and receive the Services as provided in and subject to the Agreement, as further specified in this Participation Agreement.

1. Participation Terms and Conditions.

- A. JBE represents that it has received, reviewed and retained a true and correct copy of the Agreement. JBE agrees to be bound by (i) the terms and conditions of the Agreement to the same extent as CUSTOMER (but only for JBE’s use of the Services) as provided therein, and (ii) the terms and conditions of this Participation Agreement. JBE further agrees to abide by any decisions made by CUSTOMER on all matters involving the Agreement (including any amendments thereto), and acknowledges that amendments to the Agreement made in accordance with its terms will constitute amendments to this Participation Agreement.
- B. JBE acknowledges that it has received the Operating Guide, the terms of which are incorporated into this Agreement; any reference to this Agreement includes the Operating Guide.
- C. This Participation Agreement will remain in effect unless and until it is terminated in accordance with its terms or the Agreement is terminated, in which case this Participation Agreement will automatically terminate as of the effective date of termination of the Agreement. SERVICERS and JBE may terminate this Participation Agreement for the same reasons such parties have to terminate the Agreement.

- D. JBE agrees to pay in accordance with the terms of the Agreement, all fees charged by SERVICERS under the Agreement for the Services received by JBE. JBE will verify that it has established a Settlement Account separate from the Settlement Accounts of CUSTOMER, other Agencies and other JBEs.
- E. JBE agrees that SERVICERS may share certain information with CUSTOMER, on an as-needed basis in accordance with Applicable Law and the Card Organization Rules, regarding the Services provided to JBE in order for SERVICERS to carry out the program established by CUSTOMER and SERVICERS with respect to the provision of Services to JBE.

2. Notices.

- A. All notices and other communications to JBE required or permitted under this Participation Agreement or the Agreement shall be sent to JBE at the following address in accordance with the notice procedures specified in the Agreement:

JBE Name: _____
Street Address: _____
City, State, Zip: _____
Recipient/Title for Notices: _____
Facsimile Number: _____
Email Address: _____
Taxpayer ID Number: _____

- B. All notices and other communications to any party other than JBE required or permitted under this Participation Agreement or the Agreement shall be sent to such party in accordance with the notice procedures specified in the Agreement.
- C. Routine notices given by SERVICERS to JBE, such as transaction details, changes in terms required by systems updates or Card Organization changes and the like, may be delivered by electronic mail to the address provided by JBE above.

3. General.

- A. This Participation Agreement and the Agreement contain the entire understanding of the parties and supersedes any and all previous discussions, proposals or agreements, if any, by and among the parties with respect to the subject matter hereof.
- B. This Participation Agreement may be amended for the same reasons and in the same manner as the Agreement; provided however, that no amendment to this Participation Agreement may be signed by JBE unless also approved in writing by CUSTOMER.
- C. This Participation Agreement is binding upon SERVICERS and JBE and their respective successors and assigns. JBE may not assign or transfer this

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Participation Agreement, in whole or in part, without the written consent of
SERVICERS and CUSTOMER.

D. To the extent the terms of the Agreement directly conflict with the terms of this
Participation Agreement, the terms of this Participation Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Participation Agreement
to be duly executed by their authorized officers, as of the date first written above.

[_____]
("JBE")

BANK OF AMERICA, N.A.
("BANK")

By Banc of America Merchant Services, LLC
pursuant to a limited power of attorney

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

BANK OF AMERICA MERCHANT SERVICES, LLC
("BAMS")

By: _____

Name: _____

Title: _____

Date: _____

Approved by:

Judicial Council of California
("CUSTOMER")

By: _____

Name: _____

Title: _____

Date: _____

Attention Judicial Branch Entities:

Schedule A to Merchant Processing Agreement Fee Schedule contains proprietary and confidential pricing/discounts and will not be disclosed outside of the Judicial Branch.

To obtain the confidential pricing for this contract, please submit your request in an e-mail to:

Greg Keil
Greg.Keil@jud.ca.gov

Your request must be submitted from your Judicial Branch Entity-assigned e-mail address.

The pricing/discounts in Schedule A to Merchant Processing Agreement Fee Schedule must be treated as confidential and must not be disclosed, published or disseminated to any person or entity outside of your Judicial Branch Entity.

Attention Judicial Branch Entities:

Exhibit B, Equipment Pricing contains proprietary and confidential pricing/discounts and will not be disclosed outside of the Judicial Branch.

To obtain the confidential pricing for this contract, please submit your request in an e-mail to:

Greg Keil
Greg.Keil@jud.ca.gov

Your request must be submitted from your Judicial Branch Entity-assigned e-mail address.

The pricing/discounts in Exhibit B, Equipment Pricing must be treated as confidential and must not be disclosed, published or disseminated to any person or entity outside of your Judicial Branch Entity.

Exhibit C
FORM OF AMENDMENT OF THE MERCHANT PROCESSING AGREEMENT

This Amendment (the "Amendment") is made and entered into by and between Banc of America Merchant Services, LLC ("Processor"), Bank of America, NA (collectively, "SERVICERS") and Judicial Council of California ("CUSTOMER") as of this ____ day of _____, 20__, to amend and supplement that certain Merchant Processing Agreement among the parties dated _____, 20__ (the "Agreement").

