

MERCHANT AGREEMENT

This Agreement is between Merchant Card Services, a division of Columbia State Bank (CSB), its qualified sponsored agent relationships, and the undersigned merchant (“Merchant”).

RECITALS: Merchant Card Services (“Servicer”) participates in the VISA, Discover® Network and MasterCard credit card payment systems (each referred to as a “System”). Servicer accepts sales drafts from qualified members that are deposited at CSB, or its qualified sponsored affiliate, for processing through the System’s Interchange or other settlement process. Merchant desires to honor System cards (“Cards”) and will offer to Servicer all sales drafts relating to such transactions.

SECTION 1. Card Transactions

APPLICATIONS – Merchant may be required to submit initial credit or financial statements and updated financial statements for itself and its principal owners and executive officers from time to time as determined by Servicer. Servicer may require audited or reviewed financial statements. Merchant represents that all information contained in such documents are true statements of fact. **Applicants for membership understand that Servicer will retain this application whether or not it is approved. Applicant authorizes Servicer to check credit and employment history for itself and its principal owners and executive officer for the purposes of this membership application.**

CARDS HONORED – Merchant will honor the chosen Card categories (on the reverse side) when properly tendered for use. Merchant agrees not to establish any minimum or maximum transaction amounts as a condition to honor Cards or impose any surcharge or extract any special agreement, condition or security requirement on a System cardholder (“Cardholder”) on System transactions. Any tax required to be collected by Merchant must be included in the total transaction amount and not collected separately in cash. Merchant shall not disburse cash in a System transaction with customer.

COMPLIANCE WITH APPLICABLE LAWS/INDEMNIFICATION – Merchant is responsible for complying with any requirements imposed upon Merchant by applicable laws and System regulations, and further agrees to indemnify Servicer for liability (including legal fees and costs) that results from violation of any such law or regulation resulting from an act or omission of Merchant. **Caution** – When a qualified Card is presented, it does not guarantee the Cardholder is of legal age to purchase age-restricted products.

VERIFICATION/AUTHORIZATION OF CARDS – Merchant shall check each Card for validity, including a comparison of signature appearing on Card with signature on sales draft as well as assure “good from” and “good thru” dates are currently in effect. Merchant will obtain an authorization code for all amounts. Authorization is not a guaranty of payment and may be subject to dispute or chargeback. Merchant shall compare the first four digits of embossed account number on a VISA to the printed four-digit number on VISA. Merchants receiving a positive verification response from System shall record appropriate code provided by System on each sales draft. If Merchant receives a negative verification response, Merchant shall not complete transaction and if instructed by System, Merchant must retain possession of Card, if possible, through reasonably peaceful means. Merchant is required to check Discover Network validity in accordance with established operating regulations.

If using a Magnetic-Stripe-Reading Terminal for transactions and terminal is unable to read Card’s magnetic stripe, Merchant shall complete and obtain Cardholder’s signature on a standard sales draft and obtain an imprint.

FRAUDULENT TRANSACTIONS – Merchant shall not present a transaction to Servicer until the Merchant has substantially performed all of its principal obligations to its customer in connection with transaction. Merchant shall not present a transaction to Servicer that it (or its employees) knows to be fraudulent or not authorized by Cardholder. Merchant acknowledges that Servicer is required to report the Merchant business name and name of principals to a Combined Terminated Merchant File (“CTMF”) and Consortium Merchant Negative File (“CMNF”) when Merchant is terminated for cause.

PROPER AUTHORIZATIONS – If the total of any transaction is in excess of a dollar limitation imposed by Servicer, Merchant will obtain specific authorization to accept a sales draft and such authorization will be noted by Merchant in the appropriate place on the sales draft. Merchant shall not use two or more sales drafts originated by use of a single Card to avoid authorization calls.

COMPLETION OF SALES DRAFT FORMS – All sales drafts and credit vouchers will be on forms supplied or approved by Servicer, and will be completed to include name and location of Merchant, name of Cardholder, name of authorized user (if different), date, description of merchandise sold or services rendered, signature of qualified Cardholder, and total cash price of sale. At least one copy of sales draft, or credit voucher, shall be delivered to Cardholder or authorized user of Card.

MAIL ORDER, TELEPHONE ORDER, RECURRING TRANSACTIONS – In each case in which a transaction is completed without imprinting Card on the sales draft, Merchant shall be deemed to warrant the true identity of Cardholder as the authorized holder of such Card. The fact that Merchant has obtained authorization for transaction does not alter such warranty of identity or need for independent identification. Merchants who accept payments of recurring charges (e.g. insurance premiums, subscriptions, membership fees, tuition, utility charges or other such charges) shall obtain from Cardholder a written request that such goods and services be charged to Cardholder’s account. Such request shall be retained by Merchant and remain valid until (1) Merchant receives a written cancellation notice from Cardholder and (2) all sales drafts transacted under the request are cleared through the System’s settlement process and entered onto Cardholder’s account without Cardholder objection. The written request must be updated annually by Cardholder.