A. Servicers (collectively "we", "us" or "our" and the like) are parties to an agreement with Hewlett-Packard Company ("Submitter", the "Submitter Agreement"), which contemplates that we will provide you with certain Services described under the Agreement.

B. When CUSTOMER's clients pay CUSTOMER through Submitter's gateway, CUSTOMER may be the recipient of a credit Card or debit Card funded payment. The Card Organizations, Card issuers and debit Card networks that operate these credit Card and debit Card systems require that CUSTOMER (i) enter into a direct contractual relationship with an entity that is a member of the Card Organizations and (ii) agree to comply with Card Organization Rules as they pertain to applicable credit and debit Card payments JBE receives through Submitter.

C. SERVICERS understand and acknowledge that CUSTOMER has contracted with Submitter to obtain certain other credit Card and debit Card processing services for itself and on JBE's behalf and that Submitter may have agreed to be responsible to CUSTOMER for certain of CUSTOMER's obligations to SERVICERS set forth in the Agreement.

D. In consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SERVICERS and CUSTOMER do hereby agree as follows:

- I. **Amendment of Agreement Section 14 – Fees; Adjustments, Collection of Amounts Due; Reconciliation.** Section 14 is hereby amended to include the following as Subsection 14.12:

14.12

- (a) In consideration of the Services provided to CUSTOMER hereunder, CUSTOMER acknowledges and agrees that the fees and charges set forth in the Agreement are due and payable by CUSTOMER. Notwithstanding the foregoing, the parties hereto further acknowledge and agree that pursuant to the Submitter Agreement, Submitter has agreed to pay SERVICERS on CUSTOMERs behalf, all such fees and charges, including fees and charges due and owing to SERVICERS by CUSTOMER for the Services provided to CUSTOMER as set forth in the Agreement, fees and charges set by

Card Organizations (including, without limitation, interchange fees), and fees set by other third parties (collectively, "Covered Fees"). If Submitter fails to pay any of such Covered Fees, or if the Submitter Agreement is terminated and SERVICERS continue to provide the Services hereunder, CUSTOMER shall be fully liable to SERVICERS for payment of all such amounts and agree that SERVICERS shall be entitled to, at SERVICERS' option, pursue one or more of the following remedies: (i) demand and receive immediate payment for such Covered Fees, (ii) debit the Settlement Account for any such Covered Fees, (iii) set off such Covered Fees from any credit entries otherwise due and payable to CUSTOMER by SERVICERS, (iv) delay presentation of refunds until a payment is made to SERVICERS of a sufficient amount to cover the negative balance; or (v) pursue any remedies SERVICERS may have at law or in equity.

(b) For the avoidance of doubt, please note that the Submitter has not agreed to pay on CUSTOMER's behalf, and CUSTOMER will be fully responsible for, (i) all chargebacks, refunds, and adjustments of transactions submitted to SERVICERS on CUSTOMER's behalf by Submitter, (ii) fines or penalties imposed by Card Organizations or other third parties on Servicers due to CUSTOMER's acts or omissions or CUSTOMER's non-compliance with Card Organization rules or applicable law, (iii) any liability other than Covered Fees arising out of the Agreement, and (iv) any liability other than Covered Fees arising out of transactions submitted to SERVICERS by Submitter on CUSTOMER's behalf.

(c) Any actions taken by SERVICERS as contemplated in this Section 14 may be in addition to any other rights exercised by SERVICERS under this Agreement or at law.

II. Amendment of Agreement, Section 19 – Confidentiality. Section 19 is hereby amended to include the following as subsection 19.12:

19.12 Notwithstanding any provisions to the contrary in this Section or elsewhere in this Agreement, CUSTOMER hereby authorizes SERVICERS to disclose to Submitter information relating to CUSTOMER's account, including but not limited to fees and charges assessed by SERVICERS on transactions submitted to SERVICERS on CUSTOMER's behalf by Submitter, and reporting containing information regarding transactions submitted to SERVICERS on CUSTOMER's behalf by Submitter.

III. Agreement Confirmation. Except as otherwise amended hereby, the Agreement is hereby ratified in all respects and shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their authorized officers, all as of the day and year first written above.

JUDICIAL COUNCIL OF CALIFORNIA

For Banc of America Merchant Services, LLC and, pursuant to limited Power of Attorney, for Bank of America, NA

BY: _____
(Print)

BY: _____
(Print)

BY: _____
(Signature)

BY: _____
(Signature)

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

FED TAX ID#: _____
(Required)

Attention Judicial Branch Entities:

Exhibit D, Service Level Agreement (SLAs), contains proprietary and confidential information and will not be disclosed outside of the Judicial Branch.

To obtain the confidential information for this contract, please submit your request in an e-mail to:

Greg Keil
Greg.Keil@jud.ca.gov

Your request must be submitted from your Judicial Branch Entity-assigned e-mail address.

The information in Exhibit D, Service Level Agreement (SLAs), must be treated as confidential and must not be disclosed, published or disseminated to any person or entity outside of your Judicial Branch Entity.