CARDHOLDER INFORMATION – Merchant shall not disclose to third parties (other than to Merchant’s agents for the purpose of assisting Merchant in completing transaction or as specifically required by law) a Cardholder’s account information or other personal information obtained without prior written consent of Cardholder. Such consent shall be obtained on a document separate and apart from a sales draft. Merchant may not require Cardholders to provide personal information, such as home or business telephone number, home or business address or driver’s license for identification as a condition for honoring Cards.

Merchant shall not, under any circumstances, disclose, sell, purchase, provide or exchange any Cardholder’s account number or any credit information relating to any Cardholder’s account number or any Sales Drafts or Credit Vouchers which may have been obtained or imprinted with any Card to any person other than Servicer.

Merchant may not request Card numbers or other account information be recorded on the “exterior portion” of any order form or similar device designed as a return response from Cardholder.

CISP (Cardholder Information Security Program), DISC (Discover Information Security Compliance), and SDP (Site Data Protection) – Merchant agrees to comply with the CISP, DISC and SDP programs mandated by the Card Associations and the Discover Network. These programs define the due care standard for securing VISA, Discover Network and MasterCard Cardholder data, wherever it is located. The standard is required of all entities storing, processing or transmitting cardholder data and is a compliance requirement for all Card acceptance channels whether retail establishments (Card present) or mail/telephone and e-commerce (Card not present). Merchants must immediately report to Servicer’s security personnel any suspected or confirmed loss or theft, including those caused by Merchant’s employees, agents or related service providers, of materials or records that contain personally identifiable Cardholder information. The liability involved for compromised information can subject the Merchant to Association and/or Discover Network penalties and fines.

REFINANCING DELINQUENT OBLIGATIONS – Merchant shall not refinance a delinquent obligation of a Cardholder including, but not limited to, obligations arising from dishonor of a personal check.

SECTION 2. Processing of Sales Drafts

General. Subject to the terms and conditions hereof, Servicer agrees to accept from Merchant and Merchant agrees to offer to Servicer all sales drafts relating to sales under the System.

Merchant’s Account with Servicer. Merchant shall establish and maintain an account at any branch of CSB or its affiliates for the purpose of depositing System sales drafts, subject to the usual rules, terms, conditions and charges for such accounts. Such account may also be used for other banking transactions. Accounts unrelated to this Agreement may be established at another institution.

DELIVERY OF SALES DRAFTS – Merchant shall deliver all sales drafts to Servicer the same day for Electronic transaction unless Merchant requests authorization for delayed delivery either until the goods are delivered, shipped or services performed or because Merchant qualifies for delayed delivery by obtaining an authorization on each installment transaction.

Merchant shall not deposit sales drafts drawn on Merchant’s own personal or business Card without previous approval from Servicer and **never for the advance of funds.**

Merchant shall not deposit sales drafts not originated as a result of a direct transaction or act between Cardholder and such Merchant.

Merchant shall not accept any payment from Cardholder and submit a credit voucher for the purposes of effecting payment of Cardholder’s account.

Merchant shall not deposit drafts that it knows or should have known to be fraudulent or not authorized by Cardholder.

Warranties on Collectibility. Merchant warrants that as of the date any sales drafts are tendered to Servicer, Merchant has no reason to question the validity of the sales draft or its collectibility. **Warranties by Merchant Lawyers.** Merchants who practice law warrant that services rendered pursuant to any sales draft will not relate to any bankruptcy, insolvency, or receivership or similar creditor proceeding of Cardholder.

Credit for Sales Drafts. Servicer will credit Merchant’s account for sales drafts tendered by Merchant. A discounting fee, at a rate from time to time established by Servicer, shall be charged on a periodic basis by Servicer to Merchant’s account.

Servicer reserves the right not to purchase tendered sales drafts, provided Servicer gives notice to Merchant that Merchant may not draw on amounts so tendered for a reasonable period to be determined by Servicer. The affixing of Merchant’s name together with preparation and delivery by Merchant of sales drafts shall constitute an endorsement, negotiation and sale by Merchant to Servicer subject to Servicer’s right of recourse as stated herein. Merchant hereby waives notice of default or nonpayment, protest or notice of protest, demand for payment and any other demands or notices in connection with any sales draft. Merchant hereby consents to extensions of time granted or compromises made with any Cardholder liable on any sales draft without affecting Merchant’s liability on the sales drafts or under this Agreement.

Merchant acknowledges that Servicer’s agreement as set forth in this Agreement to accept or purchase sales drafts and the funding of chargebacks constitutes providing financial accommodations on behalf of Merchant.

Servicer’s Right of Chargeback. Servicer reserves the right to chargeback Merchant’s account without notice, or to refuse to accept a sales draft, if any of the following conditions apply to a System transaction by Merchant:

- (i) merchandise is returned, whether or not a credit voucher is delivered to Servicer;
- (ii) any sales transaction exceeds Merchant’s dollar limit and has not been specially authorized by the System’s authorizing party;
- (iii) the sales draft is alleged to have been drawn, accepted or endorsed improperly or without authority;
- (iv) the sales draft is illegible;
- (v) Cardholder disputes the sale, quality, or delivery of merchandise or performance or quality of services covered by the sales draft;
- (vi) the sales draft was accepted by or from Merchant in breach of any warranty or duty hereunder;
- (vii) financial accommodation for merchandise sold or services performed was a violation of any applicable law or regulation; or
- (viii) Servicer has received a chargeback voucher from any System Merchant on a sales draft that originated from Merchant.

The foregoing list is not exclusive, and Servicer reserves the right to chargeback or refuse to accept a sales draft for any lawful reason. Under no circumstances is Servicer obligated to ascertain the merits of a dispute or alleged dispute concerning a System or transaction under a System among or between Merchant, Cardholder or any Merchant of a System.

Whenever Servicer has a reasonable basis to believe that it may receive items that it may chargeback under this section to Merchant’s account, Servicer may withhold for a reasonable time, without liability for wrongful dishonor, any funds previously credited to Merchant’s account with Servicer or funds otherwise on deposit by Merchant with Servicer and may offset any amounts owing under this Agreement against any other account of Merchant or any guarantor. If this Agreement has been terminated for any reason, Servicer may also prohibit the withdrawal by Merchant of some or all of Merchant’s funds held on deposit with Servicer.

Refund Policy. Recognizing Merchant’s responsibility to act in a reasonable, commercial manner with its customers, Merchant agrees to establish a fair policy for (1) the exchange and return of merchandise or (2) the refund of defective merchandise or services. Credit for all returns relating to System transactions will be given by submitting System credit vouchers and not given in cash. Merchant may limit its acceptance of returned merchandise or establish a policy to make price adjustments for any transaction, provided that proper disclosure is made and purchased goods or services are delivered to Cardholder at the time of transaction. Proper disclosure by Merchant must be visibly posted at the time of transaction. The following words or similar wording, as applicable, must be legibly printed approximately 1/4 inch high on all copies of the sales draft or invoice being presented to Cardholder for signature and in close proximity to the space provided for Cardholder’s signature: “**NO REFUND**” or **EXCHANGE ONLY**” or “**IN-STORE CREDIT ONLY**”.

System Records. Servicer may examine and verify at any reasonable time all records of Merchant pertaining to sales drafts tendered to Servicer, and Merchant agrees to preserve such records for a period of **eighteen (18) months** from date of sales draft.

Merchant agrees to reconcile monthly merchant statement for errors, within **60 days**. Merchant will bring any errors to Servicer’s attention immediately.

Failure of Merchant to bring to Servicer’s attention within 60 days (or if longer, the shortest period allowed under applicable law) after Servicer sends or otherwise makes merchant statement available to Merchant will preclude Merchant from asserting against Servicer a claim based upon claimed error.

SECTION 3. Merchant As System Participant

System Regulations. Merchant agrees to be bound by each System’s regulations and procedures, as amended from time to time.

Display of System Service Marks. Merchant shall properly display the appropriate System service marks to inform public which Cards will be honored by Merchant.

Merchant Fees. Merchant will pay Servicer an initial setup fee and annual or monthly fee at a time and in an amount agreed upon from time to time by Servicer and Merchant.

Imprinters. Servicer will provide sales draft and imprinters to Merchant, if not purchased, shall remain the exclusive property of Servicer and shall be returned to Servicer upon termination of this Agreement.

Rights of Servicer’s System Processor. Merchant understands that CSB is the processor for Servicer of System transactions, and that all sales drafts offered to Servicer are tendered to CSB for payment through each System interchange, or other settlement process. Merchant agrees that any transaction that does not conform to this Agreement can be rejected by CSB and charged back to Merchant’s account with CSB without notice.

SECTION 4. Other Provisions

Merchant shall provide Servicer with notice of intent to transfer, sell or liquidate ownership of business; change the basic nature of its business, including selling any products or services not related to its current business; change of ownership or transfer of control of business; or enter into any joint venture, partnership or similar business arrangement whereby any person or entity not a party of this Agreement assumes any interest in Merchant’s business.

Duration of Agreement. This Agreement shall continue until terminated and may be terminated, without cause, by either party upon written notice to the other.

Additional Locations. This Agreement will bind any and all additional Merchant locations owned by the same sole owner, partnership and/or corporation.

Merger. All proposals, negotiations, and representations, if any, regarding this Agreement and made prior to the date of this Agreement are merged herein.

Amendment. This Agreement may be amended from time to time by Servicer giving written notice to Merchant of such amendment. Unless Merchant elects to terminate this Agreement, Merchant is deemed to have agreed to said amendment.

Continued Duties of Merchant After Termination. Upon termination, Merchant shall continue to be responsible for any financial or other obligations arising from this Agreement. Immediately upon termination, Merchant shall return to Servicer all materials and supplies furnished to Merchant and shall immediately cease using each System’s name and service marks.

Dispute Resolution. If this Agreement is referred to an attorney for enforcement, the prevailing party shall be entitled to reasonable attorney’s fees and costs. The exclusive venue for any litigation arising out of or related to this agreement will be within the city in which Servicer has its principal place of business. This agreement will be governed by the laws of the state in which Servicer has its principal place of business, without regard to the principles of conflicts of law.

(Reverse Side Must Be Completed)